

ICMM input into consultation on the Natural Resource Charter

Revised 19 August 2011

Executive Summary

Background

The Natural Resource Charter (NRC) which comprises a set of 12 ‘precepts’, or prescriptions seeks, alongside other recent international initiatives to improve the governance and management of natural resource extraction. The NRC sponsors following a recent (June 2011) International Conference held in Oxford, invited formal submissions of comments and suggestion to enhance the precepts. This invitation represents an excellent opportunity for ICMM to formally communicate its Sustainable Development Framework and accompanying Position Statements as well as the results of its own 7 year programme of research on the underlying issues. This present review paper develops the forceful proposition that ***the experience, analytical tools and findings from ICMM are critical to the NRC in its objective of developing a comprehensive and effective framework for maximising economic and social benefits of natural resource extraction.***

Headline Findings from ICMM

This high-level proposition is argued in detail in the paper but with particular reference to **three** major findings of ICMM’s long-running programme of research namely:

- i. The impacts of mining (as well as of oil and gas) on the more visible, national-level indicators in particular are often extremely large and significant in macroeconomic terms. Unfortunately, the benefits that arise at the local and community levels – where the negative disruptions from mining are most likely to be felt – can be small, given the capital intensive nature and export orientation of mining projects. ***This imbalance is absolutely central to the controversies surrounding the role of mining:*** it impacts local perceptions about mining and is often compounded by national decisions about how to use the “national” resource rents.
- ii. Although “good governance” is clearly critical in enhancing the benefits of mining, “governance” as such is a difficult and complex topic to pin down. Above all, any narrow top-down approach that regards the “governance” of mineral resources as the responsibility of a narrowly defined group of politicians and officials in one part of the national government, describes only one part of a very complex process. Further the processes of achieving better governance involves a two way process with the presence of new mining investments often playing its own part in the possible changes.
- iii. That no matter how well-intentioned (or well-funded) they may be, ***no stakeholder (including a national government and certainly not a mining company) can ‘go it alone’ in seeking to ensure positive outcomes.*** Conversely, for the mining companies, a failure to engage broadly will invariably increase company risk. Instead, the various actors (companies, governments, donors, civil society) are much better advised to work together - in various combinations - with each one playing a specific role in ***a variety of partnerships*** to enhance the overall outcomes that are possible.

Coherence: the NRC Precepts and ICMM’s Findings Compared

This being the case the paper next argues that ***the established findings of the ICMM programme are relevant for, consistent with and complementary to the 12 precepts of the NRC.*** This proposition is developed fully in the paper with the following being the main points of similarity between the NRC and ICMM’s own work and principles.

- i. **There is a strong alignment of the ultimate objectives:** This can be evidenced in many ways but above all by ICMM’s Sustainable Development Framework, which is

binding on all its members. Company members are committed to monitor and report on their performance against 10 sustainable development principles, and to seek third-party independent assurance on this reporting.

- ii. **Both utilise a highly consultative and inclusive approach.** In the case of ICMM this is reflected in its insistence on broad-based consultation in all country case studies, as well as to peer reviews, feedback via in-country workshops, and guidance at all stages in the development of ICMM's Resource Endowment Initiative (REi) and its work on Mining Partnerships for Development (MPD). All country case studies under these programmes have received the endorsement of host countries before any results have been published.
- iii. Following the comprehensive literature review and primary research undertaken in 2004, ICMM has developed a large and standardised body of case study and other research results on the underlying issues. **The large body of evidence from this work constitutes a critical resource that can and should directly inform the application of the NRC precepts:** it is based currently on work in 22 different countries and involves some 37 public domain publications of findings.
- iv. Both sets of initiatives recognise (a) that the effective management of extractive resources requires very *long time horizons* (b) that a critical role in promoting economic and social development has to be played by the *private sector* (c) that there is a need for *multiple stakeholders* to be involved in the governance of natural resources and (d) that there must be a focus on the interests and roles of local communities.

Differences

However, there are subtle differences in the approaches of ICMM and the NRC with the accumulated evidence from ICMM research suggesting a number of ways in which the NRC precepts could be usefully amended and enhanced. In particular:

- i. The NRC focuses on central government as the *originator* of policy, whilst ICMM argues that local and community governments are often key players in the *implementation* of policy. Indeed poor alignment between central and local government is often part of the underlying problem. **The NRC would be well advised to pay more explicit attention to issues of community engagement and participation**, involving, for example, community-level agreements and dispute resolution mechanisms. These areas of activity are already and comprehensively addressed by ICMM's Community Development Toolkit, which provides much useful and practical advice on the underlying issues.
- ii. Both the NRC and ICMM recognise the need for multiple stakeholders to be involved in the governance of natural resources. **For ICMM such an approach forms the cornerstone of its engagement strategy**, whereas for the NRC this recognition is for the time being only *implicit*.
- iii. The NRC does recognise the need for partnerships, and especially those involving donors and the private sector. However, **this recognition could be made more explicit and specific**. The established ICMM work presents a strong set of arguments and a readily available set of frameworks, tools and country experiences for doing so.
- iv. **The NRC needs to look more explicitly to the needs of the mining industry in order to facilitate NRC adoption** (across all stakeholders) and its effective

implementation. Above all this is needed to generate support among industry for the initiatives and reforms prescribed by the NRC. Mining companies should not be treated, even inadvertently as the “adversary”. Further, ICMM already offers a useful framework - its Sustainable Development Framework - that sets out the ways in which the corporate sector can engage in sustainable development of the minerals sector.

- v. There is a need to focus more attention in the NRC on how best to convene and also integrate local stakeholder opinions in the formulation of any specific policy recommendations.
- vi. ***The NRC will need its own set of tools to help manage implementation but there is no need to develop this from scratch.*** The ICMM Toolkit – now in its third revision - already reflects a huge body of knowledge and constitutes, in its own right, a best-practice tool that can help address many of the NRC precepts.

Feedback to the NRC

This review paper provides a wide range of arguments and ideas about how ***the main thrust and future emphasis of the NRC’s work programme*** might be amended at the margin (and improved) by factoring in the research findings, the frameworks, the tools and the case examples already developed by ICMM over several years. In addition, the points made above lead to several suggestions for ***specific wording changes*** in relation to specific NRC precepts.

These suggested changes are presented in full in Table 4.2 below and in brief seek to do the following:

- i. Precept 1. A small addition to give more emphasis to the long term period over which the benefits of mining need to be built and then sustained.
- ii. Precept 2. An addition to make it clear that government “accountability” has to embrace both national and sub-national levels.
- iii. Precept 5. An addition to make it clear that it is not only the negative impacts of mining that need attention but also that the “opportunities to enhance the positives should be sought.”
- iv. Precept 6. An addition to make it clear that nationally owned resource corporations should not also have a regulatory function.
- v. Precept 10. An amendment better to emphasise that the responsibilities for adopting and enforcing “best practice” apply across a wider range of players than is suggested by the present language.
- vi. Precept 12. An amendment to extend the responsibilities of extraction companies to include some responsibility to seek opportunities to work with governments and others to engage in public policy debates, align capital and social investments with government plans, and to support capacity building at the sub-national level as well as dispute resolution mechanisms.

1 Introduction

1.1 Background

High commodity prices are driving rapid growth in extractive industries worldwide, including in many countries facing severe governance capacity constraints. The inexorable increase in the global demand for minerals has already resulted in more low-income developing countries becoming more dependent on minerals for their economic futures.¹ A large body of research shows that where strong institutional frameworks for managing extractive industries are lacking, opportunities for generating wealth may be lost and potentially lead to economic instability, social conflict and environmental degradation.

This is the background against which the Natural Resource Charter (NRC), alongside other recent international initiatives² is seeking to improve the governance and management of natural resource extraction. The NRC, at its core, constitutes a set of 12 ‘precepts’, or prescriptions, intended to inform decision making in relation to resource extraction. Ten of these offer guidance on core decisions that host governments face throughout the mineral extraction life cycle. The remaining two precepts are addressed to mining companies and home-country governments (where companies are based and where capital funding mainly emanates). These precepts are backed by more detailed ‘guiding principles’, which in turn are backed by various in-depth research reports and findings. Together, these precepts, guiding principles and background research aim to provide “practical guidelines that can help maximize the opportunities provided by resource wealth for social and economic development” (NRC 2010, p.1).

Following various rounds of consultation in 2010, the NRC held a conference in Oxford on 29-30 June 2011. The NRC conference was attended by a broad selection of stakeholders, and many calls were made for the NRC to provide more practical guidance on what host-country governments as well as other stakeholders - from both private and public sectors - can do to implement the charter. The request for formal submissions at the end of the conference represents an opportunity for ICMM to formally communicate its Sustainable Development Framework and accompanying Position Statements, good practice materials that have been developed to support implementation of the 10 ICMM principles as well as the numerous practical research results and tools from the Resource Endowment Initiative – REi (2004 to 2011) and the more recent Mining Partnerships for Development (MPD). This document presents ICMM and its work in a way that demonstrates a consistency of goals and objectives that is complementary to those of the Natural Resource Charter in the areas addressed by the NRC. It argues that the NRC can be strengthened through certain amendments to some of its precepts, with suggestions of detailed wording changes at the end of the document.

¹ See Kardan, A., and A. Roe, ‘Identifying Mineral Dependent Countries, A Technical study for the International Council on Mining and Metals (ICMM)’, July 2009. That same paper also documents the level of dependency in relation to Oil and Gas projects but these are not discussed in this present paper.

² World Bank EITI ++; EI-TAF (Technical Assistance Facility) and EI Knowledge platform; IMF Topical Trust Fund on managing Natural Resource Wealth; IFC Revenue Management; African Union/UN Economic Commission for Africa African Mining Vision; African Development Bank African Legal Support Facility; WEF Responsible Mineral Development Initiative; UNDP Africa Regional project for Capacity Development for Negotiating and regulating Investment Contracts; Oxford Center for the Analysis of Resource Rich Economies (Oxcarre); Vale Columbia Center; International Bar Association; Global Witness; Publish What You Pay; Revenue Watch; Extractive Industries Transparency initiative (EITI).

1.2 Aims and objectives

As a mature international initiative with seven years of research experience already behind it, ICMM is well placed to support the NRC in ensuring that the charter is designed to achieve maximum relevance for international, national and local stakeholders. This paper suggests that ICMM's approach to practical application of sustainability ideas can provide useful inputs into strengthening the NRC. More specifically, the potential benefits to ICMM are to (1) ensure the views of the mining industry are represented and taken fully on-board as the NRC is formalised and rolled out, potentially as a government assurance mechanism³, (2) to leverage the convening power and networks of the NRC to encourage other organisations and governments to apply ICMM's standards, good practice guidance and tools, including the MPD and Community Development Toolkits in support of the NRC objectives,⁴ and (3) to generate more interest in (and value from) existing ICMM publications and action research findings by showing how the substantive work to date can actively benefit NRC and others interested in these issues.⁵

With this in mind, this review aims to develop the forceful proposition that **ICMM's analytical tools and findings can benefit the NRC in its objective** of developing a comprehensive and effective framework for maximising economic and social benefits of natural resource extraction.

More specifically, this present review sets out to:

1. Identify areas in which ICMM work to date can help NRC **broaden the relevance of the charter**, including moving beyond a narrow focus on the responsibilities of host country governments (and to a lesser extent citizens) by also paying more explicit attention to the role played by the mineral extraction industries and their working partners.
2. Communicate to the NRC the **relevance and complementarity of the ICMM approach**, in particular the findings that in-depth local engagement and partnership building are very powerful means to enhance the economic and social benefits from extractive resources, with the aim of making these issues more explicit within the NRC.
3. Show how the ICMM experience and methods can **cost-effectively provide NRC with examples of good practices** identified through consistent application of ICMM's established frameworks and tools such as the MPD Toolkit which facilitates cross-country comparisons and other pertinent tools such as the Community Development Toolkit.
4. Provide concrete suggestions for changes to the wording of certain precepts.

³ ICMM's present companies member together account for c.70% of global mineral output and work in all the low income countries that are likely to be the main concern of the NRC.

⁴ This is directly in line with the strategic principles of focusing resources on influencing others through strategic partnerships, to use ICMM resources more cost effectively.

⁵ This is both an opportunity to highlight previous work and create new 'news hooks' and also responds to efficiency pressures to 'do more with less' and generate maximum value from existing research.

1.3 Scope

The key audience for this review is the main group of sponsors of the NRC itself, as well as stakeholders and interested parties (non-governmental organisations, donors, industry bodies etc.) that are currently commenting on and shaping the future trajectory of the NRC. There is a current opportunity for ICMM to convey its results in a way that demonstrates the complementarity between ICMM and the NRC while noting that the nature and distribution of costs, risks and responsibilities are equally important - hence the importance of partnership.

At a later stage other audiences may also be engaged in this discussion.

1.4 Structure

The remainder of this review paper is structured as follows.

- Section 2 introduces both the 12 NRC precepts and the 'top-level' key findings from ICMM's body of research, followed by examples of how ICMM's findings 'fit' with the NRC precepts
- Section 3 discusses the broader relevance of the ICMM findings and approach. It shows that ICMM represents a benchmark for sustainable business engagement which can be used by NRC sponsors to inform elements of the charter that address private sector activity and multi-stakeholder partnerships. It proceeds to highlight a series of consistencies between the two initiatives (in terms of overall aims and objectives), followed by a discussion of complementarities where ICMM insights have potential to enhance the NRC.
- Section 4 presents the key messages and feedback that ICMM wishes to input into the current round of NRC consultations, including suggested rewording of selected NRC precepts (level 1).

Annex A provides full references to the results of ICMM's Resource Endowment Initiative (REi) work to date. Annex B Provides a schematic overview of suggested partnership models across six thematic areas. Annex C elaborates on the ICMM Sustainable Development Framework and reporting by member companies.

2 The NRC precepts vs. ICMM's headline findings

The aim of this section is to introduce the NRC precepts and illustrate the overlap and complementarity with key findings from ICMM's seven years of research in the area of resource governance. First, it introduces the 12 NRC precepts. Second, it elaborates on the key themes of ICMM findings. Third, it highlights the areas of overlap between the two initiatives (1) by illustrating how the 12 precepts fit into ICMM's partnership model which recognises distinct but mutually reinforcing roles for various stakeholders, and (2) by highlighting some specific examples of ICMM findings of relevance to selected NRC precepts.

2.1 The NRC precepts

The 12 precepts as contained within the November 2010 version of the NRC are:

- Precept 1: The development of a country's natural resources should be designed to secure the greatest social and economic benefit for its people. This requires a comprehensive approach in which every stage of the decision chain is understood and addressed.
- Precept 2: Successful natural resource management requires government accountability to an informed public.
- Precept 3: Fiscal policies and contractual terms should ensure that the country gets full benefit from the resource, subject to attracting the investment necessary to realize that benefit. The long-term nature of resource extraction requires policies and contracts that are robust to changing and uncertain circumstances.
- Precept 4: Competition in the award of contracts and development rights can be an effective mechanism to secure value and integrity.
- Precept 5: Resource projects can have significant positive or negative local economic, environmental and social effects which should be identified, explored, accounted for, mitigated or compensated for at all stages of the project cycle. The decision to extract should be considered carefully.
- Precept 6: Nationally owned resource companies should operate transparently with the objective of being commercially viable in a competitive environment.
- Precept 7: Resource revenues should be used primarily to promote sustained, inclusive economic development through enabling and maintaining high levels of investment in the country.
- Precept 8: Effective utilization of resource revenues requires that domestic expenditure and investment be built up gradually and be smoothed to take account of revenue volatility.
- Precept 9: Government should use resource wealth as an opportunity to increase the efficiency and equity of public spending and enable the private sector to respond to structural changes in the economy.
- Precept 10: Government policy should facilitate private sector investments at the national and local level for the purposes of diversification, as well as for exploiting the opportunities for domestic value added.
- Precept 11: The home governments of extractive companies and international capital centers should require and enforce best practice.
- Precept 12: All extraction companies should follow best practice in contracting, operations and payments.

These precepts reflect the existing body of academic literature and best practice in government policy, and will resonate strongly with long-time observers of the extractive industries. The **strengths** of the NRC is that it brings together these recommendations into a coherent whole, highlighting the mutual dependencies between different policies and activities in seeking to maximise development benefits from resource extraction. The most evident **weaknesses** of the NRC are (1) that it does not clearly identify the nature and distribution of costs, risks and responsibilities for delivering the main precept areas (e.g. Precepts 3, 6, 7 and 9), and (2) that it does not establish any mechanisms for assessing and correcting practice in *implementing* the various precepts. These issues are discussed in the course of this review paper.

2.2 Three key ICMM findings

The 12 NRC precepts resonate strongly with the findings and messages that have emerged from ICMM's work in this area. In 2004, ICMM began the Resource Endowment initiative (REi) in collaboration with UNCTAD and the World Bank Group. The REi team first developed an analytical framework that could be used to investigate the multifarious factors that seemed to help or hinder mining's contribution to economic and broader social development in any particular country. This was based partly on a comprehensive review of the pre-existing literature,⁶ but partly also on some original thinking and ideas.⁷ In the second phase of its work it tested and substantially validated that framework through a series of country case studies, which established hard evidence for the premises on which the more recent MPD and the latest version of the Toolkit⁸ have now been based. The initial 2006 version of the Toolkit was itself developed from the synthesis of the early case study results.⁹ The next sub-section highlights three themes of headline findings from ICMM's work to date.

2.2.1 ICMM Finding 1: The potential economic and social contributions from mining are manifold, but poorly understood and not 'automatic'

There are many ways in which large-scale mining can contribute - and has contributed - to the sustainable development of host countries and communities.¹⁰ These impacts are, however, complex and often poorly understood. In addition, **national-level** impacts can often be very different from the impacts seen at the **local and community levels** where mining is more visible (and where potential negative impacts such as environmental damage are most likely to occur).

ICMM's research suggests that the impacts on the more visible, national-level indicators in particular are often extremely significant - and this is even more true of very large oil and gas projects which are not addressed in this present paper. At the same time, the benefits that arise at the local and community levels - where the negative disruptions from mining are most likely to be felt - can be small, given the capital intensive nature and export orientation of mining projects. This imbalance is often compounded by national decisions about how to

⁶ ICMM Resource Endowment initiative - Analytical Framework (August 2006). Available at <http://www.icmm.com/document/184>.

⁷ ICMM Resource Endowment initiative - Literature Review (August 2006). Available at <http://www.icmm.com/page/2915/resource-endowment-initiative-toolkit>.

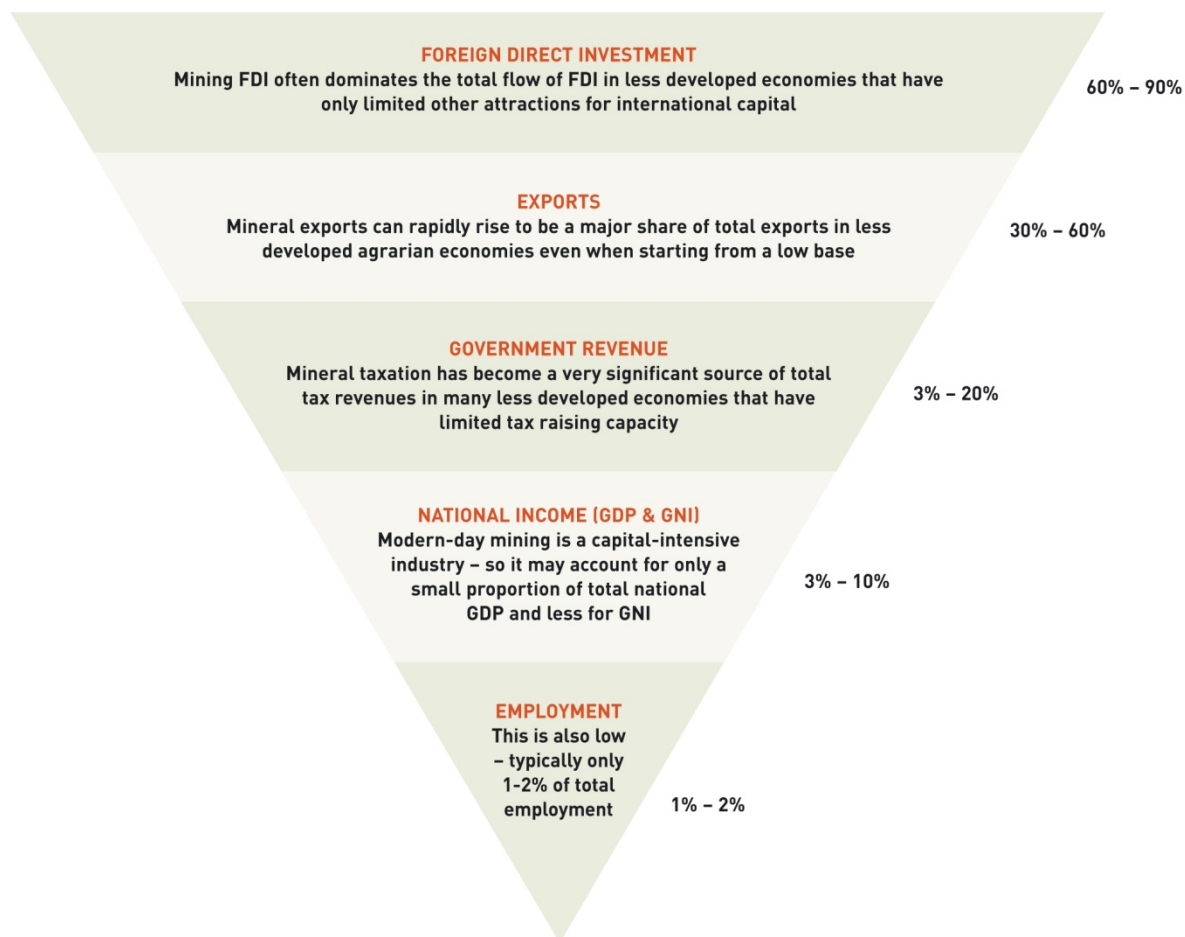
⁸ The third version of the ICMM Toolkit is forthcoming on www.ICMM.com.

⁹ Mapping in-country partnerships (February 2010) <http://www.icmm.com/document/783>. This was developed in draft form in 2006/07

¹⁰ In some of today's more successful economies such as Australia and California, mining activity was a leading driver of economic development.

use the “national” resource rents. These critical “structural” findings can usefully be represented by an ‘inverted pyramid’ as in Figure 2.1 below.

Figure 2.1 How big is mining’s macro-economic contribution? – A stylized view



Source: Mining in Tanzania – What future can we expect? P.13. Available at <http://www.icmm.com/page/15956/mining-in-tanzania-what-future-can-we-expect>

The crucial significance of this is that this structural reality of most large mining investments needs to be addressed explicitly by the various decision makers in both the local and international bodies if the inherent problems that it causes are to be addressed successfully. While the world argues about the size and distribution of the benefits “pie” that comes from mining and metals, in fact the nature and distribution of costs, risks and responsibilities are equally important.

ICMM's Resource Endowment initiative has demonstrated that this can be addressed by Partnerships for Development. For example, national governments need to take the lead to ensure that there are shared responsibilities for outcomes, by integrating the mining sector into national poverty reduction strategies. This, in turn, will require government departments (for example, treasury and mining) to collaborate more closely, and will require chambers of mines and companies to participate in national development dialogues and to link their social investment budgets to one or more of the millennium development goals. In addition, social

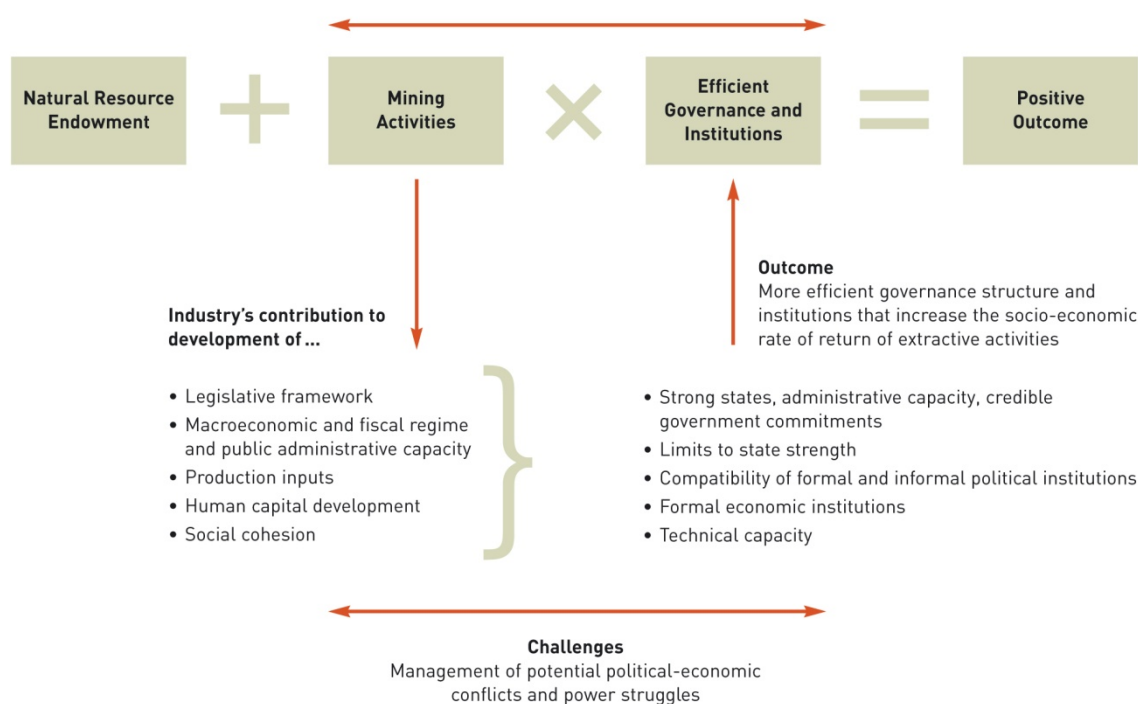
funds and donor agencies should connect funds better to the special needs of communities affected by mining.

Partnerships can support the development of mining clusters and thereby contribute to economic diversification in a region. In Chile, the 'mining clusters' have encouraged the growth of small enterprises more generally. The Escondida mine supported this policy with an innovative program to help local suppliers with quality control that has enabled them to supply to others in the region and to obtain ISO 9000 and 14000 certification. The case studies showed that local procurement in Chile reached almost 80 percent of local goods and services while in Ghana, where the Obuasi mine has been operating for more than 100 years, local procurement only reached 46 percent. Such an approach is one of the reasons why Chile has been so successful in capturing the economic benefits from mining at local as well as national levels.

2.2.2 ICMM Finding 2: Good governance can enhance the benefits of mining

ICMM's literature review and analytical framework together emphasise the importance of **good governance** in enhancing the benefits of mining. The development of the Toolkit and its subsequent implementation through country case studies, pointed also to certain common features of governance structures and institutions across high-performance mining countries. These institutional features have enhanced the performance of the markets of these countries and helped to foster new sustainable private-sector activities that complement the impacts of mining itself. Some of these features are shown in figure 2.2 which depicts, in general terms, this link between natural resource extraction and differences in economic and social development. This simple formulation¹¹ shows that the implementation of a comprehensive minerals extraction policy places significant and varied demands on a country's institutional and governance structures. These structures and their potential roles must therefore be viewed within the context that ICMM's work has already partly elaborated. Above all it needs to recognise the multifaceted nature of "good governance".

Figure 2.2 The composition of effective governance



Source: ICMM REi Analytical framework. Available at <http://www.icmm.com/document/184>

The processes of achieving better governance is also clearly a two way process. The pre-existing systems of governance **before** mining are crucial but so too are the numerous ways in which the presence of large-scale mining can result in change in governance systems – some planned and desirable and others unintended. Further, a narrow top-down approach that regards the “governance” of mineral resources as the responsibility of a narrowly defined group of politicians and officials in one part of the **national** government, describes only one part of a very complex process.

¹¹ For the moment this stylised representation does not adequately depict the interface between national and local government actions.

One solution could be the setting up of regional or local development agencies which may help co-ordinate efforts towards economic diversification and poverty reduction.

Governments will need to take the lead in supporting these bodies, perhaps aided by international donor organizations. In Peru, Grupo Propuesta Ciudadana, an NGO, is working with 15 regional governments to support the development of regional development plans and participatory budgeting processes. Companies can plan their infrastructure development (roads, ports, water supplies, power plants) to integrate into these regional or local development plans. If expanded public use of this infrastructure is built into the design stage, the incremental capital cost could be minimal. By allowing privately funded infrastructure to be sized so as to meet the full needs of the regional economy over time, the economic and social spill-over effects can extend far beyond the mining sector, as was demonstrated in Chile.

2.2.3 ICMM Finding 3: Resource governance can be strengthened through partnerships

ICMM has built up a body of significant evidence to support the claim that where governance is weak, multi-stakeholder partnerships can strengthen accountability and also improve economic and social outcomes. Such partnerships can improve the governance of the sector because all of the different partners have some power and influence not only to spend money but also to demand accountability and push for positive reform. They can also help to identify underlying causes of systemic weaknesses which prevent benefits from mining reaching the poor.

One example of such partnership comes from the recent Lao PDR country case study, where companies, government, donors and civil society all play specific and important roles in joint efforts to promote development and poverty reduction (see figure 2.3).¹² Many more examples of such partnerships, as well the methodological framework for identifying them, can be found in ICMM's publications available on the ICMM website.¹³

A number of suggestions have emerged from ICMM case studies and the MPD Toolkit for identifying potential and specific governance-strengthening partnership. These suggestions reflect the finding that no matter how well-intentioned (or well-funded), no stakeholder (including a national government and certainly not the mining companies) can 'go it alone' in seeking to ensure positive outcomes. Conversely, for the mining companies, a failure to engage broadly through partnerships clearly increases company risk. The various actors (companies, governments, donors, civil society) can together - in various combinations - provide an enabling environment for such partnerships, with each one playing a specific role in each partnership. It is also important to note that one partner's weaknesses cannot be fully made up by the strength of others. Accordingly, partnerships across six themes: mining and poverty reduction, mining and revenue management, mining and regional development planning, mining and local content, mining and social investment, mining and disputes resolution can provide the means for partners to improve their own capacities and this is particularly true of the often capacity-constrained local and community governments of developing host countries. Examples of this from ICMM's work by these partnership themes and individual NRC precepts are set out in Table 2.1.

¹² Available on www.ICMM.com/library

¹³ ICMM: Mapping in-country partnerships (February 2010). <http://www.icmm.com/document/783>.

Suggestions about the roles which different actors can play based on ICMM's research, across six ICMM partnership themes¹⁴, are illustrated in Annex B. A stylistic example of how this works in practice is illustrated below in figure 2.3.

Figure 2.3 Partnerships for poverty reduction in the Lao PDR



Source: Lao PDR case study on <http://www.icmm.com/document/1841>

¹⁴ The six themes have emerged as the most important based on the synthesis of the REi case studies

2.3 How ICMM findings ‘fit’ with and reinforce the NRC precepts

This section illustrates how ICMM’s broader findings and key messages are relevant to informing the further development of the NRC precepts. Figure 2.4 shows how the NRC precepts fit with ICMM finding that the nature and distribution of costs, risks and responsibilities are equally important and that **many stakeholders have distinctly different roles to play in enhancing sustainable development outcomes from extractive industries**.

The intent of this figure is to show that:

1. the NRC precepts *implicitly* recognises different roles for different actors, and that
2. coordination of action across this network of actors is *critical to enhance development benefits* from resource extraction.

This is followed by a tabular display (Table 2.1) that maps selected NRC precepts to specific examples of ICMM insights about resource governance that have emerged from ICMM’s work since 2004 and to-date. These findings are underpinned by greater detailed contained in ICMM’s various publications (see the Annex A for references). These examples can easily be used to generate more in-depth case studies or ‘demonstration projects’ (e.g. mining clusters in Chile or MMG’s support for government engagement in the Lao PDR). The key point is that ICMM’s approach as represented most obviously in the MPD Toolkit provides a clear basis to examine many if not all of the NRC precepts in mineral–dependent economies. Indeed the toolkit goes much further than the NRC in providing detail and specificity on some of the areas covered in the 12 precepts.

Figure 2.4 NRC precepts in context of ICMM partnership framework

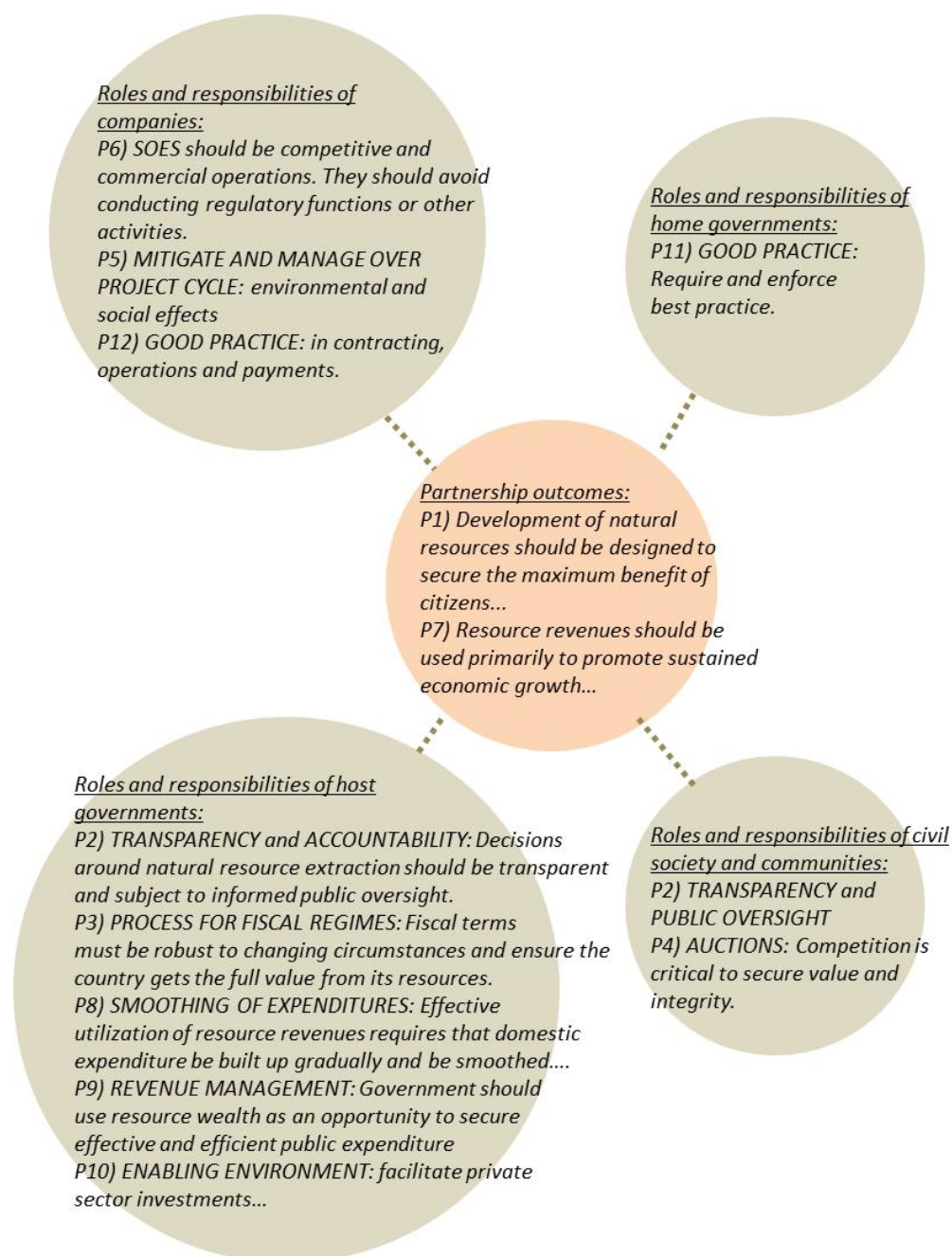


Table 2.1 Examples of ICMM findings with relevance to selected NRC precepts¹⁵

| NRC precepts | ICMM partnership themes | Examples of best practices and issues identified in ICMM publications |
|--|---|--|
| | Regional dev't / local gov't Poverty reduction Conflict resolution Local content / capacity building Revenue management / Taxation Social investment / infrastructure Consultative engagement process | |
| <p>Precept 1: The development of a country's natural resources should be designed to secure the greatest social and economic benefit for its people. This requires a comprehensive approach in which every stage of the decision chain is understood and addressed.</p> | <p>x</p> <p>x</p> <p>x</p> <p>x x x</p> <p>x x x</p> | <p>Providing information about the project, e.g. by applying the Toolkit, will reduce the risk of conflicts</p> <p>The Chilean government has a track record of consulting with companies on mining policy, based on a collaborative approach to private sector development. This can enhance stability as well as increase the attractiveness of Chile as an investment destination (Spotlight 6: p.4).</p> <p>Although host countries may prefer secret contract terms (e.g. re tax concessions) in order to not undermine bargaining power with others, ICMM research finds that enforcing non-transparent agreement makes high demands on government capacity (Spotlight 13: p.3)</p> <p>Whilst the Antamina mine in Peru has made strong sustainable development commitments (access to water, income generating opportunities etc.), a lack of consultation with communities has led to inflated expectations on jobs, causing social tension (Spotlight 8: p.3)</p> <p>The most significant impacts from mining are often the least visible, e.g. induced employment can be a significant contributor (cf. Ghana, Spotlight 7: p.3). In the absence of accessible information about such impacts, popular interest is likely to focus on more visible impacts such as tax payments</p> <p>Application of ICMM REI Toolkit consistently shows that much of the value and benefits derived from mining accrues to the host economy through less-visible channels, such as induced employment, training, shared infrastructure etc. (see 'ICMM: Synthesis of four case studies' report). The recent focus on increasing the government's fiscal take is partly a political expression of perceived limited benefits more generally (Spotlight 10: p.3)</p> |
| <p>Precept 2: Successful natural resource management requires government accountability to an informed public.</p> | <p>x x x</p> <p>x x x x x x</p> <p>x x x x</p> | <p>Civil society is often intimately familiar with issues 'on the ground' and should input into negotiations around development programmes. However, effective local level public agencies are needed to act as trusted intermediaries e.g. Peru (Spotlight 8: p.2). In their absence, NGOs brought in to mediate often do so in an un-coordinated and inefficient manner (Spotlight 12: p.3)</p> <p>A public education element in research on mining can broaden stakeholders' understanding of mining sector impacts, e.g. final Lao country case study published in three languages and disseminated widely through public seminars. This facilitates creating consensus understanding around impacts of mining</p> <p>In Tanzania, a life-cycle study of the impacts of mining - at local and national levels - has helped build stakeholder awareness about delayed impacts of mining and input into policy debates (regarding new mining act) on what constitutes 'appropriate' benefits (Spotlight 14: p.2)</p> |
| <p>Precept 3: Fiscal policies and contractual terms should ensure that the country gets full benefit from the resource, subject to attracting the investment necessary to realize that benefit. The long-term nature of resource extraction requires policies and contracts that are robust to changing and uncertain circumstances.</p> | <p>x x</p> <p>x x x x</p> <p>x</p> <p>x x</p> | <p>ICMM findings show that tax levels per se are less important in determining impacts compared to how tax receipts are used by government (effective public finance management institutions in place) (see example of Chile in Spotlight 6: p.4)</p> <p>In established mining economies, multistakeholder transparency initiatives such as the EITI can create awareness among stakeholders of the nature and reasonable size of fiscal benefits from mining, and by doing so creates a benchmark that can guide negotiations. The EITI could usefully be applied at local/regional levels to track disbursement from central government to mining-affected areas, and improve the management of such funds (see Spotlight 11: p.4)</p> <p>Implementation of the ICMM Toolkit can facilitate uptake of EITI transparency principles, even when there is limited support from host country government - in the case of the Lao PDR Toolkit implementation resulted in EITI-style reporting by companies (Lao PDR case study)</p> <p>ICMM research on best practices in tax regimes shows that there are no 'hard and fast' rules with respect to fiscal decentralisation and/or revenue sharing polities - this is a complex area where contextual governance factors at the local level (e.g. budgeting and spending frameworks) are highly influential (Spotlight 13: p.4)</p> <p>The experience of Ghana demonstrates that mine closure needs to be integrated into regional/local plans, which in turn requires sustainable funding to build capacity within local government (Spotlight 7: p.4).</p> |

¹⁵ Precepts 4 (contract award) and 6 (nationally-owned resource companies) focus on non-core areas of the ICMM body of work and are omitted from the following tables.

| NRC precepts | M partnership themes | Examples of best practices and issues identified in ICMM publications |
|--|---|--|
| | Poverty reduction Conflict resolution Local content / capacity building Revenue management / Taxation Social investment / infrastructure Consultative engagement process | |
| <p>Precept 5: Resource projects can have significant positive or negative local economic, environmental and social effects which should be identified, explored, accounted for, mitigated or compensated for at all stages of the project cycle. The decision to extract should be considered carefully.</p> | x x x x x x x x x x | <p>MMG in Lao PDR conducts socio-economic surveys every two years, which facilitates the targeting of social investment into areas of greatest need, as well as coordination with regional government development initiatives (Lao PDR case study).</p> <p>Social tensions around mining in Peru can be traced to historical difficulties in striking lasting compromises between company and community interests. Innovative dialogue processes established between Tintaya mine, communities, and NGOs (incl. agreement to return land, incr. spending etc.) subsequently broke down (Spotlight 8: p.2)</p> <p>Large-scale mining companies in Lao PDR work in partnership with local and district governments helping to improve communities' development prospects (through participatory planning and needs assessments) (Lao PDR case study)</p> <p>ICMM studies found that if local governments in Tanzania were better resourced and trained to be an independent and fair adjudicator, this could minimise ASM-related conflicts (Spotlight 9: p.4).</p> <p>Companies should proactively engage in monitoring of activities - e.g. both large-scale mining companies in Lao PDR had solid evidence base of social and economic impacts from conducting household interviews every two years - without such data it becomes difficult to tell what is working and what is not (Lao PDR case study)</p> <p>In Peru, monitoring mechanisms include a national ombudsman that provides monitoring of social and environmental conflicts, as well as a Mining Dialogue Table at national and regional levels (Spotlight 12: p.2). A Social Team in the Ministry of Energy and Mines also do monitoring of agreements between companies and communities (Spotlight 12: p.3)</p> <p>Even when significant amounts are paid in compensation to displaced communities, where there is no training associated with re-settlement, these compensation payments can easily be squandered (as illustrated by the case of Ghana, see Spotlight 11: p.3). Best practice includes a broader framework of support, e.g. AGA Ghana providing power and water infrastructure</p> |
| <p>Precept 7: Resource revenues should be used primarily to promote sustained, inclusive economic development through enabling and maintaining high levels of investment in the country.</p> | x x x x x x x x | <p>Channelling revenues to regional/local development is hampered by limited local government capacity - in turn due to the colonial history of many LDCs e.g Ghana (Spotlight 7: p.4)</p> <p>There is often some 'role confusion' regarding who should 'deliver' development, e.g. in Ghana the local government sees mining communities as the responsibility of the mining company (Spotlight 11: p.3)</p> <p>The case of Peru illustrates that even if 1) taxes are collected at national level, and 2) transferred to local governments, and 3) allocated to 'pro-development' infrastructure, the lack of administrative, planning and monitoring capacity of local government means that social indicators are not improved (Spotlight 8: p.4)</p> <p>Competing and conflicting jurisdictions between different levels of government creates confusion about correct tax jurisdictions (reduces overall tax benefits to government). Also, concessions granted by local governments to small-scale miners impinge on MDA granted by central government (Lao PDR case study).</p> |
| <p>Precept 8: Effective utilization of resource revenues requires that domestic expenditure and investment be built up gradually and be smoothed to take account of revenue volatility.</p> | x x x x x x x x x x | <p>The experience in Chile highlights the importance of government capacity to negotiate explicit terms, but also in implementing and enforcing these terms (incl. at local level - to ensure benefits received are put to good use (Spotlight 6: p.2)</p> <p>In Peru, 'trickle down' effects of the mining boom have been held back by incomplete governance reforms. Discontent with limited local-level benefits, in turn, leads to social tensions that 'percolate upwards' and creates pressures for anti-mining reforms at the central government level (Spotlight 8: p.2)</p> <p>ICMM case studies point to the importance of careful management of public spending and exchange rates, needed to stabilise mining as well as to promote non-mining activities (Chile provides examples of best practices in this area, see Spotlight 6: p.3)</p> <p>Fiscal decentralisation can work, but exposes local government budgets to volatility. Central governments do not suffer from this issue to the same extent, as their revenue base will be more diversified (Spotlight 13: p.3)</p> <p>Chile's Copper Stabilisation Fund has enabled the smoothing of fluctuations in government revenues, promoting macroeconomic stability whilst ensuring sustainable expenditure - thereby reducing social tensions and supporting economic development (GDP per capita in key mining regions twice national levels, see Spotlight 6: p.4)</p> <p>Monitoring of macro impacts, including fluctuations of revenues as well as exchange rates, is key to avoiding the resource curse - Chile provides a good example of how best-in-class macro-economic policies can enhance the benefits of mining (Spotlight 6: p.2)</p> |

| NRC precepts | ICMM partnership themes | Examples of best practices and issues identified in ICMM publications |
|---|---|--|
| | Regional dev't / local gov't Poverty reduction Conflict resolution Local content / capacity building Revenue management / Taxation Social investment / infrastructure Consultative engagement process | |
| Precept 9: Government should use resource wealth as an opportunity to increase the efficiency and equity of public spending and enable the private sector to respond to structural changes in the economy. | x x x x x x x x x | x Lacking local government capacity to supply basic services in Peru means that communities turn to mining companies, who although willing to help risk increasing expectations further (issues of capacity and sustainability) (SL8:3). In particular where mining co's engage in social investment without coordination with gov't they risk dependency and unrealistic expectations x The case of Peru shows the need for company-supported local community development initiatives need to be integrated with regional government development plans (Spotlight 8: p.3) x In absence of government capacity at the local level, companies in Peru engage directly with communities - such partnerships need some degree of formalisation and can be more easily enforced if the local government is involved (Spotlight 8: p.4). In Ghana some companies engage with District Government to plan expenditure, thereby supporting effective government public finance management (Spotlight 11: p.4) x In the provision of community development funds (large sums of money to resource-poor districts), mining companies can get caught between demands and needs as perceived by local communities (educational facilities for example) and those expressed by central planning (prioritizing infrastructure for example) (Lao PDR case study). x Because mining is capital intensive and requires relatively little infrastructure, and doesn't need a domestic market, mining is one sector that can expand quickly (if prices are high) once institutions reach minimum level (Spotlight 9: p.2) - the challenge is how to leverage this x In Lao PDR national government has recognized and responded to additional needs of mining-affected areas - provided 200 additional civil servants to cope with extra demand for public services in one mining affected area (Lao PDR case study) x Building skills and understanding of district government workers through internships at companies. For example, on-site training of interns from the Department of Geology (laboratory work) and Water Resources and Environment Agency (environmental monitoring) (Lao PDR case study) |
| Precept 10: Government policy should facilitate private sector investments at the national and local level for the purposes of diversification, as well as for exploiting the opportunities for domestic value added. | x x x x | x Multi-stakeholder program established in 1990s to promote development of mining clusters in Chile, including by funding suppliers to enhance qualifications (incl. ISO certifications) which in turns generates competitive advantage and access to export markets (Spotlight 6: p.4, see also Chile country case study) x AngloGold Ashanti in Ghana has supported economic diversification programmes, including at national level. This has included support to Ecobank, through funding as well as providing financially trained AGA staff - enabling Ecobank to grow and provide financial services regionally (Spotlight 7: p.3) x Governance is critical to enhance less-visible but broader impacts. In Peru, the impacts of companies' supply chains and capacity-building initiatives are limited due to a lack of supporting local level government capacity (Spotlight 8: p.4) |
| Precept 11: The home governments of extractive companies and international capital centers should require and enforce best practice. | x x x x x | x ICMM findings show that bilateral and multilateral donors can play a key role in supporting partnerships to build capacity and enhance positive impacts of mining. x In Peru, increased local government funding through Canon Minero not effectively channelled to development if local capacity is lacking (Spotlight L10: p.4). Mining companies can partner with donors in developing such capacity, e.g. IFC has given technical assistance to government to guide Canon Minero disbursements (Spotlight 12: p.2). x The support provided by international donors such as UNDP and World Bank to support legislative strengthening in Lao has enabled the rapid growth of the mining sector, which contributed c.15% of government revenue in 2009. x A study by German development agency GTZ into constraints faced by SMEs in the Lao PDR context has had influence on local content strategies of mining companies in the country. |
| Precept 12: All extraction companies should follow best practice in contracting, operations and payments. | x x x x x | x The ICMM Sustainable Development Framework represents best practice in reporting on sustainable development principles, including third-party assurance of members' submissions and publicly report monitoring of progress by the ICMM (through its annual reviews). x The ICMM Toolkit has been developed over many years and through broad, inclusive consultations, and represents in its own right a set of best practices in contracting, operations and payments x The ICMM Community Development Toolkit represents a set of best practices in sustainable engagement and monitoring of local community relations. |

3 Relevance, consistency and complementarities of the ICMM inputs into NRC consultations

This section aims to present the reasons why ICMM inputs into the NRC consultations should be considered as a critical resource for the NRC sponsors. It does so by selectively highlighting the insights from ICMM research to date and commenting further on the consistency in its aims and approach with the aims of the NRC. This is followed by a discussion of complementarities, or areas where ICMM can help to expand the relevance and appeal of the NRC.

3.1 Relevance of ICMM findings regarding resource governance

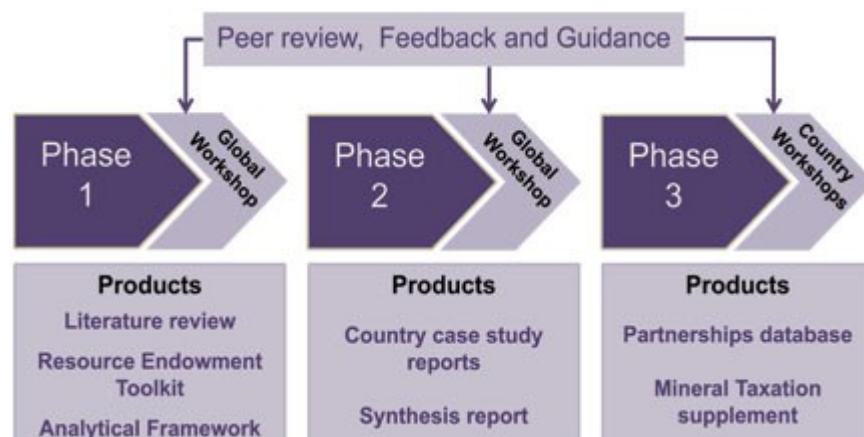
The ICMM REi and other work provide valuable support and evidence to inform the precepts and guidance being developed by the NRC sponsors. The previous section has offered some *prima facie* evidence of overlap between the 12 NRC precepts and the key findings and themes from ICMM's research. In addition, there are a host of reasons why ICMM's approach to understanding the role of resource companies in economic and social development represents a **benchmark for responsible industry engagement** that could be made more explicit in the NRC:

Strong alignment across NRC and ICMM ultimate objectives. Launched as a response to the widespread criticism levied against mining companies in the Extractive Industries Review of 2001-4, ICMM's Resource Endowment initiative (REi) started its work in 2004 with the *very specific objective of identifying best practices in how mining can contribute to sustainable development*. In its earliest manifestations it sought to first identify and then understand "success cases" and explanations of "success" amongst some 33 low and middle income countries that at that time were "mineral dependent". The alignment between ICMM's objectives and those of the NRC is clearly illustrated by ICMM's **Sustainable Development Framework**. Under this framework - which is binding on ICMM members - companies commit to monitor and report on their performance against 10 sustainable development principles, and to seek third-party independent assurance on this reporting. These principles aim to promote best practices across the full range of issues facing minerals extraction, including support for the EITI (Principle 1), protection of human rights (Principle 3) and no mining in World Heritage sites (Principles 6 and 7).¹⁶ The full list of ICMM Sustainable Development Principles and the most recent reporting by members are included in Annex C.

Highly consultative and inclusive approach. ICMM's research has from the outset taken the position that relevant knowledge of how countries can escape the so-called resource curse must be *built on a comprehensive understanding of all stakeholder positions*. This is reflected in the prominent role attributed to very broad-based consultation in all country case studies, to peer reviews, feedback via in-country workshops and in other ways, and guidance at all stages in the development of ICMM's REi and MPD work programmes. All country case studies have received the endorsement of host countries before any results have been published. Figure 2.4 spells out the processes involved in schematic form.

¹⁶ ICMM has issued Position Statement to clarify and communicate commitments of members under the 10 principles. These include Policy on climate change (complements principles 4 and 6); Mining: Partnerships for Development (complements principle 9); Transparency of Mineral Revenues (complements principle 1); Mercury Risk Management (complements principles 4, 6 and 8); Mining and Indigenous Peoples issues (complements principle 3); and Mining and Protected Areas (complements principles 6 and 7).

Figure 3.5 ICMM REi stages and outputs



Note: The products listed above are available on ICMM's website. The specific web locations are referenced for easy access in Annex A.

Depth of research. Following a comprehensive literature review and primary research in 2004, ICMM developed a toolkit (REi Phase 1), that has since been applied in a standardised way across five countries (REi Phase 2), with input from all affected stakeholders, thereby enabling the identification of good or even best practice. The ICMM REi Phase 3 (launched in 2007) subsequently sought to look specifically and more deeply at examples of successful and effective ways in which partnerships could be developed, by mapping partnerships. The ICMM studies represent a considerable investment which is reflected in the depth of detail and the use of data collected specifically for the research.

Broad scope and coverage. ICMM publications represent a large and growing body of information on the impact of mining in developing and developed economies. In-depth results now cover 22 different countries. The 37 publications to date include toolkits (MPD¹⁷, Community Development) as well as the findings from the application of toolkits and other research.¹⁸ These published outputs have been presented in both long and short (Spotlight) formats. The ICMM MPD Toolkit itself has been fully implemented by ICMM in five countries, and by third parties in another three. In addition, the work conducted by ICMM for the Mapping Partnerships Exercise covered a total of 19 different countries.¹⁹

3.2 Consistency between NRC and ICMM understanding of natural resource governance

Having shown that the key messages underpinning the NRC and ICMM research findings are broadly similar and certainly mutually consistent, this sub-section argues that there are also broad similarities in how the two initiatives understand natural resource governance.

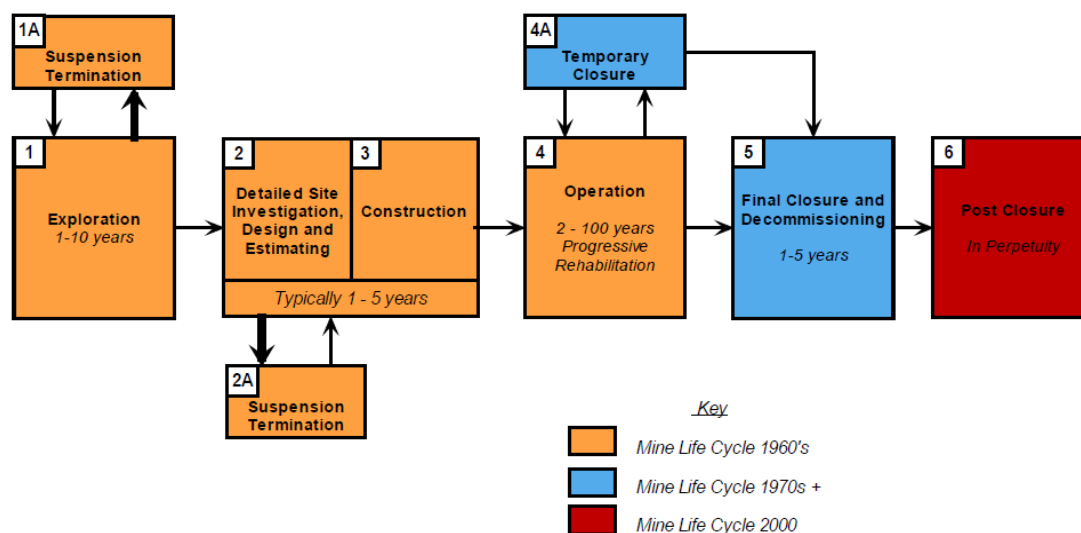
¹⁷ The MPD Toolkit has been applied in nine countries to date.

¹⁸ These 37 publications exclude non-public studies where the ICMM frameworks have been applied by Oxford Policy Management on behalf of third parties.

¹⁹ ICMM: Mapping in-country partnerships (February 2010). <http://www.icmm.com/document/783>.

Both initiatives recognise the need to manage extractive resources over long time horizons and across a project's life cycle. The NRC recognises that natural resource extraction is a long-term endeavour, requiring adaptability in resource governance (Precept 3) and macroeconomic institutions to smooth the impacts on the host economy (Precept 8). ICMM has similarly highlighted the *need to look at the complete life cycle on mining from exploration through closure*. A life-cycle approach complements the long-term perspective of resource extraction by highlighting the multiple aspects of large-scale resource extraction - each with specific economic, social and environmental impacts - that need to be managed. ICMM findings show that a life-cycle assessment of the impacts of mining can also be a powerful tool around which to develop stakeholder consensus and push ahead with reform.²⁰

Figure 3.6 Life cycle of mining sector resource extraction

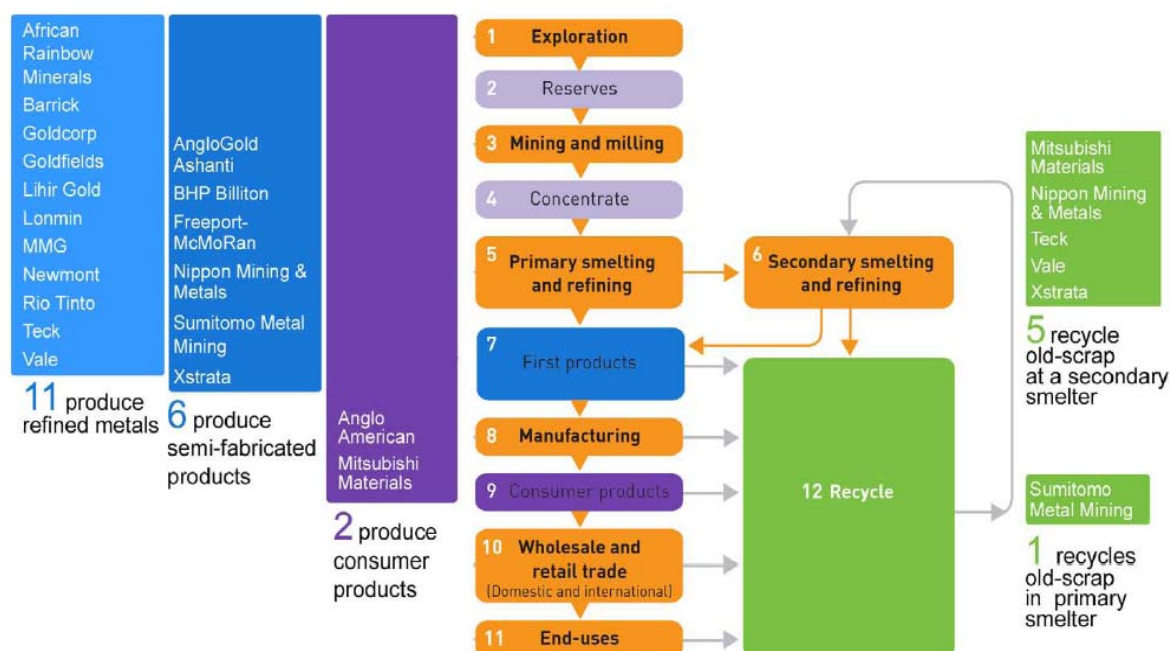


Source: ICMM

Both initiatives recognise the critical role played by the private sector in promoting economic and social development. The NRC, whilst putting great emphasis on the role of national government and policy makers, nevertheless recognises that “employment and income will be created largely by the private sector: the government has a role in facilitating it” (see guiding principles to Precept 10). For ICMM, as a CEO industry-led body, understanding the impacts of actions taken by industry constitutes a core focus permeating its research. However, it recognises explicitly that partnerships play a key role, for example in stimulating increased local content (for the use of mining companies), and in generating more broadly based local and regional development (with large mining projects acting as a catalyst). ICMM’s research also recognises the potential for resource companies to promote local economic and social development by diversifying and developing the minerals value chain (cf. NRC Precept 10). Best practices in this area are drawn from ICMM’s members that operate at various points throughout the minerals value chain, as illustrated in figure 3.7.

²⁰ See ICMM (2009), ‘Mining in Tanzania – What future can we expect?’ (October 2009). <http://www.icmm.com/document/702>. This demonstrated above all that it is counterproductive and misleading to conduct debate on the topic of mineral taxes by using only short time period historical revenue data only. There can huge over-time variations in the tax and other revenues generated by large mining projects - often with life spans of 25 years or more. The full life cycle evidence needs to be assessed for any debate to be coherent and complete.

Figure 3.7 Engagement of ICMM members in all parts of the value chain



Source: ICMM

Both initiatives recognise that no actor can ‘go it alone’. Both the NRC and ICMM recognise the need for multiple stakeholders to be involved in the governance of natural resources. For ICMM such an approach forms the cornerstone of its engagement strategy, whereas for the NRC this recognition is more implicit. Although the NRC rightly place national governments at centre-stage (on the basis of sovereignty and the nation state’s formal and moral responsibility for the welfare of its citizens), the policy recommendations emerging from the NRC precepts have implications that reach far beyond national governments. For example, as precept 10 notes “because a resource boom brings about structural change in the economy it is particularly important that the business and regulatory environment is supportive of new investments” (implicit partnerships are also apparent in precepts 2, 3, 9, 11, 12). The NRC also recognises that - given the governance and institutional capacity constraints faced by many newly resource-dependent countries - the capacity to execute policy in line with the NRC recommendations would require support (partnerships) from donors as well as local actors. Finally, precepts 11 and 12 clearly require partnerships some to be in place, since international standards (for governments or companies) need to be developed with input from affected stakeholders if they are to retain relevance and usefulness. The key point here is to suggest that the NRC would benefit by making the multi-layered nature of roles and responsibilities more explicit by drawing on some of the examples from ICMM work.

3.3 Complementarities (areas where ICMM can help expand NRC’s focus and relevance)

This review has highlighted several areas where ICMM’s approach and findings can usefully complement and help nuance the focus of the NRC, to help it achieve wider relevance and also facilitate its implementation.

Whilst the NRC focuses on governments, ICMM highlights the *role of companies and their wider stakeholders (including donors and civil society) in decision-making around resource extraction.* ICMM's approach to understand mining and development recognises explicitly the significant and growing influence of mining companies in many low-income mineral-dependent countries and in poor regions of middle and high-income countries. In many cases, mining has become the major leading sector in economic growth and this is likely to become increasingly the case. ICMM's mandate is to ensure that this influence is exercised responsibly, and that development decisions and programmes can best be sustained through the involvement of multiple local and international partners. Moreover, whilst the NRC is silent on the potential for local companies to play an active role in improving resource governance, ICMM research has shown that local companies - in particular when partnering with multinationals, and supported by governments - can play a key role in enhancing accountability, improving capacity and 'up-skilling' the domestic industrial sector.

Focus on local communities. NRC Precept 5 calls for stakeholders to minimise and manage impacts on communities. Community-level conflicts are common in the minerals sector, and can quickly undermine an otherwise sensible policy environment for minerals extraction. In geographically remote mining regions, poor community relations can easily become the 'weakest link' in the chain of effective and equitable resource governance. Communities often have a strong sense that the company 'owes' it to them to generate significant benefits, seeing as the materials are dug up from 'their' ground. Yet companies that engage in community development projects without engaging with relevant local authorities risk displacing already-weak local government institutions. To address such issues, the NRC must pay explicit attention to issues of community engagement and participation, base-line studies, community-level agreements and dispute resolution mechanisms. These areas are covered by ICMM's Community Development Toolkit, which provides practical advice on these issues.²¹

NRC focuses on central government as the *originator of policy*, whilst ICMM has found that local/community governments are often key players in the *implementation of policy.* This reflects the understanding that there is commonly a division of labour (and roles and responsibilities) between national and local/community government. The list of best practices identified by ICMM demonstrate that local government capacity is often a bottleneck, with the result that communities rely too much on companies (as "quasi governments") and companies in their turn sometimes rely far too much on central government - assuming (wrongly) that decisions made at the national level are somehow enough to confer their "social license" to operate as well as their formal *de jure* license. (see Spotlight 9: p.4 and the Lao PDR country case study). ICMM's research recognises that companies can play an active and effective role in building much-needed local government capacity, in particular when engaging in partnership with other international (e.g. donors) or local (e.g. civil society) actors. To illustrate, a company can engage with and help build local government capacity, which ICMM research shows is often needed to implement national-level resource taxation policy (see Ghana SI7:4 and the Lao PDR country case study). Typically, a mining company cannot and should not be a prime mover in this area of work – but it can and should be an informed supporter and even a champion for the initiatives of others, including broader donor initiatives around capacity development.

²¹ ICMM (2011), 'Good Practice Guide: Indigenous Peoples and Mining'.

Available at <http://www.icmm.com/library/indigenouspeoplesguide>

ICMM's focus on local governance and *implementation capacity* complements the NRC's focus on policy formulation and strategy. It should be kept in mind that much of the failure to capture equitable benefits from resource extraction among developing countries is due not to the absence of top-level policies, but rather to the absence of capacity to enforce these policies.²² ICMM's experience shows that partnerships - including industry as well as donors and civil society - complement central government policy in enhancing capacity to deliver benefits. While issues such as the design of the tax regime can be effectively covered at a national policy level, other areas (environmental standards, community development) may be, and often are addressed more effectively through partnership approaches, either locally (through community investment programmes) or internationally (e.g. the Equator Principles). ICMM's partnership approach helps to identify how much-needed institutional capacity at the local level can be built through accountability-enhancing joint efforts involving industry, donors and civil society.

Partnerships are needed to uncover the highly local contextual factors driving the economic and social impacts of mining. ICMM research findings confirm that many of negative impacts of mining are highly localised around mining operations, and cut across a range of issue areas. These findings point to the need of for better localised knowledge and evidence about the impacts of mining. Such local knowledge is difficult to capture through a desk study – or even through in-country engagement with policy makers – and can more readily be obtained through a close engagement with local actors (partnerships). In the absence of such engagement, rumour, innuendo and half-understood propositions can often dominate the mining debate. For instance, in Peru weak governance means that mining benefits do not trickle down adequately to local levels (in spite of large fiscal transfers), which in turn leads to a whole slough of social tensions at the local level, which then may create ill-informed political pressures for anti-mining policy reform and for inappropriate types of reform - in particular during election years. Similarly, potential gains from partnerships in social investment (e.g. health, education, infrastructure) may be undermined if the regional development planning processes are weak, which in turn increases the importance of having effective dispute resolution mechanisms in place (see Spotlight 12: p.4 and Spotlight 11: p.2).

Partnerships can facilitate adaptability (cf. NRC precept 3). Many mineral-dependent developing economies are undergoing rapid change, which raises various problems for the mining companies operating there as well as for host-country governments in adhering to policy regimes fixed *ex ante* in the face of long-lived (20 year plus) mining operations. Technologies, development priorities, environmental contexts, and political fortunes are all subject to change. If pro-private sector political leaders are unable to demonstrate a sufficiently fair allocation of rents from natural resources, this can easily lead to changes at the polls and the rise to power of more populist and anti-mining political leaders. Above all, it needs to be recognised that values and policies change and that any resource governance framework needs to be sufficiently flexible to accommodate change. No mining development agreement can be cast in stone with too much specific detail at the outset of a new mining operation. Industry can play an active role in ensuring that sufficient benefits materialise to retain public support for responsible investment.

Complementarity of tools. ICMM's analytical tools have been developed over many years. The REi/MPD Toolkit is now in its third version, and has been regularly updated following extensive consultations with leading mining experts and international organisations and has been influenced by the many local interlocutors who have been involved with one or more

²² Importantly, more sophisticated policies also typically require more enforcement capacity.

case study. The toolkit constitutes, in its own right, a best-practice tool that can help address NRC precepts 1 and 2 (understanding of benefits/costs of resource extraction). Various findings from the many toolkit implementations in different regions and countries provide unique evidence of how partnerships can improve negotiation, allocation of resources and monitoring of economic and social impacts, across a range of national and local stakeholders.

4 Key messages and feedback to NRC

This review of the relevance of ICMM's findings and approach has highlighted the following key messages which should be considered by the NRC in the present round of consultations. They are reflected in the suggested changes to level-1 NRC Precepts in Table 4.2:

- **The NRC and ICMM have mutually consistent aims and objectives.** This consistency in approach means that best practices identified under the REi and subsequently the MPD (using standardised approaches to both data and ideas collection) enable comparisons to be made between mines, regions and countries). Such approaches and results are available in the public domain and can cost-effectively be used by NRC.
- **There is a need to make the role of partnerships more explicit in the NRC.** The charter implicitly recognises the need for partnerships, as it refers to the role of donors in supporting developing host countries that embark on prescribed reforms. It also highlights the critical role of the private sector in generating incomes and employment. ICMM's work presents a strong set of arguments and a readily available framework and tools for analyzing the nature and distribution of costs, risks and responsibilities and **mainstreaming partnerships - involving government and industry as well as donors and civil society** - across various areas of resource governance, making explicit the need for on-going engagement and dialogue. Partnerships will never provide magic bullets, nor have equal relevance in all situations: but they can effectively enhance accountability and therefore be a useful complement to more top-down policy recommendations.
- **Partnerships need to give strong emphasis to strengthening local government capacity to implement national-level policies.** Whilst appropriate national policies and agreements are clearly necessary to enhance the benefits of natural resource extraction, ICMM has found that the capacity at local government levels is invariably equally critical in ensuring the effective implementation of most aspects of any top-down national policy. Local level impacts, if not adequately addressed, will invariably undermine the sustainability of resource extraction (e.g. Lao PDR case study). Civil society and donors have - together with industry - key roles to play in enhancing local capacity to implement policy.
- **The NRC needs to look explicitly to the needs of the mining industry in order to facilitate NRC adoption (across all stakeholders) and its effective implementation,** by generating support among industry for the initiatives and reforms prescribed by the NRC. ICMM - as an industry organization mandated with raising performance across all aspects of sustainable development and led by executives of the world's leading mining companies, accounting for more than 70% of global mining activity - can help ensure that the NRC propositions are positively received in the business community. This is not an either/or situation: companies as well as host governments have a vested interest in supporting a stable and efficient national context for their operations. They play a large role in the political economy of mineral-dependent host countries, and the strength, or otherwise of their support for the policy recommendations emerging from the NRC precepts will have implications for whether such recommendations can be implemented or not.

- **The key role of local communities and their development.** Negative impacts are often concentrated in the immediate vicinity of a mine. At the same time resources to seek redress and enforcement for local communities are weaker than at the national level, due to weak government capacity. The result can be growing discontent at the local level, which later percolates up into potentially destabilising popular pressure to take action against the minerals sector. ICMM has taken the lead in developing practical tools for understanding and managing community relations around large-scale mining, based on recognised international best practice. The findings are published in a Community Development Toolkit, which provides practical guidance on how to responsibly address issues of community engagement, base-line studies, community-level agreements, their implementation, and dispute resolution mechanisms.²³
- **The NRC can benefit from a closer dialogue with industry.** The NRC and its eventual implementation can be enhanced through an enhanced dialogue with ICMM and its industry partners. Enhancing the relevance of the NRC to industry is important because to be sustainable in the long run, natural resources policy instruments must promote both equitable development (from the point of view of host country stakeholders), as well as stability (from the point of view of companies). Closer engagement would recognise that in those processes the mining companies are central players whose active engagement is a crucial ingredient of success.
- **ICMM offers a framework for how the corporate sector can engage in sustainable development of the minerals sector.** The Sustainable Development Framework is monitored, reported on and assured by independent third parties. This approach goes some way in answering the calls at the recent NRC conference for the charter to be a 'rating' system (enabling governments and stakeholders to assess a priori the track records of potential investors companies). By endorsing ICMM's Sustainable Development Framework as a model for responsible business, the NRC can catalyse demands for even more companies to sign up to such principles of transparency and accountability.
- **There is a need to focus more attention on how best to convene local stakeholder opinions in the formulation of any specific policy recommendations.** ICMM's experience shows that burning local issues can quickly percolate upwards and undermine national-level policy. It also shows that such issues can best be identified and assessed through an inclusive on-the ground process to enhance the sustainability of development initiatives in the extractives sectors (e.g. through implementation of the ICMM Toolkit). For example, ICMM's Lao PDR case study was published in three languages and disseminated widely within the Lao PDR, to help create understanding of and consensus around on impacts of mining. ICMM is able to convene local stakeholders (leveraging its industry association members in most countries where mining plays a significant role) in workshops that can test and promote the framework among mining practitioners. In all ICMM's work, extensive on-the-ground discussions have been involved at local and community level and the toolkit provides guidance at how best to organise such discussions.

²³ ICMM (2011), 'Good Practice Guide: Indigenous Peoples and Mining'. Available at <http://www.icmm.com/library/indigenousopeoplesguide>

- **Partnership approaches can help to capture and represent a wide range of viewpoints, which is essential to public legitimacy.** Local in-country workshops are critical inputs but will often convene widely disparate points of view. Efforts to bring local stakeholders with differing points of view into contact with each other are difficult and challenging. Nevertheless, such an approach is essential to ensure that policy recommendations are relevant to all stakeholders. ICMM's experience shows that joint initiatives involving all interested parties have a greater probability of achieving viable and lasting solutions - of critical importance to ensure policy stability given the long time horizons of extractive resources projects.

Table 4.2 ICMM suggested re-wording of selected NRC precepts

| NRC Precept | ICMM suggested rewording |
|---|--|
| Precept 1: The development of a country's natural resources should be designed to secure the greatest social and economic benefit for its people. This requires a comprehensive approach in which every stage of the decision chain is understood and addressed. | Precept 1: The development of a country's natural resources should be designed to secure the full potential social and economic benefit for its people over a sustained period. This requires a comprehensive approach in which every stage of the decision chain is understood and addressed, across the mineral extraction life-cycle. |
| Precept 2: Successful natural resource management requires government accountability to an informed public. | Precept 2: Successful natural resource management requires government accountability to an informed public at national and sub-national levels. Civil society in the host country typically reflects the values of citizens and can play an important role in the development and implementation of policy, and the implementation of development plans at the subnational level. |
| Precept 5: Resource projects can have significant positive or negative local economic, environmental and social effects which should be identified, explored, accounted for, mitigated or compensated for at all stages of the project cycle. The decision to extract should be considered carefully. | Precept 5: Resource projects can have significant positive or negative local economic, environmental and social effects. Potential negative effects should be identified, explored, accounted for, mitigated or compensated for at all stages of the project cycle. Opportunities to enhance the positives should be sought. The decision to extract should be considered carefully. |
| Precept 6: Nationally owned resource corporations should operate transparently with the objective of being commercially viable in a competitive environment. | Precept 6: Nationally owned resource corporations should operate transparently with the objective of being commercially viable in a competitive environment. They should avoid conducting regulatory functions. |
| Precept 10: Government should facilitate private sector investments at the national and local levels for the purposes of diversification, as well as for exploiting the opportunities for domestic value added. | Precept 10: Government should facilitate responsible private sector investments at the national and local levels and work in partnership with companies and others for the purposes of diversification, as well as for exploiting the opportunities for domestic value added. |
| Precept 11: The home governments of extractive companies and international capital centres should require and enforce best practice. | Precept 11: The international community including governments of extracting companies, international investors, bilateral and multilateral development agencies and international NGOs should work together to build capacities to design, implement and enforce best practice and should champion collaboration across all actors in achieving the vision of the Natural Resources Charter. |
| Precept 12: All extraction companies should follow best practice in contracting, operations and payments. | Precept 12: All extraction companies have a responsibility to follow ethical business practice across the full life-cycle and respect the rights of citizens. Companies should seek opportunities to work with governments and others to engage in public policy debates, align capital and social investments with government plans, and to support capacity building at the sub- national level and dispute resolution mechanisms. |

Annex A Selected ICMM bibliography

REi core documents

Resource Endowment initiative – Toolkit (2006, updated September 2008)

<http://www.icmm.com/document/630>

Mining: Partnerships for Development – Toolkit (June 2011)

<http://www.icmm.com/document/1945>

Resource Endowment initiative - Literature Review (August 2006)

Available through <http://www.icmm.com/page/2915/resource-endowment-initiative-toolkit>

Resource Endowment initiative - Analytical Framework (August 2006)

<http://www.icmm.com/document/184>

Resource Endowment initiative - Analytical Framework Executive Summary (April 2006)

<http://www.icmm.com/document/182>

Full case studies and synthesis reports

Peru REi Country Case Study (July 2007)

<http://www.icmm.com/document/300>

Tanzania REi Country Case Study (July 2007)

<http://www.icmm.com/page/9998/our-work/case-studies/articles/making-mining-count-in-tanzania-case-study>

Ghana REi Country Case Study (July 2007)

<http://www.icmm.com/document/301>

Chile REi Country Case Study (March 2007)

<http://www.icmm.com/page/9995/making-mining-count-in-chile-case-study>

Lao PDR Country Case Study (June 2011)

<http://www.icmm.com/document/1841>

Synthesis of four case studies (April 2006)

<http://www.icmm.com/document/197>

Mapping in-country partnerships (February 2010)

<http://www.icmm.com/document/783>

Minerals taxation regimes: A review of issues and challenges in their design and application (February 2009)

<http://www.icmm.com/document/520>

Mining in Tanzania – What future can we expect? (October 2009)

<http://www.icmm.com/document/702>

Mining: Partnerships for Development – Enhancing Local Content. Joint Harvard CSRI, ICMM and IFC workshop (October 2009)
<http://www.icmm.com/document/758>

Sustainable development in the mining and minerals sector: the case for partnerships at local, national and global levels (award-winning essay) (May 2008)
<http://www.icmm.com/document/269>

Community development

Community Development Toolkit (2006)

Good Practice Guide: Indigenous Peoples and Mining (2011)
<http://www.icmm.com/library/indigenouspeoplesguide>

Human Rights in the Mining and Metals Industry: Overview, Management Approach and Issues (May 2009)
<http://www.icmm.com/document/716>

Working together: How large-scale mining can engage with artisanal and small-scale miners (no date)
<http://www.icmm.com/document/789>

Mining and Indigenous Peoples Issues Review (2005)
<http://www.icmm.com/document/6>

Spotlight series

Spotlight 1: The prize (April 2006)
Available on www.ICMM.com

Spotlight 2: The challenge (April 2006)
Available on www.ICMM.com

Spotlight 3: Ways forward (April 2006)
Available on www.ICMM.com

Spotlight 4: Process and feedback (April 2006)
Available on www.ICMM.com

Spotlight 5: Resource Endowment guide (updated June 2008)
<http://www.icmm.com/document/312>

Spotlight 6: Chile – Case study executive summary (October 2006)
<http://www.icmm.com/document/193>

Spotlight 7: Ghana – Case study executive summary (October 2006)
<http://www.icmm.com/document/192>

Spotlight 8: Peru – Case study executive summary (October 2006)
<http://www.icmm.com/document/194>

Spotlight 9: Tanzania – Case study executive summary (October 2006)

<http://www.icmm.com/document/195>

Spotlight 10: Taxing challenges (October 2007)

<http://www.icmm.com/document/196>

Spotlight 11: Ghana: action learning through partnerships (July 2008)

<http://www.icmm.com/document/313>

Spotlight 12: Peru: from boom to broad-based development? (September 2008)

<http://www.icmm.com/document/348>

Spotlight 13: Taxing challenges II – a studied approach to minerals taxation regimes (September 2008)

<http://www.icmm.com/document/335>

Spotlight 14: Tanzania: building bridges on mining policy (October 2009)

<http://www.icmm.com/page/15957/spotlight-series-14-tanzania-building-bridges-on-mining-policy>

Annex B Suggested partnership roles and responsibilities²⁴

Figure B.1 Mining and poverty reduction



Figure B.2 Mining and economic development – Revenue management



Figure B.3 Mining and economic development – Regional development planning



²⁴ Adapted from ICMM Spotlight 3: Ways forward (April 2006). Available on www.icmm.com.

Figure B.4 Mining and economic development – Local content



Figure B.5 Social investment and development



Figure B.6 Stakeholder dispute resolution



Annex C ICMM Sustainable Development Framework and member company reporting

ICMM's Sustainable Development Framework (SDF) is based on the following 10 principles. These principles are elaborated on in ICMM's position statements available at <http://www.icmm.com/our-work/sustainable-development-framework/position-statements>.

As part of ICMM's SDF, member companies commit to report on and to seek independent assurance of their performance against these principles. This performance is publicly reported by ICMM through its Annual Review report (see next page for the most recent reporting data).

1. Implement and maintain ethical business practices and sound systems of corporate governance.
2. Integrate sustainable development considerations within the corporate decision-making process.
3. Uphold fundamental human rights and respect cultures, customs and values in dealings with employees and others who are affected by our activities.
4. Implement risk management strategies based on valid data and sound science.
5. Seek continual improvement of our health and safety performance.
6. Seek continual improvement of our environmental performance.
7. Contribute to conservation of biodiversity and integrated approaches to land use planning.
8. Facilitate and encourage responsible product design, use, re-use, recycling and disposal of our products.
9. Contribute to the social, economic and institutional development of the communities in which we operate
10. Implement effective and transparent engagement, communication and independently verified reporting arrangements with our stakeholders.

