

Making More of Commodities?

Governance-Initiativen im Rohstoffbereich

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Karin Küblböck, ÖFSE

Context

1. Many developing countries, part. in SSA still **dependent** on commodity exports and imports
2. Commodity price boom in 2000s & price volatility historically unprecedented – **Financialisation** of commodity markets
3. **Increasing demand & competition**: Ensuring **access** to raw materials has become an important policy goal
4. Increasing efforts to better **use resource potential** in resource rich countries
5. Governance efforts: increasing number of **regulations** and **accountability mechanisms**

EU Raw Materials Initiative (2008/2011)

1st pillar: Access to raw materials on world markets at undistorted conditions

- Raw materials diplomacy (coordination within EU & dialogue with third countries)
- International cooperation (G8, OECD, UNCTAD, UNEP, etc.)
- EU trade policies and regulatory policies (multilateral and bilateral negotiations)
- Development policy (strengthening states, sound investment climate, sustainable management of raw materials)

2nd pillar: Supply of raw materials from EU sources

- Facilitate supply from EU deposits
- Improve knowledge base of EU mineral deposits
- Promote R&D to address extraction and processing of raw materials
- Address skills shortage

3rd pillar: Reduce own consumption of primary raw materials

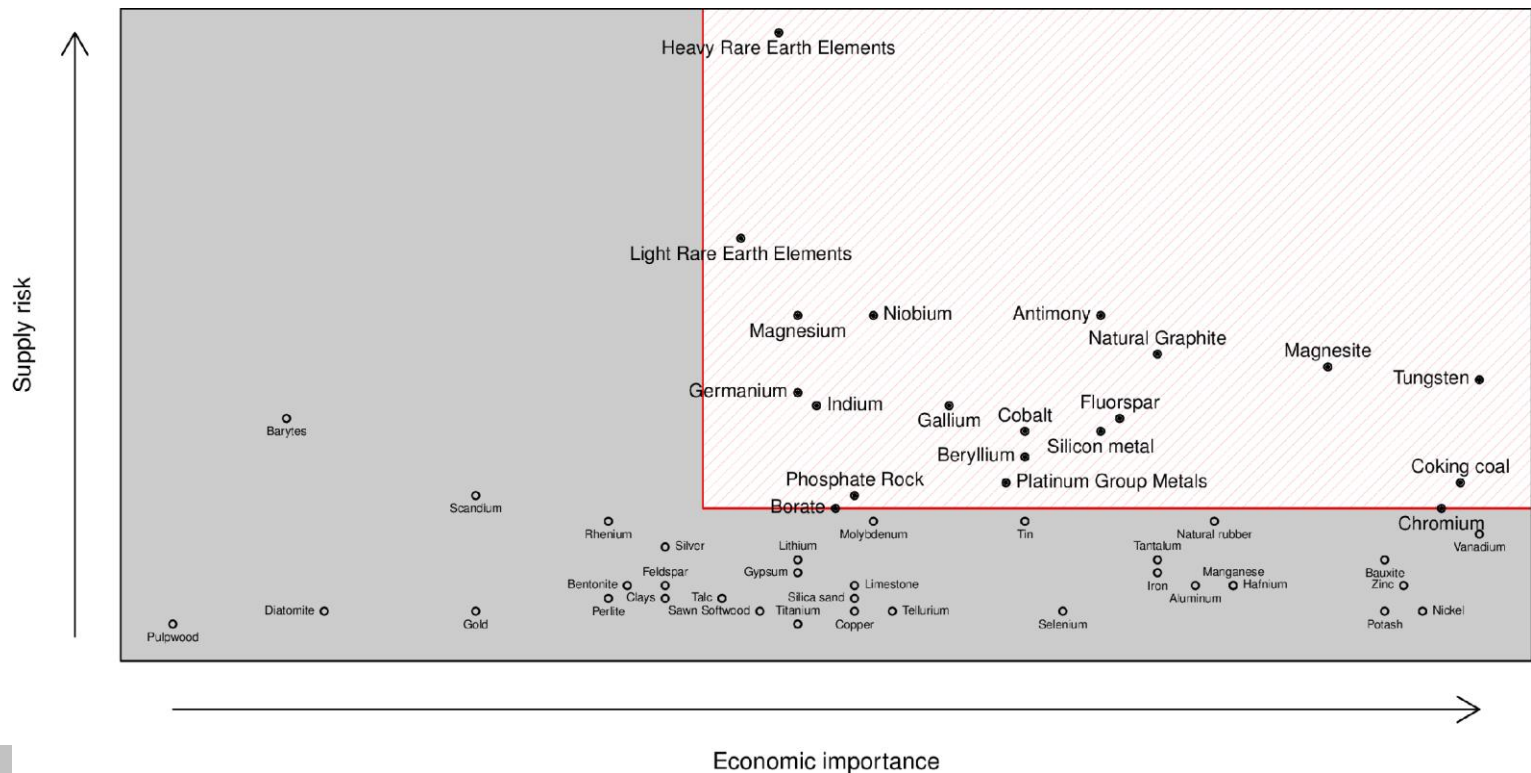
- Resource efficiency
- Reuse or recycling
- Enforcement of waste regulation
- Increasing use of renewable raw materials

Definition & Selection of „critical” Raw Materials

Economic Importance: Importance of a raw material per economic sector & importance of the sector in the EU economy

Supply risk: * political and economic stability of supply country, * production concentration * potential for recycling and substitution * dependence of EU

Environment country risk: Risk of env. protection measures by supplier countries



Implementation of RMI via EU trade and investment policy

- ⇒ the EU will “use current trade rules to the maximum” to obtain undistorted access to raw materials
- introduce commitment to eliminate export restrictions in bi- & multilateral negotiations (FTAs, EPAs, Investment Treaties,..)
- tackle trade barriers through “resource diplomacy” (e.g. raw materials partnerships), support “awareness-raising” in international fora
- using tools such as WTO dispute settlements

Strategies and efforts to better use resource potential

Strategies and efforts to better use resource potential

⇒ Intensifying debate on the questionable benefits of the mining sector for inclusive development

⇒ “Africa had traditionally not gained the best benefits from resource exploitation => situation further exacerbated in the 1990s “ (UNECA/AU 2011).

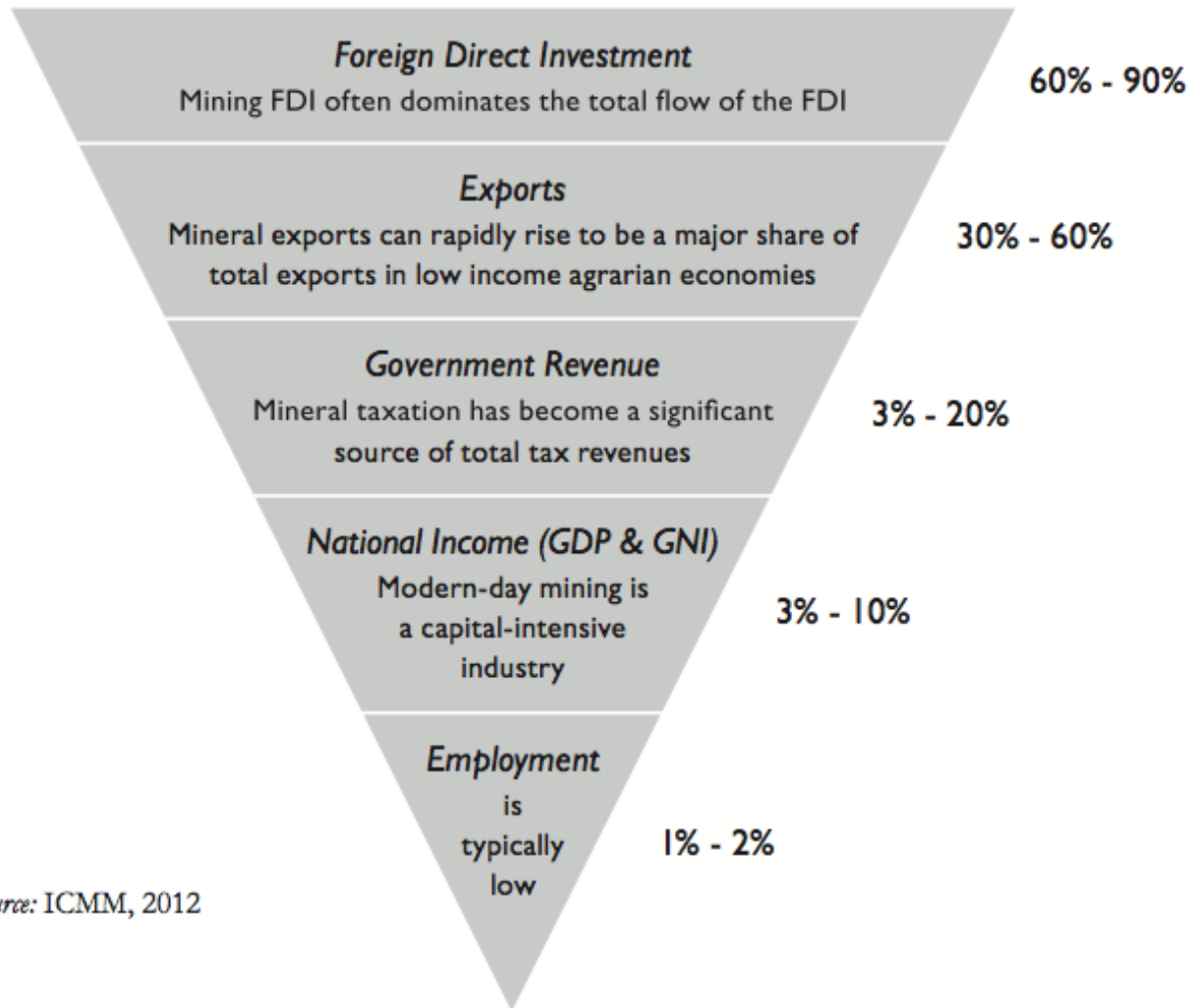
Minerals policies in 1980s & 90s in Africa

- reduction or elimination of state participation in mining enterprises;
- provision of incentives for foreign investors (eg. elimination of restrictions on foreign ownership, reduced corporate taxes & tax holidays)
- liberalisation of exchange controls and exchange rate policy;
- introduction of investment protection measures (e.g. in BITs), such as the stability of the fiscal regime, profit repatriation, and non-expropriation (Besada/Martin 2013).

Consequences

- substantially weakened state authority and asymmetrical power relations in favor of private actors
- EI in most countries weak links with rest of national economy, mines' ownership and operation mostly in the hands of foreign companies
- most of the minerals are exported in raw form
- industry imports the majority of its inputs from abroad (UNECA/AU 2011).
- increasing delegation of public functions to private enterprises => engagement of mining companies in clinics, roads, infrastructure (“social license to operate”) => “retreat of the state from the mediation of socio-economic relations” (Szablowski 2007)
=> more difficult to hold governments to account

Beitrag des extraktiven Sektors zur Wirtschaftsentwicklung in Afrika

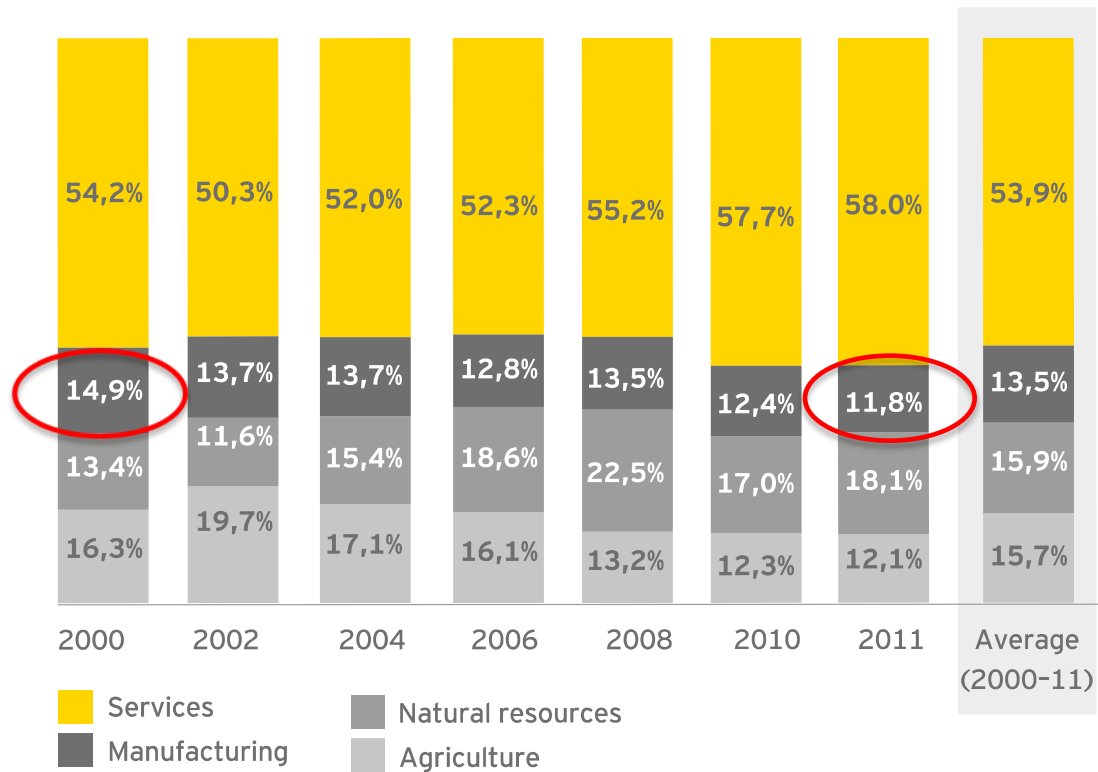


Source: ICMM, 2012

Beitrag des extraktiven Sektors zur Wirtschaftsentwicklung in Afrika 2

Sub-Saharan Africa's contribution to GDP

(%)



Source: The World Development Indicators, World Bank, 6 Feb 2013.

African Mining Vision

- Adopted by African heads of state in 2009 (AU 2009).
- from a model of extractive resource exploitation towards broad based and inclusive development.
- fostering economic diversification and industrialisation => creation of linkages, skills, and technological development and mutually beneficial partnerships between stakeholders.
- sustainable and well-governed mining sector , that is safe, healthy, gender and ethnically inclusive, environmentally friendly, socially responsible and appreciated by surrounding communities”
- AMV Implementation Plan/nine clusters (eg.mining revenues, linkages and diversification, governance, environmental and social issues (AU et al. 2011).

Implementation?

- Implementation is difficult but:
- new context has helped several African countries (e.g. Angola, Tanzania, Guinea, Mozambique, and Zambia) to **improve bargaining position** with foreign investors and to introduce new legislation and higher taxes, or to renegotiate old mining contracts
- Governments increasingly have to respond to **pressure from civil society groups and communities** for improved revenue management, environmental protection, compensation to affected communities & broader economic benefits, in particular job creation.

5. International Governance Efforts

International Accountability Mechanisms

- mostly originate in multilateral arena (eg. different safeguard mechanisms/WBG, EITI, Equator Principles, Kimberly Process , UN and OECD Guidelines=
- often company-driven (Conflict Free Smelters, Electronic Industry Citizenship Coalition, International Tin Supply Chain Initiative)
- mostly voluntary measures, main focus: transparency
- often technocratic rather than political procedures,
- segmented nature of mechanisms => confusion (eg. Kongo)
- coherence with national policies?
- often lacking capacities of states to monitor and enforce

Forms of Initiatives

- Voluntary principles, guidelines and standards
- Stakeholder monitoring and targeted policies
- Benchmarking and assessment tools
- Binding legal and regulatory instruments

IDB 2015, 15

Extractive Industry Transparency Initiative

EITI - Vorgeschichte

- 2000: NGO-Kampagne => WB-Jahrestagung – Ausstieg aus EI
- Wolfensohn => Extractive Industry Review (EIR)
- 1999/2002: Publikationen von Global Witness (Angola)
- 2002: Gründung PWYP (G. Soros + britische NGOs)
- 2002: Tony Blair lanciert bei UN Konferenz in SA Idee einer Transparenzinitiative
- 2003: Endbericht EIR (empfiehlt Ausstieg aus Kohle+Öl, Suspendierung von anderen Bergbauprojekten)
- 2003: Gründung von EITI
 - Breite Unterstützung (UN GA, G8, G20, EU Kommission, AU) technisch+finanziell (Weltbank, IWF, regionale EB, TNCs)
- Wichtigster Soft Law Standard der Extraktiven Industrie

EITI

- ❖ extractive companies (including state companies) publish their payments to governments;
- ❖ governments to publish what they receive in revenue from companies; and an independent audit to
- ❖ reconcile these reports and identify discrepancies
- ❖ active participation of civil society in the design, monitoring, and evaluation of the audits

Mitgliedsländer

EITI konform (31)

Kandidatenstatus (17)

Albanien
Burkina F.
DRep. Kongo
Cote d'Ivoire
Ghana
Guatemala*
Guinea
Indonesien*
Irak
Jemen*
Kamerun

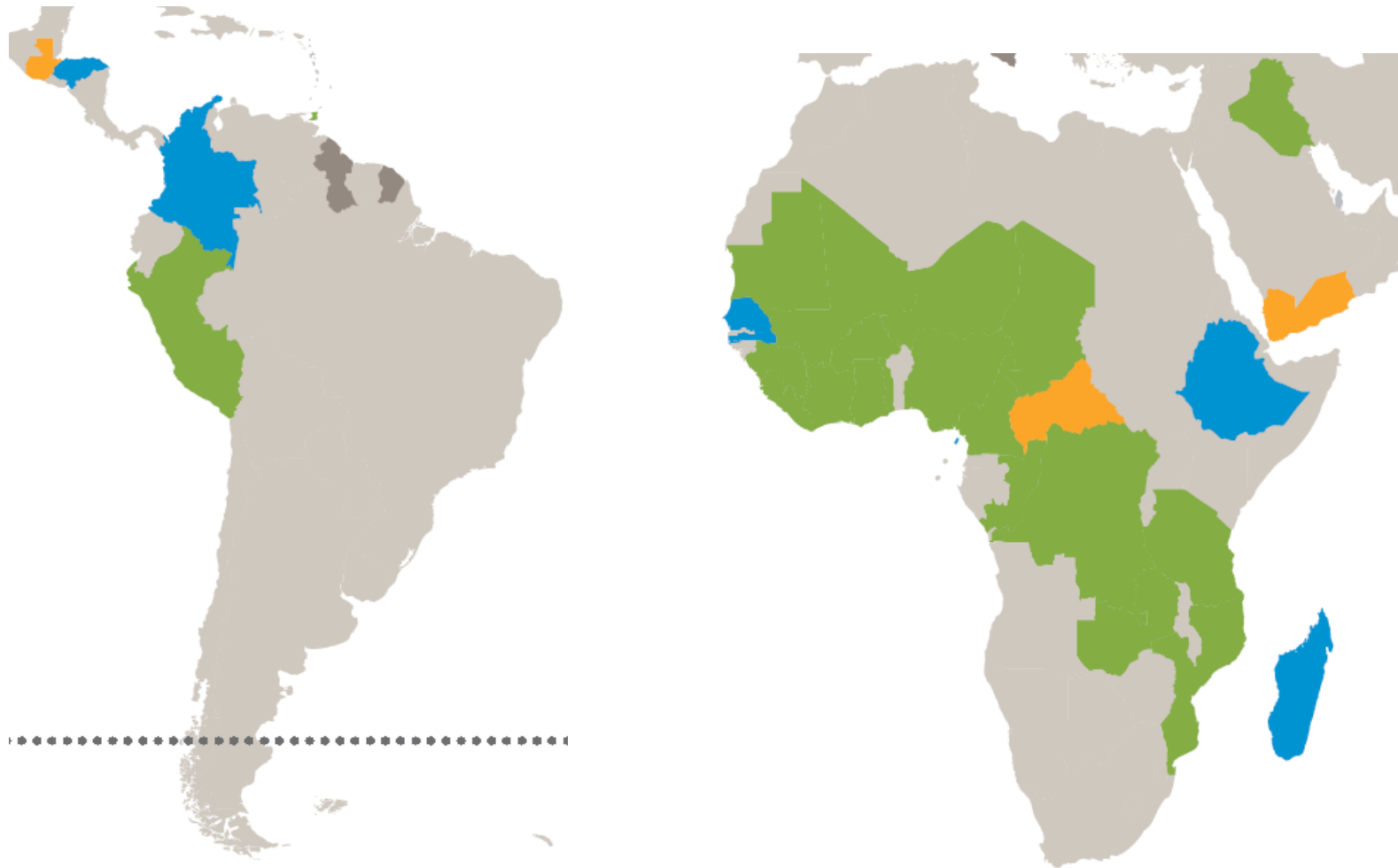
Kasachstan
Kirgisistan
Liberia
Mali
Mauretanien
Mongolei
Mosambik
Niger
Nigeria
Norwegen

Osttimor
Peru
Rep. Kongo
Sambia
Sierra Leone
Tansania
Togo
Trinidad u T
Tschad
Zentr.Af. Rep.*

Afghanistan
Aserbaidshan
Äthiopien
Großbritannien
Honduras
Kolumbien
Madagaskar
Myanmar
Papua-Neug

Philippinen
São Tomé u P
Senegal
Seychellen
Solomon-IL
Tadschikist*
Ukraine
USA

EITI-Mitgliedsländer in LA und Afrika



Grün: Konform, Blau: Kandidatenstatus, Orange: suspendiert

Unterstützer

- Mehr als 90 große Öl-, Gas- und Bergbauunternehmen unterstützen EITI über Tätigkeit in EITI-Ländern, internationale Verpflichtungen und Branchenverbände
- Mehr als 90 Anlagegesellschaften, die zusammen ein Vermögen von mehr als 19 Bio. USD verwalten.
- Mehr als 400 Nichtregierungsorganisationen

Anforderungen des EITI-Standards:

- Effektive Aufsicht durch die Multistakeholder-Gruppe.
- Rechtzeitige Veröffentlichung von EITI-Berichten.
- EITI-Berichte beinhalten Kontextinformationen zu den rohstoffgewinnenden Industrien.
- Erstellung umfassender EITI-Berichte, die eine vollständige Offenlegung der Staatseinnahmen aus den rohstoffgewinnenden Industrien, sowie eine Offenlegung aller wesentlichen Zahlungen von Öl-, Gas- und Bergbauunternehmen an den Staat beinhalten.
- Glaubwürdiger Sicherungsprozess unter Anwendung internationaler Standards.
- Verständliche EITI-Berichte, die aktiv bekannt gemacht werden, öffentlich zugänglich sind und zur öffentlichen Debatte beitragen.
- Multistakeholder-Gruppe, die Schritte unternimmt, um aus den gewonnenen Erkenntnissen zu lernen und die Ergebnisse und Auswirkungen der Umsetzung der EITI zu bewerten.

2013 – Überarbeitung der Kriterien

Kritik:

- Unvollständigkeit der Daten
- mangelnde Aussagekraft durch die starke Aggregation
- Unübersichtlichkeit und unterschiedliche Qualität der Berichte.

Überarbeitung: detailliertere Berichtspflichten:

- Regierungen müssen Informationen über nationale Fördermengen sowie über die Halter von Lizenzen offenlegen.
- ALLE EK aus EI – nat/reg/lok - müssen veröffentlicht werden
- Berichte müssen in disaggregierter Form veröffentlicht werden, nach UN, Regierungseinheit und - wo angemessen - auf Projektebene.
- Offenlegung der wirtschaft. Eigentümer der UN („beneficial ownership“) u der Produktionsverträge auch nach Revision nicht verpflichtend, es wird lediglich dazu „ermutigt“.

EITI Progress Report June 2015

- For 1st time, all reports disclose disaggregated revenue figures, broken down by individual companies and revenue streams.
- Four countries provide data on a project by project basis.
- Ten countries have started to disclose beneficial ownership information
- Nine countries disclose data in an electronic format.
- Almost all countries now publish data about production and licencing

Transparency Initiatives on Raw Materials

- US: Dodd-Frank provisions on **Transparency**
- EU: Revised **Transparency - & new Accounting Directive**
 - Disclose payments >100k € on country & project basis

- US: Dodd-Frank **Conflict Minerals Section**
- EU initiative on **responsible sourcing of minerals** from conflict-affected and high-risk areas (currently negotiated)
 - ⇒ *voluntary* measures for self-assessment.
 - civil society demands:
 - ⇒ legal requirements to identify and address risk of conflict minerals in supply chains
 - ⇒ apply to companies bringing minerals into the EU, whether as a raw material or as part of finished products.

Window of Opportunity

- Strengthen capacity to build **robust institutions** and to negotiate contracts => review & renegotiate existing mining agreements
- Fight for more **fiscal space** & capacity: design robust & flexible tax regimes; beware of stabilization clauses (BITs/IAs); fight transfer pricing and capital flight
- Manage **mineral wealth** better (stabilization funds, oversight committees, active countercyclical policies)
- Use extractive industry for **structural transformation**: local content policies, conditions for FDI, export taxes..
- Introduce social and environmental standards & develop strategies beyond optimizing the current scramble for Africa's - aimed at a **future beyond mining**

International measures to support window of opportunity

- **Stop proliferation** of private standards: harmonization and conversion into binding international and national laws
- support **tax transparency** and stop capital flight: eg. via eliminating the practice of transfer pricing/country by country reporting & closing tax havens
- **stop the race to the bottom** in producer countries => establish compulsory international social and environmental minimum standards
- international policies that **allow development enhancing industrial policies** including the use of local content rules and export restrictions
- **stabilize commodity prices**: regulate commodity derivative markets, introduce global facilities to support countries coping with price volatility and income shocks,...



Thank you for your attention!



A 1090 Vienna, Austria, Sensengasse 3 T +43 1 3174010
E office@oefse.at | www.oefse.at, www.centrum3.at

OFSE

Austrian Foundation
for Development Research