THE MINING INVESTMENT AND GOVERNANCE REVIEW (MnGov)

QUESTIONNAIRE
Funded by:

Implemented by:

Adam Smith International

In association with:
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### Abbreviations & Acronyms

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Full Form</th>
</tr>
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<tbody>
<tr>
<td>AIDS</td>
<td>Acquired Immune Deficiency Syndrome</td>
</tr>
<tr>
<td>ASM</td>
<td>artisanal and small-scale mining</td>
</tr>
<tr>
<td>BBOP</td>
<td>Business and Biodiversity Offsets Program</td>
</tr>
<tr>
<td>CEO</td>
<td>chief executive officer</td>
</tr>
<tr>
<td>COFOG</td>
<td>Classification of the Functions of Government</td>
</tr>
<tr>
<td>CSO</td>
<td>civil society organization</td>
</tr>
<tr>
<td>EIA</td>
<td>Environmental Impact Assessment</td>
</tr>
<tr>
<td>EITI</td>
<td>Extractive Industries Transparency Initiative</td>
</tr>
<tr>
<td>EMMP</td>
<td>Environmental Mitigation and Monitoring Plan</td>
</tr>
<tr>
<td>EPA</td>
<td>Environmental Protection Agency</td>
</tr>
<tr>
<td>ESIA</td>
<td>Environmental and Social Impact Assessment</td>
</tr>
<tr>
<td>FCFS</td>
<td>first come, first served</td>
</tr>
<tr>
<td>FDI</td>
<td>foreign direct investment</td>
</tr>
<tr>
<td>FPIC</td>
<td>free, prior, and informed consent</td>
</tr>
<tr>
<td>GAAP</td>
<td>Generally Acceptable Accounting Principles</td>
</tr>
<tr>
<td>GCI</td>
<td>Global Competitiveness Index</td>
</tr>
<tr>
<td>GDP</td>
<td>gross domestic product</td>
</tr>
<tr>
<td>GFS</td>
<td>Government Finance Statistics</td>
</tr>
<tr>
<td>GNI</td>
<td>gross national income</td>
</tr>
<tr>
<td>GPS</td>
<td>Global Positioning System</td>
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<tr>
<td>GSD</td>
<td>Geological Survey Department</td>
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<tr>
<td>HIV</td>
<td>Human Immunodeficiency Virus</td>
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<tr>
<td>ICSID</td>
<td>International Center for the Settlement of Investment Disputes</td>
</tr>
<tr>
<td>IFC</td>
<td>International Finance Corporation</td>
</tr>
<tr>
<td>IFRS</td>
<td>International Financial Reporting Standards</td>
</tr>
<tr>
<td>ILO</td>
<td>International Labour Organization</td>
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<tr>
<td>IM4DC</td>
<td>International Mining for Development Center</td>
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<td>IMF</td>
<td>International Monetary Fund</td>
</tr>
<tr>
<td>IPA</td>
<td>Investment Promotion Agency</td>
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<td>MCO</td>
<td>Mining Cadastre Organization</td>
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<tr>
<td>MOU</td>
<td>memorandum of understanding</td>
</tr>
<tr>
<td>OBI</td>
<td>Open Budget Index</td>
</tr>
<tr>
<td>OECD</td>
<td>Organisation for Economic Co-operation and Development</td>
</tr>
<tr>
<td>PEFA</td>
<td>Public Expenditure and Financial Accounting</td>
</tr>
<tr>
<td>PER</td>
<td>Public Expenditure Review</td>
</tr>
<tr>
<td>PPP</td>
<td>public-private partnership</td>
</tr>
<tr>
<td>RDF</td>
<td>Revenue Development Foundation</td>
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<tr>
<td>SOE</td>
<td>state-owned enterprise</td>
</tr>
<tr>
<td>TA</td>
<td>technical assistance</td>
</tr>
<tr>
<td>TI</td>
<td>Transparency International</td>
</tr>
<tr>
<td>UNDRIP</td>
<td>United Nations Declaration on the Rights of Indigenous Peoples</td>
</tr>
<tr>
<td>UNGP</td>
<td>UN Guiding Principles on Business and Human Rights</td>
</tr>
<tr>
<td>URL</td>
<td>Universal Record Locator</td>
</tr>
<tr>
<td>USGS</td>
<td>United States Geological Service</td>
</tr>
<tr>
<td>UTM</td>
<td>Universal Transverse Mercator</td>
</tr>
<tr>
<td>VAT</td>
<td>value added tax</td>
</tr>
<tr>
<td>VPShr</td>
<td>Voluntary Principles on Security and Human Rights</td>
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<tr>
<td>WEF</td>
<td>World Economic Forum</td>
</tr>
<tr>
<td>WGC</td>
<td>World Gold Council</td>
</tr>
<tr>
<td>WJP</td>
<td>World Justice Project</td>
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</tbody>
</table>
Assessment Concepts and Questionnaire Layout

Key concepts in the design of this questionnaire are the value chain stage, theme, indicator and question. These are listed in table 1 and summarized in the format used in the questionnaire in table 2.

Indicators are based on and derived from the MInGov framework (table 3). To make indicators and questions easier to track in the questionnaire, we use the following annotation system:

- The different stages of the Extractive Industries Value Chain are numbered from 1 to 5.
- The three themes that are relevant to the Extractive Industries Value Chain are labeled A, B or C. The three cross-cutting themes are D, E and F. The mining sector importance theme is M, and descriptive information is labeled X.
- Indicators are labeled in bold and are coded with reference to their theme (such as “A” in table 2) and, where relevant, the numeric value chain stage (see, for example, 1 in table 2).
- Questions have a unique identifier number. They are also color coded if they are taken from secondary data or if they are a performance measure using color codes (see table 2).

Respondents to In-country Interviews

MInGov has three main groups of stakeholders: the government, industry and civil society. In-country interviews on performance questions focus on these groups, plus others that are closely involved in mining investment and governance. Interviewees are asked only those questions relevant to topics in which they have significant involvement or knowledge. Examples of in-country respondents to the questionnaire are as follows.

Government: Government stakeholders include key involved agencies, including the ministries of mines, finance and local government; the revenue authority; and the environmental agency. Interviews are generally of the director (or equivalent) of the department responsible for or most directly associated with the topic in question. Where a minister or other political appointee is met, it is largely for a general discussion on governance and investment issues.

Industry: These are mainly mining companies involved in exploration or mining, and geological and other mining services. Meetings are also held with the management of the chamber of mines or associations representing artisanal and small-scale miners, where they exist. Usually the interview is with an individual closely associated with operational and policy matters, such as the country manager, the person dealing with local employment and content, or the individual responsible for company-government relations.

Civil society organizations (CSOs): Interviews are conducted with representatives of national CSOs and local branches of international CSOs involved with the mining/extractives sector, such as Caritas and Publish What You Pay.

Others: A range of other parties with a direct and informed role in the mining investment and governance are also interviewed. Participants vary by country, and commonly include the secretariat of the Extractive Industries Transparency Initiative, members of parliament, employer and labor associations, donors, the human rights commission, and independent experts in areas such as legal, mining and public finance.
<table>
<thead>
<tr>
<th>Value Chain Stage (5)</th>
<th>Theme (7)</th>
<th>Topic (40)</th>
<th>Indicator (48)</th>
<th>Information Source: 323 Questions</th>
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<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>B. Accountability and Inclusiveness</td>
<td>B1, Exploration and mining license processes</td>
<td>B1.1, Exploration and mining license processes</td>
<td>5</td>
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<tr>
<td></td>
<td>C. Institutional Capacity and Effectiveness</td>
<td>C1, Cadastre, license, tenure and geodata management</td>
<td>C1.1, Collecting geological information</td>
<td>3</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>C1.2, State of mapping and geological exploration</td>
<td>4</td>
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<td></td>
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<td>C1.3, Mining cadastre effectiveness</td>
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<td>C1.4, Security of tenure</td>
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<td>C1.5, Managing licences effectively</td>
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<td>2. Operations</td>
<td>A. Policy, Legislation and Regulation</td>
<td>A2, Mining policy, law and regulation</td>
<td>A2.1, Mining policy, law and regulation</td>
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<td>B2.1, Land access, compensation and resettlement</td>
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<td>C2.1, Sector management</td>
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<td>C2.2, Intra-governmental coordination</td>
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<td>C2.3, Implementing social and environmental regulation</td>
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<td>3. Taxation and State Participation</td>
<td>A. Policy, Legislation and Regulation</td>
<td>A3, Mining tax policy and tax instruments</td>
<td>A3.1, Mining tax policy and tax instruments</td>
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<td>B. Accountability and Inclusiveness</td>
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<td>C. Institutional Capacity and Effectiveness</td>
<td>C3, Mining tax administration and state owned enterprises governance</td>
<td>C3.1, Mining tax administration</td>
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<td>4. Revenue Distribution and Management</td>
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<td>A4, Public financial management and revenue sharing</td>
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<td>C. Institutional Capacity and Effectiveness</td>
<td>C4, National budget implementation</td>
<td>C4.1, National budget implementation</td>
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<td>5. Local Impact</td>
<td>A. Policy, Legislation and Regulation</td>
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<td>A5.1, Environmental and social impact management</td>
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<td>Value Chain Stage (5)</td>
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<td>Topic (40)</td>
<td>Indicator (48)</td>
<td>Information Source: 323 Questions</td>
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<td>(136)</td>
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<td>D. Economic Environment</td>
<td>B5. Human rights and employment equity</td>
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<td>C5, Mining impact and community consultation</td>
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<td>D1, General business and investment environment</td>
<td>D1.1, General business and investment environment</td>
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<td>D2, Infrastructure available for mining</td>
<td>D2.1, Infrastructure available for mining</td>
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<td>D3, Diversified national revenues</td>
<td>D3.1, Diversified national revenues</td>
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<td></td>
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<td>D4, Stable national revenues</td>
<td>D4.1, Stable national revenues</td>
</tr>
<tr>
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<td></td>
<td></td>
<td>D5, Macroeconomic stability</td>
<td>D5.1, Macroeconomic stability</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>D6, National growth and savings</td>
<td>D6.1, National growth and savings</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>D7, Skills and human capital availability</td>
<td>D7.1, Skills and human capital availability</td>
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<td>E. Political Environment</td>
<td>E1, Expropriation risk and security of property rights</td>
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<td>E2.1, Political stability</td>
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<td>E3, State equity participation extent and reliability</td>
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<td>E4.1, Predictable tax terms</td>
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<td>F. Sustainable Development</td>
<td>F1, Integration of mining in development planning</td>
<td>F1.1, Integration of mining in development planning</td>
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<td>F2.1, Inclusive development strategies</td>
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<td>F3, Local content policies and practice</td>
<td>F3.1, Local content policies and practice</td>
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<td></td>
<td></td>
<td>F4, Promotion of investment in non-mining activities</td>
<td>F4.1, Promotion of investment in non-mining activities</td>
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<td></td>
<td>F5, Sharing infrastructure</td>
<td>F5.1, Sharing infrastructure</td>
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<td>Value Chain Stage (5)</td>
<td>Theme (7)</td>
<td>Topic (40)</td>
<td>Indicator (48)</td>
<td>Information Source: 323 Questions</td>
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<td>M. Mining Sector Importance</td>
<td>M1, Geological prospectivity and potential</td>
<td>M1.1, Geological prospectivity and potential</td>
<td>Primary (136) Secondary (65) In-country Interview (122)</td>
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<td></td>
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<td>M2, Foreign direct investment in mining</td>
<td>M2.1, Foreign direct investment in mining</td>
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<td>M3, State participation in mining</td>
<td>M3.1, State participation in mining</td>
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<td>M4, Significance of mining revenue</td>
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<td>M5, Budget share of mining revenue</td>
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<td>M6, Economic and employment share of mining</td>
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</table>

**Descriptive Topics**

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<thead>
<tr>
<th>Descriptive Topics</th>
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<tbody>
<tr>
<td>X.1. Licenses and Exploration—descriptive information</td>
</tr>
<tr>
<td>X.2. Mining Policy, Law and Regulations—descriptive information</td>
</tr>
<tr>
<td>X.3. Mining Tax Policies and Tax Instruments—descriptive information</td>
</tr>
<tr>
<td>X.4. Public Financial Management and Revenue Sharing—descriptive information</td>
</tr>
<tr>
<td>X.5. Environmental and Social Impact Management—descriptive information</td>
</tr>
<tr>
<td>X.6. Sustainable Development—descriptive information</td>
</tr>
<tr>
<td>Questionnaire Text</td>
</tr>
<tr>
<td>--------------------</td>
</tr>
<tr>
<td><strong>1. Contracts, Licenses and Exploration</strong></td>
</tr>
<tr>
<td><strong>A. Policy, Legislation and Regulation</strong></td>
</tr>
<tr>
<td><strong>A1.1. Exploration and mining license rules</strong></td>
</tr>
<tr>
<td>5. Does the legislation impose limits to the discretionary powers of the authority in charge of awarding licenses?</td>
</tr>
<tr>
<td>2. Are the procedures for the allocation of exploration rights laid out in law and are regulations followed in practice?</td>
</tr>
<tr>
<td><strong>189. Time to prepare and pay taxes—Doing Business</strong></td>
</tr>
<tr>
<td></td>
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</table>
Table 3. MiNGov Framework Structure

<table>
<thead>
<tr>
<th>Theme</th>
<th>Extractive Industries Value Chain</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Contracts, Licences and Exploration</td>
</tr>
<tr>
<td>Policy, Legislation and Regulation</td>
<td>Exploration and mining license rules</td>
</tr>
<tr>
<td>Accountability and Inclusiveness</td>
<td>Exploration and mining license processes</td>
</tr>
<tr>
<td>Institutional Capacity and Effectiveness</td>
<td>Cadastre, license, tenure and geodata management</td>
</tr>
</tbody>
</table>

Cross Cutting Themes

<table>
<thead>
<tr>
<th>Economic Environment</th>
<th>General business and investment environment</th>
<th>Infrastructure available for mining</th>
<th>Diversified national revenues</th>
<th>Stable national revenues</th>
<th>Macroeconomic stability</th>
<th>National growth and savings</th>
<th>Skills and human capital availability</th>
</tr>
</thead>
<tbody>
<tr>
<td>Political Environment</td>
<td>Expropriation risk and security of property rights</td>
<td>Political stability</td>
<td>State equity participation extent and reliability</td>
<td>Predictable tax terms</td>
<td>Public spending and corruption control</td>
<td>National and local conflict and social issues relevant to mining</td>
<td>Human development</td>
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<tr>
<td>Sustainable Development</td>
<td>Integration of mining in development planning</td>
<td>Inclusive development strategies</td>
<td>Local content policies and practice</td>
<td>Promotion of investment in non-mining activities</td>
<td>Sharing infrastructure</td>
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</tbody>
</table>

Scoring Key

<table>
<thead>
<tr>
<th>Scoring Key</th>
<th>Very high</th>
<th>High</th>
<th>Low</th>
<th>Very low</th>
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<tr>
<td></td>
<td>(3.25 - 4.0)</td>
<td>(2.5 - 3.25)</td>
<td>(1.75 - 2.5)</td>
<td>(1.0 - 1.75)</td>
</tr>
</tbody>
</table>
1. **Contracts, Licenses and Exploration**

A. **Policy, Legislation, and Regulation**

**A1.1 Exploration and Mining License Rules**

1. **Are procedures for the allocation of exploration rights laid out in the law and regulations?**

   **Answer:** Yes/No.

   **Good practice:** There should be detailed procedures for the allocation of exploration rights, from application to approval. It is bad practice to have no procedures, or outdated procedures that are not compatible with current regulation. Non-compatible procedures often create additional bottlenecks in license allocation.

   **Evidence:** Documentation of a procedure for allocating exploration rights.

   Further details and references can be found in the Mineral Rights Cadastre (2009): [https://openknowledge.worldbank.org/bitstream/handle/10986/18399/486090NWP0extr10Box338915B01PUBLIC1.pdf?sequence=1](https://openknowledge.worldbank.org/bitstream/handle/10986/18399/486090NWP0extr10Box338915B01PUBLIC1.pdf?sequence=1).

2. **Are the procedures for the allocation of exploration rights, as laid out in the legal framework, followed in practice?**

   **Response from:** Government, industry.

   **Answer:** Yes/Partial/No. Explain "partial."

   **Evidence:** May include documentation from the licensing system and/or copies received by applicants to demonstrate compliance. It is important to gather documented evidence, and not just contrasting claims from government and private sector respondents concerning partial compliance or non-compliance. An example of a case handled by legal firms, or an extract from a government or expert report, could be used as supporting evidence. A score of "partial" may be given if, for example, deviations from regulations occur, but are relatively rare or not substantive. Often procedures are outdated and contradict the law, hence they cannot be followed.

3. **Are procedures for the allocation of mining rights laid out in the law and/or government regulations?**

   **Answer:** Yes/No.

   **Good practice:** There should be detailed procedures for the allocation of mining rights, from application to approval. It is bad practice to have no procedures, or outdated procedures that are not compatible with current regulation. Non-compatible procedures often create additional bottlenecks in license allocation.

   **Evidence:** Documentation of a procedure for allocating mining rights.

   Further details and references can be found in the Mineral Rights Cadastre (2009): [https://openknowledge.worldbank.org/bitstream/handle/10986/18399/486090NWP0extr10Box338915B01PUBLIC1.pdf?sequence=1](https://openknowledge.worldbank.org/bitstream/handle/10986/18399/486090NWP0extr10Box338915B01PUBLIC1.pdf?sequence=1).

4. **Are the procedures for the allocation of mining rights, as laid out in the legal framework, followed in practice?**
Response from: Government, industry.

Answer: Yes/Partial/No. Explain “partial.”

Evidence: May include documentation from the licensing system and/or copies received by applicants to demonstrate compliance. It is important to gather documented evidence and not just contrasting claims from government and private sector respondents concerning partial compliance or non-compliance. An example of a case handled by legal firms, or an extract from a government or expert report, could be used as supporting evidence. A score of “partial” may be given if, for example, deviations from regulations occur, but are relatively rare or not substantive. Often procedures are outdated and contradict the law and therefore cannot be followed.

5. **Does the legislation impose clear limits to the discretionary powers of the authority in charge of awarding exploration licenses?**

Answer: Yes (clear limits on discretionary powers)/No (no clear limits)/Partial. Explain “partial.”

Good practice: The decision to award a license is based on recommendations from an independent advisory board. If the license is denied, the reason should be communicated to the applicant.

Evidence: May include examples from the mining regulations if, for example, there is no advisory board to advise the minister or if the minister does not need to give reasons for the denial of applications. Discretion could be applied in the cadastre in deciding whether to accept/process an exploration application by one or more of the authorities/bodies that approve the exploration license.

6. **In practice, are limits to discretionary powers in the awarding of exploration licenses followed?**

Response from: Government, industry.

Answer: Yes/Partial/No. Explain “partial.”

Evidence: May include evidence of discretion being used beyond the scope provided in legislation or documentation from the licensing system and/or copies received by applicants to demonstrate compliance. It is important to gather documented evidence and not just contrasting claims from the government and private sector respondents concerning the use of discretion. An example of a case handled by legal firms, or an extract from a government or expert report, could be used as supporting evidence.

7. **In the law, are there clear limits to the discretionary powers of the authority in charge of awarding mining licenses?**

Answer: Yes (clear limits on discretionary powers)/No (no clear limits)/Partial. Explain “partial.”

Good practice: The decision to award the license is based on the recommendation of an independent advisory board. If the license is denied, the reason should be communicated to the applicant.

Evidence: May include examples from the mining regulations if, for example, there is no advisory board to advise the minister, or if the minister does not need to explain reasons for the denial of applications. Discretion can be applied in the cadastre in deciding whether to accept/process a mining license application, and by one or more of the authorities/bodies who approve the mining license.

8. **In practice, are limits to discretionary powers in the awarding of mining licenses followed?**

Response from: Government, industry.

Answer: Yes/Partial/No. Explain “partial.”

Evidence: May include evidence of discretion being used beyond the scope provided in legislation or documentation
from the licensing system and/or copies received by applicants to demonstrate compliance. It is important to gather documented evidence and not just contrasting claims from government and private sector respondents concerning the use of discretion. An example of a case handled by legal firms, or an extract from a government or expert report, could be used as supporting evidence.

9. **Is the authority in charge of awarding licenses for exploration and mining independent from the mining ministry?**

   **Answer:** Yes/Partial/No. Explain “partial.”

   **Good practice:** Independence from both state-owned enterprises (SOEs) and the ministry, under a separate MCO or a similar statutory body. A partial score can be awarded if the authority is separate but not independent, or if the award of some licenses (for example, exploration) but not all is independent (as in the case of separate authorities). The crucial point is to have the awarding and administering of licenses separated from the monitoring of activities covered by the licenses.

   **Evidence:** May include the laws describing the formation of the mining cadastre office (MCO), in addition to a review of the way in which their boards and managements are staffed (for example, are personnel transferred from one to the other?).

10. **In the law, is there a preference expressed for local companies or producers in the allocation of exploration or mining licenses?**

   **Answer:** Yes/Partial/No. Explain “partial.”

   **Good practice:** All entrants are treated in the same way, and no preference is given to local or international companies. A very common and acceptable exception is the reserving of extraction of certain building materials (sand, gravel, and so on) for citizens or local companies, since this often requires no special skills or significant investment.

   **Evidence:** Excerpts from relevant mining legislation. Specifically, are there rules that discriminate against the equal treatment of investors (foreign direct investment [FDI], small-scale miners, preferential treatment for local companies, and so on)?

   **Note:** This question excludes preference for the state or SOEs, as this is covered under the state participation section, and excludes the treatment of artisanal miners, which is covered under a separate section.

11. **In practice, is there a preference for local companies or producers in the allocation process of exploration or mining licenses?**

    **Response from:** Government, industry.

    **Answer:** Yes/Partial/No. Explain “partial.”

    **Evidence:** If the answer is “Yes,” document examples. The answer is “No” if in practice there is no discrimination in the treatment of investors (FDI, small-scale miners, local companies, and so on), and no practices of political patronage.

    **Note:** This question excludes preference for the state or SOEs, as this is covered under the state participation section, and excludes the treatment of artisanal miners, which is covered under a separate section. Undue discretion (see question above) is often the source of discrimination in the awarding of licenses.

**B. Accountability and Inclusiveness**

**B1.1 Exploration and Mining License Processes**
12. **Is the information required for license applications easily accessible?**

   **Answer:** Yes/No.

   **Evidence:** May include copies of mining regulations or a Universal Record Locator (URL) with information. Note if the answer is described in the mining regulations, or published as part of the guidelines and available online.

13. **When license applications are denied, are the reasons communicated to the applicant?**

   **Answer:** Yes/Partial/No. Explain “partial.”

   **Good practice:** Not only communicating the reasons for denial but also highlighting a procedure that the applicant(holder can follow to remedy the situation.

   **Evidence:** May include examples of this happening, supported by copies of mining regulations, and also guidelines used by the mining authorities.

14. **Is there a transparent process for license cancellations?**

   **Answer:** Yes/No.

   **Evidence:** May include copies of mining regulations, and guidelines used by the mining authorities with clear legal provisions.

15. **In practice, when licenses are cancelled are the reasons communicated to the license holder?**

   **Response from:** Government, industry.

   **Answer:** Yes/Partial/No. Explain “partial.”

   **Good practice:** There should be clear legal provisions in the mining regulations/guidelines. In addition to the reasons for cancellation being communicated, a procedure that the applicant/holder can follow to remedy the situation should also be detailed. Mining companies could cite examples of times when the process was not followed properly, and mining authorities might note situations where deviations were necessary or desirable.

   **Evidence:** May include examples of communications to license holders, supported by copies of mining regulations, and also guidelines used by the mining authorities.

16. **In the law, are all mining contracts required to be made publicly available?**

   **Answer:** Yes/Partial/No/Not Applicable. Explain “partial.”

   **Evidence:** Extracts from the relevant mining legislation and regulations, and, if applicable, also from other legislation (tax related and so on).

   **Note:** Not all countries have mining contracts; in some countries general legislation applies to all mining projects. In this case, record as “Not Applicable.”

17. **In practice are all mining contracts made publicly available?**

   **Response from:** Government, industry, CSOs.

   **Answer:** Yes/Partial/No/Not Applicable. “Partial” if a substantial share of contracts is being disclosed, but not all.

   **Evidence:** Company websites, mining ministry or MCO websites, plus evaluations from companies and authorities.

   **Note:** Not all countries have mining contracts; in some countries general legislation applies to all mining projects. In this
case, record as “Not Applicable.”

18. In the law, is there any barrier to the disclosure of license and contract information, such as state secrecy laws?
Answer: Yes/No.
Evidence: Extracts from the relevant mining legislation and regulations.

19. In practice, does the government publish key details for each license such as the license holder, duration of license, and license type?
Response from: Government, CSOs.
Answer: Yes/Partial (usually)/No (frequently not).
Evidence: May include a mining ministry or MCO website, plus the opinions of companies and authorities.

C. Institutional Capacity and Effectiveness

C1.1 Collecting Geological Information

20. Is there a government website that describes what national geological information is available?
Answer: Yes/No/Partial.
Evidence: A Geological Survey Department (GSD) or ministry website that lists the type of information available: maps, reports, surveys, and other data. A good example, from Tanzania, includes detailed lists and prices, see: http://www.gst.go.tz/geoinfo.htm.

21. Is there a library with current national geological information maintained by the GSD or a similar organization?
Answer: Yes/No/Partial.
Evidence: A GSD or ministry website containing national maps, reports and other geological data, that can be verified during discussions with the relevant departments. This should not be a library of historic documents, but one collecting current geological information.

22. Are exploration companies required to deliver geological information to the GSD or mining authority?
Answer: Yes/No/Partial.
Good practice: During exploration, companies should be required to report quantitative operational information (number of workers employed, meters trenched or drilled, samples taken, and so on) on a regular basis (quarterly, for instance), and such information should be confirmed by external audits on an annual basis. Technical information (analytical values, geological/geophysical/geochemical maps, estimated resources, and so on) would need to be released when an exploration program is terminated, or when an application is made to convert part of the license to a mining lease. During mining, regular technical reports should also be made to help determine production levels and taxes due, and so on.
Evidence: Regulations and guidelines, verified from visits/discussions with the GSD/MCO/ministry.
Note: The details of the procedure should be observed: Do exploration companies have to deliver geological information while exploration is still ongoing or after relinquishing their license? Does this include their datasets, maps, or drill core?
Is this part of normal reporting procedures, as prescribed in the regulations? If so, is the information delivered in a timely and comprehensive manner?

23. In practice, are exploration companies delivering the required geological information to the GSD or mining authority?

Response from: Government.

Answer: Yes/No/Partial. Explain “partial.”

Good practice: During exploration, companies should be required to report quantitative operational information (number of workers employed, meters trenched or drilled, samples taken, and so on) on a regular basis (quarterly, for instance), and such information should be confirmed by external audits on an annual basis. Technical information (analytical values, geological/geophysical/geochemical maps, estimated resources, and so on) would need to be released when an exploration program is terminated, or when an application is made to convert part of the license to a mining lease. During mining, regular technical reports should also be made to help determine production levels and taxes due, and so on.

Evidence: Description of types of reported and unreported geological information. Important to establish if unreported information is followed upon.

24. In practice, does the GSD or similar organization collect geological information in an accessible library?

Response from: Government, industry.

Answer: Yes/No/Partial. Explain “partial.” The library should be accessible for geologists to review and analyze reports.

Evidence: Government and industry should confirm existence of library and if it is being used.

25. Does the GSD or similar organization collect geological information from companies in a secured manner?

Response from: Government, industry.

Answer: Yes/No/Partial. Explain “partial.”

Good practice: The data room and archives should have only supervised access and no information leaks.

Evidence: Short description of security protocols and evidence of information leaks if any.

Note: Companies may be concerned that their reports could be leaked to competitors before their license expires.

26. Does the GSD or a similar organization make use of the geological data collected from companies to improve the understanding of geological prospectivity?

Response from: Government, industry, experts.

Answer: Yes/No/Partial. Explain “partial.”

Evidence: Examples of data being reused to update government information on geological prospectivity or reason why data is not reused.
27. **Does the GSD or a similar organization make use of the geological data collected from companies to monitor compliance with licenses?**

Response from: Government, industry.

Answer: Yes/Partial/No, distinguishing between exploration and mining licenses. Explain “partial.”

Evidence: Examples of geological data having been used to monitor license compliance / non-compliance or reason why data is not reused.

28. **Is the GSD or a similar organization staffed with well-trained professionals?**

Response from: Industry, experts.

Answer: Yes/No/Partial. Explain “partial.”

Good practice: Ideally, staff would have both geological training and librarian training, as well as information technology (IT) skills.

Evidence: May include an overview of staff numbers and qualifications.

Note: Getting qualified people to work for the GSD can be extremely difficult. In many countries, there simply aren’t enough qualified people.

29. **Is the GSD or a similar organization appropriately resourced?**

Response from: Government, industry.

Answer: Yes/No.

Evidence: May include budgets, evidence of systems in place. Often GSD budgets are spent almost entirely on salaries, leaving little funding for essential work materials, including office supplies, an internet connection, and so on.

C1.2 **State of Mapping and Geological Exploration**

30. **What proportion of the country’s land has been licensed for exploration?**

Answer: High/Above average/Below average/Low level. Based on percentage of land area that has been licensed for exploration.

Evidence: Can be determined from a cadastre system, the MCO.

31. **In practice, is the licensed ground being serviced by active exploration?**

Response from: Government.

Answer: High level of exploration/Above average/Below average/Low level. Based on the percentage of licenses (or alternatively, percentage of land area) that is held by companies submitting regular reports.

Evidence: May include reports from the ministry/MCO.

32. **Is there a countrywide geological map (usually at the scale of 1:1,000,000, 1:2,000,000, 1:1,500,000)?**

Answer: Yes/Partial/No.

Evidence: Maps obtained from the GSD, verified with the ministry of mines, industry, and independent experts.
**Note:** Most countries would fit on one large sheet at this resolution. The map should provide a basic overview of the geological potential of the country. It is best if it is also available in a digital format. Such maps are now available on free databases in much of the world, but are often missing in Africa. A partial score can be awarded if the map is either older than 20 years, or available only on paper. Such maps should be updated every few years as new information comes to light; maps in Africa too often date back to the 1950s or 1960s.

### 33. How many maps are at a scale of 1:250,000 or similar (for example, 1:200,000)?

**Answer:** Provide percentage: that is, the area covered by geophysical maps as a percentage of the total surface area of the country.

**Evidence:** Maps obtained from the GSD, verified with the ministry of mines, industry, and independent experts.

**Note:** A high score may be awarded if most of the country is covered (the coverage in many African countries will probably be closer to 50 percent). Australia, for example, requires such maps to be updated once every 20 years; maps in Africa are often older than 20 years and available only on paper. Scoring can be done once multiple country data are available.

### 34. How many maps are at a scale of 1:100,000 or similar (for example, 1:100,000, 1:62,500, 1:50,000)?

**Answer:** Provide percentage: that is, the area covered by geological maps as a percentage of the total surface area of the country.

**Evidence:** Maps obtained from the GSD, verified with the ministry of mines, industry, and independent experts.

**Note:** A high score may be awarded if highly prospective areas are covered, but most nonurban areas are not mapped at this scale in Africa. Also note if these maps are older than 20 years or only available on paper. Scoring can be done once multiple country data are available.

### 35. How advanced is the country’s state of geological mapping as compared to its regional peers?

**Response from:** Government, industry.

**Answer:** High/Above average/Below average/Low level of geological mapping. Scores should be based on objectively verifiable map scales.

### 36. Quality of geological database—Fraser Institute

**Answer:** Score between 0 and 100.

This survey-based question covers the quality and scale of maps, ease of access to information, and so on.

### C1.3 Mining Cadastre Effectiveness

### 37. Is there a publicly accessible Mining Cadastre Information System?

**Answer:** Yes/No.

**Good practice:** Cadastres can be computer or paper based; the list of license holders, their license type, and expiration date should be accessible to investors and citizens in the laws and regulations. Cadastres should have a web portal or the cadastre office should be open to enquiries.

**Evidence:** Cadastre website, the ministry/MCO website, or regulations.
Note: In some countries, the mines department issues licenses and the cadastre keeps and updates the records.

38. In practice, is the Mining Cadastre Information System accessible to the public?

Response from: Industry, CSOs.

Answer: Yes/No.

Good practice: Cadastres can be computer or paper based; the list of license holders, their license types, and expiration dates should be accessible to investors and citizens. Cadastres should have a web portal or the cadastre office should be open to enquiries.

39. Does the cadastre have a map component where license boundaries are recorded?

Answer: Yes/No.

Evidence: In most cases, the cadastre will have a web portal or the ministry of mines will provide information on the cadastre. Obtain relevant information from either the cadastre website or the ministry/MCO.

Note: In some countries, the mines department issues licenses and the cadastre keeps and updates the records.

40. Is the topographic map for the cadastre compatible with the Global Positioning System (GPS)?


Answer: Yes/No.

Good practice: There should be a clear, well-known, and universally accepted algorithm, with enough parameters to convert (handheld and other) GPS readings to Lat-Long or Universal Transverse Mercator (UTM) coordinates. Absence of these can lead to discrepancies of hundreds of meters between different measurement methods.

Evidence: Expert response or report on the cadastre.

41. Are there boundary disputes between license holders due to the ambiguity of boundaries?

Response from: Industry.

Answer: Yes/No.

Evidence: Documented cases, including those handled by legal firms.

42. Is the mining cadastre fully up to date?

Response from: Government, industry.

Answer: Rank on a scale of how up-to-date, ranging from good (up to the day/week/month) to bad (more than 6 months out of date). Importantly, check that no expired licenses (that is, in terms of duration) are listed on the map. The mineral rights map should list all current applications, including those that overlap and those that have been rejected or are pending. It should also include applications for various license and mineral types captured in the cadastre (including for artisanal and small-scale mining). Areas subject to ongoing application processes should be clearly excluded from the new applications (for the time being) or, alternatively, flagged as such.

43. Is the computerized mining cadastre used to support the management of licenses?
Response from: Government.

Answer: Yes/No/Partial. Explain "partial."

Evidence: Mining regulations, operation manuals for the computerized cadastre system. The cadastre should assist officials with license management (fee calculation, provision of reminders for overdue payments, creation of template letters to license holders, and so on).

44. Does the cadastre system ensure that license information (including on boundaries) cannot be tampered with?

Response from: Government, industry.

Answer: Yes/Partial/No. Explain "partial."

45. Is the cadastre system operating without major technical problems?

Response from: Government, industry.

Answer: Yes/Partial/No/Not Applicable. Explain "partial."

Note: This relates to computer cadastres only. If paper based, record as "n.a." Technical problems may include the system being down frequently or problems with slow and limited remote access. These can be also confirmed by interviewing companies that have installed cadastre systems (like Spatial Dimension, Revenue Development Foundation [RDF], GAF, and so on).

46. If there is a decentralized cadastre system in place, is there a clearance requirement from the central office?

Answer: Yes/Partial/No/Not Applicable. Explain "partial."

Good practice: Many countries have regional cadastre offices (as in Ghana, Mozambique, and Madagascar) whose processes are integrated with those at the central level but clearance can be required for some actions.

47. If there is a decentralized cadastre system in place, is a clearance from the central office required before issuing a license?

Response from: Government, industry.

Answer: Yes/Partial/No/n.a. Explain “partial.”

Good practice: Many countries have regional cadastre offices (as in Ghana, Mozambique, and Madagascar) whose processes are integrated with those at the central level and clearance can be required before issuing a license.

C1.4 Security of Tenure

48. In the law, if a company holds an exploration license and is in compliance with license conditions, does that give it an automatic prior right to apply for a mining lease in the area it has explored?

Answer: Yes/No.

Evidence: Mining law, regulations.

Note: This question investigates whether investors have guarantees for accessing the right to exploit discovered resources.
49. In practice, if a company holds an exploration license and is in compliance with license conditions, does that translate into an automatic priority in obtaining a mining lease in the area explored?

Response from: Government, industry.

Answer: Yes/No.

Evidence: Evidence may include mining laws and regulations as well as interviews with mining companies, authorities, and legal firms.

50. In the law, do license holders have the freedom to transfer their licenses to eligible companies?

Answer: Yes/No.

Evidence: Mining law, regulations.

51. In practice, are license holders able to transfer their licenses to eligible companies?

Response from: Government, industry.

Answer: Yes/No.

Evidence: May include documentation of disputes on license transfers handled by legal firms.

52. Have license cancellations or denied applications resulted in appeals?

Response from: Industry.

Answer: Yes/No. Note whether it is based on conditions not described in the law/regulations.

Evidence: May include documentation of disputes handled by legal firms.

C1.5 Managing Licenses Effectively

53. According to the regulations, is there a clear time frame for the allocation of licenses?

Answer: Yes/No.

Evidence: Mining regulations, ministry or MCO website.

Good practice: A clear time frame prescribed by the regulations and published on the web, along these lines: “A license should be awarded within X days of the receipt of an application, where the application meets the requirements.” Please record how long an application for an exploration license (or a mining lease/license) should take, according to the regulations, once it has been submitted to mining authorities for a decision.

A short time frame would be 30 days or less; a long one is 6 months or more.

54. Are the legislated time frames for license applications and allocations followed?

Response from: Industry.

Answer: Yes (legislated time frames are generally met), Partial (legislated time frames are met in the majority of cases), No (legislated time frames are not met in the majority of cases).
Evidence: The various dates (application, approval, granting, and so on) of licenses could be provided by exploration/mining companies. It would be possible to express a percentage of the number of valid licenses (or the number of applications/year) where legislated time frames are followed. Also refer to the mining regulations and the rules published by the ministry or MCO and get evidence on their application by exploration and mining companies, as well as MCO officials. Ideally, claims should be supported by examples of the dates of various licenses.

The necessarily manual checking of document contents (regarding the suitability of the applicant, financial resources, technical skills, and so on) must be done in accordance with the time frame written into the cadastre system, so as to avoid the need for a review at higher management levels.

55. Is there discretion in the speed of approvals for license applications?

Response from: Government, industry.

Answer: Yes (discretion is generally applied in the speed of the approval process), Partial (some instances), No (discretion is not applied in the speed of the approval process).

Evidence: The various dates (application, approval, granting, and so on) of licenses could be provided by exploration/mining companies. It would be possible to express a percentage of the number of valid licenses (or the number of applications/year) for which discretion occurred. Also refer to the mining regulations and the rules published by the ministry or MCO and get evidence on their application by exploration and mining companies, as well as MCO officials. Ideally, claims should be supported by examples of the dates of various licenses.

56. Do the regulations ensure that applications not meeting the criteria are rejected rather than left pending?

Answer: Yes/No.

Evidence: Mining regulations, ministry or MCO website.

Good practice: All procedures past deadlines result in a cancelled/annulled application. No multiple immediate reapplications are possible after cancellation.

57. In practice, is the cadastre system mostly free of long-standing pending applications?

Response from: Government, industry.

Answer: Yes/No.

Evidence: Length of the list of long-standing pending application and justification for it.

58. In the case of FCFS (first come, first served), are applications time-stamped as they are received?

Response from: Government, industry.

Answer: Yes/No/Partial.

Good practice: An automated system that records (to the second) the date and time of receipt of the application, once it is complete. A partial score can be awarded if there are some concerns regarding the transparency and security of the registering methodology. Applications received earlier must be adjudicated completely before any subsequent applications on overlapping ground are even be looked at, so that there can be no comparison of applicants.

Evidence: Evidence of applications being timestamped and receipt is provided.

59. Are sanctions for non-performance by companies of conditions concerning licenses prescribed in the regulations?
Answer: Yes/No. This should include sanctions for failing to report or pay on time for both mining and exploration licenses.

Evidence: Published mining regulations and guidelines.

60. Are the sanctions regarding licenses for nonperformance by companies enforced?

Response from: Government, industry, CSOs.

Answer: Yes/No. This should include sanctions for failing to report or pay on time for both mining and exploration licenses.

Evidence: Reports from the MCO, with examples of enforcement.

61. Are the timelines for deciding on exploration and/or mining rights applications compatible with the timelines of other required permits?

Response from: Industry.

Answer: Yes/No.

Evidence: Non-compatibility among these timelines, for both exploration and mining applications, would result in processing bottlenecks. Whether environmental permits are required before licenses are issued or afterwards needs to be noted. If before, are the prescribed periods of time adequate for the environmental permits to be issued within the regulated time for a license application and approval?

62. Is the time frame for approval of exploration work programs set out in the regulations?

Answer: Yes/No.

Evidence: Extract from the relevant mining regulations.

Note: Please record the timeline for the procedure in the regulations to answer the next question effectively. Note that the evaluation criteria for program approval should also be objective and well defined in the regulations.

63. In practice, is the time frame for the approval of exploration work programs followed?

Response from: Industry.

Answer: Yes (legislated time frames are generally met), Partial (legislated time frames are met in the majority of cases), No (legislated time frames are not met in the majority of cases).

Evidence: The various dates (application, approval, granting, and so on) of licenses could be provided by exploration/mining companies. Evidence of the process’s application by exploration companies, as well as government officials, is also needed. Ideally, claims should be supported by examples of dates of approval.

64. Is the unit managing the monitoring of licenses staffed appropriately to perform its duties?

Response from: Government, industry.

Answer: Yes/No/Partial.

Evidence: Overview of staff number and qualifications.
65. **Is the unit managing the monitoring of licenses receiving an adequate operational budget to perform its duties?**

   **Response from:** Government, industry.

   **Answer:** Yes/No/Partial.

   **Evidence:** Overview of staff numbers and qualifications.

2. **Operations**

   **A. Policy, Legislation and Regulation**

   **A2.1 Mining Policy, Law and Regulation**

   66. **Are the key laws and regulations governing mining operations available from a single online government source?**

      **Answer:** Yes/No/Partial (if not up to date or incomplete).

      **Evidence:** Websites with links.

   67. **Is the mining legislation generally stable over time?**

      **Response from:** Industry.

      **Answer:** Yes/No. Answer “No” if there are frequent, substantial ad hoc changes to the mining legislation.

      **Evidence:** Provide examples of changes that could be interpreted as ad hoc.

   68. **Do regulations cover all relevant mining procedures (exploration, license issuance, work programs, mines inspection, health and safety, explosives, emergency, mine closure, and so on)?**

      **Answer:** Yes/No/Partial. Explain “partial.”

      **Evidence:** Existing regulations.

   69. **Does the legislative branch carry out its oversight role regarding the mining sector?**

      **Response from:** Government, industry, CSOs.

      **Answer:** Yes/Partial/No.

      **Evidence:** This should include oversight relating to mining contracts, the operations of the ministry, the implementation of the legal framework, and the process for consultation when legislative changes are contemplated. Proxies for measuring this could be the length of time between when a contract or legislative change is tabled before the legislature and when it is passed. A very short window would indicate there is “light touch” oversight. The number of hearings held, whether closed or public, could also be useful evidence.

   70. **Is mining sector legislation consistent with other relevant legislation?**

      **Response from:** Industry, CSOs.

      **Answer:** Yes/No.
Evidence: Excerpts of or links to relevant portions of laws.

Note: Other significant areas of legislation (taxation, FDI, health and safety, land, environment, water, labor) can potentially create ambiguity by contradicting the mining legislation. Areas to look at include different royalty rates, timelines for submitting documents, and the order in which approval by government bodies must be received. Special attention should be paid to the time when the laws were passed. Laws passed later may create conflicts with prior laws if this possibility is not addressed. For example, environmental and fiscal laws may conflict with subsequent mineral laws. Please provide text and/or citation or link to relevant portions of those laws.

71. Can mining contracts be used to supersede the provisions of prevailing laws?

Answer: Yes/No.

Evidence: Excerpts of or link to relevant portions of laws. If there is no legal text that provides for this case specifically, check to see what happens when contracts are ratified into law (and thus may supersede existing sector legislation).

72. Is artisanal and small-scale mining legally recognized in the mining law or regulations?

Answer: Yes/No. Yes, if legislation recognizes the claims and rights held by artisanal and small-scale miners. Definition varies by country and relates to the degree of mechanization, level of production, or depth.

Evidence: National policies, laws, and regulations.

73. In practice, are artisanal and small-scale miners legally allowed to operate?

Response from: CSOs.

Answer: Yes/No/Partial. Yes, if a vast majority of artisanal and small-scale mining (ASM) operations is legal; partial, if a substantial part of ASM activity is not legal; and no, if the majority of ASM activity is illegal. Note: In many cases the law sets such stringent criteria on the legal recognition of ASM operations that are not enforced in practice.

74. Is there a regulation in place that allows the formalization of artisanal and small-scale miners?

Answer: Yes/No.

Evidence: Relevant policy and mining regulations that allow artisanal and small-scale miners to obtain mineral rights. Formal mining rights can be acquired either individually or through an associative system (such as cooperatives). These permits or licenses need to be tailored to ASM, as they cannot meet the financial and bureaucratic requirements used for industrial miners.

75. In practice, is artisanal and small-scale mining taking place under formalized procedures?

Response from: Government, CSOs.

Answer: Yes/No/Partial. Yes, if the vast majority of ASM operations has necessary mining and environmental licenses and permits; partial, if a substantial part of ASM activity is informal; and no, if the majority of ASM activity is without permits/licenses.

Note: These permits or licenses need to be tailored to ASM, as they cannot meet the financial and bureaucratic requirements used for industrial miners.

B. Accountability and Inclusiveness
B2.1 Land Access, Compensation and Resettlement

76. **Does the holder of a mineral right have guaranteed access rights to (surface) land, or does this need to be negotiated with landowners (or users) separately?**

   **Answer:** Yes/No.

   **Evidence:** Mining regulations. Note if such negotiations are required prior to the granting of a license, after receiving a license, or only when actual access is required for a specific part of a license. The actual situation may be a combination of the two: the company and landowner or community negotiate, but if they cannot come to an agreement (possibly within a specified time period), then the government steps in.

   **Good practice:** The holder of a mineral right (whatever type of license or lease) has the right to enter the property to conduct work, but with the approval of the landowner prior to entry. The surface rights’ owner cannot prohibit entry (it would override the authority of the owner of the subsurface minerals, the state), but a mineral rights’ holder definitely needs to negotiate the terms of access, timing, how to compensate for damages, and so on. Also, if applicants for an exploration license need to negotiate with landowners prior to the application, this would completely negate the value of an FCFS system. Note that exploration licenses are typically large and access to all of the area is often not necessary, whereas the resulting mining leases are almost always relatively small. The second-best situation would be for an approved applicant to obtain landowner approval (or negotiate terms) prior to having the license granted, but this creates opportunities for the undue influence of landowners/users.

77. **Is there an established procedure, following Equator Principles, for the resettlement of communities displaced by mining activities?**

   **Answer:** Yes/No.

   **Evidence:** Review policy and whether established procedures are consistent with or directly reference the Equator Principles: avoid force, provide prior notice and compensation, and so on.

   **Note:** See the International Finance Corporation (IFC) performance standard 5 for requirements of the resettlement policy.

   The key objectives of the policy are to:
   - Avoid forced eviction.
   - Anticipate and avoid—or where avoidance is not possible, minimize adverse social and economic impacts from land acquisition or restrictions on land use by (i) providing compensation for loss of assets at replacement cost and (ii) ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected.
   - To improve, or restore, the livelihoods and standards of living of displaced persons.
   - To improve living conditions among physically displaced persons through the provision of adequate housing with security of tenure at resettlement sites.

78. **In practice, does the government consistently enforce the legal requirements to resettle communities affected by mining activities?**

   **Response from:** CSOs.

   **Answer:** Yes/No.

   **Evidence:** Reference of cases that were inconsistent with the Equator principles.
The key objectives of the policy are to:

- Avoid forced eviction.
- Anticipate and avoid—or where avoidance is not possible, minimize—adverse social and economic impacts of land acquisition or restrictions on land use by (i) providing compensation for loss of assets at replacement cost; and (ii) ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and informed participation of those affected.
- Improve, or restore, the livelihoods and standards of living of displaced persons.
- Improve living conditions among physically displaced persons through the provision of adequate housing with security of tenure at resettlement sites.

79. *Is there an established procedure for the payment of compensation to landowners (and/or users) when exploration and mining activities interfere with other activities?*

**Answer:** Yes/No.

**Evidence:** Mining authorities and the environmental protection agency (EPA) have relevant data, but interviews with mining companies will reveal more reliable and up-to-date information. Are compensation rates (for instance, the value of a tree removed, or hectare of crop, and so on) based on government rates, or negotiated between the company and landowner/user?

80. *In practice, does the government consistently enforce the legal requirements of mining companies to compensate people affected by mining activities?*

**Response from:** CSOs.

**Answer:** Yes/No.

**Evidence:** Mining authorities and the environmental protection agency (EPA) have relevant data on procedure to follow for compensation. Respondents should cite concrete examples when certain procedures were not followed.

**Note:** Compensation rates (for instance, the value of a tree removed, or hectare of crop, and so on) may be based on government rates, or negotiated between a company and landowner/user.

81. *Do the laws and regulations allow for artisanal/small-scale and industrial mining activities to coexist?*

**Answer:** Yes/No.

**Evidence:** Relevant mining regulations allowing artisanal mining to take place on parts of or adjacent to industrial mining license areas.

**Note:** Coexistence is defined as ASM activities taking place on industrial mining license areas with the consent of the companies and government. Some successful industrial mining companies allow ASM to take place on parts of their licensed areas (an arrangement that may strengthen their relationship with local communities), but this is only possible where the legal framework allows for it.

82. *In practice, are there instances of coexistence of ASM and industrial mining activities?*

**Response from:** Government, Industry, CSOs.

**Answer:** Yes/No/Partial.

**Evidence:** Examples of ASM activities taking place on industrial mining license areas with the consent of the
companies and government (defined as coexistence).

Note: Some successful industrial mining companies allow ASM to take place on parts of their licensed areas (an arrangement that may strengthen their relationship with local communities), but this is only possible where the legal framework allows for it.

C. Institutional Capacity and Effectiveness

C2.1 Sector Management
Includes permits and development plan sign-offs, regulator-company relations, dispute resolution, and ASM management.

83. **Is the time frame for the approval of mine development plans set out in the regulations?**

   **Answer:** Yes/No.

   **Evidence:** Evidence may be extracted from relevant mining regulations. Please record the timeline of the procedure in the regulations to answer the next question effectively.

84. **In practice, is the time frame for the approval of mine development plans followed?**

   **Response from:** Industry.

   **Answer:** Yes (legislated time frames are generally met), Partial (legislated time frames are met in the majority of cases), and No (legislated time frames are not met in the majority of cases).

   **Evidence:** The various dates (application, approval, granting, and so on) of licenses could be provided by exploration/mining companies. Evidence on its application by exploration companies, as well as government officials, is also needed. Ideally, claims should be supported by examples of dates of approval.

85. **Is the time frame for the approval of extensions of mining operations set out in the regulations?**

   **Answer:** Yes/No.

   **Evidence:** Evidence may be extracted from relevant mining regulations. Please record the timeline of the procedure in the regulations to answer the next question effectively.

86. **In practice, is the time frame for the approval of extensions of mining operations followed?**

   **Response from:** Industry.

   **Answer:** Yes (legislated time frames are generally met), Partial (legislated time frames are met in the majority of cases), and No (legislated time frames are not met in the majority of cases).

   **Evidence:** The various dates (application, approval, granting, and so on) of licenses could be provided by exploration/mining companies. Evidence on its application by exploration companies, as well as by government officials, is also needed. Ideally, claims should be supported by examples of dates of approval.

87. **Is the country signatory to the International Center for the Settlement of Investment Disputes (ICSID) Convention?**
88. **Does the country provide in its domestic law for the international arbitration of foreign investment disputes?**

   **Answer:** Yes/No.

   **Evidence:** See member states at [https://icsid.worldbank.org/apps/ICSIDWEB/Pages/default.aspx](https://icsid.worldbank.org/apps/ICSIDWEB/Pages/default.aspx).

89. **In the law, is there a domestic process to appeal decisions by mining authorities that is outside and independent of the Mining Ministry?**

   **Answer:** Yes/Partial/No. Explain “partial.”

   **Evidence:** May be extracted from the constitution, mining law, mining regulations, and also guidelines used by the mining authorities.

90. **In practice, is an independent domestic appeals process able to challenge the decisions of mining authorities?**

   **Response from:** Industry, experts.

   **Answer:** Yes/Partial/No. Explain “partial.”

   **Note:** An appeals process that is operational would be timely, independent, and involve a reasonable due process. The process can either take place via arbitration or through courts. Verify if the most important cases are going straight to international arbitration as opposed to domestic arbitration.

   **Evidence:** May include examples from legal firms, and reports from mining companies and mining authorities.

91. **Is there a dedicated unit within the ministry dealing with ASM?**

   **Answer:** Yes/No.

   **Evidence:** May include a mandate of the dedicated unit.

92. **Is there an association that represents artisanal and small-scale miners?**

   **Answer:** Yes/No.

   **Evidence:** A website or report that provides proof of such an association’s existence.

93. **In practice, do artisanal and small-scale miner associations participate in the monitoring, advocacy, and enforcement of their property rights?**

   **Response from:** CSOs.

   **Answer:** Yes/No/Partial.

   **Evidence:** Description of successful activities undertaken by ASM association.

94. **Are the technical and business skills of artisanal and small-scale miners supported?**
**Answer:** Yes/No.

**Evidence:** May include reports and/or budgets of relevant public/private/CSO support programs. Also the annual ASM budget, and the monetary support provided per ASM miner (derived from the number of ASM miners).

<table>
<thead>
<tr>
<th>Question</th>
<th>Response from:</th>
<th>Answer</th>
<th>Evidence</th>
</tr>
</thead>
<tbody>
<tr>
<td>95. Is the support provided to artisanal and small-scale miners effective?</td>
<td>CSOs</td>
<td>Yes/No/Partial</td>
<td>Effectiveness could be evaluated by the number of artisanal miners shifting to mechanized processes, moving from artisanal to small-scale work, or accessing capital.</td>
</tr>
<tr>
<td>96. Are there laws and regulations to settle disputes between ASM and other mining activities?</td>
<td>Industry, CSOs</td>
<td>Yes/No/Partial</td>
<td>Relevant mining regulations or other evidence of dispute resolution mechanisms.</td>
</tr>
<tr>
<td>97. Is the government effectively tackling disputes between ASM and other mining activities?</td>
<td>CSOs</td>
<td>Yes/No/Partial</td>
<td>Names of institutions and roles and responsibilities in the minerals (or other) law.</td>
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<tr>
<td>C2.2 Intragovernmental Coordination</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>98. Does mining or other legislation assign roles and responsibilities clearly between government ministries/agencies in the mining sector?</td>
<td></td>
<td>Yes/No</td>
<td>Answer &quot;No&quot; if there is ambiguity in the roles and responsibilities relevant to core tasks between units.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Names of institutions and roles and responsibilities in the minerals (or other) law.</td>
</tr>
<tr>
<td>99. Are there conflicts between government ministries/agencies over the roles and responsibilities assigned for the mining sector?</td>
<td>Industry, CSOs</td>
<td>Yes/No/Partial</td>
<td>Examples of multiministerial responsibilities and challenges include the following: If there is a labor dispute involving a mine, does legislation or the regulations make clear who has the jurisdiction to mediate (for instance, Ministry of Mines or Ministry of Labor)? If a mine collapses, is it clear who should mediate?</td>
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<tr>
<td>100. Is it defined in the law which government body negotiates and approves Mineral Development Agreements?</td>
<td></td>
<td>Yes/No</td>
<td>Extract from relevant mining regulation.</td>
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</tbody>
</table>
101. In practice, is it clear which government body negotiates and approves Mineral Development Agreements

Response from: Government, industry.
Answer: Yes (clear), Partial (clear, but some exceptions), No (unclear).

102. In the law, does the agency or ministry responsible for environmental protection have a say in the approval of exploration rights?

Answer: Yes/No.
Evidence: Legislation listing the mandate of the EPA, ministry, or similar organization; spelling out its powers; and so on.

103. In practice, does the agency or ministry responsible for environmental protection have a say in the approval of mining rights?

Response from: Government.
Answer: Yes/No.
Evidence: May include any evidence of lack of communication and information sharing on mining applications between the ministry of mines and the environmental agency, or evidence that the environmental agency is not part of the application review process.

104. Is there a formal mechanism for sharing information between government agencies closely working on mining (memoranda of understanding [MOUs], intergovernmental working groups)?

Answer: Yes/No/Partial.
Evidence: MOUs or relevant regulations. The agencies should include the ministry of mines, ministry of environment (or water), environmental agency, tax authority, and ministry of finance.

105. In practice, is there regular sharing of information between government agencies that have regulatory responsibilities for the mining sector?

Response from: Government, industry.
Answer: Yes/No/Partial.
Evidence: Relevant agencies include the ministry of mines, mines agency, ministry of environment (or water), environmental agency, ministry of finance, and tax authority. Information shared should include contracts, permits, payment information, and geodata.

106. Are legislation or inter-ministry arrangements covering natural resource issues that may be affected by mineral rights (for example, land use, water, forests, and nature reserves) well defined to minimize overlaps or gaps?

Answer: Yes/No. Note if there is a conflict between legislation and whether there is a legal basis for the a priori definition of "no-go zones" for mining.

Note: Review other legislative areas, noting whether laws recognize one another. In some instances, countries may have drafted MOUs between agencies to better coordinate/divide responsibilities (thus, the issue may be addressed through means other than legislation).
107. Are there instances where mineral rights conflict with other legislation on natural resources (for example, on land use, water, forests, nature reserves)?

Response from: CSOs, experts.

Answer: Yes/No. For instance, have areas been declared “no-go zones” after the start of a license application process, or after the granting of a license?

Evidence: Interviews with mining companies that have received licenses, explored areas, converted exploration licenses to mining leases/licenses, and so on. Also, discussions with legal firms that have reviewed the legislation.

C2.3. Implementing Social and Environmental Regulations

108. Is an agency independent of the mining authorities responsible for environmental protection and rehabilitation?

Answer: Yes/No.

Evidence: Legislation establishing an independent EPA, ministry of environment, or similar organization, and spelling out its powers. This should not be the ministry of mines or an institution under the ministry of mines.

109. Is the institution tasked with monitoring and enforcing environmental regulations staffed appropriately?

Response from: Government, CSOs.

Answer: Yes/No.

Evidence: Staff numbers and qualifications.

110. Is the institution tasked with monitoring and enforcing environmental regulations receiving appropriate funding to carry out its tasks?

Response from: Government, CSOs.

Answer: Yes/No/Partial.

Evidence: Budget of EPA or similar institution. Note that EPAs often retain fees and fines collected and may rely on those as opposed to budgetary support. In some countries, companies pay for being monitored; this is poor practice as it provides inappropriate incentives for those making the inspection.

111. In practice, are environmental requirements enforced systematically through inspections and penalties for noncompliance?

Response from: Government, industry, CSOs.

Answer: Yes/No/Partial. Explain "partial."

Evidence: Existence of procedures and guidelines for inspection and regulations specifying penalties or other sanctions. Reports from mining or environmental authorities indicating what inspections they have carried out and what sanctions and penalties they have imposed.

Note: Inspections should be carried out in line with procedures and guidelines. These include regular (quarterly, annual) and unannounced inspections with clear penalties for noncompliance (that is, fines, suspension, and revocation for
egregious violations). “Systematically” may be interpreted as the following taking place: all contracts are assessed at the same intervals (with appropriate adjustments for scale of operations and previous histories of compliance/noncompliance), there are appeal mechanisms in the event of a disagreement, and such mechanisms are considered unbiased and fair.

112. In the law, is there a grievance and complaints mechanism defined in the environmental regulations?

Answer: Yes/No/Partial. Explain "partial."

Evidence: Environmental regulations governing the Environmental Impact Assessment (EIA) or similar.

113. In practice, is a grievance and complaints mechanism used to challenge decisions by the agency monitoring environmental regulation?

Response from: Industry, CSOs.

Answer: Yes/No/Partial. Explain "partial."

3. Taxation and State Participation

A. Policy, Legislation and Regulation

A3.1 Mining Tax Policy and Tax Instruments

114. Is it clear in the law which government agencies have the authority to collect taxes and payments from resource companies?

Answer: Yes/No.

Evidence: Mineral and tax regulations.

Note: In many countries, the ministry of finance or revenue authority will collect taxes while the ministry of mines will collect royalties and surface rentals. If there is state participation, then the dividends will typically be collected by the state-owned company.

115. Are taxes and payments collected by the mandated agencies?

Response from: Government, industry.

Answer: Yes/No.

Evidence: As provided by lawyers and mining companies, and confirmed by public financial management experts.

116. Are taxes from mining required by law to be placed in the national treasury?

Answer: Yes/No.

Evidence: Mineral and tax regulations, confirmed by public financial management experts.

Note: Revenues should include those collected by state-owned companies, regulatory agencies, ministries, special funds, or the tax authority. There can be an exception for revenue-sharing schemes, where revenues go directly to local communities. Similar exceptions can be made for relatively small fees that go to implementing agencies.
117. **In practice, are taxes from mining placed in the national treasury?**

Response from: Government.

**Answer:** Yes/No.

**Evidence:** As provided by lawyers and mining companies, and confirmed by public financial management experts.

**Note:** Revenues should include those collected by state-owned companies, regulatory agencies, ministries, special funds, or the tax authority. There can be an exception for revenue-sharing schemes, where revenues go directly to local communities. Similar exceptions can be made for relatively small fees that go to implementing agencies.

118. **Does the taxation authority issue guidance notes or interpretations?**

**Answer:** Yes/No.

**Evidence:** Guidance note, if available.

**Note:** Guidance notes aim to promote the fair, unbiased treatment of all taxpayers.

119. **Does the legislation prescribe rates, formulas, and bases for the main elements of the fiscal regime?**

**Answer:** Yes/No. “No,” if the tax base and rates are all left open for negotiation. “Yes,” if there is a limited set of negotiable fiscal terms within clear boundaries (such as bonus or tax rates), but tax bases and key provisions follow a model agreement.

**Evidence:** Extract from mining legislation.

120. **Are the fiscal terms in the law followed in all instances?**

Response from: Government, industry.

**Answer:** Yes/No.

**Evidence:** To be derived from mine development agreements and information from law experts, confirmed by extracts from agreements, reports from the government and the Extractive Industries Transparency Initiative (EITI), and verified company information on contract terms (such as audited annual reports).

**Note:** There may be a justification in the mine development agreements for exemptions/derogations from rates and bases of fiscal terms in legislation. Also note if the agreements were signed before the mining legislation was adopted.

121. **Are there well-defined provisions for the renegotiation or review of fiscal terms?**

**Answer:** Yes/No.

**Evidence:** Extracts from mining legislation or recent contracts. No provisions and very vaguely worded provisions receive the lowest score.

**Good practice:** Should be based on triggers such as price, return or time.

122. **Does the mining or investment legislation provide rules on the types of tax incentives that can be granted to large investors?**

**Answer:** Yes/No/Not applicable.
**Evidence:** Extract from mining or investment legislation. If the mining and investment legislation provides conflicting provisions, the lowest score should be awarded. A high score is awarded if there are clear provisions for the type and size of investment that triggers incentives and also a list of the incentives that can be provided.

**123. Are the terms for investment incentives in the law followed?**

**Response from:** Industry.

**Answer:** Yes/No/Not applicable.

**Evidence:** May be derived by comparing information in the law with government reports on the investment incentives granted.

**124. Does the fiscal regime ensure that the government has an adequate minimum revenue stream in all production periods?**

**Answer:** Yes/No.

**Evidence:** Based on International Monetary Fund (IMF)/World Bank evaluation of fiscal terms, alongside inputs from mining fiscal experts, industry, CSOs.

**Note:** We need to assess royalty rates for both gold and base metals. Royalty rates should be assessed against peer-group and geological endowment. A low score is given if a royalty rate is either so high that it discourages production and encourages smuggling across the border, or it is so low that it provides very limited take and encourages a race to the bottom across peers. Further insight is available from the IMF (2012), *Fiscal Regimes for Extractive Industries: Design and Implementation*.

**125. Does the mining fiscal regime have progressive components?**

**Answer:** Yes/No. A progressive regime captures an increased share of revenues as rents increase.

**Evidence:** Based on the IMF/WB evaluation of fiscal terms, alongside inputs from mining fiscal experts, industry, and CSOs. We need to assess the fiscal regime based on the corporate income taxes, resource rent tax rates, and sliding scale or formula-based royalties on price or profitability. A World Bank report on fiscal terms (forthcoming) should provide a basis for the analysis. Further insight is available from the IMF (2012), *Fiscal Regimes for Extractive Industries: Design and Implementation*.

**B. Accountability and Inclusiveness**

**B3.1 Resource Taxation Consultation and Accountability**

**126. Are changes to mining tax legislation done through a consultative process?**

**Response from:** Industry, CSOs.

**Answer:** Yes/No.

**Evidence:** This should relate to the last review of the mineral tax code. Consultation should include civil society and industry representatives, chamber of mines, or similar entities.

**127. Does the country disclose through the Extractive Industries Transparency Initiative or another disclosure process details of mining revenues?**
Are government officials with a role in the oversight of the mining sector required to disclose information about their financial interests in any extractive activity or project?

Answer: Yes/No.

Evidence: Extract from relevant legislation. These rules may not be extractive specific and may involve regular asset disclosure by government officials to an anticorruption commission or other integrity institution.

In practice, do government officials with a role in the oversight of the mining sector disclose information about their financial interests in any extractive activity or project?

Response from: Government, CSOs.

Answer: Yes/No.

Evidence: May include information on dismissals or suspensions for failure to disclose interests and/or assets.

C. Institutional Capacity and Effectiveness

C3.1 Mining Tax Administration

Are there clear rules in the tax code or regulations for the following payment processes:

- Time frames?
- Accounts to pay taxes into?
- Documents evidencing payment and receipt?
- Settling disputes?

Answer for each point: Yes/No.

Evidence: May be extracted from the relevant legislation and verified with the tax authority and tax lawyers. The processes should be clear for all material taxes applicable to mining, as listed above.

Are interpretations of the tax code readily available?

Answer: Yes/No.

Evidence: Copy of interpretation or a URL link to it, verified with the tax authority and tax lawyers.

Are the bases on which taxes are levied subject to disputes between companies and the government?

Response from: Industry.

Answer: Yes/No.
Evidence: As provided and verified by the industry, tax lawyers, and tax authorities. This can relate to any material tax applicable to mining, as identified in the questions above.

Note: While tax rates are usually straightforward, the tax bases can be less clear (including taxed entities and how the bases are calculated, especially if there are special provisions relating to minerals).

133. **According to regulations, are regular tax, cost, or physical audits required?**

   **Answer:** Yes/No.

   **Evidence:** Extract from relevant regulations, and procedures or guidelines for audits.

   **Note:** Physical audits are defined as the physical checking or measuring by controllers of the amount of minerals that have been extracted, and the arrangements for transporting, processing, or selling those resources. Audits should include small-scale operators, not only large mining companies.

134. **In practice, are tax, cost, or physical audits of mining companies conducted systematically?**

   **Response from:** Government, industry.

   **Answer:** Yes/No.

   **Evidence:** Reports from authorities indicating what audits they have carried out.

   **Note:** “Systematically” is interpreted as the following: all companies are assessed at the same intervals (with appropriate adjustments for scale of operations and previous histories of compliance/noncompliance), and there are appeal mechanisms (which are considered unbiased and fair) in the event of disagreements.

135. **Is the timing of physical and cost audits of mining companies coordinated?**

   **Response from:** Industry.

   **Answer:** Yes/No.

   **Evidence:** Reports from authorities indicating what audits they have carried out. Physical and cost audits should be linked to increase their effectiveness.

136. **Is there a legal provision providing for an arm’s-length principle against transfer-pricing practices?**

   **Answer:** Yes/No.

   **Evidence:** Extract from relevant legislation. Further guidance and answers to the question for a large set of countries across Africa are available in *Transfer Pricing in Mining: An African Perspective* (IM4DC, 2014); see also an *Action Plan on Base Erosion and Profit Shifting* (OECD, 2013).

137. **Are there clear documentation requirements to demonstrate compliance with rules against transfer pricing?**

   **Answer:** Yes/No.

   **Evidence:** Relevant regulations or guidelines. These should include clear provisions for the burden of proof and penalties for noncompliance (note that in some cases these provisions apply only to large taxpayers). Further guidance and answers to the question for a large set of countries across Africa are available in *Transfer Pricing in Mining: An African Perspective* (IM4DC, 2014); see also an *Action Plan on Base Erosion and Profit Shifting* (OECD, 2013).
138. If there are legal provisions against transfer pricing, are they enforced?

Response from: Government, industry.

Answer: Yes/No/Partial.

Evidence: Information on specific cases.

139. Are there clear procedures for using advanced pricing agreements to limit transfer pricing?

Answer: Yes/No.

Evidence: Relevant regulations or guidelines. Note that in some cases these provisions apply only to large taxpayers. Further insight may be gained in an Action Plan on Base Erosion and Profit Shifting (OECD, 2013).

140. Is there an annual disclosure requirement for related party transactions?

Answer: Yes/No.

Evidence: Relevant regulations or guidelines. Further guidance and answers to the question for a large set of countries across Africa are available in Transfer Pricing in Mining: An African Perspective (IM4DC, 2014); see also an Action Plan on Base Erosion and Profit Shifting (OECD, 2013).

Good practice: All related party transactions are required to be disclosed. In some cases this will only be required on request by the tax authority.

141. Are there regular audits for the transfer pricing of related party transactions, and advanced pricing rules for regularly occurring transactions?

Response from: Industry.

Answer: Yes/No. “Yes,” if there is a clear plan for undertaking such audits (based on a randomized sample, risk assessment, or other point). “No,” if no relevant documentation is requested.

Evidence: May include tax authorities' schedules of audits undertaken to prevent transfer-pricing practices, verified by companies. If tax authorities do not provide this information, auditing firms, industries, and tax lawyers can confirm if such audits are taking place. Note what documents and evidence are required from audited companies to demonstrate compliance. Further insight can be found in an Action Plan on Base Erosion and Profit Shifting (OECD, 2013).

142. In practice, are the advanced pricing rules followed for regularly occurring transactions?


Answer: Yes/No. “Yes,” if there is a clear plan for undertaking such audits (based on a randomized sample, risk assessment, or other point). “No,” if no relevant documentation is requested.

Evidence: May include tax authorities' schedules of audits undertaken to prevent transfer-pricing practices, verified by companies. If tax authorities do not provide this information, auditing firms, industries, and tax lawyers can confirm if such audits are taking place. Note what documents and evidence are required from audited companies to demonstrate compliance. Further insight can be found in an Action Plan on Base Erosion and Profit Shifting (OECD, 2013).

143. Is there a legal provision in place against thin capitalization?

Answer: Yes/No.
Evidence: Extract from relevant legislation. The legal provision should provide for a limitation on the deductible rate of interest. This can be done through arm’s length criteria applicable to interest rates as part of a general transfer-pricing rule. An alternative is to specify a margin over an international monetary interest rate, used as a benchmark. Another complimentary approach is to impose a cap on the debt-to-equity ratio. For further insight, see Thin Capitalisation: A Background Paper for Country Tax Administrations (OECD, 2012).

144. Are regular company audits conducted following thin capitalization rules?

Response from: Government, industry.

Answer: Yes/No. “Yes,” if there is a clear plan for undertaking such audits (based on a randomized sample, risk assessment, or other point). “No,” if no relevant documentation is requested.

Evidence: May include tax authorities' schedules of audits undertaken to thin capitalization, verified by companies. If tax authorities do not provide this information, auditing firms, industries, and tax lawyers can confirm if such audits are taking place. Note what documents and evidence are required from audited companies to demonstrate compliance. For further insight, see Thin Capitalisation: A Background Paper for Country Tax Administrations (OECD, 2012).

145. Does the tax administration have a large taxpayer unit/office or one specialized in natural resources/mining?

Answer: Yes/No.

Evidence: Unit/office website or government regulation.

146. Does the unit specializing in the taxation of natural resources/mining have adequate staff to carry out its activities?

Response from: Government, industry.

Answer: Yes/No.

Evidence: Staff numbers and qualifications.

147. Does the unit within the tax authority specializing in natural resources/mining receive adequate funding to carry out its mandate?

Response from: Government, industry.

Answer: Yes/No.

Evidence: Budget of unit, including external or donor support received, or fees and revenues they can retain. Independent assessment of tax authorities.

148. Does the government have a simplified tax collection system for ASM?

Answer: Yes/No.

Evidence: Government regulations or description from authority website. In some countries the system is integrated into, for instance, small taxpayers’ procedures.

149. Effectiveness in the collection of tax payments—Public Expenditure and Financial Accounting (PEFA) indicator
PEFA PI-15: Assesses (i) collection ratio for gross tax arrears, being the percentage of tax arrears at the beginning of a fiscal year, which was collected during that fiscal year (average of the last two fiscal years); (ii) effectiveness of transfer of tax collections to the Treasury by the revenue administration; (iii) frequency of complete accounts reconciliation of tax assessments, collections, arrears records, and receipts by the Treasury. The PEFA score is available for multiple countries across Africa.

150. **Time to prepare and pay taxes—Doing Business indicator**

Answer: From Doing Business. Time (in hours per year) it takes to prepare, file, and pay (or withhold) three major types of taxes: the corporate income tax, the value added or sales tax, and labor taxes, including payroll taxes and social security contributions. Score will be normalized across continent scores as described in the methodology. The Doing Business score is available for most countries across continents.

**C3.2. State-Owned Enterprise (SOE) Governance**

151. **If there are SOEs in the mining sector, do such SOEs have a legal obligation to publish financial reports?**

Answer: Yes/No.

Evidence: Extract from relevant law or regulations. This requirement can be based on a transparency law that applies to state corporations, legislation forming the state-owned company requiring reporting to the legislature or regulators, or on an SOE’s financial operations in financial markets that put it under the obligation to follow stock and exchange laws.

152. **Do mining sector SOEs publish annual financial reports?**

Response from: Government.

Answer: Yes/No.

Evidence: Website.

153. **Are mining SOEs subject by law to annual audits by an independent external auditor?**

Answer: Yes/No.

Evidence: Extract from the relevant law or regulations. This requirement can be based on legislation forming the state-owned company or on the SOE’s financial operations in financial markets that put it under the obligation to follow stock and exchange laws.

Note: The OECD (2005), in *Guidelines on Corporate Governance of State-Owned Enterprises*, recommends that annual audits be conducted by an independent, competent, and qualified auditor to provide an external and objective assurance to the board and the shareholders that the financial statements fairly represent the financial position and performance of the company in all material aspects.

154. **In practice, are annual audits of the mining SOE undertaken by an independent external auditor?**

Response from: Government.

Answer: Yes/No.

Evidence: Proof of audit.
155. *Do SOEs have to follow internationally recognized accounting standards?*

**Answer:** Yes/No.

**Note:** Many countries use or are converging on the International Financial Reporting Standards (IFRS), established and maintained by the International Accounting Standards Board. However, the Generally Accepted Accounting Principles (GAAP) are followed in the United States and also in other jurisdictions. Financial statements usually note the standards used in the preparation of the report.

156. *Do regulations require mining sector SOEs to have a board with independent expert members?*

**Answer:** Yes/No.

**Evidence:** Laws establishing the SOE, or the charter or bylaws of the SOE.

**Note:** The board should include independent members with private sector experience, the positions of chair and chief executive officer (CEO) should be separate, and the board should not be so large as to undermine effective deliberation. This can be scored if there are clear criteria set in the law for being a member of the board. “Independent” means having broad government representation on the board or experts who are not political. No ministers or elected officials can serve on the board.


157. *In practice, does the mining sector SOE have a board with independent expert members?*

**Response from:** Government.

**Answer:** Yes/No.

**Note:** The board should include independent members with private sector experience, the positions of chair and chief executive officer (CEO) should be separate, and the board should not be so large as to undermine effective deliberation. This can be scored if there are clear criteria set in the law for being a member of the board. “Independent” means having broad government representation on the board or experts who are not political. No ministers or elected officials can serve on the board.

**Evidence:** Confirmation of independent expert member on the board of SOE.


158. *Is there an internal audit department within the mining SOE?*

**Answer:** Yes/No

**Evidence:** Laws establishing the SOE, or the charter or bylaws of the SOE.

**Note:** This would include an internal audit department and risk management systems.

159. *In practice, does the internal audit department review the effectiveness of internal controls annually?*

**Response from:** Government.

**Answer:** Yes/No. **Note:** This review should look at the effectiveness of functional, operating, and financial reporting.

160. Are the roles and responsibilities of mining SOEs to provide subsidies or social expenditures (quasi-fiscal activities) clearly set out?

Answer: Yes/No.

Evidence: Laws establishing the SOE, or the charter or bylaws of the SOE.

161. In practice, does the mining SOE follow the role (including any subsidies or social expenditures) set out for it?

Response from: Government.

Answer: Yes/No. Evidence: Do SOEs provide public goods and services (for example, water, energy, schooling, and health access)? What percentage of SOE expenditures are spent on commercial activities and reinvestment in the company versus on social expenditures?

4. Revenue Distribution and Management
A. Policy, Legislation and Regulation

A4.1 Public Financial Management and Revenue Sharing

162. Are the assets and liabilities of mining SOEs included in the public sector balance as reported by the ministry of finance?

Answer: Yes/No/Not Applicable. Only applicable if there are SOEs active in the mining sector.

Evidence: Extract of report to parliament with detailed balance of SOEs.


163. Are the assets and liabilities of the natural resource fund included in the public sector balance as reported by the ministry of finance?

Answer: Yes/No/Not Applicable. Only applicable if there is a natural resource fund.

Evidence: Extract of report to parliament with detailed balance of the fund.

164. Robust budget classification system—PEFA indicator

Answer: Score A–D based on the PEFA methodology.

The question is aligned with PEFA PI-5. The classification system is used for formulation, execution, and reporting of the central government’s budget. It measures if the country uses the Government Finance Statistics (GFS)/Classification of the Functions of Government (COFOG) codes. The PEFA guideline provides details on the scoring methodology. The PEFA score is available for multiple countries across Africa. Further insight is available from PEFA (2011), Public Financial Management Performance Measurement Framework.

165. Comprehensiveness of information included in budget documentation—PEFA indicator
166. **Extent of unreported extrabudgetary expenditure—PEFA indicator**

**Answer:** Score A–D based on PEFA methodology.

The question is aligned with PEFA PI-7. It measures the percentage of unreported extrabudgetary expenditure as a percentage of total expenditure. The PEFA guideline provides details for the scoring methodology. The PEFA score is available for multiple countries across Africa. Further insight is available from PEFA (2011), *Public Financial Management Performance Measurement Framework*.

167. **Multiyear perspective in fiscal planning—PEFA indicator**

**Answer:** Score A–D based on PEFA methodology.

Question is aligned with PEFA PI-12. Multiyear budget plans are good practice, and particularly relevant in light of the potential volatility of resource revenue. The indicator measures the preparation of multiyear fiscal forecasts and functional allocations, the scope and frequency of debt sustainability analysis, the existence of sector strategies with multiyear costing of recurrent and investment expenditures, and links between investment budgets and forward expenditure estimates. The PEFA guideline provides details on the scoring methodology. The PEFA score is available for multiple countries across Africa. Further insight is available from PEFA (2011), *Public Financial Management Performance Measurement Framework*.

168. **Are arrangements for sharing resource revenue between central and subnational governments defined by legislation?**

**Answer:** Yes/No.

**Evidence:** Extract from the law or contracts. Also describe the institutional and legal arrangements. This step should include formulas and responsible institutions.

The *IMF Guide of Resource Revenue Transparency* recommends that “clear rules and principles should guide whatever subnational revenue-sharing arrangement is chosen (…), based on stable principles and agreed formulas that should be developed and exercised in an open and consistent manner. These principles should include not only understandings between the various levels of governments on the original arrangements, but also rules and procedure to modifying it.” Revenue-sharing legislation should also include specific provisions related to transparency of the subnational governments. See RGI (2013) section 5.2.1, for more information.

169. **Does the government follow the rules established by resource-revenue-sharing legislation?**

**Response from:** Government, CSOs.

**Answer:** Yes/No.

The *IMF Guide of Resource Revenue Transparency* recommends that “clear rules and principles should guide whatever subnational revenue-sharing arrangement is chosen (…), based on stable principles and agreed formulas that should be developed and exercised in an open and consistent manner. These principles should include not only understandings between the various levels of governments on the original arrangements, but also rules and procedure
to modifying it.” Revenue-sharing legislation should also include specific provisions related to the transparency of subnational governments. See RGI (2013) section 5.2.1, for more information.

B. Accountability and Inclusiveness

B4.1 Budget and Public Investment Transparency and Accountability

170. **Score for 112 baseline questions on budget practices—Open Budget Index (OBI)**

   **Answer:** The score will be normalized to a four-point scale.

B4.2 Public Investment Integrity

171. **Is there well-publicized strategic guidance for public investment decisions?**

   **Answer:** Yes/No.

   **Evidence:** Link to document.

   **Note:** Refer to Q1 of the World Bank’s Public Investment Management Framework. Country studies were also completed for a large number of countries in recent years: http://go.worldbank.org/90X7V5NOJ0.


172. **Is there an established process for screening project proposals for their consistency with government policy and strategic guidance?**

   **Response from:** Government.

   **Answer:** Yes/No.

   **Evidence:** It is preferable to focus on public infrastructure projects with links to mining (road, energy, ports). To evaluate whether the screening process is being followed, it should be ascertained whether projects that don’t meet the criteria are being rejected.

   **Note:** Refer to Q2 of the World Bank’s Public Investment Management Framework. Country studies were completed for a large number of countries in recent years: http://go.worldbank.org/90X7V5NOJ0.

173. **Is there a formal cost-benefit appraisal process for public investment project proposals?**

   **Response from:** Government.

   **Answer:** Yes/No.

   **Evidence:** It is preferable to focus on public infrastructure projects with links to mining (road, energy, ports). These can be carried out at the line ministry or central finance agency level. Note that there might be a minimum monetary threshold or it might be restricted for some sectors.

   **Note:** Refer to Q3 of the World Bank’s Public Investment Management Framework. Country studies were completed for a large number of countries in recent years: http://go.worldbank.org/90X7V5NOJ0.

174. **Are the project appraisals undertaken by an external agency or expert?**

   **Response from:** Government.

   **Answer:** Yes/No.
Evidence: It is preferable to focus on public infrastructure projects with links to mining (road, energy, ports).

Good practice: The appraisals should be carried out by external consultancies or an agency within the government, as opposed to officials within the sponsoring department (bad practice).

Note: Refer to Q4 of the World Bank’s Public Investment Management Framework. Country studies were completed for a large number of countries in recent years: http://go.worldbank.org/90X7V5NOJ0.

175. Are ministries required to undertake procurement plans for infrastructure projects according to the laws and regulation?

Answer: Yes/No.

Good practice: The use of procurement plans as required by the law.

Evidence: Extract from relevant regulation.

Note: Refer to Q11 of the World Bank’s Public Investment Management Framework. Country studies were completed for a large number of countries in recent years: http://go.worldbank.org/90X7V5NOJ0.

176. Do ministries undertake procurement plans on major projects in key sectors?

Response from: Government.

Answer: Yes/No.

Good practice: Competitive tendering is routinely used for key public investment projects.

Evidence: It is preferable to focus on public infrastructure projects with links to mining (road, energy, ports).

Note: Refer to Q11 of the World Bank’s Public Investment Management Framework. Country studies were completed for a large number of countries in recent years: http://go.worldbank.org/90X7V5NOJ0.

177. Are there regular cost overruns on major projects in key sectors?

Response from: Government.

Answer: Yes/No.

Evidence: It is preferable to focus on public infrastructure projects with links to mining (road, energy, ports).

Note: Refer to Q14 of the World Bank’s Public Investment Management Framework, which provides average percentage of cost overrun in inflation-adjusted terms for selected countries. Country studies were completed for a large number of countries in recent years: http://go.worldbank.org/90X7V5NOJ0.

178. What is the delay in project completion relative to the initial estimated time on major projects in key sectors?

Response from: Government.

Answer: Yes/No.

Evidence: Evidence of completion rates, delays. It is preferable to focus on public infrastructure projects with links to mining (road, energy, ports).

Note: Refer to Q18 of the World Bank’s Public Investment Management Framework, which provides delay and
comple
[88x718]tion rates for selected countries. Country studies were completed for a large number of countries in recent years: http://go.worldbank.org/90X7V5NOJ0.

179. **Are projects required to be evaluated after completion by an independent auditor according to the laws and regulation?**

   **Answer:** Yes/No.

   **Good practice:** Independent auditor mandated to evaluate public investment in the law.

   **Evidence:** Extract from relevant regulation.

   **Note:** Refer to Q11 of the World Bank’s Public Investment Management Framework. Country studies were completed for a large number of countries in recent years: http://go.worldbank.org/90X7V5NOJ0.

180. **Are the completed projects evaluated by an independent auditor?**

   **Response from:** Government.

   **Answer:** Yes/No.

   **Evidence:** Reference to audit, where available. It is preferable to focus on public infrastructure projects with links to mining (road, energy, ports).

   **Note:** Refer to Q19 of the World Bank’s Public Investment Management Framework. Country studies were completed for a large number of countries in recent years: http://go.worldbank.org/90X7V5NOJ0.

C. Institutional Capacity and Effectiveness

**C4.1 National Budget Implementation**

181. **Budget cycle (performance of key systems, processes, and institutions)—PEFA indicator**

   **Answer:** Score A–D based on PEFA methodology. Questions are aligned with PEFA C11-28. Includes multiple questions outlining the general performance of budgetary systems, including (i) policy-based budgeting; (ii) predictability and control in budget execution; (iii) accounting, recording, and reporting; and (iv) external scrutiny and audit. The PEFA guideline provides details for the scoring methodology. The PEFA score is available for multiple countries across Africa. Further insight is available from PEFA (2011), *Public Financial Management Performance Measurement Framework*.

182. **Control of expenditures—PEFA indicator**

   **Answer:** Score A–D based on the PEFA methodology. The question is aligned with PEFA PI 2. It notes the composition of expenditure out-turn compared to the original approved budget. It assesses two components: (i) the extent of the variance in expenditure composition during the last three years, excluding contingency items; and (ii) the average amount of expenditure actually charged to the contingency vote. The PEFA guideline provides details for the scoring methodology. The PEFA score available for multiple countries across Africa. Further insight is available from PEFA (2011), *Public Financial Management Performance Measurement Framework*.

183. **Is there a clear regulation on when and how yearly allocations to subnational governments should be disbursed?**

   **Answer:** Yes/No/Partial.
Evidence: Excerpts of regulations of subnational allocation disbursement. A typical rule would say something like 25 percent of allocation on every 10th day of the quarter. The lack of such regulations can be ascertained by ministry officials and public finance experts. If the rule for the disbursement of a quarterly allocation is decided only at the beginning of each year, the answer should be “partial.”

184. Do subnational governments receive their allocations in a full and timely manner?

Response from: CSOs, governments.
Answer: Yes/No.
Evidence: “Yes” if disbursements follow the rules specified above, or if any deviation is based on further regulations: for example, a subnational government failing to provide necessary supporting documents in time for the next disbursement.

185. Are there macrofiscal rules in place to stabilize the budget?

Answer: Yes/No.

186. Does the government follow the macrofiscal rules?

Response from: Government, CSOs.
Answer: Yes/No/Partial.
Evidence: Country report from international institution (i.e. IMF Article IV report) on fiscal rule being ignored or breached.

187. Are budget expenditures protected from revenue volatility using savings or funds?

Response from: Government.
Answer: Yes/No/Partial.
Evidence: Country report from international institution (i.e. IMF Article IV report) on managing budget volatility.

5. Local Impact

A. Policy, Legislation and Regulation

A5.1 Environmental and Social Impact Management

188. Is there a requirement for companies to submit plans on managing and mitigating the environmental impact of operations?
Answer: Yes/No.
Evidence: Laws, regulations, and guidelines that include the relevant standards. These could be part of the EIA, through Environmental Mitigation and Management Plans (EMMPs), and should be available from the environmental agency or ministry.

189. **Is there a requirement for companies to submit plans on managing and mitigating the socioeconomic impacts of operations?**

Answer: Yes/No.

Evidence: Laws, regulations, and guidelines that include the relevant standards. These could be part of the Environmental and Social Impact Assessment (ESIA) through Social Management Plans or others, and should be available from the environmental agency or ministry.

190. **In the law, are company plans to manage and mitigate the social and environmental impacts of operations subject to review by an inter-ministerial committee?**

Answer: Yes/No.

Evidence: Laws, regulations, and guidelines that include the relevant standards.

191. **In practice, are company plans to manage and mitigate the social and environmental impacts of operations being reviewed by government?**

Response from: Government, industry.

Answer: Yes/No/Partial.

192. **In the law, are there clear rules on fees and time frames for submission, the approval process, and updating of ESIs (or other key documents related to environmental and social impacts)?**

Answer: Yes/No.

Evidence: Mining and environmental laws, regulations, and guidelines.

193. **In practice, does the government approve ESIs (or other key documents related to environmental and social impacts) according to fees and time frames in the regulations?**

Response from: Industry.

Answer: Yes/No/Partial.

Note: This question addresses whether the government regularly responds to the plans that are submitted, and on time.

194. **In the law, is an ESIA (or similar) required before a mining license/lease can be granted as a condition to begin operations?**

Answer: Yes/No.

Good practice: A mining lease may be granted without an ESIA, but an operating permit may be required prior to the commencement of work. A full ESIA should be produced, studied, and approved by the authorities prior to the agreement, for operations to commence. This may (and should) require negotiations among the mining authorities, the
company, and the environmental authorities or agency.

**Evidence:** Mining and environmental legislation, regulations, and guidelines. Also check if the ESIA should be submitted with the application or on approval and prior to granting.

**Note:** For exploration, environmental impact statements (which are different from ESIs, described above) are often required. These provide a rather quick overview of the environmental (including social) setting of the area, and include a statement of how environmental and social impacts will be limited and managed. Such a statement needs to be produced prior to the granting of a license (but after approval of the application).

**195. In practice, are ESIs (or similar assessments) carried out before a mining license/lease is granted as a condition for beginning operations?**

**Answer:** Yes/No/Partial.

**Response from:** Government, industry.

**Good practice:** A mining lease may be granted without an ESIA, but an operating permit may be required prior to the commencement of work. A full ESIA should be produced, studied, and approved by the authorities prior to the agreement for operations to commence. This may (and should) require negotiations among the mining authorities, the company, and the environmental authorities or agency.

**Evidence:** Timelines of approval for operations and ESIA.

**Note:** For exploration, environmental impact statements (which are different from ESIs, described above) are often required, which provide a rather quick overview of the environmental (including social) setting of the area, and include a statement of how environmental and social impacts will be limited and managed. Such a statement needs to be produced prior to the granting of a license (but after approval of the application).

**196. In the law, are there requirements in place on the managing of the environmental and social impacts of mine closure?**

**Answer:** Yes/No.

**Evidence:** Laws, regulations, and guidelines that include the relevant standards. These could be done as part of ESIs, through EMMPs, as part of Environmental Impact Assessments (EIAs), or as separate mine closure plans, and should be available from the environmental agency or ministry. These should include not only safety issues such as dam spills or tailings but also social aspects.

**197. Does legislation require the posting of environmental bonds or similar financial assurance methods to cover the cost of environmental rehabilitation post mining?**

**Answer:** Yes/No.

**Good practice:** There are many mechanisms, all with pros and cons, depending on the scale of the project, size and status of the company, and so on. A good mechanism will account for the cost of:

- Restoring as much of the disturbed land to its original condition as possible, or alternatively, to a condition that enables another use; remediating the potential long-term (and permanent) environmental impacts (acid mine drainage and so on); and maintaining long-term management of facilities like tailings dams.
- The volatility of prices, which increase alongside project expansion and decrease when remediation work is done.
- Funds to be available for a very short-term basis in case of an emergency (damaged tailings dam, cyanide spill, and so on) and for long-term impacts. These latter funds (or guarantees) may be held/managed by the company (in the case of a world-class firm) or (better) by a mutually approved bank, to be increased, reduced, or released in agreement between the mining company and the EPA, and so on.
• Regular reviews of environmental impacts and of remediation work done in accordance with the Environmental Management Plans, and reviews done at the time of project expansion or closure (which affects the level of the bond that should be available).

**Evidence:** Mining closure legislation and relevant information published by the EPA, mining ministry, and mining companies.

198. **In practice, are the operating mining companies setting aside funds for mine closure?**

**Response from:** Government, the EPA, ministry of mines officials, industry, CSOs.

**Answer:** Yes/No/Partial.

199. **In practice, are the funds for mine closure and environmental rehabilitation used for their intended purpose?**

**Response from:** Government, industry.

**Answers:** Yes/No.

**Good practice:** The funds should be kept in an escrow account or bond or similar entity, as opposed to being a fee collected by the environmental agency and spent on recurrent expenditures.

200. **Is there a policy or regulation that protects biodiversity on a mine site?**

**Answer:** Yes/No.

**Evidence:** EIAs that specifically look at the biodiversity impacts of mining projects and avoid or mitigate biodiversity losses, and rehabilitate the area wherever this is not possible.

201. **Is there a regulation that enables the offsetting of biodiversity losses on a mine site?**

**Response:** Yes/No.

**Note:** Mining projects should try to avoid any negative impacts, but if biodiversity loss cannot be avoided, regulations are required to minimize, rehabilitate, and offset any additional loss of biodiversity.

Offsets are defined by the Business and Biodiversity Offsets Program (BBOP) as measurable conservation outcomes resulting from actions designed to compensate for significant residual adverse biodiversity impacts arising from project development after appropriate prevention and mitigation measures have been taken:


202. **In practice are mining companies submitting plans on mitigating biodiversity impacts?**

**Answer:** Yes/No.

**Response from:** Government.

**Evidence:** Submitted and published plans. EIAs that specifically look at the biodiversity impacts of mining projects and look to avoid or mitigate biodiversity losses and rehabilitate the area where this is not possible.

203. **In the laws and regulations, is there a simplified environmental permit or impact assessment for artisanal and small-scale miners?**

**Answer:** Yes/No.

**Evidence:** Extract from relevant legislation.

**Note:** It is good practice to have environmental permit and assessment requirements that account for the limited capacity of ASM miners.
204. In practice, is the government monitoring compliance with environmental requirements for artisanal and small-scale miners?

**Answer:** Yes/No/Partial.

**Response from:** Government, CSOs.

**Evidence:** Monitoring carried out regularly.

B. Accountability and Inclusiveness

**B5.1 Human Rights and Employment Equity**

205. **Is the government implementing the African Charter for Human Rights?**

**Answer:** Yes/No. “Yes,” where there is the active and monitored implementation of the Charter, which has been adopted by most countries (http://www.achpr.org/instruments/achpr/ratification/). Evidence may include explicit references to the charter and a functioning human rights commission that has integrated the Charter in its own mission and actively monitors and reports implementation, at the country level, to the African Commission on Human and Peoples’ Rights (reporting every 2 years is mandatory).

“No” where there is no obvious reference to the Charter and no implementation of the Charter at the national level.

206. **To what extent is the state’s duty to protect human rights (Pillar I of the UN Guiding Principles on Business and Human Rights, UNGP) implemented through a National Action Plan?**

**Answer:** Yes/No. “Yes,” when the UNGP is being actively implemented at the country level through a National Action Plan. “No” when there is no reference to the UNGP.

**Evidence:** Constitution, mission/official documents of the human rights commission (if existent), reference to the UNGP. Is Pillar I of the UNGP, the state’s duty to protect human rights referenced in the constitution or in another publicly available source? If yes, is a national action plan in place or being developed?

207. **Is the government a signatory to the Voluntary Principles on Security and Human Rights (VPSHR)?**

**Answer:** Yes/No. “Yes,” where the principles are expressed in laws, policies, regulations, public statements, publicly available annual reports, and other means; where there are active outreach activities within the government and with external stakeholders; and where there is implementation of a National Action Plan. “No,” when private security contractors are not regulated.

**Evidence:** See government signatories, as listed online. Also, check if private security contractors and their rights and duties (including the right to bear arms) are regulated in mining agreements.

Signatories: [http://www.voluntaryprinciples.org/for-governments/](http://www.voluntaryprinciples.org/for-governments/). Note that, in Africa, only Ghana is a signatory, but coverage may increase and make a difference globally.


208. **In practice, is the government a signatory to the VPSHR and is it monitoring the implementation of these principles?**
Response from: Government, CSOs.

Answer: Yes/No. “Yes,” where the principles are expressed in laws, policies, regulations, public statements, publicly available annual reports, and other means; where there are active outreach activities within the government and with external stakeholders; and where there is implementation of a National Action Plan. “No,” when private security contractors are not regulated.

Evidence: See government signatories, as listed online. Also, check if private security contractors and their rights and duties (including the right to bear arms) are regulated in mining agreements.

Signatories: [http://www.voluntaryprinciples.org/for-governments/](http://www.voluntaryprinciples.org/for-governments/). Note that, in Africa, only Ghana is a signatory, but coverage may increase and make a difference globally.


209. In practice, does the government require companies to carry out human rights due diligence as part of the licensing process?

Response from: Government, industry, CSOs.

Answer: Yes and effective/Yes but ineffective/No. “Yes,” where human rights due diligence (through, for example, human rights’ impact assessments) is required as part of the licensing process, and where impact assessments are being made public, and shared with the local community. “No” implies that human rights due diligence/human rights impact assessments are not required as part of the licensing process.

Evidence: Mining regulations and licensing processes, conversations with stakeholders/local communities to assess effectiveness.

210. Is there an independent human rights commission?

Answer: Yes/No.

Evidence: May include the laws describing the formation of the commission or a reference to its annual report of activities.

Note: It would be interesting to note if the Human Rights Commission has been involved in mining-related human rights cases.

211. Is the human rights commission adequately staffed to facilitate a grievance and complaint mechanism?

Response from: Government, CSOs.

Answer: Yes/No

Evidence: Staff numbers and qualifications.

Note: It would be interesting to note if the human rights commission has been involved in mining-related human rights cases.

212. Does the human rights commission have an adequate budget to facilitate a grievance and complaint mechanism?

Response from: Government, CSOs.
Answer: Yes/No.

Evidence: Budget, including donor support.

Note: It would be interesting to note if the human rights commission has been involved in mining-related human rights cases.

213. Are there government rules to promote employment equity?

Answer: Yes/No. "No" implies there is no provision in place to promote employment equity, including considerations of gender, race, and disadvantaged groups.

Good practice: An employment equity plan is supported by a human development plan, with training for locals.

Evidence: Relevant legislation.

214. In practice, is an institution mandated to ensure compliance with employment equity rules?

Response from: Government.

Answer: Yes/No.

Evidence: The name of the institution(s) tasked with ensuring that employment equity rules are followed, and that prevent discriminatory practices based on gender and race or against other disadvantaged groups.

215. Does the government recognize indigenous peoples on its territory and their rights in relation to mining (free, prior, and informed consent [FPIC])?

Answer: Yes/No/Not applicable. "Yes" indicates that the rights of indigenous peoples, as per the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)/International Labour Organization (ILO) Convention 169, are recognized and applied in relation to mining—that is, indigenous peoples' right to FPIC. "No" indicates that even if indigenous peoples are officially recognized, their rights to FPIC are not upheld. This question is limited in its applicability to Africa ("not applicable"), but will be relevant for the Americas.

Evidence: National law recognizing FPIC where applicable.

Note: Only a few African countries officially recognize indigenous peoples. In 2010, the Republic of Congo adopted a law for the promotion and protection of the rights of indigenous peoples; the Central African Republic adopted the ILO Convention 169.

C. Institutional Capacity and Effectiveness

C5.1 Mining Impact and Community Consultations

216. Are ESIAs (or other key documents related to environmental and social impacts) required to be made public?

Answer: Yes/No.

Evidence: Environmental regulations governing ESIAs or similar.
217. In practice, are ESIAs (or other related documents) made public in a way that is accessible to affected communities?

Response from: CSOs.

Answer: Yes/No/Partial (if not disseminated locally).

Evidence: Examples of recently published plans. May be found on ministry and company websites, press releases, and so on. Verify these with CSOs and industry.

218. Is a community stakeholder consultation with affected communities required before the commencement of mining operations?

Answers: Yes/No.

Evidence: Mining law and regulations.

219. In practice, does the government ensure that mining companies meaningfully consult with the affected communities?

Response from: CSOs.

Answer: Yes/No/Partial.

Evidence: Reports from authorities, industry, and (environmental/social) CSOs. Input from legal firms. Respondents should try to identify whether there is a legal requirement that the government approve community agreements, and if so, if it is followed.

220. Are community development agreements required for mining operations?

Answer: Yes, prior to project implementation/Yes/No.

Evidence: Refer to mining law and regulations, as well as environmental legislation and regulations, which may separately or additionally provide for community development agreements. This is a key area where there may be conflicting rules and regulations. Check if such agreements are required prior to the awarding of mineral rights or project implementation.

221. In practice, are community development agreements negotiated for mining operations?

Response from: Industry, CSOs.

Answer: Yes, prior to project implementation/Yes/No.

Evidence: Any contract issued by the ministry of mines, a concessions bureau, or other government agency.

D. Economic Environment

D1.1 General Business and Investment Environment

Note: This indicator measures the quality of the market environment and how easy it is to set up a new business, on a four-point scale compared with peers.
223. Dealing with construction permits—Doing Business indicators
224. Getting credit—Doing Business indicators
225. Protecting investors—Doing Business indicators
226. Enforcing contracts—Doing Business indicators
227. How would you rate the level of efficiency of customs procedures (relating to the entry and exit of merchandise)?—World Economic Forum Global Competitiveness Index (WEF GCI)
228. How burdensome is it for businesses to comply with governmental administrative requirements (for example, permits, regulations, reporting)?—WEF GCI
229. Perceptions index measuring the effectiveness of the civil law system—World Justice Project (WJP)
230. Average number of procedures required to start a foreign subsidiary—World Bank Investing Across Borders
231. Average number of days required to start a foreign subsidiary—World Bank Investing Across Borders

**D2.1 Infrastructure Available for Mining**

*Note:* This indicator measures the availability, quality, and cost competitiveness of infrastructure for the mining sector on a four-point scale compared with peers.

232. Road density (kilometers [km] of road per 100 square km of land area)—World Bank
233. Logistics Performance Index—World Bank

It is used as a proxy for transport cost, and assesses the efficiency of the clearance process, quality of trade- and transport-related infrastructure, ease of arranging competitively priced shipments, competence and quality of logistics services, ability to track and trace consignments, and timeliness of shipments.

234. Extent of infrastructure (for example, transport, telephony, and energy)—WEF GCI
235. Quality of local suppliers for the mining sector—WEF GCI
236. Number of local suppliers—WEF GCI
237. Quality of the railroad system—WEF GCI
238. Quality of port facilities, or port accessibility in case of landlocked country—WEF GCI

**D3.1 Diversified National Revenues**

This indicator measures the trend in non-resource revenues on a four-point scale compared with continental peers. A positive score indicates that resource revenues have not been crowding out non-resource revenue mobilization.

239. Trend in level of non-extractive revenues over 5 years—IMF GFS

**D4.1 Stable National Revenues**

This indicator measures the stability of total revenues over time on a four-point scale compared with peers.

240. Variation of domestic revenues in real terms over 5 years—IMF GFS
D5.1 Macroeconomic Stability

This indicator measures macroeconomic stability on a four-point scale compared with peers.

241. Five-year cumulative inflation—IMF
242. Credit rating—Moody’s, Fitch, S&P
243. Five-year average total debt service to gross national income (GNI)—World Bank

D6.1 National Growth and Savings

This indicator measures the current growth trend and how sustainable it is on a four-point scale compared with peers.

244. Five-year cumulative gross domestic product (GDP) growth—IMF
245. Five-year total average debt to GDP—World Bank
246. Five-year average adjusted net savings—World Bank

D7.1 Skills and Human Capital Availability

Note: This indicator measures how readily available skills are for the mining sector, and the magnitude of the burden of disease, on a four-point scale compared with peers.

247. Perception of the availability of labor/skills—Fraser
248. Gross tertiary education enrolment rate—WEF GCI
249. Quality of math and science education—WEF GCI
250. Attraction and retention of talented nationals—WEF GCI
251. Death caused by communicable diseases and maternal, prenatal, and nutrition conditions (percentage of total)
252. Prevalence of Human Immunodeficiency Virus (HIV) (percentage of population, ages 15–49)

253. Percentage of mining workforce that is expatriate
   Answer: Percent.
   Evidence: Desk research data collection. No central database.

254. Percentage of mining skilled workforce that is expatriate
   Answer: Percent.
   Evidence: Desk research data collection. No central database.

255. Is there a school providing curriculum for mining sector development?
   Answer: Yes/No.
   Note: Desk research data collection.
256. Was there a survey carried out on skills required for the mining sector?
   Answer: Yes/No.
   Evidence: Desk research data collection. No central database.

E. Political Environment

E1.1 Expropriation Risk and Security of Property Rights

Note: This indicator measures the expropriation risk and security of property rights on a four-point scale compared with peers.

257. Transfer and convertibility risk, force majeure—OECD country risk classification
258. Expropriation risk—Delcredere Ducroire (Belgium’s public credit insurer)
259. Protection of property rights, including financial assets—WEF GCI

E2.1 Political Stability

Note: This indicator measures political stability on a four-point scale compared with peers.

260. Political stability—WEF GCI

E3.1 State Equity Participation Extent and Reliability

Note: This indicator measures the political risk associated with state equity on a four-point scale compared with peers.

261. Is the mining SOE or state equity partner honoring its financial obligations?

Response from: Government, industry.
Answer: Highly unreliable (non-honoring of financial obligations happened on multiple occasions)/somewhat unreliable (disputes are frequent)/reliable (mostly without disputes)/very reliable (no disputes or non-honoring of financial obligations).

Note: This includes meeting cash calls for joint ventures or for its investments. This indicator measures the political risk associated with state equity on a four-point scale compared with peers. In many cases the private partner has to make a loan to the state company at commercially reasonable rates, that is, a LIBOR+3–4 percent or other relatively standard rate.

E4.1 Predictable Tax Terms

Note: This indicator measures the threat of resource nationalism on a four-point scale compared with peers.

262. Resource Nationalism Index—Maplecroft

Note: This indicator is available only through subscription. On a scale of 0–10 it highlights the risk related to the following
forms of resource nationalization: changes in corporate tax and royalties, expropriations, new local content and domestic market obligations, and export controls.

263. **How many times were the main features of the fiscal regime changed in the past five years?**

**Answer:** Multiple radical changes/multiple changes/some changes/no major change.

**Evidence:** This would include changes in major tax rates (corporate income tax, royalty), major changes to the tax base, or the introduction of a new significant tax.

264. **Are the fiscal terms for mining generally stable over time or are there ad hoc changes?**

**Response from:** Government, industry.

**Answer:** Highly unstable (very frequent radical changes/relatively unstable - Multiple major ad-hoc changes/relatively stable – Few major ad-hoc changes. Highly stable – No major ad-hoc change.

**Evidence:** Provide examples of changes that could be interpreted as “ad hoc” tax changes. This would include, for example, changes in regulation used to impose fees that are so high that they are more a tax than a fee (for example, transfer fees which are really in lieu of capital gains tax).

**E5.1 Public Spending and Corruption Control**
This indicator measures the extent to which corruption is prevailing or controlled on a four point scale compared to peers.

265. **In your country, how efficiently does the government spend public revenue?**—WEF
266. **Control of corruption**—WGI

**E6.1 National and Local Conflict and Social Issues Relevant to Mining**
Note: This indicator measures the extent to which security threat and conflict might affect operations on a four-point scale compared with peers.

267. **Order and security (control of crime, civil conflict, and violence)**—WJP
268. **Civil violence**—African Economic Outlook, OECD

**E7.1 Human Development**

**Note:** This indicator measures human development outcomes on a four-point scale compared with peers.

269. **Life expectancy at birth**—Human Development Index
270. **Mean years of schooling**—Human Development Index
271. **Expected years of schooling**—Human Development Index
272. **GNI per capita (purchasing power parity [PPP] $)**—Human Development Index

**F. Sustainable Development**

**F1.1 Integration of Mining in Development Planning**
273. Is there a current multiyear development plan?
   **Answer:** Yes/No/Partial.
   **Evidence:** Reference to any development plan demonstrating that the year when the question was answered is covered by a multiyear plan. Partial score can be awarded if the development plan is still being drafted at the time of responding.

274. Does the development plan detail the role of the mining sector as a driver of development?
   **Answer:** Yes/No. “No,” if mining is not covered in detail, or only as a source of revenue.
   **Evidence:** An excerpt of the development plan addressing the topic of mineral wealth as a driver of national development.

275. Is the multiyear development plan on track to meet its targets?
   **Response from:** CSOs, government.
   **Answer:** Yes/No.
   **Evidence:** Yearly targets and reports on progress, including explanation of deviations.

276. Are the plans to leverage the mining sector as a driver of development within the national development plan being implemented?
   **Response from:** Industry, CSOs.
   **Answer:** Yes/No.
   **Evidence:** Extract from the development plan addressing these topics, report on progress and/or evidence of plans not followed through.

277. Does the country undertake spatial development plans leveraging mining and investment locations?
   **Answer:** Yes, there is a spatial development plan with both mining and investment locations/Yes, but only one of the two/No spatial plan, or a spatial plan without mining.
   **Evidence:** May include extracts from the national developmental plan or other strategic document addressing spatial planning, that is, addressing the geographical differences within the country, referencing locations of mines and of mining-related investments (such as transport and power), and analyzing implications. Mine locations are often referred to as resource corridors.

278. Are targets for developing the mining region, as specified in the national development plan, being met?
   **Response from:** Industry, CSOs.
   **Answer:** Yes/No.
   **Evidence:** Extract from the (spatial) development plan on mining regions, report on progress, and/or evidence of plans not followed through.

F2.1 Inclusive Development Strategies

279. Is the national development plan publicly available?
280. Did a national consultation take place before the adoption of the national development plan?

Response from: Industry, CSOs.

Answer: Yes/No.

Evidence: Timetable or key milestones of the consultation process, which should critically include the private sector and civil society.

281. Is the mining development policy publicly available?

Answer: Yes/No.

Evidence: Link to website.

282. Did a national consultation take place before the adoption of the mining development policy?

Response from: Industry, CSOs.

Answer: Yes/No.

Evidence: Timetable or key milestones of the consultation process, which should critically include the private sector and civil society.

283. Is there a national policy on corporate social responsibility (CSR) that applies to mining?

Answer: Yes/No.

Evidence: As provided by the existence of a relevant law/regulation. This can be separate for mining or incorporate all sectors.

284. Do government and mining companies collaborate in the planning and implementation of CSR activities?

Answer: Yes/No.

Evidence: Evidence of collaboration between mining companies and government.

Note: Coordination and discussion are key to ensure that corporate CSR is consistent with national development goals and programs, and sustainably operated and maintained.

F3.1 Local Content Policies and Practice

285. Are local content requirements accessible to the public?

Answer: Yes/No/Not Applicable (if no local content requirement).

Evidence: This should include published company obligations, often found in contracts, as well as general legal frameworks.
286. **Has the government sought the views of a wide range of stakeholders in preparing local content policy?**

**Response from:** Industry, CSOs.

**Answer:** Yes/No/Not applicable (no local content requirement).

**Good practice:** Local policy measures should be designed in association with the industry or chamber to set realistic targets.

**Evidence:** Reports on consultations carried out with the chamber of mines or industry group, labor unions, domestic business associations, and civil society. Generally the chamber plays a facilitative role.

287. **Do local content regulations target specific value pools in the mining sector?**

**Answer:** Yes/No/Not applicable (no local content requirement).

**Good practice:** Local content regulation (if any) should target specific value pools such as basic materials (for example, steel and cement), low- to medium-complexity equipment and parts (such as pumps, explosives, and chemicals), or high-complexity equipment and parts, as opposed to setting an overall target for all companies (for example, 50 percent local procurement).

**Evidence:** Local content policy, regulations, reports on local content. Note that some local content requirements may be in contracts.

**Note:** See McKinsey (2013), *Reverse the Curse: Maximizing the Potential of Resource-Driven Economies*, for more details.

288. **In practice, are the local content regulations in the mining sector targeting an adequate value pool based on country capacity?**

**Response from:** Industry, CSOs.

**Answer:** Yes/No/Not Applicable (if no local content policy).

**Good practice:** Targeting specific value pools within the mining sector that are in line with local capabilities. A country with very limited industrial capacity might target basic materials (for example, steel and cement); one with larger industrial capacities could target low- to medium-complexity equipment and parts (such as pumps, explosives, and chemicals) one with technology-intensive manufacturing might target high-complexity equipment and parts. Blanket requirements (50 percent local content) not tailored to the country should be recorded as bad practice.

**Note:** See McKinsey (2013), *Reverse the Curse: Maximizing the Potential of Resource-Driven Economies*, for more detail.

289. **Do local content regulations have clear time frames?**

**Answer:** Yes/No/Not Applicable (if no local content policy).

**Good practice:** This would require a gradual build-up of the share of local content, as opposed to regulations calling for the immediate fulfillment of local-content shares. The result of fixed shares could either be that targets are high and hurt competitiveness, or are too low and become meaningless in terms of offering economic benefits to the local population. McKinsey’s research finds no evidence of sunset clauses across countries.
Evidence: Extract of legislation on local content requirements.

Note: See McKinsey (2013), Reverse the Curse: Maximizing the Potential of Resource-Driven Economies, for more detail.

290. In practice, is there support for companies in attaining local-content targets?

Response from: Industry.

Answer: Yes/No/Not Applicable (if no local content requirement).

Evidence: List type of support provided.

Good practice: This could be through the form of training centers or the financing of local suppliers to help them build up their business and attain local-content targets.

291. Is there an enforcement mechanism for local content regulations?

Answer: Yes/No/Not Applicable (if no local-content requirement).

Good practice: If local content is mandatory, there should be (reasonable) penalties in place for noncompliance.

Evidence: Extract from regulations or contract provision on the enforcement of the local content regulation, including penalties.

292. In practice, is there an institution monitoring the progress of the local content policy implementation?

Response from: Industry, CSOs.

Answer: Yes/No/Not Applicable (if no local-content policy). “No” implies there is no institution with such a mandate, and “Yes” implies that the institution provides yearly reports on compliance and progress.

Good practice: There is a mandated institution reviewing local procurement plans and staffing.

Evidence: Name of the institution tasked with monitoring local content and a description of its mandate, staffing and/or budget adequacy/gaps, alongside reports monitoring its compliance.

F4.1 Promotion of Investment in Non-mining Activities

293. Are tariffs on the import of capital equipment either lacking or kept at low levels?

Answer: Yes/No. “Yes” requires evidence that tariffs are systematically low and significantly lower than average tariffs.

Evidence: Extract of tariff regulation from the ministry of trade or customs.

294. Are tariffs (or nontariff barriers) on raw material exports either lacking or kept at low levels?

Answer: Yes/No. “Yes” requires evidence that tariffs are systematically low and significantly lower than average tariffs, and that nontariff barriers are absent.

Evidence: As provided by an extract of a tariff or nontariff regulation from the ministry of trade or customs.
295. **Is there an investment promotion agency (IPA)?**

   **Answer:** Yes/No.

   **Evidence:** Website with contact details.

296. **Is the investment promotion agency adequately staffed to support investors?**

   **Response from:** Industry.

   **Answer:** Yes/No/Partial.

   **Evidence:** Overview of staff numbers and qualifications.

   **Note:** For an exercise in ranking IPAs, see the Ranking of Investment Promotion Agencies: International Finance Corporation (IFC) – Global Investment Promotion Best Practices 2012 Report.

297. **Is the Investment Promotion Agency receiving adequate funding to support investors?**

   **Response from:** Industry.

   **Answer:** Yes/No/Partial.

   **Evidence:** Budgets or evidence of systems in place to support investors.

   **Note:** An exercise at ranking IPAs is Ranking of Investment Promotion Agencies – IFC – Global Investment Promotion Best Practices 2012 Report.

**F5.1 Sharing Infrastructure**

298. **Do regulations allow for sharing of transport infrastructure associated with resource extraction and transportation?**

   **Answer:** Yes/No.

   **Evidence:** Extract of legislation on shared infrastructure as confirmed by the ministry of transport/industry/development and private sector development experts. Specify the sectors it applies to (road, railroad) and what form of sharing it allows: multi-user and/or multi-purpose.

   **Note:** “Multi-purpose infrastructure: an arrangement where the infrastructure asset is shared between different uses with different characteristics (for example farmers and miners).”

   Multi-user infrastructure: an arrangement where the infrastructure asset is shared between different users with similar characteristics (for example bulk miners).” Columbia Center on Sustainable Investment (2014), A Framework to Approach Shared Use of Mining-Related Infrastructure.

299. **Are there successful examples of shared infrastructure in the transport sector related to resource extraction and transportation?**

Answer: Yes/No.

Evidence: Name and type of project (road, railroad) and the type of shared use: multi-user and/or multi-purpose.

Note: "Multi-purpose infrastructure: an arrangement where the infrastructure asset is shared between different uses with different characteristics (for example farmers and miners)." Multi-user infrastructure: an arrangement where the infrastructure asset is shared between different users with similar characteristics (for example bulk miners)." Columbia Center on Sustainable Investment (2014), A Framework to Approach Shared Use of Mining-Related Infrastructure.

300. **Do regulations allow for sharing of energy infrastructure?**

Answer: Yes/No.

Evidence: Extract of legislation on shared infrastructure as confirmed by ministry of transport/industry/development and private sector development expert. Specify the sectors it applies to and what form of sharing it allows: multi-user and/or multi-purpose.

Note: "Multi-purpose infrastructure: an arrangement where the infrastructure asset is shared between different uses with different characteristics (for example farmers and miners)." Multi-user infrastructure: an arrangement where the infrastructure asset is shared between different users with similar characteristics (for example bulk miners)." Columbia Center on Sustainable Investment (2014), A Framework to Approach Shared Use of Mining-Related Infrastructure.

301. **Are there successful examples of shared infrastructure in the energy sector?**

Response from: Industry, government.

Answer: Yes/No.

Evidence: Name and type of project and the type of shared use: multi-user and/or multi-purpose.

302. **Is there a law that encourages the private financing of infrastructure?**

Answer: Yes/No.

Evidence: Extract of legislation as confirmed by the ministry of trade/industry/development/transport/energy and private sector development experts. Specify what sectors it applies to and what form of infrastructure financing it allows for (for example, a public-private partnership, PPP?).

Note: As defined by the Columbia Center on Sustainable Investment (2014), in *A Framework to Approach Shared Use of Mining-Related Infrastructure*, a PPP is “a long term agreement between a government entity and a private company, under which the private company provides or contributes to the provision of a public service, such as the construction and/or operation of an infrastructure asset, in exchange of a revenue stream generated by a government budget allocation, user fees, or a combination of the two.”

303. **Is there a governmental unit responsible for negotiating the private finance of infrastructure?**

Answer: Yes/No.

Evidence: Extract from policy document highlighting the role for such a unit. Based on guidance from the ministry of
M. Mining Sector Importance

These questions measure the state and maturity of the mining sector as opposed to the quality of mining governance.

M1.1 Geological Prospectivity and Potential

Note: This indicator measures how much geological wealth (in gold and base metals) was discovered on a four-point scale compared with peers.

304. Mineral resource wealth—World Bank

Answer: In dollars and as a percentage of GDP.

Evidence: World Bank (forthcoming 2015), Wealth of Nations data. Note that the Wealth of Nations builds on the United States Geological Service (USGS), hence it is an incomplete dataset and has methodological shortcomings.

305. What are the key geological endowments of the country?

Answer: Global rank in reserves or production in a particular commodity.

Evidence: Based on web research, including information from the ministry of mines website.

306. Best Practices Mineral Potential Index—Fraser Institute

Answer: Score between 0–100.

The Best Practices Mineral Potential Index rates a region’s attractiveness based on the perceptions of mining company executives. Survey respondents were asked to rate the pure mineral potential of each jurisdiction with which they were familiar, assuming that local policies are based on “best practices” (that is, a world-class regulatory environment, highly competitive taxation, no political risk or uncertainty, and a fully stable mining regime).

307. Exploration spending relative to production value—ICMM/SNL Metals & Mining

M2.1 Foreign Direct Investment in Mining

308. What is the number of active large-scale mining operations?

Answer: Number of large-scale projects.

Scoring of the question can be calculated once information is collected for multiple mining countries.

309. What is the share of mining FDI as a percentage total FDI in the country?

M3.1 State Participation in Mining

310. Is there significant state participation in the mining sector?
Answer: High (an SOE is one of the most important companies operating)/above average (an SOE or state equity plays an important role)/below average (an SOE and state equity play a limited role)/Low (state equity is exceptional, an SOE plays a marginal role).

311. What are the main types of state participation in the mining sector?

Answer: State equity participation, SOE minority equity in exploration, SOE minority equity participation in production, SOE operations, and so on.

Scoring of the question can be calculated once information is collected for multiple mining countries.

312. What is the SOE/state equity share in general mining projects?

Answer: % share.

Scoring of the question can be calculated once information is collected for multiple mining countries.

313. What is the total revenue (turnover) from state participation in the mining sector as a percentage of GDP?

Answer: Turnover of state owned company as % GDP.

Scoring of the question can be calculated once information is collected for multiple mining countries.

M4.1 Significance of Mining Revenues

314. Government revenues from mining as a percentage of sector revenues—IMF/National statistics

315. Government revenues from mining as a percentage of total GDP—IMF/National statistics

M5.1 Budget Share of Mining Revenues

316. Total mining revenues as a percentage of total government budget expenditure—IMF GFS or EITI

317. Mining revenues for subnational governments as a percentage of subnational budgets—National statistics

M6.1 Economic and Employment Share of Mining

318. How many artisanal and small-scale miners are present?

Answer: Estimated number of artisanal and small-scale miners.

Scoring of the question can be calculated once information is collected for multiple mining countries.

319. What kinds of local mining supplier companies exist?

Answer: High/Above average/Below average/Low.

Evidence: Evidence that drillers, laboratories, contractors, and so on are present in the country.

Scoring of the question can be calculated once information is collected for multiple mining countries.

320. Mining employment as percentage of total labor force—National statistics
321. **What is the total SOE employment as a percentage of the mining labor force?**

   **Answer:** Number of employees as % of total mining labor force.

   Scoring of the question can be calculated once information is collected for multiple mining countries.

322. **Mining sector as percentage of GDP—African Development Bank or national statistics**
X. Descriptive Information

These questions will not be scored.

X.1. Contracts, Licenses, and Exploration—Descriptive Information

I. Who has the title to minerals in the ground?

Answer: The question will not be scored.

Some possible answers:

• The state (the government, or president on behalf of all present and future citizens)
• Surface rights holders also own the minerals.

Evidence: Relevant section of mining legislation or the constitution.

II. What exploration, mining, or mineral processing rights can mining companies acquire?

Answer: The question will not be scored.

Some possible answers:

• Lease or license to an area to extract or explore for a specified mineral.
• Lease or license to an area to extract or explore for any minerals, specified in the lease/license document.
• ASM licenses.
• License to process or refine a certain mineral.

Evidence: Relevant section of mining legislation.

III. Does the country ratify mining contracts in parliament?

Answer: For all projects, the largest projects, or none.

X.2. Mining Policy, Law and Regulations—Descriptive Information

IV. Is the legal system based on civil law or common law?

V. What are the principal laws that regulate the mining industry?

VI. When did these come into law?

VII. How often have they been amended in the last 10 years?

VIII. What are the principal regulatory bodies that administer those laws?

X.3. Mining Tax Policy and Tax Instruments – Descriptive Information

IX. What are the key tax legislation, regulations, and interpretations of the tax code issued by tax authorities?

Name and reference to key legislation, and date these came into effect.

X. What tax types and tax rates are applicable for gold and base metals?

Answer: Describe separately for the following tax types (add others where applicable).

• Signature bonus or other bonus:
• Fees:
• Surface rent:
• Levies (skills, HIV/AIDS):
• Royalties:
• Corporate income tax:
• Capital gains tax:
• Additional profits tax (or resource rent tax):
• Withholding taxes on interest and income:
• Other tax (customs, VAT, property tax):

XI. **Does the government have a specific set of rates for the ASM sector?**

If so, please specify.

XII. **What thin capitalisation rules are in place?**

List provision on maximum debt to equity ratio or cap on interest costs prescribed in mining tax legislation for the purpose of determining taxable income.

XIII. **What are the requirements for state/local/domestic equity participation in mining?**

List legal requirements for minimum state, local or domestic equity participation.

XIV. **Is the state a majority or minority stakeholder in mining projects, and if so, through what vehicles/companies?**

Describe extent and type of state participation in mining projects.

XV. **Are there state owned companies operating in mining?**

List roles of such state owned companies: this could include commercial responsibilities, policy, regulatory roles and social obligations.

XVI. **Are certain categories of mineral deposits reserved for state or local ownership?**

List either types of minerals or sizes of deposits that are reserved for state ownership.

XVII. **What is the average effective tax rate and marginal effective tax rate on gold?**

**Evidence:** Forthcoming WB study.

X.4. **Public Financial Management and Revenue Sharing – Descriptive Information**

XVIII. **Budget calendar.**

Time of the year of publishing and hyperlink to latest government budget document.

XIX. **Total government expenditure as % of GDP.**

XX. **% of total government expenditure spent by sub-national governments.**

XXI. **Is there a revenue sharing scheme in place between producing areas and central government?**

If yes, who is the revenue shared with? (Producing area local government, chiefdom …)

XXII. **% of resource revenues shared with sub-national governments.**

Note this might be a formula, such as 5% of royalties.

X.5. **Environmental and Social Impact Management – Descriptive Information**

XXIII. **What are the principal laws on environmental and social obligations for mining?**

XXIV. **When did these come into law?**

XXV. **How often have they been amended in the last 10 years?**
XXVI. What are the principal regulatory bodies that administer those laws?

X.6. Sustainable Development – Descriptive Information

XXVII. What are the key mineral development policy documents?
    Title, year of publishing and hyperlink for key mineral development policy documents.

XXVIII. What is the national development strategy document?
    Answer: Title, year of publishing, and hyperlink for the national development strategy document.

XXIX. Is there a local content policy guideline?
    Answer: Title, year of publishing, and hyperlink for the local content policy guideline, if any.