Handbook for Advocacy on Extractive Industry Revenues: Good Practices and the IMF's *Guide on Resource Revenue Transparency*

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Bank Information Center

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About the Bank Information Center

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What is this Handbook?
This Handbook is a user's guide to the International Monetary Fund's (IMF) "Guide on Resource Revenue Transparency."[1] Published in June 2005 and updated in May 2007, the IMF's guide provides key information and recommended methods for public management of revenues earned from the ***extractive industries*** – the extraction and sale of oil, gas and minerals. These recommended methods are called "good practices." The IMF guide, at 73 pages, contains a considerable amount of information, but is fairly dense and technical. This publication aims to make the Guide's content more accessible to the public and to highlight important issues for civil society groups.

It should be noted that the IMF's Guide is a staff product: it is not approved by the IMF Board, and therefore does not have "official" status. The IMF does not require that the Guide's standards be maintained, or even accepted, by client governments. The IMF's Guide supplements its Board-approved *Code of Good Practices for Fiscal Transparency,* which is the official standard used in the IMF's Reports on Observance of Standards and Codes (ROSCs), which themselves are voluntary exercises which some, but not all, IMF member countries undertake.

The IMF's Guide, however, remains the most comprehensive and authoritative set of prescribed practices for managing extractive industry revenues, and is a potentially useful tool for civil society organizations.

Who is this Handbook for?
The Handbook is intended as a tool for civil society organizations, journalists and other members of the public interested in learning more about transparency and fiscal management in the natural resource sectors. It distills and builds upon information contained in the IMF's document, with a focus on areas especially pertinent for civil society groups seeking to better understand how extractive industry (EI) sectors are managed. The Handbook aims to help civil society groups hold governments and private companies accountable for the exploitation of ***natural resources*** in their country.[2]

In producing this Handbook, BIC is not endorsing the extractive industries or asserting that improved transparency, alone, would address the myriad social, environmental and economic impacts associated with natural resource exploitation. Rather, this document aims to provide citizens in resource-rich countries with one more tool to strengthen their efforts to hold industry actors and governments accountable.

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[1] International Monetary Fund, "Guide on Resource Revenue Transparency," first published June 2005; updated May 2007: www.imf.org/external/np/pp/2007/eng/051507g.pdf . Unless otherwise noted, all quotes and references to the IMF Guide in this handbook refer to the May 2007 version.

[2] *Disclaimer:* This document is a product of the Bank Information Center. It is not approved or endorsed by the International Monetary Fund. Except where quoting from the IMF or other sources directly, the views expressed in this Handbook represent those of the Bank Information Center, alone. The words "natural resource sectors" and "extractive industries" will be used interchangeably throughout this document.

How can I use this Handbook?

The Handbook provides summaries of some of the "good practices" detailed in the IMF Guide on Resource Revenue Transparency. Statements of good practice are followed by explanations of what they mean and why they matter. The Handbook then suggests key questions that readers may pose to their own governments. It is divided into three main sections:

- Part I: How are natural resources used? Ownership and contract allocation
- Part II: What does the government earn from natural resources? What is due, what is paid, and what is reported
- Part III: How are revenues from natural resources spent? Management and distribution

The Handbook concludes with a section on good practices beyond issues covered in the IMF Guide, addressing international initiatives for resource revenue transparency and legal safeguards for transparency. A **glossary** of terms, checklist of revenue transparency "good practices," and list of additional resources can be found at the end of the document. Terms defined in the glossary are ***bold and italicized*** when they first appear.

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Introduction: Why is Resource Revenue Transparency Important?

1) Natural resources are public resources and the public has a right to control whether, when and how they are used. Citizens have a right to know, and to be able to influence, government decisions about the commercialization of natural resources and how money made is managed and spent. Because the extractive industries often occupy and irreversibly destroy land, taking heavy tolls on the environment and communities, land-dependent populations in particular must have a say about the exploitation of sub-surface resources. All citizens are entitled to know how deals with EI companies are negotiated, how much revenue the government receives and how it is consumed. In this way, resource revenue transparency is part of general "fiscal accountability" – public reporting on how a government earns and spends money. Demanding resource revenue transparency is an essential step in holding governments responsible, and can be especially important in countries where resource revenues make up a high percentage of the national budget.

2) Revenues from the exploitation of natural resources are difficult to track and prone to corruption. More than other sources of government revenue, natural resource ***rents*** tend to be difficult to track and are often sources of corruption. One reason is the level of secrecy that surrounds the natural resource sectors. Another reason is that oil, gas and mining operations are highly technical and thus difficult to understand – not just for the general public, but often for government officials who lack the appropriate training. It is not uncommon for 'cheating' to occur because earnings from oil, gas and mining depend on a multitude of technical factors – e.g. the rate and cost of production, quality of the resource extracted, international market price – and are not reliant on individual taxpayers. Increasing the public's understanding of how revenues accrue from natural resources and shedding light on the government-company transactions involved in the extractive industries can help to curtail the vicious cycle of corruption and mismanagement to which these lucrative sectors are prone.

3) Countries dependent on natural resource revenues are prone to the "resource curse." The ***resource curse*** refers to the tendency for countries "rich" in minerals or fossil fuels to experience worsening socioeconomic conditions, including the stunting of other sectors of the economy as a result of the impacts of natural resource exports on the exchange rate (this phenomenon is referred to as "***Dutch Disease***"), higher rates of conflict, authoritarianism, and corruption (see below).

Natural resource revenues can decrease a government's reliance on taxes from the public and other sectors of the economy, weakening the accountability of the government to the populace. As one observer has remarked, "If government revenues come from taxing citizens, then citizens are in a better position to argue that they should have a voice in the budget process. If revenues come from oil,

government can easily become one step less accountable to the people."[3] A similar argument could be made about governments dependent on revenues from mineral extraction, and particularly large-scale, capital-intensive mining operations.

The Resource Curse

Countries rich in natural resources are less likely to experience equitable growth, and more likely to be affected by corruption and poor governance. This has been called the "resource curse." It seems paradoxical that mineral wealth in a country should so frequently make most of the country's people poorer. But it is now clear that countries rich in natural resources frequently experience higher rates of poverty, lower growth, and slower development, than less-endowed countries. Countries that rely on extractive industries for a significant portion of their income are also more often subject to corruption, authoritarianism, and outright conflict – all inspired by the drive to control concentrated wealth. Resource rents can both motivate conflict, as an alluring prize for those who gain power, and sustain conflict, as a source of financing for war. Many African countries rich in oil, gas and minerals demonstrate the dangers of the "resource curse." Although the "resource curse" is often treated as a technocratic issue, it is ultimately a political phenomenon, requiring political solutions.

4) Natural resource revenue transparency is necessary for sound economic and social policy-making and effective spending to reduce poverty. It is often argued that revenues from a country's fossil fuel or mineral resources can be used to promote public welfare and sustainable development. However, if the public is kept in the dark about how much revenue is being earned and if budgetary processes are left unchecked, natural resource wealth often ends up concentrated in the hands of local and international elites, taking a double toll on the poor – once when they lose access to land or suffer harm through environmental destruction and pollution, and again when they are denied benefits from the income earned.

There is growing public recognition that transparency is necessary, but insufficient, to maximize the benefits and minimize the harms resulting from natural resource extraction. Access to information is one essential ingredient in a system of oversight, accountability and sanction. Beyond transparency, the approach a government takes to making deals in the oil, gas and mining sectors can invite or discourage corruption, include or exclude local communities from benefits, and protect or sacrifice the environment. Similarly, a government's budget processes and spending practices, its capacity to make and enforce effective and fair regulations, and the degree to which it is committed to responsible use of resources and revenues will together determine the development outcomes associated with the extractive industries in a country.

What follows is a summary of 'good practices' for transparent resource revenue management, with suggested key questions that readers may pose to their own governments and industry actors.

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[3] Martin Tisné quoted in Revenue Watch, and International Budget Project and, *Follow the Money: A Guide to Monitoring Budgets and Oil and Gas Revenues* (November 2004) p. 31, at: www.revenuewatch.org/reports/120204.shtml

Part 1: How Are Natural Resources Used?

1.1. Who owns resources in the ground and how is ownership determined?

Good practice:
"The government's ownership of resources in the ground should be clearly established in law." (IMF Guide, p. 14)

"Legal title to the nation's resources in the ground is established through the constitution and national laws, as well as subnational laws in some cases." (IMF Guide, p. 14)

What it means: A country should have clear laws concerning ownership of underground (often called "subsurface") natural resources, including oil, gas and minerals. The text of those laws should be publicly available.

Why it matters: Ownership of resources in the ground affects who has the power to grant or transfer use and access rights, and thus impacts people whose lives and livelihoods may be disrupted by resource exploitation. Furthermore, ownership also largely determines who earns revenues from development of those resources. Often, the state retains ownership of all subsurface resources, even if individuals or communities are allowed to own land (land tenure) or hold rights to use land (usufruct rights). Some exceptions may exist, however, particularly for groups with prior claims on land, such as recognized indigenous communities. For these reasons it is important to understand how land rights and subsurface natural resource rights are defined in your country's laws, and how private property laws affect ownership and use of natural resources.

Ownership of natural resources as defined by a nation's laws can be shared between different levels of government: the central government, which includes the federal or national government, and subnational governments, which may include states, provinces, regions, districts, municipalities or communities. The sharing of natural resource revenues between these levels of government is discussed further in Section 3.4 of this handbook.

Key Questions:

- Is there a law (or laws) specifying who owns the country's subsurface natural resources? Is it included in the national constitution?
- How is ownership of subsurface natural resources divided between the various levels of government?
- Are there exceptions made regarding resource ownership for certain communities, such as indigenous groups, or in certain areas, such as government-established reserves?
- What do land laws say about subsurface resources? Do laws regarding land rights and title (ownership and usufruct rights) discuss the rights of landholders in decisions regarding exploitation of subsurface natural resources?

- Does the government have the power of “eminent domain” (a law by which government can seize private property for the public good). If so, what laws exist regarding when and how that right can be exercised?
- What does the country’s property law say about subsurface resource ownership and access? Do laws regarding property rights restrict private parties, or specific classes of parties (e.g. foreign corporations), from acquiring land or property rights in general or mineral rights in particular?

1.2 Who grants licenses for the exploration, production and sale of natural resources?

Good practice:
“The legal framework should define which political entity and official has the authority to grant mineral or hydrocarbon rights and regulate their use.” (IMF Guide, p. 15)

“The power to grant rights to explore, produce and sell [natural resources] should be clearly established in laws, regulations and procedures that cover all stages of resource development.” (IMF Guide, p. 14)

What it means: Procedures for acquiring ownership of, “***title***” to, or rights to exploit natural resources should be detailed in law. It should be clear which department(s), agency(ies), or individual(s) have the power to issue licenses for natural resource exploration, production and sale. Furthermore, the procedures by which such individuals, agencies or departments may grant natural resource rights must be clear and standardized.

Why it matters: Licensing is a critical step in the commercialization of natural resources. It is in this preliminary phase that companies obtain permits and sign ***contracts*** allowing them to explore for and eventually extract natural resources. These contracts stipulate how and for how long the companies can do so. Understanding which companies get which resources on what terms can reveal a great deal about how resource wealth is earned and managed in a country and provide insight into opportunities for corruption.

The granting of licenses also has implications for the pace of development of a particular resource. For example, the absence of standard procedures for oversight of licensing could mean that permits for resource exploitation are not issued on the basis of a planned rate of resource consumption, but on the basis of market pressures or personal/political interests. Awarding too many licenses too quickly could lead to problems with monitoring and oversight of the industry, and jeopardize the sustainability of the sector. Granting licenses on the basis of personal or political allegiances can result in the concentration of resource wealth in the hands of an elite few.

Licensing for major extractive projects is often left to high-ranking government officials in the ministries responsible for natural resources or in the executive

branch, who may exercise a great deal of discretion in deciding which companies are granted licenses. Often, responsibility for issuance of licenses for petroleum exploration is separate from that for issuance of mining permits – e.g. the Ministry of Petroleum may be responsible for awarding licenses for oil or gas exploration, while the Ministry of Mines or Land Administration may be responsible for issuing permits for mining exploration. Ensuring transparency and accountability is critical under these circumstances, since it can be difficult to maintain external oversight of license negotiations, and since it is important to ensure that there are not conflicting claims to areas which may contain multiple resources. The IMF Guide does not explicitly call for clarity regarding opportunities for public review of, challenges to, and input into ***licensing*** decisions, but civil society groups frequently advocate for such measures.

Key Questions:

- Which government office (ministry, department, agency) is responsible for granting licenses and permits to explore for natural resources?
- Does the government provide public notice of applications for oil, gas or mining permits, and allow for public comment or contestation of applications?
- Is a list of applications for licenses made public? If so, where and how is it made accessible to potentially affected populations or other interested parties?
- Are lists of approved mineral/hydrocarbon licenses and/or a map of existing license areas available to the public?
- Does the government produce a map showing how areas licensed for extractive activity may intersect with other land use areas (such as farmlands, logging concessions, national parks, municipalities, etc)?
- Do the licenses clearly describe the areas covered, demarcate boundaries and indicate the duration of the permission granted?
- Do they indicate how much was paid to the government to obtain the license and how much is owed in fees/taxes over the duration of the license's validity?
- Must licenses be ratified by the legislative branch of the government – i.e. approved by the national assembly or parliament before becoming legally valid?
- Which government agency is responsible for regulating industry operations, including environmental and social impacts?

1.3 What are the procedures for granting licenses and contracts?

Good practice:

There should be "(i) standard agreements and terms for exploration, development and production [of natural resources], with minimal discretion for officials, though these may vary over time; (ii) licensing procedures are clear and open; (iii) disputes are open to (international) arbitration; and (iv) individual agreements and contracts regarding production from a license or contract area are disclosed." (IMF Guide, p. 15)

"Good practice for transparency…would require publication of all signed contracts." (IMF Guide, p. 17)

What it means: All awarded licenses and signed contracts to exploit oil, gas or minerals should be published. Licensing procedures should aim to minimize the possibilities for political or personal interests to influence the awarding of contracts or the terms of resulting contracts. The terms of the licenses should be made publicly available and spelled out clearly, at least after the deal has been signed, if not prior to finalization.

Why it matters: Deciding who can exploit natural resources in a given location is a highly competitive, and often highly political, process since their supply is finite. Requiring greater consistency and openness in the allocation and publication of contracts can help ensure that the country is getting a "fair deal" for its resources.

Licensing procedures may vary across countries and commodities, but they can generally be grouped into two categories: open ***bids*** and negotiated deals.

Open bids

Open bids, as the name would suggest, are generally more transparent and competitive than negotiated deals, since companies provide competing offers to acquire the rights to exploit resources in a given area. Also called "tenders", open bids are akin to public auctions for the rights to explore for and exploit a resource in a known location. Companies are typically invited to submit proposals that compete on the basis of how much work the companies promise to do (for example, how many oil exploration wells they will drill or mineral deposit tests they will conduct) while the tax and ***royalty*** rates and other fiscal clauses may either be fixed in law or vary with the bids as well.

Confidentiality clauses: business secrets or secretive business?

Oil, gas and mining companies and governments often insist on the need to keep contracts confidential, claiming that publishing deals would harm their business interests by sharing information with competitors or compromising their bargaining position in future deals. For this reason, many contracts between companies and governments contain ***confidentiality clauses*** or "non-disclosure" clauses. However, this secretive tendency is largely unjustified. While there may be some legitimate concerns around the disclosure of commercial information, these do not apply to the entire content of investment agreements.

The IMF states that "In practice…the contract terms are likely to be widely known within the industry soon after signing. Little by way of strategic advantage thus seems to be lost through publication of contracts. Indeed, it could be argued that the obligation to publish contracts should in fact strengthen the hand of the government in negotiations, since the obligation to disclose the outcome to the legislature and the general public increases pressure on the government to negotiate a good deal." (IMF Guide, p. 17)

Similarly, the disclosure of agreements could facilitate information sharing *within* government, since relevant government staff in relevant agencies often do not have access to these documents that are housed in other government departments.

In its revised "Code of Good Practices on Fiscal Transparency," the IMF makes an even broader statement that, "Contractual arrangements between government and public or private entities, including resource companies and concession operators, should be clear and publicly accessible" (1.2.4).[4]

Keeping contracts for the exploitation of natural resources secret denies the public basic information about tax rates, expected earnings and revenue foregone through the tax exemptions that are often offered to companies as incentives to choose one site over another. It also obscures questions about who bears responsibility for financial, environmental and social costs associated with oil, gas or mineral extraction. More research and analysis is needed to clarify what information contained in contracts may be truly commercially sensitive, and in which cases compelling public interest in the information overrides concerns of business confidentiality.

Negotiated deals

Negotiated deals, which are reportedly preferred by international oil companies[5] and are standard practice in many developing countries where EI firms do business, tend to be less transparent than open bids. Typically with negotiated deals, virtually all of the terms are subject to negotiation – including royalty and tax rates, as well as work to be undertaken – and there is usually not a set deadline for bids. Unlike in open licensing rounds when governments solicit interest in a given area, in negotiated deals, there may be little or no competition and the geographic area under negotiation may not be publicly known. When there are multiple interested parties, proposals compete on a wide range of terms, allowing for considerably more discretion by government officials but also posing challenges for governments that lack technical expertise or negotiating experience. Often, the deciding factor is the size of the ***signature bonus*** – a reward paid by an investor or contractor at the time the deal is concluded, which is often hard to trace – offered to the government for accepting one deal rather than another. The IMF Guide indicates that, in the case of negotiated deals, "Good practice… would at least include ex post publication of contract awards and terms." (IMF Guide, p. 17)

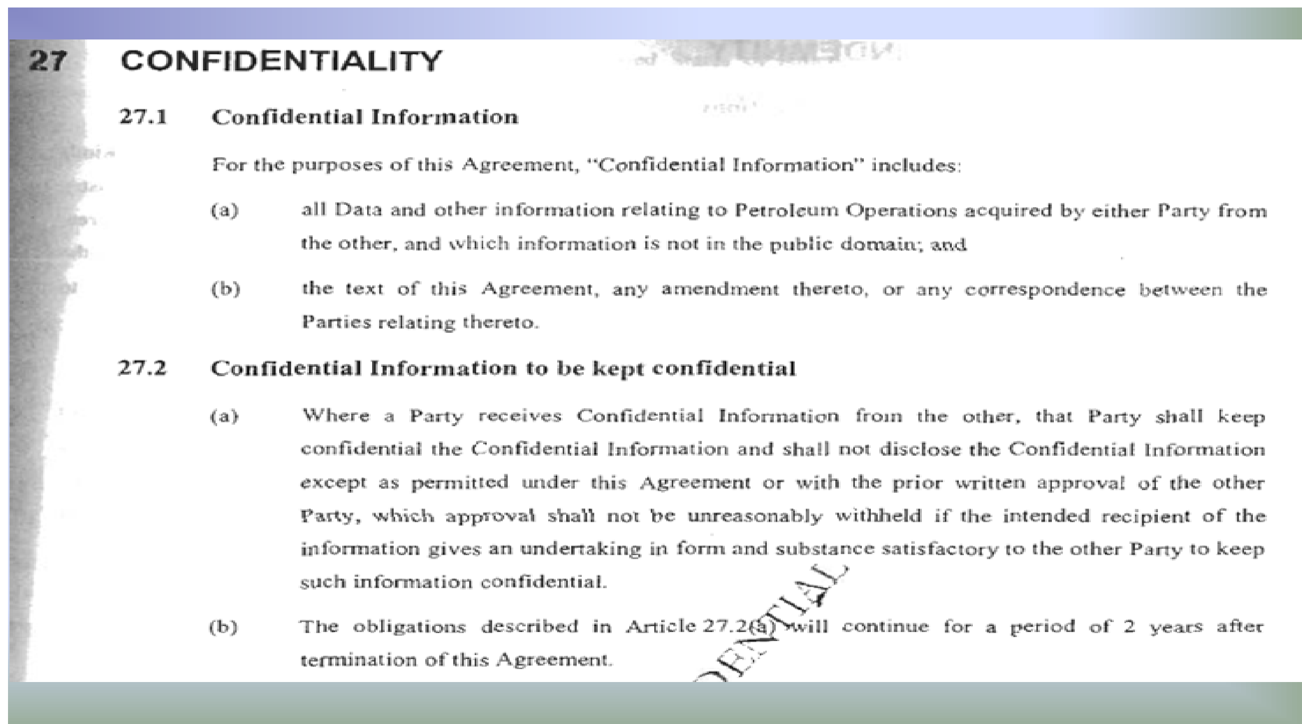
Key Questions:

- Does the government put out an advertisement soliciting bids for available mineral or hydrocarbon concessions?
- If the government uses an open bid process, are the tender terms made public?
- Are bids and the final signed contracts published?
- Is there a public registry where these documents are available?
- If contracts are not made public, what reasons does the government give for keeping them secret?
- If the entire contract is not published, are key provisions pertaining to taxes, fees, exemptions, incentives and environmental regulations made available?

[4] IMF, *Code of Good Practices on Fiscal Transparency* (2007), www.imf.org/external/np/pp/2007/eng/051507c.pdf

[5] David Johnston, "How to Evaluate the Fiscal Terms of Oil Contracts," in Humphreys, Sachs and Stiglitz, eds, 2007. *Escaping the Resource Curse*. New York: Columbia University Press: 86.

- Does the parliament have to review and ratify contracts before they become legally binding? If so, does this represent an opportunity for public access and oversight?
- Is there a standard agreement (often called a "model contract") between the government and resource companies for the entire resource development process (exploration, production and sale)? If so, is this "model contract" available to the public?



27 CONFIDENTIALITY

27.1 Confidential Information

For the purposes of this Agreement, "Confidential Information" includes:

(a) all Data and other information relating to Petroleum Operations acquired by either Party from the other, and which information is not in the public domain; and

(b) the text of this Agreement, any amendment thereto, or any correspondence between the Parties relating thereto.

27.2 Confidential Information to be kept confidential

(a) Where a Party receives Confidential Information from the other, that Party shall keep confidential the Confidential Information and shall not disclose the Confidential Information except as permitted under this Agreement or with the prior written approval of the other Party, which approval shall not be unreasonably withheld if the intended recipient of the information gives an undertaking in form and substance satisfactory to the other Party to keep such information confidential.

(b) The obligations described in Article 27.2(a) will continue for a period of 2 years after termination of this Agreement.

(Example of a confidentiality clause contained in an oil contract.)

1.4 What kinds of licenses or contracts determine government revenues and what are their terms?

Good practice:

"Individual agreements and contracts regarding production from a license or contract area are disclosed." (IMF Guide, p. 15)

"The government's policy framework and legal basis for taxation or production sharing agreements with resource companies should be presented to the public clearly and comprehensively…The fiscal regime should be clearly and comprehensively set out in government policy statements and incorporated in the resource and tax laws." (IMF Guide, p. 19)

Case in point: Contract types and disclosure requirements in Bolivia

The Bolivian constitution requires that all hydrocarbon contracts be ratified (known and approved) by the country's legislature. Title V, Article 65 of the Bolivian hydrocarbon law stipulates that all oil and gas contracts are to be production sharing agreements (PSAs), not to exceed a duration of 40 years. Concession agreements and joint-venture agreements apply to mining activities.

The government has also agreed to publish all of its hydrocarbon contracts, which can be found on the websites of the state oil company, a university site which provides information on the economic and legal aspects of the petroleum and gas industry, as well as the site of the Bolivian Extractive Industries Observatory. (See below.)

Although problems with access to information, timely publication of updated materials, and consistency of data persist, Bolivia's policies on disclosure of extractive industry contracts are among the most progressive in the world.

www.ypfb.gov.bo/contratos.htm www.cesu.umss.edu.bo/PH/ProHid.php?parametroph=14
www.cedla.org/ (OBIE: Bolivian Extractive Industries Observatory)
www.cesu.umss.edu.bo/PH/ProHid.php

"Where PSCs [production sharing contracts] are the central instrument of the fiscal regime, all of the key PSC parameters should be available to the public in the same way as tax rates, exemptions and deductions." (IMF Guide, p. 22)

"Policies underlying such a regime [tax/royalty system] should be stated openly to the public and the tax treatment of the industry should be subject to normal budgetary and public scrutiny." (IMF Guide, p. 20)

What it means: Like all other economic activities in a country, extractive industries should be subject to clear set of tax rules which specify how much money a government can expect to earn from industry activity, as well as the value of government incentives, such as exemptions from taxes that EI companies would ordinarily be required to pay.

Why it matters: Governments establish contracts with investors to determine the allocation of resource rent – the revenues generated from natural resource extraction – and the allocation of risk/responsibility for any costs associated with the exploitation of natural resources. The type of contract established between the government and the EI company is called the ***fiscal regime***. Although highly technical, the types of contracts signed and their specific terms can have important implications for the "fairness" of the deal that a country gets for the exploitation of its natural resources.

Contracts are typically structured in one of two ways – as production sharing agreements or tax/royalty (***concession***) arrangements, although the frequency of "hybrid" deals has increased in recent years. Opinions differ on whether one type of fiscal regime is structurally preferable to another, but many concur that it is the terms of the agreement that are most important, regardless of the system used.

Production-sharing agreements (or production sharing contracts)
In a ***production-sharing agreement*** (PSA), also called a production-sharing contract (PSC), the government maintains ownership of the fossil fuel or mineral ***reserves***, but provides a company (or consortium of companies) with a permit to exploit the resource for a given period of time in return for a portion of the production. PSAs are more common in petroleum extraction than in mining, particularly in developing countries where new areas of exploration are being opened. The permit-holding company generally finances and carries out all exploration, development and production, sometimes with the active participation of the ***host government***, such as through a state oil company. In exchange for bearing these financial risks, the investing company has the right to recover its costs through the sale of a portion of the oil produced, called "cost oil." The remaining portion of net production, after the company has claimed its "cost oil," is called "***profit oil***," and is divided between the company and government according to a contractually-defined formula. PSCs typically include information concerning the following key items, among others: duration of exploitation; cost recovery provisions (the maximum percentage of net production which the company can claim as "cost oil" and the methodology for calculating exploration, operation and development costs); the formula for the division of the "profit oil" between the operating company and the government; and any additional taxes paid by the operating company to the government or exemptions enjoyed.

Natural resource contracts and "stabilization" clauses
In the interest of minimizing risk and increasing the predictability of costs and tax obligations, companies often insert ***"stabilization" clauses*** into contracts, which aim to avoid "unfavorable" changes in the "fiscal regime." These clauses may aim to freeze the tax system or profit split prevailing at the time of contract negotiation by stipulating that any law or regulation passed after the signature of the contract which would result in increased costs for the company will not be binding on the company or that the government would be obligated to compensate the company for any costs incurred. If narrowly defined, such stabilization clauses might reasonably protect companies from a government changing its tax regime overnight, doubling the corporate tax rate, for example, or from enacting "discriminatory" legislation – laws that apply only or in a disproportionate way to an individual company or project. In this way, such clauses may be considered necessary in "high-risk environments." However, in practice, these clauses are often worded vaguely so as to conceivably apply to any legal or regulatory change which could result in additional costs for the company.

According to the IMF, fiscal stability provisions effectively "impair parliament's normal authority to pass fiscal legislation." They are not only "administratively cumbersome," but can limit a government's ability to modify or strengthen tax and regulatory frameworks, making it difficult or unaffordable to enact new legislation, such as stricter environmental standards, if doing so would raise costs for the investor. The IMF recommends that "both the existence of such clauses and their potential implications should be clearly explained to the public." (IMF Guide, p. 24)

In addition to 'freezing' laws in place, EI investment contracts often include clauses which override existing laws in a country and remove the contract and its parties from the jurisdiction of local law-making and judicial bodies. Contracts typically stipulate that the contract terms can only be changed if both the company and the government agree – and often any disputes over the interpretation or modification of the contract are to be settled through international arbitration, or negotiations between the two parties led by a third party, rather than in court. Investors (and particularly multinational companies) are typically much better equipped to take advantage of such processes than are governments, because of better access to legal services and greater familiarity with international arbitration.

Cases in point: Oil and gas contracts in Eastern Europe and Central Asia

Contracts for two of the largest ***hydrocarbon*** development projects in Asia, the Baku-Tbilisi-Ceyhan oil pipeline (running through Azerbaijan, Georgia, and Turkey) and the Sakhalin II oil and gas project (in Russia's Far East), provide stark examples of the risks posed by certain clauses in the agreements and underscore the importance of public disclosure of contracts.

As the organization Pacific Environment points out, Sakhalin II's PSA cancels out Russia's water code, including its prohibition against dumping pollutants in marine environments. Similarly, the contracts governing the Baku-Tbilisi-Ceyhan oil pipeline:

a) override the countries' existing social and environmental laws;
b) prohibit countries from taking new measures to protect public health, the environment, safety or security if those measures delay or negatively impact the project's "economic equilibrium" (a contractually-guaranteed level of project profitability);
c) require the government to compensate project sponsors in the event that international agreements, treaties, laws, policies, decrees, are enacted that negatively impact the project's "economic equilibrium" (i.e., result in lower revenues or higher costs); and
d) subvert the doctrine of *eminent domain*, which allows a government to claim private property for public benefit, by allowing the state to take private property for the benefit of other private parties.

Read more about these examples and a full report on the environmental, social, and human rights impacts of foreign investment contracts on Pacific Environment's website www.pacificenvironment.org .[6]

Tax/royalty ("concession") systems

The other widely-used model is the tax/royalty (or concession) system, in which companies are granted full rights to explore, develop, sell and export a resource, subject to a range of taxes and fees. Concession agreements are the most common form of contract in the extractive industries. Concession systems use a

[6] Pacific Environment, "The Environmental, Social and Human Rights Impacts of Foreign Investment Contracts," www.pacificenvironment.org/downloads/The%20Environmental%20Social%20and%20Human%20Rights%20Impacts%20of%20Foreign%20Investment%20Contracts_4_.pdf

range of different taxes to earn revenue for the government from EI projects. The amount of revenue often depends on the risk or potential profit the investor expects after completing the exploration phase. At times the tax rates for the extractive companies are the same as those charged any other corporation in the country, but concession agreements often contain clauses regarding payments to be made upon discovery of unexpected mineral reserves and additional taxes to be levied on the companies. Frequently, concession systems are not straightforward and become highly complicated to enforce, depending on certain conditions, such as market prices and the amount of resources extracted. Ultimately tax/royalty systems are only as strong as a government's tax administration. Government capacity to collect and verify tax payments is critical to ensuring the fairness of EI contracts of this sort.

Calculating the "take"

Because the "fiscal regimes" contained in EI contracts can be so complex and can vary greatly from one country to another, a summary estimate of the projected overall division of rents (profits) between companies and the government is commonly prepared. This summary estimate is called the "***take***." Understanding the "take" is important to get an overview of how much money a government can expect to make from a particular extractive industry activity over the life of a project. Without a summary estimate of a deal describing how much each party can expect to receive, it is often difficult to understand the terms of contracts between governments and companies. The "take" estimates also provide a useful tool for comparing the quality of deals in different countries or involving different companies operating in a single country, as well as for evaluating a government's negotiating power. (See Box 2, p. 21 of IMF Guide.)

Key Questions:

- Which type of fiscal regime (kind of contract) is used for extractive projects operating in your country? Does it vary by sector (for example, one kind for oil and gas and another for mining)?
- Are the full contracts made public?
- If not, are the fiscal terms that establish how much the government will earn made public (e.g. the tax rates, division of "profit oil," etc)? Is it clear what the government "take" is?
- Which government agency is responsible for collecting and verifying taxes paid by the oil, gas or mining industry?
- Who is actually responsible for negotiating, approving or signing contracts (whether PSA or tax-royalty agreements) with EI companies?
- Were any bonus payments made to the government upon the signing of the contract, and if so, how much money was paid?

Key questions on specific contracts might include:

- Where are the private sector parties to the contract registered? If the companies are subsidiaries of larger firms, do the parent companies provide guarantees?
- Does the agreement require the EI company(ies) to hire a certain percentage of the workers for a project from the local population or to use local suppliers?
- Does the contract stipulate who bears the cost of environmental damage and restoration? Can environmental costs be added when the company's payments to the government are calculated?
- How are the company's operating and capital costs calculated?
- How is the price of the commodity set for the purposes of calculating revenues from sale and payments to the government – based on an international market reference price?
- Is the process of calculating companies' payments to the government adequately specified and are provisions made for it to be done transparently? Who within the government is responsible for overseeing this process?

Part 2: What Does the Government Earn from Natural Resources? What is Due, What is Paid and What is Reported?

Part I introduced the different mechanisms through which governments generate income from natural resources, such as licensing through open bids and negotiated deals, and through the actual exploitation of the resources under production-sharing agreements and concessions as determined in the contracts. But in order to effectively track the expenditure of natural resource revenues, it is critical to know how much revenue is actually received by the government from extractive industry companies and what costs are borne by the government.

2.1 What is the government earning: how are revenues recorded and reported?

Good practice:
"Legislation should require full disclosure of all resource-related revenue, loan receipts and liabilities, and asset holdings." (IMF Guide, p. 10)

"The budget process should handle resource-related revenues similarly to other government revenues." (IMF Guide, p. 24)

"All resource revenue-related transactions, including through resource funds, should be clearly identified, described, and reported in the budget process and final accounts documents." (IMF Guide, p. 44)

"Reports on government receipts of company resource revenue payments should be made publicly available as part of the government budget and accounting process." (IMF Guide, p. 44)

"The costs of any incentives provided through indirect tax exemptions (including import tariffs on intermediate inputs) should be clearly recognized, whether as part of the overall fiscal regime or separately calculated as tax expenditures." (IMF Guide, p. 23)

What it means: The government should make its records of revenue received as a result of resource extraction available on a regular basis through reports to the public, which can be used by citizens to compare revenues received to what is included in the budget (government spending plan). All types of resource revenues streams should be reflected in the budget, including bonus payments made on the awarding of a contract, import tariffs paid as materials and equipment required in the extraction process are brought into the county, and recurrent flows from tax receipts or share of sales. In addition to earnings, the budget should reflect all implicit costs/spending, such as revenues foegone through exemptions or tax holidays given to extractive industry companies.

Why it matters: In order to effectively track the expenditure of natural resource revenues, it is critical to know how much is actually received by the government from extractive companies in the first place. The government should publicly

declare its receipts from the natural resource sectors, and the published figures should be verified against what the companies report having paid, as well as against their contractual obligations.

Key Questions:
- Does the government produce reports explaining how much money is generated through natural resource exploitation? Are the reports comprehensive, published regularly, and easily accessible?
- Are similar reports published by the EI companies that may be compared with government reports to check for any differences? Are company-by-company or project-by-project disaggregated revenue figures available?
- Are these reports verified by independent third parties such as accounting firms or non-governmental organizations? If so, are these third party reports disclosed to the public?
- How much of the money in the national budget comes from natural resource revenues?
- Does the budget clearly indicate the different sources of resource revenue? What portion of this natural resource revenue comes from sales (share of production), from tax payments, from royalties and from bonus payments?

2.2 How large are resource reserves and what is their estimated worth?

Good practice:
"Estimates of resource asset worth based on probable production streams and assumptions, should be disclosed…. Ideally, such calculations should be published in the budget documents … and can be used as a basis for fiscal policy formulation." (IMF Guide, pp. 50-51)

"Budget documents and other fiscal policy statements should thus clearly state the assumptions on which projections and estimates are based, and they should show the sensitivity of projections and estimates to changes in key parameters." (IMF Guide, p. 52)

What it means: Governments should publish estimates of resource reserves and notify the public when these figures are revised, because reserve estimates form the basis of budget planning decisions. It is also advisable that governments anticipate when their natural resources will be exhausted and how the resulting gap in revenue will be addressed. It is generally considered prudent to use conservative calculations when projecting how long natural resources will last and the prices the government will receive for them. In the discussion of resource asset worth, it is also important for a country to consider whether it is more valuable for the country to export its resource and exhaust it quickly or use the resource domestically – perhaps leaving it in the ground longer and using it to attract business inside the country.

Why it matters: Government estimates of resource reserves are necessary for projecting revenues over time. General practice in petroleum extraction, for example, requires that proven resource reserves be reported to international stock

exchanges, though international standards do not require that this figure be verified by an independent party. However, these figures are often provided by private extractive companies themselves. Any projections of future resource revenues should be understood as only educated guesses, however, since gauging recoverable resources is an inexact science and market shifts can change pricing trends considerably.

Key Questions:

- Are estimates of the size of a country's resource reserves available to the public?
- Does the government have adequate capacity to make such estimates itself and to track the worth of these resource assets? Which department in the government is responsible for doing so?
- Does the national budget framework contain any policy statements regarding the rate of exploitation of the natural resource, i.e. how fast a country's oil, minerals or gas reserves should be exploited or how long they are expected to last?
- Does the national budget contain any statements regarding the estimated value of the country's natural resource assets (e.g. oil reserves, gold stocks, etc)?
- Have these resource supply estimates been independently audited?

2.3 Is there a national resource company (NRC) involved in the extraction, production or sale of natural resources?

Good practice:

"Ownership structures of national resource companies and their fiscal role vis-à-vis the resource sector ministry and the finance ministry should be clearly defined." (IMF Guide, p. 26)

"Commercial responsibilities should be clearly distinguished from policy, regulatory and social obligations." (IMF Guide, p. 26)

"To the extent that resource revenue payments are received by an NRC … the rationale for such arrangements should be made clear and …. [A]ll such revenues should flow to the government budget before being appropriated for spending purposes." (IMF Guide, p. 24)

What it means: Governments should disclose the ownership structures of any national oil, gas or mineral companies, along with reports of NRC expenditures, auditing procedures and ***audit*** reports, and any subsidies or other support it receives from the government.

Why it matters: Many countries have a national oil, gas or mineral company involved in the production and/or sale of their extracted resources. ***National resource companies*** (NRCs) are typically entirely state-owned enterprises, though some are joint public-private entities that may be listed on public stock exchanges. NRCs can be an important vehicle through which a government can

acquire additional resources by directly engaging in or controlling the production of a resource. However, the activities of these companies frequently remain secret and subject to considerable political influence. Often, little is known about how they relate to the government and national budget, or how they account for their earnings and expenditures. They play a central role in natural resource extraction, since it is often the national resource companies that receive payments directly from private extractive industry companies operating in a country, as parties to PSAs or joint-venture agreements with private investors. Their role is even larger in the oil sector than in mining, since 90 percent of the world's oil reserves are controlled by NRCs. Examples of such NRCs include the Nigerian National Petroleum Company and Brazil's Petrobras. (IMF Guide, p. 26, footnote 40).

Key Questions:

- Is there a national resource company (state oil, gas or mining company) in the country?
- Does it receive subsidies from the government in the form of allocations in the national budget, tax exemptions or reduced prices for certain inputs (e.g. energy)?
- What kinds of taxes does the NRC pay to the government? What payments does the NRC make to the government (central/regional/local levels) in the form of taxes and fees?
- Does the government publish this company's expenditures?
- Does the company report how much money (how much earnings) it transfers to the national budget annually?
- Are the company's finances audited by an independent third party, and are these audits made public?

2.4 Does the government own equity in extractive industry companies? Are resource revenues invested in equity holdings?

Good practice:
"Government involvement in the resource sector through equity participation should be fully disclosed and the implications explained to the public." (IMF Guide, p. 25)

"Resource-related asset holdings should also be subject to clear rules for disclosure, regardless of whether they are held by the finance ministry, a separate resource fund …or other entity." (IMF Guide, p. 25)

"All financial assets held by government domestically or abroad, including those arising from resource-related activities, should be fully disclosed in government financial statements." (IMF Guide, p. 49)

What it means: When governments own ***equity*** -- a share or portion of a company or investment -- in an oil, gas or mineral operation (whether in their own country or elsewhere), this represents a channel through which the government may be earning money. It could also represent an obligation or

liability on the part of the government, if the government, as equity holder, is responsible for certain costs, impacts, or oversight of the extractive operation. Similarly, when the government invests earnings made from natural resources in equity of various types, those equity holdings should be disclosed. Because equity holdings represent a potential source of revenues and/or costs to the government, they must be clearly reported to the public and included in all budgeting and accounting processes.

Why it matters: Government equity in a company refers to the ownership of shares or stock. Governments can acquire shares simply by purchasing them with public funds, or they can receive shares at a concessionary (cheaper) price or for free, either as part of a deal allowing a company to exploit the country's resources or in accordance with a law requiring investing companies to provide the government with a percentage stake in the investment. Any concessions for equity usually involve a trade, such as the government reducing taxes on the company in exchange for its shares. The equity provides revenue through dividends, which are a portion of the profit that owners in the EI company earn, and serves as an investment that may be sold later.

Sometimes a government places revenues earned from its natural resource sector into a savings fund, not immediately into the national budget. In these cases, it is important to know where those resources are being invested, for example in the purchase of various stocks, bonds, or other interest and dividend-earning vehicles. Without public knowledge of government investments such as equity holdings, the profits earned from those investments may be more easily misappropriated.

Key Questions:
- Is the government involved in the resource sector through equity participation (partial ownership of an EI company)?
- Are the terms of this investment disclosed?
- What concessions or payments did the government make to share ownership in the company?
- Is government revenue generated through the company's profits included in the government budget?
- Are lists of the company shareholders (including government holdings) published and available?
- Are government savings (e.g. from a resource revenue fund) invested in equity holdings?

2.5 Are government and company accounts of natural resource revenues independently audited?

Good practice:
"A national audit office or other independent organization should report regularly to the parliament on the revenue flows between international and national companies and the government and on any discrepancies between different sets of data on these flows." (IMF Guide, p. 60)

“International and national resource companies should comply fully with internationally accepted standards for accounting, auditing, and publication of accounts.” (IMF Guide, p. 59)

What it means: A neutral party – one which has nothing to gain or lose from the transactions in question -- should review how much companies say they are paying governments, and how much governments say they receive. A country’s national audit office may be in a position to do this, though they may not have the technical expertise required to identify any irregularities or errors since accounting documents and revenue reports for the extractive industries can be complex. If a governmental auditor is used, it should be demonstrably independent of officials with decision-making roles in the transactions. Regular, third party audits of reporting by qualified individuals or firms should be conducted at least annually and their findings made public alongside the original reports from companies and government.

Why it matters: Irregularities in natural resource revenues often go unnoticed by the public because of the highly technical nature of the sector. As a result, it is easier for these figures to be manipulated by the few who have the necessary technical skills. In order to ensure the accuracy and reliability of figures reported by both the government and resource companies, it is important that an independent third party review data. Such audits not only improve the credibility of the reporting process in the eyes of the public and international observers, but also often help governments to recover a greater portion of the revenues due them by revealing misreporting or underpayment.

Key Questions:
- Is there a national audit office or other independent organization which reports to parliament on revenue flows between EI companies, NRCs, and the government?
- Are these audits made public?
- Are there any oversight mechanisms to assure the integrity of NRCs and other relevant companies?
- What are the standards for accounting, auditing and publication of accounts that the government subscribes to, and do all the parties (EI companies, NRCs, government) comply?

2.6 Does the government borrow against future production?

Good practice:
“Fiscal authority over resource-related revenue and borrowing should be clearly specified in the law.” (IMF Guide, p. 24)

“Rights to borrow for public purposes should be under the authority of the finance ministry on behalf of the government. Receipt of such borrowings should be credited to a bank account under the control of the finance ministry or its treasury, with the balances credited, liabilities incurred, and terms of loans being fully disclosed to the public.” (IMF Guide, p. 24)

"Borrowing or collateralization by an NRC should be similarly transparent." (IMF Guide, p. 24)

"The government's published debt reports should identify any direct or indirect collateralization of future resource production, for instance through pre-commitment of production to lenders. All government contractual risks and obligations arising from such debt should be disclosed." (IMF Guide, p. 49)

What it means: Governments that borrow money today on the promise of future natural resource production (i.e. resource-backed debt) as repayment should disclose the terms and amounts and explain how they will use the borrowed money. Strong, independent monitoring mechanisms should be in place that can oversee the terms and use of these loans.

Why it matters: Contracting debt is a way of mortgaging the future. Governments whose countries are endowed with natural resources often take this endowment as a ticket to borrow against the promise of future production. Resource-backed loans or so-called "oil-backed loans" are loans borrowed by governments which are secured against future resource revenues or production. Governments can use oil, gas or mineral production as collateral to take out a loan, and at times can pay the loan back "in kind", by handing over a share of production to the lender. Unlike most government loans that are subject to financial management under the supervision of finance ministries and audit offices, these kinds of loans often remain outside of the public domain and may provide opportunities for funds to be appropriated for private use or criminal purposes. Effective oversight of such loans depends on a functional legal framework that determines who can borrow and under what circumstances.

When resource-backed debt is contracted, a country is not only locked into producing that resource, but also potentially earns less for the resource than they could otherwise get on the market. The country can be forced to forgo additional earnings that could have been gained if the promised resources were available to be freely sold at a higher (future) price than their predicted value at the time the debt was incurred. Furthermore, resource-backed debt ties the hands of future governments, limiting their ability to make decisions about whether and at what rate to exploit resources, as well as choices regarding debt management.

Key Questions:

- How much money has been borrowed against future natural resource production?
- Does the government have any current loans in which it used future resource production as collateral?
- Who has the authority to contract/take out such loans? Do the rights to borrow fall under the authority of the Ministry of Finance?
- Are the loan terms disclosed to the public?
- What institutions exist to oversee and enforce the legal framework?
- Do they have sufficient human and institutional capacity?

Part 3: How Are Revenues from Natural Resources Spent? Management and Distribution

How well countries use the money earned from the exploitation of natural resources can make the difference between economic crisis and equitable growth, between war and peace. History shows that rents from natural resources are frequently diverted by government elites and ruling parties and used to maintain political power rather than advance long-term improvements in social welfare. Although transparency is not enough to ensure that the public interest wins out in the political struggle over the use of oil, gas and mineral wealth, information is an essential prerequisite to effective citizen advocacy. This section discusses good practices related to transparent revenue management.

3.1 Does the national budget provide clear indications of how public money is spent, including revenues from natural resources, other sectors, and government policy on resource development?

Good practice:

"The budget framework should incorporate a clear policy statement on the rate of exploitation of natural resources and the management of resource revenues, referring to the government's overall fiscal and economic objectives, including long-term fiscal sustainability." (IMF Guide, p. 35)

"The (primary) non-resource fiscal balance should be presented in budget documents as an indicator of the macroeconomic impact and sustainability of fiscal policy." (IMF Guide, p. 47)

"Similar principles of transparency to those recommended for other parts of the government budget should apply to the processes for planning, allocating, spending, and reporting of resource revenues." (IMF Guide, p. 35)

What it means: Budget documents should indicate the amount of revenues available to the government from sectors other than oil, gas and mining, as well as provide clear information on all the different sources of resource-related revenue. This should help to reveal how dependent a government is on natural resource revenue, and whether spending is sustainable. The budget should also provide an indication of the health of the "non-resource economy" – how the economy would look if the country did not have natural resource wealth -- and the impacts of resource exploitation on other sectors. Governments should make it possible for the public to track spending.

Why it matters: Citizens have a right to know how their governments spend public revenues. This knowledge is especially important in resource-rich countries, where opportunities for mismanagement are greatest. Transparency and accountability in the use of public money is particularly important in the case of earnings from oil, mining and gas because of the volume of revenues flows, their irregularity (due to price volatility or production gaps), their finite nature, and their potential to increase inequality if improperly and inequitably

allocated. Independent monitoring of natural resource spending helps guarantee the effectiveness of resource revenue management. The combined pressure of monitoring and advocacy can achieve real improvements in the management of natural resources revenue, and the overall national budget.

At times, governments make policies that determine how resource revenues should be spent. A certain percentage, for example, may be set aside for human development or specific poverty reduction programs. While these policy declarations represent an important step in achieving commitments from governments, external monitoring is necessary to make sure these commitments are followed. A government may also choose to save and invest some of its resource revenue, which is usually coordinated by the Ministry of Finance. Such investments should be made open to the public, particularly in countries where immediate spending needs are great.

Key questions:

- Has the government stated a policy about using resource revenues for human development projects, such as education, health and infrastructure?
- Does the government's expenditure reflect these commitments and policies?
- Are government budgets available to the public?
- Is the national budget publicly available? Is it available in draft form (i.e. before final approval)?
- Does the government seek or allow public input into budget?
- Is there a clear framework for how resource revenues are to be used? Does the government have policies for investments made with resource revenues, and are these stated in the annual budget documents?
- What are the government's plans for earning revenues after the natural resources have been exhausted/depleted?

3.2 Does the government have an extra-budgetary fund to manage natural resource revenues?

Good practice:

"Operational rules applied to resource-related funds should be clearly stated as part of an overall fiscal policy framework." (IMF Guide, p. 40)

"There should be a clear specification of operational rules and responsibilities over spending and borrowing by resource funds. The fund revenues, expenses, and balance sheet should be presented to the legislature and the public together with the annual budget." (IMF Guide, p. 40)

"[T]he law governing fund spending should clearly specify the purpose and encourage parliamentary scrutiny…No monies should be spent directly from such funds; any use of such funds should be through the government budget and subject to normal budget appropriation processes." (IMF Guide, p. 40)

"The investment policies for assets accumulated through resource revenue savings should be clearly stated, including through a statement in the annual budget documents." (IMF Guide, p. 41)

What it means: If the government determines that resource revenues are to be collected in a specific, separate fund, outside of the general treasury, the balance of any such resource funds should be open to public scrutiny and presented to the legislature as part of the budget process or on a more frequent basis. There should be clear procedures and oversight for spending the monies contained in the fund, and the government's policies should be clearly spelled out and available to the public. Government budgets should clearly indicate any money that is being used from these funds in a given year. These funds should be audited periodically to verify that the amounts claimed to be in the fund correspond to earnings from natural resource extraction. Extra-budgetary funds, whether "stabilization accounts", future generations/savings funds, or general resource revenue funds, should be independently audited, and the results of those audits published on a regular basis.

> **Find out more:**
> This guide does not have adequate space to cover strategies for effective citizen influence on public expenditure. For more information on budget monitoring and resource revenue expenditure advocacy tools and strategies, please refer to the Revenue Watch publication "Follow the Money: A Guide to Monitoring Budgets and Oil and Gas Revenues" at www.revenuewatch.org.

Why it matters: Revenues from natural resource sectors are typically uneven over time and often unpredictable. Extra-budgetary funds (funds that are distinct from the general national budget) for managing EI earnings can help to smooth and prolong their impacts over time. Three main types of funds are commonly used for managing resource rents: general resource revenue funds, ***stabilization funds***, and future generation funds. Each type can be vulnerable to mismanagement if not adequately monitored. Strict rules that set out how and when these funds can be used, independent oversight mechanisms, and periodic audits of these funds are necessary to prevent misappropriation. Since these funds are managed separately from the national budget, they may not automatically fall under the same oversight and transparency provisions as the rest of government spending.

General Resource Revenue Funds (or earmarked development funds) serve as accounts into which resource-related revenues are deposited. They are used primarily as a way to bring together the various types of resource revenues and to "smooth" the ***revenue streams***, which can be quite irregular due to fluctuations in the price of commodities on the international market. These revenue funds can also be designated for a specific purpose, such as poverty reduction projects.

Stabilization Funds are designed to soften the impact of external economic shocks such as a drop in market prices, so that revenue flows and related expenditures can remain predictable. Typically, a government will include a

certain amount of natural resource revenues in its projected budget for a given year. If it has a stabilization fund, any revenues earned in excess of what is planned for the year would be deposited in the stabilization account and saved. If, in a subsequent year, the country's earnings fall short of projections, it can tap funds in the stabilization account to cover the shortfall.

Future Generation Funds (or Savings Funds) are designed to reserve some portion of current revenues from natural resources for the future, when the country's resources run out or earnings decline. There is currently much debate about whether it is advisable to save money earned today for use in the post-resource era, or to spend that money now in ways that may help support long term growth and development.

Key questions:

- Does the government have any separate resource revenue funds? What type?
- Are all resource revenues (from different sources, such as taxes, royalties, fees, sales) directed to the fund, or only certain revenue "streams"?
- What are the rules governing when the money in the account can be used, and for what purposes?
- Are the fund revenues, expenses and balance sheets presented to the legislature? Are they disclosed to the public?
- Are the fund's accounts audited on a regular basis, with the audit reports presented to the legislature and the public?
- Is there an independent supervisory body that oversees the use of these funds?
- If the government established a future generations fund, when do the funds become available for the government to use?
- How (and where) are saved resource revenues invested? Are the guidelines for their investment made public?

For any specific fund, the essential questions are:

- What goes into the fund: which resource revenues supply the fund?
- What comes out: when and how can the fund money be spent?
- Who decides: who manages the fund and how are its contents used?
- How will it be protected: what ensures that the fund's future is secure, and safeguards it against being dissolved by an opportunistic official?

3.3 Is government spending audited?

Good practice:

"Fund activities should be regularly reported to parliament and the public and externally audited by an independent auditor; and reports and audit results should be published." (IMF Guide, p. 40)

"Internal control and audit procedures for handling resource revenue receipts through government accounts or special fund arrangements and any spending of such receipts through special funds should be clearly described and disclosed to the public." (IMF Guide, p. 57)

What it means: Periodic (at least annual) audits should be conducted for government natural resource revenue spending, as it would for other kinds of revenue and expenditure. This is in addition to the audits of revenue receipts that should be carried out for resource flows *to* the government from private extractive industry companies and NRCs. These audits should take into consideration the different sources of resource revenue (royalties, taxes, etc), and report on any spending of resource revenue, whether spent from the general budget or separate resource revenue funds. (See IMF Guide, p. 57.)

Why it matters: Corruption, misuse of funds and other forms of fraud can happen at various points along the way from the earning of revenues from oil, gas and minerals, to the spending of that money. As more attention is devoted to how much companies pay and how much governments earn, as well as to macro-level decisions about the allocation of funds, there is a greater chance that corruption, embezzlement and misuse will "migrate" downstream, to later stages in the budget execution process. Following oil, gas and mineral revenues from their source to their end-uses is critical to ensure that there is no "leakage" from the system, which could deprive the public of benefits from the exploitation of public resources.

Key Questions

- Is the budget expenditure audited by a government agency (general accounting or auditor's office) or an independent third party?
- How often are these audits conducted?
- Are the audit reports made public?
- If the government maintains a separate resource revenue fund, is it audited on a regular basis and are the reports disclosed to the public?
- Is there an independent supervisory board or monitoring agency appointed to ensure oversight over the use of these resource revenues?

3.4 How are natural resource revenues divided among a country's regions and different parts of the government?

Good practice:

"Arrangements to assign or share resource revenues between central and subnational levels of government should be well defined and explicitly reflect national fiscal policy and macroeconomic objectives." (IMF Guide, p. 32)

"Clear rules and principles should guide whatever subnational revenue sharing arrangement is chosen. Moreover, tax powers, revenue sharing arrangements, and expenditure responsibilities should be based on stable principles and agreed formulae that should be developed and exercised in an open and consistent manner …[and include] rules and procedures for modifying it." (IMF Guide, p. 34)[7]

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[7] The June 2005 version of the IMF Guide contained the following statement, which was omitted from the May 2007 revised Guide: "Where possible, decisions on the formula to allocate natural resource revenues are best developed and agreed upon before the natural resource is exploited

What it means:
Governments should ensure that the distribution of earnings from resource exploitation is transparent, including how much of those revenues will accrue to the area from which the resource was extracted and how much will be shared among other parts of the country or between different parts of the national government. Given how politically contentious this issue can be, it is advisable for revenue sharing arrangements to be set in a participatory way, so that stakeholders from throughout the country can have their say, and any changes in these arrangements should be made according to clear rules.

Case in point: Distribution of mining revenues in Ghana

Ghana is endowed with considerable mineral resources, including gold and bauxite. Article 267 of the Ghanaian constitution provides that 10% of total royalty receipts from mineral production be returned to the communities living in proximity to where the minerals were extracted. It further stipulates the formula according to which this 10% of royalties is to be distributed. According to the formula, 10% of the amount is to be retained by the Office of the Administrator of Stool Lands (traditional landholders) to cover administrative expenses, with the remainder apportioned as follows:

(a) 25 percent to the stool;
(b) 20 percent to the traditional authority; and
(c) 55 percent to the District Assembly, within the area of authority in which the stool lands are situated.

This constitutional provision leaves government with 90 percent of total royalty receipts from mining. The central government has directed that a further 10 percent of net royalties be paid into a Mineral Development Fund (MDF), with the remaining 80 percent of total royalties deposited in the National Consolidated Fund.

Why it matters: Communities not only have claims to the resources that are taken sometimes literally from beneath their feet, but they and the environment surrounding resource extraction areas bear the costs of the production process. The geographic distribution of the costs of resource extraction (as well as the sense of local ownership over the resources themselves) contributes to certain expectations and government responsibilities regarding how revenues from the sector are shared. Opposing claims to resource revenues can often be a source of conflict; many resource-rich countries suffer violent conflict and secessionist movements in areas where oil, gas or minerals are found in abundance, because of disputes over how the wealth should be distributed.

National governments rarely retain all of the resource revenues. Portions are typically reserved for the different levels of government, such as states, provinces, regions, and more local jurisdictions. In many countries, laws or political

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and revenue starts to flow, i.e., while it is still uncertain how much revenue can be expected." (June 2005 IMF Guide, p. 38, footnote 65)

agreements require that a certain percentage of revenues be returned to producing areas to offset the environmental and social costs of the extractive projects, and/or to satisfy local claims to ownership of the resource. Such allocations have to be balanced with a fair distribution system so non-producing areas will also receive some benefit from the extraction of the country's resources.

However, the division of revenue among different levels of government at times makes transparency more difficult, as citizens may have to approach these government units individually to find out how the money is used, especially if these subnational governments do not release these data on a regular basis. Often subnational governments have weaker accountability mechanisms which makes the potential for corruption even higher. (See IMF Guide, p. 32.)

Key Questions:

- Does your country have an agreement about how revenues are shared between the different levels of government?
- Do producing areas receive a higher percentage of revenues than non-producing areas?
- What percentage of the resource revenues are allocated to the different regions?
- Were the terms of revenue sharing arrangements made in a transparent way? Are the terms made public? Who was involved?
- Do subnational government authorities produce regular reports of the money they receive and spend from natural resource revenue? Are these reports available to the public?
- Do state or provincial budgets indicate the portion of the budget that comes from resource revenue earnings or transfers?
- Are these figures verified by independent auditors?

Part 4: Beyond the IMF Guide: International Initiatives and Legal Safeguards

The final section in this Handbook addresses some good practices that are not specifically discussed in the IMF's Guide on Resource Revenue Transparency. While we have included some relevant quotes from the IMF Guide below, the topics presented here go beyond the scope of the IMF's work in this area.

4.1 Does the government subscribe to any voluntary initiatives for resource revenue transparency, like the Extractive Industries Transparency Initiative (EITI)?

What it means: In countries with natural resource industries, both parties (companies and governments) should provide regular public reports on their natural resource revenue payments and earnings. These reports should be validated by a third party, and there should be opportunities for civil society and other members of the public to participate in monitoring and verifying revenue flows.

In 2002, two initiatives were launched to promote increased transparency in the extractive industries sector: the civil society-led Publish What You Pay (PWYP) coalition, and the UK government-led ***Extractive Industries Transparency Initiative (EITI)***. Although their objectives differ in scope and stringency, these two initiatives have become reference points for many governments and companies with regard to transparent resource revenue management practices.

Why it matters: By publicly committing to adhere to internationally recognized initiatives or standards, a government increases its degree of accountability and raises the stakes of failure to fulfill commitments. PWYP advocates for reporting requirements to be made mandatory and binding on all EI companies and government agencies. Short of achieving that goal, voluntary initiatives such as EITI can still be valuable, as a country's public statement that it will adhere to a given standard or practice can attract greater attention to an issue and can provide a useful benchmark against which to measure government performance. Citizens can use reputational pressure to challenge governments to honor such commitments.

Publish What You Pay (PWYP) and Extractive Industries Transparency Initiative (EITI)
The international Publish What You Pay (PWYP) initiative aims to ensure transparent and accountable management of natural resource revenues. It advocates *mandatory* disclosure of company payments and government earnings from the oil, gas and mining sectors, and, increasingly, of government expenditure of resource revenues. Since 2002, when the PWYP coalition was established, it has grown to include over 300 NGOs in more than 55 countries. In addition to demanding mandatory revenue disclosure requirements enshrined in laws and binding regulations, PWYP activists are also calling for greater transparency in the contracts between governments and private companies, because those agreements determine how much revenue is earned from EI activity in the first place. The objective of increasing transparency in the extractive industries is to minimize opportunities for corruption, to facilitate better choices about whether, when and how to engage in natural resource extraction, and to ensure responsible use of revenues earned from oil, gas and mining.

In parallel to civil society's PWYP campaign, the UK government launched the Extractive Industries Transparency Initiative (EITI) in 2002, to encourage *voluntary* disclosure of natural resource revenues by governments and companies. As of 2007, EITI was backed by 24 of the largest oil, mining and gas companies and endorsed by over 20 natural resource producing countries (14 of which are in Africa). However, only a handful of those countries are actively implementing EITI and have published reports and audits of revenue data. The initiative enjoys the active support of the World Bank Group, the African Development Bank and other international institutions, as well as donor countries such as the Group of 8 industrialized countries (G8: Italy, France, Germany, Canada, UK, US, Russia, Japan).

For more on these initiatives, see:
www.publishwhatyoupay.org www.publishwhatyoupayusa.org
www.eitransparency.org

Transparency beyond EITI: EITI is limited because it does not push for mandatory universal requirements for resource revenue transparency, and does not extend transparency principles to EI contracts or to government spending of EI revenues. As the IMF has pointed out, "EITI is not the only way to provide adequate assurance of resource revenue transparency." EITI reporting requirements are "applied only to upstream activities," "cover only a narrow range of resource-related fiscal activity," and require significant efforts to apply and validate. The IMF Guide reminds readers that a country's implementation of EITI does not obviate the need for other government measures to ensure fiscal accountability: "[T]he [EITI] validation process is not a financial audit, and it does not remove the need to establish effective government audit process. Commercial auditors and national audit offices would continue to carry out these functions." EITI compliance represents only a "first step towards the broader goal of transparent resource revenue management," which should include transparency of contractual arrangements and the distribution of resource earnings, in addition to other elements detailed in the chapters above. (See IMF Guide, pp. 45-46, p. 61.)

Key Questions:

- Has the government made formal public statements regarding EI revenue and/or contract transparency?
- Has the government formally signed up to EITI? If so, has the country proceeded to the implementation and validation phases of the initiative? (see www.eitrransparency.org/section/abouteiti/keydocuments)
- Have the private EI companies operating in the country publicly endorsed EITI or made public statements on transparency?
- Is there a Publish What You Pay coalition in the country? Do any civil society groups participate in the EITI process, if the country is implementing the initiative?

4.2 Does the country have a freedom of information law?

What it means: Though the IMF Guide is silent on the issue of freedom of information legislation, good practice would require that governments pass and uphold freedom of information laws that protect citizens' rights to access government information, including the right to access relevant documentation regarding government revenues derived from natural resource extraction and extractive industry contracts to which the government is party.

Freedom of information laws provide for respect for certain types of confidentiality. However, the exceptions to disclosure should be confined to circumstances in which the government can demonstrate (i) that disclosure would cause serious harm to one of a set of clearly and narrowly defined, and broadly accepted, interests, which are specifically listed; and (ii) that the harm to this interest outweighs the public interest in disclosure.[8]

Find out more:
For more on freedom of information best practices, see www.freedominfo.org

Any such law should include provisions for challenging refusals to disclose requested information, by having the matter reviewed by an independent and authoritative body.

The right to access information held by public bodies is a fundamental human right, grounded in the right to "seek, receive and impart information and ideas," which is guaranteed under international law. Advocates believe the "right to know" should be enshrined in law in every country, so that governments are required to provide information (routinely and on demand) to their populations and are subject to legal review and recourse for failure to do so. Most advocates believe that the right to information is not absolute; confidentiality in some cases may be legitimate. Exceptions to disclosure should not be so broad as to include information related to natural resource exploitation contracts (to which the government is party) in their entirety, resource-related earnings or public

[8] Global Transparency Initiative, Transparency Charter for International Financial Institutions: Claiming Our Right to Know.

expenditure of those earnings. Truly sensitive business confidential information may be redacted from disclosure of such contracts.

Why it matters:
Over 70 countries have Freedom of Information (FOI) laws which protect the public's right to access government information on a routine basis and by request. These laws are very important in allowing transparency of government operations and accounts. Where these laws exist, individuals may request that government documents be made available for their use. This is relevant particularly to resource extraction, where such legislation can be used to access documentation concerning EI projects and the revenues that accrue from them. Not all government documents are covered by FOI laws, however. Common exceptions to FOIA laws include documents relating to national security or internal government discussions ("deliberative process"). The interpretation of these exceptions is often debatable, and where appeals mechanisms exist, citizens can challenge refusals to disclose information.

Key Questions:
- Have FOI laws been passed in the country?
- Do these laws allow citizens to review government documents on resource extraction such as contracts and resource revenues?
- Who has the authority to decide whether documents are sensitive and not available to the public?
- Is there an information appeals mechanism, to which citizens can turn if they feel they are wrongfully denied access to certain information?

4.3 Does the country have whistleblower protections?

Good practice:
A government should ensure that its agencies, including national resource companies (NRCs) and EI regulatory bodies, institute systematic protection policies to ensure that ***whistleblowers*** -- employees who report misconduct -- do not suffer retaliation.

What it means: Laws or binding operational policies should be created to guarantee the safety of all individuals who report wrongdoing to the authorities. These laws or provisions should stipulate the procedures that whistleblowers should follow to make a report, how reports of misconduct are to be investigated, as well as protections extended to good-faith whistleblowers, including instances where it is is ultimately determined no crime was committed.

Why it matters: Whistleblower laws are designed to protect people who want to reveal information about misconduct, improper or corrupt behavior. These laws usually contain provisions protecting the identity of whistleblowers so they can't be victimized for speaking out. It is important for all countries, and especially those rich in resources, which may be more prone to corruption and mismanagement, to have a mechanism to protect the rights of people who take a

stand when they see corrupt behavior and mismanagement of resource revenues. The threat of retaliation, physical or mental harm, as a result of exposing wrongdoing allows much corruption to continue unreported.

Key questions:

- Are there whistleblower protection laws in the country, and specifically within government and NRCs, for their employees?
- Do any civil society organizations operating in the country help support or protect whistleblowers?
- Are there any organizations of lawyers who specialize in defending whistleblowers?
- Are there any corruption hotlines, offices or services to which reports of corruption can be made? Is confidentiality or anonymity guaranteed?

<u>Appendix I:</u> Checklist of resource revenue transparency good practices

- ☐ clear ownership laws on subsurface resources
- ☐ designated authority to grant exploration and exploitation rights
- ☐ standardized terms and procedures for licensing and contracts
- ☐ publication of license applications and list/map of approved licenses
- ☐ disclosure of all natural resource company contracts with government
- ☐ published fiscal (tax) regimes for natural resource exploitation
- ☐ publicly accessible national and provincial/local budgets, reflecting all natural resource revenues (by source), loan receipts, liabilities and assets
- ☐ estimates of a country's natural resource assets published in budget and used as basis of fiscal policy
- ☐ clearly defined ownership structure and fiscal role of national resource companies (NRCs)
- ☐ full disclosure of all government-owned assets (equity in EI companies, or purchased with EI revenues) and earnings from assets
- ☐ regular published independent audits of revenue flows between natural resource companies and government
- ☐ clear laws designating authority to borrow against resource production and disclosure of all borrowing
- ☐ planned rate of resource exploitation and fiscal objectives of resource revenue use clearly indicated in budget
- ☐ operational rules for extra-budgetary resource revenue funds stipulated in law; spending subject to parliamentary scrutiny; and balances published
- ☐ revenue-sharing arrangements between levels of government and among regions, states, and provinces well-defined in law and subject to clear rules and procedures
- ☐ government commitment to international principles on resource revenue and expenditure transparency
- ☐ freedom of/access to information law in place and enforced
- ☐ whistleblower protection regulations in place and enforced

Appendix II: Where to look for more information

The International Monetary Fund (IMF)
IMF, *Guide on Resource Revenue Transparency*, first published June 2005; updated May 2007: www.imf.org/external/np/pp/2007/eng/051507g.pdf

The IMF can be a useful source of information on your country's budget, its spending practices and economic policies. Regardless of whether one agrees or disagrees with the IMF's analysis and advice, this document provides useful information and serves as a useful, authoritative voice.

Although many IMF documents do not specifically address the issues covered in the Guide, some reports contain useful information about your country's budget, revenues, spending or other economic policies. You can find the latest IMF documents for your country by going to the IMF's website, www.imf.org, and scrolling to the bottom of the page where you can search for information by country. Your country's page on the IMF site should provide links to all public IMF documents related to that country, in reverse chronological order (from most recent to oldest). Again, regardless of whether you agree with the policy advice they contain, some of the types of documents that may provide useful background information include the following:

Article IV staff reports: The IMF conducts an annual review of the economic policies and conditions in each of its member countries. These reviews, called Article IV staff reports (in reference to the article in the IMF's charter which stipulates that each member country is subject to IMF surveillance) often contain figures and data which may not be regularly available or easily accessible to citizens in the country (Read more about Article IV staff reports at: www.imf.org/external/ns/cs.aspx?id=51) With few exceptions, Article IV reports are made public on the IMF's website and increasingly, civil society organizations are demanding that the IMF publicly announce the release of the report and summarize its findings, as well as make it available in hard copy in the country concerned.

Reports on the Observance of Standards and Codes (ROSC): These reports present the findings of an IMF review of a country's compliance with certain standards in one or more of 12 defined areas, including fiscal transparency. The reviews are voluntary, so ROSCs are not available for every country. Read more about ROSCs and search for a ROSC on your country, at the following IMF web address: www.imf.org/external/np/rosc/rosc.asp

Poverty Reduction Growth Facility (PRGF) / Policy Support Instrument (PSI) review: If your country adopts an IMF economic program under the PRGF (which comes with loans) or the PSI (which does not), the Fund conducts regular reviews of the country's use of IMF resources, the government's "performance" under the program, its adherence to specific conditions associated with the loan and other indicators of economic growth. These reviews can also provide some helpful data on government revenues, spending, policy choices and their impacts.

Often, a document called a "**Selected Issues and Statistical Appendix**" is released in tandem with Article IV reports. These documents often contain additional details on economic trends and policies that may prove useful.

Additional resources on ...

The "Resource Curse"
Escaping the Resource Curse, edited by Jeffrey D. Sachs, Joseph E. Stiglitz, and Macartan Humphreys, Columbia University Press, New York: 2007.

Covering Oil: A reporter's guide to Energy and Development, Revenue Watch, Open Society Institute, New York: 2005.

Budget monitoring and analysis
Revenue Watch, Center for Policy Studies at Central European University, and International Budget Project, *Follow the Money: A Guide to Monitoring Budgets and Oil and Gas Revenues* (November 2004) at:
www.revenuewatch.org/reports/120204.shtml

International Budget Project, *A Guide to Budget Work for NGOs*, at:
www.internationalbudget.org/resources/guide/index.htm

Transparency initiatives
Learn about the Publish What You Pay campaign at:
www.publishwhatyoupay.org or www.publishwhatyoupayusa.org

Learn about the Extractive Industries Transparency Initiative at:
www.eitransparency.org

For information on EITI and good practices on EITI implementation, see the EITI source book and validation guide at:
www.eitransparency.org/section/abouteiti/keydocuments

See also "Eye on EITI, Civil society perspectives and recommendations on EITI":
www.soros.org/initiatives/cep/articles_publications/publications/eiti_20061011/eye_20061019.pdf

Extractive industry contracts
For an example of a critical analysis of a Production Sharing Agreement (PSA), read Ian Rutledge's review of the Sakhalin Oil Project agreement at www.pacificenvironment.org/downloads/SakhalinPSA-www1.pdf For more information on extractive industry contracts in general, read "How to Evaluate the Fiscal Terms of Contracts," by David Johnston, in Humphreys, Sachs, and Stiglitz, eds., *Escaping the Resource Curse,* pp. 53-88.

See BIC's Quick Reference Guide to Extractive Industries' Review and Contract Transparency at the IFIs by George Holliday and Heike Mainhardt-Gibbs at:
www.bicusa.org/proxy/document.9825.aspx

Also see BIC's "Transparency of Extractive Industry Contracts: Understanding World Bank Group Influence" by Heike Mainhardt-Gibbs at:
www.bicusa.org/proxy/Document.10796.aspx

Stabilization clauses
For more information on the potential public policy implications of stabilization clauses in EI contracts, see "The Environmental, Social and Human Rights Impacts of Foreign Investment Contracts" by Pacific Environment (February 2006), available at:
www.pacificenvironment.org/downloads/The%20Environmental%20Social%20and%20Human%20Rights%20Impacts%20of%20Foreign%20Investment%20Contracts_4_.pdf.

Resource-backed debt
For more information on resource-backed debt, see Human Rights Watch's report on Angola, "Some transparency, no accountability," hrw.org/reports/2004/angola0104/

Budget Monitoring
For more information on budget monitoring and resource revenue expenditure advocacy tools and strategies, please refer to the Revenue Watch publication "Follow the Money: A Guide to Monitoring Budgets and Oil and Gas Revenues" at www.revenuewatch.org.

The International Budget Project has a number of useful resources on budget monitoring. Visit their website, and refer to the joint IBP-BIC paper on the IMF "Behind Closed Doors: the Role of the IMF in Shaping Budget Policies and Processes in Low-income Countries" at www.internationalbudget.org

Resource Funds
For resource funds and example, go to the Revenue Watch Institute website, where you can find links to select countries' resource revenue funds at: www.revenuewatch.org/resources/

Indigenous people; free, prior informed consent (FPIC) and extractive industries
See "Indigenous Peoples' Rights, Extractive Industries and Transnational and Other Business Enterprises: A Submission to the Special Representative of the Secretary-General on human rights and transnational corporations and other business enterprises," December 29, 2006,
www.business-humanrights.org/Documents/Forest-Peoples-Tebtebba-submission-to-SRSG-re-indigenous-rights-29-Dec-2006.pdf

For more on FPIC, see also: "Legal commentary on the concept of free, prior and informed consent. Expanded working paper submitted by Mrs. Antoanella-Iulia Motoc and the Tebtebba Foundation offering guidelines to govern the practice of implementation of the principle of free, prior and informed consent of indigenous peoples in relation to development affecting their lands and natural resources," June 21, 2005,
www.tebtebba.org/tebtebba_files/ipr/ECN.4Sub.2AC.420052.pdf

Appendix III: Glossary

Audit: a review, usually conducted by an independent (third) party, of data provided by a government, company or other institution, to verify completeness, accuracy and soundness of reporting according to various legal, financial and regulatory standards

Bid: an offer made by a resource company or consortium of companies, usually in response to a host government's notice, for the right to exploit oil, gas or mineral resources in a country or to participate in a contract for the extraction, production or sale of those resources.

Concession: a designated area within which the extraction and processing of a given resource may be permitted. The terms on which exploitation of the resource in the area takes place are typically stipulated in a concession agreement.[9]

Confidentiality clauses: terms in contracts between natural resource companies and host governments that obligate both parties to keep specified sections or the entire contents of the contract secret.

Contracts: agreements between parties to an extractive industry investment that allocate risks and rewards (costs and benefits) between parties and stipulate the conditions and duration of the oil, gas or mineral extraction activity.

Dutch Disease: the economic phenomenon whereby the export of a country's natural resource(s) increases a country's exchange rate, making other sectors of the economy, such as tradable manufactured goods, less competitive. Named for occurrence in the Netherlands after it began oil production in 1970s.

EITI: Extractive Industries Transparency Initiative – a UK-launched voluntary initiative through which endorsing governments commit to publish revenues earned from their natural resource sectors and oil, gas and mining companies commit to publish their payments to governments.

Equity: an ownership stake in a company, investment or property.

Extractive industries: activities which involve the removal (or 'extraction') of non-regenerative or nonrenewable natural resources through mining or drilling. The term 'extractive industries' is often used to describe the entire process of natural resource commodification, including prospecting (exploration), extraction (removal) from the ground, treatment, and sale.

Fiscal regime: the set of taxes, fees, incentives, exemptions and other regulations that determine how much money a government earns in revenues from a given activity and how much it spends.

Host government: government of the country in which an oil, gas or mineral investment is located.

Hydrocarbon: a term used to denote oil and gas or 'petroleum' resources; technically, an organic compound consisting of hydrogen and carbon, typically found in the form of crude oil, natural gas or coal.

Licensing: the granting of rights by a contract or agreement between a government and a company or individual to exploit mineral or hydrocarbon resources in a given area for a set period of time.

Natural resources: materials occurring in nature that can be used to create wealth or that have an economic value. A broader definition could include timber and water, for example, but in the context of this guide, natural resources refer specifically to non-renewable resources such as minerals and fossil fuels.

[9] See: www.gomr.mms.gov/homepg/lagniapp/glossary.html#C

National resource companies (NRCs): companies wholly or partially owned by the government that are involved in the extraction, treatment, production and/or sale of oil, gas or minerals.

Production Sharing Agreements (PSAs): a type of investment contract, more common in the oil/gas sector than in mining, which stipulates the formula according to which shares of a resource produced are to be divided between a private operator and the government, after the investors' costs are recovered. In PSA arrangements, the company bears the costs and risks of developing a resource in exchange for retaining a share of the production.

Profit oil: Under the terms of a PSA, the portion of oil produced that remains after the company deducts its costs from the income earned from total oil production. It is divided between the government and company according to a formula established in the PSA.

Resource curse: The inverse association between equitable growth and oil and mineral abundance, whereby countries "rich" in natural resources tend to have poorer socioeconomic conditions and greater tendency for conflict and corruption.

Rent (resource rent): profit derived from the exploitation of a natural resource that reflects the value of that resource, independent of investment made in its extraction or processing, such as labor and capital inputs.

Revenue streams: the various sources through which earnings from the extractive industries are captured, such as taxes, administrative fees, sale price, etc.

Reserves: the (estimated) quantity of an unextracted mineral or hydrocarbon resource available in the ground.

Royalty: a type of excise tax paid to the host government, which represents a percentage of the earnings from the sale, value or volume of an extracted natural resource.

Signature bonus: a payment by a company to a host government that often accompanies the signature of a contract or concession agreement; a payment offered in exchange for the government's granting of access to exploit a resource or agreement to certain contract terms.

Stabilization clauses (or fiscal stability): terms often found in investment agreements between extractive industry companies and governments which attempt to "freeze" a fiscal regime in place, stipulating that tax and regulatory conditions in place at the time of a contract's signature may not be changed without mutual agreement, or payment of compensation by the government.

Stabilization fund: An account into which resource revenue earnings can be deposited to help "smooth" or stabilize government budgets against fluctuations in the market price for the commodity. When revenues are higher than predicted, excess earnings can be deposited in the account; when revenues are lower than planned, money can be withdrawn from the fund to supplement the budget.

Take: the share of value from all revenue streams that stays with a company or government; summary estimate of the overall division of earnings (profits) between an investing company and the host government.

Title: legal document vesting control over land or subsurface resources, often stipulating the conditions for exploration, extraction and processing of a natural resource.

Whistleblower: an individual, often an employee of the institution concerned, who exposes or reports wrongdoing or violation of laws to the authorities.