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Conclusion and Recommendations

While no country has gotten its monitoring efforts entirely right, the problem is particularly acute for low- and middle-income countries. These countries have a huge stake—and face a greater challenge—in ensuring effective monitoring to collect much-needed revenues and to avoid harm. As mining investments have flowed into many of these countries, a similar surge in monitoring efforts has not taken place. Laws and institutions still tend to emphasize promoting investment at the expense of tracking compliance. Because institutional and individual capacity for monitoring is often lacking, innovative partnerships are critical. They can help counter problems of capacity, imbalanced incentives and deficient access, but not without careful attention to checks and balances in the partnership process. Civil society, governments and companies must work together to improve sector governance. At the international level, governments and intergovernmental institutions should work together to create an environment for better monitoring. Some policy options for improving monitoring are presented below.

As new production comes on line throughout the developing world, it is increasingly important to address gaps in monitoring implementation. For government, this requires attention both to the administrative architecture—the structure of laws and agreements—as well as actual mechanisms for monitoring. For domestic and international civil society, this demands skills and practices that are not typically filled by a single organization or group of NGOs. While some organizations may monitor a particular sector, others will be more expert at responding to crises or reporting on egregious violations. Systematic monitoring will require collaborations to identify and fill gaps. Donors, banks, companies and their home countries all have roles to play in filling those gaps, building the necessary capacity and ensuring that effective, credible monitoring is carried out over the life of a project.

Governments of Natural Resource States (Host States)

- Governments should develop legal frameworks that enable effective government and civil society monitoring efforts and should push toward more uniformity in companies' obligations. Good practices include: defining more obligations in laws and regulations rather than contracts; developing model agreements with limited variability in terms; establishing clear governmental monitoring authority and accountability; and using clearly defined rules instead of vague standards to establish companies' commitments.
- Governments should promote transparency as a necessary condition for monitoring and as a way to incentivize compliance by all parties. This includes disclosing all of the following: contracts; social and environmental agreements; production, cost and revenue figures; statistics on government monitoring; reports and results of government monitoring efforts; and other ongoing project information.
- Governments should establish and maintain accountable structures for monitoring with sufficient staff and resources to achieve their goals. Monitoring agencies should be

independent from the promotional function of other government agencies or state companies with potentially conflicting purposes. These agencies should provide dedicated monitoring staff to ensure that monitoring activities are prioritized. And governments should explore opportunities to develop specialized monitoring agencies, such as large taxpayer units, where agencies can develop and concentrate expertise around the unique challenges of monitoring large mining companies.

- Governments should be continually attentive to risks of corruption and institutional obstacles to change. Oversight mechanisms should limit unnecessary discretion and include checks and balances to avoid agency capture.
- Governments should actively work to identify and correct areas of noncompliance, including through partnering with companies and communities to improve compliance, and by establishing and leveraging sanctions when appropriate.
- Governments should identify strategic partners to enable better monitoring, including through participative community monitoring structures, and through supplementing public capacity with private capacity to conduct required monitoring activities and to build long-term public sector capacity.

International and Domestic Civil Society and Their Donor Organizations

- Civil society should maximize the use of information that is already available on mining projects to conduct monitoring.
- Civil society should continue to seek access to contracts, licenses and permits that define project obligations, as well as information about ongoing projects. They should promote laws and practices that institutionalize transparency. Donors should support this effort.
- Civil society and donors should map out and identify existing capacity for monitoring extractive projects with a view toward appropriate strengthening of the capacity and technical skills necessary to analyze and monitor project obligations.
- Civil society should explore the feasibility of credible monitoring partnerships with companies and government agencies.
- Civil society should develop evidence-based advocacy campaigns and should systematically report noncompliance using the media, parliament and the judiciary when appropriate.
- Donor organizations should recognize the range of company obligations and should seek to identify appropriately placed civil society organizations to monitor companies' activities across this range of issues. They should provide the necessary capacity-building and investment support to sustain effective monitoring consistently throughout the life of the mining project.

Extractive Companies

- Companies should disclose contracts, permits, licenses, community development agreements, and environmental and other plans that delineate their legal obligations. They should also disclose ongoing monitoring information to demonstrate their legal compliance and to enable civil society and government to meaningfully follow mining operations.
- Companies should develop partnerships and participative monitoring structures that enable communities to monitor mining operations in areas of particular concern to the communities.
- Industry associations like the International Council on Mining and Metals and local mining chambers should encourage their members to disclose information and to enter into participative monitoring structures with communities.

Home States of Extractive Companies

- States should cooperate to facilitate monitoring of fiscal terms, particularly transfer pricing issues, through disclosure and information-sharing agreements.

- Home states should enshrine disclosure requirements in regulations, such as through listing requirements like Section 1504 of the U.S. Dodd-Frank Wall Street Reform Act or accounting rules.
- Home states should pass and enforce anticorruption laws.

The World Bank Group and Other Funding Agencies

- The World Bank Group should require the level of disclosure by mining companies outlined above for all mining investments and resource-rich countries to which it provides loans.
- The IFC should publicize the results of its ongoing monitoring and evaluation of IFC-funded projects, including reports of IFC site visits and companies' annual reports on their compliance with social and environmental terms.
- Government export credit and guarantee agencies should apply the highest disclosure and performance standards for all mining projects they finance. Export credit agencies should seek to develop common, high standards.