

Step 4 Research Guide: Operations



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WHAT DOES THIS AREA OF FOCUS COVER?

This area of focus covers the government’s regulation of exploration and production activity in the extractive industries and the broad range of operational decisions taken by companies. It includes, but is not limited to:

- Exploration and production activities, including the agreement and execution of company work programs
- Transportation, processing, or export of commodities, or other mid- and downstream activities
- Human resources, including local employment and hiring of expatriate staff
- Procurement and subcontracting by operating companies and SOEs, including local content
- Occupational health and safety
- Management of environmental, social, and human rights impacts
- Implementation of community development and social investment programs

In Box 1 we provide examples of how corruption has arisen in this area in the past.

HOW TO USE THIS RESEARCH GUIDE

The following research questions and guidance will help the independent expert complete Step 4 of the diagnostic assessment. The research findings will provide the basis for drafting the Step 4 report and completing the diagnostic table. The research guide draws from analyses of past corruption cases and relevant reports and guidance.¹

The independent expert should review this research guide before developing a research plan for Step 4, as the questions below may inform who they decide to interview and other choices around the research approach. The independent expert should then use the questions in this annex to guide their desk research, interviews, focus groups and surveys (if used).

The questions below are not exhaustive, but rather are meant to prompt ideas and provide insight on how corruption has arisen in countries around the world. The independent expert can skip questions that are not relevant to their context.

¹ This research guide on operations draws on a range of sources. To understand corruption risks in operations, we reviewed dozens of real world corruption cases, as well as publications including: Global Financial Integrity’s work on natural resource illicit activity; C. Squires, K. Landau, and R. J. Lewis, “Uncommon ground: The impact of natural resource corruption on indigenous peoples,” Brookings Institution (2020); A. Williams and K. Dupuy, “Deciding over Nature: Corruption and environmental impact assessments,” U4 Anti-Corruption Resource Centre (2016); R. Pitman and K. Toroskainen, Beneath the Surface: The Case for Oversight of Extractive Industry Suppliers, NRG (2020); Transparency International Accountable Mining Programme, Combatting Corruption in Mining Approvals: Assessing the Risks in 18 Resource-Rich Countries (2017); Transparency International Accountable Mining Programme, Mining Awards Corruption Risk Assessment (MACRA) Tool (2020); and OECD, Corruption in the Extractive Value Chain: Typology of Risks, Mitigation Measures and Incentives (2016). To identify common anticorruption good practices, our main sources included: The Resource Governance Index (2021); the EITI Standard (2019); OECD, FAQ: How to Address Bribery and Corruption Risks in Mineral Supply Chains (2021); among others.

Box 1. Examples of corruption risks in operations

Influencing regulators. In 2015, the owner of several coal mines in the U.S. state of Kentucky, who also served as a member of the state’s legislature, was found guilty of bribing a government environmental inspector. In exchange for bribes and favors, the inspector allowed the entity involved to continue mining outside the permitted area and ignored other violations. The two parties disguised the bribes as consulting fees and routed them through a shell company set up under the name of the inspector’s wife. The inspector pled guilty to soliciting bribes.²

In Angola, according to U.S. authorities, the oilfield service company Halliburton sought to gain the favor of top officials, particularly those who oversaw its local content programs. In 2009, Halliburton hired a local contractor that was closely linked to the officials in question, made payments to that company between 2010 and 2011, and did not receive services in return. U.S. authorities opened an anti-bribery investigation and Halliburton had to pay a \$29 million fine.³

Bribery to expedite operations. Between 2010 and 2014, according to U.S. SEC findings, Kinross Mining hired and made payments to consultants connected with Ghanaian government officials to expedite the processing of visas and permits, receive environmental authorizations and process customs documents.⁴

Bribery and rent-seeking in procurement. In Brazil’s infamous “Car Wash” scandal, the national oil company Petrobras regularly awarded inflated contracts to large construction companies, the proceeds of which were then shared among Petrobras officials, politicians, political parties and the facilitators of the scheme.⁵

A number of sources have alleged that the Russian national energy companies Rosneft and Gazprom allocate lucrative supplier contracts in ways that consolidate wealth in the hands of a few oligarchs with close ties to Russian political leadership. As one example of the potential costs of this alleged behavior, industry observers have estimated that some Gazprom-constructed pipelines cost three times more than the industry standard.⁶

In 2019, two bosses of a Monaco-based company called Unaoil pled guilty to U.S. charges for their roles in facilitating millions of dollars in bribes to officials in at least nine countries in order to help their clients secure oil and gas supply contracts. As many as 11 oilfield services and construction companies that worked with Unaoil have faced related legal proceedings.⁷

- 1 WKYT, “Ex-state representative Keith Hall sentenced for bribery,” 24 March 2016; Office of the United States Attorney Eastern District of Kentucky, “State Representative Indicted on Bribery Charges,” 23 October 2014.
- 3 SEC, “Order instituting cease-and desist proceedings pursuant to section 21c of the securities exchange act of 1934, making findings, and imposing remedial sanctions and a cease-and-desist order,” 27 July 2017.
- 4 SEC, “Order instituting cease-and desist proceedings, pursuant to section 21c of the securities exchange act of 1934, making findings, and imposing a cease-and-desist order,” 26 March 2018.
- 5 Department of Justice, “Petróleo Brasileiro S.A. – Petrobras Agrees to Pay More Than \$850 Million for FCPA Violations,” 27 September 2018.
- 6 A. Gillies. *Crude Intentions: How Oil Corruption Contaminates the World* (Oxford University Press, 2020); K. Dawisha. *Putin’s Kleptocracy: Who Owns Russia?* (Simon & Schuster, 2015); US Department of the Treasury, “Treasury Sanctions Russian Officials, Members Of The Russian Leadership’s Inner Circle, And An Entity For Involvement In The Situation In Ukraine,” 20 March 2014; J. Yaffa, “Putin’s Shadow Cabinet and the Bridge to Crimea,” *New Yorker*, 22 May 2017.
- 7 Department of Justice, “Oil Executives Plead Guilty for Roles in Bribery Scheme Involving Foreign Officials,” 30 October 2019; P. Caruana Galizia, “Greasing the wheels: the case against Unaoil exposes how the fight against corruption can descend into turf war,” *Tortoise Media*, 14 September 2019.

The guidance below has four parts:

- Preliminary questions
- A. Which forms of corruption are of significant concern?
- B. What causes the different forms of corruption?
- C. What measures could help prevent corruption?

The main guidance document contains further advice about Step 4, including definitions of key terms, potential information sources, and guidance on how to summarize and present the findings. The independent expert should read the main guidance document in combination with this research guide.

PRELIMINARY QUESTIONS

Before researching the corruption-focused questions that form the core of Step 4, the independent expert should answer the preliminary questions below. Answering these questions will help the independent expert to:

- Update their understanding of the area of focus prior to conducting interviews.
- Clarify the research scope and possibly select a subtopic.
- Identify relevant sources of information and potential interviewees.

Researching the preliminary questions should be brief, though precisely how much work is needed will depend on the independent expert's existing familiarity with the subject. The independent expert should revisit the Step 2 research as a key source of information here. The preliminary questions should provide background information only and the independent expert does not need to capture the findings in detail in the Step 4 report or diagnostic table.

What are the key attributes of operations in the sector?

Before speaking to stakeholders, the independent expert should gather up-to-date, basic information about sector operations. This will help them to ask specific, well-informed questions and can provide a basis for narrowing the assessment scope under the next preliminary question. The identification of the most important stakeholders related to this area of focus will also help the independent expert to identify potential interviewees for the Step 4 research and potential participants for the Step 5 and 6 prioritization and action planning workshops. If the independent expert and user already know that they want to focus on one specific aspect of operations (see next question), they could limit this scan to the selected subtopic.

To answer this question, the independent expert should revisit the information on operations collected in the Step 2 worksheet and report. They may want to supplement this information with further data such as EITI reports, relevant sections of the [Resource Governance Index](#), key laws and regulations (and potentially specific contracts which may be accessible through www.resourcecontracts.org), license registry data, company reporting, and industry data.

Attributes to consider could include:

- The main stakeholders participating in or impacted by sector operations, including:
 - The main government institutions regulating operations (such as mining or petroleum ministries and regulators, government agencies dealing with the environment, spatial planning, labor, immigration, customs etc.).
 - The main private sector actors in the sector (including exploration and production companies, state-owned enterprises (SOEs) and subcontractors), as well as their size and country of origin.
 - Non-governmental organizations (NGOs), community-based organizations, and labor unions active on operational issues in the sector.
 - International organizations or donors active on operational issues in the sector.
 - Host communities and other impacted groups including vulnerable populations.
- The nature of operations (i.e., for oil and gas, whether they are off- or onshore; for mining, whether they are open pit or underground, large-scale or artisanal, formal or informal).
- The stage of the project cycle of the most significant projects (i.e., exploration, production, decommissioning).
- The scale of operations (i.e., the number of projects, the overall geographic size of operations, the overall scale of production, the scale of project spending).
- The geographic location of operations and any sensitivities related to this (e.g., environmental, social, ethnic, political, conflict dynamics).
- The main laws and regulations governing operations, including any subject to ongoing reform.
- Relevant aspects of the mid- and downstream value chains (i.e., whether there is domestic processing, whether natural resources are exported and how government regulates the export process, the extent and nature of local beneficiation requirements and who controls the necessary infrastructure or facilities etc.).

Which aspects of operations should the research consider?

The independent expert and user should consider which aspects of operations to cover in the assessment. The independent expert could examine all aspects of operations or focus in on one of the subtopics listed on page 2. The selected subtopic could be particularly significant, perceived to have the greatest corruption challenges, and/or show prospects for reform. The Step 4 report should include a clear justification for the selected scope.

Some operational issues apply to SOEs. If the independent expert and the user want to focus specifically on SOE operations (e.g., SOE procurement practices), we recommend referring to the separate research guide on SOEs.

A. WHICH FORMS OF CORRUPTION ARE OF SIGNIFICANT CONCERN?

The independent expert should identify forms of corruption that are of significant concern in this area of focus. To do this, the independent expert should consider which forms of corruption have occurred in the past or could occur in the future.

In Step 5, the independent expert and user will use the tool’s diagnostic table to prioritize among the forms of corruption. Therefore, during Step 4, the independent expert should gather information on which forms of corruption are of greatest concern. The aim should be to focus on forms of corruption which are likely to occur, and which could cause significant harm.

Evidence for answering this question will include:

- Past corruption cases. If a form of corruption has arisen in the past, it might arise again – unless reforms now make it less likely.
- Interviewee perceptions of areas where corruption is happening or could occur in future.
- Evidence on where corruption has occurred in the past from existing reports and investigations (e.g., from media, non-governmental organizations, parliament)
- The presence of red flags linked to those forms of corruption. These are the warning signs and observable symptoms of corruption. Box 2 contains examples.

Below we describe several forms of corruption related to operations and a list of associated red flags. The independent expert should assess whether these forms of corruption are a problem in the sector they are looking at. **This is not an exhaustive list**, but rather presents forms of corruption that are prevalent and harmful in extractive sectors around the world. The research should also seek to identify other forms of corruption related to operations that are serious concerns. In answering this question, the independent expert should be as specific as possible, including by identifying the specific processes or types of entities involved. We recommend identifying no more than 10 leading forms of corruption (in most assessments, the independent expert will likely identify fewer than that).

Common forms of corruption in operations:

Undue private influence over policymaking

Companies may seek to influence the rules governing operations to ensure they are as favorable as possible to their interests, for example by weakening environmental and social safeguards, local content requirements or labor rules. Companies or their lobbyists might pay bribes or offer other inducements (e.g., gifts and hospitality, offers to steer sub-contracting opportunities towards favored entities) to policymakers. In other cases, undue influence can appear both legal and normalized – often referred to as “state capture.” This can occur when government officials or their allies hold financial interests in the sector, when government and companies exchange personnel regularly (the “revolving door”), or when companies finance political campaigns and engage in excessive informal lobbying. Drawing the line between acceptable behavior and corrupt behavior is subjective and context dependent.

Bribery to avoid or deviate from operational obligations

Companies may seek to bribe public officials to evade their legal, regulatory, or contractual obligations or to avoid fines for breaking the rules. Officials may also

solicit a bribe in exchange for favorable treatment of the company. The bribes could be a financial payment or some other favor or inducement, such as gifts, entertainment, promises of future employment or business opportunities.

This form of corruption could arise when companies are:

- Operating without a license, outside their license area or after the expiry of their license.
- Deviating from agreed work programs.
- Misreporting data on exploration, production, and exports (e.g., geological data, production or export volumes and values, costs).
- Deviating from environmental, social, human rights, labor or health and safety obligations. Where this is a concern in the preparation of environmental and social impact assessments (ESIAs), we recommend referring to the research guide on decision to extract, licensing and contracting.
- Deviating from local content requirements.

Biased or predatory enforcement of operational obligations

Government officials may sometimes enforce the sector's rules in ways that unduly favor certain parties. The officials may do so for private reasons, for example if they have a financial interest in a company or a personal or political connection to a company's owner(s). Or the officials may do so at the explicit or implicit direction of more powerful political figures, for example to give politically favored companies a commercial advantage. Examples include officials exempting certain companies from paying fines for environmental infractions or allowing performance shortcomings.

Officials may also enforce regulations in a predatory and deliberately overzealous manner. For example, they may impose rule changes that are impossible for companies to comply with or threaten penalties based on fabricated or exaggerated violations of the rules. This might happen in the hope of extracting bribes, or to disadvantage companies who lack political connections.

Facilitation payments to speed up administrative processes

A facilitation payment is a small bribe solicited to facilitate or expedite the performance of a routine transaction or service which the entity making the payment is legally entitled to receive. Companies may be confronted with deliberate foot-dragging by officials seeking to extract a "grease payment" in return for them fulfilling their duties. Transactions prone to this form of corruption include the issuance of work permits, visas, and customs clearances.

Government officials acting as gatekeepers and soliciting favors from companies

Government officials in charge of certain regulatory processes, such as granting approvals or permits, may act as "gatekeepers" and use their position to demand favors from companies. This could include bribes or facilitation payments, or another form of favor. In some cases, officials may restrict access to decision-makers or regulatory processes for those lacking connections. This form of corruption could be a subset of any of the three forms listed above.

Misappropriation of fines issued for violations of operational obligations

Fines issued in the enforcement of operational obligations may sometimes be misappropriated. This diversion of funds could range from individual officials pocketing small fines to large-scale and systemic misappropriation of funds by specific entities or officials. (Misappropriation risks are mostly handled under the “Revenue Collection” and “Revenue Management” areas of focus. See the research guides on those topics for more information).

Corruption in the award of supplier contracts

The companies that explore for and extract oil, gas or minerals procure a wide range of goods and services. As evidenced by corruption scandals from around the world, corruption can infiltrate these awards in several ways, including when:

- **Contracts go to politically connected suppliers.** This could occur when companies seek to buy political favor or when officials pressure companies to choose certain suppliers. In some cases, companies inflate the value of contracts to allow suppliers to receive unreasonably large profits, to syphon off funds for political gain, or to finance kickbacks to officials. Politically motivated contracts often go to underqualified companies, or are for services that are not needed or will never be delivered. This form of corruption can be particularly prominent in local content. Local content refers to the procurement of goods and services from national, regional, or potentially community-based suppliers. In some contexts, it is mandated by law. In other contexts companies implement local content policies voluntarily. Corruption can also be prevalent in SOE procurement, or when SOEs have influence over the procurement decisions made by private companies (discussed further in the SOE research guide).
- **Bribery and kickbacks to influence procurement decisions.** Supplier companies may pay bribes to public officials to gain a favorable position in a procurement process, such as by gaining access to insider information about the tender, or to win the contract itself. As above, officials may solicit such rewards. Bribery could also play out solely between private actors, with supplier companies bribing procurement personnel at the operating company. In some cases, suppliers provide kickbacks to those making procurement decisions.
- **Collusion to predetermine bid winners, raise prices or lower the quality of goods or services.** In some instances, supplier companies form cartels and agree to manipulate the tender process. For instance, companies that agree to lose the bid could gain by: receiving from the winning company some of the premium produced by an inflated contract price; being brought in as a subcontractor; or being allowed to win future tenders. In some cases, such collusion may operate with full understanding and collaboration of those running and overseeing the procurement process.

Corruption in hiring decisions

As with procurement, companies can use hiring to secure political favor, or government officials can pressure companies to make certain hiring decisions. This can result in companies recruiting politically connected individuals even if these do not have the required qualifications. Hiring decisions can also be used to channel benefits towards certain social or ethnic groups. In the case of unskilled and casual positions, companies sometimes coordinate recruitment through local authorities (both official and traditional). On occasion, these arrangements come from traditional

authorities who regard it as their prerogative to allocate employment opportunities in their communities. Without proper safeguards, these authorities can misuse their influence to channel employment opportunities towards their allies or to extract bribes from individuals seeking work.

Misuse of community development or social investment programs

Companies often provide financial or in-kind benefits to host communities. These can advance a range of purposes, including infrastructure upgrades, health or education programs, local sports teams, and agricultural initiatives. In some contexts, such programs are mandated by law, in other cases companies implement them voluntarily. Without safeguards, community development can be used to disguise bribes, to unduly channel benefits towards community leaders and their allies, or to buy off groups that might otherwise disrupt or delay operations. In some cases, community leaders or representatives can engage in extortion, or companies can use these programs to buy their support.

Box 2. Red flags of corruption in operations

Certain red flags or warning signs often accompany the forms of corruption described above. The independent expert should look out for these warning signs during the research process.

Rulemaking

- Rulemaking deviates from standard processes (e.g., long delays; fast-tracked decisions; lack of consultation or transparency).
- Rule changes unduly benefit a certain group, harm the interests of the state, or result in notable weaknesses in the rules.
- Individuals frequently move between working in the extractive industry and in government agencies charged with its regulation, or other close ties (social, political, etc.) between industry and government.
- Individuals involved in rulemaking have conflicts of interest.
- Companies or their employees make large campaign donations to politicians with influence over rulemaking.

Enforcement of the rules

- Officials give biased or preferential treatment to certain companies when enforcing the rules; known violations go uncorrected or unpunished.
- Certain companies are rumored to have a patron, ally or hidden owner who exercises influence over the enforcement of rules.
- Officials overly rely on companies to conduct their enforcement activities, such as relying on corporate transportation to travel to company operations or failing to source independent information.
- Officials responsible for monitoring and enforcement have conflicts of interest.

Administrative processes and approvals

- Administrative processes are slow, complex, or change frequently.
- Officials give biased or preferential treatment to certain companies in administrative processes (e.g., some companies receive approvals much faster than others).
- Companies use third-party service providers to navigate administrative processes, either on their own initiative or after being encouraged by an official.
- Officials set unreasonable or unworkable deadlines for administrative processes.
- Rules for administrative processes contain contradictions, gaps, or areas of discretion that officials can exploit to speed up or slow down approvals, such as seemingly arbitrary payments that are not specified in publicly available rules.

Procurement and hiring

- Procurement processes deviate from commercial norms or legal requirements, such as the overuse of single-source awards.
- Contracts are awarded for overvalued, unrealistic, vaguely defined, or unnecessary services.
- Contracts are awarded to unqualified or newly established companies without track records, or transactions feature commercially unnecessary intermediaries.
- Certain companies receive disproportionate access to procurement opportunities for reasons not explained by market forces.
- The country has strict local content requirements despite lacking the supplier base to deliver and the only companies qualified to meet local content requirements are controlled by politically connected individuals.
- Companies are required to source goods and services from suppliers that have been preapproved by the government without transparency around the criteria used for preapproval or the identity of the companies that have been preapproved.
- Foreign companies bypass local content requirements by establishing structures that give the impression of being locally-owned (sometimes referred to as “fronting”).
- Third party agents play a role in procurement and receive large success fees for landing contracts for their clients.
- Companies hire unqualified individuals.
- Companies disproportionately hire individuals from specific political, social, or ethnic groups.

Community development

- Decisions on spatial planning or on zoning of areas for particular industrial activities appear to lack any strong public interest underpinning.
- Community development or social investment programs disproportionately benefit individuals connected to political or traditional leaders, or specific social or ethnic groups.
- Accusations or rumors that the individuals or entities implementing or benefitting from community development programs are linked to political or traditional leaders.
- Company disclosures show community development payments that do not have an obvious environmental or social purpose, or that appear to be inflated relative to the value of the program being implemented.
- Community development programs are announced or funded, but then never implemented.
- Community development programs are directed towards overvalued, unrealistic, vague or unnecessary deliverables.
- Certain civil society groups without a credible track record seem to disproportionately campaign against a specific extractive company whilst turning a blind eye to similar or worse conduct from other companies.

Smuggling and other illicit activity

- Official production and export data deviates from the import statistics published by trade partners.
- Natural resource exports from neighboring countries are significantly higher than domestic production in those countries.
- Informal or illegal activity in the extractive sector is widespread, such as unlicensed and unregulated artisanal and small-scale mining.
- Criminal groups are reported or believed to be participating in the extractive sector, without prompting an adequate response from the government.
- Extractive operations take place in disputed territory or territory controlled by armed groups.

Aiding and abetting of smuggling and other criminal activity

On occasion, companies have smuggled commodities into a third country, and then sold or exported the product from that country. These cross-border flows of goods may serve to launder money, or be related to the evasion of sanctions. Smuggling often involves the complicity of border officials. (The topic of trade misinvoicing is discussed further in the Step 4 Research Guide on Revenue Collection.)

Organized crime groups, including drug traffickers and armed groups, may also engage in the illegal extraction and smuggling of natural resources. This is a particular concern for unlicensed artisanal and small-scale mining (ASM) of minerals such as gold, tin, tungsten, tantalum, cobalt, and gemstones, though it has also occurred in the oil sector (in the form of “bunkering”). High level law enforcement officials or politicians may be paid off by criminal groups in return for not interfering with illegal mining – corrupt activities that may have very damaging environmental and social impacts. Organized crime groups may also use extractive sector operations to launder profits from other illicit activities, for example by reinvesting proceeds from the drugs trade to mine and sell minerals. Corruption risks arise when officials are complicit in these activities, either through direct participation (e.g., forging customs documents, providing logistical support, or receiving bribes or kickbacks) or by turning a blind eye to the illegal activities.

Extortion by armed actors

In some contexts, armed state or non-state actors may use extortion to derive benefits from the extractive sector. For example, they may exercise control over extractive sites or transport routes through the threat (and potentially the use) of force. This can be a particular challenge in the ASM sector where miners may have had to pay off security forces to operate. The goal of extortion is often to receive financial or in-kind benefits, but it can also involve demands for sexual favors, a form of corruption which disproportionately affects women.

B. WHAT CAUSES THE DIFFERENT FORMS OF CORRUPTION?

For each of the forms of corruption identified as a leading concern in Question A, the independent expert should try to uncover why the corruption has occurred in the past or why it might occur in the future. The following questions could help guide this research. They address risk factors and underlying causes—and it is essential that the research covers both of these subjects.

WHICH RISK FACTORS MAKE CORRUPTION MORE LIKELY TO OCCUR?

Certain policies, practices and other risk factors can make systems more vulnerable to corruption. For instance, if the institutions tasked with enforcing operational requirements are understaffed and/or underfunded, their employees may be more susceptible to receiving or soliciting bribes, unevenly enforcing the rules, or requesting facilitation payments. In this example, the low levels of human and financial capacity are risk factors. While capacity gaps do not indicate that corruption has occurred, they indicate that institutions could be vulnerable to corruption. Identifying specific risk factors is important because they can provide a starting point for targeted action-planning in Step 6 of the diagnostic assessment.

For operations, risk factors might include:⁸

A lack of transparency, such as failures to disclose:

- Contracts and regulations that lay out extractive companies' operational obligations.
- Data on production, exports, and operational spending.
- ESIA's, management plans and reports, associated government approvals, and the technical opinions of the agencies involved in decision-making.
- The outcomes of environmental and social monitoring.
- Information on violations, enforcement actions and fines.
- Information on environmental liabilities, rehabilitation, and remediation work.
- Procurement, hiring, and local content information, including local content plans and implementation reports from companies; the announcement of tenders, the winning supplier and information about the specific purpose of a contract; and publication of criteria and processes for entry onto supplier lists and publication of such lists.
- Information on social expenditures, including in-kind benefits.
- Beneficial ownership information for companies holding exploration or production rights, and for their suppliers.
- Information on the income and assets of officials involved in regulatory decision-making.
- Information on lobbying activity and political donations by companies operating in the sector.
- Anticorruption policies and procedures by government entities and companies.

Weak oversight and public participation, such as the absence of:

- Opportunities for communities to participate in the assessment and monitoring of environmental and social impacts, local employment and sourcing practices, or the delivery of community development projects.
- Monitoring and oversight of the various aspects of operations by parliament, civil society and the media.

Weak integrity measures

- When credible corruption accusations arose in the past, the government did not respond with an investigation or sanctions against the individuals involved.

8 To prepare this list of risk factors, we reviewed several sources of governance, transparency and anticorruption guidance, and selected the policies and practices that relate most directly to the forms of corruption noted above. The sources include: indicators covered by subcomponent 1.3 (local impact) of the Resource Governance Index; requirement 6 (social and economic spending) of the EITI Standard; annex 1 (common risks) in Transparency International Accountable Mining Programme, Mining Awards Corruption Risk Assessment (MACRA) Tool (2020); and chapter 4 (corruption risks in extraction operations and regulations) in OECD, Corruption in the Extractive Value Chain: Typology of Risks, Mitigation Measures and Incentives (2016).

- Absent or weak restrictions on revolving doors between personnel in the public and private sectors (e.g., no mandatory “cooling off” periods in which former government officials cannot work for companies monitored by the entity they formerly served).
- Absent or weak restrictions on officials holding interests in the sectors they oversee, and a lack of requirements for officials to declare assets and incomes, or weak enforcement of these measures.
- Absent or weak restrictions on companies’ political campaign donations or lobbying.
- Companies are not subject to actively enforced anti-bribery laws in their home countries.
- Companies lack robust anticorruption policies and procedures, including codes of conduct and whistleblower protections.

Weak institutions and processes

- Rules and practices that fail to align with international standards, including those related to the management of environmental and social impacts, rehabilitation and closure, etc.
- Unclear, contradictory or overlapping roles of institutions and individual decision-makers. This could occur, for example, if institutions have responsibility for advancing the commercial development of a sector as well as its regulation.
- Weak human, financial and technical capacity in the institutions tasked with regulating operations.

Practices that undermine fair competition

- Lack of open, competitive and rulebound processes for procurement, hiring and implementation of community development programs by companies and SOEs.
- Significant use of representative agents by companies when seeking contracts, permits or approvals from the government or SOEs.
- Unrealistically stringent local content rules given the local supplier base and labor market.

Weak enforcement of rules

- Government fails to enforce operational requirements and/or to penalize those involved in wrongdoing, i.e., the rules exist only on paper.

Foreign actors enabling corruption

- Banks fail to refuse and report suspicious transactions, such as possible bribes.
- Foreign jurisdictions fail to actively enforce home-country anti-bribery laws.
- Foreign agents or intermediaries use corrupt tactics to help their clients win supplier contracts from operating companies.

- Bribes, embezzled funds or other illicit financial flows move through offshore accounts held by shell companies. The enablers here could include: the banks, the service provider that helped set up the shell company, or the secrecy jurisdiction in which the company is incorporated.
- Foreign jurisdictions fail to prevent illicit funds, such as bribes, to enter their economies, such as via real estate investments. Or, they fail to use visa bans and other tools against individuals credibly implicated in corruption.

What are the underlying causes and motives of the leading forms of corruption?

It is important for the Step 4 research to include ideas about the underlying causes of corruption, which often relate to the country's political system. This type of research can be difficult, as there is often no hard evidence for the motives behind corruption or on who benefits from it. It can also be quite sensitive. However, stakeholders usually do have ideas about the drivers of corruption and its place in their country's politics and economy.

The independent expert can collect ideas on underlying causes through thoughtful interviewing, assurances of anonymity, triangulating answers across stakeholders and reaching out to experts who study the country's political economy. Any insights gained on the causes of corruption will be useful in Step 6; action planning should reflect the country's political realities and the selected actions could address underlying causes as well as the specific forms of corruption or risk factors.

Key questions include:

- **What is the relationship between the country's political elites and companies operating in the sector?**
 - Do the owners of the companies maintain close relations with powerful political figures or groups?
 - Do political figures and their associates hold interests in extractive companies?
 - Do companies provide financial backing or other advantages to politicians?
- **Who wins and who loses from the corruption or governance weaknesses? Or who would win or lose if the corruption took place in the future?**
 - Who is involved, both formally and informally, in the different forms of corruption? Who influences events in these areas?
 - Who would benefit if the corruption took place? Who loses out? Benefits could be financial, professional, or political.
 - Which international actors, such as exploration and production companies, suppliers, or service providers (including lawyers, accountants, consultants, etc.), are involved? Do these actors have a history of corruption allegations or other wrongdoing? Would they benefit, directly or indirectly, from the corruption?

- **Are anticorruption actors strong enough to detect, punish and deter corruption?**
 - Does the country have an anticorruption agency that operates independently and effectively?
 - Does the government or SOE conduct serious investigations when credible corruption allegations arise? Have officials and companies been charged with corruption in such instances?
 - Has the anticorruption agenda become politicized, i.e., is it used only to go after political opponents?
 - Can other anticorruption actors, such as non-governmental organizations, community activists and journalists, operate without the threat of censorship, intimidation, or violence?
- **How are the causes of corruption changing (or not changing)?**
 - How prominent is the extractive sector in the country? Does it play a disproportionate role in the country's economy and politics?
 - Do wider political or economic events make this form of corruption more or less likely? The events could include a recent or upcoming election, domestic or international conflicts, economic booms or downturns, corruption scandals, etc.
 - Has corruption become "normalized"? Is corruption in this area allowed to persist because stakeholders feel that "this is just how the system works"? Is that a common excuse?

C. WHAT MEASURES COULD HELP PREVENT CORRUPTION?

The independent expert should gather ideas for what anticorruption measures might help address the identified forms of corruption. These ideas will help to inform the action planning in Step 6.

Who might support anticorruption reforms and why?

- What current incentives work in favor of anticorruption reform? These could include: anticorruption commitments by top politicians; a damaging corruption scandal; pressure from international creditors such as the IMF and/or a desire to attract international investors, among other incentives.
- What measures would alter the incentives, making corruption more risky and less appealing?
- Which actors would support anticorruption reform in this area? Does corruption lead to undesirable costs for any actor? Would any actor benefit politically by supporting reform? Relevant actors could include politicians and political parties, government and SOE officials, various categories of companies, civil society groups, unions, host communities, foreign governments and international financial institutions, among others.
- Of the forms of corruption identified, where is reform most feasible?

- Are there ongoing reforms which could help address the form of corruption, directly or indirectly?
- Could pursuing anticorruption offer political benefits to any party (without it becoming overly politicized or partisan)?
- When corruption cases arose in the past, how did anticorruption actors or processes perform? What can we learn from this record about strengths and weaknesses in anticorruption responses?

What are specific ideas for anticorruption actions?

To solicit ideas from interviewees, the independent expert could ask:

- If you could change one thing in this area, what would make the most difference in preventing corruption?
- What policies and practices currently work well in helping prevent corruption and could be further strengthened? If familiar to the researcher or interviewees, other comparable countries may also offer ideas of successful tactics.
- Would fixing any of the **risk factors identified under Question B** effectively help prevent corruption? This could include actions to:
 - Enhance transparency
 - Strengthen oversight and participation
 - Promote integrity
 - Enact institutional and process reforms
 - Increase fair competition
 - Strengthen the enforcement of rules
 - Address foreign enablers
- Would stakeholders recommend any of these specific anticorruption actions, which are considered good practices or have proven successful in the past?
 - **Requiring the systematic disclosure of contracts** (including their annexes and amendments) and regulations that contain the company's operational obligations, as well as data on fines and penalties for operational violations.
 - **Introducing procurement reforms** including: mandating the use of transparent, open and competitive tenders, where appropriate; reducing the use of representative agents by supplier companies; and requiring operators to publish their main suppliers (and beneficial ownership information for large or high-risk suppliers), the contract awards, the purpose of the contract and its timelines.
 - **Introducing rules to limit conflicts of interests**, such as:
 - Implementing revolving door restrictions that prohibit regulators and companies from exchanging personnel within specified time limits ("cooling off" periods)

- Prohibiting officials from holding business interests in the sectors they oversee.
- Regulating companies' political campaign donations and lobbying activity, and requiring transparency in these areas.
- Requiring asset and income declarations from public officials.
- Requiring operating companies to disclose beneficial ownership information, and screening that information for politically exposed persons who might have a conflict of interest.
- **Promoting the industry's collective action and dialogue with officials** on areas of shared concern, such as unrealistic local content policies, the heavy use of agents, or regulatory processes where facilitation payments have become widespread. The formation of an industry chamber or association comprising companies committed to operating responsibly can be particularly effective because it can allow companies to collectively raise concerns and seek solutions.
- **Strengthening participatory monitoring of operations**, including through partnerships with civil society organizations and host communities.
- **Full investigation and, if appropriate, criminal proceedings against those alleged to have committed corrupt acts**, including officials implicated in foreign bribery cases.

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