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Better resource governance in Africa – On what development agenda?

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Presentation to the Session
Assessing the development impact of TNC activities in extractive industries

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In the new policy framework that has emerged since the end of the 1990s, the Millennium Development Goals (MDGs) provide the targets and national poverty reduction strategies represent the vehicle, supported by associated direct budget support mechanisms, for reaching these targets. While there is no doubt that greater harmonization of donor policies has been achieved among the initiatives of the multitude of actors concerned, whether multilateral or bilateral, the question which arises is that as to whether the policies put forward are at the height of meeting the development challenges facing the countries concerned. This concern is driven by recognition that increasing harmonisation is premised on a policy framework, including the introduction of quite precise and standardised macro economic reforms, presented as a structural conditionality[1] in order for poorer indebted countries to qualify for the funds which permit the implementation of PRSPs. One consequence of this process may well be a tendency for the broader issues concerning the choice and the design of development strategies to receive far less attention, with the additional danger that space for policy alternatives may be narrowed.

Confidence in the role of the extractive sector as the «motor of growth» in mineral rich countries of Africa was reaffirmed by one of the Executive Directors of the World Bank, Mr. Paulo Gomes, who in September 2005, at a mining conference in Cape Town, South Africa declared:

«The mining sector is set to play a key role in the World Bank's goal to alleviate poverty in Africa by 2015."[2]

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[1] «Structural conditionality» is the term used by the IMF in its Malian Country Report of June 2004, No. 04/184 (Mali: Request for a Three Year Arrangement under the Poverty Reduction and Growth Facility (PRGF) discussed below.

[2] www.mineweb.net/events/conferences32005/samda2005/489480.htm « Mining to play key role in World Bank Africa plans" by Gareth Tredway, September 20, 2005.

«If we use mining as the key driver for growth, then we would become less dependent on $ 50 billion (in aid) that I am not sure will even come.”

Given this confidence, the work of UNCTAD in understanding under what conditions investment in the extractive sector can lead to positive development impacts and understanding some of the obstacles to this objective is critically important.

To illustrate the need to consider the developmental implications of the design and the content of the policies themselves I would like to draw very briefly from the findings of a study we have just undertaken on the impact of current policies concerning cotton and gold production in Mali and Burkina Faso.[3] Findings suggest caution in assuming the link between export-led growth and poverty reduction.
In Mali and Burkina Faso, the extension of cotton production which has taken place over the last 40 years or more has been characterised by numerous sources as a «**success story».** The term “success” refers not only to the impressive increases which have taken place regarding production, yields and competitiveness (production costs have been amongst the lowest in the world), but as well, the positive social and economic impacts which have accompanied the extension of this crop.

In Mali, the incomes drawn from cotton production provide for the livelihood of over 3 million people. Moreover, studies have shown that there exist very clear links between cotton production and food security. In Mali, 40 % of cereal production comes from cotton producing zones.[4]

Concerning Burkina Faso, a study conducted by the World Health Organisation found that the cotton-maize mix provided households with a greater cash income and led to a better and more balanced diet than niebe alone. The study concluded that:

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[3] “Poverty Reduction in Africa : On Whose Development Agenda? Lessons from Cotton and Gold Production in Mali and Burkina Faso” by Bonnie Campbell, Vincent Nabe Coulibaly and Gisele Belem, Oxfam America. To be published in December 2006. The central arguments of this study may be summarized as follows:

While poverty reduction is at the forefront of the World Bank’s mission, some of its policies require substantial trade-offs between economic growth and poverty reduction. The study argues that World Bank policies promoting privatization of the cotton sectors while encouraging the expansion of gold mining across Mali and Burkina Faso may undermine poverty reduction efforts in both countries. Even though gold now generates more export revenues than cotton in one these countries, Mali, and it is destined to do so in the other, cotton generates substantially more benefits to poor sectors of the population than gold. Cotton sustains well over five million people in both countries, strengthens food security, and generates strong backward and forward linkages to the rest of the economy, contributions unmatched by gold mining. However, current reforms are undermining the cotton sector, while promoting the expansion of mining without the institutions to ensure that, at the minimum, local communities do not bear the costs of environmental degradation. Findings suggest caution in assuming the link between export-led growth and poverty reduction, and stress the benefits of continued policy space for national governments and of pacing liberalization.

[4] Eric Hazard, ENDA Prospective Dialogue Politiques, « Mali, Yellow Gold and White Gold », November 2004, page 5. Oxfam America Eminent Persons Delegation to Mali: December 1-4, 2004.

“the expansion of cotton cultivation was a major factor in improving health of households located in the cotton belt. From 1993/94 to 1997/98, cotton production increased by 175 percent and poverty incidence among cotton growers declined from 50 percent in 1992 to 42 percent in 1998, while it increased by two percentage points among subsistence farmers. »[5]

Similar results concerning the impact on poverty have also been documented concerning Mali. These results do not depend merely on cotton as a crop, but rather on the fact that the extension of cotton took place in the context of the adoption of an integrated approach to rural development which included cereal production, the raising of cattle, access to credit for inputs such as fertilizers and in which the coordination of the production, the sale and the transportation of this crop was assumed by parastatal organisations. In Mali the public company responsible was the Compagnie Malienne pour le Développement du Textile (CMDT) and in Burkina, the Société Burkinabé des Fibres Textiles (SOFITEX).

To summarize, among the central factors explaining the success of the cotton sector in these two countries has been the institutional support and the political commitment of the governments concerned. Moreover, what has been described as the resulting “cotton production support system” refers to an approach to agricultural development which aimed to meet the needs of the local population both in terms of improving livelihoods and reducing poverty.

Among the principle reforms which have been required of Mali and of Burkina Faso as a structural conditionality by the multilateral financial institutions since the beginning of the current decade, has been the privatisation of these parastatal companies and the dismantling of the integrated production systems or the “filière cotton” as it came to be called. In Burkina this is particularly paradoxical since Sofitex is recognised by the World Bank to have been efficient, low cost and well administered, factors which explain why its costs of production have been extremely competitive. Sofitex has now been privatised. In Mali, a country which in the past had been considered a «strong reformer», that is, that the country has introduced the recommended reforms, the request that the CMDT be privatised has been resisted and at present has been postponed until 2008 when there is little chance that it will not be implemented. [6]

Turning to the relationship between ensuring growth and poverty reduction, the study «Perspectives on Growth and Poverty Reduction in Mali » produced by the French

[5] “Analyse de la pauvreté au Burkina Faso”, INSD, 1999, Ministère de l’Économie et des Finances. Quoted in Louis Goreux and John Macrae « Reforming the Cotton Sector in Sub-Saharan Africa,” March 2003. Draft study for the World Bank.p.7.

[6] It should be noted that the other conditionalities which have been requested of Mali by the IMF as part of its Poverty Reduction and Growth Facility include the privatisation of the public telecommunications company, (SOTELMA) and of the public company which produces pharmaceutical products (UMPP). As for the public water transport company and that which produces sugar, state participation is to be reduced to 20 % of total shares.

IMF, Country Report of June 2004, No. 04/184 (Mali: Request for a Three Year Arrangement under the Poverty Reduction and Growth Facility (PRGF).pp.16-17.

research group Dial (2004)[7], documents that economic growth in Mali has in fact been constant. Over the long term, 1960-1996, growth rate was 3,1 %, a tendency which was maintained through the 1990s and which increased further to the 1994 devaluation, to an average of 5,7% between 1995-2000.

Economic growth has been driven by the export sector as illustrated by the period between 1993/94 and 1997/98, which was characterised by a growth rate of 118% in cotton production and a rapid increase in the exports of gold. And to the question as to whether such constant rates of growth succeeded in reversing the country's high poverty rates, the answer is negative. A very high proportion of Malians continue to live below the poverty line, as do the numbers who live in conditions which are described as «extreme poverty». In fact for both countries studied, the Human Development Indices have worsened over the period 1999-2002. (See Table 6 below). Another fact that is also very preoccupying notes the same study is that Mali is considered to be following the «right policies», that is, those considered appropriate by the multilateral financial institutions.

«Does the experience of Mali show that there is no relationship between « good » policies, democracy, and poverty reduction? »

The least that can be said concludes the same study is that: « Sound macro-economic policies have not been effective in poverty alleviation. »[8]

The Dial study arrives at the conclusion that what is happening is an accentuation of inequalities in the rural sector, which underlines the critical importance of paying far more attention to the distributive implications of policy reforms.

In the context of the difficulties confronting cotton producing African countries in the 1990s, notably as a result of the negative impacts of subsidies[9] which were introduced by the United States, the European Union and China in order to protect their own producers, attention has been turned to finding alternate sectors as the «motor of growth». It was found in the extractive sector and for both Mali and Burkina Faso in industrial gold production.

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[7] « Perspectives on Growth and Poverty Reduction in Mali » by Mohamed Ali Marouani and Marc Raffinot, Document de travail DT 2004/05. Développement, Institutions et Analyses de Long Terme, Dial, Paris, September 2004.

[8] Ibid. p. 18.

[99] To recall rapidly the context, it is worth underlining that as a result of the subsidies, world cotton prices declined by almost half as of the mid-990s. Between 2001 and 2003, American farmers received 3,9 billion $US worth of subsidies (that is 230 $ US per acre) and the total amount represented the doubling of the figure ten years previously in 1992. According to Oxfam International, doing away with these subsidies would have permitted an 11¢ increase per pound of cotton that is a 26 % in price paid to African producers. Just to give an idea of the importance of American subsidies, American farmers received in this period in the form of subsidies for their cotton more than the GDP of Burkina Faso and almost three times more in subsidies than USAID's budget for all of Africa. See: "Cotton Cultivation in Burkina Faso – A 30 year Success Story". A case study from "Reducing Poverty, Sustaining Growth – What Works, What Doesn't and Why. A Global Exchange for Scaling Up Success," prepared for the World Bank, 2004, p. 8.

Given this confidence, that mining can serve as the key driver for growth and alleviate poverty in Africa, it is indeed important to understand under what conditions investment in the extractive sector can lead to positive development impacts and what obstacles might impede such outcomes.

Drawing on research on a series of country specific studies, this paper proposes to examine more broadly the issue of “Assessing the development impact of TNC activities in extractive industries” by resetting discussion of these issues within the policy framework which has been introduced over the last two decades to contribute to the development of the extractive sector. Within this context it will examine some of the empirical evidence available to substantiate the proposition that investment in mineral rich countries of Africa will lead to growth that will result in poverty reduction.

The hypothesis presented is that the past emphasis placed by multilateral financial institutions on creating an environment favourable to attracting foreign investment in the extractive sector, through measure of liberalisation and privatisation but in the absence of measures for meeting development objectives and in the presence of fragile state forms may well present impediments to development. In the absence of redistributive measures, such an approach may have contributed as well, even if inadvertently, and may continue in the future to contribute to social exclusion and inequality in the countries concerned and consequently, to the increasing instability and potential conflict.

The paper is based on the updating of a study published in 2004[10] which involved a series of five case studies and illustrated three generations in the dynamic process of the reform of African mining codes. The first generation of the 1980’s was illustrated by Ghana; the second generation of the 1990’s by Guinea, and the third and most recent by Tanzania, Mali and Madagascar. Subsequent work on which findings are based involves updated studies of Guinea, Mali and Burkina Faso.[11]

On the basis of the above, the paper proposes to examine findings concerning each of the areas identified by UNCTAD’s background document TD/B/COM.2/EM.20/2 concerning how the participation of TNCs in the extractive industries affected:

- The size and distribution of budget and export revenues from existing resources;
- Creation of employment and local linkages;
- Industrial diversification and infrastructure development;
- The environment and local communities;
- Broader social development issues.

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[10] Bonnie Campbell, (Ed.), *Regulating Mining in Africa : For Whose Benefit?* Discussion Paper 26, Nordiska Afrikainstitutet, Uppsala (Suède), 2004, 89 pages

[11] This work also has involved the Democratic Republic of the Congo. See: Marie Mazalto, « La réforme des législations minières en Afrique et le rôle des Institutions Financières Internationales. Le cas de la République démocratique du Congo », *L’Annuaire des Grands-Lacs africains 2004-2005*, septembre 2005, 25 pages.

a) The size and distribution of budget and export revenues from existing resources. With regard to mining payments by companies to governments and revenues received by governments from mining companies, (and one could add oil and gas although these are not areas on which our own research has focused), we seem to be in an important historical moment in this regard. After almost two decades of experiences which demonstrated a pattern which had emphasised keeping modest the level of royalties, duties, as well as other forms of taxation in many mineral rich countries of Africa in order to ensure competitively, this pattern now seems to be in the process of being questioned and redefined. Such pattern of questioning what now appear as overly generous concessions which have led to a disproportionately low share of government revenues is in fact currently quite widespread in mineral rich countries of Latin America.

While obviously a complex subject which varies widely among mineral sectors and country specific situations, illustrations based on studies of Ghana, Guinea, Mali and Burkina Faso will be used to illustrate a broader pattern with regard to experiences in Africa.

With regard to Ghana,[12] in the context of what could be seen as the first generation in the liberalisation of African mining codes of the mid 1980s, characterised by the stringent withdrawal of public institutions from the sector, privatisation, a reduction in the level of royalties, the abolition of certain taxes, the pattern of the opening up of the mining sector to foreign investment was to have important consequences for the level of revenues actually retained in the country. This is because of such factors as the high level of fiscal incentive enjoyed by mining companies, the constrained capacity of the sector to generate significant local labour employment, lack of capacity for value added processing, and the huge amounts of foreign exchange earnings retained in offshore accounts.

The progressive reforms in the country's mining code at the time resulted in the scaling back of corporate income tax liability and the provision of more specific fiscal allowances that aim to reduce the general tax liability of mining sector operators. In order to situate more recent proposals, it is helpful to recall, that corporate income tax, which stood at 50-55% in 1975, was reduced to 45% in 1986, and further scaled down to 35% in 1994. Initial capital allowance to enable investors to recoup their capital expenditure was increased from 20% in the first year of production and 15% for subsequent annual allowances in 1975 to 75% in the first year of operation and 50% for subsequent annual allowances in 1986. The royalty rate, which stood at 6% of the total value of minerals won in 1975, was reduced to 3% in 1987. Other duties that contributed significantly to government revenue from the sector before the reforms, such as the mineral duty (5%), import duty (5-35%), and foreign exchange tax (33-75%), were all abolished.

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[12] Thomas Akabzaa, "Mining legislation and net returns from mining in Ghana » in (Ed.), *Regulating Mining in Africa : For Whose Benefit?* Ed.Bonnie Campbell, Discussion Paper 26, Nordiska Afrikainstitutet, Uppsala (Suède), 2004. It should be noted that the revisions of the country's most recent mining code have been finalised since this study was done.

Table 1: Comparison of earlier fiscal elements of various fiscal policies implemented in the mining sector

ITEMS	SMCD[13] 5 1975	ACT 437: INVESTMENT CODE, 1981	PNDCL[14] 153 REGIME 1986	AMENDMT. 1994	Proposed Amendts. 2002[15]
Corporate Income Tax	50-55%	45%	45%	35%	35%
Allowances					
Initial Capital Allowance	20%	20%	75%		75%
Subsequent Annual Capital Allowance	15%	N.A	50%		50%
Investment Allowance	5%	N.A	5%		5%
R & D Allowance	N.A	25%	N.A		NA
Royalty	6%	2-6%	3-12%		3% or less
Min. Turnover Tax	2.5%	2.5%	N.A		N.A
Mineral Duty	5-10%	5-10%	N.A		NA
Import Duty	5-35%	5-35%	N.A		NA
Foreign Exchange Tax	33-75%	33-5%	N.A		NA
Import Licence Tax or Import Levy	10%	10%	N.A		NA
Government shareholding	55%	55%	10%		0%
Gold Export Levy	3 cedis/oz for every oz above 100,000 oz.	3 cedis/ oz for every oz above 100,000 oz	N.A		NA
A.P.T			25%		0%

An analysis of the linkage effects of foreign investment in the mining industry usually employs the concept of retained value -- the share of the total value of production retained within the host country[16] -- to evaluate the contribution of the sector to national development. The higher the actual export value returned to the national economy, the more the economy is positively impacted by the sector. Holders of a mining lease are permitted by the Bank of Ghana to retain a minimum of 25% of the operator’s foreign exchange earnings in an external account for the purposes of procuring equipment, spare parts, raw materials, and for dividend payments and remittances in respect of goods for expatriate personnel, among others. Each company negotiates directly with the government the exact percentage that can be retained outside Ghana.

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[13] SMCD – Supreme Military Council Decree

[14] PNDCL – Provisional National Defence Council Law

[15] This proposal was before parliament for ratification in 2002.

[16] Craig Emerson, “Mining Enclaves and Taxation”, *World Development*, vol.10, no.7, 1982, pp.561-71.

Currently companies maintain between 60% and 80% of their export earnings in foreign accounts. The Bank of Ghana maintains, however, that an average of 71.2 percent of value of all mineral exports is held in offshore accounts. The retained value of 28.8 percent is perceived as inflated, as no adjustment is made for the import content of local purchases, such as petroleum products, explosives, and other consumables in the mine. Estimates that government revenues represent less than 40% of the retained value may therefore be considered excessive.

In view of the level of foreign exchange earnings allowed in the offshore accounts of the various mining companies, only a small percentage of earned foreign exchange trickles back into the national economy. This pattern is documented in the same study by the following table:

Table 2: Retention and surrender levels of gold exports

AMOUNTS $ Million

	LEVELS (%)	**1998**	**1999**	**2000**	**TOTAL**
Retention Offshore	71.2	491.995	491.581	505.907	1489.483
Surrender to Bank of Ghana	28.8	192.908	162.154	176.963	532.025

C. Retention/Surrender Levels

Year	**Total** Gold Export ($ million)	**Retention** Amount	**Retention** Level (%)	**Surrender** Amount	**Surrender** Level (%)
1998	687.76	492	71.5	192.908	28.0
1999	710.82	491.58	69.2	162.154	22.8
2000	702.03	505.91	72.1	176.963	25.2
Total	2100.61	1489.483	70.9	532.025	25.3

The usefulness of more careful monitoring of the revenues derived from the sector comes out clearly in the recent Ghanaian EITI Inception Report[17] which illustrates problems concerning or even a lack of regular fiscal control. Among issues raised is the fact that until quite recently, no mining company was paying corporate tax to Internal Revenue Service and that none of the mining companies had paid any capital gains tax to the Internal Revenue Service even though many of the mining companies have changed ownership over the years. There were complaints of delays in the payments of royalties to the communities, as well inconsistencies in mineral valuation. With regard to the latter point, there is no uniformity in the pricing of minerals won by mining entities. These and other issues identified will be fully explored in the forthcoming March 2007 Aggregation

[17] Ministry of Finance and Economic Planning, Ghana Extractive Industries Transparency Initiative, “Inception Report on the Aggregation of payments and Receipts of Mining Benefits in Ghana.” Prepared by Boas & Associates, Ghana, September 2006.

Phase which will involve the collection, collation and analysis of data. This next phase will include processing (mineral production) and financial audits of eight selected mining companies. The benefit/payments to be aggregated include Mineral royalties, Mineral right licenses, Property rates, Ground rent, corporate tax and dividends.

With regard to Guinea,[18] according to the 2005 estimates of the World Trade Organisation (WTO), this country has reserves of 20 billion tons of bauxite which are exceptional both in terms of their quantity and quality. The country is responsible for approximately 40% of world commerce of this resource as well as 40% of the supply of bauxite to the United States[19]. National production figures remained at approximately 17 millions tons for nearly ten years with a slight decrease to 16 millions tons in 2004 while the value of exports exceeded US$292 millions which meant that this resource represented over 40% of the value of the country's total export receipts if all sectors are considered.

In a word, Guinea is the world's most important source of high grade bauxite.

However, if these figures underline the country's wealth in this sector and its high degree of integration into world markets, the impact on the Guinean economy is paradoxically quite a different story. While the mining sector has represented as of 1995 on average 80% of the total value of exports, since it has contributed on average less than 20% to central government revenue. This situation is in stark contrast to that which existed in the 1980s when the contribution of mining revenue to the fiscal receipts of the state exceeded 70%.

According to data produced by the International Monetary Fund (IMF), the contribution of the mining sector to Guinea's total exports in 2004 represented 92.3%, which could be subdivided as follows : bauxite: 40.5%; alumina: 22.6%; diamonds: 6.7% and gold: 22.6%[20]. The decrease in the country's mining receipts which include the exports of gold and diamonds but of which the bauxite and alumina sectors represent by far the essential part, has been such over the last years that the contribution of the mining sector to central

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[18] This section is based on Bonnie Campbell « "Walking a fine line". Liberalisation, Policy Space and the Challenges of Development: Lessons from the Guinean Bauxite-Aluminium Sector », Presentation to the World Bank Group Extractive Industries Advisory Group, Oil, Gas, Mining and Chemicals Department, IFC, Washington, June 20 2006. To be published in a forthcoming volume of the Political Economy of Mining in Africa.

[19] World Trade Organization (WTO), *Trade Policy Review: Republic of Guinea – Report by the Secretariat* (Revision), Trade Policy Review Body, WT/TPR/S/153/Rev.1, December 14th 2005, p.63. Guinea's contribution to United States has decreased slightly recently. U.S. Geological Survey, "Bauxite and Alumina", In *Mineral Commodity Summaries*, U.S. Department of the Interior, January 2006, p.32.

[20] International Monetary Fund (IMF), *Guinea: Selected Issues and Statistical Appendix*, IMF Country Report No 06/25, Washington D.C.: IMF, January 2006, p.48.

government revenue has slipped from 73.7% which it was in 1986 to 26% in 1996[21] and to 18.27% in 2004[22], with projected figures of 14.8% for 2007[23] (see Table 3).

Table 3. Guinea: Central Government Revenue, 2000-2007 (in billions of Guinean francs)								
	2000	2001	2002	2003	2004	2005 (proj.)	2006 (proj.)	2007 (proj.)
Revenue and grants	719.8	873	876.9	952.7	1,027.4	1,325.2	1,497	1,701.4
Revenue	594.5	670.2	763.9	754.1	936	1,153.6	1,311.3	1,509.7
Mining sector revenue	146.4	166.6	145.4	105.9	171	177	195.4	223.6
Share of mining revenue in total governmental revenue (excluding grants)	24.63%	24.86%	19.03%	14.04%	18.27%	15.34%	14.90%	14.81%

Based on: International Monetary Fund (IMF), *Guinea: Selected Issues and Statistical Appendix*, IMF Country Report No 06/25, Washington D.C.: IMF, January 2006, p.55 and IMF, *Guinea : 2004 Article IV Consultation – Staff Report; Staff Statement; and Public Information Notice on the Executive Board Discussion*, IMF Country Report No 04/392, Washington D.C.: IMF, December 2004, p.29.

Just over ten years after the adoption of the reforms aimed at liberalizing the mining sector, it is recognized now that, "[a]lthough appropriate, all of these reforms to the mining sector failed to produce the positive impact on the national economy that had been hoped for"[24]. The paradox of the decline in the contribution to fiscal receipts is all the more striking in view of the relative stability of production figures as illustrated in Table 4. These trends take on particular importance when it is the leading mining sector concerned that is the sector on which the country depends to meet performance criteria of the international financial institutions and more basically to permit the restructuring and diversification of its economy with a view of stimulating growth and contributing to poverty reduction.

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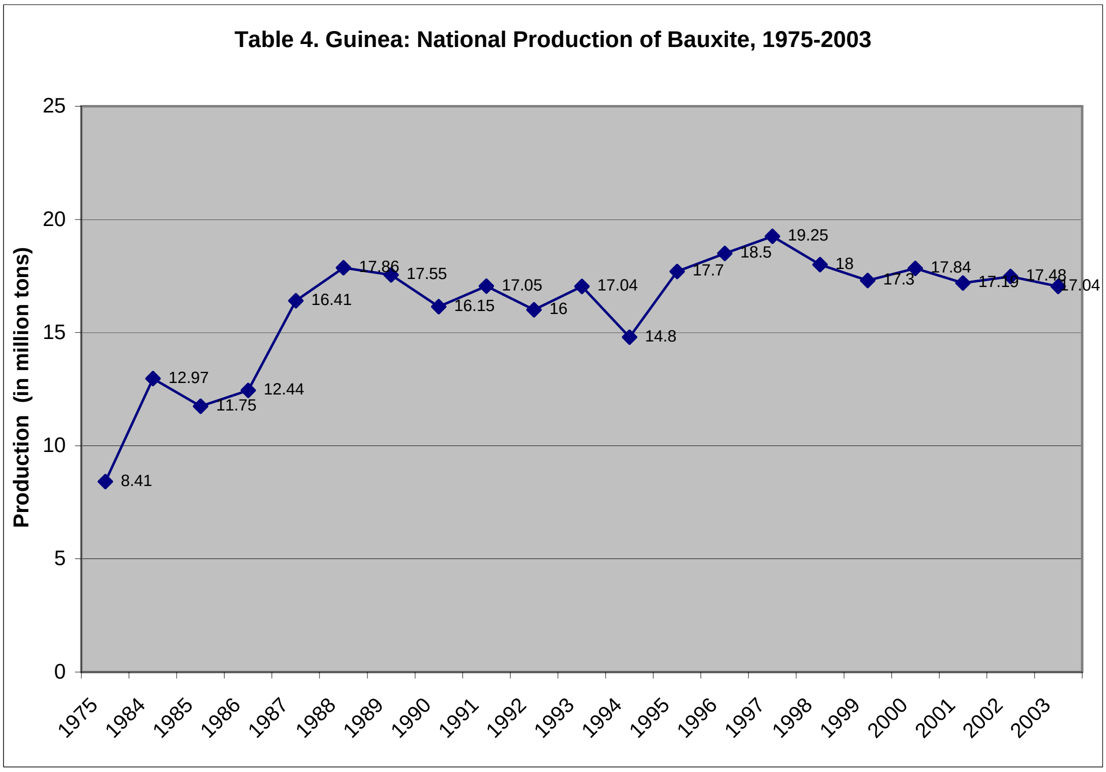
[21] Integrated Framework, *Guinea: Diagnostic Trade Integration Study*, August 22[th] 2003, p.3, [PDF] http://www.integratedframework.org/files/guinea_dtis-vol1_25nov03.pdf

[22] International Monetary Fund (IMF), *Guinea: Selected Issues and Statistical Appendix*, op.cit., p.55.

[23] International Monetary Fund (IMF), *Guinea: 2004 Article IV Consultation – Staff Report; Staff Statement; and Public Information Notice on the Executive Board Discussion*, IMF Country Report No 04/392, Washington D.C.: IMF, December 2004, p.29.

[24] World Trade Organization (WTO), *Trade Policy Review – Report by Republic of Guinea*, Trade Policy Review Body, WT/TPR/G/153, September 14[th] 2005, p.9.



Based on: Raw Materials Data, November 2005

The study from which these observations are based, draws attention to the manner in which price negotiations have taken place and specific contracts negotiated over time, to illustrate the extent to which what might be described as the asymmetrical bargaining position of the Guinean government has been perpetuated. As will be seen below, the outcomes of certain recent negotiations appear consistent neither with the objectives of the government nor with those of international financial institutions and that is to secure stable revenue for the country from its rich mining sector.

There are obviously enormous differences between the two examples briefly cited here which rest on a wide range of issues such as the nature of fiscal and customs incentives set out in mining regulations and the nature of the negotiations which take place around specific contracts.

With regard to the nature of fiscal and customs incentives, two other examples illustrate overall trends. In the case of Mali, incentives offered to attract mining in the 1999 mining code are comprised mainly a decrease in government participation in the shares of companies, taxes and amortization. In Burkina Faso, the revised 2003 mining code dealt primarily with a reduction of tax rates (taxes on trade and industrial profits and taxes on investments), the introduction of tax exemptions on activities during the preparatory phase and the extension of benefits to subcontractors.

The objective in both cases translates a desire to use regulatory frameworks to create conditions to attract investment into these mineral rich economies. With hind site however, one can see the potential negative implications of such generous conditions and in this regard it is not very surprising, particularly in the context of strong metal prices that the pendulum should begin to swing in a different direction. That this has begun to happen is illustrated by the initiatives for example of the government of Tanzania [25] to look into past contracts. Key concerns revolve around past contracts that the government has entered into with the investors, resulting in meagre returns and royalties, lack of transparency in the mining sector and at times, poor social relations. These resulted in an in-depth evaluation undertaken by the government as to why revenue from mining activities is so small. Companies are obliged to pay $200,000 annually to local authorities and a royalty of 3 per cent of the value of exports to the government. Now legislators are demanding better profit sharing arrangements and fuller accountability to the communities where mines are located.

With regard to the nature of the negotiations which take place around specific contracts, certain observations have been made as to how these can impact unfavourably on

[25]WilfredEdwin, SpecialCorrespondent, *TheEastAfrican*, 6/26/2006, Nairobi

“Last week, the government publicly acknowledged that major mining companies have been fiddling with figures to avoid paying the requisite duties and royalties. Deputy Minister for Energy and Minerals, Lawrence Masha, disclosed in parliament that a recent audit report by government appointed assayers Alex Stewart had noted that reports presented by large scale gold mining firms on their operations were not correct. Mr Masha said that the investigations by the assayers were still going on. "The preliminary report by the committee is ready. I request the MPs to be patient as such problems and many others will be sorted out after the review process," said Mr Masha.

Members of Parliament last week pressed the government for more action on mining contracts, with the legislators demanding better profit sharing arrangements and better accountability to the communities where the mines are located. Legislator Chacha Wangwe demanded a government explanation for what he described as the mining companies' "*insignificant contribution to the communities*" compared with the profits they were making. Companies are obliged to pay $200,000 annually to respective local authorities "depending on the tax regime of the district and additionally pay a royalty of 3 per cent of the value of exports to the Tanzanian government."

The government had in June 2003 entered into a contract with *Alex Stewart* (Assayers) *Government Business Corporation* of the USA to verify the cost of production, transportation of gold, and capital invested by large scale miners. The mining sector grew by 15.7 per cent in 2005 compared with 15.4 per cent in 2004, contributing 3.5 per cent and 3.2 per cent to GDP respectively. The Minister for Planning, Economy and Empowerment, Juma Ngasongwa, says the government has formed a special committee to undertake an in-depth evaluation of why the revenue accruing from mining activities is so small.

Dr Ngasongwa attributes the higher growth of the sector to additional investments in *Tulawaka Gold Mine* in Biharamulo. Gold is the main mineral export with 48.2 tonnes being exported in 2004, but its impact on economic recovery and job creation has been very minimal. Review of the mining contracts was one of the priorities identified by President Jakaya Kikwete when he took office last year. He promised to provide a fair balance between returns to investors and the country's interests.. …”

government revenues as did a study undertaken in 2005 for the Guinean Ministry of Mines and Geology[26]. Among other things, the study recommended abolishing the procedure permitting the negotiation of individual and parallel fiscal agreements for specific mines project. Through the negotiation of such specific agreements, companies can benefit from fiscal exemptions which are over and above the advantages already set out in the 1995 mining Code, and which the authorities in fact attempted to abolish in October 2004, further to one of the key recommendations of the Public Spending Review by the World Bank which was linked to the implementation of the country's PRSP[27]. Nevertheless, mining companies have continued to benefit from a special status and as has been noted by the WTO: "The incentives given to approved mining enterprises are still much more attractive than those for non-mining enterprises under the Investment Code"[28].

The implications for central government revenue and consequently, for social expenditure and the future overall composition of public spending of at least one of the recently signed agreements for large projects for transformation of Guinean bauxite merit special attention. In October 2004, the Minister of Mines and Geology of Guinea signed an agreement with Global Alumina Corporation (the "Global Agreement") providing for the construction and beginning of operations permitting bauxite to be transformed locally. The agreement provides a good illustration of the risks which are presented by this type of negotiation. This Basic Agreement, as well as the amendment that was signed in May 2005 which modified certain of the terms of the former, subsequently unanimously ratified by Guinea's National Assembly and then adopted two months later by presidential decree[29], were also examined by the study of the *Guinean Mining Taxation System* which concluded that :

"- The agreement bears little resemblance to the fiscal system in the 1995 Code Minier and the 1996 Convention;
- The initial agreement fiscal terms, before amendment, are so much in favor of the investor, that it is doubtful whether future politicians will honor it. In the context of global best practice, the agreement clearly does not provide a "fair" share to government;
- The 2005 amendments are an improvement but will act as a dangerous precedent as future investors will demand similar treatment"[30].

[26] J. M. Otto, *Guinean Mining Taxation System: Analysis and Recommendations for Reform*, Final Report, Prepared for Ministry of Mines and Geology, August 2005.

[27] World Trade Organization (WTO), *Trade Policy Review: Republic of Guinea – Report by the Secretariat* (Revision), Trade Policy Review Body, WT/TPR/S/153/Rev.1, December 14th 2005,. p.64-65; see also International Monetary Fund (IMF), *Memorandum of Economic and Financial Policies of the Government of Guinea for 2001-04*., p.4.

[28] World Trade Organization (WTO), *Trade Policy Review: Republic of Guinea – Report by the Secretariat* (Revision), op.cit., p.54.

[29] Global Alumina Corporation, *Notes to Interim Consolidated Financial Statements*, September 30th 2005, p.1.

[30] James M. Otto, *Guinean Mining Taxation System: Analysis and Recommendations for Reform*, op.cit., p.9.

The study *Guinean Mining Taxation System* illustrates that a tax system "[…] which takes into consideration international competition"[31] can, in theory, by compatible with a tax system which offers an appropriate portion of taxes to the state. However, in spite of the clauses present in current mining regulations, the conditions governing the distribution of mining revenues depend to the present above all on specific contracts which can be negotiated between the state and companies. The content of such agreements depends consequently on the negotiating capacity of the government concerned, capacity which has been significantly affected over the last years notably by the forms of liberalisation which have been introduced into the country.

b) Creation of employment and local linkages.

With regard to Ghana, research carried out in this country suggests that the hope of increased employment generation in the mining sector following reforms has largely been unfulfilled.[32] The sector has a relatively limited capacity to generate employment, as surface mining operations that dominate the mining landscape are capital intensive with relatively low labour requirements. All post SAP mining ventures have been surface operations. The divesture of former state-owned mines resulted in significant restructuring of these mines to ensure efficiency and cost cutting by their new owners, with notable retrenchment of the existing workforce as part of the restructuring process. Many of the mines have undertaken substantial downsizing of their labour force in the last three years especially. Between 1992 and 2000, there was a net loss of more than 8,000 mine jobs. Ironically, while there is growing reduction in the levels of local employment in the sector, the quota of expatriate employees in the sector has grown. (Table 5)

Table 5: Labour statistics for producing mines

(EXCLUDING SMALL MINERS)

MINERAL	DESCRIPTION	1994	1995	1996	1997	1998	1999	2000
Gold	Total Labour	18,049	19,557	18,674	18,028	19,422	16,129	15,120
	Expatriate Staff	210	229	215	213	251	231	219
	Local Staff	17,839	19,328	18,459	17,815	19,171	15,898	14,901
Total Industry								
	Total Labour	21,272	22,519	21,030	20,343	21,261	17,858	16,537
	Expatriate Staff	224	234	229	221	261	242	233
	Local Staff	21,048	21,048	21,048	21,048	21,048	21,048	21,048

[31] Organisation des Nations unies pour le Développement Industriel, *Guide de l'homme d'affaires,* **http://www.unido.org/file-storage/download/?file_id=21714**p.21.

[32] Thomas Akabzaa, "*Mining legislation and net returns from mining in Ghana » in* Regulating Mining in Africa : For Whose Benefit? Op.cit.

The Labour statistics for producing mines produced by the Minerals Commission of Ghana for the subsequent years for which statistics are available, 2001 and 2002, show similar trends with total labour force having decreased by 12% from 16,537 to 14,191 and with an increase in expatriate labour from 233 to 241.

With regard to another West African gold producer, Mali, in spite of the fact that gold has as of 1997 replaced cotton as the leading export, the industrial gold sector has employed in recent years approximately 3400 people. Although these jobs contribute not only to salaries but also to payments for social welfare, by comparison, cotton has in the past been responsible for the livelihood of approximately 3 million people.
With respect to employment, companies investing in Mali are required by the 1999 mining code to give preference, given equal qualifications, to Malian personnel.

> "The holder of mineral rights and their sub-contractors shall be bound to do the following: to give preference to Mali personnel with equal qualifications". (Mali 1999 Mining code, Article 126, b).

This has had the result that in the industrial mining sector 90% of workers are Malians. Such a provision is however absent from the more recent 2003 mining code of Burkina Faso. Because it is more recent and therefore may serve as a precedent, it is important to note moreover that the Burkina code does not take into account the displacement of populations, and does not require of the mining companies the preferential training or employment of nationals.

Finally, with regard to the critical issue of local linkages to other sectors of activities, the Tanzanian experience is again interesting. While the previous 1979 Mining Act required applicants for mining licenses to present a plan for local procurement of goods and services, such a stipulation is entirely absent from the 1998 Mining Act. Moreover, the World Trade Organization's Trade Policy Review of Tanzania 2000 states: "The authorities indicate that Tanzania does not have any local content requirements."[33] Given that provisions to build backward and forward linkages (such as value-added processing of minerals) to resource extraction within the economy would normally be considered important development objectives, it appears that the Tanzanian government has abandoned, or been obliged to abandon, these development objectives.

c) Industrial diversification and infrastructure development.

These key issues raise the question of the development prospects of recent strategies in the extractive sector. If one takes the example of countries such as Mali and Burkina Faso[34], although gold is currently the only ore being mined or planned to be mined on an industrial scale in both countries, obviously there is a potential the contribution to

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[33] Ibid., p.14.

[34] This section draws on the contribution of Gisèle Belem to "Poverty Reduction in Africa : On Whose Development Agenda? Lessons from Cotton and Gold Production in Mali and Burkina Faso" by Bonnie Campbell, Vincent Nabe Coulibaly and Gisele Belem, Oxfam America. Forthcoming, December 2006.

development from all mining activities. Alternatives require that the entire mining sector be taken into consideration and the promotion of resource diversification towards other minerals than gold.

A focus almost the exclusively on the exploration and mining of a single ore, gold, may well contribute to the economy's vulnerability because the price of gold fluctuates. And in fact, evaluating other resources is part of the priorities of these countries. For instance, in Mali, part of the *ad valorem* tax (3%) will be used to create a mining fund dedicated to evaluating other mineral resources[35]. This investment in evaluation is all the more useful, because mines currently in operation were discovered in the 1970s in the context of bilateral and multilateral cooperation. With the State's withdrawal and the drastic reduction of public spending following liberalization and adjustment programs, geological and mining research is poorly funded in Burkina as well as Mali[36].

Both governments are attempting to finance modest projects aimed at drawing attention to useful substances and construction materials that are integral to the mining sector. Resources such as manganese, phosphates, zinc, granite and clay minerals, etc are used in numerous areas: construction, agriculture, ceramics, etc. According to Burkinabé authorities, a good policy permitting the development of these substances would improve yields in agriculture, for example through the use of phosphates, which would contribute to reaching food self-sufficiency. Moreover, such a policy would encourage the consumption of local materials and help to reduce the cost of construction materials[37]. According to the Malian Ministry for Mines, Mali certainly has the potential for the development of a cement industry, but international operators are not interested. Both Mali and Burkina import their construction materials, even though their subsoils abound with them. With the financing of small-scale mines in the context of HIPC funds, Burkina Faso hopes to see its other useful mineral substances and quarries sector developed.

d) The environment, local communities and broader social development issues.

The issues in these broad areas are as numerous and they are complex. Two will be referred to here.

The first concerns current trends with regard to types of provisions contained in evolving regulatory frameworks and the second concerns capacity or lack of it to ensure enforcement of regulatory measures.

a) Contrary to what might be assumed there is not necessarily a uniform trend ensuring that more recent regulatory frameworks build on past experiences in the area of improved social and environmental protection and include provisions to this effect.[38]

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[35] Interview with the Minister of mines, Mali Novethic, 2003

[36] Source : interviews

[37] MMCE, January 2004

[38] The following section is based on the research of Gisèle Bellem who is completing a doctorate degree at the Institut des Sciences de l'Environnement at the Université du Québec à Montreal and on her forthcoming chapter: "Development policies and poverty reduction : Lessons from the Malian gold mining

In this regard, positive developments can be illustrated by the Malian mining codes for in contrast to the 1991 code, the 1999 code takes into account, for example, the relocation of populations affected by mining :

> « The relocation and resettlement of populations whose presence on mining sites might prevent extractive activities will proceed at the request of a mining title holder. The title holder will be responsible for the displacement and resettlement on a site chosen to this end » (1999 Mining code, Article 69).

Moreover, the 1999 code requires the creation of a community development fund in which 5000$ US must be invested every month. This fund is managed by a committee comprised of representatives from the administration, from local collectives and from the mine; and it is used to finance projects selected by said committee. In addition, mining directors have, a discretionary fund is managed by the director of every mining site for development project purposes[39]. Since 2000, payments are also made to the patent title for the benefit of the local collectives. Together, these funds are used to finance community development projects. Additionally, mining companies are required to provide housing, as well as sanitary, schooling and leisure infrastructures to miners and their families. Finally, with respect to employment, companies are required by the 1999 mining code to respect general working conditions and give preference, given equal qualifications, to Malian personnel[40]. Health and occupational safety issues are governed - through the mining code - by regulations set forth for protection and prevention, in conformity with international norms established for occupations dealing with the transportation, use or storage of explosives.

The 2003 Burkina code is in most respects similar to the Mali 1999 code. There are, however, certain noticeable distinctions. Although it is more recent, it does not take into account the displacement of populations, and does not require of the mining companies the preferential training or employment of Burkinese personnel. This relaxation of requirements in the Burkina code is also noticeable from the point of view of the environment.

With regard to environmental concerns, again the Malian experience is instructive. Currently, two mining codes are in effect with respect to environmental management in the mining industry in Mali. The 1991 code is applied by the three active mines: Sadiola, Yatela and Morila, and the more recent mining code is more demanding with respect to the environment, is being applied only by new mines. Mining permits are issued for a period of 30 years, renewable for 10 years until a mine is exhausted[41]. A permit is issued as long as the following are provided: a feasibility study and a mining development and

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industry" to be published in The Political Economy of Mining in Africa, Y. Graham and B. Campbell Editors.

[39] The funds amounts to 100 000$ USD in the case of Sadiola, 5000$ USD per month in the case of Morila, and 100 000$ USD in the case of Yatela.

[40] 1999 Mining code, Article 126.

[41] Mali mining code 1999, Article 43

extraction plan containing an environmental impact assessment, a strategy for attenuating impacts and a plan for environmental follow-up. Mining permit holders must also set up and invest in a trust fund which will serve to cover the costs of preservation and rehabilitation of the environment. The evolution of these requirements is particularly noticeable in the evolution of Mali's mining codes.

The 1999 mining code is much more demanding than that of 1991. The latter imposes virtually no obligations on mining companies with respect to environmental protection. Rehabilitation work and responsibility for incidents are mentioned in passing. However, gold mining entails major ecological risks, including deforestation, soil erosion, water table and surface water pollution caused by chemicals used in the extraction process, air pollution caused by smoke and dust, the disappearance of fauna due to noise, etc. The 1999 mining code has taken into account these environmental risks. As discussed above, the majority of mines are still operating under the 1991 code. In spite of this situation, however, companies are carrying out environmental impact assessments, as recommended in the 1999 code.

The 2003 Burkina mining code contains environmental demands similar to those of Mali. However, there is one important difference between this code and both the Mali and the older Burkina codes: the exemption of environmental requirements during the exploration phase.

> « All mining title applicants who wish to carry out work potentially harmful to the environment on their site must, with the exception of exploration permits and quarrying authorizations, in compliance with the environmental code, provide a notice or, as the case may be, undertake an environmental impact assessment along with a public enquiry and a plan for attenuating or reinforcing negative and positive impacts. ». (2003 Mining code, Article 77).

This exemption also applies to the restoration of explored sites. However, as specifically indicated in the 1999 Mali mining code, exploration permit holders must carry out restoration work every time prospecting activities entail[42] : underground work using galleries or wells; the creation of an accumulation till; work on accumulated materials; probes affecting water resources or modifications of the topography in excess of one meter

This exemption, as with fiscal exemptions, is a significant incentive which might explain in part the important increase in the number of mining permits delivered in Burkina since 2004. Thus, although it is taken into account, environmental preservation seems in danger, in light of the relaxation of obligations apparent in more recent West African mining codes.

b) With regard to capacity or lack of it to ensure enforcement of regulatory measures again Mali provides an interesting illustration. The main environmental problem caused

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[42] Article 117, Mali mining code 1999

by mining in Mali is related to the use of cyanide for the treatment of ore. Given modifications in the extraction procedure at the Sadiola mine, a greater quantity of cyanide is being used there. The quantity of cyanide used increased from 500g to 1500g per metric ton, creating elevated concentrations of this chemical in tailing dams, which increased from 50mg/l (which is the maximum recommended by World Bank) to 150mg/l (CSA, 2004). This situation has led to the death of animals in 2002 and of birds (107 deaths) in May 2003 (DNGM, 2002). Water samples collected during the same period revealed a cyanide concentration of 300mg/l when the maximum recommended is 50mg/l. The mining company is currently using detoxification reactants to reduce cyanide concentrations and is undertaking research into recuperation of cyanide and its impact on the death of birds, alone and in combination with other reactants.

Reports on water quality are contradictory. While a 2002 analysis done for the commission for the monitoring of mining companies suggests that well water consumed in Sadiola and Farabakouta contains arsenic levels in excess of accepted world norms, the CSA Group's report concludes that this water is of good quality. In Yatela, however, heavy metal concentrations (arsenic and lead) in excess of WHO norms have been measured in groundwater. At the end of 2003, an increase in arsenic concentrations was recorded at the Morila mine. Moreover, a cyanide tailings spill was reported at this mine in 2003, causing the death of a few animals.

Currently, several health problems (miscarriages, deaths) have been reported in studies by international NGOs and notably those of Les amis de la terre, (2003), and Coalition dette-développement, (2003). However, to date no study has been undertaken at the national level to assess the impacts of water quality and the environment in general on public health. Two studies are currently underway: one sociodemographic, and the other epidemiological, both aimed at precisely identifying these impacts.

These studies have been financed by SEMOS and are being executed by the Malian National Institute for Public Health Research. The first study, which was socio-demographic in nature, is now finished. This study focused on the perceptions of the communities regarding the impact of mining activities on their health. The study found that it is strongly believed by the population that the high proportions of miscarriages which have taken place recently in certain villages located in the mining area were caused by mining activity. In these areas, the highest proportion (0.8) has been found in the village of Yatela with 4 miscarriages for 5 pregnancies for the last five years. This must be compared to a proportion of 0.37 for the whole mining area (14 villages around Sadiola and Yatela) and a proportion of 0.36 for the control area (7 villages of a distance of at least 20 km from the mines). However, although the communities perceive health problems as being related to mining activity, only the second study which has as its objective to establish the medical diagnosis will permit confirming these presumptions.

Generally speaking, environmental regulations and the capacity of government authorities to enforce them have been insufficient with regard to mining activities. Thus, the use of cyanide in the extraction process has been taken into account neither by the mining codes nor by any specific regulations. Anglogold, the company running all three currently active mines, has taken this aspect into account by voluntarily adhering to the « International code for the management of cyanide ». Compliance with this code is being monitored by foreign external auditors, the State having no control over this aspect.

Reports evaluating mining companies have recommended that the DNGM adheres to this cyanide code for monitoring all uses of cyanide in Mali.

It is important to note that this voluntary code does not take into account all the activities associated with safety or the environment during planning stages, during the construction of storage systems for residual products or during the long term closure and rehabilitation of the mine. Given problems associated with the increased usage of cyanide and acid mine drainage, plans for the closure of mines, notably Sadiola, have been revised. The CSA Group estimates that the costs of closure and long-term monitoring of this mine should be revised upwards because « acid mine drainage is likely to be a real problem over the medium and long term at Sadiola »[43]

Problems with mine closures have been particularly significant for the Syama mine, as no closure plan had been devised by its operating company, BHP. Randgold, which took over the mine, drafted a closure plan, but according to a 2004 report by the CSA Group :

- Tailings piles and the walls of the mine are unstable and dangerous
- Tailings dams show leaks and signs of water contamination
- Surface water monitoring is inadequate.

Moreover, the mine's closure caused a deterioration in existing socioeconomic conditions through the closure of the clinic, the break in the water supply, interruptions in garbage collection, etc[44]. Since 2004, the Syama mine has been acquired by Resolute Mining and this company has committed itself to undertaking the progressive rehabilitation of the various areas of activity once the Syama mine becomes operational again.[45]

From an environmental perspective, mining companies are conforming to the 1999 code, but without any national environmental norms. For example, Mali does not have any environmental norms regarding water quality, dust or air pollution. The country has environmental regulations which specify that companies must protect the environment and behave in conformity with "high international standards». Consequently, mining companies use World Bank, World Health Organization or South African norms for these different aspects of the environmental protection. No follow-up and, if necessary, corrective measures currently exist.

With regard to the environment, as the Malian experience illustrates that although there may in fact be provisions for impact assessments, research carried out in this area points to the constraints weighing on the government because of the absence of resources, its lack of access to information and consequently, the lack of headway made so far in this

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[43] The CSA Group. 2004. « Audit technique et financier des sociétés d'exploitation minières au Mali ».146p. (*Technical and financial audit of mining corporations in Mali*). p. 94.

[44] Thiam, I.; Sangare, T.; Moran, R. 2004. "Tarnished Legacy: a social and environmental analysis of Mali's Syama Goldmine." Research Paper, Oxfam America. Washington.

[45] Resolute Mining Ltd. 2006. « Development overview : Syama »; Online. http://www.resolute-ltd.com.au/res_d/syama.html;

regard. [46] In a similar manner, in the case Madagascar[47], in spite of the introduction of legislation to ensure environmental protection and a new 1999 mining code, there is good reason to question whether the government of this country, just as that of Mali, is in fact in a position to ensure the enforcement of norms in this key area, should they not be respected by private operators, for the reasons pointed out by the World Bank:
« After several years of budgetary reductions, Government institutions lack the human and financial resources to enforce the law, especially in the context of decentralization. »[48] Under the circumstances, although countries such as Mali and Madagascar do possess legislation in the area of environmental protection, its application is far from assured particularly in the context of the increased liberalization contained in their respective mining codes. This situation appears to leave responsibility for the monitoring and enforcement of environmental norms largely up to private operators and, because of the heritage recognized by the World Bank, there is good reason have reservations concerning the capacity of local states to question or remedy the resulting practices.

Conclusion

While much has been done through the reform of fiscal and regulatory frameworks of the extractive sector in many resource rich countries in order to open these sectors up to foreign investment, the findings of the research cited here suggest that in many cases, such reforms have been introduced without the safeguards and conditions necessary to permit reaching development objectives. Neither have such reforms contributed to redefining past asymmetrical relations between investors and governments, notably with regard to the regulatory capacity of governments. This issue is not simply a technical one concerning the introduction of good administrative practices, although this is of course an important element, but one which entails the need to ensure the reinforcement of institutional capacity in order to redress the asymmetrical patterns of the past.

Given the confidence expressed by the World Bank in the mining sector as potentially the key driver for growth and its role in contributing to alleviate poverty in Africa by 2015, and given however, the recognition in the first principle of the EITI to the effect that

"the prudent use of natural resource wealth should be an important engine for sustainable economic growth that contributes to sustainable development and poverty reduction, but if not managed properly, can create negative economic and social impacts,"

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[46]Soulemayne Dembele, "Environnement au Mali. ONG: Partenaires ou Prestataires de services?" In Info-CCA, Bulletin de liaison du Comité de Coordination des Actions des ONG au Mali, no.152, Bamako, September 2000.

Claudie Gosselin and Touré Bani, "Cohérence des politiques et interventions canadiennes dans la lutte contre la pauvreté: Le cas du Mali", The North-South Institute, Ottawa, November 2000,

[47] Bruno SARRASIN, Élaboration et mise en œuvre du Plan d'action environnemental à Madagascar (1987-2001) : construction et problèmes d'une politique publique. Doctoral dissertation in Political Science, Université de Paris 1, 2002

[48] WORLD BANK, Project Appraisal Document for a Mining Sector Reform Project, Report No 17788-MAG, Washington, D.C., June 2, 1998, p. 6.

by drawing attention to the design of regulatory frameworks which has been put in place in order to attract foreign investment in the extractive sector, in the absence of measures for meeting development objectives, this paper has tried to suggest that there is reason to question as to whether all conditions presently exist for the Bank's objective to be realised.

Although it has only been possible to allude to certain findings, the research conducted points to the need for a renewal of certain past policies and practices in the extractive sectors of the countries studied in such a manner that they become more compatible with the medium and longer term development strategies of the countries concerned. Among these conditions, one might suggest the following:

1. The need to revisit the manner in which past mining codes have been designed.
In this regard there appears to be a need for multilateral financial institutions and bilateral development agencies be far more attentive to the coherence and balance of their policies in the extractive sector and sensitive to the fact that the design of current mining legislation in Africa which seeks to encourage foreign investment may not in fact be necessarily compatible with the achievement of social and economic development and the protection of the environment of the countries concerned.

2. The need to revisit the terms contained in revenue sharing agreements.

Research findings suggest that the past heritage of reform of fiscal and regulatory frameworks has clearly created and perpetuated asymmetrical relations between investors and states which have weighed very heavily in favour of investors, resulting in a disproportionately low share of revenues accruing to states. A revisiting of issues such as the nature of fiscal and customs incentives set out in mining regulations and of certain past negotiation practices which take place around specific contracts could be important elements contributing to redress certain aspects of this heritage.

3. The need for greater transparency in the manner mining agreements between governments and investors are determined.

As the Principles of EITI suggest, the achievement of greater transparency must be set in the context of respect for contracts and laws. As the Principles also note, payments' disclosure in a given country should involve all extractive industry companies operating in that country. Moreover, public understanding of government revenues and expenditure over time could help public debate and inform choice of appropriate and realistic options for sustainable development

In seeking solutions, all stakeholders have important and relevant contributions to make – including governments and their agencies, extractive industry companies, service companies, multilateral organisations, financial organisations, investors, and non-governmental organisations

4. The need to reinforce the institutional and political capacity of countries rich in mineral resources to monitor and enforce regulatory frameworks and if necessary, bring remedial action.

In this regard, multilateral financial institutions and bilateral development agencies need to recognise the long term benefit of reinforcing the legitimacy and capacity of countries to apply existing regulations, to monitor and to enforce and consequently, work with governments and other actors concerned (private enterprises or non governmental organisations, etc) to mobilise the financial and technical resources necessary to ensure that states can effectively be responsible for ensuring the social and economic development of their people.

5. The need to create greater policy space and room for policy alternatives.
A broadening of policy space would appear as a prerequisite in order for those who hold positions of responsibility in mineral rich countries to be effectively in a position to better determine the development agenda of their countries and ensure the adoption of longer term sustainable development policies which conform and reinforce the development objectives which have been set.

The work of UNCTAD in identifying some of the obstacles and understanding under what conditions investment in the extractive sector can lead to positive social and economic development impacts is a critically important contribution to the renewal of thinking and policies in this area.

Table 6 : Human Development Indices in Mali and Burkina

Country	**Rank**		**Life expectancy**		**Literacy rate for adults (% 15 years and over)**		**Graduation rates (primary to secondary)**		**GDP per capita (PPP)**	
Year	1999	2002	1999	2002	1999	2002	1999	2002	1999	2002
Mali	153rd	174th	51.2	48.5	39.8%	19%	28%	26%	753	930
Burkina	159th	175th	46.1	45.8	23%	12.8%	23%	22%	965	1100

Human Development Reports, 2001 and 2004

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