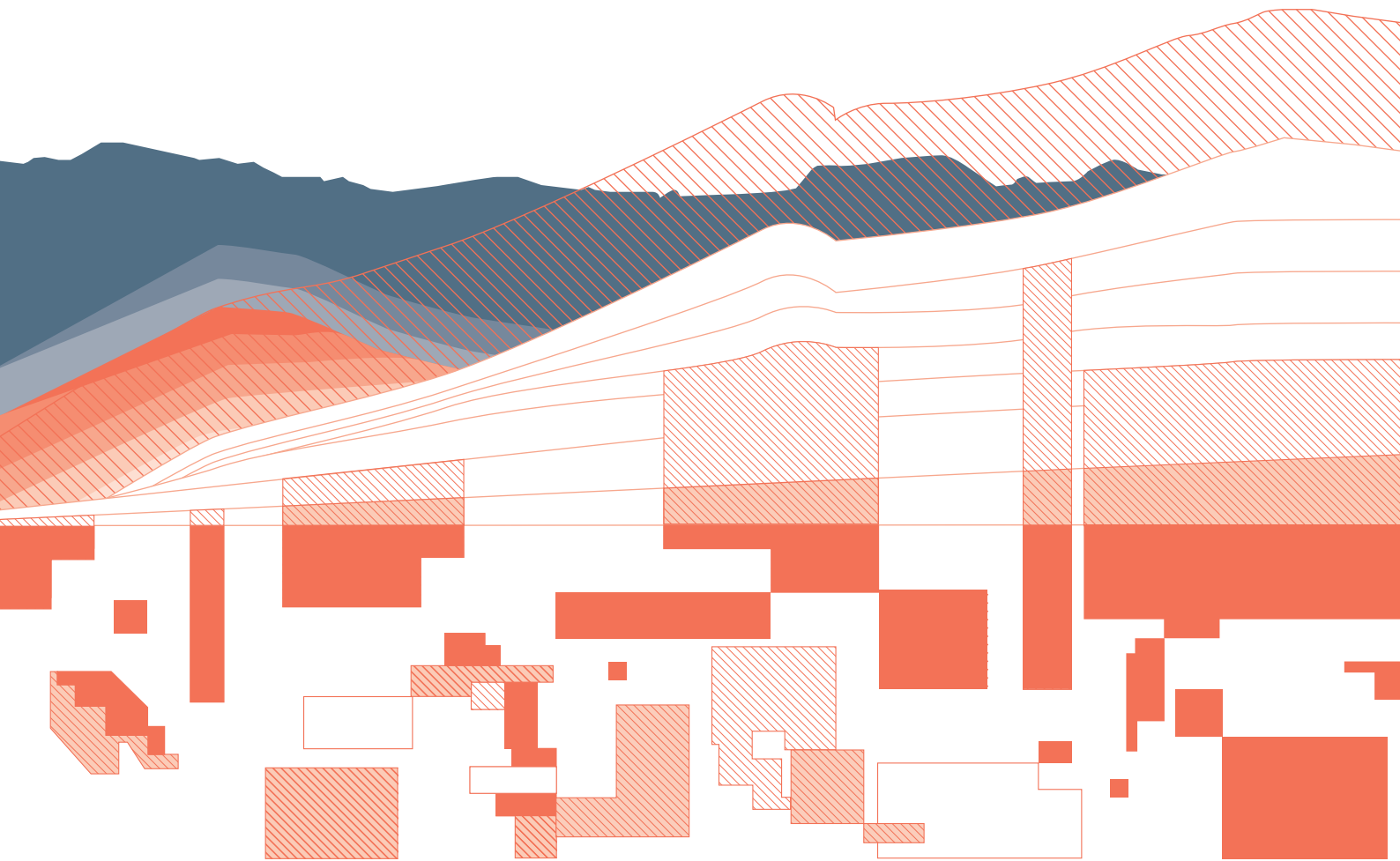


Natural Resource Charter Benchmarking Framework



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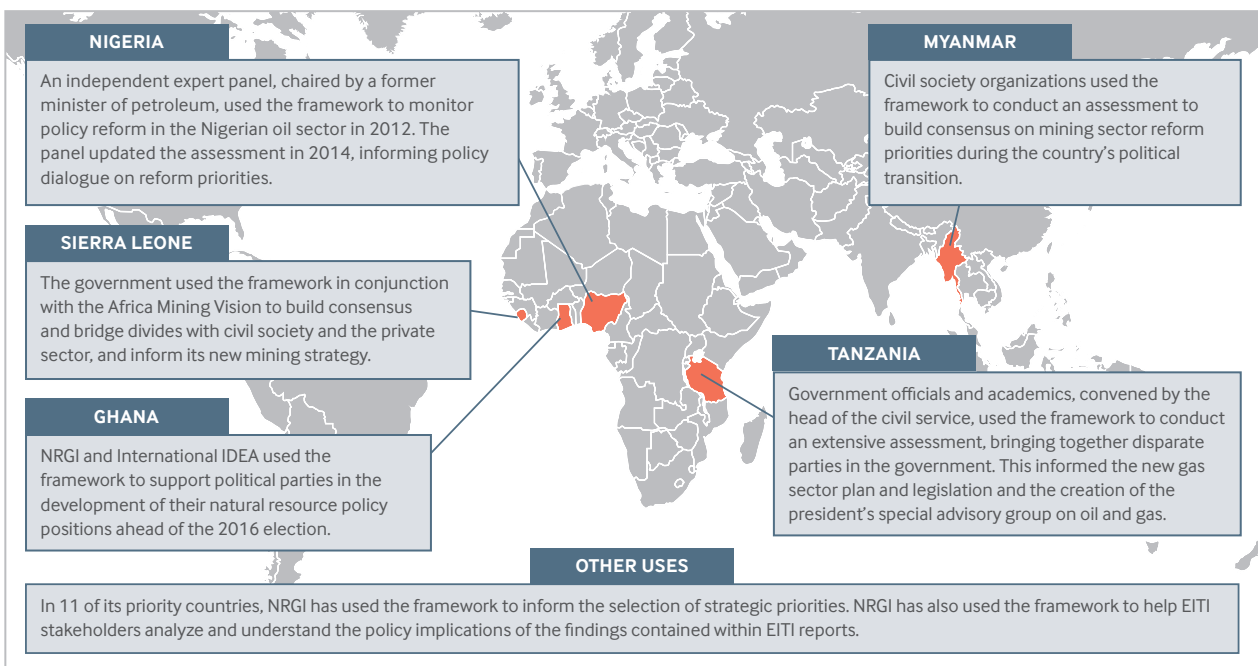
Introduction

The Natural Resource Charter Benchmarking Framework is a tool for benchmarking a country’s management of oil, gas and minerals against global best practices. The framework draws on the policy options and practical advice of the Natural Resource Charter, and consists of a series of questions that government officials, concerned citizens or actors in the international community can use to structure research, discussions and strategic planning.

Created in response to government and civil society demand for a practical way to measure resource governance, the framework is the product of five years of expert input and testing in more than 15 country projects. Oxford Policy Management and Natural Resource Charter researchers developed the first version of the framework in 2011. Since then it has been used by the governments of Tanzania and Sierra Leone, coalitions of non-governmental actors in Nigeria and Myanmar, political parties in Ghana, and NRCI in 11 countries. (See figure 1 for an overview of the framework’s uses to date.)

Each use has provided valuable learning opportunities, allowing NRCI to further improve the questions and guidance, and to build linkages with other important resource governance tools. The framework references questions and data from the Resource Governance Index, as well as the requirements of the Extractive Industries Transparency Initiative (EITI) Standard. Other tools that have informed the development of the framework include the World Bank Mining Investment and Governance Review, the World Bank Governance Indicators, the Ibrahim Index of African Governance, the World Bank Country Policy and Institutional Assessment Tool, the ICMM Mining Partnerships for Development Toolkit, the Publish What You Pay Extracting Equality Guide, the African Peer Review Mechanism and the African Mineral Development Center Country Mining Vision Guidebook.

OVERVIEW OF FRAMEWORK USES TO DATE



Objectives

The framework has been designed for a diverse set of uses, ranging from basic desk research, to training curricula, complex projects involving the production of primary research, cross-stakeholder dialogue, and evaluations of government strategy and its implementation. Three key objectives have shaped its development.

- 1 *Assess priorities.* Designed to cover as many of the key issues involved in resource management as possible and assess the relative urgency of various challenges, the framework helps users see the big picture in resource governance, weigh competing concerns and determine where to concentrate scarce resources.
- 2 *Build consensus and bridge divides.* The framework helps diverse users come to a shared understanding on resource management, and does so by addressing varied policy areas that are typically dominated by distinct organizations, stakeholder groups and professional backgrounds.
- 3 *Monitor progress.* Providing a standard set of structured questions, the framework can be used to track changes in the management of natural resources over time through regular re-scoring exercises.

Structure

The basic building blocks of the framework are the 12 precepts of the Natural Resource Charter. Each precept addresses a specific area of policy and practice, and each has its own guidance note (with the exception of precepts 7 and 8, which in the framework are combined given their interconnected content).

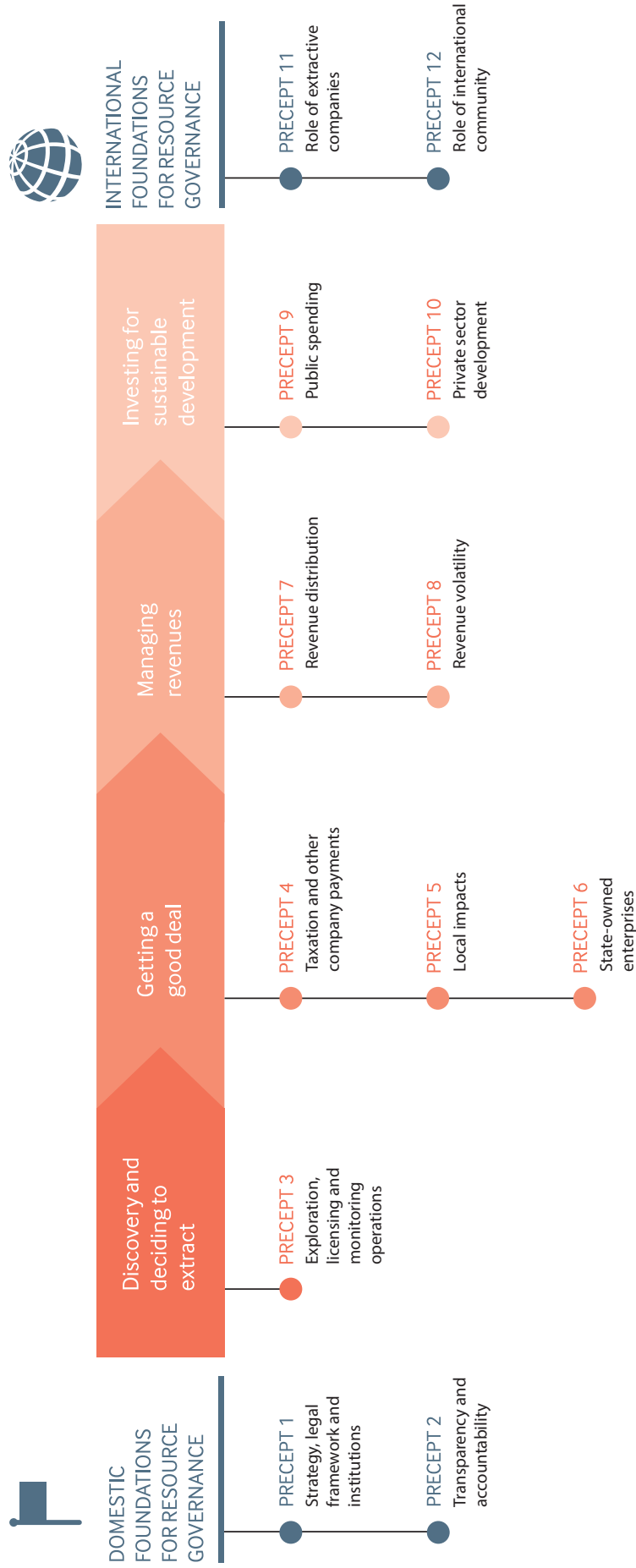
The precepts are in three groups:

- Domestic foundations for resource governance (precepts 1 and 2), which considers the overarching domestic legal-institutional framework and accountability environment.
- The decision chain (precepts 3 to 10), covering a range of domestic policy issues ranging from discovery, to getting a good deal, to revenue management and investing for development.
- International foundations for resource governance (precepts 11 and 12), considering the important influence of extractive companies and the international community.

While precepts 1 through 10 predominantly contain questions that examine government activities, precepts 11 and 12 concern the activities of extractive companies and the international community.

Under each precept there are two levels of questions. Primary questions break the precept area into two-to-four key issues. They are aimed to be comprehensible for users with varying levels of technical expertise. Beneath each primary question are a set of secondary questions that drill down into more specific issues. They can be used as guidance for answering the primary questions, or each answered individually in more rigorous or extensive use cases. As an additional aid, most precepts also feature a transparency table that lists the specific disclosures needed to help build effective accountability in the decision area. (There are no transparency tables for precepts 9 and 10, which look beyond the resource sector. Precepts 11 and 12 share the same transparency table.)

Precepts of the Natural Resource Charter



Using the framework: five steps to planning

- 1 *Determine whether the framework is the right tool.* Before starting any analysis using the framework, users should ask whether it is the correct tool. The framework is useful for carrying out nuanced or detailed research on the role of governments in natural resource management. While it contains guidance for thinking about the role of companies, the international community and civil society, these are not its primary focus. Further, because the questions ask for significant amounts of country-specific content, the framework does not provide a straightforward basis for cross-country comparison.
- 2 *Define scope.* The framework can be employed in full or in part. Full applications covering all 12 precepts allow for consideration of a wide range of issues, which is especially useful for institutions with broad mandates, or for consensus-building activities among a wide range of actors. Narrower applications can be less demanding—focusing on single precepts or set of precepts—and are useful for organizations with more focused responsibilities.
- 3 *Decide depth.* The hierarchical nature of the questions means that the framework can be used at different levels of depth. Those who wish to produce lighter analyses can address high-level primary questions, while those working on more in-depth analyses can drill down using secondary questions. Primary questions, being broad in scope, can structure research or dialogue for high-level actors or less technical users, while secondary questions can inform research or dialogue with specialist users.
- 4 *Set answer format.* While there is no fixed way to present answers, framework questions have been designed so that “yes” responses mean that best practice is being followed, and “no” responses mean that best practice is not being followed. Users can therefore simply answer questions with a “yes,” “no,” or “partially yes / partially no” response, using long-form text to justify the answer, and using a three-color traffic light marker to make the score more visible. Some users have also assigned a prioritization score to their answers, again justifying this with long-form text. This method works well when the framework is being used for an agenda-setting purpose.
- 5 *Validate results.* Users should identify a plan for how they will validate their findings to ensure that they are well-founded. Validation processes should examine whether results reflect the country context, and are grounded in a solid understanding of the issues. Results will be more credible if they are endorsed and supported by validators who are seen locally as influential, relatively neutral and legitimate. In many processes an expert panel of specialists, reflecting as much as possible the full range of expertise relevant to the Charter, has been used to validate the findings. The use of expert peer reviewers is another route.

Getting help

NRGI staff are available to answer questions and provide guidance to those wanting to use the framework. Uses of the framework are diverse, and NRG staff encourage and support others to adapt the framework in new ways to help improve resource governance. Email nrc-support@resourcegovernance.org for more information.

Overview of benchmarking framework

(For guidance in answering questions, please see specific precept guidance notes.)

	Primary questions	Secondary questions
Strategy, legal framework and institutions (precept 1)	1.1 Fundamentals of the resource endowment. Has the government clearly identified the country's resource endowment, who owns it, and the positive and negative impacts of extraction?	1.1.1 Ownership. Has the government clearly established who owns extractive resources?
		1.1.2 Resource endowments. Does the government have a well-informed understanding of the country's resource endowment?
		1.1.3 Resource dependency. Does the government have a realistic and sound understanding of how dependent the country is on natural resources?
		1.1.4 Impacts of extraction. Has the government seriously considered the positive and negative impacts of exploitation in making the decision whether or not to extract?
	1.2 Resource strategy. Does the government have an inclusive and comprehensive national strategy for the management of resources?	1.2.1 Cognizant of reality. Does the resource strategy reflect an understanding of the fundamentals of resource wealth?
		1.2.2 Considering the long term. Does the resource strategy take a long-term approach?
		1.2.3 Comprehensiveness. Does the resource strategy reflect consideration of the full range of issues in management of resource wealth?
		1.2.4 Inclusiveness. Does the government engage all relevant actors in the development, implementation and oversight of the resource strategy?
		1.2.5 Legal framework. Does the resource strategy guide the relevant legal framework?
		1.2.6 Institutional framework. Does the resource strategy guide the relevant institutional framework?

Transparency and accountability (precept 2)	2.1 Transparency. Does the government ensure that resource management is sufficiently transparent for all actors to effectively understand and scrutinize decision making and its implications?	2.1.1 Access to the legal framework. Does the government ensure that the full legal framework governing resource management is available to the public?
		2.1.2 Disclosure rules. Has the government established rules that enable access to information on resource management?
		2.1.3 Information management. Do government agencies have effective information management systems that support access to information?
		2.1.4 Open data. Does the government publish data according to open data standards?
		2.1.5 Comprehensive disclosure. Does the government ensure that data is released on a comprehensive set of resource governance and management issues?
	2.2 Official oversight. Do government oversight bodies hold officials to account?	2.2.1 Legislature. Does the legislature hold public officials to account on issues relating to resource governance?
		2.2.2 Supreme audit institution. Does a supreme audit institution oversee the government's management of financial flows relating to the extractive sector, and does the government respond to its findings?
		2.2.3 Corruption control. Does the government take effective measures to deter, detect and prosecute corruption?
	2.3 Communications and public oversight. Is there a critical mass of informed citizens that holds the government to account?	2.3.1 Government communication and the management of expectations. Does the government implement a communications strategy to ensure that the public has realistic expectations of the future benefits and costs of extraction?
		2.3.2 Civic and political freedoms. Does the government ensure that civic and political freedoms are consistently upheld?
		2.3.3 Media and civil society. Do the media and civil society groups effectively improve public accountability in natural resource management?
		2.3.4 Independent research. Do research institutions carry out independent and high-quality research on resource governance?
		2.3.5 Professional associations. Do professional associations and unions actively promote and enforce professional standards of conduct and engagement among their members who are engaged in extractive industries?

Exploration, licensing and monitoring operations (precept 3)	3.1 License planning. Does the government adequately prepare before allocating licenses?	3.1.1 Pre-licensing survey. Does the government facilitate or fund pre-licensing surveys and make geological information available to companies?
		3.1.2 Strategic impact assessments. Does the government conduct and publish a strategic impact assessment before allocating licenses?
		3.1.3 Non-resource property rights. Prior to allocating licenses, does the government clearly establish who holds property rights to the land being licensed and how those rights will be upheld?
		3.1.4 Resource rights. Does the government organize licenses to ensure that license areas do not overlap or conflict with existing rights to explore and extract resources?
		3.1.5 Pace of licensing and size of licenses. Does the government have an effective policy on the pace of licensing and size of license areas?
	3.2 Awarding resource licenses. Does the government allocate licenses to competent and law-abiding companies, and in a way that maximizes value for the country?	3.2.1 License pre-qualification. Does the government screen license applicants before allowing applicants to enter a licensing round or negotiation?
		3.2.2 License award method. Does the government use a method of awarding licenses that accounts for the level of competitive interest and the administrative capacity of the government?
		3.2.3 License terms and post-bid negotiations. Does the government limit the use of negotiable/biddable terms and resist further negotiations after the bidding process?
		3.2.4 License transfers. Does the government submit license transfers to the same checks and balances as an initial license award?
		3.2.5 License disclosure. Does the government disclose pre- and post-license round information?
		3.2.6 License oversight. Is oversight of the licensing process effective, and are conflicts of interest avoided?
	3.3 Monitoring operations. Does the government adequately monitor operations across project life cycles?	3.3.1 Development plans. Does the government evaluate and approve development plans with appropriate consideration for all stakeholders without undue delay?
		3.3.2 Monitoring capacity. Does the government have the capacity to monitor companies during each stage of the project life cycle?
		3.3.3 Data management. Does the government collect and manage geological and operational data?

Taxation and other company payments (precept 4)	4.1 Setting fiscal terms. Does the fiscal regime secure a reasonable return for the government while still attracting sufficient investment?	4.1.1 Royalty or cost limit. Does the fiscal regime include a tax on gross sales—a royalty or equivalent—to ensure the state receives some payments despite changes to profitability?
		4.1.2 Variable tax on rents. Does the fiscal regime include a variable rate tax (rent tax or excess profits tax) targeted explicitly at rents?
		4.1.3 Corporate income tax. Does the extractive sector fiscal regime include the generally applicable corporate income tax in the country?
		4.1.4 Investment incentives. Has the government avoided the use of costly or non-essential investment incentives?
		4.1.5 State equity. If the state holds equity shares in resource companies, are the expected fiscal and non-fiscal benefits of the equity greater than the costs of acquiring it?
		4.1.6 Fiscal regime evaluation techniques. Do government officials have the expertise and information to evaluate and design fiscal regimes?
	4.2 Legal Framework of fiscal terms. Does the legal framework of fiscal terms provide sufficient accountability to citizens, stability for investors and flexibility to respond to changing circumstances?	4.2.1 Scope of law. Does the government set all fiscal terms using legislation or model contracts, with a minimum number and defined scope for bidding or negotiation terms?
		4.2.2 Stability clauses. If there are legal clauses that stabilize legal terms governing an extractive project, do these clauses limit stabilization to key fiscal terms, and is stabilization limited in duration?
	4.3 Tax administration. Do government authorities collect the full value of taxes and other payments owed to the state?	4.3.1 Fiscal regime simplicity. Are the definitions of tax bases similar to one another, and is there a reasonable limit on the number of tax types?
		4.3.2 Anti-tax avoidance measures. Does the fiscal regime include a set of provisions to limit tax avoidance practices?
		4.3.3 Tax authority organization. Is the number of collecting organizations minimized, and do tax administrators coordinate with other government agencies?
		4.3.4 Administrative procedures. Are tax administration procedures simple, effective and harmonized, reflecting principles of self-assessment, with a risk-based compliance strategy?
		4.3.5 Tax administration capacity. Are tax administrators competent and well-resourced?
	4.4 Accountability and transparency of fiscal regimes. Is the government held to account for setting and collecting taxes and other company payments?	4.4.1 Tax transparency. Does the government disclose fiscal terms and company data to inform oversight?
		4.4.2 Public consultation on tax. Does the government consult with businesses and civil society before reforming the fiscal regime?
		4.4.3 Oversight of taxation. Do official agencies perform strong oversight of the fiscal regime?

Local impacts (precept 5)	5.1 Trust. Does the government ensure that there are good working relationships between all stakeholders within affected communities?	5.1.1 Meaningful participation. Does the government ensure that affected communities meaningfully participate in decision-making about resource projects?
		5.1.2 Managing the expectations of affected communities. Does the government ensure that affected communities have realistic expectations about the impacts of resource projects?
		5.1.3 Grievance and dispute resolution procedures. Does the government ensure that there are credible and effective dispute resolution procedures for affected communities?
		5.1.4 Security safeguards. Does the government ensure that government and private security providers related to resource projects do not use excessive force?
		5.1.5 Indigenous peoples. Does the government ensure that the rights of indigenous people are protected?
	5.2 Impact assessment. Does the government maintain an effective system for assessing the potential impacts of resource projects?	5.2.1 Strategic impact assessments. Does the government use strategic impact assessments before deciding to open an area to exploration and production activities?
		5.2.2 Environmental and social impact assessments. Does the government use environmental and social impact assessments to inform decision-making at all stages of resource projects?
	5.3 Cost mitigation. Does the government mitigate the environmental, social and health costs of resource projects?	5.3.1 Approach to cost mitigation. Does the government favor prevention over minimization, and avoid practices that require compensation and resettlement?
		5.3.2 Environmental, social and health regulation. Does the government set and enforce effective environmental, social and health regulations?
		5.3.3 Environmental mitigation management plans. Does the government require companies to develop environmental mitigation management plans and does it ensure that these plans are followed?
		5.3.4 Disaster response plans. Does the government require companies to develop effective disaster response plans?
		5.3.5 Project closure. Does the government effectively allocate responsibility for the execution and financing of project closure and land rehabilitation?
		5.3.6 Compensation. Where social and environmental costs are unavoidable, does the government ensure that there is adequate compensation?
		5.3.7 Resettlement. Where resettlement is unavoidable, does the government ensure that resettlement provides adequate redress?
	5.4 Local benefits. Does the government help affected communities to benefit from resource projects?	5.4.1 Community development agreements. Does the government ensure that companies come to an agreement with affected communities as to how companies will deliver community benefits?
5.4.2 Employment, contracting and procurement in affected communities. Does the government encourage companies to direct employment and procurement opportunities toward affected communities?		

State-owned enterprises (precept 6)	6.1 SOE role and funding. Does the government clearly define the SOE's role and establish a working funding mechanism for the company?	6.1.1 Commercial role. Does the government clearly define a commercial role for the SOE that reflects the company's actual financial and technical capacity?
		6.1.2 Non-commercial roles. Does the government clearly define the company's non-commercial roles? Does this definition limit conflicts of interest?
		6.1.3 Funding mechanism. Does the government ensure that the SOE has a workable funding mechanism?
	6.2 SOE corporate governance. Do the SOE's corporate governance systems limit political interference in the company's technical decisions, while ensuring effective oversight?	6.2.1 Role of state shareholders. Does the government clearly establish the identity and role of state shareholders in the SOE?
		6.2.2 Board models. Does the SOE have an empowered, professional and independent board?
		6.2.3 Staff integrity. Does the SOE invest in staff integrity and capacity?
	6.3 SOE transparency and accountability. Are SOE decision-making and operations transparent and accountable?	6.3.1 SOE operational and payment data. Does the SOE disclose key operational and payment data?
		6.3.2 SOE financial reporting and audits. Does the SOE subject itself to independent financial audits, and publish the results?
		6.3.3 SOE legislative oversight. Does the legislature oversee SOE performance without unduly constraining its decision making?
Revenue management (precepts 7 & 8)	7.1 Long-term fiscal sustainability. Is the government's spending and borrowing fiscally sustainable given that non-renewable natural resources are finite?	7.1.1 Sustainability metrics. Do sustainability indicators suggest that the government's use of resources and its spending policy is sustainable over the long term?
		7.1.2 Fiscal framework and fiscal rules. Does the government have a fiscal framework that promotes long-term fiscal sustainability and includes numerical targets?
		7.1.3 Compliance with fiscal framework and fiscal rules. Has the government adhered to its fiscal framework including any fiscal rules set? Are there verification and enforcement measures to promote compliance with any fiscal rules, and has the government complied with these targets?
		7.1.4 Debt policy. Does the government have a well-defined debt management policy, including provisions on the collateralization of government assets, borrowing terms, and transparency requirements?
		7.1.5 Expanding the tax base. Is the government helping to expand the non-resource tax base?
	7.2 Absorptive capacity. Does the government adequately manage the rate of spending in the domestic economy?	7.2.1 Absorptive capacity metrics. How effective is the government at transforming money into productive assets or social services?
		7.2.2 Absorptive capacity monitoring. Does the government have adequate information to assess whether the growth of total spending (including government spending) exceeds the limits of absorptive capacity?
		7.2.3 Managing domestic spending. Does the government use surplus revenues to repay foreign denominated debt or save in foreign assets to avoid breaching absorptive capacity constraints?
		7.2.4 Monetary policy. Does the central bank help mitigate the potential negative impacts associated with resource-dependence, including real exchange rate appreciation or exchange rate and revenue volatility?
	7.3 Expenditure volatility. Is government spending independent of short-term changes in revenues?	7.3.1 Volatility metrics. Has government spending been stable relative to government revenues during the past ten years?
		7.3.2 Expenditure smoothing. Does the government have a fiscal framework to govern short-term expenditure smoothing, with appropriate numerical targets, and does the government comply with the framework?
		7.3.3 Sovereign wealth fund. If the government has a sovereign wealth fund, is it managed in a transparent, accountable and efficient manner, and does the investment strategy help achieve the fund's objectives?

Public spending (precept 9)	9.1 Public spending planning. Does public spending align with national plans?	9.1.1 Planning and budgeting. Are national and sector plans formally integrated into the budgeting exercise?
		9.1.2 Project design and appraisal. Are public investment projects designed and appraised based on national and sector plans?
	9.2 Revenue distribution. Does the government distribute revenues in an accountable and transparent manner, and avoid off-budget transfers and spending?	9.2.1 Resource revenues and the budget. Is all government spending from resource revenues appropriated through the national budget?
		9.2.2 Off-budget distribution. If state-owned enterprises, savings funds or development banks receive revenues off-budget, is there sufficient justification for such arrangements, and are the revenues managed in a transparent, accountable and efficient manner?
		9.2.3 Distribution to subnational authorities. If the government allocates revenues to subnational governments, are the transfers based on a well-articulated set of objectives, and are the transfers correct and timely?
	9.3 Budget and project execution. Does the government spend public revenues as intended?	9.3.1 Spending controls. Are there spending controls and commitment plans in place, and do these result in public spending in line with the approved budget?
		9.3.2 Project implementation. Are public investment projects implemented as planned?
		9.3.3 Public procurement. Is public procurement predictable and subject to a process of open and competitive tendering?
	9.4 Accounting, reporting and oversight of public spending. Does the government account for and report on revenues and public spending, and is there strong oversight of public expenditure?	9.4.1 Budget accounting and reporting. Is public spending (including any off-budget spending of resource revenues) fully accounted for and reported?
		9.4.2 Independent audit and oversight. Is budget and off-budget recurrent spending subject to independent audit and oversight?
		9.4.3 Public investment project accounting and reporting. Are public investment projects fully accounted for and reported on?
		9.4.4 Public investment project audit and evaluation. Are there independent audits and evaluations of public investment projects?

Private sector development (precept 10)	10.1 Private sector enabling environment. Does the government make general purpose investment and remove bottlenecks to non-resource sector growth?	10.1.1 Industrial policy. Does the government engage with the private sector in a manner that ensures the best interest of the country as a whole, on grounds of economic rationale rather than patronage?
		10.1.2 Infrastructure. Does the government identify and address gaps between the country's existing physical infrastructure and the needs of the private sector?
		10.1.3 Construction sector. Does the government identify and address bottlenecks in the construction sector supply?
		10.1.4 Financial sector. Does the government identify and address bottlenecks in the financial system?
		10.1.5 Health and education. Does the government identify and address weaknesses in the country's health and education levels?
		10.1.6 Gender investment. Does the government identify and address weaknesses in how women are able to fully contribute to the economy?
		10.1.7 Business regulation. Does the government identify and address weaknesses in business regulations?
	10.2 Local content. Does the government ensure that domestic businesses and workers have the opportunity and capacity to operate in the extractive sector?	10.2.1 Supply side. Does the government remove barriers to local participation?
		10.2.2 Local content rules. If the government does employ local content rules, are they consistent with local capacity, do they avoid excessive protection, and guard against corruption?
		10.2.3 Local content implementation, monitoring and enforcement. Does the government monitor and enforce companies' adherence to local content rules, and the government's own support measures?
	10.3 Sharing infrastructure. Does the government ensure that extractive industry infrastructure is open to third parties wherever economically feasible?	10.3.1 Shared infrastructure coordination. Does the government help the coordination of extractive companies with other potential infrastructure users?
		10.3.2 Shared extractive industry-infrastructure regulation. Does the government assess the costs and benefits of facilitating shared use of infrastructure?
	10.4 Domestic value addition and consumption. Does the government take the opportunity to use oil, gas and mineral resources domestically, when the opportunity costs of doing so are less than the benefits?	10.4.1 Domestic value addition. If the government intends to intervene in domestic processing decisions, has it published an independent and robust assessment of the market failures, costs and benefits?
10.4.2 Domestic market obligation. If the government requires domestic marketing of the resource, has it published an independent and robust assessment of the market failures, costs and benefits?		
Role of extractive companies (precept 11)	11.1 Trust. Does the company work transparently and seek to build trust with all stakeholders related to its activities?	11.1.1 Meaningful participation. Does the company support the meaningful participation of affected communities in decision-making on projects?
		11.1.2 Managing expectations. Does the company ensure that stakeholder expectations are realistic?
		11.1.3 Comprehensive disclosure. Does the company proactively disclose key information?
		11.1.4 Security safeguards. Does the company ensure that security arrangements relating to resource projects do not use excessive force?
		11.1.5 Indigenous peoples. Does the company respect the rights of indigenous people?
	11.2 Sustainable development. Does the company work to maximize the potential benefits and minimize the social and environmental costs associated with resource extraction?	11.2.1 Cost mitigation. Does the company effectively mitigate the environmental, social and health impacts of resource projects?
		11.2.2 Understanding priorities and concerns. Does the company work to identify national and local development priorities and concerns, and measure its progress against them?
	11.3 Corporate integrity. Does the company act with honesty and integrity?	11.3.1 Corruption. Does the company have clear internal policies relating to corruption?
		11.3.2 Fiscal contribution. Does the company meet its fiscal obligations?
		11.3.3 Exemptions. Does the company avoid seeking exemptions from its legal and regulatory obligations?
		11.3.4 Company subcontractors. Does the company ensure that corporate integrity applies to partners, contractors and subcontractors?

Role of international community (precept 12)	12.1 Transparency. Does the international community advance public disclosure requirements for the extractive industry?	12.1.1 Home government transparency requirements. Do home governments require companies to disclose comprehensive information relating to resource projects?
		12.1.2 Lender transparency requirements. Do lenders require companies to disclose comprehensive information about the resource projects they finance?
	12.2 Environmental, social and health protection. Does the international community ensure that resource projects comply with internationally recognized standards of human rights, and environmental, social and health protection?	12.2.1 Home government human rights and environmental, social and health protection. Do home governments expect companies to respect human rights and the highest standards of environmental, social and health protection?
		12.2.2 Supporting host states on human rights and environmental, social and health protection. Do donors support host states to fulfil their duty to protect human rights and environmental, social and health standards, and ensure company compliance with human rights standards?
		12.2.3 Lender human rights and environmental, social and health protection. Do lenders require the companies they finance to respect human rights and the highest standards of environmental, social and health protection?
	12.3 Corruption and illicit financial flows. Does the international community tackle corruption and illicit financial flows?	12.3.1 Corruption. Do home governments maintain effective anti-corruption measures to reduce and prevent bribery and corruption?
		12.3.2 Illicit financial flows. Do international organizations work to reduce illicit financial transactions?

Precept 1: Strategy, legal framework and institutions

Resource management should secure the greatest benefit for citizens through an inclusive and comprehensive national strategy, clear legal framework and competent institutions.

–Precept 1, Natural Resource Charter

Natural resources present both opportunities and risks for the countries that choose to extract them. Managed well, they can support greater prosperity for current and future generations; but managed poorly, they can cause economic instability, social conflict, and lasting environmental damage. For decision-makers, making the right choices is difficult. They must navigate a wide range of issues, and work with a diverse array of actors with many competing needs and interests. To do this, they must build a resource strategy that is both comprehensive and inclusive. This strategy is likely to be more successful if it is rooted in a realistic understanding of the country's resource wealth, developed in dialogue with a wide range of stakeholders, and is authoritative enough to guide the development of the legal and institutional framework.

Precept 1 considers two main issues: understanding the country's resource endowment (Q1.1) and the quality of the government's strategy (Q1.2).

PRIMARY QUESTIONS

1.1 | Fundamentals of the resource endowment

Has the government clearly identified the country's resource endowment, who owns it, and the positive and negative impacts of extraction?

1.2 | Resource strategy

Does the government have an inclusive and comprehensive national strategy for the management of resources?

1.1 | Fundamentals of resource wealth

Has the government clearly identified the country’s resource endowment, who owns it, and the positive and negative impacts of extraction?

Before embarking on a strategy, government officials should acquire a full and clear understanding of fundamental aspects of the country’s resource endowment. This is not as straightforward as it might sound. In addressing these issues, the government must wrestle with the inherent uncertainty of geological information and commodity prices, and determine the relative importance of a wide range of potential impacts. While there is no standard checklist for success in this area, at the very least government must gain clarity on the issues examined below.

Secondary question	Guidance
<p>1.1.1 Ownership</p> <p>Has the government clearly established who owns extractive resources?</p>	<p>Clarity on who owns extractive resources is critical because it determines who ultimately has the right to carry out exploration and exploitation activities, with whom private companies must make agreements if they want to carry out these activities, and who receives certain types of payments, particularly royalties. In most countries, subsoil assets are owned by the citizens and it is the responsibility of governments to manage resources as representatives of citizens. There are exceptions to this norm, notably in the United States, where subsoil wealth can be owned by private individuals as well as the state.</p> <p>The government should establish ownership of natural resources long before exploration and production activities start, and should support this with active and ongoing communications. Failure to do so carries the risk that resource finds will fuel discord and conflict as rival parties make claims for ownership. Resources that lie under international borders also present challenges. If there are disputed territories, the government should act to establish certainty around international borders before carrying out exploration activities to ensure that resource finds do not complicate ongoing disputes.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Has the government clearly detailed property rights for oil, gas and mineral assets in law or in the constitution? (See Resource Governance Index (RGI) 2017, Q1.1a.) • Do citizens understand and accept the national policy on ownership of natural resources? Has the question of ownership of natural resources ever resulted in conflict in the past? Is there any chance that misunderstanding of the modalities of resource ownership could fuel conflict in the near future? • Does the government disseminate the national policy on ownership of natural resources through active and ongoing communications? For further reflection on government communications, see Q2.3.1. • Has the government agreed international borders, in particular maritime borders, with neighboring countries?

<p>1.1.2 Resource endowments</p> <p>Does the government have a well-informed understanding of the country's resource endowment?</p>	<p>A well-informed understanding of resource endowments is essential for developing a strong strategy for resource management. Arriving at this understanding is challenging because the scale and value of resources are inherently uncertain. For example, the value of the resources depends on volatile prices, and the quantity of extractable reserves may depend on new technologies. Governments vary in how well they manage this uncertainty. To inform its policymaking, the government should collect and consider the following information for each major commodity:</p> <ul style="list-style-type: none"> • Volumes. An understanding of volumes allows the country to determine the actual and potential scales of production. Government should collect information on production volumes, total reserves under production, as well as total proven reserves. • Prices. An understanding of prices allows government to determine which assets are commercially viable at any point in time given cost information. Of all the variables in this list, this is the most uncertain. When making price projections, it is good practice to use and communicate a range of scenarios for low, medium and high prices. • Values. The government should collect data on the value of resources produced. It should also project the value of total reserves under production, as well as value of total proven reserves, both under low, medium and high price scenarios. • Costs. Each asset has a cost associated with development. Understanding where this cost sits on global cost curves for the commodity in question allows government to understand how competitive national assets are on global markets, and how profitable these assets might be. • Time horizons. The projected time horizon for the development of each resource project allows the government to determine the length of time the country has to reap the benefits of a particular asset. • Global and regional significance. An understanding of global and regional significance of resource endowments allows the government to determine its relative global importance in the production of a particular commodity. For example, is the country a leading global or regional producer for a particular resource? Does the country have significant reserves regionally or globally for a particular resource? How do costs of reserves compare with global cost curves for that reserve? This impacts a country's relative bargaining power. It can also have important considerations for infrastructure and/or private sector development. <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the government have figures on the current values for the information types listed above, and how do they compare to other resource producers? (See RGI 2017, Q1.1.1a, 1.1.1b and 1.1.1c.; and Q1.2.2a, 1.2.2b and 1.2.2c.) If it is not possible to obtain this information, the researcher should calculate these figures. This information will help inform the overall assessment. • Does the government have a sophisticated understanding of the geological and market factors underlying these figures? Is its information realistic and well-informed? • Does the government produce and publish information on each of the above on a timely and regular basis? • What are the additional discoveries expected in the country? Is the country a new or mature producer? What has been the recent level of exploration in the country? Has the government accounted for these prospective changes?
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<p>1.1.3 Resource dependency</p> <p>Does the government have a realistic and sound understanding of how dependent the country is on natural resources?</p>	<p>High levels of dependency on the production of natural resources brings about a set of economic and governance risks. The government should therefore maintain and share a well-informed and realistic understanding of the country’s level of dependency on natural resources. This understanding should inform the country’s strategy for resource management.</p> <ul style="list-style-type: none"> • Government revenues. The government should publish the ratio of resource revenue to total revenues. This is important in understanding the susceptibility of the government budget to commodity price volatility (see Q7.3), the extent to which the government should work to diversify the economy (see precept 10) and the political power the resource industry may acquire. • Exports. The government should publish the ratio of resource exports to total exports. Dominance of resource sector exports can potentially lead to foreign exchange appreciation and the decline of other export-oriented sectors under a phenomenon termed “Dutch disease.” (See Q10.1 and Q7.2.) • Per capita resource wealth. The government should publish per capita resource wealth by production and by proven reserves. This indicates the development potential of natural resource endowments. While aggregate figures for resource wealth may sound large, they are often quite small when expressed in per capita terms. Of course, low ratios do not necessarily indicate limited opportunities; as exploration of precepts 9 and 10 show, resource revenues can be invested by the government to earn a return for the country that is much larger than the initial value of production. <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • What are the current levels of dependency according to the three measures above, and how does this compare to other countries that produce natural resources? This information will help inform the overall assessment. • Does government produce information on each of the above figures on timely and regular basis? • Are the figures realistic and well-informed?
<p>1.1.4 Impacts of extraction</p> <p>Has the government seriously considered the positive and negative impacts of exploitation in making the decision whether or not to extract?</p>	<p>The distribution of benefits and costs from resource extraction is inherently unbalanced. Often, tax benefits accrue to central authorities and are spent nationwide, while non-monetary costs of extraction (e.g. environmental and social issues) are borne by those living near extraction sites. Opening up to exploration and extraction may not always be the best course of action—negative impacts may outweigh the overall positive impact on the production region or the country more broadly. Governments can use tools such as strategic impact assessments to help account for environmental impacts within the wider strategy-making process before irreversible decisions are enacted at project sites. If the costs are too high, it may not be feasible to replace the environmental value that is lost, or adequately compensate those adversely affected. In such cases a country may opt not to extract.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the government use strategic impact assessments (SIAs) or some other method to help consider the decision to open up new areas to extraction? Are these of high quality? For considerations on SIA processes see Q5.2.1 and Q3.1.2. • Does the government’s consideration of the positive and negative impacts of extraction examine: <ul style="list-style-type: none"> ◦ Fiscal benefits and their distribution (see Q9.2) ◦ Social and environmental costs of extraction (see Q5.2) ◦ Macro-fiscal risks (see precepts 7 and 8) ◦ Infrastructure, employment, business linkages (see precept 10) ◦ The impacts of extraction on vulnerable groups including women and indigenous peoples (see Q5.1.1 and 5.1.5)

1.2 | Resource management strategy

Does the government have an inclusive and comprehensive national strategy for the management of resources?

An effective and sustainable strategy for resource management requires the government to make a series of key decisions that will affect different groups, and set choices extending far into the future. To avoid doing this in a piecemeal fashion and to build a shared sense of direction, governments should, in dialogue with stakeholders across government and beyond, including affected communities, parliamentarians, civil society and the private sector, develop a national strategy to guide extractive resource management decisions. The resource management strategy should be integrated into national planning documents, and supplemented with more detailed planning by government institutions that work directly on the issues. Developing a strategy is difficult and while varying circumstances facing each resource-rich country mean that every national strategy must be different, good resource strategies share a number of common characteristics that are considered by the secondary questions in this section.

It is common for a resource strategy to be spread across a number of documents. Researchers should start by analysing the dedicated resource strategy, if there is one. But they shouldn't stop there. For each of the questions in this section, it is important that researchers also consider national strategy documents, including national development planning documents and/or poverty reduction strategies, and strategy documents for the main institutions managing natural resources and the revenues they generate, including the resource ministry and ministries responsible for finance, energy, environment, infrastructure, industrial policy and others if necessary.

Secondary question	Guidance
<p>1.2.1 Cognizant of reality</p> <p>Does the resource strategy reflect an understanding of the fundamentals of resource wealth?</p>	<p>A resource strategy should reflect a well-informed understanding of fundamentals of resource wealth explored in Q1.1.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Is the resource strategy based on a reliable understanding of national resource endowments? Does it communicate a range of scenarios for low, medium and high prices? See Q1.1.2 for background. • Does the resource strategy take realistic approach to the risk of resource dependency? See Q1.1.3 for background. • Does the resource strategy seriously consider the benefits and costs of extraction relating to the decision to extract? See Q1.1.4 for background.

<p>1.2.2 Considering the long term</p> <p>Does the resource strategy take a long-term approach?</p>	<p>Resource extraction is a long-term process with long-term consequences. Due to the non-renewable nature of extractive resources, exploitation by one generation carries the opportunity cost that the resource may not be available for future generations. While the extraction process can last decades, the environmental, social, health and economic impacts of extraction can be felt for multiple generations if not longer.</p> <p>Approaches for managing resource endowments are complex and can take a long time to build. Developing a national workforce with the necessary skills and a legal and institutional framework to manage resources can take decades. Government must therefore design strategies for resource management and development with a long-term view.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Do national strategy documents for the extractive industry provide a long-term vision that considers the impact of resource extraction on future generations? • Does the strategy present a pathway to achieve this vision? Is there evidence that this is followed by government and other actors? Areas of particular importance include the pace of licensing (see Q3.1.5); fiscal terms (see Q4.1); local impacts, particularly project closure (see Q5.3.5); questions around the applicability of state-owned enterprises (SOEs, see precept 6); revenue management (see precepts 7 and 8); and the private sector enabling environment (see Q10.1). • Do government communications set reasonable expectations about the long-term nature of the gains and costs of extraction? (See Q2.3.1.)
<p>1.2.3 Comprehensiveness</p> <p>Does the resource strategy reflect consideration of the full range of issues in the management of resource wealth?</p>	<p>Harnessing extractive resources for development requires the government to develop a chain of good policy decisions over a range of issues that are not traditionally linked. Beyond the management of the extractive sector, this chain includes the governance of planning, environmental management, taxation, SOEs, finance, monetary issues, industrial policy, energy, infrastructure, labor and education. Given that this chain is only as strong as its weakest link, the government should ensure that each link in the chain is strong.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the resource strategy consider all of the links involved in harnessing extractive resources for development? Are there any notable gaps? • Does the resource strategy identify priority areas in the chain for strengthening? • Are policy areas along the chain sufficiently aligned or do they conflict with one another? Does policymaking happen in a joined up way or does decision-making in different parts of the chain take place in isolation? See question Q1.2.4 on inclusiveness, and Q1.2.6 on the institutional framework including issues of coordination.

<p>1.2.4 Inclusiveness</p> <p>Does the government engage all relevant actors in the development, implementation and oversight of the resource strategy?</p>	<p>A national strategy is more likely to be successful if development, implementation and oversight processes are inclusive. The government should aim for wide and meaningful participation in the development and implementation of the strategy using actors across government and those beyond, including affected communities, parliamentarians, civil society, extractive companies and the private sector more broadly. Not only does this build buy-in, but it also ensures that the strategy benefits from the expertise, understanding and experiences of those engaged with, or about to engage with, resource management.</p> <p>It is particularly important that the government recognize and enable strong oversight of the strategy within and beyond the executive branch of government. Because the extraction process can last many generations, decisions made in the present must be able to withstand the changes in government. Actors outside the executive, including legislators, journalists, and civil society groups are guardians of the strategy, playing a scrutinizing role by holding decision-makers to account. A successful strategy therefore not only requires an understanding of the policy issues, but also an appreciation for accountability, the structure and capability of government institutions, and the relationship with civil society. (Accountability is explored in detail in precept 2.)</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does government ensure participation in the resource strategy development, implementation and oversight by all government bodies with a role to play? See Q1.2.3 for an overview of the policy areas involved. • Does government ensure participation in the resource strategy development, implementation and oversight by actors outside the executive branch including member of parliament, affected communities, civil society organizations and the private sector? • Is participation informed and free from coercion and manipulation? Do stakeholders have adequate time to contribute? Affected communities and indigenous peoples have specific needs which the government and the private sector should consider. These are explored in more detail in Q5.1.1 and Q5.1.5 respectively. • Does the final strategy demonstrably take into account the inputs of these diverse actors? • Does the government recognize and enable strong oversight of the strategy? Does the strategy include oversight roles for actors within the executive and beyond?
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<p>1.2.5 Legal framework</p> <p>Does the resource strategy guide the relevant legal framework?</p>	<p>To be effective, a resource strategy must guide the rules that ultimately govern the resource sector. Although the structure of resource-related legal frameworks vary from country to country, most countries spread relevant laws across four levels of legal documents. These include:</p> <ul style="list-style-type: none"> • The constitution, which establishes the authority of the government to make and enforce laws. It may also include information about the fundamental rights and values of the country, potentially including natural resource ownership. (See Q1.1.1.) • Laws and policies, which govern specific parts issues. These might include a mining or petroleum law, environmental laws, health and safety laws, tax laws and labor laws. • Regulations, which are more specific requirements that are usually created to provide details to aid the implementation of a law. • Contracts and other agreements between the government and companies. These may set out rights and obligations agreed between the government and a company for a specific resource projects. <p>Translating a resource strategy into a clear and coherent framework of rules generally requires elements among each of these levels of legal documents. Setting terms in law increases transparency and limits opportunities for discretionary action, but may restrict the ability to change rules in response to changing circumstances as the sector develops. Use of contracts, in contrast, gives the government the flexibility to develop new legal provisions on a project-by-project basis, but this may result in a complicated legal framework that is difficult to monitor, particularly if the contracts are not made public (as is often the case). An alternative to both legislation and contracts is to empower government agencies to regulate the extractive sector. Regulators properly capacitated and monitored can provide rules that respond to changing circumstances, filling in necessary details that legislation may lack.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the resource strategy identify areas for the development of the legal framework? Are these in cognizant of reality? (See Q1.2.1.) • Is there evidence that the government is using the resource strategy in the development of the legal framework? If the strategy is new, are there new legislative and policy processes in place to develop the legal framework in line with the strategy? • Are there gaps and/or conflicts in the legal framework that need to be addressed? To determine this, it may be helpful to map the legal framework against the precepts of the Natural Resource Charter.
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<p>1.2.6 Institutional framework</p> <p>Does the resource strategy guide the relevant institutional framework?</p>	<p>An effective resource strategy must also guide the development of institutions tasked to implement the strategy. Given the multitude of actors involved, this requires assignment of clear roles and responsibilities, strong coordination mechanisms and a respected authorizing body to choose between competing actors. In many countries, such an authority may take the form of an overarching government committee chaired by the executive office (e.g., the presidency or prime minister’s office).</p> <p>Building institutions that are able to carry out effective resource management takes time. For the governments of many new hydrocarbon or mineral producers, it will be necessary to address two challenges in parallel: resource management and institutional strengthening across the whole decision chain. (See below.) This is made all the more challenging by the fact that resource wealth tends to deteriorate the very incentives, such as relying on citizens for raising taxes, that favor institutional strengthening.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the resource strategy identify priorities for the development of the institutional framework? Are these in keeping with priorities on the ground? • Is there evidence that the government is using the resource strategy in the development of the institutional framework? If the strategy is new, are there new legislative and policy processes in place to develop the legal framework in line with the strategy? • Which institutions have responsibility for each of the following governance areas? For each of these tasks, is it clear which body is responsible for policy development and which is responsible for regulation and enforcement? <ul style="list-style-type: none"> ◦ collecting geological information ◦ managing and awarding licenses ◦ agreeing fiscal and other contractual terms with resource companies ◦ regulating extractive operations ◦ managing social, environmental and health impacts ◦ developing a government fiscal framework and monitoring fiscal rules ◦ administering and collecting taxes ◦ budget formulation ◦ industrial policy <p>(Note: It may be helpful to map these institutions across the precepts of the Natural Resource Charter.)</p> • Are the people assigned to make decisions the genuine decision-makers, or does the power lie elsewhere? • Are there any necessary tasks that are not clearly assigned to an institution? • Are there any overlaps in which two or more institutions have responsibility over a certain task? • Does any institution have a conflict of interest in meeting its objectives?
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Precept 2: Transparency and accountability

Resource governance requires decision makers to be accountable to an informed public.

–Precept 2, Natural Resource Charter

Accountability incentivizes good performance among all actors involved in the management of natural resources. It means that government officials, the private sector and civil society are answerable for their actions, and that there is redress when commitments are not met or responsibilities are neglected. In environments with strong accountability, errors in planning or implementation are more likely to be recognized (by citizens, journalists, civil society, officials, and/or international actors) and corrected (by the government), and office holders are less likely to engage in corruption. Accountability helps generate policies and practices that reflect the public interest, and that enjoy citizen support.

Precept 2 considers three core issues: transparency (Q2.1), official oversight (Q2.2) and communications and public oversight (Q2.3).

PRIMARY QUESTIONS

2.1 | Transparency

Does the government ensure that resource management is sufficiently transparent for all actors to effectively understand and scrutinize decision making and its implications?

2.2 | Official oversight

Do government oversight bodies hold officials to account?

2.3 | Communications and public oversight

Is there a critical mass of informed citizens that holds the government to account?

2.1 | Transparency

Does the government ensure that resource management is sufficiently transparent for all actors to effectively understand and scrutinize decision making and its implications?

Transparency means making relevant and timely information easily available to all actors so that they can observe and analyze decisions made and actions performed by authorities and corporate actors. In addition to deterring bad behavior, transparency also helps lay foundations of trust between citizens, the private sector and the government. The need for transparency in the extractive industries is particularly strong, given that resource extraction and revenue management are processes that are highly technical, typically involve few people, and usually take place in locations that are physically distant from much of the public. Furthermore, large sums of money are on the line. In order to assess whether there is sufficient and effective transparency, a researcher must consider the rules regarding access to information, how information is managed, what information is disclosed and how it is disclosed.

Secondary question	Guidance
<p>2.1.1 Access to the legal framework</p> <p>Does the government ensure that the full legal framework governing resource management is available to the public?</p>	<p>It is essential for the legal framework governing the extractive industries to be widely available and understood. This not only allows the government and the public to monitor compliance with the legal framework, but also opens up channels for scrutiny to ensure that they can correct errors in the legal framework, and that the rules and principles guiding the governance of the extractive industries are adaptable to changing circumstances.</p> <p>The legal framework governing the management of extractive resources in a country is usually spread over a wide range of documents. If any of these documents is not accessible all stakeholders may not fully understand the rules that govern the extractive industry. In most countries these documents comprise:</p> <ul style="list-style-type: none"> • the country’s constitution • legislation • regulations, executive decrees, government policies and model contracts • licenses, contracts and other agreements between extractive companies and governments <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the government publicly disseminate new documents once they come into force? Is dissemination done in a way that helps citizens, particularly affected communities and other marginalized groups, understand the documents? (See Resource Governance Index (RGI) 2017, Q1.1.9a, 1.1.10a, 1.1.10b, 1.1.10c, and 1.1.10d.) Where appropriate, are documents translated into local languages? • Are all parts of the legal framework governing resource extraction publicly available? Is it possible to identify which part of the legal framework (e.g., taxation, local content requirements, community development spending etc.) is missing? While constitutional documents and legislation are usually available, some governments do not release regulations or the contracts between extractive companies and governments. • If contracts themselves are not available, are the model contracts upon which they are based made public? For standards on contracting, refer to the Open Contracting Global Principles and the Open Contracting Data Standard. • If contracts are publicly available, researchers should consider the degree to which they are accessible. Are annexes, schedules, documents incorporated by reference, and amendments also disclosed? Are efforts made to ensure that contract information is communicated effectively to stakeholders? • A related issue is clarity of roles and responsibilities across the decision chain. This is addressed in Q1.3.1.

<p>2.1.2 Disclosure rules</p> <p>Has the government established rules that enable access to information on resource management?</p>	<p>The rules governing access to information on resource management are usually spread across different documents in a country’s legal framework. (See Q2.1.1.) These rules can make disclosure of certain types of information mandatory, or they can create processes that citizens can use to compel the government to release specific pieces of information. Other rules within the legal framework may work to prevent the release of certain information. Generally, the legal framework should enable reporting that is in line with open data standards (see Q2.1.4) and comprehensive (see Q2.1.5).</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the legal framework include rules that enable access to information? It is important to consider whether proactive disclosure is mandated, or if disclosure is only required upon request. The government should release most information proactively. Request systems can be a useful complement to the proactive release of data, but they should not be the primary method by which citizens access information, as the need to go through a request process can significantly hamper access. If requests are required, what are the grounds on which an institution can deny a request? How quickly are institutions required to respond? What is the process for an appeal? Are there prohibitive fees for accessing information? • Does the legal framework include rules that prevent access to information? Important places to look for these provisions include requirements in sector legislation and regulations, information laws, and provisions in contracts between the government and extractive companies. Where contracts are not publicly available, it can be helpful to consider model contracts to see if there is a standard clause agreed between extractive companies and the government that prevents public access to contracts.
<p>2.1.3 Information management</p> <p>Do government agencies have effective information management systems that support access to information?</p>	<p>An effective information management system enables a government to provide information efficiently to multiple stakeholders and for multiple purposes at the same time. Where possible, government should collect data in a timely and well-organized manner, and organized through effective electronic systems, particularly where this is mandated by disclosure rules. Integrated financial management information systems (IFMIS) may be implemented in ways to support these aims.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Do national statistical offices and/or departments within relevant agencies have sufficient resources and expertise to meet information requirements? If not, does the government have plans in place to improve the management of information? When looking at these issues, it may be important to consider whether there is genuine political will to follow disclosure procedures. • Does the government have effective procedures in place for the sharing of information within government (e.g., IFMIS for financial management)? Are different ministries and levels of government able to access and share information? If there are bottlenecks, what is their nature and source (e.g., information not flowing between key ministries and the state-owned enterprise (SOE), or between the central and subnational governments)? Are challenges relating to the sharing of information between government agencies due to hardware, software, or human capacity challenges? • If there is an EITI process in the country, has the EITI process contributed to the improvement of information management on issues relating to extractives?

<p>2.1.4 Open data</p> <p>Does the government publish data according to open data standards?</p>	<p>Open data is data that is freely available for everyone to use without restrictions. Researchers assessing the extent of openness should consider whether the data meets certain basic quality standards:</p> <ul style="list-style-type: none"> • Timeliness. Circumstances surrounding extractive industries can change rapidly, therefore data must be regularly updated so that those monitoring the sector are aware of the latest developments. • Level of disaggregation. Aggregated data can mask important trends. Where possible, data released by government should be disaggregated to the level of specific resource projects, location and product type, to allow for full analysis. • Machine-readable. Data should be in a format easily read by computers to support swift further analysis. • Non-discrimination. Anyone should be able to access data, therefore unnecessary registration and membership requirements should be limited. Likewise data should not be released in non-proprietary formats. • Openly licensed. All government data must be explicitly openly licensed upon publication. Restrictive licenses can deter or limit use of data by the public. • For an overview of standards in open data, see the Sunlight Foundation’s Open Data Policy Guidelines. <p>If the country is implementing EITI, researchers should also consider whether the EITI publishes its data in line with open data standards.</p>
<p>2.1.5 Comprehensive disclosure</p> <p>Does the government ensure that data is released on a comprehensive set of resource governance and management issues?</p>	<p>Effective monitoring of resource governance requires information on a wide range of processes—from discovery and the decision to extract, to getting a good deal, to revenue management, to investing in sustainable development.</p> <p>The transparency table in annex 2 provides a guide of what government should disclose to build an effective domestic accountability environment. It is complemented by precept-specific transparency tables for precepts 1, 3, 4, 5, 6, 7 and 8, which go into further detail about government disclosures relating to specific policy areas, and precept 11, which looks at disclosures that should be made by extractive companies.</p> <p>If a country is implementing EITI researchers should also consider whether the EITI process publishes a comprehensive set of data on resource governance issues.</p>

2.2 | Official oversight

Do government oversight bodies hold officials to account?

Official oversight bodies usually include the legislature and the supreme audit institution, but they may also include other actors such as anti-corruption agencies or a national ombudsman’s office. Whether official oversight actors contribute to an improved accountability environment depends on whether they have a sufficient legal mandate; access to resources, including technical expertise, financial and human resources, and information; and sufficient political autonomy and will.

Secondary question	Guidance
<p>2.2.1 Legislature</p> <p>Does the legislature hold public officials to account on issues relating to resource governance?</p>	<p>In most countries, the legislature has the power to enact, amend or repeal laws, to approve and amend government budget processes, and to conduct some oversight functions. Given these powers, members of the legislature are well-placed to monitor the effectiveness of natural resource governance, provided they have adequate capacity, opportunities and incentives to do so.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Capacity and advice. Has the legislature established or appointed an official agency/ advisor to support its work on resource management? For instance, is there a special parliamentary committee with expert support? • Information. Does the legislature have access to sufficient information to adequately monitor decisions, negotiations, payments and revenue movements related to extractive resources? Does the legislature have access to all the information outlined in annex 2? Do all agencies respond equally to requests for information from the legislature? Does the legislature receive the information in a timely enough way to weigh in on important decisions or respond with appropriate legislation? • Power. Does the legislature have the power to effectively enact, repeal or amend laws, and hold public officials or private actors involved in the extractive industries to account? What is the frequency, depth and impact of the legislature’s monitoring of the industry? Are there examples in the past where the legislature has wielded its power to change policy or force punitive measures? Is this done equally by all political parties? • Scrutiny. Is the legislature subject to scrutiny by civil society? Legislative watchdog organizations or networks can help provide incentives to elected officials to provide better oversight. Web tools such as theyworkforyou.com in the U.K. or mzalendo.com in Kenya can be helpful in this effort. <p>Where the legislature’s ability to hold public officials to account is weak, researchers should consider the main obstacles they face.</p> <ul style="list-style-type: none"> • Are there challenges in the legal and institutional framework surrounding the legislature? Are there capacity challenges? Are there political incentives that discourage effective or critical action?

<p>2.2.2 Supreme audit institution</p> <p>Does a supreme audit institution oversee the government’s management of financial flows relating to the extractive sector, and does the government respond to its findings?</p>	<p>In most countries, a supreme audit institution (SAI) is tasked with scrutinizing public financial management. SAIs exist in several forms: as an office with one designated leader, as a court, or as a board. They carry out financial and compliance audits that scrutinize the government’s management of public finances and compliance with laws, regulations, and budgets. They also conduct performance audits that examine the efficiency and effectiveness of government operations and spending.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the SAI have a constitutional or otherwise strong legal mandate to access, audit, and report on government accounts and operations, including all those related to extractive sector governance? Do they have the mandate to conduct financial, compliance and performance audits? • Is the SAI sufficiently independent? Does it have a protected budget? Does it have protected appointment and removal processes for both the leadership and staff? Are audit reports subject to any external censorship? Does the leadership have authority and credibility, and is it able to address access constraints, censorship threats, and audit findings? • Does the SAI have full and timely access to the accounts and supporting documentation of all relevant institutions—including ministries, state-owned enterprises, sovereign wealth funds, and private companies that undertake public programming using public finances? Does it have access to relevant information held by other companies operating in the sector? • Does the SAI have the staff, resources, and technology required to audit extractive industries? Does it have the technical capacity required, including sector-specific expertise? • Are audit reports produced and presented on a regular and timely basis? Are they clear, comprehensive and consistent? Do they compare findings over time and make specific recommendations? Are they publicly available? • Is any institution—such as the parliament, a law enforcement agency, or a court—tasked with following up on audit findings and recommendations? Are audit findings taken seriously and recommendations implemented by the relevant institutions? Are the relevant institutions capable of this follow up? • Where the SAI appears weak, researchers should identify the main obstacles it faces. These could be challenges in the legal and institutional framework, de facto access rights, resource and capacity levels, quality of leadership, or wider political economy issues.
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<p>2.2.3 Corruption control</p> <p>Does the government take effective measures to deter, detect and prosecute corruption?</p>	<p>Corruption in the oil, gas and mining sector leads to lost revenues and performance failures by public sector officials and government institutions, and can undermine incentives for adopting good governance practices.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • What is the prevalence of corruption in the sector? Make sure to distinguish between perceptions of corruption (both local, and those captured through global indices like the Corruption Perception Index) and actual cases that illustrate the severity of the problem. Look at the whole decision chain when answering this question, examining corruption-prone areas such as license allocations, the administration of local content policies, subcontracting and SOE operations. • Given corruption risk levels, does the government have useful preventative measures in place, including: <ul style="list-style-type: none"> ◦ whistle-blower legal protections ◦ asset disclosure requirements for all sector officials ◦ strong rules against conflicts of interest (e.g., Are public officials able to participate in the sector as beneficial owners of oil or mining companies?) • How effectively does the government identify and prosecute corruption? Does the government devote resources to the investigation and prosecution of corruption in the extractive sector? Have corruption cases led to convictions with significant penalties? Are these types of prosecutions politically neutral?
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2.3 | Communications and public oversight

Is there a critical mass of informed citizens that holds the government to account?

Public oversight depends on a critical mass of informed citizens who have a realistic understanding of the potential benefits and challenges presented by resource extraction. Where this exists, public scrutiny contributes to the legitimacy of the rules and institutions that govern the country and provides officials with incentives to consistently pursue the interest of citizens. But where citizens are not suitably informed, there is a risk that public oversight can fuel populist and short-term policy making. Developing effective citizen oversight is complex and there is no easy step-by-step guide for doing so. However, some core ingredients include effective government communications and management of expectations; the protection of civic and political freedoms; and the existence of civil society organizations that contribute fresh ideas and outside thinking on the management of extractive resources.

Secondary question	Guidance
<p>2.3.1 Government communication and the management of expectations</p> <p>Does the government implement a communications strategy to ensure that the public has realistic expectations of the future benefits and costs of extraction?</p>	<p>Effective communication from the government is essential to helping build a critical mass of informed citizens that have a realistic understanding of the potential effects of a resource discovery on the nation’s well-being in the long term. Oil, gas and minerals present three specific communications challenges that government must prepare for in different ways (Collier 2013):</p> <ul style="list-style-type: none"> • Wealth without effort. Resource discoveries can evoke notions of achieving wealth without effort. These can easily result in citizens making unrealistic demands, such as pressures to increase public sector salaries and other forms of consumption spending. It is therefore essential that government frame the magnitude of finds in ways that do not overplay the size of potential wealth and that emphasize the long time lags and uncertainties involved. • Ownership of natural resource wealth. Unless it is clearly established prior to discovery, the question of who owns extractive resources can be contested. This can result in conflicts, which can turn violent. To mitigate this risk the government must pre-emptively anticipate and resolve the ownership question, ideally long before the decision to develop the extractive industry has even been made. (See RGI 2017, Q1.1a.) • Non-renewable nature of extractive resources. Extractive resources are finite and revenues (even if they are large) may be short-lived and subject to cycles of boom and bust. The government should communicate the importance of saving resource revenues, not just for future generations, but also so that resource wealth can be used when times are hard. <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • What is the prevalence of these communication challenges in the country? Have government communications contributed to these challenges or mitigated them? • Does the government communicate with citizens and set reasonable expectations relating to wealth without effort, resource ownership and/or the fact that extractive resources are non-renewable? Is this communication proactive and does it start long before resource activities commence? • Does the government set expectations for companies to communicate with citizens proactively throughout the life cycle of a project? See Q11.1.2 for consideration of company efforts to manage local expectations. • Does government messaging in national visioning or strategy documents address any of these issues? • Special considerations should be made by researchers for the way that communications are managed in affected communities. This is addressed in Q5.1.2

<p>2.3.2 Civic and political freedoms</p> <p>Does the government ensure that civic and political freedoms are consistently upheld?</p>	<p>The protection of civic and political freedoms is a necessary condition to enable accountability. In order to effectively scrutinize public officials, civil society should be able work without fear of harassment.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does legislation support civil society and media operations? Are activists safe from harassment or intimidation? Are people in general free to speak out against the government, and does advocacy around the oil, gas and mining sector reflect this broader trend? Do citizens who criticize the government receive fair treatment under the law? • In addition to citing concrete examples of good or bad practice, researchers may find macro-indicators such as the WGI Voice and Accountability Indicators and the Freedom House reports useful.
<p>2.3.3 Media and civil society</p> <p>Do the media and civil society groups effectively improve public accountability in natural resource management?</p>	<p>Capable media and public interest groups can help channel public concerns to policymakers. They can also help digest technical information and make it available to the public. To do this effectively, it is essential that media and public interest groups sufficiently understand the issues involved in harnessing extractive resources for development, that they are perceived to be credible by both government and citizens and that they have opportunities to pursue their agendas.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Do media and public interest groups have the capacity and the will to hold the government to account on the broad range of issues involved in resource governance? • Do media and public interest groups adequately speak to the interests of the wide range of actors that are affected by the extractive industries? For instance, do existing media and public interest groups represent marginalized groups to enable their contribution to national debates (e.g., indigenous peoples, women)? Are particular regions underrepresented? • Does the government actively communicate and engage with the media and civil society? If so, does it do so in a way that does not compromise the independence of the media and/or civil society? • Where media and civil society play a weak oversight role, researchers should consider the reasons why, including potential political constraints.
<p>2.3.4 Independent research</p> <p>Do research institutions carry out independent and high-quality research on resource governance?</p>	<p>Independent research produced by local think tanks, civil society organizations, journalists and academic institutions helps contribute fresh ideas and independent thinking to the policy process, and can shine a light on poor practices.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Do existing research institutions have sufficient capacity to carry out research on the extractive industries? • Do the combined efforts of local research institutions cover all parts of the decision chain or only specific areas? Do research institutions study the impact of extractive industry development on the economy, host communities and/or marginalized groups (e.g., indigenous peoples, women)? • Are research institutions sufficiently independent of government? Do international institutions provide support to local research institutions? • Is the government open to receiving inputs from research institutions, or is the policy-making process insular? • Does the government actively communicate with independent research institutions and help build their capacity where possible? If so, does it do so in a way that does not compromise their independence? • Where independent research institutions play only a weak oversight role, researchers should consider why this the case, including potential political constraints.

<p>2.3.5 Professional associations</p> <p>Do professional associations and unions actively promote and enforce professional standards of conduct and engagement among their members who are engaged in extractive industries?</p>	<p>Local professional organizations and labor unions can play an important role in enforcing standards and professional ethics among their members who are engaged in the extractive industries. Such associations can engage accountants, lawyers, journalists, engineers, financiers and insurers, construction firms and mining and petroleum producers, while unions target various sets of the workforce, sometimes specifically within the petroleum or mining industry, and in other cases more widely.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Are there notable cases in which professional organizations or unions have called upon members to explain their actions following complaints? Have these complaints ever resulted in expulsions or other consequences? Do these bodies represent an influential voice in favor of ethical and responsible practices with respect to the extractive sector? • Does the government actively communicate with professional associations and help to build their capacity where possible? If so, does it do so in a way that does not compromise their independence? • Where professional associations play a weak oversight role, researchers should consider why this the case, including potential political constraints.
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Precept 3: Exploration, licensing and monitoring operations

The government should encourage efficient exploration and production operations, and allocate rights transparently.

–Precept 3, Natural Resource Charter

So that a country benefits from extraction in the future, the government must take care to attract competent and law-abiding companies to discover and later extract new resources. A well-governed exploration and licensing process will include three tasks for the government. First, the government should develop an understanding of the resource base, manage the resulting data and decide whether to license areas and at what pace (Q3.1). Second, government must choose a process for licensing resource rights to companies (Q3.2). Third, government must monitor operations to ensure companies fulfil their commitments in accordance with law, regulations and best practices (Q3.3).

For the purposes of this guidance note, the term license refers to a range of legal documents—including licenses, leases, contracts and concession agreements—that confer companies the right to carry out exploration and/or production activities in a specific area.

PRIMARY QUESTIONS

3.1 | License planning

Does the government adequately prepare before allocating licenses?

3.2 | Awarding resource licenses

Does the government allocate licenses to competent and law-abiding companies, and in a way that maximizes value for the country?

3.3 | Monitoring operations

Does the government adequately monitor operations across project life cycles?

3.1 | License planning

Does the government prepare before allocating licenses?

To facilitate efficient exploration and attract interest from the best companies, the government should make available accurate and comprehensive information about the resources below the ground and the ownership above the ground to prospective companies. Poor preparation can damage value by licensing inappropriate areas at the wrong time or wrong price. For example, if opening an area for exploration impinges on people’s livelihoods.

Secondary question	Guidance
<p>3.1.1 Pre-licensing survey</p> <p>Does the government facilitate or fund pre-licensing surveys and make geological information available to companies?</p>	<p>To attract prospective companies, government may invest in geological/geophysical surveys, which reduce uncertainty in frontier regions, where there has been little exploration activity to date. Surveys can be undertaken by the government directly using public funding, or more commonly, by contracting geophysical companies. These companies carry out surveys at the company’s expense, under the agreement that the government and the company share any revenues generated from data sales.</p> <p>In addition to commissioning surveys, the government must securely store and share geological data with extractive companies in order for the data to deliver its full value. (See Q3.3.3.) The government may choose to make the data freely available to potential investors, sell it to interested parties, or require its purchase as a condition for participation in the licensing round (EI Sourcebook).</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the country have “frontier regions” (in which there is little prior geology information available) where pre-licensing surveys may be appropriate? • If so, have any pre-licensing surveys been carried out, or are any due to be carried out? • Does the government have the necessary staff and technology to sort through geological data? • Does the government have possession of the data from all previous geological surveys conducted in the country?
<p>3.1.2 Strategic impact assessments</p> <p>Does the government conduct and publish a strategic impact assessment before allocating licenses?</p>	<p>A strategic impact assessment (SIA), sometimes known as a strategic environmental assessment, provides a process for a government to evaluate the overall benefits and costs of licensing areas. An SIA considers the government’s institutional readiness to manage operations, its revenue needs, and compares the expected outcome from licensing with government objectives (UNEP 2004).</p> <p>The government typically conducts an SIA to help formulate its plans. This differs from environmental and social impact assessments (ESIAs) that are specific to a particular project. An SIA should be done before there is the political momentum in favor of extraction, and before companies have committed significant investments. Conducting an SIA merely to justify a political decision does not contribute to a good management of natural resources.</p> <p>This issues is also considered in precept 1 (Q1.1.4) and precept 5 (Q5.2.1). Precept 5 also considers ESIAs (Q5.2.2).</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Has the government conducted an SIA before licensing areas for exploration and production? • What are the main results of any SIAs conducted by the government? • Has there been instances in which the government has decided not to license an area based on the results of an SIA?

<p>3.1.3 Non-resource property rights</p> <p>Prior to allocating licenses, does the government clearly establish who holds property rights to the land being licensed and how those rights will be upheld?</p>	<p>Prior to allocating licenses, the government has a responsibility to clearly establish ownership and access rights to the land and other resources that will be affected by extraction. This is important to clarify who will be impacted by exploration and production activities. (See Q5.2 for more on impact assessments.) It is also important to guard against conflicting claims for the surface rights of the land. (See Q1.1.1 for consideration of the ownership of sub-soil assets.) A well-managed land-registry is an important first steps. Establishing such a registry in some countries may require clarification about the status and use of land held though customary and/or communal systems.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Has the government established all ownership and access rights to land above subsoil assets? Does this include clarification of customary and/or communal land rights? • Has the government created a well-managed land registry? • Where clear land rights have not been established, has the government consulted with local people, particularly in relation to customary or tribal rights? (See also Q5.1 on consulting with citizens in the locality of extraction projects, Q5.1.5 on indigenous peoples’ rights, and Q5.2 on assessing the potential impact on local property from exploration and extraction.)
<p>3.1.4 Resource rights</p> <p>Does the government organize licenses to ensure that license areas do not overlap or conflict with existing rights to explore and extract resources?</p>	<p>Along with ensuring that the rights to resource exploration and extraction do not impinge on existing rights to use the land for other purposes, government officials should ensure that exploration and production rights not overlap with each other.</p> <p>This is sometimes the case when subnational authorities assign exploration and production rights without carefully managing their subnational boundaries, or where a combination of authorities assign rights to companies. Further, as licenses are allocated, bought and sold, their management can grow increasingly complex. A license registry, such as a cadaster, which contains a list of license holders, license types and expiration dates, helps the government manage this information and maintain company confidence in the licensing process. By making the cadaster open to the public, the government can help ensure a better understanding of license areas by oversight actors and government departments.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Is data on licenses disaggregated to include the following information for assigned licenses: <ol style="list-style-type: none"> 1 geographical coordinates 2 license-holder(s) 3 date of application and award 4 duration 5 type of license/contract (i.e., a license for exploration or production) 6 work program commitments 7 names of companies that hold an interest in the license (e.g., joint venture partners). Does the cadaster include details on both assigned and unassigned licenses? • Do license-holders have the freedom to transfer their licenses to eligible companies? • Can license cancellations or denied applications be appealed? • Can the public access and view the cadaster? <p>See also EITI Standard 2016 requirement 2.3.</p>

<p>3.1.5 Pace of licensing and size of licenses</p> <p>Does the government have an effective policy on the pace of licensing and size of license areas?</p>	<p>The government’s licensing policy sets the pace of licensing, the size of license areas and the rules for the relinquishment of licenses. Researchers can assess the licensing policy by how well the government has considered:</p> <ul style="list-style-type: none"> • Change in risk after a major discovery is made. The first discovery in a region will typically reduce the risk and increase the expected value of further prospects in the same geological basin. Governments can earn more income if the pace of licensing allows for some terms to be set after the geological risk is reduced. (See Q4.1 on fiscal terms.) In other words, a government shouldn’t license too much at once. • Regulatory agencies capacity. The licensing policy should reflect the readiness of regulatory agencies to oversee exploration operations. A government does not need to delay licensing until agencies are ready, but licensing at too fast a pace can be problematic when agencies’ capacities are weak. • Prevailing market conditions. Exploration opportunities are more valuable during periods of higher commodity prices. • Size of license area. Large license areas attract bidders, particularly when exploration occurs before commercial resources have been proved. However, the risk then is that just a few companies control large portions of the prospective resources. <p>See also precept 1 on setting overall strategy and establishing institutions for resource governance.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • What guides the government’s decision on licensing new areas? • Does the government have a policy over how fast it will license new areas for exploration? • Does this policy recognize constraints such as those listed in the bullets above? • What guides the government’s decision over the size of license areas? • Has the size changed as perceived exploration risks have changed?
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3.2 | Awarding resource licenses

Does the government award resource rights to competent and law-abiding companies, and in a way that maximizes value for the country?

Competent and law-abiding companies are more likely than incompetent or corrupt companies to make discoveries, maximize income from those discoveries, and avoid accidents and corruption. The government needs a company selection process that screens potential license-holders and prevents licenses awarded for the personal gain of public officials. Governments often use pre-qualification processes for this purpose. They then choose the license recipient from among these qualified companies, typically through one of two methods: direct negotiations (also termed *first-come first-served*) or competitive bidding under *licensing rounds*.

Secondary question	Guidance
<p>3.2.1 License pre-qualification Does the government screen license applicants before allowing applicants to enter a licensing round or negotiation?</p>	<p>In order to avoid granting licenses to companies with records of non-compliance in other countries, or that lack the necessary technical and financial abilities, governments can use pre-qualification screening. This helps to focus the selection process, and signals to companies the seriousness and competence of the government’s management of the process.</p> <p>Pre-qualification screening should evaluate potential license applicants against technical and financial criteria, and should be done before license applicants enter a negotiation or a licensing round.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Is pre-qualification of applicants required by law or policy? (See RGI 2017, Q1.1.3a.) • Are the criteria for pre-qualification well defined and clear to applicants? • Are the criteria appropriate in the context of geology and potential scale of production? For instance, should only highly competent companies apply for licenses in unconventional or offshore petroleum blocks? • Are the details of the pre-qualification process disclosed? (See RGI 2017, Q1.1.4a.) • If the minimum thresholds are not disclosed pre-licensing, are they at least disclosed after the pre-qualification and award process? • Have licenses only been awarded to applicants who have passed pre-qualification? • Are licenses that are transferred by one company to another subject to pre-qualification? • In the case of a joint ventures with multiple companies, does the pre-qualification ensure that the interests of these companies are sufficiently aligned to allow for efficient operations?

<p>3.2.2 License award method</p> <p>Does the government use a method of awarding licenses that accounts for the level of competitive interest and the administrative capacity of the government?</p>	<p>A government can choose to award licenses either via direct negotiation (also termed “first come, first served” or “open door negotiation”) or via a competitive license round. Direct negotiation is when the government announces the availability of a license and negotiates terms with each company or consortium that approaches the government. In a license round, the government awards licenses by a competitive auction process.</p> <p>General practice has been that most countries allocate petroleum licenses using a competitive process and allocate mining licenses on a first come, first served basis (Ortega-Girona et al. 2009). However, with increasingly better geological data, some mineral countries are now shifting to competitive licensing rounds as well (EI Sourcebook).</p> <p>License rounds are better if there is sufficient competition for licenses and the government has the required administrative capacity to conduct a license round. A license round has the advantage of pushing applicants to bid as high a value as possible for the license, overcomes information deficits between government and companies as company bids help reveal the perceived value of the rights being licensed, and is more transparent than direct negotiations. However, where there is little competitive interest or where the government does not have the capacity to run a license round, direct negotiations may be preferable.</p> <p><i>For the latest license award process, researchers should consider:</i></p> <ul style="list-style-type: none"> • What award process has the government chosen? (See Resource Governance Index (RGI) 2017, Q1.1c, 1.1.3c and 1.1.4c.) • Does the government use an award process that is suitable given the competitive interest there is for licenses? Has there been a significant amount of competitive interest in previous license rounds? • Is the government capable of administering whatever award process it chooses?
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<p>3.2.3 License terms and post-bid negotiations</p> <p>Does the government limit the use of negotiable/biddable terms and resist further negotiations after the bidding process?</p>	<p>Limiting those terms that are subject to bidding or negotiation (often terms on taxation, for example) simplifies an otherwise complex award process, minimizes the opportunities for companies to take advantage of a lack of government capacity and information, and reduces government officials' discretion.</p> <p>There are two ways to limit bidding or negotiable terms. First is to use a model contract that sets out a standard set of terms that applies to all license holders, along with a limited set of terms that companies bid on during an auction, or offer during negotiations. Second is a license regime in which companies bid for a standard license and must follow the terms set out in generally applicable legislation and regulation (NRGI, ISLP, VCC and OpenOil 2014).</p> <p>For those terms that are open for negotiating or bidding, the government should have clear and strategically chosen criteria to evaluate what the companies propose. Where there is more than one bidding term, a government should set and disclose the relative importance of each in terms of how a license will be awarded.</p> <p>After winning a bid, a company may seek to negotiate some of the terms of its license agreement or contract. The company sometimes argues that circumstances have changed and the project is no longer viable under the existing terms of the license. The government should resist pressure to enter additional negotiations as it reduces the value of conducting an auction process in the first place. Transparency of the auction process and agreed terms (Q3.2.4) can help others check whether a government has avoided post-bid negotiation.</p> <p>In some cases, governments enter into barter arrangements, offering licenses to companies in exchange for assets such as infrastructure or credit facilities. These deals warrant caution, as it can be difficult to assess the cash value of such compensation and compare them with other offers. (See Q10.4 on resource sector related infrastructure.)</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the government use a model contract? • Does the government limit the number of terms available for negotiation or bidding? (See RGI 2017, Q1.1.3b and 1.1.4b) • Where there are multiple bidding variables, is the weighted importance of each in the selection process made clear to applicants? • Has the government avoided further negotiations after awarding licenses? • Do any barter deals receive adequate scrutiny, and reflect the national interest?
<p>3.2.4 License transfers</p> <p>Does the government submit license transfers to the same checks and balances as an initial license award?</p>	<p>The government must also have an effective process to handle transfer of licenses, including the steps outlined in questions 3.2.1 to 3.2.3. The transfer process should also allow the government to tax the selling company's capital gains where desired. (See precept 4 on taxation.) This requires coordination between the licensing authority and the tax authority, and between the licensing rules and the tax code.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Is there a record of licenses that have been transferred from one company to another? • Are there examples of transfers done without the checks applied by the authorities?
<p>3.2.5 License disclosure</p> <p>Does the government disclose pre- and post-license round information?</p>	<p>Transparency can reduce the governance risks associated with licensing processes. The transparency table in annex 3 details the information that is important that the government disclose, and whether information should be disclosed before or after the allocation of licenses. (See RGI 2017, Contract disclosure Q1.1.9a, 1.1.10a, 1.1.10b, 1.1.10c, and 1.1.10d; Cadaster Q1.1.2a, 1.1.2b, 1.1.2c, and 1.1.2d; License application and award details Q1.1.6a, 1.1.6b, 1.1.6c.)</p>

<p>3.2.6 License oversight</p> <p>Is oversight of the licensing process effective, and are conflicts of interest avoided?</p>	<p>Along with transparency, effective oversight can also reduce governance risks. Legislatures and independent audit institutions can play important oversight roles, if these roles are well designed. Legislatures are not necessarily well placed to approve individual contracts with companies, and requiring this may pose certain risks (among others corruption, a reduced licensing efficiency due to politicization and lack of capacity, and the facilitation of derogations of contracts from law). However, legislatures and auditors can hold the licensing authority to account on how it conducts negotiations or auctions overall, and should receive regular reports from the licensing authority to this effect.</p> <p>To avoid conflicts of interest, it is useful to ensure that the licensing authority is independent, particularly from any state-owned enterprise (SOE) that is itself a commercial participant in resource projects. (See Q6.1.2 on non-commercial roles of SOEs and RGI 2017 Q1.1.3d. Also see RGI questions on asset disclosure and beneficial ownership Q1.1.7a, Q1.1.7b, Q1.1.8a and Q1.1.8b.)</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • What role does the legislature play in licensing processes? • What role do other oversight institutions such as auditors or corruption authorities play in licensing processes? • Do these institutions have sufficient expertise to interrogate these processes? • Have there been examples of these institutions revealing poor practices in licensing?
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3.3 | Monitoring operations

Does the government adequately monitor operations across project life cycles?

After assigning rights, government authorities should monitor whether companies adhere to the agreed obligations. Monitoring the project can also help the government learn about the geology and project management when entering into negotiations or license rounds with other companies.

Secondary question	Guidance
<p>3.3.1 Development plans</p> <p>Does the government evaluate and approve development plans with appropriate consideration for all stakeholders without undue delay?</p>	<p>Development plans set out how a commercially viable reserve will be developed. Companies must usually get the government to approve these plans before the company can develop the reserve.</p> <p>It is important for the government to evaluate and agree on these plans to ensure that they: are technically sound, cost effective and consistent with its resource depletion policy (Q3.1.5); make appropriate use of infrastructure (Q10.4); and address health, safety and environment concerns (Q5.3). Government officials may also wish to ensure that the plan provides opportunities for local content and employment provisions (Q5.4 and Q10.3). These documents should also provide for abandonment or the closure of the project, including clean up and restoration (Q5.3.5).</p> <p>Such an evaluation requires technical competency and coordination across a range of government departments. This can be difficult to achieve, leading to long delays which deter investments and can risk agreements being accepted by the government without sufficient scrutiny.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Is there a process to ensure that all relevant government departments are able—within the stated timeframe—to evaluate development plans and feasibility studies? • Is this process coordinated and if so by whom? • Are development plan or feasibility study approvals publicly announced?

<p>3.3.2 Monitoring capacity</p> <p>Does the government have the capacity to monitor companies during each stage of the project life cycle?</p>	<p>Once a license is awarded, the government should monitor the company’s operations to ensure the company adheres to the license terms.</p> <p>The government’s first task is to monitor exploration work programs, which require the license holder to undertake a minimum amount and/or value of exploration within a certain time. Work programs can be stipulated as a license requirement or used as a bidding variable and have been designed to encourage exploration. (Companies may not always have a strong incentive to explore in license areas, preferring to wait for other companies to make a discovery in nearby areas so they can use that information to direct their own exploration efforts.)</p> <p>Failure by a company to realize the demands of the work programs should result in the relinquishment of the license and/or payment of the equivalent cost of the uncompleted work.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Is the duration of the license period sufficient to execute the work program? • Are minimum values for expenditure included in the work program and are these realistic for the work contemplated? • Does the system allow for periodic relinquishment of parts of the license area in order to incentivize exploration investment and prioritization by the company? • If companies fail to complete their work programs, are they made to relinquish their licenses?
<p>3.3.3 Data management</p> <p>Does the government collect and manage geological and operational data?</p>	<p>Both companies and the government will typically hold geological and operational data. Much of these data will be generated by companies, but the government has a responsibility to collect these for monitoring purposes.</p> <p>Along with encouraging companies to explore, governments can use geological and operational data to inform other resource management decisions. For instance, data such as production rates helps the government monitor ongoing operations and set licensing rounds. The government should operate a system to collect and manage this data; in particular, the government should collect production and reserves data disclose these to the public on a field-by-field basis. (See Myers 2014.)</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Are companies required to provide geological and geophysical data to the government? • Is it clear who owns and who can access the data? • Is geological data stored in a well-managed and secure database? • Is a country-wide geological map available to government officials and investors? • Does the government make all the data packages that are necessary to attract investors available in an easy to access manner (whether free or through payment)? • Does the government host a website that describes what national geological information is available? • Does the government manage data on production and reserves over the course of operations for each project?

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Precept 4: Taxation and other company payments

Tax regimes and contractual terms should enable the government to realize the full value of its resources consistent with attracting necessary investment, and should be robust to changing circumstances.

–Precept 4, Natural Resource Charter

Resource extraction can be a significant source of revenues for a government. But for this to happen, the government must balance obtaining a share of the value of the resource with terms attractive enough for capable companies to invest. Finding this balance is tricky and requires effective governance on four tasks. The first is setting fiscal terms that are neither too high nor too low and that provide a suitable share of both the risk and return of extraction operations (Q4.1). The second is creating a legal framework that provides sufficient assurances to investors, but is not so rigid that the assurances prevent the government from responding if economic circumstances change significantly (Q4.2). The third is ensuring that authorities collect the full amount of revenue set by the fiscal terms (Q4.3). The fourth is to ensure that government officials are held to account for each of these tasks (Q4.4).

The following questions are applicable to all types of fiscal regime design, including production sharing arrangements, concessionary regimes and service contracts. While these regime types have different terms, the government can design a tax-royalty regime to have similar economic properties to a contractual regime, and vice versa. Many of the governance principles described in this section are applicable to all types. Unless specifically stated, the terms “tax” and “taxation” refer to both tax and non-tax instruments (e.g., royalties) that transfer revenue from a company to the government.

PRIMARY QUESTIONS

4.1 | Setting fiscal terms

Does the fiscal regime secure a reasonable return for the government while still attracting sufficient investment?

4.2 | Legal framework of fiscal terms

Does the legal framework of fiscal terms provide sufficient accountability to citizens, stability for investors and flexibility to respond to changing circumstances?

4.3 | Tax administration

Do government authorities collect the full value of taxes and other payments owed to the state?

4.4 | Accountability and transparency of fiscal regimes

Is the government held to account for setting and collecting taxes and other company payments?

4.1 | Setting fiscal terms

Does the fiscal regime secure a reasonable return for the government while still attracting sufficient investment?

A fiscal regime comprises a set of terms that dictate how much companies should pay to a government in taxes and other types of payments such as royalties and production shares. A well-designed fiscal regime ensures that companies pay as much revenue as possible while ensuring that investors find that country attractive to invest in, through payments that are timed according to the country's needs and consistent with the government's desired rate of exploration, development and production. A well-designed fiscal regime also attracts capable investors, promotes greater resource discoveries, controls production costs, and creates competition for resource licenses—which in turn promote greater revenues.

The optimal design of a fiscal regime depends on a country's circumstances and the government's revenue collection objectives. The three principles below are a condensed version of a substantial body of thought on this subject (Natural Resource Charter precept 4; IMF 2012; Nakhle 2010).

Three principles of resource taxation

A. Obtain the highest return for the state for the depletion of its resources. The value of extracting a resource—over and above the costs of extraction, including the minimum required financial return for investors (the competitive cost of capital)—is called rent (Daniel et al. 2010). Rent provides an opportunity to tax a company without damaging its incentives to operate. In other words, taxing just the rent is neutral. However, determining the amount of rent is difficult. How much rent a project will produce in the future is highly uncertain, and difficult to measure when it does. If a government taxes companies more than the available rent, some investment would be deterred, and if a government taxes less than the available rent, a country does not realize the full revenues from extraction.

B. Expose the government to only so much risk as the government's ability to manage volatile revenue. Resource projects are subject to risks from volatile commodity prices, uncertain geology and changing costs. These result in an uncertain income for investors and the government. The fiscal regime determines in part how the government and the company share this risk. Both parties naturally wish to receive more income and less risk, so to take on more of the risk, either party will seek to gain a higher share of the income.

In designing a fiscal regime, a government should only expose itself to a variance of revenues that it can manage. Given the magnitude of commodity price swings, much of this risk of varying revenues should be managed by reserves or stabilization funds (see precepts 7 and 8) and reliance on other sources of government income, provided the country's economy is sufficiently diversified. However, many governments do not have such policies in place or have yet to diversify their economies. In these cases, the fiscal regime becomes an important first line for managing revenue risks.

The terms progressive and regressive regimes relate to risk sharing. Progressivity means that the government share will rise as the rate of return rises. Progressivity implies that in periods of low profits, the government receives a lower share. Therefore, progressivity may be less desirable in countries where the government cannot manage the risk of low or zero revenues for extended periods of time. However, limiting progressivity will often conflict with an objective of taxing rent (see first principle, above) and the political desire for revenues to increase with prices. Governments can change the fiscal regime as prices or other economic conditions change, but investors generally prefer to invest in countries in which future tax terms are stable and predictable. Therefore, some automatic flexibility of terms—via progressivity—may be desirable to avoid changing terms too often. (See question 4.2.1.)

Part of risk sharing also relates to the expected timing of payments, which is influenced by the fiscal regime and is also a matter of preference. Most governments aim to gain income sooner rather than later; this is particularly true of those with limited access to credit markets or an undiversified revenue base. However, other things being equal, earlier payments to governments mean delayed income for the company, which is also seeking as quick a payback of its capital commitment as possible. So the company will seek to gain compensation for any delay via lower overall tax payments over the life cycle of the project, or instead will invest elsewhere.

C. Make the fiscal regime as simple as possible—but not too simple. Achieving the first two principles requires the practical step of actually collecting revenues, often when dealing with companies proficient at minimizing their obligations and keen to avoid unnecessary compliance costs. The government should set terms and procedures that limit the costs of company compliance, and be as easy as possible for authorities to administer (see Q4.2). However, the simplest of tax instruments and rules are not necessarily the best for achieving the first two principles listed here, so some balance is required.

It is difficult to set a fiscal regime that meets these three principles perfectly—instead, a government must compromise. For instance, taxing rent may require tax terms that are difficult to administer, but terms that are easier to administer may not be as effective for taxing rent. The most appropriate balance will be different for each country. For most situations it is only possible to identify minimum qualities that a fiscal regime should feature. The first five secondary questions in this section cover these principles.

Not covered in these principles is the appropriate rate and base for each fiscal instrument. Ascertaining this requires advanced analytical techniques and difficult-to-obtain data. Instead of requesting researchers to undertake these analyses, Q4.1.6 assesses instead whether the government has the right tools and skills to do so.

A government may have a single set of fiscal terms that applies to all companies, or different sets for different companies. If the latter, the researcher should try to comment on all fiscal regimes applicable in the country. At a minimum, researchers should focus on the most economically relevant ones. (Often, these will be the largest projects.)

Researchers can find useful information for these questions in the following:

- For copies of legislation and government documents, government websites, or summaries of legislation are also available by third party providers. For instance, the global accounting and consulting firm EY produces a regularly updated [summary guide for oil and gas fiscal regimes](#). PricewaterhouseCoopers produces one [for mining](#).
- If publicly disclosed, contracts between governments and companies may be hosted on www.resourcecontracts.org and [EITI country sites](#).
- EITI reports can be useful for basic descriptions of fiscal regimes. Requirement 3.2 of the EITI standard asks for a “description of the legal framework and fiscal regime governing the extractive industries.” This includes “a summary description of the fiscal regime, including the level of fiscal devolution, an overview of the relevant laws and regulations,” and a “description of each revenue stream, related materiality definitions and thresholds.”

Secondary question	Guidance
<p>4.1.1 Royalty or cost limit</p> <p>Does the fiscal regime include a tax on gross sales—a royalty or equivalent—to ensure the state receives some payments despite changes to profitability?</p>	<p>A tax on gross sales can, combined with other terms, help meet the three principles described above. Terms equivalent to a gross sales tax are a royalty, a minimum production share or a cost limit/recovery provision within a production sharing arrangement (most common in petroleum), or an economically equivalent term in a service contract. A signature or production bonus also has similar properties.</p> <p>These types of fiscal provisions are not strictly necessary, but are very useful for countries in urgent need of revenue, are reliant on resource revenues for the budget (see precept 7), or have poorly functioning tax administrations (Q4.3). In these cases, a gross sales tax or the equivalent is useful for two reasons. First, such a tax typically brings forward the timing of payments to the government, and makes it more likely that payments are made even in periods of low profits. For revenue-starved and risk-averse governments (potentially many developing countries) this can be an important characteristic.</p> <p>Second, royalties can, if simply designed, reduce the risk that a company avoids payments. For instance, an <i>ad valorem</i> royalty using a global price benchmark is comparatively easier to administer than taxes based on profits (such as corporate income tax). Measuring sales revenue, however, remains a difficult task (Calder 2014). More complex provisions, such as royalties with net-back provisions that require calculations of transport, refining and other costs, are not of this type. Although they share some of the characteristics of a tax purely on gross sales, the calculation of transport, refining and other costs can make administration more difficult.</p> <p>The desirable royalty rate and base depends on the level of risk the government and company wish to share. A higher royalty, without other compensating mechanisms, means a more regressive fiscal regime but assures a minimum return to the government. In extreme cases, a high royalty payment may push the company into a loss-making position during periods of low prices, limiting investment or discouraging a company from extracting high-cost or lower-quality resources (a practice called high-grading). (See RGI 2017, Taxation rules Q1.2.5b.)</p>
<p>4.1.2 Variable tax on rents</p> <p>Does the fiscal regime include a variable rate tax (rent tax or excess profits tax) targeted explicitly at rents?</p>	<p>In addition to a gross sales tax, a good way to design a fiscal regime with the three principles of resource taxation described above is to use a tax explicitly designed to target rent using a variable rate structure. This is a tax whose rate changes according to the estimated rent produced by the project. A variable tax can often help a regime tax rent more effectively than just a royalty and corporate income tax with fixed rates. It can make a fiscal regime more progressive, which can ensure a better capture of rent and risk sharing (principles A and B above). Further, the government can design variable taxes to be no more complex than a standard corporate income tax provision.</p> <p>There are a variety of taxes of this type including a brown tax, R-based cash flow tax, and allowance for corporate equity or capital (Land 2012). Excess profit taxes are also variable taxes.</p>
<p>4.1.3 Corporate income tax</p> <p>Does the extractive sector fiscal regime include the generally applicable corporate income tax in the country?</p>	<p>The standard corporate income tax (CIT), applicable to all other sectors of an economy, should also apply to resource companies. A CIT can tax some rent in combination with a gross sales tax (Q4.1.1) and a variable tax (Q4.1.2), but CIT is important for two other reasons. First, it reduces the opportunities for tax avoidance. If an extractive company faces a different corporate income tax than other businesses in the country, there is an opportunity for the owner to shift profits from the sector with the higher tax rate to a subsidiary business in a sector with the lower tax rate. Second, it is common for those few countries with worldwide taxation rules to offer tax credit for payments on standard business taxes. Therefore, resource companies are likely to receive a tax credit on their CIT payments in their home country, which reduces the burden of taxation without harming revenues for the host country government. (See RGI 2017, Taxation rules Q1.2.5a.)</p>

<p>4.1.4 Investment incentives</p> <p>Has the government avoided the use of costly or non-essential investment incentives?</p>	<p>Governments can provide individual companies or groups of companies with <i>investment incentives</i> or <i>tax incentives</i> which serve as additions or amendments to the legislated fiscal regime. These alterations may attract some investment and provide government revenue, and are sometimes used to encourage companies to continue extraction during the mature stage of the project life cycle.</p> <p>However, such incentives can be problematic for four reasons. First, tax competition between countries is a growing phenomenon in which governments try to attract capital away from their peer countries. However, as all countries “race to the bottom,” the result merely reduces global tax rates, without necessarily attracting more capital.</p> <p>Second, there is a risk that a government gives too much away. Economic conditions are constantly changing: a project that is profitable one year may not be the next, and vice versa. Investment incentives do not usually take this into account and risk sacrificing revenue on a project that would have been profitable even without the incentive.</p> <p>Third, there is a risk that investment incentives are not given on a purely economic basis, but as a result of lobbying.</p> <p>Fourth, investment incentives create multiple fiscal regimes, making tax administration more difficult.</p> <p>Investment incentives are best avoided, but if a government does use them it is better to make changes to the overall fiscal regime than provide incentives to individual companies. Taxation in accordance with legislation makes it more likely that changes are being made in the interests of the country rather than as a result of company lobbying of individual officials. Furthermore, it is better that investment incentives are limited to deductions from the tax base rather than consisting of complete exemptions from taxes, such as tax holidays. This ensures that the authorities still collect information on the taxpayer that is useful for the administration of other taxes. For example, information on royalties is useful for the collection of corporate income tax, and vice versa.</p> <p>Investment incentives sometimes proliferate when different government agencies, such as the ministries of finance, commerce or investment, are able to give incentives. Limiting discretion to one authority can be helpful (Q4.3.3).</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Has the government avoided exempting resource companies entirely from paying certain taxes? • Has the government avoided giving tax holidays to companies? • Can only one government authority grant investment incentives to resource companies? • If the government has given an incentive, has it demonstrated the net benefit taking into account the loss of revenue, and costed out in annual budgets?
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<p>4.1.5 State equity</p> <p>If the state holds equity shares in resource companies, are the expected fiscal and non-fiscal benefits of the equity greater than the costs of acquiring it?</p>	<p>Many governments of resource-rich countries elect to hold equity shares in resource companies or projects. It can be in the form of:</p> <ul style="list-style-type: none"> • Paid equity: The government pays upfront for the equity. • Carried equity: The company lends the government the capital to purchase the equity and recoups the amount plus interest via a tax reduction. • Free equity: The company provides equity for free, equivalent to a tax for the company. <p>A state share may allow the government to benefit when the company declares a dividend and may give the state a position on the governing board, although tax terms and regulations offer similar, and sometimes better, benefits than a state share. First, a state share as a revenue raising instrument is no different from a profits tax, except that dividends from equity are typically paid later than profit tax payments, if at all. Second, equity allows the government to gain information by having a seat on the corporate board, although in theory much of the informational benefits can also be achieved through equivalent regulation. For instance, an alternative is to use a “golden share,” which gives the government a position on the governing board with less cost to the government.</p> <p>Further, there are often significant downsides to obtaining a share of company equity. First, whichever form it takes, equity is costly for a government. Paid equity results in a payment upfront and calls on the government equity holder for additional cash during project operations. Carried equity leads to a reduction in government revenue during the project. Free equity may result in the company offering a lower bid price or negotiated set of terms (or the company may altogether avoid investing the country because the free equity provision lowers their total return.)</p> <p>See Precept 6 on matters relating to states owning a majority share in extractive companies.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • What equity shares does the government own in resource companies? • How has the government acquired these shares? Through paid, carried or free arrangements? What interest is charged on carried arrangements? • What dividends has the company paid to the government shareholder? • Does the government hold any golden shares or otherwise controlling shares in companies? (See RGI 2017, Taxation rules Q1.2.5c.) • Has the government used its shareholdings to positively influence corporate decisions?
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<p>4.1.6 Fiscal regime evaluation techniques</p> <p>Do government officials have the expertise and information to evaluate and design fiscal regimes?</p>	<p>A strong fiscal regime requires several ingredients. The first is a team of skilled experts, which can include geologists, accountants, lawyers and economists. Second is information on the extraction projects, the companies, and the global commodity and capital markets. This includes accurate data on project costs, a well-established discount rate used for government project assessments, and realistic and established assumptions on prices. Some of this information can be purchased from global data providers, other information is sourced from the companies themselves, the tax authority and other government agencies. Third is a methodology to analyze the combined effects of different tax terms on the company and government. Discounted cash flow models (such as the IMF's FARI model) are generally considered the best available such tools.</p> <p>If the government manages these ingredients correctly, the government can produce a range of evaluation metrics on fiscal regimes to assess whether a regime adheres to the three general principles detailed in Q4.1. Metrics include: net present value of the project, payback period for the investor, internal rate of return for the investor, average effective tax rate and marginal effective tax rates, net present value of government revenue, and the profile of revenue payments over time. Together, they help a government set fiscal regimes that:</p> <ul style="list-style-type: none"> • Provide a minimum return to attract investment while maximizing government take. • Understand when a company might start to pay taxes. • Consider the impact of a range of factors, such as changes in commodity prices. <p>These metrics are particularly useful when negotiating with companies in possession of their own highly sophisticated models.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the government operate spreadsheet models to analyze its fiscal regime reforms? • Are there a skilled civil servants with the skills to operate spreadsheet models and interpret the results? • Are there data on taxpayers, particularly their costs, available to use in to the model?
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4.2 | Legal framework of fiscal terms

Does the legal framework of fiscal terms provide sufficient accountability to citizens, stability for investors and flexibility to respond to changing circumstances?

How fiscal terms are set within the law is important for two reasons. First, the legal structure can assure investors that the fiscal regime they invest under will not change significantly over time. Second, setting terms in legislation or regulation that is generally applicable and transparent reduces discretion and helps prevent officials from setting terms that are in their own interests, rather than in the interests of the country. Legislation also provides equality between taxpayers, can significantly reduce transaction costs, and helps ward off claims of special treatment. While these two objectives are important, there is a balance between fixing fiscal terms within the law and allowing enough flexibility to change terms as circumstance evolve.

Secondary question	Guidance
<p>4.2.1 Scope of law</p> <p>Does the government set all fiscal terms using legislation or model contracts, with a minimum number and defined scope for bidding or negotiation terms?</p>	<p>By establishing as many fiscal terms as possible within legislation, a government can limit the discretion of individual officials to set terms with companies. Some terms must be left open for negotiation or bidding in an auction, but the government should ensure the scope of these is limited. For example an auction could use a signature bonus or production share as the bidding variable.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • How much of the extractive sector fiscal regime is set within legislation or regulation, and how much within contracts? • If the government uses long contract documents to govern specific extraction projects, does it follow a model contract? • Is this model contract publicly available? • Are there only a minimum number of terms (fiscal and non-fiscal) that are left variable? (This could be for auction or negotiation purposes.)
<p>4.2.2 Stability clauses</p> <p>If there are legal clauses that stabilize legal terms governing an extractive project, do these clauses limit stabilization to key fiscal terms, and is stabilization limited in duration?</p>	<p>Investors are usually attracted to countries that offer stable tax regimes. This is partly because investors want to be assured that the government will not raise taxes once investment is “sunk” (Hogan and Sturzenegger 2010). To assuage investors’ concerns, governments sometimes use measures to provide some predictability. One common measure is a stabilization clause, which prevents a government from changing taxes or other regulatory terms for a set period of time after a contract has been signed, or ensures that the investor is compensated for changes which adversely affect it. This offers stability to investors, but prevents governments from responding to changes in economic conditions. If a government offers these clauses, it is best to limit their scope to only a few necessary terms, to tax rates rather than the definition of the tax bases (for example, what constitutes profits for the purposes of corporate profit taxation), and their duration to only a few years. (See Mansour and Nakhle, 2016 for three common approaches to choose from.) Another approach is to offer stabilization at a price, for example at two percentage points higher than corporate income tax.</p> <p>Stabilization clauses are no panacea for investors, with governments often changing fiscal terms despite such clauses. Stability clauses alone are insufficient and should be replaced, or at least reinforced, by fiscal mechanisms that provide inbuilt flexibility. Progressive fiscal regimes, sometimes using resource rent taxes or similar terms, ensure the fiscal burden automatically adjusts to changes in prices and profitability. (See Q4.1.2.) Better revenue management systems in general also ensure that government budgets are more insulated from commodity volatility and alleviate the pressure on the government to change taxes. (See Q7.3.)</p> <p>Researchers may find evidence of stabilization clauses in contracts (see www.resourcecontracts.org), or summary tables (such as Mansour and Nakhle 2016).</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Is the scope of stabilization clauses limited to only a few terms and a few years? • Do companies face a progressive fiscal regime that responds automatically to changes in profitability? Researchers can use government or third-party analysis to calculate progressivity. Researchers can also check answers to Q4.1.2 to ascertain whether variable taxes are used in the fiscal regime, as these provide some degree of progressivity.

4.3 | Tax administration

Do government authorities collect the full value of taxes and other payments owed to the state?

The administration and collection of taxes is often the weakest link in an otherwise well-functioning fiscal system. Companies may actively evade taxes they are legally obligated to pay, or avoid paying taxes by legally acting in a way to minimize their tax bill. While resource-related fiscal regimes are not necessarily more difficult to administer than generally applicable tax regimes, the task can still be challenging, and the cost of failure significant for resource-dependent countries.

Fiscal regimes with non-tax payments such as production sharing arrangements are just as exposed to tax evasion and avoidance as tax-royalty regimes. Production shares are based on a measure of costs, so companies can just as easily seek to inflate reported costs. The cost limit provisions often associated with production sharing arrangements can put a cap to how much costs a company can report for these purposes, but this is economically equivalent to charging a royalty in a tax-royalty regime. An important exception are production sharing agreements (PSA) that are joint ventures (a common situation in the oil and gas industry) where the company is responsible to the other participants.

All governments face tax administration problems, and no government has been able to completely prevent companies from avoiding and evading taxes. The most governments can do is put in places rules and processes to minimize these practices. The following questions address the most important rules and processes.

Secondary question	Guidance
<p>4.3.1 Fiscal regime simplicity</p> <p>Are the definitions of tax bases similar to one another, and is there a reasonable limit on the number of tax types?</p>	<p>A tax base is the value to which a tax rate is applied. For example, the base for most royalties is the gross sales value of a company’s production, while the base of corporate income tax is the profits of a company. A fiscal regime with many tax types and complex definitions of tax bases hinders effective administration. Such fiscal regimes can be improved in three ways:</p> <p>First, having a large number of tax types with different bases multiplies the tasks administrators must perform and the expertise they need. To avoid this, officials can ensure that different taxes use similar definitions for tax bases. For example, the sales revenue definition for a royalty could be the same as the one used for the resource rent tax, or the definition of costs used for a resource rent tax could be used for corporate income tax.</p> <p>Second, applying a large number of different taxes is problematic. So-called “nuisance taxes” including regional levies or fees for different agencies should be avoided where politically possible, or at least made easier for companies to comply with and for the tax authority to administer. Further, some tax regimes have multiple taxes that achieve similar economic outcomes. In many cases, just one tax would achieve the same economic result. For instance, a regime may not need both a royalty and cost limit provision in a production sharing contract as these perform similar financial functions.</p> <p>Third, the government can achieve simplicity by ensuring that tax laws are clear and easy to follow, not open to technical disputes, and accessible to taxpayers, administrators and the wider public. It is also useful to limit the array of legal documents that describes the tax regime, and to publicly disclose contracts, addendums and amendments. (See Q4.4 and Q2.1.1.)</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Are there a limited number of fiscal terms set for each company? Researchers may look out for instances of local taxes, the existence of both royalty and cost limit provisions, and other instances where there may be taxes with similar functions. • Which fiscal terms use similar bases (for example, the corporate income tax and rent tax)? • Are the fiscal rules and taxpayer guidance given by tax authorities accessible on an official website, and are they up-to-date and understandable?

<p>4.3.2 Anti-tax avoidance measures</p> <p>Does the fiscal regime include a set of provisions to limit tax avoidance practices?</p>	<p>Governments can reduce opportunities for tax avoidance by implementing a variety of measures. None of these is perfect, and some may impose certain costs on the administration of taxes that makes them unsuitable for the country. However, authorities should consider implementing these measures wherever possible.</p> <p><i>Researchers should look for the following measures in the fiscal regime:</i></p> <ul style="list-style-type: none"> • strong anti-abuse legislation allowing revenue authorities to reallocate items of income and expense • clear definitions and procedures concerning the treatment of transfer pricing • cost limit provisions (including thin capitalization or debt-to-equity provisions) • separation of hedging derivatives income and operating income • advance pricing agreements • mechanisms for the government to obtain and exchange taxpayer information from other governments
<p>4.3.3 Tax authority organization</p> <p>Is the number of collecting organizations minimized, and do tax administrators coordinate with other government agencies?</p>	<p>The organization of the authorities responsible for collecting payments from resource companies is a key determinant of how much revenue the government collects. A government can improve tax authority organization in three ways:</p> <p>First, the government should limit the number of organizations administering the fiscal regime and ensure that their role is clearly defined and understood. Unfortunately, fragmentation of tax administration is common. In many resource-rich countries, the tax authority might collect most tax payments, but a state-owned enterprise might manage the state’s share of production, while a sector ministry and local agencies could also collect some taxes and fees. Such arrangements place a burden on taxpayers who must learn to report to and pay the system’s multiple organizations, and they weaken accountability and risk the duplication of work. There may also be conflicts of interest, arising for example if an agency is responsible not only for revenue collection but also with attracting investment to the country.</p> <p>Second, in addition to minimizing the number of agencies collecting payments, other ministries and agencies in the government should coordinate with the tax agency by sharing information on taxpayers and harmonizing regulation and processes that impact the taxpayer.</p> <p>Third, as is becoming increasingly common, the government should consider organizing the tax authority around taxpayer type with teams specializing in large taxpayers and the resource sector in particular. (See RGI 2017, Taxation rules Q1.2.5f.)</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • What agencies are responsible for collecting payments from companies? Agencies could include: the national tax authority, state-owned enterprises, local government authorities, customs departments, and mining or petroleum regulators. • What types of extraction sector taxes does each agency collect? • Does the main collecting agency—usually the tax authority—have a specialized unit for large taxpayers and extractive sector companies? • Do the collecting agencies and other agencies responsible for monitoring aspects of the extractive sector coordinate with each other? (By sharing information and expertise, for instance.)

<p>4.3.4 Administrative procedures</p> <p>Are tax administration procedures simple, effective and harmonized, reflecting principles of self-assessment, with a risk-based compliance strategy?</p>	<p><i>It is useful to have common routines across all tax types including:</i></p> <ul style="list-style-type: none"> • consolidated returns for taxpayers • common accounting periods • common installment or payment dates and procedures for making payments • an established bank account for electronic payment with receipt to evidence such payments <p>Tax authorities can also allow single annual self-assessments of taxes (aided further by the use of common base definitions—see Q4.3.1).</p> <p><i>Non-routine tasks can be improved by ensuring there are:</i></p> <ul style="list-style-type: none"> • risk-based taxpayer audits • use of physical audits • clear publication of reference prices (where relevant provisions are in force) • use of advance pricing agreements where possible • procedures for resolving taxpayer disputes <p>Integrated administrations facilitate simplified administrative procedures (see Q4.3.3 above).</p>
<p>4.3.5 Tax administration capacity</p> <p>Are tax administrators competent and well-resourced?</p>	<p>Tax administrators often face highly skilled and well-resourced company counterparts, while the administrators themselves often rely on comparatively weak systems and low pay. One solution to this disparity is to make tax authorities independent from civil service staffing and pay requirements, and allow them to set their own personnel systems and compensation levels.</p> <p>Researchers should check the capacity of the taxing authorities with the PEFA rating (PEFA PI-15). This assesses:</p> <ul style="list-style-type: none"> • the collection ratio for gross tax arrears, being the percentage of tax arrears at the beginning of a fiscal year, which was collected during that fiscal year (average of the last two fiscal years) • the effectiveness of the revenue administration’s transfer of tax collections to the treasury • how often the treasury conducts complete accounts reconciliation between tax assessments, collections, arrears records and receipts.

4.4 | Accountability and transparency of fiscal regimes

Is the government held to account for setting and collecting taxes and other company payments?

Taxation can be intrinsically opaque and difficult for outsiders to understand. Information may not be public, often limited by concerns over taxpayer confidentiality. Further, what data is available can be difficult to analyze. These factors limit accountability.

The three important elements of accountability for fiscal governance are:

- transparency of government activities
- well-resourced, independent and committed government organizations that can scrutinize this information and bring officials to account
- public, particularly civil society representatives, who understand complex issues of fiscal policy and administration and can put pressure on these oversight bodies and the government to perform

Secondary question	Guidance
<p>4.4.1 Tax transparency</p> <p>Does the government disclose fiscal terms and company data to inform oversight?</p>	<p>Researchers should check that the government has publicly disclosed and made easily accessible: (1) fiscal terms in contracts and accompanying clauses and appendices (in online form); (2) machine-readable data on production, sales, company payments for each tax type, and capital expenditure for each taxpayer.</p> <p>See the transparency table in annex 4 on which Resource Governance Index questions relate to transparency of taxation. See also precept 2 on further questions related to transparency.</p>
<p>4.4.2 Public consultation on tax.</p> <p>Does the government consult with businesses and civil society before reforming the fiscal regime?</p>	<p>Regular consultations with different stakeholders (such as companies, academics, trade associates and NGOs) ensure that government officials have a deeper pool of knowledge to inform tax policy, and may help prevent erratic policy changes by building public trust.</p> <p><i>Researchers should:</i></p> <ul style="list-style-type: none"> • Check the proportion of tax policy reforms that have been open to consultation. • Look for instances in which the submission by public groups has been disclosed to assess to the extent to which government officials took their advice.

<p>4.4.3 Oversight of taxation</p> <p>Do official agencies perform strong oversight of the fiscal regime?</p>	<p>A range of authorities working together can provide effective accountability on tax matters:</p> <ul style="list-style-type: none"> • A <i>national audit office</i> or auditor general may audit the performance of the tax authority and assess the deals made by the government. • <i>Tax authorities</i> themselves may have internal audit offices that seek to be independent of other operational staff and report on performance directly to senior management. • <i>Taxpayer tribunals</i> and ultimately the country’s court system allow both taxpayers and the tax authority to seek legal redress in cases of disputes. These authorities should not only be knowledgeable about the issues, but also effective enough to make decisions quickly. • A <i>legislature</i> will not typically have highly specialized knowledge and will need to focus on high-level performance issues or work through expert bodies, considering their audits or reviews. A legislature is unlikely to have the capacity to review each and every contract with fiscal terms (it is also not necessary that it has this capacity). However, the existence of a specialist select committee or similar body within the legislature dedicated to extractive fiscal matters is often advisable. <p>See also precept 2 for further questions on oversight institutions. (See also RGI 2017, Tax authority rules and Tax authority practice, Q1.2a - 1.2.6c and Q1.2.7a.)</p> <p><i>Researchers should:</i></p> <ul style="list-style-type: none"> • Check which of these authorities oversee the setting of resource fiscal terms and the administration and collection of payments. • Assess whether each authority is competent and well-resourced. • Identify cases in which government officials have been held to account and judge the effectiveness of the authority in each case.
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Precept 5: Local impacts

The government should pursue opportunities for local benefits and account for, mitigate and offset the environmental and social costs of resource extraction projects.

–Precept 5, Natural Resource Charter

The costs and benefits of resource projects are not shared equally by all people in a producing country. While the benefits of resource projects—stemming largely from resource revenues, job creation and business linkages—can be shared throughout the country, the social and environmental costs of exploitation are usually concentrated among affected communities located close to project sites. Where activities are mismanaged, extraction can result in irreversible environmental damage and unmet expectations, which can give rise to local grievances and conflict. Government policy should therefore seek to protect affected populations from the negative impacts of extraction, while at the same time helping them to harness the benefits.

Effective management of the local impacts of extraction requires trust among the relevant parties including citizens, business and the government (Q5.1). Building on this trust, government should establish systems to assess the impacts of extraction (Q5.2), mitigate costs (Q5.3) and ensure that affected communities harness benefits (Q5.4).

PRIMARY QUESTIONS

5.1 | Trust

Does the government ensure that there are good working relationships between all stakeholders within affected communities?

5.2 | Impact assessment

Does the government maintain an effective system for assessing the potential impacts of resource projects?

5.3 | Cost mitigation

Does the government mitigate the environmental, social and health costs of resource projects?

5.4 | Local benefits

Does the government help affected communities to benefit from resource projects?

5.1 | Trust

Does the government ensure that there are good working relationships between all stakeholders within affected communities?

An environment of trust and collaboration between all stakeholders within affected communities (including citizens, businesses, local government and the national government) is important to support the effective management of local impacts. Government should therefore work to support good working relationships among all stakeholders linked to each resource project. To do this, the government must ensure meaningful participation in project decisions for people who will be affected by them, it must work to ensure that expectations are in keeping with reality, and it must ensure that there are adequate dispute resolution mechanisms available to resolve grievances should they arise. In doing so, the government should pay special attention to security arrangements to make sure that they do not use excessive force. It must also acknowledge any costs or benefits that may impact vulnerable groups including women, or that could affect the traditional livelihoods of indigenous peoples.

Secondary question	Guidance
<p>5.1.1 Meaningful participation</p> <p>Does the government ensure that affected communities meaningfully participate in decision-making about resource projects?</p>	<p>Involving members of affected communities in key decisions about resource projects helps them to understand the likely impacts, plan for pending changes, and contribute local knowledge to project design.</p> <p>When assessing participation, researchers should consider the following questions. They should pay special attention to consider vulnerable groups including women. International standards for participation are outlined further in Principle 5 of the Equator Principles and IFC Performance Standards 1 and 7.</p> <ul style="list-style-type: none"> • Is there legislation or a policy to ensure consultation and participation of affected communities? • Are affected communities invited to participate in decision-making at each project stage (exploration, development, operation and closure) and in impact assessment processes? (See Q5.2.1 and Q5.2.2.) • Are women and men, and vulnerable groups, able to participate fully, in a way that is free from coercion and manipulation? A key consideration here is whether local elites might have captured participation at the expense of marginalized community members, including women. • Do members of affected communities have access to objective, accurate, and easily understandable information on which to base their decisions? • Taking into account local considerations, such as traditional practices, are affected communities given sufficient time to review information? • Do affected communities receive support to retain lawyers, appraisers and other professionals to support decision-making processes where local capacity is lacking? • Do decision makers demonstrably take into account the perspective of the affected community in final decisions? <p>This question is focused on government actions. For consideration of company actions on these issues see Q11.1.1.</p>

<p>5.1.2 Managing the expectations of affected communities</p> <p>Does the government ensure that affected communities have realistic expectations about the impacts of resource projects?</p>	<p>Effective and honest communication about the impacts (both positive and negative) of resource activities is critical. Unrealistic expectations can contribute to local grievances and sometimes conflict. Government communication must be proactive, starting before resource activities commence in any area. This communication must be cognizant of the specific needs of vulnerable groups, including women. An important related issue concerns communication and understanding of ownership rights to the land and other natural resources. These issues are not directly part of this question but are considered in Q1.1.1, Q3.1.3 and Q3.1.4.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the government communicate with affected communities, provide information, and set reasonable expectations concerning the costs and benefits of extraction at all project stages (exploration, development, operation and closure)? Is this communication proactive, starting before exploration or extraction activities begin? • Does the government set expectations for companies to communicate with affected communities proactively throughout the lifecycle of a project? (See Q11.1.2 for consideration of company efforts to manage expectations around their activities.) • Are government efforts to manage the expectations of local communities in line with the general communications strategy considered in Q2.3.1?
<p>5.1.3 Grievance and dispute resolution procedures</p> <p>Does the government ensure that there are credible and effective dispute resolution procedures for affected communities?</p>	<p>Credible and effective grievance and dispute resolution procedures can de-escalate conflicts around resource projects. They provide channels through which members of affected communities can express their grievances and have those grievances resolved. The government may encourage the use of grievance and dispute resolution procedures that already exist within affected communities (such as formal or traditional courts or ombudsmen), or it may establish new procedures, particularly when existing mechanisms lack the technical or administrative capacity to address the challenges relating to resource projects. These mechanisms must be designed in a way that they do not exclude vulnerable groups, including women.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Are available dispute resolution mechanisms considered to be fair, impartial, culturally appropriate and inclusive of women and vulnerable groups? • Are affected communities able to use these mechanisms to respond to grievances in a timely manner? • Do those people overseeing dispute resolution procedures have the expertise to deal with disputes relating to resource projects? • Where alternative dispute resolution forums are used by communities, does the government have the capacity to monitor and assess the quality and impacts of dispute resolution practices?
<p>5.1.4 Security safeguards</p> <p>Does the government ensure that government and private security providers related to resource projects do not use excessive force?</p>	<p>Some resource projects have resulted in security responses that violate basic human rights. The government has a fundamental responsibility to protect citizens' basic rights, including the right to life. This responsibility extends to ensuring that those operating within the country, such as companies, do not infringe on those rights. Governments can mitigate the risks of unrest or insecurity by adopting the Voluntary Principles on Security and Human Rights and by encouraging business operators to do the same.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the government legally require that the use of public and private security forces in resource projects adhere to the Voluntary Principles on Security and Human Rights or standards/requirements similar to those set forth in the voluntary principles? • It is often hard to predict how either the government or private contractors will respond to security events until an event has actually occurred. Researchers may therefore have to look for recent examples for evidence of how grievances regarding the use of security forces have been handled, and whether use of private and public security has been appropriate or in violation of legal requirements.

<p>5.1.5 Indigenous peoples</p> <p>Does the government ensure that the rights of indigenous people are protected?</p>	<p>International human rights law has established the rights of indigenous peoples to give or withhold free, prior, and informed consent concerning projects that affect them. This is elucidated in IFC Performance Standard 7 and the United Nations Declaration on the Rights of Indigenous Peoples. Definitions of indigenous peoples are found in the United Nations Permanent Forum on Indigenous Issues and the International Labour Organization.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Will the project affect any indigenous people as defined under international law? • If so, does the government ensure the free, prior and informed consent of indigenous people relating to resource projects?
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5.2 | Impact assessment

Does the government maintain an effective system for assessing the potential impacts of resource projects?

The government should conduct effective impact assessments, or ensure that companies do so. Assessments should inform decisions about starting exploration or extraction activities in a new area, or about how to structure and undertake project operations. Environmental, social and health impacts should be assessed in an integrated manner, and the assessment process should substantively involve affected communities and incorporate local knowledge.

Secondary question	Guidance
<p>5.2.1 Strategic impact assessments</p> <p>Does the government use strategic impact assessments before deciding to open an area to exploration and production activities?</p>	<p>A strategic impact assessment (SIA), also called a strategic environmental assessment, provides the government with a methodical process for evaluating the overall benefits and costs of licensing new areas for exploration and production. The assessment considers whether this move aligns with government objectives, assesses the government’s institutional readiness to manage resource extraction, and examines the revenue needs of the government. (See UNEP 2004.) SIAs are generally conducted by the government, and are different from environmental and social impact assessments, which are usually specific to a particular project. (See Q5.2.2.) This issue is also considered in precept 3. (See Q3.1.2.)</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the law require strategic impact assessments? • Does the government recognize the results of SIAs in its decision-making? Does the government clearly state circumstances under which companies must modify or halt a project? • Do SIAs happen early enough to minimize the risk that they can be influenced by special interests? Government should ensure that an SIA is carried out before there is the political momentum in favor of extraction and before companies commit significant investment. • Does the government have the capacity to undertake effective research? Or, if it uses contracted parties to undertake that research, is the government able to review the quality of SIAs? • Do affected communities meaningfully participate in SIAs? (See Q5.1.1.) • Does the government make public the final results of SIAs, either on the internet and/or in local government offices, and in the official and local languages? Does the government ensure that results are communicated through public meetings with affected communities and other stakeholders?

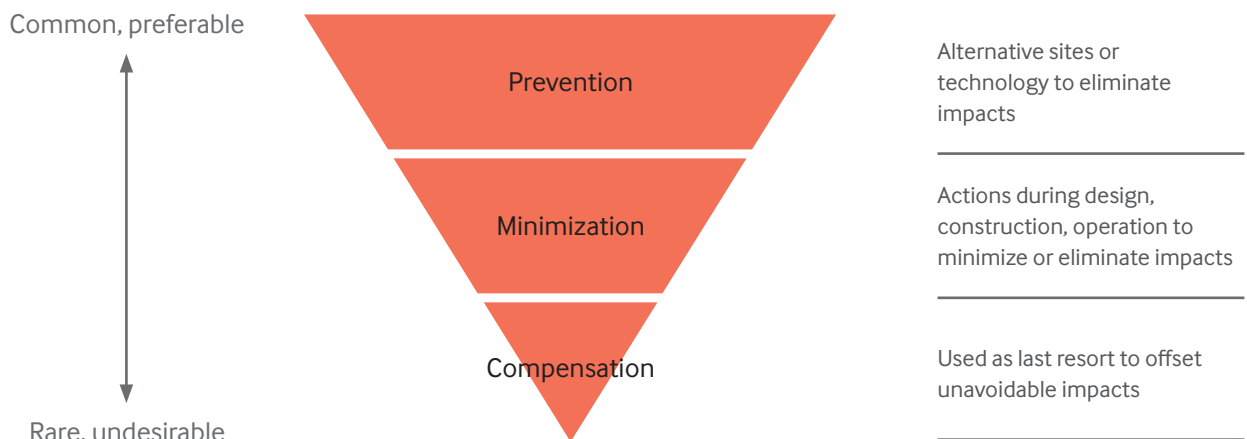
<p>5.2.2 Environmental and social impact assessments</p> <p>Does the government use environmental and social impact assessments to inform decision-making at all stages of resource projects?</p>	<p>Environmental and social impact assessments (ESIAs), also known as environmental impact assessments, are project-specific appraisals used by governments and companies to identify environmental, social and health impacts. IFC Performance Standard 1 is the clearest outline of international expectations with regard to ESIA.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Do ESIA cover each stage of a resource project (exploration, development, production and closure)? (See Resource Governance Index (RGI) 2017 Q1.3.1a, 1.3.1b, and 1.3.2a.) • Does the impact assessment identify all legitimate land users (both formal and informal, and including women), and reflect local land and natural resource rights issues? • Does the government recognize the results of ESIA in its decision-making? Does the government clearly state circumstances under which companies must modify or halt a project? • In most impact assessment regulations, it is the responsibility of the companies to contract independent third parties to undertake appraisal processes. Where this is the case, does the government have the capacity to independently analyze, verify and evaluate the impact assessments? Can (and do) governments fund their own independent research, and to what extent are they able to challenge scientific findings put forward by extractive companies? • Do affected communities meaningfully participate in SIAs? (See Q5.1.1.) • Does the government make ESIA available on the internet and/or in local government offices? Does the government ensure that they communicated in public meetings with affected communities and other stakeholders? <p>Strategies to mitigate costs and/or harness opportunities identified in impact assessments are considered in Q5.3.3 and Q5.4.1-5.4.3.</p>
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5.3 | Cost mitigation

Does the government mitigate the environmental, social and health costs of resource projects?

Once the government is aware of the potential impacts of resource projects, it must mitigate the potential environmental, social and health costs of exploration and extraction – either by intervening directly or by influencing the activities of the companies involved. Mitigation measures should be developed using the mitigation hierarchy; a schema which lists a sequence of approaches to mitigation - prevention, minimisation and compensation – in order of preference. Under the hierarchy activities that prevent costs are preferable to those that simply minimize them, while activities that bring about the levels of harm that warrant compensations are to be avoided wherever possible. (See figure 5-3.) Mitigation efforts should be project specific, but supported by strong general environmental, social and health regulations.

Figure 5-3. Overview of approaches to cost mitigation



Source: Adapted from UNEP (2002)

Secondary question	Guidance
<p>5.3.1 Approach to cost mitigation</p> <p>Does the government favor prevention over minimization, and the avoid practices that require compensation and resettlement?</p>	<p>The government approach to cost mitigation should employ the mitigation hierarchy as outlined above. (See Q5.3.)</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Is there evidence that the government has followed the mitigation hierarchy in practice? • Are prevention measures more common than minimization measures? • Are compensation measures avoided where possible?
<p>5.3.2 Environmental, social and health regulation</p> <p>Does the government set and enforce effective environmental, social and health regulations?</p>	<p>The government is responsible for setting and enforcing environmental, social and health regulations. These standards set the bar for company performance. International standards on environmental pollution are contained within IFC Performance Standard 3, while standards for health and safety are contained within the Safety and Health in Mines Convention and IFC Performance Standard 4.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does a government institution prevent, monitor and manage pollution and environmental damage generated by resource projects? Does the institution have effective regulations and the monitoring and enforcement capacity to regulate pollution, water use, energy use and the release of greenhouse gases? (See RGI 2017, Q1.3.5a.) • Does a government institution manage health and safety issues relating to resource projects? Does the institution have effective regulations and the monitoring and enforcement capacity in place relating to health and safety? Government should pay special attention to health and safety considerations relating to artisanal and small-scale mining, which is often hard to regulate and can employ dangerous techniques. • Does a government institution manage the social impacts of extractives? Important considerations here include conflicts between large-scale miners and artisanal and small-scale miners, as well as conflicts relating to land rights and livelihoods including agriculture and fishing. It is important that security provisions designed to protect mines do not entail the use of excessive force. (See Q5.1.4.)
<p>5.3.3 Environmental mitigation management plans</p> <p>Does the government require companies to develop environmental mitigation management plans and does it ensure that these plans are followed?</p>	<p>In response to project impact assessments, government should require companies to develop comprehensive environmental mitigation management plans that clearly propose the method and means of managing, mitigating or offsetting each impact identified in the assessment, throughout the project cycle.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does government require companies to develop management and monitoring plans in response to impact assessment processes? (See Q5.2.2.) (See RGI 2017, Q1.3.3a and 1.3.3b.) • Are monitoring plans publicly available? (See RGI 2017, Q1.3.4a.) • Are the plans of a high quality? • Do the plans take into account the different needs, opportunities and risks for both women and men? • Does the government have the capacity to question the plans and evaluate the potential mitigation options?

<p>5.3.4 Disaster response plans</p> <p>Does the government require companies to develop effective disaster response plans?</p>	<p>The government should require companies to be prepared for major accidents and disasters. Emergency and disaster preparedness should protect both the operations site and affected populations. Companies should demonstrate strategic readiness for collaboration with the government including an effort to coordinate responses with local government services including the police, military, health service and environmental protection agencies.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the government ensure that companies and the relevant government agencies collaborate to create disaster response plans? Do these disaster response plans cover affected populations as well as operations sites? • Where applicable it can be helpful to look toward past disasters and consider how these were managed by government and companies and whether lessons have been taken on board in the formulation of current disaster response mechanisms.
<p>5.3.5 Project closure</p> <p>Does the government effectively allocate responsibility for the execution and financing of project closure and land rehabilitation?</p>	<p>The government should elaborate planning for closure and reclamation of a resource project site before extraction actually occurs. Closure timeframes present serious challenges, as closure can be years or even decades away from project start-up—long enough for project ownership and governments to change multiple times. In the process, government and company responsibilities can be forgotten and obscured, and revenues spent without properly funding closure liabilities. To mitigate this, governments should require closure and reclamation plans as part of the project approval process (before the operations begin) and to additionally require the company to pay into an environmental mine reclamation fund (sometimes referred to as a reclamation bond) which can be properly monitored by the public. Such a fund helps ensure that reclamation will occur if a company leaves or sells to another party if a project becomes unprofitable. Civil society organization monitoring of project closure requirements is important given that in many cases such groups operate on longer time horizons than governments and the private sector.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Is there clarity on responsibility for project closure for existing projects? • Are there mechanisms to ensure adequate funding for mine closure and land rehabilitation? (See RGI 2017, Q1.3.5b and 1.3.6a.) • Are affected populations engaged by government and companies in the planning process for closure? • What is the track record of closed project sites in the country? Are old or abandoned sites safe, or are there legacy issues that pose long-term risks for the immediate areas and/or affected populations? • Are civil society groups and the media aware of project closure plans and do they monitor compliance of payments to rehabilitation funds?

<p>5.3.6 Compensation</p> <p>Where social and environmental costs are unavoidable, does the government ensure that there is adequate compensation?</p>	<p>Compensation can take two forms: 1) direct compensation to specific individuals or communities for use and/or destruction of land, access to resources or livelihoods; 2) more general revenue-sharing arrangement (either to local government or community trust funds) when public goods are compromised. Regardless of which form it takes, in order to be effective a compensation process must be credible, transparent, universally applied, efficient and fair. It should leave affected populations in as good a position as they were before extraction commenced.</p> <p>Where a method of direct compensation is employed by government or companies (under oversight from government), researchers should consider:</p> <ul style="list-style-type: none"> • Have livelihoods and land rights (ownership, access, control and use) been identified and clarified so that beneficiaries and values of redress can be calculated? (See Q3.1.3 and Q3.1.4 for further consideration of these issues.) • Has the government clearly outlined the minimum standards for compensation programs for all resource projects, and demonstrated its capacity to monitor those programs? • Does the government ensure that special needs of women and vulnerable groups are taken into account? • Have compensation programs succeeded in addressing grievances relating to the negative impacts of extraction? Is information about the program easily and consistently available to all parties? Researchers should evaluate the speed and consistency at which compensation is delivered and whether disputes or grievances surrounding compensation are managed by government or companies (under oversight from government) in a timely and equitable manner, free from capture by local and national elites. • Can affected communities resort to the court system for disputes concerning adequate compensation (e.g., regarding fair market value of property) and, if so, is the court system efficient and free from political capture? <p>Where a revenue sharing mechanism is used by governments (see RGI 2017, Q1.3.7a and 1.3.7b.), researchers should consider:</p> <ul style="list-style-type: none"> • Does the revenue sharing program undermine government communication about ownership of land and natural resources? (See Q2.3.1 about government communications and Q.3.1.3 and 3.1.4 about land rights issues.) In most countries natural resources are shared by all citizens regardless of where the resources are located. If government communications are badly managed, revenue sharing arrangements may support ownership claims that run contrary to the idea of shared national ownership. • Are there adequate safeguards in place to ensure that compensation funds reach those who should be compensated?
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<p>5.3.7 Resettlement</p> <p>Where resettlement is unavoidable, does the government ensure that resettlement provides adequate redress?</p>	<p>Resettlement projects are often complex and challenging and have lower rates of success than other mitigation approaches. There are two types of resettlement projects related to resource projects: voluntary and involuntary resettlement. In both cases, the government has the responsibility to ensure that the resettlement programs enacted within its borders meet the highest international standards, such as the IFC Performance Standard 5.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Are there clear legal requirements governing resettlement? Does these state when and how compensation should be disbursed, and by whom? Do they specify dispute resolution mechanisms in case of grievances? <p>Does government ensure that resettlement projects are implemented according to high standards, leaving the affected community as good as or better off than it was before resettlement? (See IFC Performance Standard 5.)</p> <ul style="list-style-type: none"> • Can affected persons resort to the court system for disputes concerning adequate compensation and if so, is the court system efficient and free from political capture? • Are resettled populations able to demonstrate a level of self-sufficiency and resilience similar to that prior to resettlement, or are they more dependent on the government or company as a result of being resettled? • Resettlement projects can provide lucrative opportunities for corruption and collusion in contracting and procurement, resulting in the construction of poor-quality resettlements that leave affected populations worse off than before. Are there mechanisms in place that mitigate these corruption risks, such as contract transparency and/or conflict of interest requirements?
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5.4 | Local benefits

Does the government help affected communities to benefit from resource projects?

Resource projects can present substantial opportunities for affected communities, and the government has an important role in facilitating their emergence.

Secondary question	Guidance
<p>5.4.1 Community development agreements</p> <p>Does the government ensure that companies come to an agreement with affected communities as to how companies will deliver community benefits?</p>	<p>The benefits that companies can provide to communities should reflect local needs and expectations. Government should therefore require companies to agree these benefit with the affected populations. These agreements are known by many names, including community development agreements, impact benefit agreements and benefit sharing agreements. Usually agreed between the company and the community or local government, they may cover social investment spending, community employment and contracting, and use of project-related infrastructure.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the government require companies to enter into community development agreements (CDAs)? • Are CDAs aligned with local development plans? • Does the government ensure that affected populations have the capacity and ability to negotiate the terms of these agreements with companies? • Do affected communities meaningfully participate in the development of CDAs? (See Q5.1.1) • Do these agreements include provisions for community, local government and company participation in monitoring implementation?
<p>5.4.2 Employment, contracting and procurement in affected communities</p> <p>Does the government encourage companies to direct employment and procurement opportunities toward affected communities?</p>	<p>Resource projects can provide direct employment opportunities for local workers, and business opportunities for providers of goods and services. In addition to seeking linkages with supply chains throughout the country, the government should promote linkages with the local workforce and businesses in affected communities. As it does so, the government should take a realistic view of the capacities of the local labor pool and local business. In some cases, training can align local capacities with a project’s needs. In others, the gap may be too wide, and employing locally and using local goods and suppliers could increase project costs and lower public revenues. Answers to this question should reference to national approaches to local content. (See Q10.2.1 – 10.2.5.)</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the government require local employment of unskilled labor at the community level? • Does the government promote local employment and business linkages in a way that is consistent with the commercial success of resource projects? • Does the government create “win-win” situations for the local labor force and the extractive companies, for example through local small and medium enterprise incubation schemes, and through training programs? • Does the approach to local employment, contracting and employment align with national approaches to local content? (See Q10.2.1 – 10.2.5.)

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Precept 6: State-owned enterprises

Nationally owned companies should be accountable, with well-defined mandates and an objective of commercial efficiency.

–Precept 6, Natural Resource Charter

The performance of state-owned enterprises (SOEs) can be an important component in a country's strategy to harness resources for development. Well-run SOEs can help producing countries in several ways: they can secure resource revenues in addition to taxes, nurture local content and improve the country's regulatory capacity. However, building effective SOEs is no easy task. All too often, SOEs become obstacles to private investment, drains on public coffers, inefficient managers of public resources, or sources of corruption and patronage that prevent countries from maximizing returns on natural resources.

As outlined in this note, good governance of SOEs requires: clear and appropriate decisions on the SOE's role and how it is financed (Q6.1); corporate governance systems that limit political interference and allow for effective oversight (Q6.2); and a commitment to transparency and accountability (Q6.3).

PRIMARY QUESTIONS

6.1 | SOE role and funding

Does the government clearly define the SOE's role and establish a working funding mechanism for the company?

6.2 | SOE corporate governance

Do the SOE's corporate governance systems limit political interference in the company's technical decisions, while ensuring effective oversight?

6.3 | SOE transparency and accountability

Are SOE decision-making and operations transparent and accountable?

6.1 | SOE role and funding

Does the government clearly define the SOE’s role and establish a working funding mechanism for the company?

To establish an effective SOE, the government must first clearly define what an SOE does and then ensure that it has adequate finances to carry out its role. Failure to clearly delineate the precise responsibilities of SOEs can open the door to inefficiency, conflict of interest and even corruption. With a clear mandate, an SOE can then develop an effective corporate strategy. Once the role and strategy are established, the SOE then requires sufficient and predictable financial resources to execute effectively.

Secondary question	Guidance
<p>6.1.1 Commercial role</p> <p>Does the government clearly define a commercial role for the SOE that reflects the company’s actual financial and technical capacity?</p>	<p>The commercial role of an SOE is as a profit-seeking business in the extractive sector. Nevertheless, commercial roles vary widely among SOEs. The largest and most complex companies (e.g., Saudi Aramco, Petronas or Statoil) undertake expansive operations and assume high levels of risk, much like large international extractives companies in the private sector. Other SOEs carry out a more limited range of less risky activities, such as holding minority equity shares, selling natural resources on the international market, or developing downstream activities to serve the domestic market.</p> <p>Different countries have built successful SOEs following both high-risk and low-risk commercial approaches. In the countries with the most successful SOEs, the government and the SOE precisely determine the SOE’s commercial mandate, and then the SOE sets out a business strategy for pursuing this mandate.</p> <p>A key decision when defining the commercial role is whether the SOE should invest heavily in becoming an “operator” in the exploration or production of a significant share of the country’s resources—i.e., the company responsible for leading the technical decisions of an operating group. Assuming an operating role can offer benefits if the company has the technical and financial capacity to perform complex, high-risk activities. Building these capacities can be expensive, so the government must undertake a careful risk-return analysis. If the government aspires to have its SOE play a major technical role, it is critical to build capabilities incrementally.</p> <p>The consequences of not defining a clear role can be catastrophic for national development, resulting in companies that waste scarce human and financial resources on a wide range of ill-suited activities and fail to generate returns for the country.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the government explicitly delineate the SOE’s commercial role? Does the delineation indicate activities that the SOE will not carry out? Does it leave too much room for discretion, or confusion, around the company’s role? • Does the commercial role chosen for the company represent a well-considered outcome of a risk-reward calculus? • Does the SOE have the financial and technical capacity to carry out its assigned commercial role? • If the government aspires to have the SOE play an advanced operational role, is there a clear strategy for building capabilities over time?

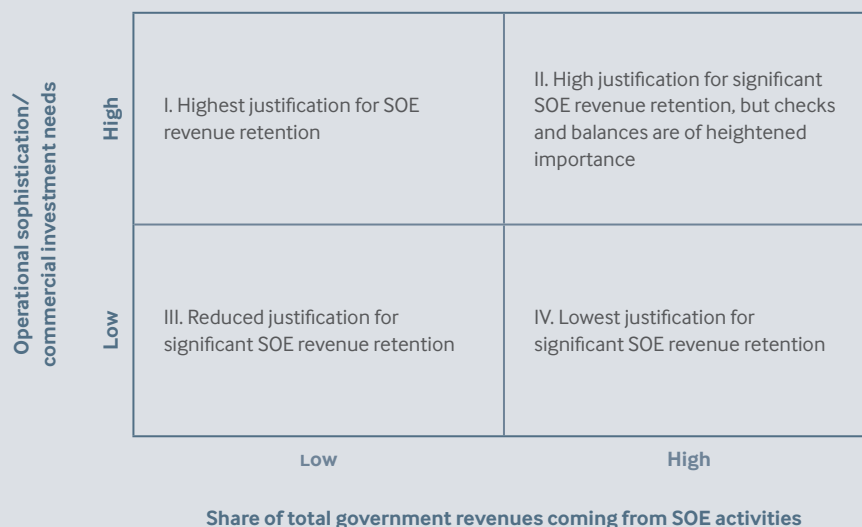
<p>6.1.2 Non-commercial roles</p> <p>Does the government clearly define the company's non-commercial roles? Does this definition limit conflicts of interest?</p>	<p>SOEs frequently carry out two types of "non-commercial" roles: (a) regulatory roles, including allocating exploration and production licenses, setting and enforcing sector rules, and approving key decisions made by partner companies regarding exploration and production activities; and (b) quasi-fiscal roles, where the SOE executes activities on behalf of the government which are unrelated to its core oil or mining business, such as serving national debt, building or maintaining infrastructure, promoting public health and education, providing consumer fuel subsidies and even purchasing arms.</p> <p>While there is some debate over whether SOEs should take on these roles, the reality is that most SOEs do take on at least some non-commercial responsibilities. Indeed, if an SOE has sizeable resources and technical capacity, it can be the best placed institution to play these roles in certain countries where capacity is lacking elsewhere. The government must take precautions to ensure that non-commercial roles do not hinder SOE efficacy.</p> <p>The government should avoid assigning or allowing an SOE to take on non-commercial roles that are poorly defined or too broad, as these can steer resources away from its core business, impede performance, and avoid the normal checks and balances, such as those in the national budget process (e.g., expansive community development programs or fuel subsidy programs). Furthermore, SOEs with significant commercial roles should avoid taking on a significant regulatory role in the same domain as their commercial focus, as this can open the door to conflicts of interest and/or corruption. For example, if the SOE is an upstream operator, it should not also be responsible for awarding licenses or overseeing operator compliance with laws and regulations. A common strategy employed by many new producers is therefore to assign non-commercial roles to an SOE, such as regulatory responsibilities and capacity building roles, at an early stage of production, and then hive off these roles to dedicated institutions when the SOE begins to assume a more advanced commercial role.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Are the non-commercial roles of SOEs clearly defined? Do the definitions clearly state what the SOE will not do? Are non-commercial activities consuming resources that could otherwise support commercial activities? • If the SOE plays a regulatory role, does this present a conflict of interest with its commercial activities? Are there examples of weak or biased enforcement of the rules? • Do the SOE's quasi-fiscal activities and expenditures make sense and deliver good value to the country? Are checks and balances on these activities sufficient? • Does the non-commercial role of the SOE deliver benefits to the country? These benefits may include building regulatory capacity, human capital and local supply chains. If not, is there any other public interest justification for the SOE's execution of these activities?
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6.1.3 Funding mechanism
Does the government ensure that the SOE has a workable funding mechanism?

An SOE’s ability to execute its stated commercial strategy is heavily influenced by whether it has the necessary funds. There is no universal model for SOE funding, and different countries have adopted different approaches to using public revenues and/or market-derived revenues to finance the SOE.

In their roles as financial partners of international companies, or as the sellers of the country’s resources, many SOEs collect large shares of public revenues. When deciding what portion of these revenues SOEs should be allowed to retain and spend, governments must navigate between two competing imperatives. Greater financial autonomy can incentivize the SOE to maximize the profitability of its commercial activities over time, as the company is responsible for its own bottom line. It also helps protect the company from political interference or unpredictable government budget processes. However, financial autonomy also reduces the government’s ability to scrutinize whether the SOE is using revenues in the national interest, and reduces the share of revenues that enter the country’s treasury for budgeted expenditure on other national development priorities. Figure 6.1.3 below shows how these two priorities could be weighed in different country contexts. Researchers can assess whether their country’s SOE falls in the appropriate quadrant.

Figure 6.1.3 Determinants of SOE revenue retention



Source: Patrick R. P. Heller, Paasha Mahdavi and Johannes Schreuder (2014) *Reforming National Oil Companies: Nine Recommendations*. NRGi.

Countries employ a range of systems to govern SOE revenue retention. In some cases where the SOE is highly commercialized and afforded significant financial autonomy, the government treats SOE revenues exactly as it would treat revenues generated by private companies—the SOE pays income taxes and other fees, and distributes dividends to (state and non-state) shareholders. At the other end of the spectrum are governments that require the SOE to transfer all revenues directly to the state, leaving SOE funding to annual budget allocations by government.

In addition to retaining public revenues, some SOEs finance themselves via market capital by listing shares on public stock exchanges. When managed well, this can force the company to act with discipline and accountability, while at the same time generating revenues. Public listings create strong incentives for SOEs to demonstrate that their commercial prospects, corporate governance systems, and accounting procedures are sound. Of course, not all SOEs are in a position to list shares. The feasibility of attracting investor capital depends on a number of factors, including the financial viability of the company, the burdens of carrying non-core assets, and the company’s non-commercial responsibilities. While public listing for emerging and new SOEs may not be realistic in the short term, a plan to build toward a listing can be a vehicle for improving asset management and corporate governance.

	<p>Some of the largest SOEs have also been able to raise funds through the sale of bonds on international financial markets. As with public equity listings, the requirements for bond sales can also have a positive effect on corporate governance. (See RGI 2017, SOE financial reporting rules Q1.4.3a - 1.4.3c, and SOE financial reporting practice Q1.4.5a - 1.4.5b.)</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • How is the SOE funded? Possibilities include retained earnings, budgetary allocation, foreign equity partners/oil companies, and/or financial markets. • How appropriate is the method of funding? <ul style="list-style-type: none"> ◦ Where does the SOE stand in the figure 6.1.3? Is there a strong justification for the SOE to retain funds for commercial investment needs, or does government dependency on SOE revenues mean that more checks and balances are needed? If an SOE is dependent on the government budget, does the budget process provide the SOE with a reliable form of funding? ◦ Is the company in a position to raise money on financial markets through public listings or bond sales? If so, does it take advantage of these opportunities, and have they positively impacted governance? If it does not seek funding from the markets, why not?
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6.2 | SOE corporate governance

Do the SOE’s corporate governance systems limit political interference in the company’s technical decisions, while ensuring effective oversight?

The highest-performing SOEs exhibit strong corporate governance. In these SOEs, professional and independent management and boards make key decisions rather than politicians. A good system will privilege sound business judgment, reduce the influence of narrow political interests and allow for predictable planning. This is not to say that SOE boards and management should be trusted on faith to execute strategy benevolently and effectively. Rather, it means that the government and the SOE need to strike the right balance between independent and business-driven SOE decision-making and oversight by government bodies.

Secondary question	Guidance
<p>6.2.1 Role of state shareholders</p> <p>Does the government clearly establish the identity and role of state shareholders in the SOE?</p>	<p>State shareholders should not intrude too much in the day-to-day running of the SOE. Among the most successful SOEs, state shareholders tend to only make decisions that define the broad contours of the company’s role, while the day-to-day functioning of the company is left to SOE management under the guidance of the board of directors.</p> <p>Governments have taken different approaches to defining exactly which body should represent the government as the state shareholder in the SOE. Some SOEs endow shareholder power to just one institution, such as a single ministry. Research has shown that these SOEs generally make more coherent strategic choices. Other countries split state shareholding across several different government agencies or institutions. This can create useful checks and balances, but it tends to hinder the country’s ability to set a consistent and unified approach. It can also paralyze the SOE operationally, especially where the roles of different shareholders are not clearly defined.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Is there a strong single state shareholder, or is state shareholding split across different agencies and institutions? • Where there are multiple state shareholders, are the roles of each shareholder clearly defined by the government or the SOE? If they are not clearly defined, does lack of clarity lead to a situation where shareholders do not give singular unified direction to the SOE? Are shareholder inputs to decision making politicized? • Do state shareholders limit themselves from excessive intrusions on the day-to-day running of the SOE?

<p>6.2.2 Board models</p> <p>Does the SOE have an empowered, professional and independent board?</p>	<p>The boards of most high-performing SOEs have competent and politically autonomous members who are appointed through transparent and well-defined processes. SOEs should select board members based on their technical expertise, rather than patronage concerns. To further constrain the influence of politics, board term limits might also be appropriate. (See RGI 2017, SOE corporate governance practice 1.4.10a.)</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Are board members politically autonomous? Are there rules (such as term limits) to ensure that appointments remain independent of politics? Are there term limits for board members? • Are appointment processes transparent and well-defined? • Are there rules forbidding conflicts of interest among board members? How are conflicts identified? • Does the SOE seek board appointments from outside the government? This can help bring the right skills (e.g., industry knowledge and legal understanding) needed for effective decision-making. • Does the SOE avoid appointing too many ministers to the board? While some ministerial appointments may be useful (e.g., minister of petroleum or minerals), appointing ministers can impede effective decision-making as they are often driven by pressing political concerns, rather than the technical concerns that a board should consider in the running of an SOE.
<p>6.2.3 Staff integrity</p> <p>Does the SOE invest in staff integrity and capacity?</p>	<p>Improving the competence and integrity of SOE staff can safeguard against narrow and politicized decision-making. Along with training, it is important to develop and enforce meritocratic hiring and promotion practices, to ensure that meeting performance goals is the principal motive of staff behavior.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the SOE follow a code of practice surrounding hires? This might include mandatory training requirements for specific positions. • Does the SOE invest in rigorous training programs to build the skills of current and potential employees? If skills are not available in the local market, is the SOE able to recruit international expertise? SOEs can use international expertise to build the capacity of national staff. • Does the SOE enforce meritocratic systems for internal promotion and performance incentives? • Does the SOE have rules against conflicts of interest for high-level managers? (See RGI 2017 1.4.10a.) • Does the SOE have strong internal anti-corruption policies, including protections for whistleblowers?

6.3 | SOE transparency and accountability

Are SOE decision-making and operations transparent and accountable?

In many countries, SOEs rank among the most opaque and unaccountable state institutions. The absence of transparency can reduce incentives for the company to act in the public interest. The EITI standard provides a good basis for the improvement of SOE disclosure practices, requiring governments and SOEs to report on: commodity sales, quasi-fiscal spending, SOE joint venture and subsidiary holdings, material payments to SOEs from resource companies, and transfers between SOEs and other government agencies. Beyond these transparency requirements, other internal governance mechanisms and procedures can improve accountability. Along with the measures mentioned below, accountability also depends on SOE governing boards and the role of shareholders (see Q6.2), and the wider sector governance environment. (See precept 2.)

Secondary question	Guidance
<p>6.3.1 SOE operational and payment data</p> <p>Does the SOE disclose key operational and payment data?</p>	<p>SOEs should disclose information about operations as well as the payments they receive from companies and transfer to the government. This should include performance information about all business segments (e.g., upstream, downstream) and SOE units and subsidiaries. Data should typically include disaggregated figures on reserves, production and exploration activities, any processing or marketing of commodities, as well as narrative explanations and updates on the main aspects of the SOE’s business.</p> <p>Use the transparency table in annex 6 to answer this question. Along with the table, researchers should also consider:</p> <ul style="list-style-type: none"> • Does the SOE or the government have a legal obligation to publish operational and payment data? • If there is a national EITI process, does it result in publication of SOE operational data in line with the provisions 2.6, 3.2, 3.3, 4.2, 4.4, 4.5 and 6.2 of the 2016 EITI Standard? • If operational data is not publicly available, what are the main obstacles to the release of data? Do they relate to capacity, the absence of procedures, or the absence of political will?
<p>6.3.2 SOE financial reporting and audits</p> <p>Does the SOE subject itself to independent financial audits and publish the results?</p>	<p>SOEs should maintain their accounts in line with international standards, subject them to publicly available independent audits, and publish summary data and audit findings on a regular basis. Independent audits are one of the most powerful tools to incentivize strong performance, better corporate governance and accountability to shareholders. Problems uncovered in audit reports should be addressed by the SOE in an efficient manner, with progress detailed in the next year’s report.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the SOE publish an annual report with complete financial data, including key performance indicators, income statement, cash flow statement and balance sheet (i.e., statement of assets and liabilities)? (See RGI 2017 Q1.4.5a - 1.4.5e.) • Do external, capable and independent firms conduct the audits on a regular basis? • Does the SOE, or the ministry that oversees the SOE, publish audit reports and make these available to parliamentarians, media, civil society and the wider public? • Does the SOE, or the ministry that oversees the SOE, hire auditors through competitive public tenders? • Do auditors change periodically? Changing auditors can boost investor confidence in the governance of the SOE. • Are problems in audit reports addressed in an efficient manner and is progress detailed in the next year’s report?

<p>6.3.3 SOE legislative oversight</p> <p>Does the legislature oversee SOE performance without unduly constraining its decision-making?</p>	<p>The legislature should conduct regular and systematic oversight of any SOEs. Among the important tasks that legislatures or their members can perform are: scrutinizing SOE financial and operational accounts, questioning SOE leadership on deviations between benchmarks and actual performance, and (in some cases) approving SOE budgets. However, overly intrusive or politicized legislative oversight can interfere with the SOE’s efficiency. Ex post oversight mechanisms (e.g., scrutiny of SOE annual reports and SOE budgeting), through which SOE leaders face meaningful consequences for poor results, are generally more appropriate for legislatures than ex ante oversight mechanisms (e.g., up-front parliamentary approvals of activities, budgets or license allocations), which can seriously delay or politicize corporate decision making.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the legislature have the information, opportunity and influence needed to play their oversight role effectively? • Is legislative oversight limited to the broad contours of SOE governance and scrutiny of the SOE’s performance, or is the legislature able to intervene on more specific issues that may lead to reduced performance of the SOE? • Does the legislature exhibit the requisite capacity, independence and professionalism in its oversight of the SOE?
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Precepts 7 and 8: Revenue management

The government should invest revenues to achieve optimal and equitable outcomes, for current and future generations.

–Precept 7, Natural Resource Charter

The government should smooth domestic spending of revenues to account for revenue volatility.

–Precept 8, Natural Resource Charter

If managed well, the revenues from resource extraction can finance growth in the non-resource economy and improve standards of living. If managed poorly, the government can squander revenues and subject the economy to economic shocks, leading to wasteful spending, poorer public and private sector investment choices, over-borrowing, debt crises and ultimately poorer human development.

Government policy must respond to three characteristics of resource revenues. The primary questions listed below address each one.

First, revenues from non-renewable resources are finite. Typically, resource revenues last only a few decades and decline as the resource is depleted or becomes unprofitable to extract. A government therefore has a limited window in which to invest well so that the country becomes more prosperous than it was before extraction. This is a long-term policy challenge lasting a few decades.

Second, resource revenues can be large enough to overwhelm an economy, leading to so-called “Dutch disease.” Dutch disease is a condition whereby a large inflow of foreign currency leads to deindustrialization or a failure to industrialize. This is due to inflation, exchange rate appreciation, and labor and capital shifting from other industries into a growing resource sector. While Dutch disease is a challenge in only a handful of countries, governments must manage the rate of spending so as not to distort other aspects of the economy.

Third, resource revenues are particularly volatile. When governments decide their level of spending based on these volatile revenues, the consequences for economic growth and poverty reduction can be dire. In fact, expenditure volatility is the most significant revenue management challenge in most resource-rich countries.

There are several reasons why revenue volatility is such an important issue. One, when spending increases too quickly, a government may find it difficult to adjust to managing a greater number of and larger spending programs, which can lead to poorly conceived, designed and executed projects. In these situations, governments sometimes spend on conspicuous, relatively unproductive infrastructure projects rather than social programs or well-conceived, productive infrastructure.

Two, when revenues decline unexpectedly, governments often respond by borrowing unsustainably or cutting expenditures, leading to half-finished or unmaintained infrastructure, public sector layoffs or debt crises.

Three, revenue volatility makes development planning much more difficult, as officials in ministries and social programs find it difficult to plan in advance.

Four, since the government procurement is often the main source of large contracts in resource-rich countries, the private sector is particularly vulnerable to government spending volatility, leading to bankruptcies in the wider economy when commodity prices decline. Governments must prepare for fluctuations based on changing prices, costs of extraction and production rates, and then smooth year-to-year public spending when they occur.

Additionally, since government decision-makers often view natural resource revenues as politically “free money” (because they did not have to tax people to collect them), there is an incentive to treat these revenues as extra cash to spend on superfluous projects. The government can mitigate this by subjecting natural resource revenues to high degrees of transparency and oversight.

In confronting these challenges, governments have a set of tools called the fiscal framework, which may include medium-term expenditure or fiscal frameworks (MTEFs or MTFFs) and fiscal rules, which are numerical, permanent constraints on public finances. Governments also often establish special institutions to manage natural resource revenues, including state-owned companies (such as national oil companies and national mining companies), development banks, sovereign wealth funds (SWFs) and other types of extra-budgetary funds. (See Collier et al. 2010 and IMF 2012 for introductions to revenue management in resource-rich countries.)

Many institutions ostensibly established to address the three issues listed above sometimes themselves become sources of mismanagement, patronage or corruption. For instance, approximately half of the sovereign wealth funds in resource-rich countries have become “parallel budgets,” spending on projects inside the country outside normal budgetary procedures and oversight.

The questions in these precepts assess the government’s fiscal framework in response to the three characteristics of resource revenues and their policy horizons: short-, medium- and long-term. They also explore some of the political considerations mentioned above. However, while this structure is useful to analyze revenue management, a government does not have the luxury of neatly establishing policies in a vacuum, but must contend whatever it inherits from previous governments: for instance, the market may be in a downturn and unable to generate revenues that can be saved, or the previous government may have borrowed heavily restricting the present government’s actions.

PRIMARY QUESTIONS

7.1 | Long-term fiscal sustainability

Is the government’s spending and borrowing fiscally sustainable given that non-renewable natural resources are finite?

7.2 | Absorptive capacity

Does the government adequately manage the rate of spending in the domestic economy?

7.3 | Expenditure volatility

Is government spending independent of short-term changes in revenues?

7.1 | Long-term fiscal sustainability

Is the government’s spending and borrowing fiscally sustainable given that non-renewable natural resources are finite?

“Fiscal sustainability” refers to the government’s ability to continue servicing its debt without an unrealistically large future correction to the balance of income and expenditure. This definition implies that either the government is maintaining a modest debt-to-gross domestic product ratio or that fiscal revenues are growing faster than gross domestic product (GDP) over the long-term. Thus fiscal sustainability involves limiting borrowing (and consequently limiting the fiscal deficit over the long-term), investing resource revenues well for economic growth, supporting economic diversification and expanding the tax base so that revenues keep flowing into government coffers after resource wealth is depleted.

The essence of the challenge of governments is to overcome short-term temptations and achieve long-term goals. Many governments now enshrine sustainability goals in their fiscal frameworks, including permanent numerical

targets—or fiscal rules—to guide year-to-year spending, borrowing and saving decisions. Other governments are working to expand their tax bases, for instance through introduction of personal income taxes. Still others are focusing on investing in public services and infrastructure to generate economic growth. These measures can help governments adhere to their goals in the face of immediate economic and political pressures to spend on conspicuous and potentially unproductive infrastructure projects or raise public sector salaries unsustainably.

Secondary question	Guidance
<p>7.1.1 Sustainability metrics</p> <p>Do sustainability indicators suggest that the government’s use of resources and its spending policy is sustainable over the long term?</p>	<p>Three useful indicators of fiscal sustainability are: 1) The IMF’s Debt Sustainability Analysis (DSA); 2) credit default swap spreads; and 3) the adjusted net savings (ANS) rate.</p> <p>Data on all three of these indicators may not be available for a country, but most countries are likely to have a publicly available summary of the first indicator on its DSA.</p> <p>The IMF’s Debt Sustainability Analysis has three parts. First, an assessment of the current debt situation of the country, the maturity of the debt held, whether the country has fixed or floating exchange rates, whether the debt is indexed, and who holds the debt. Second, it identifies vulnerabilities in the debt structure and the government’s policies of spending and borrowing that might give rise to problems in the future. And third, an examination of alternative debt policies for the government.</p> <p>Credit default swap (CDS) spreads the price of insuring against a default on a bond. A rise in the CDS spread on government bonds indicates that financial market participants think there is an increasing likelihood that the government will default or delay payments on its bonds. This therefore acts as an indicator of how fiscally sustainable financial market participants think the government is acting. However, CDS spread data are only available for those countries that have publicly traded sovereign bonds.</p> <p>The Adjust Net Savings rate compares the amount of human or physical capital the government and citizens accumulate in the economy, the amount of income earned from economic activity, and the depletion of natural resources (including oil, gas and minerals).</p> <p>If ANS is positive in a given year, a country has saved more than the value of the income it has consumed and the value depleted from natural resources. If negative, a country has consumed or depleted more resource than the income it earned: it has either had to borrow from abroad or it has depleted its stock of natural resources.</p> <p>The ANS rate equals gross domestic savings calculated as:</p> <p>GDP</p> <ul style="list-style-type: none"> • <i>plus</i> education expenditure (as a proxy for human capital accumulation) • <i>less</i> final consumption expenditure (total consumption) • <i>less</i> the value of consumption of fixed capital • <i>less</i> energy depletion, mineral depletion, net forest depletion, and carbon dioxide and particulate emissions damage. <p>The inclusion of energy and mineral depletion in the ANS formula makes it a useful indicator of the sustainability of government policy with regard to resource management: if the government does not invest revenues from energy and mineral depletion, then gross domestic savings may not be large enough to counter the high value of depletion, and the ANS becomes negative.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • What has been the country’s ANS over the past ten years? • Has the rate been positive on average? • What accounts for the result? <p>Researchers can find ANS data for most countries in the World Bank Development Indicators database: http://data.worldbank.org/indicator/NY.ADJ.SVNG.GN.ZS</p>

<p>7.1.2 Fiscal framework and fiscal rules</p> <p>Does the government have a fiscal framework that promotes long-term fiscal sustainability and includes numerical targets?</p>	<p>A fiscal framework is a set of legislated rules that governs how the government spends, saves (in cash or foreign assets), borrows and invests. A fiscal framework stands in place of ad hoc decisions made by government each year to encourage consistency in fiscal decision making across political and economic cycles. It can help manage long-term sustainability challenges, medium-term absorptive capacity constraints (see Q7.2) and medium-term expenditure volatility (Q7.3).</p> <p>To achieve long-term fiscal sustainability, most countries must keep long-term deficits under control. Medium-term fiscal frameworks can help achieve this goal by encouraging governments to take a multi-year approach to budgeting. However, one tool governments commonly use to focus attention on fiscal sustainability is a “fiscal rule.” A “fiscal rule” is a permanent constraint on public finances, expressed as a numerical target. This target can be an annual or multi-year target. (See IMF 2009 and Bauer et al. 2014.)</p> <p><i>There are many types of fiscal rule, including:</i></p> <ul style="list-style-type: none"> • Expenditure rule: Limit on total, primary, or current spending, either in absolute terms, growth rates, or in percent of GDP (e.g., real current expenditure growth ceiling of 4 percent. [Peru]) • Balanced budget rule: Limit on overall, primary, or current budget balances in headline or structural terms (e.g., structural deficit cannot exceed 2 percent of GDP [Mongolia]) • Debt rule: Limit on public debt as a percent of GDP (e.g., total central and local government debt should not exceed 60 percent of GDP [Indonesia]) • Revenue rule: Ceiling on overall revenues or revenues from oil, gas or minerals spent; remainder is saved in a sovereign wealth fund or used to pay down debt (e.g., revenue entering the budget from the petroleum fund cannot exceed 3 percent of national petroleum wealth (not revenue) [Timor-Leste]) <p>Strong lobbying for spending will often test the fiscal rule set by the government. Officials must enact robust measures to ensure that future governments resist these temptations, including establishing rules in law and strong penalties for non-compliance. (See also RGI 2017 Fiscal rules Q2.1.2a - 2.1.2b.)</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the government have a medium- or long-term fiscal framework, and does it contain clear objectives for revenue management? Are these objectives simple enough that oversight actors and citizens can judge whether the government is following them? • Do the objectives in the fiscal framework set the country on a sustainable spending and borrowing path that addresses the deficit/surplus, debt stocks, capital accumulation in the economy, poverty levels and economic growth? • Is the fiscal framework based on realistic projections of future resource and non-resource revenues, including realistic price scenarios and proper modeling? • Is the fiscal framework based on on- and off-budget expenditure forecasts and projections on government liabilities? • Are forecasts subject to regular evaluation and sensitivity analysis? • Has the government enacted a fiscal rule? • If the government uses a fiscal rule: <ul style="list-style-type: none"> ◦ Are fiscal rules set in legislation? ◦ Does the fiscal rule balance development needs against absorptive capacity constraints? ◦ Does the rule provide flexibility in the event of some extreme negative event (e.g., a natural disaster)? ◦ Does legislation or regulation require the government to disclose information needed to calculate whether the government is adhering to the fiscal rules? Is this information actually disclosed? ◦ Does the government face penalties for breaking the fiscal rules?
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<p>7.1.3 Compliance with fiscal framework and fiscal rules</p> <p>Has the government adhered to its fiscal framework including any fiscal rules set? Are there verification and enforcement measures to promote compliance with any fiscal rules, and has the government complied with these targets?</p>	<p>Setting the right fiscal framework for the country is important, but the challenge comes in actually following these rules. Few governments in the world have consistently kept to the rules they set themselves. Sometimes rules are broken explicitly; in other cases, governments use accounting practices to superficially follow the rules. Making fiscal practices transparent so people know whether the government has adhered to the rules, and empowering oversight actors to monitor government activities are essential for promoting compliance with fiscal frameworks and fiscal rules. (See also RGI 2017 Fiscal rule practice Q2.1.3a - 2.1.3b.)</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the legislature or an equivalent appointed body monitor whether the government follows the fiscal rule? • Is adherence subject to an external audit? Does the auditor disclose the results? • Do non-governmental organizations (NGOs), think tanks, media and other civil society groups use government information to monitor whether the government has broken the fiscal rule, and inform the public when this happens? • Has the government adhered to the fiscal rules so far? If not, what were the causes of deviations? • Has the rule proven effective in delivering on the objectives set in the government's fiscal framework?
<p>7.1.4 Debt policy</p> <p>Does the government have a well-defined debt management policy, including provisions on the collateralization of government assets, borrowing terms, and transparency requirements?</p>	<p>The Natural Resource Charter states that, to be successful, the government must manage revenues taking into account the amount of the resources depleted, the rest of the economy and the amount the government borrows. Countries have often suffered when government policy only addresses one element, such as resource revenue, without considering the whole system of public finances, including the overall debt of the government.</p> <p>Many resource-rich countries have failed to manage debt levels. Partly this is because a resource boom can create greater access to credit – sometimes before resource revenues have even begun to accrue. If the government has not used the proceeds from borrowing in a sustainable manner to generate taxes to repay debt, countries can find themselves in serious trouble during a commodity price downturn or once natural resources are exhausted. (See also RGI 2017 National debt disclosure Q2.1.5a - 2.1.5b.)</p> <p><i>A government's debt policy should follow the following principles:</i></p> <ul style="list-style-type: none"> • It should articulate the use of government savings as part of a debt management strategy, and set out, in law, the times when savings can or should be used to pay down debt. • It should set limits to the government deficit, such as fiscal rules, influenced by the government's net saving position (i.e., both saving and borrowing). It is important to avoid simultaneously saving resource revenues and borrowing to finance a continuing deficit: the return from saving revenues in a savings fund is unlikely to be higher than the cost of borrowing. • It should manage external borrowing—debt denominated in foreign currency. While a government can, in principle, repay domestic denominated debt by printing domestic currency, repaying foreign denominated debt requires earning foreign exchange from exports. A resource-rich country's main source of foreign exchange is the export of resources; but in a commodity price downturn, the country will have less access to foreign exchange. • It should manage the use of resource revenues as collateral (e.g., oil-backed loans). In most cases loans backed by future resource revenues should be avoided given the inherent uncertainty of the value of revenues in the future. • It should address both central government debt, subnational government debt and off-budget debt borrowing by related-party entities such as state-owned enterprises. <p>The IMF's Debt Sustainability Analyses are a useful resource to assess the countries debt position. See https://www.imf.org/external/pubs/ft/dsa/.</p>

<p>7.1.4 Debt policy <i>(continued)</i></p>	<p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the government borrow in accordance with the principles listed above? • Does the law require the government to disclose the level of national government debt and off-budget debt? • Is available data on government debt disaggregated by maturity/term of loan, foreign or domestic lender, and interest rate? • Does the government monitor private sector debt?
<p>7.1.5 Expanding the tax base</p> <p>Is the government helping to expand the non-resource tax base?</p>	<p>Most low- and middle-income resource-rich countries have a relatively narrow tax base that relies heavily on the extractive sector or a small number of trade taxes (e.g., customs duties). Expanding the tax base to cover corporate income in all sectors, or increasing value-added tax collection, for example, can help improve long-term fiscal sustainability. Furthermore, governments can eliminate discretionary tax holidays and improve enforcement of tax collection.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • What are the government’s plans to expand the tax base beyond the extractive sector? • What processes are in place to streamline government decisions around tax exemptions? • Does the government sufficiently fund the internal revenue authority and improvements of tax audit capacity? • Does the government have adequate computerized information systems to manage tax collection? • If corruption is a problem in the tax collection system, what is the government doing to address it?

7.2 | Absorptive capacity

Does the government adequately manage the rate of spending in the domestic economy?

Economies in some resource-rich countries have limited absorptive capacity. This means that they cannot supply the goods and services the government demands with its resource revenues. Low absorptive capacity can be due to lack of skilled workers (e.g., managers, engineers, construction workers, doctors or teachers), weaknesses in managerial systems, or lack of complementary infrastructure. For instance, the government may wish to double the education budget; however, the money will be wasted if there are not enough teachers, schools and administrators to transform the money into more education for students. Instead, the extra spending might be absorbed by construction companies and existing salaried employees in the form of higher costs and wages. Or the government may simply spend it frivolously.

Thus, spending above absorptive capacity constraints often leads to inflation as businesses and workers in the economy raise their prices to meet demand; or it may lead to an appreciation in the exchange rate as the government purchases foreign goods and services. This effect is intensified if a resource boom also leads to greater private sector demand.

Inflation and exchange rate appreciation (together termed a real effective exchange rate appreciation) can harm growth in non-resource sectors and so detract from one of the most important goals of resource revenue management: to grow the non-resource economy. This is because inflation and an exchange rate appreciation reduce the real value of goods and services the government can buy with a given amount of revenue, and so reduce the potential value of investment the government can make to support economic growth.

To combat this problem, governments can—in the short term—manage any rise in demand from the public or private sectors by saving a portion of currency inflows in bank accounts and investing the money outside the country. In the long term, the government can increase the efficiency of public sector spending, and increase the capacity of the economy to meet a rise in demand.

To find the ideal rate of spending and saving, the government must monitor absorptive capacity and create a fiscal framework to guide decisions on how much to spend, how much to save, and where to park the excess revenues until they can efficiently be spent domestically.

Secondary question	Guidance
<p>7.2.1 Absorptive capacity metrics</p> <p>How effective is the government at transforming money into productive assets or social services?</p>	<p>General price inflation and exchange rate appreciation in the economy are important indicators of whether the government has managed to control spending in line with the absorptive capacity of the economy. Other useful indicators are measures of the quality of infrastructure and productivity of workers.</p> <p>Researchers can find historical data on the real exchange rate in the World Bank Development Indicators.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • How has the government managed significant inflation or exchange rate appreciation in the past? Has it cut back spending, for instance? • How effective is the government at transforming money into productive investments? (See World Bank’s Governance Indicators, PEFA assessments and the IMF’s PIMI index.)
<p>7.2.2 Absorptive capacity monitoring</p> <p>Does the government have adequate information to assess whether the growth of total spending (including government spending) exceeds the limits of absorptive capacity?</p>	<p>Changes in the real exchange rate (i.e., the exchange rate combined with domestic inflation) helps indicate whether spending levels are appropriate. If the government efficiently produces well-constructed inflation data, it can promptly discern whether the real exchange rate has appreciated. (See Q7.2.1.)</p> <p>Identification of specific sectors where prices are rising and understanding whether there are bottlenecks to increasing supply can also inform policies on spending rates and bottleneck reform efforts directed towards those sectors.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the government track the real exchange rate? How frequently? • Does the government track inflation in the major sectors of the economy? How frequently?
<p>7.2.3 Managing domestic spending</p> <p>Does the government use surplus revenues to repay foreign denominated debt or save in foreign assets to avoid breaching absorptive capacity constraints?</p>	<p>When available government revenues exceed what can be effectively absorbed by the domestic economy, the government must keep revenues offshore. To do this, governments can either pay down foreign debt, buy foreign assets through central bank reserves, or place revenues in a savings fund, such as a sovereign wealth fund, and invest the fund abroad. (See Q7.3.3 on the governance of these funds.)</p> <p>Lending to the domestic private sector does not avoid absorptive capacity constraints. Domestic lending can fuel inflationary spending by the private sector. Similarly, buying debt denominated in domestic currency is problematic. If the country employs a flexible exchange rate, buying domestic denominated debt raises the demand for the currency which can lead to exchange rate appreciation. If the country has a fixed exchange rate, the monetary base expands and there is similar risk for real effective exchange rate appreciation.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the government have a system to manage surplus revenues? • Are surplus revenues managed offshore through either investments or debt repayment? • Does the government avoid lending to the domestic private sector or buying domestic denominated debt?
<p>7.2.4 Monetary policy</p> <p>Does the central bank help mitigate the potential negative impacts associated with resource-dependence, including real exchange rate appreciation or exchange rate and revenue volatility?</p>	<p>In resource-rich countries, monetary policy can serve as a tool to respond to the challenges of real exchange rate appreciation. Just as the government can draw excess cash out of the economy, so can the central bank. This is usually done by selling treasury bills (government bonds), though central banks have many tools at their disposal.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the central bank have a clear statement on monetary policy? • Is the central bank the sole authority responsible for monetary policy? Does the government resist being involved in central government operations? • What tools does the central bank use to help with either macroeconomic stabilization or monetary sterilization (e.g., open market operations, reserve requirements, capital controls)?

7.3 | Expenditure volatility

Is government spending independent of short-term changes in revenues?

Governments in resource-rich countries must cope with particularly large fluctuations in revenue. If the government allows its spending to fluctuate alongside changes in revenues, it is likely to prioritize conspicuous and potentially unproductive infrastructure projects and will struggle to deliver on medium-term programs. Commodity booms can lead to increased spending on anything from higher civil service salaries and “white elephant” projects, to educational programs and infrastructural needs. Conversely, when revenues fall, the government can find it politically difficult or economically untenable to quickly defund these initiatives, leading to over-borrowing or harmful spending cuts to social services. Further, volatility in the resource sector can cause volatility in the rest of the economy creating a challenging environment for businesses to operate and plan.

To avoid these problems, governments should decouple spending from short-term fluctuations in revenues. Governments can do this by establishing and enforcing fiscal rules to constrain government spending, and using savings in foreign assets or debt to cushion changes in revenues. However, the government must understand whether a revenue fluctuation is short- or long-term. If the long-term, then decoupling spending from the change in revenue will eventually result in greater indebtedness. In these cases, the challenges of long-term sustainability addressed in Q7.1, are relevant. Unfortunately, correctly analyzing the difference between short-term and long-term fluctuations is difficult: it requires governments having a clear understanding of why revenues have changed. (Revenue forecasting is useful here—see Q7.1.2.)

Secondary question	Guidance
<p>7.3.1 Volatility metrics</p> <p>Has government spending been stable relative to government revenues during the past ten years?</p>	<p>Comparing total government spending with total government revenues indicates how successfully the government has smoothed spending in the face of revenue volatility. Ten years will typically cover at least one major commodity price change, but where information is available researchers should examine a longer time period.</p> <p>Total government spending and revenues are found in the IMF’s Government Financial Statistics database.</p>
<p>7.3.2 Expenditure smoothing</p> <p>Does the government have a fiscal framework to govern short-term expenditure smoothing, with appropriate numerical targets, and does the government comply with the framework?</p>	<p>A fiscal framework is a set of legislated rules that govern how the government spends, saves (in cash or foreign assets), borrows and invests. A fiscal framework stands in place of ad hoc decisions made by government each year to encourage consistency in fiscal decision-making across political and economic cycles. It can meet both long-term sustainability challenges (see Q7.1), medium-term management of absorptive capacity (see Q7.2) and short-term management (e.g., the management of volatility).</p> <p>Over the commodity cycle a government’s fiscal framework can guide reactions to sharp changes in resource revenues. For example, a government could have a goal to maintain expenditures at a certain rate of growth independent of revenue fluctuations.</p> <p>A government may use a fiscal rule to control spending in the short-term. It may pair such a rule with a debt policy to park surplus revenues or pay down public debt in boom times. (See Q7.3.3.)</p> <p>For the very short-term management of volatility, a government may also consider purchasing financial instruments (financial futures or options) to smooth revenues; this reduces the need to smooth expenditures. The government can do this either by buying futures that lock in the commodity price the government will receive, or by purchasing options that set a minimum price for which companies will sell the commodity to the government. Options are effectively insurance against a drop in the commodity price. However, they can be extremely expensive and options markets only exist for a 1-2 year timeframe. Therefore this “hedging” option does not achieve the same goals as a fiscal rule.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the government have a clearly articulated policy on expenditure smoothing in a fiscal framework? • Has the government created the fiscal tools that would implement that policy (e.g., a fiscal rule, stabilization funds, or debt policy)?

<p>7.3.3 Sovereign wealth fund</p> <p>If the government has a sovereign wealth fund, is it managed in a transparent, accountable and efficient manner, and does the investment strategy help achieve the fund’s objectives?</p>	<p>Sovereign wealth funds (SWFs) are funds with fiscal or macroeconomic objectives—such as the objectives addressed in questions 7.1, 7.2 and 7.3—that hold state assets, at least partially, abroad. These funds can invest in a variety of assets, including equity in companies, government or corporate debt, or other funds.</p> <p>Some resource-rich countries use SWFs to hold resource revenues. In these cases, SWFs are typically used for one of four objectives, sometimes simultaneously:</p> <ol style="list-style-type: none"> 1 As a long-term foreign asset saving vehicle, holding assets for the long term to provide an income in perpetuity. 2 As a short-term stabilization fund, a store of value to liquidate when government revenues are too low to support necessary expenditure. 3 As a parking fund, a way to park surplus revenue offshore to mitigate against absorptive capacity concerns. (See Q7.2.) 4 As a domestic investment fund, or an off-budget vehicle to finance investment projects in the country. However, it is not good practice to use funds for domestic spending. Many natural resource funds are explicitly prohibited from investing in domestic assets, for three main reasons: <ul style="list-style-type: none"> • Investing inside the country would undermine any attempt by the fund to sterilize large inflows of foreign capital. • Spending directly out of the natural resource fund bypasses the normal budget process. • Spending directly out of the natural resource fund could bypass parliamentary, auditor, media or citizen oversight. <p>Resource-rich countries do not necessarily need SWFs. Indeed, if the risks of poor governance are high enough, it is preferable to have no fund at all. Instead, savings might be held in central bank reserves. If a country has an SWF, or an intention to establish one, researchers should assess:</p> <ol style="list-style-type: none"> 1 Operations <ol style="list-style-type: none"> a. Is there clarity around fund objectives; deposit, withdrawal and investment rules; and exemptions when these are made? (See RGI 2017 Q2.3.1a - 2.3.1c.) b. Has the government adhered to these rules? c. Does the government require that withdrawals/spending from the natural resource fund pass through the normal budget process? (See RGI 2017 Q2.3.1b.) d. Is there a pre-defined set of asset classes that the fund can invest in? e. Does the fund avoid investing in domestic assets (whether government debt, development banks, or direct equity in companies)? 2 Oversight <ol style="list-style-type: none"> a. Are the identities of the ultimate authority, fund manager and operational manager specified? b. Are their responsibilities well defined in law? c. Are there ethical and conflict of interest standards for fund managers and staff? <p>Are there penalties for misconduct of managers and staff?</p> <p>Do legislators, independent external auditors, or others (e.g., civil society groups) have formal oversight of the fund?</p>
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<p>7.3.3 Sovereign wealth fund <i>(continued)</i></p>	<p>3. Transparency</p> <p>a. Does the fund make its financial reports publicly available on an easy-to-access web-page on a quarterly or annual basis? (See RGI 2017 Q2.3.6a - 2.3.6c.)</p> <p>b. Are there periodic external audits of the fund, and are all audits (internal and external) made public?</p> <p>c. Is the following information made publicly available:</p> <ul style="list-style-type: none"> • size of the fund(s) • deposit and withdrawal amounts • returns on investments • detailed asset allocation (asset class) • detailed asset allocation (specific assets) • commodity prices and other fiscal assumptions used to calculate the deposit and withdrawal amounts allowed under fiscal rules. <p>See also NRCI-CCSI 2014 for policy briefs and case studies on funds.</p>
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Precept 9: Public spending

The government should use revenues as an opportunity to increase the efficiency of public spending at the national and subnational levels.

–Precept 9, Natural Resource Charter

Resource abundance provides an opportunity to fund a significant advance in infrastructure and public services. Unfortunately, countries often squander this opportunity. Even when the government follows the earlier precepts on managing savings and investment rates, public agencies still struggle to spend resource revenues in a way that results in economic development.

The impact of public investment depends critically on its efficiency. Comparing the value of public capital (input) and measures of infrastructure coverage and quality (output) across countries reveals average inefficiencies in public investment processes of around 30 percent (IMF 2015). The benefits of improving efficiency are stark—countries with the most efficient public investment had double the economic growth per investment dollar compared with the least efficient. A well-managed flow of revenues can fund improvements in public spending systems, resulting in more efficient spending and better public sector outcomes.

Efficient spending is particularly challenging for resource-dependent countries. A short boom time can leave little time for a government to reform its spending practices when revenues are high. During times of low revenue, a government not well protected by revenue management systems (precepts 7 and 8) needs to reduce spending, thereby disrupting services and projects or laying off public staff. When cuts are necessary, a public financial management system that works well will help governments prioritize projects and avoid major disruptions of services.

In order to assess spending practices, this precept considers allocative efficiency (the reflection of government priorities in the allocation and spending of public resources) (Q9.1), distribution of revenues (with a particular focus on the risks of off-budget spending) (Q9.2), budget execution or operational efficiency (the ability to manage budgeted public resources efficiently in delivering public services and value for money) (Q9.3) and how to ensure accountability in all of these processes (Q9.4). The questions in this precept closely follow the Public Expenditure and Accountability (PEFA) framework, with issues pertinent to resource-dependent countries given greater prominence.

PRIMARY QUESTIONS

9.1 | Public spending planning

Does public spending align with national plans?

9.2 | Revenue distribution

Does the government distribute revenues in an accountable and transparent manner, and avoid off-budget transfers and spending?

9.3 | Budget and project execution

Does the government spend public revenues as intended?

9.4 | Accounting, reporting and oversight of public spending

Does the government account for and report on revenues and public spending, and is there strong oversight of public expenditure?

9.1 | Public spending planning

Does public spending align with national plans?

The boom and bust cycle can be better managed if spending is directed by an overarching plan. An overarching plan means that clear priorities have been identified, that public resources are directed towards these priorities, and that different parts of government coordinate their actions in line with these priorities.

Secondary question	Guidance
<p>9.1.1 Planning and budgeting</p> <p>Are national and sector plans formally integrated into the budgeting exercise?</p>	<p>Integrating government plans into the budget (or “policy-based budgeting”) requires a budget formulation process that has: effective leadership; effective participation from other ministries, departments and agencies; and an orderly and timely process to ensure that the views of these organizations are taken into account.</p> <p>A multi-year perspective in budgeting and spending plans can help integrate a vision into the budget. This includes multi-year fiscal forecasts and allocations, and costed sector strategies with forward expenditures (showing future spending demands from recurrent expenditure).</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Are sectoral planning documents used in practice to prepare the national budget? • Are budgets consistent and coherent across sectors and aligned with the national development goals and strategy? • Do government entities prepare multi-annual budget submissions based on future demands and expected change in available resources? (See Q7.1.1 on revenue forecasting.) <p>Researchers may find it useful to refer to PEFA country report indicators PI-11 and PI-12.</p>

<p>9.1.2 Project design and appraisal</p> <p>Are public investment projects designed and appraised based on national and sector plans?</p>	<p>As with the budgeting process (see Q9.1.1), following national and sector plans can also help inform the selection and prioritization of the individual projects that should receive public funds.</p> <p>The government should have clear methods to appraise public project proposals made by government agencies. The methods should allow alignment of criteria used in project appraisals with national planning goals.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Are public investment plans integrated across tiers of government? • Do public investment plans provide certainty about funding from the central government? • Do public investment plans ensure sustainable levels of subnational borrowing? • Does an appraisal method exist that ensures projects are systematically vetted and selected based on transparent criteria, and clear and realistic priorities, cost estimates and objectives for each sector? • Are there ex ante independent reviews of appraisals? • Are recurrent costs of public investment projects (regardless of the funding channel) taken into account? • Does the budget provide transparency and predictability on investment spending, project-by-project, over the medium term? • Are all projects (even if donor funded) captured in budget documents? <p>Another source of information are the country reports of the World Bank’s Public Investment Management (PIM) framework, questions 1, 2, 3 and 4.</p>
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9.2 | Revenue distribution

Does the government distribute revenues in an accountable and transparent manner, and avoid off-budget transfers and spending?

Governments must make decisions about how to distribute the resource revenues from the collection agency (or agencies) to various spending agencies. In order to ensure the best use of funds, governments must have systems to track revenues. This can be a risky process as money can be misappropriated or lost. Off-budget distributions are spending and transfers that are not recorded in the government’s budget, often activities undertaken by parties contracted by the government such as state-owned companies and sovereign wealth funds. These transfers provide more spending autonomy and discretion, but avoid checks and balances and risk undermining accountability, weaken coordination efforts and increase leakages.

Resource-rich governments face extra risk because of the large sums and different institutions involved in managing resource revenues. Resource specific government agencies, such as national oil companies or sovereign wealth funds, can complicate revenue distribution and spending as they may be involved in the collection, transfer or spending of resource revenues outside of the regular budget process. In addition, some resource-rich countries have large resource revenue sharing programs with subnational governments. Revenue sharing programs may be conducted on the basis of resource produced in each region, rather than on local spending responsibilities—this creates a risk of low oversight, low capacity, inefficiency and waste.

Secondary question	Guidance
<p>9.2.1 Resource revenues and the budget</p> <p>Is all government spending from resource revenues appropriated through the national budget?</p>	<p>The Natural Resource Charter suggests that all government revenues be managed through a central government account—a treasury single account—brought directly into the national budget, and integrated in a medium-term budget framework.</p> <p>Some countries separate resource revenues in a resource revenue account. If such accounts are used, it is important that the resource revenue account is integrated into the regular budget process. Integration is best achieved if it is only a government account, rather than a separate institution, and that the account has no authority to spend.</p> <p>While accounts should be integrated, it is still important to report on resource and non-resource revenues separately, as resource revenues require different management tactics. (See precept 7.)</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • How much of revenues are spent through the budget process (via a treasury account) compared with revenues bypassing the budget process and being received and spent directly by other government entities? • Are resource and non-resource revenues reported separately in the national budget?
<p>9.2.2 Off-budget distribution</p> <p>If state-owned enterprises, savings funds or development banks receive revenues off-budget, is there sufficient justification for such arrangements, and are the revenues managed in a transparent, accountable and efficient manner?</p>	<p>While it is typically best for resource revenues to be managed through a central government account (see Q9.2.1), it is common in resource-rich countries for some resource revenues to be distributed to entities outside of the standard national budget process. The Natural Resource Charter views such off-budget spending as unfavorable because it avoids scrutiny, checks and balances built into the national budget process, thereby reducing accountability. Given these risks, the decision to give entities the license to spend revenues off-budget requires a clear and reasonable justification. It is also important that such off-budget entities have their own checks and balances. (See precept 6 on the funding of petroleum or mining state-owned enterprises and Q7.4 on sovereign wealth funds.)</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • What percentage of government spending is through off-budget mechanisms? • What percentage of the entity’s spending is related to non-core activities (e.g., an oil company building schools)? • Is the off-budget spending coordinated with sector plans? • Is there auditing, reporting, and oversight for the off-budget spending?

<p>9.2.3 Distribution to subnational authorities</p> <p>If the government allocates revenues to subnational governments, are the transfers based on a well-articulated set of objectives, and are the transfers correct and timely?</p>	<p>Some resource-rich countries operate systems in which resource revenues are distributed to subnational authorities. These revenue sharing systems often use a formula or some other provision that determines distributions according to the amount of oil, gas or mineral produced in a subnational region or on other indicators such as population size.</p> <p>Whether a government decides to operate a revenue sharing system is primarily a political issue. Revenue sharing systems are not advisable for every country and have been associated with significant wasteful spending by subnational authorities. However, if a government does have such a system, there are eight principles they can follow:</p> <ol style="list-style-type: none"> 1 Clarify objectives of revenue sharing. Objectives can be unclear. Clarification can help guide the design of rules governing the practice. 2 Achieve national consensus on the formula. Revenue sharing is often used to appease various regional concerns in a country. Consensus helps ensure legitimacy and stability of the system. 3 Codify the formula in law. Once consensus is achieved, codifying any formula used helps provide clarity, can link the system to any objectives set and provides some predictability. 4 Balance revenue and expenditure assignments. This is a basic principle of inter-government fiscal transfers, as it helps to ensure effective spending by subnational authorities. However, if resource revenues are distributed according to measures such as resource production, this can be an almost impossible principle to follow. 5 Promote fiscal responsibility. The disbursement of large resource revenue payments can easily result in wasteful spending. This can be avoided by earmarking of revenues, controls on debt and other practices. 6 Smooth fiscal expenditures and make spending predictable. Resource revenues can be large in comparison to subnational authority budgets, so the challenges of volatility described in precept 8 are also relevant here. 7 Simplicity and enforceability. Rules concerning revenue sharing should be simple and enforceable. Researchers should check whether there is a verification mechanism at the national and subnational level to ensure that subnational governments are receiving their fiscal entitlements. 8 Make revenue sharing transparent and verify amounts. Researchers should consider: <ul style="list-style-type: none"> • Are reports on transfers publicly available on an easy-to-access webpage on a quarterly or annual basis? • Audits on transfers • Is information disaggregated by revenue stream (e.g., royalties, corporate income tax); by commodity (e.g., petroleum, minerals); and by recipient (e.g., ministry, department)? <p>Researchers should check how many of these principles are followed. (See Bauer et al. 2016 and see Resource Governance Index 2017 Subnational resource revenue sharing Q2.2a - 2.2.5a.)</p>
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9.3 | Budget and project execution

Does the government spend public revenues as intended?

A budget or project executed as planned builds credibility, ensuring that public and private sector actors can rely on the government. A government can focus on three areas to maximize the efficiency of public spending: spending controls, procedures to ensure projects are implemented on time and on budget, and procedures to govern public procurement.

Secondary question	Guidance
<p>9.3.1 Spending controls Are there spending controls and commitment plans in place, and do these result in public spending in line with the approved budget?</p>	<p>Differences between actual and intended spending may be the result of inaccurate forecasts of revenues (difficult for countries dependent on volatile resource revenues, see precept 4 on tax and precept 8 on managing volatile revenues), poor planning, bottlenecks in managing spending programs or corruption.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • What is the difference between budgeted aggregate spending and actual aggregate spending? • How much of this difference between budgeted aggregate spending and actual aggregate spending is explained by a difference in forecasted and actual resource revenue collection? • What explains differences between the composition of spending in the budget and actual spending composition? • Does the government have effective tools in place to keep in-year spending under control (e.g., spending and commitment controls, cash-flow planning)? • Is there an orderly and transparent way to amend the budget when necessary? • Is there a mechanism to manage the orderly amendment of the budget? For instance, a mid-year review of budget execution that takes into account a shortfall in resources or an increase in expenditures beyond the authorities' control. • Are in-year adjustments to the budget frequent and transparent? <p>If a PEFA exists in the country, refer to PI-1 (aggregate expenditure out-turn compared to original approved budget), PI-2 (composition of expenditure out-turn compared to original approved budget), PI-10 (public access to key fiscal information), PI-16 (predictability in the availability of funds for commitment of expenditures) and PI-20 (effectiveness of internal controls for non-salary expenditure). See also the Open Budget Survey, question 24.</p>

<p>9.3.2 Project implementation</p> <p>Are public investment projects implemented as planned?</p>	<p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Are most public projects completed on time and on budget? • Has any major recurrent cost arisen that was not envisaged at appraisal stage? • Are medium-term project plans and budgets used and kept up to date? • Are public investment projects adjusted to reflect any changes in government policy? • Are investments protected so that project appropriations are sufficient to cover total project costs and cannot be diverted at the discretion of the executive? • Is funding reliable throughout the project? <p><i>See also:</i></p> <ul style="list-style-type: none"> • Another source of information are the country reports of the World Bank’s PIM framework (question 14), which provides average percentage of cost over-run in inflation adjusted terms for selected countries. • The IMF’s Public Investment Management Assessment (PIMA) framework also measures project implementation. • Implementation of public investment projects is measured by the Public Investment Management Index (PIMI) for 2010 only. (See Dabla-Noris 2010.)
<p>9.3.3 Public procurement</p> <p>Is public procurement predictable and subject to a process of open and competitive tendering?</p>	<p>Public procurement can be an opportunity to ensure that the private sector delivers the goods and services that public organizations are not able to provide efficiently. Public procurement can be wasteful if public-private relationships are not well managed or if they are undertaken without appropriate checks and balances.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • What proportion of contracts are subject to open and competitive tendering? • Does procurement of major projects differ from plans and does this seriously affect the predictability of the budget during budget execution? • Are the contracts awarded with values above a certain value (e.g., USD 100,000 equivalent) published at least quarterly? <p>Other sources of information include the PEFA report PI-19 (competition, value for money and controls in procurement), and the PIM country reports (question 11).</p>

9.4 | Accounting, reporting and oversight of public spending

Does the government account for and report on revenues and public spending, and is there strong oversight of public expenditure?

Good accounting and reporting of public spending allows government officials and oversight actors to scrutinize spending and check whether it is in line with national priorities. It also enables assessment of whether spending allocations are fair and equitable. This question considers two important aspects of public financial management: accounting of revenues and spending, and oversight of public financial management. General transparency and oversight processes, including audits and evaluations, are extensively covered in precept 2. The secondary questions here cover two types of spending: recurrent spending (Q9.4.1 and 9.4.2) and capital spending (Q9.4.3 and Q9.4.4).

The OBS measures the transparency of budgetary process. Researchers may find the data in the OBS useful in answering this set of questions.

Secondary question	Guidance
<p>9.4.1 Budget accounting and reporting</p> <p>Is public spending (including any off-budget spending of resource revenues) fully accounted for and reported?</p>	<p>In some resource-rich countries, a large proportion of government revenue may be spent outside the budget process. It is important that officials follow similar accounting and reporting practices for this off-budget expenditure.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the government have an accounting system that tracks budget execution? If a PEFA report is available, refer to PEFA Indicator PI-5 (classification of the budget). • Regarding the government’s financial reporting, are in-year budget execution reports and financial statements routinely produced and made available to the public? If a PEFA report is available, refer to indicator PI-24 (quality and timeliness of in-year budget reports), PI-25 (quality and timeliness of annual financial statements) and PI-22 (timeliness and regularity of accounts reconciliation). • Is information published through appropriate means at least annually, or available upon request in at least two sectors (such as elementary schools or primary health care facilities)? If a PEFA report is available, refer to indicator PI-23 (availability of information on resources received by service delivery units) and the Open Budget Index (budget execution). <p>See also precept 2 on other aspects of government oversight.</p>
<p>9.4.2 Independent audit and oversight</p> <p>Is budget and off-budget recurrent spending subject to independent audit and oversight?</p>	<p>Both independent and governmental bodies—whether civil society organizations, the legislature or the auditor general—may oversee the budget process if they have information via reports and accounts (see Q9.4.1), as well as the capacity to understand and analyze the information. Likewise, public participation in the budget process strengthens oversight. Independent think tanks, analysts and other civil society organizations act as important actors in monitoring government spending.</p> <p>This question concerns recurrent spending. Questions 9.4.3 and 9.4.4 concern capital spending.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the audit process adhere to appropriate auditing standards, including independence of the external audit institution? • Does the audit process address the reliability of financial statements, regularity of transactions and functioning of internal control and procurement systems? • Are all reports on central government consolidated operations made available to the public through appropriate means within six months of the completed audit? • Are financial statements made available to the public through appropriate means within six months of the completed audit? <p>Researchers should consider whether there is evaluation of the quality and impact of public expenditure in the country.</p> <ul style="list-style-type: none"> • Assess if any findings are used to improve the design of projects, programs and policies, resource allocations and operational bottlenecks. • Are evaluations routinely used to enhance accountability, strengthen program management and support decision-making? <p><i>Researchers should also consider:</i></p> <ul style="list-style-type: none"> • Do non-governmental bodies publish analyses of the budget proposal or execution? • Does the government respond to external analysis of the budget? • Do legislative committees analyze the actual spending of the budget and make recommendations for subsequent budgets? • Do civil society organizations participate in the budget process and actively monitor spending? <p>See also OBS Questions 97-102 and precept 2 on other aspects of government oversight.</p>

<p>9.4.3 Public investment project accounting and reporting</p> <p>Are public investment projects fully accounted for and reported on?</p>	<p>Good accounting and reporting practices are critical for the effective delivery of capital spending such as public investment projects. Accurate and credible accounts also ensure that projects can be scrutinized by the public.</p> <p>This question concerns capital spending. Question 9.4.2 concerns recurrent spending.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Are public investment projects and any related public assets fully accounted for, properly recorded and their depreciation recognized in financial statements? (See OBS question 6 and 7) • Do specific reports exist for these projects or programs? • When projects are externally funded, are they accounted for in the national budget and reported on in government reports? • If they are off-budget, are the contracts procured are reported on elsewhere? <p>Other sources of information include the country reports of the World Bank’s PIM framework, questions 11 and 19.</p> <p>See also precept 2 on other aspects of government oversight.</p>
<p>9.4.4 Public investment project audit and evaluation</p> <p>Are there independent audits and evaluations of public investment projects?</p>	<p>An ex post evaluation of public investment helps the government learn from the past and avoid mistakes in the future. This can take the form of a comparison of budget costs to actual costs, done by the auditor general or the executive, and external audits from independent auditors. Audit results should be made public.</p> <p>This question concerns capital spending. Question 9.4.2 concerns recurrent spending.</p> <p><i>Researchers should:</i></p> <ul style="list-style-type: none"> • Assess whether domestically funded projects are monitored, audited and evaluated and if information is routinely scrutinized by the public, central statistical offices and/or the legislature. • Consider whether external audits and ex post evaluations of major projects are produced on a regular and timely basis. <p><i>If a PEFA report is available, refer to PEFA indicators:</i></p> <ul style="list-style-type: none"> • PI-26 (scope, nature and follow-up of external audit) • PI-27 (legislative scrutiny of the annual budget law) • PI-28 (legislative scrutiny of external audit reports) <p><i>See also:</i></p> <ul style="list-style-type: none"> • Dabla-Norris et al. (2010) • Precept 2 on other aspects of government oversight

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Precept 10: Private sector development

The government should facilitate private sector investments to diversify the economy and to engage in the extractive sector.

–Precept 10, Natural Resource Charter

In order to foster development beyond the life cycle of extraction, the Natural Resource Charter encourages governments to use resource wealth to diversify the economy. Diversification requires the development of the private sector of the economy. The four questions in this precept address four areas in which resource extraction can help this development.

First, to achieve diversification, a government essentially has two options: 1) pick specific industries to support, or 2) create a business environment that provides the basic foundations for any business to prosper. Different governments have chosen different options. The Natural Resource Charter argues that because neither governments nor individual businesses can predict the future well, it is typically better to choose the second option—i.e., governments should create an enabling environment that supports business activity. Whichever option a government chooses, the government has an essential role to play in facilitating private sector investment.

If the economy is relatively small, the process of making quick and large public investments may create a second challenge as high public spending can cause inflation or an exchange rate appreciation. This precept considers how governments can increase the capacity of the economy to absorb higher rates of spending by funding general purpose investments and removing bottlenecks for growth. This links to question 7.2 of this framework which covers the macro-fiscal policies that a government can implement to control the rate of public spending in an economy. Precept 9 covers reforms of public financial management to increase the efficiency of public spending.

The next three aspects relate to how the resource sector links to non-resource sectors. The resource sector can benefit the private sector by creating jobs and buying local goods and services (Q10.2), building resource sector-related infrastructure that can be shared with other users (Q10.3), and processing commodities that can provide cheaper energy, petrochemicals or mineral inputs to industry (Q10.4). If well managed, the knowledge and resource inputs by the extractive sector to support development in other sectors can strengthen the private sector, sometimes sufficiently to diversify the economy. While this section focuses its analysis on the impact on the national economy, the important effects of extraction on the local economy of producing communities are addressed in precept 5.

PRIMARY QUESTIONS

10.1 | Private sector enabling environment

Does the government make general purpose investments and remove bottlenecks to non-resource sector growth?

10.2 | Local content

Does the government ensure that domestic businesses and workers have the opportunity and capacity to operate in the extractive sector?

10.3 | Sharing infrastructure

Does the government ensure that extractive industry infrastructure is open to third parties wherever economically feasible?

10.4 | Domestic value addition and consumption

Does the government take the opportunity to use oil, gas and mineral resources domestically, when the opportunity costs of doing so are less than the benefits?

10.1 | Private sector enabling environment

Does the government make general purpose investments and remove bottlenecks to non-resource sector growth?

Fostering a healthy and diversified economy requires an enabling environment of laws and policies, and massive investment in infrastructure, health and education. For instance, the fastest growing economies in recent times have invested at least 30 percent of their gross domestic product each year (Commission on Growth and Development 2008). Governments of resource-rich countries have an opportunity to fund this investment using the potentially large revenues earned from resource extraction. However, it can be challenging to transform these revenues into private sector growth. As such, this question considers the key policy areas that governments should consider to address these challenges.

Secondary question	Guidance
<p>10.1.1 Industrial policy</p> <p>Does the government engage with the private sector in a manner that ensures the best interest of the country as a whole, on grounds of economic rationale rather than patronage?</p>	<p>In addition to recommending a focus on developing an enabling environment for economic diversity, the Natural Resource Charter encourages consulting with the private sector on how to best foster growth (Rodrik 2004). However, in doing so, there must be mechanisms to ensure that such collaboration does not allow personal gain over national development.</p> <p>If a government does decide to support specific industries—such as agriculture, tourism or manufacturing—it should avoid the riskiest aspects of this policy choice. Industries should be selected only if there is a credible expectation that support can be withdrawn after a few years, and support to specific companies should be avoided. Industrial policy of this kind is more likely to result in a viable business sector rather than becoming a continual drain on public finances.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the government consult widely with both private sector and other stakeholders in the process of formulating industrial policies? • If the government provides specific support to industries, is this support time-bound? • Does this support reward success rather than protect failures? • Are failing support programs wound-down and are any exemptions clearly justified? • Does the government avoid supporting individual companies? • Are there any ties between industries or companies that receive public support and political gains, such as campaign contributions or family connections?

<p>10.1.2 Infrastructure</p> <p>Does the government identify and address gaps between the country’s existing physical infrastructure and the needs of the private sector?</p>	<p>A lack of physical infrastructure—transport, power, water, sewage, and housing for workers—is often a bottleneck to an expansion in public sector spending and private sector growth (Commission for Growth 2008 and Foster and Briceño-Garmendia 2011).</p> <p>Governments play a critical role in both directing and funding infrastructure investment. Infrastructure development typically requires coordination among many actors and creates positive and negative spill-overs that are not fully taken into account by private sector businesses. A government can help by developing an infrastructure plan to deliver projects across many different areas that are coordinated and prioritized.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • What is the current state of infrastructure provision in the country? See Global Competitiveness Report Pillar 2 Infrastructure (World Economic Forum 2015), and Ibrahim Index – Infrastructure (for Africa only). • Has the government published a plan to address infrastructure deficiencies? • Does the government’s plan prioritize infrastructure investments that will enable economic growth? • Does the government have a mechanism to track private infrastructure developments and dovetail these investments into their wider plans?
<p>10.1.3 Construction sector</p> <p>Does the government identify and address bottlenecks in the construction sector supply?</p>	<p>An expansion in a country’s physical infrastructure will increase the demand for construction services. However, construction is predominantly a local service and much of it cannot be imported. This means that in economic expansions the local construction sector may not be able to grow fast enough to meet demand without causing inflation.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • What is the contribution of the construction sector to GDP? • Does the size of the construction sector suggest that there are sufficient construction services to respond to an increase in demand? • Is the construction sector competitive (not dominated by monopoly suppliers) so that higher demand will more likely lead to higher supply rather than higher prices? • Is construction sector-related regulation (e.g., the time to obtain building permits.) suitable? See the “dealing with construction permits” Doing Business indicator (http://www.doingbusiness.org/) • Has the government attempted to address any construction bottlenecks?
<p>10.1.4 Financial sector</p> <p>Does the government identify and address bottlenecks in the financial system?</p>	<p>To flourish in the booms and busts of extractive cycles, businesses in resource-rich countries will require access to affordable credit. During a boom, businesses will require working capital to finance a rising level of purchases. In busts, businesses may need short-term financing to cover shortfalls until conditions improve.</p> <p>Similarly to construction services, financial services cannot be easily imported. Financial services are best supplied by businesses with a local presence, as bankers and other providers need to have a local understanding of the clients they work with. A lack of local financial expertise represents a bottleneck to providing credit, insurance and other services to businesses.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Do indicators suggest the country has a sufficiently robust financial sector? See the getting credit Doing Business indicator and Global Competitiveness Report Pillar 8 Financial Market Development. In addition, the presence of international banks can be used as an indicator of the degree of sophistication of the banking system. • Does the government have a plan as to how to develop the financial sector?

<p>10.1.5 Health and education</p> <p>Does the government identify and address weaknesses in the country’s health and education levels?</p>	<p>Decent health and education services are both established human rights and a necessary ingredient for growth. A lack of skilled and healthy workers is a common bottleneck for private sector growth in developing countries.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • What is the current quality of education in the country? See World Bank – Educational Attainment measures; Ibrahim Index – Education (for Africa only). • How are government reforms affecting the quality of the workforce? • What percentage of the government budget is allocated towards health and education? • Are education initiatives linked towards emerging needs in the economy?
<p>10.1.6. Gender investment</p> <p>Does the government identify and address weaknesses in how women are able to fully contribute to the economy?</p>	<p>In almost every country, women are under-represented and under used in the economy. The problem is particularly stark in resource-rich countries where industries that are usual gateways into the workforce for women—such as manufacturing—are more expensive to run because of Dutch disease. Numerous development studies have shown that investments in women and their financial independence have stronger ripples in the economy than non-gender specific investments.</p> <p>Natural resource revenues are an opportunity for governments to identify the potential gap in the workforce and invest in fostering the contribution of women.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the government conduct a gender analysis of its budgets and plans? • What is the gap in the percentage of women in the workforce compared to men? • Does the government have a plan to address the gender gap? • Does the government have policies to foster female participation in the workforce, such as maternity leave?
<p>10.1.7 Business regulation</p> <p>Does the government identify and address weaknesses in business regulations?</p>	<p>Private sector growth is facilitated by an economic environment in which resources are able to move from low return or declining sectors to a high rate of return or growing sectors. This is particularly important during a period of structural change or in an environment with a high degree of volatility.</p> <p>There are many elements to creating a responsive and flexible economic environment. One is that firms are not impeded by excessive regulation (Collier and Goderis 2009). Another is flexibility in the labor market, so that barriers to hiring and firing workers are not excessive. A well-functioning capital market is also important as a means of channeling funds to new activities (Van der Ploeg and Poelhekke 2009).</p> <p>Resource wealth can provide the means for ensuring flexibility. For instance, resource revenues may be used to finance social protection schemes, which can then provide political cover to remove ad hoc and inefficient measures such as price controls, subsidies, and job protection measures.</p> <p>Business regulation is important to protect workers and citizens, as well as ensure that markets work effectively for society. However, too much regulation can stifle enterprise. Common regulatory bottlenecks include rules concerning title to land, mandatory certification for certain types of businesses, and permits and customs regulations.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • What is the quality of business regulations? Use measures such as: Doing Business indicators; Ibrahim Index – Business Environment (for Africa only); thematic reports by accounting firms. • Does the government attempt to reform business regulation by reducing excessive burdens?

10.2 | Local content

Does the government ensure that domestic businesses and workers have the opportunity and capacity to operate in the extractive sector?

Resource projects create jobs, as well as procure goods and services and contract business from the domestic economy. By working with sophisticated resource companies, local workers and businesses can also be exposed to globally competitive working practices. Workers and managers with this experience can then go on to start their own businesses in other sectors of the economy. If local workers and businesses develop sufficiently, companies can: reduce their costs by eliminating the need to import goods; avoid paying expensive expatriate workers; reduce supply chain complexity; and develop a social license to operate with the local community.

However, realizing these opportunities is difficult. The resource sector is capital intensive and employs technologically advanced processes resulting in few opportunities for low-skilled employment or for businesses that provide basic goods and services. This is particularly problematic in the oil and gas sector. There are three specific problems for local businesses and workers: 1) in order to keep costs as low as possible the extractive industry uses tightly integrated supply chains dominated by a few global services companies; 2) the size of contracts are often too large for local companies to manage alone; and 3) domestic companies may lack the enabling environment (finance, infrastructure and a skilled workforce) to support them. Even when local personnel and services can be incorporated into the extractive sector, it takes strategic planning to convert these resources to long-term economic diversification.

Secondary question	Guidance
<p>10.2.1 Supply side</p> <p>Does the government remove barriers to local participation?</p>	<p>Local businesses need the capacity and operating environment to be able to engage in the extractive supply chain. Access to information can help local businesses plan their development to meet the needs of the industry. Organizing structures that allow for cooperatives can pool the resources of small businesses to meet the demands of a contract. Tax structures must also be analyzed to make sure that foreign firms do not have an economic advantage over local firms.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Has the government made information available to local businesses on procurement opportunities and the skill needs of resource companies (using skill inventories)? • Has the government reformed regulations on local businesses so that they can acquire the land and capital required to respond to resource company demand? • Has the government encouraged resource companies to unbundle contracts to allow local firms the opportunity to work within the supply chain? • Has the government ensured that the tax regime does not discriminate against local firms (e.g., by requiring VAT payment, while exempting foreign companies from VAT on imports)?

<p>10.2.2 Local content rules</p> <p>If the government does employ local content rules, are they consistent with local capacity, do they avoid excessive protection, and guard against corruption?</p>	<p>The Natural Resource Charter generally disfavors strict local content rules or quotas. When they are employed, they are most successful if they are consistent with local capacity, prioritize integrity, and do not add unreasonable costs to the corporation.</p> <p>Researchers should consider whether the government has assessed the costs and benefits of local content rules. Costs can include the increased cost to the company, reduced tax revenue to the government, administrative costs of implementation and resource drain on other sectors, and opportunities for patronage, favoritism and corruption. Benefits can include skills and knowledge transfer, employment and tax revenues.</p> <p>If the government has used local content targets on resource companies, researchers should consider whether they are:</p> <ul style="list-style-type: none"> • Grounded in a realistic assessment of local capacity. (See Q10.2.1). • Maximizing value to the country—rather than merely maximizing local content—proportion of companies’ cost bases. • Well-defined and clear to resource companies, rather than just a percentage target. • Accompanied with time frame clauses, to allow time for local capacity to grow. • Accompanied with a sunset clause, to allow for local companies to become competitive. • Consistent with international trade and investment rules. (See Tordo et al, 2013 and Ramdoo, 2015.) • Protected from corruption risks, including through clear prequalification and procurement systems that prioritize competition and meritocratic selection, due diligence procedures, and transparency on which companies benefit over time.
<p>10.2.3 Local content implementation, monitoring and enforcement</p> <p>Does the government monitor and enforce companies’ adherence to local content rules, and the government’s own support measures?</p>	<p>Successful local content policies require a dedicated institution, staff and funds to implement monitor and enforce policies.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Is there a dedicated institution to implement, monitor and enforce local content policies? • Has sufficient staff been assigned to monitor local content regulations? • Are companies obligated to report on local content compliance, and is the government able to analyze and audit these reports? • Are penalties for non-compliance well defined? Enforcement that consists of imposing fines is likely to be perceived by the companies as simply another tax.

10.3 | Sharing infrastructure

Does the government ensure that extractive industry infrastructure is open to third parties wherever economically feasible?

The extractive industry has invested billions of dollars in infrastructure to support their operations. One estimate suggests the majority of extractive infrastructure around the world has the potential to be shared with other operators in the industry (known as multi-user infrastructure), and about a third is suitable for sharing with users outside the extractive industry (known as multi-purpose infrastructure). (See McKinsey 2014.) Such large spending can be a significant contribution to closing the infrastructure gap in many countries.

Typically, extractive companies prefer to have sole use of their infrastructure to avoid disruptions by other users. However, government intervention can help to get the most out of infrastructure by balancing the needs of extractive companies to operate efficiently, with identifying opportunities for infrastructure to benefit other users. (See Toledano 2012a, 2012b, 2014a and 2014b.)

Secondary question	Guidance
<p>10.3.1 Shared infrastructure coordination</p> <p>Does the government help the coordination of extractive companies with other potential infrastructure users?</p>	<p>Optimizing the use of infrastructure begins with understanding the needs of different parties. In some cases, a government can help match these needs to opportunities that businesses might not be able to arrange on their own. The government is in a good position to understand where demand for infrastructure does not currently exist, but is likely to develop in the future.</p> <p>Managing the terms of use and ownership over time can be complicated. Governments can be well placed to broker an agreement that will ensure the efficient use of resources. As the regulator in some sectors, such as power or water, the government can also play a key role in reducing costs.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Is existing extractive-related infrastructure used by multiple users? For instance, ports, railways and communication lines. • Does the government consult with resource companies before a final investment decision and before making demands to share infrastructure? • Does the government understand the needs of the economy in areas in which infrastructure will be built? (See also Q10.1.2) • Does the government require resource companies to report their infrastructure needs and plans in initial assessments? • Does the government help potential users of infrastructure to register their interest to be incorporated into building plans? • Does the government have a mechanism to review the impact of its regulatory bodies on the price or efficiency of the power and water sector?
<p>10.3.2 Shared extractive industry-infrastructure regulation</p> <p>Does the government assess the costs and benefits of facilitating shared use of infrastructure?</p>	<p>There can be significant public revenue costs to imposing third-party use of infrastructure in situations when it is not suitable. For instance: higher operational costs for companies, tax incentives the government gives to encourage companies to share their infrastructure, and direct public investment in the infrastructure itself.</p> <p>See Toledano et al, 2013 on what conditions are most likely to make sharing arrangements beneficial for a country.</p> <p><i>Researchers should consider whether the government:</i></p> <ul style="list-style-type: none"> • Has a process to identify and evaluate potential added value of resource company infrastructure projects. • Considers best practices in evaluating resource projects. (See CCSI.) • Projects the maintenance costs of the infrastructure and realistically projects any potential income from sharing infrastructure.

10.4 | Domestic value addition and consumption

Does the government take the opportunity to use oil, gas and mineral resources domestically, when the opportunity costs of doing so are less than the benefits?

Resources can be exported in an unprocessed form (such as copper ore or crude oil), processed within the country for subsequent export, or processed and consumed within the country. Companies often prefer to export resources in an unprocessed form and sell them in a foreign market where there is stronger and more consistent demand than on the domestic market. Many governments have tried to encourage or require domestic processing in the hopes of generating more revenues and jobs (known as *value addition*). Governments have also encouraged or required that resource companies sell a certain portion of resources to the domestic market to provide cheaper supply than imports (using a *domestic market obligation* provision for example).

Whether the government should encourage domestic value addition, impose a domestic market obligation or let resource companies decide for themselves depends on the balance of costs and benefits within each country context. Doing a full analysis often requires separating government policy from popular reasoning.

Secondary question	Guidance
<p>10.4.1 Domestic value addition</p> <p>If the government intends to intervene in domestic processing decisions, has it published an independent and robust assessment of the market failures, costs and benefits?</p>	<p>Understanding whether requiring domestic value addition is appropriate for the country depends on balancing the potential costs and benefits.</p> <p><i>Potential costs include:</i></p> <ul style="list-style-type: none"> • Company costs can increase as they are forced to develop and use processing plants that are less efficient than foreign suppliers. • The opportunity costs of inputs (e.g., processing often requires significant amounts of energy). • Cost of public investments or incentives to private companies to provide the processing infrastructure. • Change in quality and reliability of domestic product compared with foreign version. <p><i>Potential benefits include:</i></p> <ul style="list-style-type: none"> • Government revenue, employment and derived demand created along the value chain. • Capturing value from associated minerals in ores that might otherwise be exported undeclared. <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Has the government produced reports covering the costs and benefits outlined above? • Are there political connections to refining business ventures that may sway government decisions away from what is economically efficient?

<p>10.4.2 Domestic market obligation</p> <p>If the government requires domestic marketing of the resource, has it published an independent and robust assessment of the market failures, costs and benefits?</p>	<p>Understanding whether a government should impose domestic market obligations requires assessment of the potential costs and benefits.</p> <p><i>Potential costs include:</i></p> <ul style="list-style-type: none"> • Opportunity cost: companies and the government miss out on selling the resource for a potentially higher price. • Domestic energy consumers benefit from lower energy costs, but may use energy less efficiently. <p><i>Potential benefits include:</i></p> <ul style="list-style-type: none"> • Domestic consumers get cheaper energy. <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Has the government estimated the net impact on domestic consumer benefits (the difference in the prices for the domestically refined and sourced commodity, and the imported commodity)? • Has the government estimated the net impact on extractive companies (the difference in the export and domestic prices received by the producer) and the resulting difference in payments to the government?
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Precept 11: Role of extractive companies

Companies should commit to the highest environmental, social and human rights standards, and to sustainable development.

–Precept 11, Natural Resource Charter

Extractive companies can make important contributions to the governance of their host countries by meeting recognized international standards in the execution of their projects, even when these are not legally required of them. Often acting as pioneer investors, extractive companies can play an important role in shaping the general investment climate of the countries in which they operate. Where they contribute positively, extractive companies can support the development of good governance practices in a country. Where they contribute negatively, they can entrench mismanagement and corruption.

Corporate social responsibility is a broad and detailed topic that has produced a wealth of information and guidelines. With this in mind, this assessment framework aims only to provide an overview of the basic issues, which include: building trust (Q11.1), maximizing the benefits of resource projects and mitigating their environmental and social costs (Q11.2), and measures to ensure that companies act with honesty and integrity (Q11.3). Questions in this section can be answered for companies in general or can be used for in-depth analysis of a specific company's operations. If carrying out a general analysis, particularly in countries where there are dozens or hundreds of extractive companies, it may be helpful to consider a sample of companies operating in the country. Important considerations for selecting a sample that is representative of the full diversity of companies includes: scale of operations, resource type, length of time working in country, home country and reputation.

PRIMARY QUESTIONS

11.1 | Trust

Does the company work transparently and seek to build trust with all stakeholders related to its activities?

11.2 | Sustainable development

Does the company work to maximize the potential benefits and minimize the social and environmental costs associated with resource extraction?

11.3 | Corporate integrity

Does the company act with honesty and integrity?

11.1 | Trust

Does the company work transparently and seek to build trust with all stakeholders related to its activities?

Active public engagement is an important prerequisite for building trust among citizens, businesses and the government. It is important to build relationships at the earliest stages of a company’s activities. As part of their engagement strategies, companies should interact meaningfully with stakeholders on important project activities that will affect them. Effective and proactive communication is essential in order to manage public expectations and allow citizens to understand how resource extraction will affect them. Companies should ensure that security arrangements do not undermine these communication efforts, and that vulnerable groups, including indigenous peoples and women, are not overlooked. Many of these issues are dealt with from a government perspective in Q5.1.

Secondary question	Guidance
<p>11.1.1 Meaningful participation</p> <p>Does the company support the meaningful participation of affected communities in decision-making on projects?</p>	<p>Companies should support the meaningful participation of affected communities in key project decisions. This participation helps communities understand how they will be affected by upcoming projects, plan for pending changes, and contribute to project design. It also helps the company get a better idea of the range of environmental and social impacts associated with the project.</p> <p>Meaningful participation requires the involvement of communities and that the decision-making process reflects the range of factors mentioned in the questions below. Its fulfilment may require special efforts by companies working with the government to ensure the participation of marginalized groups. International standards for participation are outlined further in Principle 5 of the Equator Principles and IFC Performance Standards 1 and 7.</p> <p><i>Researchers should consider:</i></p> <p>Revisit the answer to Q5.1.1. If the government’s policy on meaningful participation of affected communities is of a high standard, does the company follow it? If the policy falls short, does the company instead take the necessary extra steps to meet a strong international standard? Specifically:</p> <ul style="list-style-type: none"> • Does the company support the participation of affected communities in decision-making at each project stage (exploration, development, operation and closure)? • Does the company ensure that decision-making processes are free from manipulation and coercion? • Does the company ensure that affected communities are given adequate time to make decisions? • Does the company ensure that affected communities are given objective, accurate and easily understandable information on which to base decisions? • Does the company ensure that the end result of community engagement demonstrably takes into account the perspective of consulted parties? • Is special attention made to ensure that marginalized groups are able to participate in decision-making on an equal footing with other groups? • Has the end result of the decision-making process demonstrably taken into account the perspective of the consulted parties?

<p>11.1.2 Managing expectations</p> <p>Does the company ensure that stakeholder expectations are realistic?</p>	<p>Companies should aim to establish effective and honest communications with citizens to ensure that they have a realistic understanding of the effects of resource extraction. Where expectations are unrealistically high, or where affected populations are unaware of the costs and benefits of resource projects, there is a danger that grievances and conflicts risks can arise. Furthermore, poor understanding of resource projects limits the ability of citizens and companies to work together on activities that may be mutually beneficial. Where possible, the company’s management of expectations should be aligned with government communication plans.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Revisit the answers to Q2.3.1 and Q5.1.2. If the government’s policy on management of expectations is of a high standard, does the company follow it? If the policy is not of a high standard, does the company instead take the necessary extra steps to meet a strong international standard? • Does the company clearly communicate and set reasonable expectations concerning the costs and benefits of a project? Communications should be backed up by comprehensive information disclosure. (See Q11.1.3.) • Does the company provide comprehensive and timely information when something goes wrong, such as an environmental incident, and provide regular updates on remediation measures? • Does the company ensure that announcements surrounding resource discoveries are coordinated with government communications on extractives where possible?
<p>11.1.3 Comprehensive disclosure</p> <p>Does the company proactively disclose key information?</p>	<p>Companies should proactively disclose key information about their activities to ensure that citizens have a realistic understanding of the progress and effects of resource extraction. (See annex 8 for key information that should be disclosed.) These disclosures should be an integral part of company communications. (See Q11.1.2.)</p> <p>The transparency table in annex 8 has been designed to assist with this question. Along with completing the table, researchers should consider:</p> <ul style="list-style-type: none"> • What are the host government, home government, and listing disclosure requirements that apply to the company? Does the company meet these standards or does it work to exceed them? Q2.1.5 considers the general host country approach towards information disclosure, while Q12.1.1 considers the home government requirements for information disclosure. The annexes in the following precepts consider specific parts of the disclosure regime that could be useful to consider: precept 3 (licensing and geological information); precept 4 (taxation); precept 5 (local impacts); and precept 6 (SOE governance). • Does the company disclose on a proactive or reactive basis? Most information should be released proactively, for example, through an annual sustainability report in the local language, as well as timely news releases. Request systems can be a useful complement to the proactive release of data, but they should not be the primary method by which citizens receive information, since request processes can present barriers to access.

<p>11.1.4 Security safeguards</p> <p>Does the company ensure that security arrangements relating to resource projects do not use excessive force?</p>	<p>Companies should respect core international human rights standards in line with their “responsibility to respect” under the UN Guiding Principles on Business and Human Rights. Some resource projects have historically been associated with security responses that have violated human rights. Companies can mitigate these risks by following the Voluntary Principles on Security and Human Rights.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Revisit the answer to Q5.1.4. If the government’s policy on security safeguards is of a high standard, does the company follow it? If the policy is not of a high standard, does the company instead take the necessary extra steps to meet a strong international standard? • Does the company adhere to the Voluntary Principles on Security and Human Rights or standards/requirements similar to those set forth in the Voluntary Principles? • How are security situations handled in general? Are there trends in which security situations are handled inappropriately? How companies will respond to a security situation is usually very hard to predict until an event has actually occurred. Where there are few examples of security situations to examine surrounding a specific company or project, researchers should consider broader security considerations around resource projects to discern whether there are systemic risks to take into consideration.
<p>11.1.5 Indigenous peoples</p> <p>Does the company respect the rights of indigenous people?</p>	<p>While there is no single definition of indigenous peoples, definitions exist under the United Nations Permanent Forum on Indigenous Issues, and the International Labour Organization. International human rights law established the rights of indigenous peoples to give or withhold free, prior, and informed consent concerning projects that impact upon them. This is further elucidated in IFC Performance Standard 7 and the United Nations Declaration on the Rights of Indigenous Peoples.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Are there any indigenous peoples present in the country/project area? If so, does the company seek to obtain their free, prior and informed consent relating to resource projects? • Revisit the answer to Q5.1.5. If the government’s policy on indigenous peoples is of a high standard, does the company follow it? If the policy is not of a high standard, does the company instead take the necessary extra steps to meet a strong international standard?

11.2 | Sustainable development

Does the company work to maximize the potential benefits and minimize the social and environmental costs associated with resource extraction?

Companies should support the host state’s efforts to maximize potential benefits and minimize the costs associated with extractive activities, and supplement them when they are inadequately robust. This should include work at the national and local level to identify and respond to local priorities and concerns surrounding a particular resource project. At the same time, companies should work to minimize the environmental and social costs and negative human rights impacts associated with their activities.

Secondary question	Guidance
<p>11.2.1 Cost mitigation</p> <p>Does the company effectively mitigate the environmental, social and health impacts of resource projects?</p>	<p>Companies should employ the “mitigation hierarchy” to manage the environmental, social and health costs of their activities. The mitigation hierarchy is a schema which lists a sequence of approaches to mitigation—prevention, minimisation and compensation—in order of preference. Under this approach, solutions that prevent costs should be preferred to those that minimize them, and approaches that are so costly that they require compensation or resettlement should be avoided if at all possible.</p> <p>Companies should allow the government and civil society to hold them to account for cost mitigation strategies. To do this, they should ensure that all impact assessments, monitoring plans, disaster response plans, compensation and/or resettlement plans, and project closure plans are well-prepared, timely, and publicly available. Furthermore, companies should ensure that funds are available for these commitments throughout the life of the project, planning ahead for periods of low or no revenue.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Revisit the answers to Q5.3.1. If the government’s policy on impact mitigation is of a high standard, does the company follow it? If the policy is not of a high standard, does the company instead take the necessary extra steps to meet a strong international standard? • Are all impact assessments, monitoring plans, disaster response plans, compensation and/or resettlement plans, and project closure plans well-prepared, timely and publicly available? • Does the company allow the government and civil society to hold them to account for their impact mitigation strategies?
<p>11.2.2 Understanding priorities and concerns</p> <p>Does the company work to identify national and local development priorities and concerns, and measure its progress against them?</p>	<p>Companies should seek to understand national and local development priorities and identify win-win opportunities where project activities can be harnessed to support sustainable development at reasonable or no extra cost to the company. There are a wide range of reporting frameworks that companies can use to help them identify sustainable development opportunities including the Global Reporting Initiative, the Dow Jones Sustainability Index, FTSE4Good, and ICMM toolkits, such as the Community Development Toolkit and the Mining Partnerships for Development Toolkit. Once companies have identified relevant national and local opportunities, companies should track and publicly report their progress against them.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the company work with the national government to identify areas of the national development strategy it can contribute towards at reasonable or no extra cost? (See Q1.2.4 for consideration of how inclusive the national resource strategy is.) <ul style="list-style-type: none"> ◦ Does the company work to help develop human capital and build local supply chains? This might include supporting vocational training programs, building capacity of local suppliers, downstream processing or through labor market job matching. (See Q10.2 for details about government policy and practice on local content, and Q5.4.2 for local impact considerations of these issues.)

<p>11.2.2 Understanding priorities and concerns <i>(continued)</i></p>	<ul style="list-style-type: none"> ◦ Does the company attempt to create broader social benefits from infrastructure investments? Does the company ensure responsible handover of project infrastructure beyond the life cycle of the project? (See Q10.3 for details about government policy and practice on resource project related infrastructure, and Q5.4.3 for local impact considerations of these issues.) • Does the company work with affected communities to identify local priorities that it can contribute towards at little or no extra cost? Does the company carry out its identification of mutually beneficial activities in a way that ensures meaningful participation of beneficiaries? (See Q11.1.1 for more information about what meaningful participation requires.) • Does the company establish benefit sharing agreements at the national and local level that identify who the government, companies and communities can work with on win-win activities? What is government policy and practice on benefit sharing agreements in general? Does the company comply or exceed these standards? Does the company publicly support these standards? (Q5.4.1 considers government policy and practice towards benefit sharing agreements in more detail.) • Does the company track and publicly report progress against agreed win-win opportunities?
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11.3 | Corporate integrity

Does the company act with honesty and integrity?

Integrity standards are required of almost every industry. The purpose of these standards is to ensure a level of behavior consistent across the industry regardless of particular company strategies and values. Companies should work to curb corruption and meet their fiscal obligations in full, and should not seek or expect preferential treatment. Further, they should ensure that partner organizations, contractors and subcontractors work to the same high standards.

Secondary question	Guidance
<p>11.3.1 Corruption Does the company have clear internal policies relating to corruption?</p>	<p>Companies should act in accordance with international laws, agreements and norms, which increasingly recognize bribery of foreign government officials as a crime. Companies should have clear internal policies relating to corruption, including procedures and controls that prevent and punish corrupt practices by employees and other company agents.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Revisit the answers to Q2.2.3. If the government’s policy on corruption is of a high standard, does the company follow it? If the policy is not of a high standard, does the company instead take the necessary extra steps to meet a strong international standard? • What are the main risk areas for corruption in the sector? Given corruption risk levels, does the company have useful preventative measures in place, including whistleblower protection? Does the company have strong mechanisms to punish corrupt practices by employees and other company agents? • Does the company leadership (senior member of management or board) demonstrate support for anti-corruption? • Does the company’s code of conduct/anti-corruption policy explicitly apply to all employees and directors? • Does the company have an anti-corruption training program in place for its employees and directors, does it report on its implementation? • Does the company have a policy on gifts, hospitality and expenses? • Is there a policy that explicitly prohibits facilitation payments? • Does the company carry out regular monitoring of its anti-corruption program to review the program’s suitability, adequacy and effectiveness, and does it implement improvements as appropriate? • Does the company have a policy on political contributions that either prohibits such contributions or requires that such contributions be publicly disclosed?

<p>11.3.2 Fiscal contribution</p> <p>Does the company meet its fiscal obligations?</p>	<p>Companies should meet all tax, royalty and equity obligations agreed with the government. Payments should be made in a timely manner, and companies should provide tax authorities and government regulators with adequate information to scrutinize company payments. Companies should carefully consider their tax planning strategies to ensure that those strategies do not erode the tax base in the countries where they operate. They should not inhibit the ability of governments to tax profits where economic activities occur and where value is created. Companies should also disclose their corporate structure, including a list of all related entities and beneficial ownership information and publish an annual country-by-country report showing each tax jurisdiction in which they do business.</p> <p><i>The report should include:</i></p> <ul style="list-style-type: none"> • the amount of revenue, profit before income tax and income tax paid and accrued • their total employment, capital, retained earnings and tangible assets <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the company meet all tax, royalty and equity obligations agreed with the government? • Are payments made in a timely manner? • Does the company disclose relevant project data required for the government to adequately scrutinize company payments? • Does the company disclose their beneficial owners and corporate structure? • Does the company publish an annual country-by-country report in line with OECD BEPS? Does this include: <ul style="list-style-type: none"> ◦ revenues/sales by country? ◦ capital expenditure by country? ◦ pre-tax income by country? ◦ income tax by country? ◦ community contribution by country?
<p>11.3.3 Exemptions</p> <p>Does the company avoid seeking exemptions from its legal and regulatory obligations?</p>	<p>Companies should actively support the principle of a level playing field backed up by the rule of law. Among other things, this enhances their competitive advantage over under-qualified or unscrupulous companies that can only achieve profitability by bending the rules. Companies should not seek, expect or accept provisions for exemptions—or compensation for changes—to the statutory or regulatory framework on universally applicable issues, including human rights, environmental controls, health and safety, and labor rights. Similarly, companies should not seek tax exemptions, or preferential access to valuable assets including exploration and production rights. With respect to contractual stability, companies should not seek government assurances that go beyond non-discriminatory treatment clauses.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the company avoid seeking exemptions to the legal framework on universally applicable issues including human rights, environmental controls, health and safety, and labor rights? • Where contracts are available, are contracted terms in line with terms stated in law? • Are there instances (e.g., legal cases) in which the company has sought favorable treatment?

<p>11.3.4 Company subcontractors</p> <p>Does the company ensure that corporate integrity applies to partners, contractors and subcontractors?</p>	<p>Companies should require their partners, contractors and subcontractors to abide by the same standards they do.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Does the company hold its contractors and subcontractors to its own high standards by following each of the issues dealt with in Q11.1 - Q11.3? • Does the company’s anti-corruption policy explicitly apply to persons who are not employees, but are authorized to act on behalf of the company or represent it (e.g., agents, advisors, representatives or intermediaries)? • Does the company disclose all of its fully consolidated subsidiaries (including percentages owned, countries of incorporation and countries of operation)? • Does the company disclose all of its non-fully consolidated holdings (associates, joint ventures) (including percentages owned, countries of incorporation and countries of operation)?
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Precept 12: Role of international community

Governments and international organizations should promote an upward harmonization of standards to support sustainable development.

–Precept 12, Natural Resource Charter

A wide range of governments and international organizations influence global policies that affect resource extraction. These bodies include: the governments and regulators of the home countries in which extractive companies are registered and/or listed; international financial institutions (IFIs) and their financing arms including the World Bank and the International Monetary Fund (IMF); regional development banks; multilateral and bilateral donors; supranational institutions including the United Nations and regional bodies such as the European Union and the African Union; governmental forums such as the G7 and G20; and financial institutions including banks and investors.

Key areas where the international community can promote higher standards include transparency (Q12.1), human rights and environmental and social protection (Q12.2), and corruption and illicit financial flows (Q12.3). Rather than assessing the international community at large, researchers should be selective. They could focus on the standards promoted by the particular home country governments of those companies that play the largest role in their extractive sector, as well as on the international organizations that have influence (e.g., the IMF, if their country has an active lending program).

PRIMARY QUESTIONS

12.1 | Transparency

Does the international community advance public disclosure requirements for the extractive industries?

12.2 | Environmental, social and health protection

Does the international community ensure that resource projects comply with internationally recognized standards of human rights, and environmental, social and health protection?

12.3 | Corruption and illicit financial flows.

Does the international community tackle corruption and illicit financial flows?

12.1 | Transparency

Does the international community advance public disclosure requirements for the extractive industries?

The international community can improve transparency by advancing the development of comprehensive disclosure standards for resource companies. A full list of documentation that resource companies should disclose is included in the precept 11 transparency table in annex 8. Particularly through the Extractive Industries Transparency Initiative (EITI), the international community has also put forward standards of transparency for host country governments.

Secondary question	Guidance
<p>12.1.1 Home government transparency requirements</p> <p>Do home governments require companies to disclose comprehensive information relating to resource projects?</p>	<p>Requirements set by the countries where companies are registered and/or listed (note that these may be different) are a powerful channel to compel corporate disclosure. Disclosure requirements can be set through securities legislation and rules associated with stock exchanges, company law and anti-corruption laws.</p> <p>When considering what kinds of transparency should be promoted, researchers should refer to the transparency table in annex 8 of precept 11.</p> <p><i>Researchers should then consider:</i></p> <ul style="list-style-type: none"> • Where are the oil or mining companies working in your country headquartered and registered? Some companies will be locally-registered subsidiaries, but information should be sought for their headquarters location. Registration details for many companies can be found at https://opencorporates.com/. What are the disclosure requirements associated with resource companies registered in this jurisdiction? • For publicly listed companies, where are they listed? Are there specific disclosure requirements associated with specific stock exchanges? Listings information is usually provided in company reports and on company websites. Are companies compliant with home government transparency requirements? • Specifically, do any of the above jurisdictions currently require disclosure of payments on a project-by-project basis? Several European Union states have begun to require such reporting; other countries, like the United States, have passed laws to that effect but have yet to implement the law. • Do the relevant home countries proactively promote and participate in the EITI? • Have the most influential international organizations in the country spoken out explicitly and taken action on the importance of extractive sector transparency?
<p>12.1.2 Lender transparency requirements</p> <p>Do lenders require companies to disclose comprehensive information about the resource projects they finance?</p>	<p>Some lenders, particularly public sector overseas lending agencies and international financial institutions, require companies to disclose specific pieces of information concerning the resource projects they finance. Lenders can also scrutinize contract agreements to ensure that confidentiality clauses are tailored to the narrow needs of resource projects. All too often egregious confidentiality agreements, which go far beyond the commercially sensitive information resource companies genuinely need to protect, are included in final agreements. These can thwart efforts to improve transparency in the long run.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Who are the main lenders financing resource projects? Do any of these lenders require the companies they finance to disclose information relating to resource projects? • Do lenders scrutinize confidentiality agreements to ensure that they do not preclude efforts to improve transparency in the long run?

12.2 | Human rights and environmental, social and health protection

Does the international community ensure that resource projects comply with internationally recognized standards of human rights, and environmental, social and health protection?

The minimum human rights standards that resource projects should comply with are those contained in the [International Bill of Human Rights](#), the [International Labour Organization’s Fundamental Principles and Rights at Work](#), and the [UN Guiding Principles for Business and Human Rights](#). Minimum standards for environmental, social and health protection include the [Equator Principles](#), the [Safety and Health in Mines Convention](#) and the [IFC Performance Standards](#), which include important provisions to protect the rights of indigenous peoples.

Secondary question	Guidance
<p>12.2.1 Home government human rights and environmental, social and health protection</p> <p>Do home governments expect companies to respect human rights and the highest standards of environmental, social and health protection?</p>	<p>The home governments of resource companies should clearly set the expectation that all companies under their jurisdiction respect human rights and the highest standards of environmental, social and health protection. This can be achieved by carrying out enquiries in response to allegations of wrongdoing, by setting up national ombudsman offices that facilitate the reporting of violations, and by allowing prosecution of companies for abuses that are carried out abroad.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Do home countries act on findings from NGOs, the media and host governments about the behavior of companies registered or listed in their country? • Are there cases where home countries have taken punitive measures against companies that have violated human rights or environmental, social and health protection?
<p>12.2.2 Supporting host states on human rights and environmental, social and health protection</p> <p>Do donors support host states to fulfil their duty to protect human rights and environmental, social and health standards, and ensure company compliance with human rights standards?</p>	<p>Under the UN Guiding Principles for Business and Human Rights, international organizations, including donors, should support host states and companies in fulfilling their duty to protect human rights in the context of resource projects. Similar efforts should be taken to protect affected communities from negative environmental, social and health impacts.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Where assistance is required, do international organizations support host states to protect human rights and environmental, social and health concerns related to extraction? • Is this assistance well-coordinated?
<p>12.2.3 Lender human rights and environmental, social and health protection</p> <p>Do lenders require the companies they finance to respect human rights and the highest standards of environmental, social and health protection?</p>	<p>Lenders that finance resource projects should require due diligence procedures consistent with the UN Guiding Principles for Business and Human Rights to prevent human rights abuses from happening. Furthermore, they should require due diligence, as well as regular monitoring and reporting on compliance with a range of international environmental, social and health standards.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • Do lenders operate due diligence procedures that prevent human rights abuses and ensure protection of international environmental, social and health standards? • Do lenders carry out regular monitoring and reporting on compliance of the companies that they finance?

12.3 | Corruption and illicit financial flows

Does the international community tackle corruption and illicit financial flows?

The international community should actively work to reduce bribery and corruption, as well as illicit financial flows linked to resource extraction, all of which can severely erode the financial benefits of resource projects for host countries. These challenges require the collaboration of the host country, home countries, supranational bodies, IFIs and the financial community.

Secondary question	Guidance
<p>12.3.1 Corruption</p> <p>Do home governments maintain effective anti-corruption measures to reduce and prevent bribery and corruption?</p>	<p>Home governments should work to prevent corruption. This levels the playing field to ensure fair competition, gives corporate officials a protective measure when working in markets where there is a high prevalence of corruption, and can help companies detect potentially corrupt partner organizations.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • What major anti-corruption measures of the home countries apply to the resource companies operating in the country? <ul style="list-style-type: none"> ◦ Does the home country have strong anti-bribery legislation, and is it actively enforced? The OECD Anti-Bribery Convention establishes legally binding standards to criminalize bribery of foreign public officials in international business transactions and provides for a host of related measures that make this effective. ◦ Does the home country require the public disclosure of the company’s beneficial owners? ◦ Does law enforcement in the home country collaborate with local authorities to pursue corruption cases? • How effectively do these home government anti-corruption measures identify and prosecute corruption? Have they led to convictions with significant penalties? • Do these mechanisms impact on company behavior?
<p>12.3.2 Illicit financial flows</p> <p>Do international organizations work to reduce illicit financial transactions?</p>	<p>International organizations, including home governments, IFIs and supranational bodies, should work to reduce illicit financial transactions and to curtail transfer-pricing abuse, use of tax havens and other tax avoidance and evasion techniques.</p> <p><i>Researchers should consider:</i></p> <ul style="list-style-type: none"> • What are the home country governments of resource companies doing to reduce illicit financial flows? Important considerations include: <ul style="list-style-type: none"> ◦ Are home country governments part of the BEPS project or implementation? BEPS, which stands for base erosion and profit shifting, is an OECD program under which over 100 countries and jurisdictions are collaborating to implement measures to combat strategies that exploit gaps and mismatches in tax rules to artificially shift profits to low or no-tax locations. ◦ Have home country governments committed to the Standard on automatic exchange of information? Have they implemented it? ◦ Are host countries members of the Financial Action Task Force also known as FATF? Have they been the subject of a mutual evaluation mechanism? Are they one of the high-risk and non-cooperative jurisdictions? ◦ What is the host country’s score on the Financial Secrecy Index? • Do home country governments have public registers of beneficial ownership in order to deter the concealment of state assets? • How many tax treaties has the host country signed with other jurisdictions? How many tax treaties have been signed with home country governments of resource companies? How many tax treaties have been signed with low tax jurisdictions or tax havens? Are these tax treaties facilitating tax evasion and illicit financial flows?

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Annexes

ANNEX 1. PRECEPT 1: STRATEGY, LEGAL FRAMEWORK AND INSTITUTIONS

This transparency table summarizes the specific disclosures that governments should make to help build an effective resource strategy, legal framework and institutions as outlined in precept 1. (General transparency requirements that support this precept are covered in the transparency table for precept 2.) Unless otherwise stated, disclosures should be made by government in line with the standards of open data outlined in Q2.1.4. Existing country-specific research on some disclosure items may be available in the [Resource Governance Index](#) (RGI) country questionnaires using the indicated question numbers.

For each disclosure, researchers should consider the following questions:

- Is *all* latest information available? If not, what are the exceptions?
- Is *all* historical information available? If not, what are the exceptions?
- Is information provided in sufficient time to enable effective monitoring and scrutiny of activity?
- Is information available in a machine-readable format? Are there any other barriers to access to information? (See Q2.1.4 for background.)

Disclosure item	Guidance
Resource volumes	<p>Table or set of tables detailing total production volumes, total reserves under production, as well as total proven reserves. This should be produced by the government on at least an annual basis. It should be disaggregated by each commodity and resource project in the country. It should indicate global and regional significance in each case. See question 1.1.2 for background.</p> <p>If not available: Researchers should calculate using available information. The following sources may be useful in this effort: government statistics, BP Statistical Review (fossil fuels only), JODI database (petroleum) and the US Geological Survey.</p> <p>Related standards: EITI 2016, 3.2</p> <p>Resource Governance Index: 2017: Q1.1.1a, 1.1.1b, 1.1.1c</p>
Resource prices	<p>Table or set of tables detailing global and regional prices and production values for each commodity and resource project in the country. This should be produced by the government on at least an annual basis. See question 1.1.2 for background.</p> <p>If not available: Researchers should calculate using available information. The IMF Commodity Prices database may be useful in this effort.</p> <p>Related standards: EITI 2016, 5.3.c</p>
Resource values	<p>Table or set of tables detailing the value of resources produced. It should also project the value of total reserves under production, as well as the value of total proven reserves under low-, medium- and high-price scenarios. This should be produced by the government on at least an annual basis. It should be disaggregated by each commodity and resource project in the country. It should indicate global and regional significance in each case. See question 1.1.2 for background.</p> <p>If not available: Researchers should calculate using volume and price data.</p> <p>Related standards: EITI 2016, 3.2</p> <p>Resource Governance Index: 2017: Q1.2.2a, 1.2.2b and 1.2.2c</p>

<p>Cost information</p>	<p>Table or set of tables detailing project cost information for each commodity and resource project in the country. This should be produced by the government on at least an annual basis. It should indicate where these costs lie in relation to global and regional cost curves. See question 1.1.2 for background.</p> <p>If not available: Researchers should calculate using volume and price data. Costs curves are typically not freely available. The government may have access to some, or companies may state where they expect each project to be in the cost curve in development plans or feasibility studies.</p>
<p>Time horizons</p>	<p>Table or set of tables detailing the project time horizons for each commodity and resource project in the country. This should be produced by the government on at least an annual basis. It should indicate how these time horizons relate to global averages around the world for the commodity. See question 1.1.2 for background.</p> <p>If not available: Researchers should calculate using information on resource volumes and production historic production rates.</p>
<p>Ratio of resource revenue to total revenues</p>	<p>A figure or table showing the ratio of government revenues from the resource sector against total government resources. Should be disaggregated by commodity and by project. This should be produced by the government on at least an annual basis. See question 1.1.3 for background.</p> <p>If not available: Researchers should calculate using available data.</p>
<p>Ratio of resource exports to total exports</p>	<p>A figure or table showing the ratio of resource sector exports against total exports. Should be disaggregated by commodity and by project. This should be produced by the government on at least an annual basis. See question 1.1.3 for background.</p> <p>If not available: Researchers should calculate using available data.</p>
<p>Per capita resource wealth</p>	<p>A figure or table showing per capita resource wealth. Should be disaggregated by commodity and by project. This should be produced by the government on at least an annual basis. See question 1.1.3 for background.</p> <p>If not available: Researchers should calculate using available data.</p>
<p>Rationale for the decision to extract</p>	<p>Documents/text. See Q1.1.4 for background.</p>
<p>Resource strategy</p>	<p>Documents/text</p>

ANNEX 2. PRECEPT 2: TRANSPARENCY AND ACCOUNTABILITY

This transparency table has been designed to assist with Q2.1.5. It summarizes the general disclosures that government needs to make to build an effective domestic accountability environment. It is complemented by precept-specific transparency tables for precepts 1, 3, 4, 5, 6, 7 and 8, which go into further detail about government disclosures relating to specific policy areas, and precept 11, which looks at disclosures that should be made by extractive companies. Unless otherwise stated, disclosures should be made by government in line with the standards of open data outlined in Q2.1.4. Existing country-specific research on some disclosure items may be available in the [Resource Governance Index \(RGI\)](#) country questionnaires using the indicated question numbers.

For each disclosure, researchers should consider the following questions:

- Is *all* latest information available? If not, what are the exceptions?
- Is *all* historical information available? If not, what are the exceptions?
- Is information provided in sufficient time to enable effective monitoring and scrutiny of activity?
- Is information available in a machine-readable format? Are there any other barriers to access to information? (See Q2.1.4 for background.)

Disclosure item	Guidance
Policy, legislation and regulations	Documents/text. Should be readily available on government websites and in hard copy at relevant government institutions. In many countries policy, legislation and regulations are published on a periodic basis within an official gazette. (See Q 2.1.1 for background.) Related standards: EITI 2016, 2.1.a
Contracts and/or licenses	Documents/text outlining agreements made between extractive companies and government over exploration, production and commodity sales. Publication should include any annexes, amendments, or riders to the agreements. See question 2.1.1 for background. Related standards: EITI 2016, 2.4 Resource Governance Index: 2017: Q1.1.9a, 1.1.10a, 1.1.10b, 1.1.10c, 1.1.10d
Transcripts of parliamentary debates	Documents/text. See question 2.2.1 for background.
Audit reports	Documents/text. See question 2.2.2 for background.
Asset disclosure information of government officials	Table disclosing assets and financial interests of government officials. Should contain information about any financial interest in oil, gas or mining projects. See question 2.2.3 for background. Resource Governance Index: 2017: Q1.1.7a and 1.1.8a
Beneficial ownership information	Table disclosing details about those who own extractive companies in country and those who ultimately benefit from their activities. See question 2.2.3 for background. Related standards: EITI 2016, 2.5 Resource Governance Index: 2017: Q1.1.7b and 1.1.8b

ANNEX 3. PRECEPT 3: EXPLORATION, LICENSING AND MONITORING OPERATIONS

This transparency table has been designed to assist with Q3.2.5. It summarizes the specific disclosures needed to help build effective accountability around precept exploration, licensing and monitoring operations. (General transparency requirements that support this precept are covered in the transparency table for precept 2.) Unless otherwise stated, disclosures should be made by government in line with the standards of open data outlined in Q2.1.4. Existing country-specific research on some disclosure items may be available in the [Resource Governance Index \(RGI\)](#) country questionnaires using the indicated question numbers.

For each disclosure, researchers should consider the following questions:

- Is *all* latest information available? If not, what are the exceptions?
- Is *all* historical information available? If not, what are the exceptions?
- Is information provided in sufficient time to enable effective monitoring and scrutiny of activity?
- Is information available in a machine-readable format? Are there any other barriers to access to information? (See Q2.1.4 for background.)

Disclosure item	Guidance
Strategic impact assessment (SIAs)	Documents/text. See question 3.1.2 for background. Related standards: IFC Performance Standard 1
Blocks/areas available for license allocation	Documents/text listing blocks or areas.
Criteria for license application	Documents/text. See question 3.2.1 for background. Related standards: EITI 2016, 2.2.a.i, and 2.2.a.ii Resource Governance Index: 2017: Q1.1.3c and 1.1.4c
Criteria for license evaluation	Documents/text. See questions 3.2.2 to 3.2.3 for background. Related standards: EITI 2016, 2.2.a.i, and 2.2.a.ii Resource Governance Index: 2017: Q1.1.3c and 1.1.4c
Criteria for license transfers	Documents/text. See questions 3.2.4 for background. Related standards: EITI 2016, 2.2.a.iii Resource Governance Index: 2017: Q1.1.3c and 1.1.4c
Criteria for appealing license decisions	Documents/text. See questions 3.2.1 to 3.2.4 for background. Related standards: EITI 2016, 2.2.a.i, and 2.2.a.ii Resource Governance Index: 2017: Q1.1.5d
Biddable/negotiable terms	Documents/text listing terms that are subject to negotiation or that are used as bidding variables in an auction. In many countries these terms are contained within in model contracts. See question 3.2.3 for background. Related standards: EITI 2016, 2.2.a.i, and 2.2.a.ii Resource Governance Index: 2017: Q1.1.3b and 1.1.4b
Applicant information	Documents/text listing companies that applied for licenses or participated in bid rounds. See questions 3.2.1 to 3.2.4 for background. Related standards: EITI 2016, 2.2.c Resource Governance Index: 2017: Q1.1.5a and 1.1.6a

Licenses awarded	Register of licenses listing licenses awarded. Should include name of license holder; coordinates of the license area; date of application, date of award and duration of the license; and the commodity being produced. See questions 3.2.1 to 3.2.4 for background Related Standards: EITI 2016, 2.3 Resource Governance Index: 2017: Q1.1.5b and 1.1.6b
Justification of selection	Documents/text providing the rationale for each license allocated.

ANNEX 4. PRECEPT 4: TAXATION AND OTHER COMPANY PAYMENTS

This transparency table has been designed to assist with Q4.4.1. It summarizes the specific disclosures needed to help build effective accountability around precept 4 taxation. (General transparency requirements that support this precept are covered in the transparency table for precept 2.) Unless otherwise stated, disclosures should be made by government in line with the standards of open data outlined in Q2.1.4. Existing country-specific research on some disclosure items may be available in the [Resource Governance Index \(RGI\)](#) country questionnaires using the indicated question numbers.

For each disclosure, researchers should consider the following questions:

- Is *all* latest information available? If not, what are the exceptions?
- Is *all* historical information available? If not, what are the exceptions?
- Is information provided in sufficient time to enable effective monitoring and scrutiny of activity?
- Is information available in a machine-readable format? Are there any other barriers to access to information? (See Q2.1.4 for background.)

Disclosure item	Guidance
Tax terms in legislation or regulation	Documents/text detailing the legislative and contractual terms governing company payments to government. Typically terms are separately written into separate legal documents (e.g. the Income Tax Act, Mining or Petroleum Act). Resource Governance Index: 2017: question 1.2.5a - 1.2.5e
Tax terms in contracts or licenses	Documents/text including the contract or license detailing the terms that govern company payments to government. In some but not all cases, terms with the contract or license detail certain tax obligations in addition to those established in legislation or regulation. Related standards: EITI 2016, 2.4 Resource Governance Index: 2017: question 1.2.5a - 1.2.5e
Details on how companies' tax and non-tax liabilities should be calculated	Documents/text setting out how the tax base of each tax levied on companies. Usually given as guidance to taxpayers in calculating their tax liabilities.
Company payments to government	A table containing the value of company payments to government. This should be disaggregated by: <ul style="list-style-type: none"> • Taxpayer • Payment type (income tax payment, production share, etc.) • Applicable tax period Related standards: EITI 2016, 4.1 to 4.4, and 4.8 and 4.9 Resource Governance Index: 2017: question 1.2.4a - 1.2.4c

ANNEX 5. PRECEPT 5 LOCAL IMPACTS

This transparency table summarizes the specific disclosures that governments should make to help build effective accountability around precept 5 local impacts. (General transparency requirements that support this precept are covered in the transparency table for precept 2.) Unless otherwise stated, disclosures should be made by government in line with the standards of open data outlined in Q2.1.4. Existing country-specific research on some disclosure items may be available in the [Resource Governance Index](#) (RGI) country questionnaires using the indicated question numbers.

For each disclosure, researchers should consider the following questions:

- Is *all* latest information available? If not, what are the exceptions?
- Is *all* historical information available? If not, what are the exceptions?
- Is information provided in sufficient time to enable effective monitoring and scrutiny of activity?
- Is information available in a machine-readable format? Are there any other barriers to access to information? (See Q2.1.4 for background.)

Disclosure item	Guidance
Strategic impact assessments (SIAs)	Documents/text. See Q5.2.1 for background. Related standards: IFC Performance Standard 1
Environmental and social impact assessments (ESIAs)	Documents/text. See Q5.2.1 for background. Related standards: IFC Performance Standard 1 Resource Governance Index: 2017: Q1.3.1a, 1.3.1b and 1.3.2a
Environmental mitigation management plans	Documents/text. See Q5.3.3 for background. Related standards: IFC Performance Standard 1 Resource Governance Index: 2017, Q1.3.3a, 1.3.3b and 1.3.4a
Monitoring reports for environmental mitigation management plans	Documents/text. See Q5.3.3 for background. Related standards: IFC Performance Standard 1
Compensation and resettlement framework	Documents/text. See Q5.3.6 and Q5.3.7 for background. Related standards: IFC Performance Standard 5 Resource Governance Index: 2017, Q1.3.7a and 1.3.7b
Project closure plans	Documents/text. Should include clear delineation of responsibilities and financing. See Q5.3.5 for background. Related standards: IFC Performance Standard 4 Resource Governance Index: 2017, Q1.3.5b and 1.3.6a
Community development agreements (CDAs)	Documents/text. See Q5.4.2 for background. Related standards: IFC Performance Standard 7

ANNEX 6. PRECEPT 6: STATE-OWNED ENTERPRISES

This transparency table has been designed to assist with Q6.3.1. It summarizes the specific disclosures that governments should make to help build effective accountability around precept 6 state-owned enterprises. (General transparency requirements that support this precept are covered in the transparency table for precept 2.) Unless otherwise stated, disclosures should be made by government in line with the standards of open data outlined in Q2.1.4. Existing country-specific research on some disclosure items may be available in the [Resource Governance Index](#) (RGI) country questionnaires using the indicated question numbers.

For each disclosure, researchers should consider the following questions:

- Is *all* latest information available? If not, what are the exceptions?
- Is *all* historical information available? If not, what are the exceptions?
- Is information provided in sufficient time to enable effective monitoring and scrutiny of activity?
- Is information available in a machine-readable format? Are there any other barriers to access to information? (See Q2.1.4 for background.)

Disclosure item	Guidance
Revenues collected by the SOE	Table or set of tables. Should cover revenues related to SOE participation in exploration and production activities or any regulatory role, including revenue from oil sales; royalties; fees; taxes collected by the SOE; and dividends received from partnerships. Related standards: EITI 2016, 4.1.c, 4.5 Resource Governance Index: 2017: question 1.4a - 1.4b
Payments by the SOE to the treasury or other state institutions	Table or set of tables. Should also include earnings retained by the company; and budgetary allocations from the state to the company. Related standards: EITI 2016, 4.1.c, 4.5 Resource Governance Index: 2017: question 1.4.2a - 1.4.2b
Assets held by the company in subsidiaries and joint ventures	Documents/text listing subsidiaries and joint ventures. Should include the level of SOE ownership in these entities; identities of company partners; revenues earned and retained by subsidiaries and joint ventures; and transfers between the parent company and the subsidiaries and joint ventures. Related standards: EITI 2016, 2.6.b Resource Governance Index: 2017: question 1.4.9a - 1.4.9e
Quasi-fiscal expenditures	Table or set of tables. See Q6.1.2 for background. Related standards: EITI 2016, 6.2 Resource Governance Index: 2017: question 1.4.4a - 1.4.4b
Company debts	Table. Should be disaggregated, and should include debts that are owed to the state, where applicable. Related standards: EITI 2016, 2.6b Resource Governance Index: 2017: question 1.4.5b - 1.4.5c
Description of major business activities	Documents/text. See Q6.1.1 for background. Related standards: EITI 2016, 2.6a
Expenditures and budgets	Table or set of tables. Should report on capital and operational expenditures and on any investments. It should disclose budget for the upcoming year and performance against past years' budgets. Resource Governance Index: 2017: question 1.4.5a - 1.4.5e

<p>Detailed reporting on commodity sales</p>	<p>Table or set of tables. Some SOEs sell shares of production, especially oil. Data reports on these sales should include the name of the buyers, volume and date of sale, types of resource sold (i.e., grade of crude), and sale price. SOEs should also explain the process for selecting buyers.</p> <p>Related standards: EITI 2016, 4.2</p> <p>Resource Governance Index: 2017: question 1.4.8a - 1.4.8d</p>
<p>Corporate structure</p>	<p>Documents/text. Should include composition of the board and senior management (including dates of appointment), as well as structure, personnel and responsibilities of key divisions.</p> <p>Related standards: EITI 2016, 4.2</p> <p>Resource Governance Index: 2017: question 1.4.10b</p>

ANNEX 7. PRECEPTS 7 AND 8: REVENUE MANAGEMENT

This transparency table summarizes key disclosures relating to precepts 7 and 8 and should be completed alongside it. It also includes key disclosures relating to revenue sharing addressed in precept 9. (General transparency requirements that support this precept are covered in the transparency table for precept 2.) Unless otherwise stated, disclosures should be made by government in line with the standards of open data outlined in Q2.1.4. Existing country-specific research on some disclosure items may be available in the [Resource Governance Index](#) (RGI) country questionnaires using the indicated question numbers.

For each disclosure, researchers should consider the following questions:

- Is *all* latest information available? If not, what are the exceptions?
- Is *all* historical information available? If not, what are the exceptions?
- Is information provided in sufficient time to enable effective monitoring and scrutiny of activity?
- Is information available in a machine-readable format? Are there any other barriers to access to information? (See Q2.1.4 for background.)

Disclosure item	Guidance
<p>Numerical formulas of fiscal rule</p>	<p>Documents/text detailing any numerical formula used as part of a fiscal rule.</p> <p>Resource Governance Index: 2017: question 2.1.2a - 2.1.2b, and 2.1.3a - 2.1.3b</p>
<p>Total general and resource revenue received</p>	<p>Table or set of tables detailing revenues received by the government, with a specific separation for extractive resource revenue.</p> <p>Related standards: EITI 2016, 5.3</p> <p>Resource Governance Index: 2017: question 2.1.4d</p>
<p>Total government expenditures</p>	<p>Table or set of tables detailing the value of expenditures by the government.</p> <p>Related standards: EITI 2016, 5.3</p> <p>Resource Governance Index: 2017: question 2.1.4c</p>
<p>Foreign and domestic national debt</p>	<p>Table or set of tables showing the value of government debt disaggregated by denomination: foreign and domestic.</p> <p>Resource Governance Index: 2017: question 2.1.5a - 2.1.5b</p>
<p>Rules on transfers of revenues to subnational authorities</p>	<p>Documents/text specifying: which subnational authority should receive the revenues, the formula governing how much revenues should be transferred, and the periods in which revenues should be paid. In some cases, countries operate different systems for different commodities and revenues streams (e.g., one for the distribution of royalty revenue and another for the distribution of a special mining tax revenue). Transfers may be directly from central to subnational authority, or may include the use of regional funds or accounts that hold revenues for subsequent distribution.</p> <p>Related standards: EITI 2016, 5.2</p> <p>Resource Governance Index: 2017: question 2.2a - 2.2c; 2.2.1a; 2.2.2a - 2.2.2b</p>

<p>Value and date of transfers to subnational authorities, and names of authorities receiving the transfers</p>	<p>Table or set of tables showing value of inter-government transfers, dates of transfers and the names of the authorities receiving the transfers. Separate data should be published by both the central government agency making the transfer and the subnational agencies receiving the transfers.</p> <p>Related standards: EITI 2016, 5.2</p> <p>Resource Governance Index: 2017: question 2.2.4a and 2.2.5a</p>
<p>Rules detailing deposits and withdrawals from savings funds</p>	<p>Documents/text detailing terms that govern how deposits and withdrawals can be made from any savings funds operated by the government.</p> <p>Resource Governance Index: 2017: question 2.3.1a - 2.3.1c; and 2.3.3a - 2.3.3b</p>
<p>Value of assets in savings funds</p>	<p>Table or statement in a document such as the saving fund’s annual report detailing the value of assets in each financial year.</p> <p>Resource Governance Index: 2017: question 2.3.2a</p>
<p>Value and date of deposits made into savings funds</p>	<p>Table of data or statement in a document such as the saving fund’s annual report detailing the value and date of deposits made into the fund in each financial year.</p> <p>Resource Governance Index: 2017: question 2.3.2b - 2.3.2d</p>
<p>Value of withdrawals made from savings funds</p>	<p>Table or statement in a document such as the saving fund’s annual report detailing the value and date of withdrawals made into the fund in each financial year.</p> <p>Resource Governance Index: 2017: question 2.3.2b - 2.3.2d</p>
<p>Asset allocation by savings funds</p>	<p>Table or statement in a document detailing assets held by the savings fund: by class of asset (e.g., foreign equity, corporate debt, etc.) and details of specific and significant assets held (e.g., investments in a specific business).</p> <p>Resource Governance Index: 2017: question 2.3.4a - 2.3.4e</p>

ANNEX 8. PRECEPT 11: ROLE OF EXTRACTIVE COMPANIES

This transparency table has been designed to assist with Q11.1.3 and Q12.1. It summarizes the specific disclosures that extractive companies should be making to contribute to the general accountability environment. In contrast to the other transparency tables, disclosure items in this table should be made by extractive companies. As with the previous tables they should be made in line with the standards of open data outlined in Q2.1.4.

For each disclosure, researchers should consider the following questions:

- Is *all* latest information available? If not, what are the exceptions?
- Is *all* historical information available? If not, what are the exceptions?
- Is information provided in sufficient time to enable effective monitoring and scrutiny of activity?
- Is information available in a machine-readable format? Are there any other barriers to access to information? (See Q2.1.4 for background.)

Disclosure item	Guidance
Contracts and/or licenses signed with governments	Documents/text outlining agreements made between extractive companies and government over exploration, production and commodity sales. Publication should include any annexes, amendments, or riders to the agreements. Related standards: EITI 2016, 2.4
Names of partners, contractors and sub-contractors working on projects in country	Documents/text listing partners, contractors and subcontractors working in country. Should name specific projects and role for each company. See Q11.3.4 for background.
Names of beneficial owners including those of partners, contractors and sub-contractors	A table disclosing details about those who own extractive companies in country and those who ultimately benefit from their activities. See Q11.3.1 and Q11.3.4 for background. Related standards: EITI 2016, 2.5
Environmental impact assessments (EIAs)	Documents/text. See Q11.2 for background. Related standards: IFC Performance Standard 1
Environmental mitigation management plans	Documents/text. See Q11.2 for background. Related standards: IFC Performance Standard 1
Monitoring reports for environmental mitigation management plans	Documents/text. See Q11.2 for background. Related standards: IFC Performance Standard 1
Payments to governments	A table or set of tables detailing country-by-country reporting of payments made to all governments of countries where the company works. Payment information should be disaggregated by project. It should include the amount of revenue, profit before income tax and income tax paid and accrued, their total employment, capital, retained earnings and tangible assets. Related standards: Dodd-Frank Wall Street Reform and Consumer Protection Act (Section 1504), European Accounting and Transparency Directives, and similar legislation in Canada, Norway and elsewhere.
Assets held by the company in subsidiaries and joint ventures	A table or document providing details about fully consolidated subsidiaries and non-fully consolidated holdings (associates, joint ventures). Should include percentages owned, countries of incorporation and countries of operation.
Anti-corruption policy	Document/text outlining the company anti-corruption policy.

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