



Draft
The Extractive Industries Review (EIR)

Asia and Pacific
Regional Workshop

Bali, Indonesia
26-30 April 2003

TESTIMONIALS AND CONSULTATION REPORT

Notes

The following report on the Extractive Industries Review's Asia and Pacific Regional Workshop, held in Bali from April 26-30, 2003, was prepared by the EIR Secretariat. It summarizes the views expressed by workshop participants, neither endorsing nor contradicting them.

As in common usage, unless otherwise indicated, use of the terms 'World Bank' or 'the Bank' refers to the entire World Bank Group. The Bank components principally concerned with extractive industries (the oil, gas and mining sectors) are the International Bank for Reconstruction and Development (IBRD), International Development Agency (IDA), the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA).

Abbreviations

ASM	Artisanal and Small-scale Mining
CAO	Compliance Adviser and Ombudsman
CASM	Communities and Small-scale Mining Initiative
CSIRO	Commonwealth Scientific and Industrial Research Organisation
EIA	Environmental Impact Assessment
EIR	Extractive Industries Review
FDI	Foreign Direct Investment
GDP	Gross Domestic Product
IBRD	International Bank for Reconstruction and Development
IDA	International Development Agency
IFC	International Finance Corporation
IFI	International Financial Institution
ILO	International Labour Organization
IPO	Indigenous Peoples' Organization
MMSD	Mining, Minerals and Sustainable Development
MIGA	Multilateral Investment Guarantee Agency
NGO	Non-Government Organization
PRI	Political Risk Insurance
PRSP	Poverty Reduction Strategy Papers
SOE	State Owned Enterprise
SME	Small and Medium Enterprise
SSM	Small-Scale Mining
WBG	World Bank Group

Executive summary

Overview

The Extractive Industries Review (EIR) Consultation Workshop for the countries of Asia and Pacific was convened in Bali, Indonesia, April 26-30, 2003. This was the fourth in a series of regional multi-stakeholder consultations: the first, for Latin America and the Caribbean, took place in Rio de Janeiro, Brazil, April 2002; the second, for Eastern Europe and Central Asia, took place in Budapest, Hungary, June 2002; and the third, for Africa, took place in Maputo, Mozambique, January 2003.

The process was guided by the EIR's Eminent Person, Dr. Emil Salim, in order to explore the proper role of the World Bank Group with respect to extractive industries in the region, in particular whether or not the projects the WBG sponsors contribute to poverty alleviation and sustainable development. The task is to look to the future to see whether a role for the World Bank Group was still necessary in the extractive industries and, if so, whether this role should be improved.

The workshop attracted over 100 participants from civil society (non-government organizations, community-based organizations and labor unions), government, the oil, gas and mining industry, academia, and the World Bank Group itself. The workshop was organized into two parts: the first comprising a two-day open forum for civil society and other testimonials, and a voluntary information session by the World Bank Group; and the second comprising a formal three-day consultation with a limited number of invited or 'self-selected'¹ representatives from each stakeholder group. Participants presented case studies relating to regional projects, followed by focused group discussions on selected thematic issues on environmental, social and economic impacts of the extractive industries.

The Consultation identified a number of cross-cutting themes where change was deemed necessary if the World Bank Group is to continue its involvement in the extractive industries in Asia and the Pacific. The themes reflected recent experiences of Bank-supported policies and projects, particularly social and environmental impacts in mining and gas projects. The main issues of concern were poor governance – corruption, conflict resolution, disclosure policy, revenue management and human rights; the environment – global warming from continuing use of fossil fuels and deep sea disposal of tailings; and uncontrolled artisanal and small-scale mining. There was general agreement on finding a way to legitimize artisanal and small-scale mining, and to bring it under the broad umbrella of community development; the critical importance of having all the components of good governance in place before starting new projects; the need for tailor-made solutions that fit the specific needs and conditions of each country, location and situation; and the essential importance of taking sufficient time to make sure that all stakeholders are on-board and up-to-speed before starting projects or setting policy

¹ 'Self-Selection': the selection of civil society representatives attending the formal 3-day session of the consultation workshop was coordinated with the help of Mr. Longgena Ginting, Executive Director of WALHI (Friends of the Earth, Indonesia). The self-selection process gave civil society the responsibility of nominating 25 suitable participants from a variety of non-governmental organizations to represent their interests at the workshop.

Participants urged the World Bank Group to include extractive industries in the Country Assistance Strategy and related Poverty Reduction Strategy Papers, and to be more cognizant of links and conflicts between policies in different sectors, and the actual impact of policies on what happens on the ground in terms of poverty alleviation and sustainable development. Concern was expressed regarding the lack of follow through over the entire project cycle, due to the short term involvement from WBG institutions. The disconnect between Bank rhetoric and practice in reality was noted as especially worrying. Participants pressed the Bank to embrace international human rights conventions and instruments. Factors of good governance, such as transparent revenue disclosure, an equitable revenue distribution plan and the elimination of corrupt practices, should be a standard requirement for borrowers. The use of unproven waste disposal methods, such as submarine tailing disposal, should follow the ‘precautionary principle’ and not be used until proven fully safe.

Open Forum Testimonials

Open forum testimonials were made by representatives from civil society, government and industry, addressing three sectors: large-scale mining, small-scale mining and gas. The civil society presentations raised issues and concerns about the environment - submarine tailing disposal, a gas field blow out, and sustainable energy; small- and large-scale mining; and processes of community empowerment and conflict resolution. A government representative looked at sustainability issues. Industry spokespersons discussed examples of small-scale mining, working with community development in the exploration phase, and integrated social development, as well as the benefits and value of mining.

Large-Scale Mining

Submarine Tailing Disposal (STD)

A major concern in the region is the potential for submarine tailing disposal to cause serious environmental and socio-economic impacts in areas rich with marine biodiversity and dependent on aquatic resources for livelihoods. This is especially so in the waters surrounding Indonesia, which are the breeding and migratory areas for large numbers and varieties of marine life, including large mammals. Because there are very strong ocean flows, the widespread transport of waste materials is another potential problem. A number of speakers urged using the ‘precautionary principle’, until more is known and understood about the actual impacts of this practice.

Newmont, Sumbawa

Views expressed by community NGOs and local government in the open forum were very positive about the contribution of this project to the local communities, and the way they were working with local people. The company has invested in roads, telecommunication, health and educational facilities and programs, as well as improving livelihoods in agriculture and business. Concerns were raised about the impact of tailing disposal, how to spread the benefits more widely, and how to involve women more deeply. Strong concern was expressed about negative information from NGOs and the media that was deemed inaccurate and counter-productive.

Small-Scale Mining

North Sulawesi, Indonesia

Small-scale miners overran a company's gold mining operation, causing widespread mercury pollution in local soils and waterways. Local people were eventually able to regulate mining activities and enlisted help from local NGOs in curbing polluting practices. Some of the technologies being used were questioned by experts because they combine both mercury and cyanide in extracting the gold.

International Survey on Artisanal Small-scale Mining

The preliminary results of an international survey on ASM (artisanal and small-scale mining) indicate that respondents would like to see ASM 'legitimized' and integrated within poverty reduction strategies and policies, so that working and living conditions can be substantially improved, and livelihoods will be enhanced and diversified in a way that miners receive better earnings and have wider opportunities to generate income. There is a strong wish to see regional pilot projects established to explore and demonstrate the viability and benefits of this approach, and the Bank should be directly involved in promoting and supporting this initiative at both grass-roots and country levels.

Gas

Gas Field Blowout

In 1997 in Bangladesh the Magurcha gas field blowout devastated humans, animals, plants and soils over a wide area, affecting the health and livelihoods of indigenous people. So far no compensation has been provided from the involved companies, which are supported by the Bank. In addition, the country has a lot of pressure to export the gas, instead of using it domestically to reduce poverty and improve the lives of the local populations. A comprehensive and coordinated approach should be instigated to utilize this resource to alleviate poverty, primarily using local resources and expertise.

Community Empowerment

An NGO in West Papua, Indonesia, where BP has a LNG project raised the issue of the balance between services provided by government vs. services provided by companies or NGOs, which in the case of diminished government involvement, weakens their relationship with the local people and their ability to properly supervise and regulate industrial activities. This can have a long term destabilizing influence on the ability of government to function and the quality of governance. Building responsible relationships between local people and the company requires some capacity-building. Most communities normally do not have the resources or capability to hire in services, so this is when there is a role for a third party (eg, NGO) to step into this breach.

Closed Forum Testimonials

Civil Society Self-Select Group

The civil society self-select group had a closed door session with the Eminent Person, because some participants feared reprisals for speaking out in a public forum. This group

later chose to completely withdraw from the process because they felt the EIR was biased against their point of view.

In a closed session with the Dr. Salim, indigenous people and civil society representatives from various countries in the region presented personal testimonies about the negative impacts of extractive industries upon their lives and livelihoods.

World Bank Group Voluntary Information Exchange

Introduction

Representatives from the Bank presented an overview on the structure of the World Bank Group (WBG) and its stated purpose of poverty alleviation and sustainable development, as well as its commitment to the Millennium Development Goals. Each of the main WBG institutions was introduced and briefly described – IBRD, IDA, IFC and MIGA.

Emphasis was placed on the variability of conditions in the region and the importance of the Asia-Pacific region for future growth in extractive industries. The Bank believes that extractive industries have an important contribution to make for achieving the Millennium Development Goals, in terms of energy, materials, employment, income generation and social development. Furthermore the Bank is committed to working with governments, companies and NGOs in making sure that industrial development enhances environmental quality and socio-economic development, and that poverty in all its dimensions is truly alleviated.

In closing the introduction it was emphasized that the proportion of the Bank's overall annual budget that goes to extractive industries is relatively small – only about 5%. In Asia-Pacific, 60% of IBRD/IDA's budget goes to the gas sector, 40% to coal and 3% to technical assistance and structural reform. With IFC/MIGA a similar higher proportion goes to gas – 73%, and the rest to mining.

Working with Governments

In working with governments, the focal point is the Country Assistance Strategy. The trend in providing financing in the region is falling, and the relative importance of oil, gas and mining in each country is highly variable. The Bank has been providing funding to extractive industries specific to particular needs and circumstances in each country. For cleaner fuels, support has been provided to Bangladesh, Thailand and China to improve natural gas production. For winter heating in Mongolia and power generation in India, more reliable coal supplies have been promoted. The Bank also has been providing technical and policy advice to governments and others in the region.

Working with the Private Sector

IFC and MIGA have been supporting private sector investments in the region, such as the Bhit gas field in Pakistan. One concern is to avoid 'enclave' projects, where the enterprise operates in isolation from the local business community. Any project investment includes provision for building local capacity to provide materials and services, and for community development support.

Environmental and Social Review

All Category “A” projects require environmental and social assessments, because they are likely to have significant adverse impacts on the environment. Most extractive industry projects fall into this category. The Bank has moved to a ‘vulnerable people’ focus, considering the requirements of indigenous people, as well as those of the elderly and refugees.

In concluding this section, it was emphasized that the WBG tries to work as an integrated entity. It also is questioning its role, if it should get involved, and if so, how to improve its involvement. Feedback is always welcomed.

Compliance Advisor/Ombudsman (CAO)

The purpose of the Compliance Advisor/Ombudsman (CAO) was described, which mainly is to help address complaints from anyone adversely affected by an IFC/MIGA project. The CAO also looks after audits on compliance and advises the President and management on strategic trends, issues and policies. Complaints are processed quickly and parties complaining are notified at each stage in the process.

Questions arising

A fairly lengthy and dynamic question and answer session followed the presentations. One recurring question is to do with the limited duration of involvement of the Bank in projects and the likely slackening in compliance with guidelines and safeguards that will occur. This is particularly important in extractive industry projects where there are likely to be serious requirements for maintaining environmental and social investments, and where at closure there is most often some continuing support for clean up and social mitigation. There was concern over the Bank’s support to structural adjustment policies and the unwitting consequences on supporting one ministry instead of another. There is a movement within the Bank to adopt a more holistic approach in supporting governments, which is why there now is a strong focus on governance.

The CAO was questioned on their ability to respond to complaints and the relative unlikelihood for most people to use the facility, mainly due to lack of awareness of the mechanism, let alone having the resources or capability to file a complaint. It appears to be a very ‘remote’ facility in terms of access.

The issue of the Bank’s policies and support to renewable energy sources over non-renewables was raised. Although the Bank supports the Kyoto Protocol and has a position paper on climate change and fossil fuels, it could be much more proactive, particularly in promoting accessible and affordable energy resources for the poor.

A number of questions arose regarding the Bank supporting province level governments, to which the response was that the Bank deals directly with national governments. A cautionary note arose not to standardize or simplify too much as there usually is plenty of variation within, as well as, between countries.

Perspectives from the Region

Small-Scale Mining in PNG

A presentation on small-scale mining (SSM) in PNG provided a detailed example of how SSM could be run legitimately, totally integrated into the formal mining sector. A number of factors enabled this to happen. First, there is a history of strong custodial ownership rights to land – 97% of the land is owned by indigenous people. Second, the legal framework to regulate mining was set in place 80 years ago. Third, there is an open and competitive market for gold. Fourth, SSM is well-supported by the mining industry and international aid agencies.

SSM is a major economic component in the economy. Salaries are well above the average. Governance is very strong – there is financial transparency and multi-stakeholder participation and support. There is good integration between and continuity within development programs.

Development during Exploration

A junior exploration company working in Central Kalimantan, Indonesia advocated starting development activities, both at community and provincial level, during the exploration phase, well before construction of a mine begins. The advantage of doing so is to have all the groundwork in place by the time a mining operation is ready for construction, so the capacity, awareness and relationships are already developed. By working at community level, strong relationships are established with local people, some of whom can find employment within the exploration team. By introducing development activities, such as health care, education and training, and diversification of livelihoods, solidarity is built within and between involved communities, and communities are better prepared for the impact of a major industrial development in their backyard. By working with government at district and province, the policy and regulatory frameworks can be put in place, and the capacity to manage the demands that a large industrial operation generates can be built up within the various staff cadres.

The company further advocated building a broad coalition of partners between the government, donor community, NGOs, local communities and companies, and jointly creating an integrated ‘development framework’ for the province, so that everyone had a common foundation for their involvement in helping to develop the province. It was suggested that the Bank join such a partnership and become much more holistic in their engagement, focusing more on the overall development setting rather than individual projects. On a final note, the importance of allowing sufficient time for all of this essential preparation was strongly emphasized.

Extractive Industries for Sustainable Development in Indonesia

The Representative of The Ministry of Energy and Mineral Resources from Indonesia stressed the importance of overall good governance for development to proceed smoothly and sustainably. He emphasized the need for good governance in 3 domains – public sector, private sector and civil society – and that these sectors have to work together to reduce poverty, generate employment and protect the environment. The speaker noted

that poverty is the greatest enemy in achieving social development and environmental husbandry; that poverty forces people to do illegal and unsafe practices such as unregulated logging and mining. Because natural resource exploitation is the basis for development in many countries, it is essential that it is managed sustainably.

Extractive Industries for Sustainable Development in India

The former Director of Mining and Geology in the state of Orissa in India presented the case that mining is essential for meeting the Bank's goals of poverty reduction and sustainable development. In India, if mining development were curtailed, there would be a decline in employment, GDP, export earnings, economic activity and a sharp decline in revenue earnings of the Government, thereby reducing spending on education, infrastructure development, health care and exploration. He argued further that mining has a very small physical impact on the environment, occupying only 0.23% of the total land mass, and that sufficient environmental controls were in place. There is however a need to increase economic efficiency through better management and improved technologies.

Energy and Global Warming

A presentation on prospects for sustainable energy, advocated a stronger commitment from the WBG to promote the use of renewables instead of fossil fuels. Global warming is projected to have a significant impact on vulnerable areas such as food and water security, incomes and livelihoods, health and infrastructure, all of which will impact the poor in developing countries the hardest, as they are most vulnerable and have the least capacity to adapt to significant changes.

Renewable energy is experiencing relatively high growth and there is a very large potential global market, particularly in developing nations. The speaker advocated that the WBG should be supporting investments in clean energy and not be promoting high carbon emission options. Also, big is not always the best, so the Bank should also promote small, localized approaches and take on reform of the energy market.

Conflict Resolution

This presentation stressed that negotiation between company and the local people facilitated by an NGO can provide solution to conflict. For some years the PT. Kelian Equatorial Mine Company, a subsidiary of Rio Tinto in Indonesia, caused local people to suffer loss of land and human rights abuses, using divide and rule tactics to avoid corporate responsibilities. The company went through a long process of negotiation to resolve the conflicts, involving both national and international NGOs. This process could provide a useful model for other, similar conflicts, although the Ministry of Energy and Minerals Resources was not willing to endorse it.

Integrated Social Strategy

A spokesperson for BP described how they are using an 'Integrated Social Strategy' approach in developing a LNG project in a remote and isolated location in Papua, Indonesia, in order to minimize any negative impacts on local communities and the environment. In order to discourage immigration, the local transportation infrastructure is

not being enlarged. Access to the site will be only by water, and ‘outsiders’ will be hired only in a distant location. Security will be provided by locals, and other measures will ensure high involvement of local people in overseeing a balanced development approach. A ‘diversified growth strategy’ will bring development benefits to local communities, as well as to the broader region and the province, avoiding the ‘honey pot’ scenario. The project intends to be a catalyst for community-driven development in the area.

Consultations

Three regional case studies, in which the WBG has been involved, were presented by representatives from industry, civil society and government.

MIGA – Lihir Gold Limited - PNG

This gold mine is run by Rio Tinto on a small island in PNG in a challenging environment - physically, socially and institutionally. MIGA provided initial political risk insurance, but is no longer involved. Although the operations provide substantial inputs to the economy, the overall impact raises a number of questions about working in remote and culturally isolated locations. MIGA’s involvement in the beginning was useful in getting the project off the ground, but did not contribute very much for developing good social and environmental governance, both of which are badly needed to support balanced development. The company does not see its role as building capacity for the government or for the community; it would seem a more appropriate responsibility for the WBG.

This project demonstrates what happens when planning is short-sighted and far too narrow in scope. Insufficient attention was paid to the special local social and gender dynamics, the potential consequences of poor governance, anticipating the impact of cash incomes on a cashless society, involving all stakeholders from the beginning in planning discussions, having poor monitoring mechanisms, and the consequences of mine closure.

IFC – Sepon Gold Mining - Laos

In this case study from Laos, IFC was going to provide financing, so all of the IFC requirements were followed in preparing the project documents for funding. A five volume Environmental and Social Impact Analysis (ESIA) was prepared, plus 16 special studies, supported by IFC technical assistance and expertise. IFC did parallel studies on the mining sector and legal framework. It is clear that IFC helped strengthen the acceptability of the company to the Laos government, and broaden the focus and scope of engagement beyond mineral extraction.

The institutional setting in Laos is fairly weak: the government has very little experience in handling this type of project, so their capacity to manage and to engage knowingly in the preparation process is very limited. The experience of the company in managing such a rigorous preparation process is also limited. As a result, there are a lot of misunderstandings on all sides. Moreover the ESIA and other studies have been strongly criticized by one NGO as being very limited, if not somewhat superficial. As the company was able to secure its own financing, the IFC is no longer involved and the question is: given the weak experience level and capacity of both government and the

company, how well will be compliance with the requirements for social and environmental mitigation? In such a situation, what is the best mechanism to improve the capacity of those involved – ie, the government and the company?

IBRD/IDA – Technical Assistance - PNG

In late 2000 the Department of Mining and Internal Revenue Commission of the Government of PNG received a technical assistance loan from the World Bank to strengthen the institutional capacity of both units in administering and regulating the mining and exploration sector. The government considers mining to be a major contributor to the national economy. There are, however, other concerns that, while mining may be generating revenue, it also has serious negative impacts on both the environment and society. The main environmental issues are waste disposal and weak monitoring mechanisms; the main social concerns are increasing poverty and the breakdown of society and the family – there have been a lot of disputes over mining, including a civil war at one point.

There is a clear call from civil society to slow down development and take a hard look at the complete reality of mining, not simply the income side. The Bank should ensure that all aspects of society are represented in discussions before granting loans like this one. There needs to be transparency of information and more use of local resources and expertise in working on solving the problems. Most importantly, much more time is needed to review, research, discuss and decide upon the issues, making sure all stakeholders are adequately represented.

Social Issues

Governance, Poverty Alleviation and Sustainable Development

Small groups looked at the question: “*What are the main governance issues concerning extractive industries preventing poverty reduction and sustainable development?*” and came up with a list of issues and obstacles.

Government being the most active proponent in governance has the most to answer for: it provides poor leadership and lacks the capacity and resources for policy formulation, legislation, regulation, enforcement, planning, monitoring, evaluation and fiscal management in the sector. Its knowledge and understanding is also very weak, and the allocation of human resources is generally insufficient and inappropriate. Government often is not transparent or accountable. Coordination between ministries and levels of government is generally poor.

Industry also needs to be more ethical, transparent and accountable; and needs to be consistent with social and environmental values. The accountability and representation of NGOs is sometimes problematic. Financial institutions, like the WBG, lack the capacity to assist small projects. The Bank and aid agencies have conflicting policies on institutional reform. The WBG takes a non-holistic approach to governance issues.

Finally, the current paradigm for community development is inappropriate; approaches and methods are often not participatory, and do not lead to empowerment and self-sufficiency. Planning for rural communities should be much more holistic. Overall, there is a lack of clear and qualitative information and communication.

Human Rights – Use of Military and Policy

Government security forces have often been employed to provide security to extractive industries. There have been incidents involving these security forces, in which people have been abused, incarcerated, tortured, killed or suffered some other denial of their basic human rights. The army and police are often severely underpaid and see an opportunity in providing paid services to extractive industries.

The Freeport situation was presented as an example in which, because of the enormous rapid growth in the workforce and operation, the military provided security services to protect a ‘national asset’. After some abusive incidents involving the military, the company took human rights very seriously, developing and implementing a company-wide policy. They also adopted the ‘publish-what-you-pay’ principle in order to promote transparency.

If at all possible it is better to train and employ local people as security personnel. They should have a clear sense of the company’s human rights policy and not be armed. It was suggested that the Bank can help promote some of these principles in its country and project negotiations.

Social and Environmental Impacts and Issues

Presentations

Four thematic groups examined issues related to: energy and global warming, submarine tailing disposal, artisanal and small-scale mining, and corruption.

Energy and Global Warming

Carbon Risk, Renewable Energy and the WBG

This presentation stressed that only so much carbon can be absorbed by the atmosphere, and the maximum capacity will be reached within 30 years. Therefore long term sustainability requires a shift to renewable energy production. The World Bank can be a key player in this shift by: promoting policy and market conditions that support the development and use of renewables; encouraging investment in low carbon and renewable energy resources, technologies and infrastructure; avoiding long term technology lock-in that would be financially burdensome to reverse; and requiring ‘carbon liability’ accounting in project feasibility

Climate Change and Renewable Energy

As energy is decisive in both economic growth and climate change, and as the greatest increase in energy consumption is expected in the Asia-Pacific region, it becomes imperative to promote both energy conservation and renewables in the region. The region has a large potential for renewable energy production from biomass, micro-hydro, wind,

geothermal, solar and marine power sources. Any promotion of these sources should be linked to the Kyoto Protocol mechanisms, as well as to other markets such as the WBG Community Development Carbon Fund and the BioCarbon Fund. The Bank can provide technical assistance for capacity-building of appropriate institutional and regulatory frameworks, and by actively supporting and promoting the use of renewables over fossil fuels.

Submarine Tailing Disposal (STD)

Implications of the PNG Experience

In PNG, river tailings discharge is no longer acceptable because of the high risk from tailings dam rupture, and the severe impact on the environment and livelihoods. Submarine tailing discharge (STD) has emerged as an alternative, offering prospects of less cost and lower environmental impact. The rationale for using STD is premised on there being no upwelling of discharge particles; proof of this premise is not always clear. Pipe breaks have happened in most STD systems, so risk mitigation is essential. Research is still needed to evaluate the total impact of STD, especially in tropical zones, and until more is known, STD should not be promoted automatically without very careful site specific evaluation. WBG financial support should be conditional on appropriate risk analysis of all options.

Artisanal and Small-scale Mining (ASM)

Social and Environmental Problems (UNIDO)

This presentation looked at the reality that ASM generates the main environmental and social problems in mining. Worldwide, up to 100 million people are directly or indirectly dependent on ASM; 30% of workers are women. UNIDO is running a GEF-funded global project to examine the true impact of the use of mercury in gold extraction, and to create some demonstration projects to promote better practices. As ASM is a ‘temporary’ measure for poor people - they prefer other productive activities – it is imperative to place it within the context of rural development and create long term, sustainable livelihood alternatives.

Small Mines, Big Issues (ILO)

In this presentation from ILO, the human condition in ASM was examined. There are now more people involved in ASM than in the formal mining industry. Much more attention has to be paid to working conditions because there is absolutely no support of any kind for artisanal mine workers - no resources, no infrastructure or equipment, no training, no health care, no protection or safety measures, etc. There is also very little data about occupational health and safety, but it is known that miners are subject to very high risks. Everyone, especially NGOs, governments, companies and trade unions, needs to help make small-scale mining a source of decent work in a sustainable environment. Child labour is widespread and has to be eliminated. Given the right approach, small-scale mines can be profitable, productive, safe and healthy, but resources have to be mobilized. The Bank can include ASM as part of overall poverty reduction programs, and can support micro-finance, diversified livelihoods, community development grants, information exchange, capacity-building, adding value, market access, and legal and

policy reform. To do these things the Bank needs to collaborate on the ground with other organizations in a practical way.

Small-scale Mining Legislation

In a general review of small-scale mining (SSM) legislation, the rationale and the steps that have been taken for SSM legislation were presented. Legislation for SSM is designed to cover environmental protection measures, health and safety features, marketing mechanisms, penalties and incentives. Various types of licensing arrangements are possible, from informal to formal, and from individual to group. While it is widely recognized that SSM is important and needs a legal setting, a collaborative process between miners and legislation writers is required to identify and codify the key issues. The World Bank can assist governments in preparing SSM legislation, and in developing their institutional capacity.

Corruption

Access to Information and Transparency of Revenue Flows

This presentation outlined the key ingredients for open and transparent governance, namely: access to information; access to participation; access to justice; freedom of the press; and the right of the whistle blower to be protected. The scope of access to information, and the link between access to information, transparency and good governance were described in some detail. The ‘Publish-what-you-pay Principle’ is an essential component in access to information, and has to be made mandatory through legislation driven by public pressure and demand.

Transparency of Revenue Management

Countries depending heavily on extractive industries are very often poor and corrupt. The lack of transparency in rent collection and revenue distribution perpetrates these conditions. Without transparency, corruption penetrates deeply within all levels of society and its governing institutions. The World Bank needs to be vigilant in its relations with projects and countries to ensure that the principle of transparency is enshrined in the policies, regulatory frameworks, enforcement mechanisms, agreements and conditions of WBG involvement.

Working Group Recommendations

Six topics were selected for in-depth analysis by working groups – small-scale mining, corruption, disclosure policy and access to information, revenue management, human rights in the community, and appropriateness of size and speed of projects.

Artisanal Small-scale Mining (ASM)

In looking at the question: “How can artisanal small-scale mining (ASM) be practiced with minimum impact to the environment and maximum impact on poverty reduction in the Asia-Pacific region?” and “What role can the WBG take to improve the situation?” the working group identified six key areas to focus on – legalization of ASM and enforcement of the law; capacity-building entrepreneurship and good technical practices; establishing good relationships with other stakeholders; enabling access to markets;

integrating ASM into a holistic community development approach; and appropriate clean and safe technology development. The Bank needs to become ‘facilitators for development’ by supporting the above initiatives through direct funding and technical provision, and by forming creative, collaborative partnerships to provide services and support.

Renewable Energy and Climate Change

The working group discussed: “How can the region mitigate climate change problems related to projections of its energy consumption?” and “What role can the WBG play?”, and came up with some recommendations. The World Bank Group should leverage policy frameworks to encourage low carbon growth and a move away from carbon intensive energy sources. The Bank should promote rational energy policies, including tax policies which include a gradual move towards fully inclusive pricing. Subsidies should be kept only for off-grid services to the poorest population groups.

In addition the Bank should support other measures including: introducing regulatory standards and strong monitoring to force movement towards lower emissions; helping to create a market for carbon; appropriate financing to fast-track low carbon technologies; and introducing standards for energy efficiency in sectoral planning, such as for public transport or town planning.

Submarine Tailing Disposal

The working group examined the question of “How can the main risks of STD/STP be reduced for Asia and the Pacific?” and “What role can the WBG play?”, and recommended that a code of best practice is required for STD, but first there needs to be solid research to determine if there are situations in which the technology is safe, viable and acceptable. The role of the Bank would be to actively support development of the code and the process, so that there will be a rigorous mechanism to use in evaluating future use of STD. IFC could use its financial leverage to promote best practice in assessing STD in projects.

Governance – Conflict Resolution

The working group on governance looked at “How can fair and satisfying conflict resolution between EI companies and local communities be supported?” and “What role the WBG can play?”. The group divided their recommendation into four areas: before starting a project; a new project; an existing project; and overlaps between new projects and existing ones. Doing things to avoid conflict was stressed, such as building relationships, understanding and genuine ownership before getting started. Open information and communication is essential in all situations, as well as having a readily accessible mechanism for redress, if needed. There was no consensus about the Bank getting directly involved in conflicts, but the group did recommend three things: in order to inform policy advice, the Bank should do analysis to understand the causes of conflict; the Bank needs to bring its own policies into line with international human rights agreements; and for projects the Bank should make sure there is ‘voluntary consent’ by all affected parties.

Policy Challenges and Barriers

A group looking at “Policy challenges and barriers in the creation of sustainable development in oil, mining and gas” found that trade and tax policies can create barriers to sustainable development by limiting development of domestic industries and by encouraging offshore expenditures. ‘One-size-fits-all’ approaches like that of the IMF can be very detrimental in forcing countries to take actions such as selling off state assets, which may not produce long term benefits. In its negotiations with countries on policies, the WBG needs to be more flexible, balanced, holistic and responsive to country-specific realities; and in developing the CAS, the Bank needs to make sure there are not policy conflicts between sectors. It is also important to find the right balance between investments in capacity-building and in industrial development.

Final Recommendations

Opening Remarks from the Eminent Person

Dr. Emil Salim opened the concluding session by highlighting the main issues that remain for discussion and recommendation. The first is the question of *appropriateness of size and speed*: should projects be large or small, and should they proceed slowly or quickly? The second question is to do with *gender* and how to ensure that the roles of women and men are treated equitably, and who is responsible? Third is *human rights*: how to avoid human rights abuses, and if they happen, how to make sure there is a grievance mechanism available for complaints? Fourth, in *revenue management* how to ensure that local people get their fair share, and how to soften the impact on cashless societies? The fifth question is *disclosure policy and access to information*: how to ensure people are well-informed on revenue payment and distribution arrangements? The sixth point is *corruption*: what can be done about this? The final question is regarding *artisanal and small-scale mining*: how can we integrate it within a community development approach?

The Eminent Person asked participants to look not only at what to do, but also at how to do it. The role of the World Bank is the main focus, so each question has to be answered from their perspective, examining their role both in projects and in policy development.

In summing up, the Eminent Person stressed the potential of the World Bank to become a leader in alleviating poverty through sustainable development, with the aim of achieving the Millennium Development Goals. He reminded everyone that 2 billion people are subsisting on less than two dollar a day, and that it is imperative for the World Bank to change its corporate culture and become a world force for poverty alleviation through sustainable development.

Artisanal and Small-scale Mining (ASM)

The Bank should strengthen CASM by adding rural development specialists, who have hands-on knowledge from the regions. CASM has to create on-the-ground models to explore and demonstrate how best to organize a formalized ASM sector. Assistance from other WBG specialists will be needed to help change the policy, legal and regulatory frameworks and mechanisms that are currently working against ASM.

Corruption

The WBG must strengthen civil society, press freedom, and legal reform and legislation; it must address collusion, judicial reform and corporate ethics. In order to achieve these things, the Bank has to support advocates of transparency, freedom of assembly, a free press, financial disclosure, the ‘voluntary principles’, community property rights, and judicial disclosure.

Disclosure Policy and Access to Information

WBG policy should insist on the ‘Publish-what-you-pay’ principle and assist its clients, through partnerships with NGOs, to ensure that transparency is incorporated in government and industry transactions. The Bank can achieve this by a variety of mechanisms including working directly with governments on policy change and enforcement, collaborating with other stakeholders, and using its financial leverage to bring about positive change. The Bank should also insist on full public consultation and disclosure in its projects, through its contractual agreements. Communities should have full access to information on disbursement and expert advice on future options

Revenue Management

The WBG should make sure codes and specific provisions are in place for revenue distribution in Bank supported projects, and that transparent reporting mechanisms are in place and used. The bank can help countries develop revenue distribution codes and guidelines.

Human Rights and Gender in the Community

Regarding human rights, the Bank should ensure compliance with international conventions and promote development of a grievance mechanism. This will require education, impact assessment and monitoring; loans should be conditional with compliance. To achieve gender equity, participatory baseline studies should lead into integrating gender concerns in socially and culturally acceptable ways in all project activities.

Appropriateness of Size and Speed of Projects

The Bank should support development of sectoral planning at national and regional levels, including establishing policies and strategies for developing extractive industries that are area specific, taking into account variations in social, cultural and environmental conditions. Capacity-building must be identified early on and has to take place well in advance of any industrial development.

Closing Remarks by the Eminent Person

The Eminent Person thanked all the participants for their contributions and made a few concluding remarks. He stressed the main dilemma which keeps coming up - if mining and other extractive industries are so beneficial in terms of employment, income, taxation and development – why are there so many negative voices raised against it? It appears that local people are very much unprepared for the impact, when a large project suddenly

arises in their midst. So there is something in the scale and in the speed at which these developments take place, let alone the ensuing problems of revenue distribution, corruption and human rights abuses.

In conclusion, the Eminent Person urged everyone to continue to contribute ideas, suggestions and criticism via e-mails, the website or other means.

Secondly, Dr. Salim mentioned that there is not always agreement in the groups, and that is expected and good; but how to tackle these disagreements? The inputs from everyone are very helpful in getting to the substance of each issue, even though the solutions may not be quite clear. Through this process, with everyone's inputs, the EIR can get a perspective on what direction to go in to find the appropriate answers, so sensible recommendations can be presented to the World Bank. The objective is to change the course of the Bank into the direction of poverty alleviation and sustainable development, so that a different type of development takes place, one in which local people will be happy and satisfied. The crux of the issue is if the extractive industries can fit into this different type of development approach or not.

Contents

Notes

Abbreviations and acronyms	i
Executive summary	ii
1. Introduction	1
<i>Open Forum</i>	1
2. Welcome from Eminent Person Dr. Emil Salim	1
3. Testimonial Presentations	2
Mining	2
<i>Submarine Tailing Disposal (STD)</i>	
<i>Newmont Sumbawa</i>	
<i>China Mining Association</i>	
Small-Scale Mining	3
<i>Minahasa District, North Sulawesi</i>	
<i>Small Mining International Survey</i>	
Gas	5
<i>Magurchhara Gas Field Blowout, Bangladesh</i>	
<i>Community Empowerment Process, West Papua, Indonesia</i>	6
Civil Society Self-select Group	
<i>Statement of Withdrawal</i>	
<i>Closed Session with Eminent Person</i>	
4. World Bank Voluntary Information Exchange	7
Introduction to The World Bank	7
Working with governments	8
Working with the private sector	9
Project environmental and social review	10
Compliance Advisor/Ombudsman (CAO)	11
Questions and answers	12
5. Perspectives from the Region	15
Small-scale mining, PNG	15
Exploration, Kalimantan, Indonesia	16
Extractive industries for sustainable development	18
<i>Indonesia</i>	
<i>India</i>	
Energy and global warming	20
Conflict resolution	21

Integrated social strategy	23
<i>Consultation</i>	
6. Keynote Speech by Dr. Emil Salim	24
7. Case Studies: World Bank Group in Asia-Pacific Region	25
MIGA – Lihir Gold Limited, PNG	25
IFC – Sepon Gold Mining, Laos	30
IBRD/IDA – Technical assistance, PNG	33
8. Social Issues	38
Governance, poverty alleviation and sustainable development	38
Human rights – military and police	39
9. Social and Environmental Impacts and Issues	40
Fiji labour union	40
<i>Presentations in Parallel Session</i>	41
Energy and global warming	41
<i>Carbon risk, renewable energy and the WBG</i>	
<i>Climate change and renewable energy</i>	
Submarine tailing disposal	44
<i>Implications of the PNG experience</i>	
Artisanal and small-scale mining	46
<i>Social and environmental problems</i>	
<i>Small mines, big issues</i>	
<i>Small-scale mining legislation</i>	
Corruption	52
<i>Access to information and transparency of revenue flows</i>	
<i>Transparency of revenue management</i>	
<i>Recommendations</i>	56
Small-scale mining	56
Renewable energy – climate change	58
Submarine tailing disposal	60
Governance – conflict resolution	63
Policy challenges and barriers	65
10. Final Recommendations	67
Opening remarks from Eminent Person	67
Artisanal and small-scale mining in community development	69
Corruption	69
Disclosure policy and access to information	70
Revenue management	71
Human rights and gender in the community	71

Appropriateness of size and speed of projects 72

11. Closing Remarks by Dr. Emil Salim 73

Annexes (www.eireview.org)

1. Statement from Civil Society
2. Eminent Person's reply to Civil Society
3. Statement from Indigenous Peoples
4. Workshop agenda
5. List of participants

Further information on the EIR website (www.eireview.org)

1. Transcript of Dr. Salim's welcoming address
2. Transcripts of testimonies of civil society group
3. Transcripts WBG voluntary information presentations
4. Transcripts of environmental, social and economic impact case studies
5. Transcript of Dr. Emil Salim's keynote speech
6. Transcript of WBG plenary presentations

1. Introduction

The Extractive Industries Review (EIR) Regional Consultation Workshop for Asia and the Pacific took place in Bali, Indonesia, April 26-30, 2003. This was the fourth in a series of five multi-stakeholder consultations convened to discuss the role of the World Bank Group (WBG) in the extractive industries (EI). The purpose of the workshop was to analyze the involvement of the WBG in the oil, gas and mining sectors of the region, and to see whether or not this involvement was compatible with the WBG's overall mission of poverty reduction and sustainable development. Over one hundred participants attended the workshop, representing civil society (non-governmental organizations, community-based organizations and labor unions), government, industry, academia, and the WBG itself.

The formal three-day consultation was preceded by a two-day open forum for civil society testimonials, voluntary information exchange with WBG staff, and presentations by industry and non-governmental organisations. The subsequent workshop sessions were only open to participants who had been invited or 'self-selected'. These sessions featured presentations from WBG-supported projects in the region, as well as thematic issues of importance in the Asia-Pacific area. Based on the discussions, participants identified a series of recommendations on key issues of concern if the WBG were to continue actively supporting the extractive sector in Asia and the Pacific.

The process was guided by the EIR's Eminent Person, Dr. Emil Salim. Conclusions from the Asia-Pacific Consultation will be used as inputs for the final EIR report, to be presented to WBG President, James D. Wolfensohn, in December 2003. In line with the EIR's mandate, note was taken throughout the workshop of both consensual and dissenting views, which will be taken into account in the final report.

Additional material from the Asia-Pacific Consultation, including participant's testimonials, case studies and presentations, is available on the EIR website: www.eireview.org.

Open Forum

2. Welcome from Eminent Person, Dr. Emil Salim

The Eminent Person, Dr. Emil Salim welcomed everyone to the first day of open sessions of the consultation. He described the twofold purpose of the sessions: first to listen, hear and understand what stakeholders have to say about the role of the World Bank (WB) in extractive industries in eradicating poverty through sustainable development; and second to identify to what degree there is consensus or dissenting views, and to make recommendations to the World Bank Group (WBG). What should be the future role of the WBG in the Extractive Industries (EI) in order to eradicate poverty through sustainable development? Do WB policies have the correct focus in programs, projects and processes?

Dr. Salim emphasized that this was to be the thrust and the direction of the consultations for today, and that the task of the EIR team was to listen, to hear and to understand. The Eminent Person stressed that the participants should be frank, not be intimidated in any way, and express openly what they feel, what they think and what they have found in the field.

The Eminent Person went on to describe the various components that make up the WBG – IBRD, IDA, MIGA and IFC – and stated that discussions would include them all. The Extractive Industries are oil, gas and mining: mining includes gold, metals and minerals. In pursuing the goal of the consultation, it should be based on real experience. The role of the WBG in oil, gas, metal and minerals is to promote poverty alleviation through sustainable development. Poverty alleviation is understood within the framework of the Johannesburg World Summit. It is not just limited to income: it is also means lack of access to education, health, energy, safe drinking water and rights to natural resources. Sustainable development means economic sustainability, social sustainability, and environmental sustainability.

Dr. Salim invited stakeholders from government, industry and civil society (NGOs, indigenous people, academicians, workers, etc) to make their testimonials, with the assurance that anyone who wishes to speak can do so freely and independently. He mentioned that there are some testimonies that will be given privately in a separate closed meeting, because some of the speakers are concerned about reprisals when they return home. The Eminent Person then introduced all the members of the EIR Secretariat team, and the facilitation and support teams.

3. Testimonial Presentations

Mining

Submarine Tailing Disposal (STD)

The Director of APEX stressed that this region is different from other areas: it is an area of exceptional high biodiversity – the ‘bull’s eye’ of marine biodiversity conservation and the ‘crossroads’ for north and south large species migration. As such the risks are high for potential impact on biological life, and the resulting economic impact that is likely to occur in terms of fisheries and tourism.

There are very strong and dynamic ocean flows in the area, which present concerns about transport of waste materials. There are also biological movements, from ocean depths to the surface and back again. These are diurnal flows, so it is very dynamic. Overall, there is an economic risk simply from the perception that there is contamination in fisheries, especially in Indonesian waters. The economic risk extends to marine-based tourism as well.

Marine biodiversity is found to extend to deep waters as well as into the open ocean, especially for large mammals like whale species. The knowledge of critical marine

habitats is still growing: one factor is that this can be very seasonal – there can be specific times of the year when it is more critical.

The main concern is that not much is known about the impact of STD on tropical marine ecosystems, and that Environmental Impact Assessments do not include an evaluation of the potential impacts of STDs. As STD is a preferred waste disposal procedure in large scale mining operations, and as a significant increase in STD in the region is anticipated, action is required to address the lack of knowledge and the potential biological and economic threat.

Newmont Sumbawa

Three persons spoke positively about this large scale gold mining project in Sumbawa, Indonesia – two from community NGOs and one civil servant. The company engages directly with the community and supports new infrastructure for communication and transportation, health and education facilities and programs, agriculture and small business development. Meetings are held every month and relationships between the company and the community are good. The speakers were concerned about negative misinformation about the company from some NGOs and the news media, and urged them to check their facts before making negative publicity, as it disrupts the stability of the community.

Concerns were expressed about insufficient wider distribution of benefits to other communities, the real impact of marine tailings disposal, and the tendency to not include sufficient representation from women in decision-making because of customary practices.

China Mining Association

China is the second largest mineral producer in the world – having nearly 89,000 mining projects, with very many people involved in Artisanal and Small-scale Mining (ASM). Although ASM generates local incomes, there are problems with safety, health, pollution and environmental damage. ASM is not considered sustainable, and the government shuts down sites that do not comply with safety and environmental standards. Remote areas have experienced positive impacts from ASM. Large companies follow government regulations.

Small Scale Mining

Minahasa District, North Sulawesi

A documentary film presented a ‘gold rush’ scenario, in which the operation of an Australian mining company, Aurora Mining, was overrun by both outside and local people. Large amounts of mercury were used and much of it ended up in the local river system. The local people are now regulating mining activities, although there still is no legal basis. They have instituted measures with the help of local NGOs to reduce the use of mercury, using a cyanide process, which they maintain is a clean technology. They also collect fees to offset the costs, and there is a noticeable improvement in the economic well-being of local people. Studies are planned to assess the impact on health of the mercury use. A question was raised about the appropriateness of some of the

technologies used to mitigate the use of mercury and the importance of having proper management.

Small Mining International Survey

The preliminary results of a global survey on small scale mining was presented. Participants were asked three questions:

1. What has the WBG done in small-scale mining? - any examples of projects including the corresponding positive and/or negative results/impacts?
2. What should be the policy and role of the WBG in the development of the small-scale mining sectors/industries in developing countries?
3. What types of projects, programmes and activities should the WBG be doing in the field of small-scale mining?

There appears to be a rising frustration over the ‘step child’ syndrome regarding ASM. Many would like to see ASM given top priority by the Bank, and have it integrated into poverty reduction strategies and policies, as well as seeing something real implemented on the ground. Governments seem incapable of addressing ASM in a sensitive and comprehensive way. But there have been some positive engagements on a small scale between companies and ASMs (in South Africa).

On the first question: CASM holds some promise but is under funded and relatively dormant. In Ghana, there have been little benefits and more problems from the WB-GTZ project. ASMs are excluded from mining legislation and are manipulated by authorities. Knock-on effects from Bank policies that promote cash crops have driven farmers into ASM.

On the second question: The bank should promote coherent country-specific policies for ASM, with a clear link between macro- and micro-policies, and links with other sectors, particularly agriculture. ASM should be integrated into country Poverty Reduction Strategy Papers (PRSPs), in order to become a regular part of rural development programs, with concomitant rights and obligations. Current mining laws trap miners into illegality: ASMs should have full, tradable mineral rights on their discoveries.

On the third question: At micro-level, the Bank should support ASM projects at grass roots and community level that are exploring “what” and “how” to do things right, including working on issues and practicalities of poverty reduction, land use, entitlement, governance, small mine closure, conflict management and capacity development. At macro-level the Bank has to link and mainstream ASM into PRSPs, and promote appropriate and supportive legal and regulatory environments that reverse current trends of exclusion and marginalization. The new approach has to broaden to include the full spectrum of ASM, including the extraction of industrial materials, as well as the entire mining cycle from exploration to closure.

Gas

Magurchhara Gas Field Blowout - Bangladesh

In 1997 the Magurcha gas blowout resulted in widespread devastation to plant, animal and human populations, as well as to settlements and infrastructure. Long term impacts continue to affect soil fertility and the health and livelihoods of indigenous peoples. The operating company, Occidental Petroleum, paid no compensation and left after selling their interest to Unocal, who refuse to recognize any claims. The World Bank Group was fully involved, but remained silent throughout. Whereas the project was supposed to reduce poverty, it has had the opposite effect – poverty is increasing.

Bangladesh has large underground gas reserves. This resource could be used for many purposes within the country, especially for poverty alleviation, but there is strong political and financial pressure from the US government and International Financial Institutions on the Bangladesh government to export to India. The speaker called for a comprehensive and coordinated initiative to enable the gas sector to alleviate poverty, utilizing local knowledge, expertise and companies.

Community Empowerment Processes – West Papua, Indonesia

The Papua Community Development Foundation (YPMD) presented their work in Beraur Bintuni Bay where BP has a LNG project. A fundamental problem is government turning over responsibility for local development to the company, one consequence of which is that government weakens itself and its relationship with the people. It tries to satisfy investors and only pays lip service to things like EIAs, providing no monitoring and no dialogue with local people.

YPMD does mediation and advocacy to help build responsible relations between communities and companies; it supports capacity-building through mentoring, and community empowerment through conflict mediation. Accurate data on natural resources is essential in the mediation process. Now local institutions know and understand BP's profile and business mission and the compromise process with BP has been clarified. Participatory planning activities are underway with directly- affected villages, and there is community participation in planning and implementing empowerment activities.

BP has opened space for communication with local communities, and has become the target for community interests, aspirations and increasing expectations. In the light of changes in the economic status of communities, YPMD recommends that:

1. Existing community economic activities must be kept intact, with sufficient potential to improve through viable markets.
2. Sustainable development can take place—if environmental impacts are managed.
3. To manage environmental impacts, technologies for resource exploitation must adhere to high standards.
4. Funding institutions must actively monitor the planning, implementation and results—using economic, social and environmental indicators.
5. Local government must pro-actively consult communities—to respond to and accommodate their aspirations.

6. In preparatory planning, social processes are vital in preparing for commercial operations.

A participant from PNG suggested that to ensure direct consultation between government and the people, the Indonesia mining department has to have project coordinators who continuously monitor the situation, as they do in PNG.

Civil Society Self-select Group

Statement of Withdrawal

Representatives from the Civil Society self-select process chose to withdraw from direct involvement in the Bali consultation, citing irreconcilable differences with the EIR process. They did however have a closed session with the Eminent Person on the afternoon of the first day. Their main complaints were that evidence showing that the Bank's involvement in extractive industries failed to achieve poverty reduction, and sustainable development was not being given sufficient attention; that decisions had already been taken on the outcome of the review prior to the completion of the process; that important issues to civil society had been left off the agenda; that a balancing perspective from civil society was not accommodated in some of the presentations; that basic framework questions from civil society were not included; there was a lack of transparency in selecting some academics and experts for the consultation; and that certain documents requested were not provided.

The self-selected civil society group concluded “that the ongoing EIR process will not reflect the magnitude of civil society concerns over the Bank's role in extractive industries”; and challenged the Eminent Person to “move forward in this process in a way that truly reflects the extensive input and basic requirements for engagement provided by civil society”.²

The Eminent Person responded with a written reply (Annex 2)

Closed Session with Eminent Person

In a closed session with the Dr. Salim, indigenous people and civil society representatives from various countries in the region presented personal testimonies about the negative impacts of extractive industries upon their lives and livelihoods, including the loss of traditional lands and the destruction of sources of livelihood due to pollution and damage to forests, farmlands, streams and coastal fishing areas. People had also suffered human rights abuses from security forces and company employees, such as physical and sexual abuse, harassment and intimidation.

A more comprehensive account will be included in the report after receiving additional inputs from civil society representatives

² Written Statement from Civil Society (Annex 1)

4. World Bank Voluntary Information Exchange

Introduction to the World Bank

The structure of the World Bank Group was introduced – 5 institutions with a common goal of sustainable economic development and poverty reduction. The Group is committed to the Millennium Development Goals.

Asia has some of the world's largest countries – China, India, Indonesia, Pakistan, Bangladesh; and the fastest growing economies – average 6.5% pa. While there are major reductions in numbers of people in poverty, large differences exist between countries and sub-regions and even within countries. The region will be the most important source of growth in demand for minerals and fuels over the next few decades.

IBRD/IDA's strategies in South Asia are for sound policies to promote growth: institutional development; good governance and policies to address poverty; a broad-based holistic approach – with the guiding focus the Millennium Development Goals. In Asia-Pacific the strategy is for revitalizing the business sector; supporting public sector performance; addressing social risks; and preventing environmental neglect – with the overall objective of poverty reduction. The total investment program in 2002 represented 27% of the Group's portfolio.

IFC, in addition to its regular portfolio, is supporting SME business development in the South Pacific, China and Mekong basin; working on corporate governance and securities institutions; and providing support for development of financial institutions. MIGA, apart from its guarantee operations, is giving workshops and training on investment promotion.

The Group believes that economic growth is essential to reduce poverty and help meet the Millennium Development Goals. Within this context, extractive industries (oil, gas, coal and minerals) are expected to provide: energy and materials for local, regional and national development; jobs and entrepreneurial activity – directly and indirectly; essential services - through project related infrastructure; and income for governments – who can then support the poor and finance social and other developmental investment.

The Bank can also help out with: environmental degradation - which can cost the poor their livelihoods; accidents and spills - which can cost the poor their health; land rights issue - which can cost the poor their future; cultural changes - which can cause social disruption to the poor; and revenue flows - which can disrupt economic development, create corruption and cost the poor their access to decision-making.

In seeking to reduce poverty, the Bank can ensure that resource wealth is used wisely and risks, to which the poor are most exposed, are mitigated. By working on the relationships between governments, the private sector and civil society, the Bank wants to: equip government to manage benefits, work with communities, and deal with past legacies; create a responsive interface between government and the private sector; and support responsible private sector development in high-risk and frontier countries.

Oil, gas and mining are only a small part of WBG annual financing, and IFC/MIGA financing accounts for about 5% of the total. In the Asia-Pacific region there are relatively low levels of project investment from IBRD/IDA: mainly focused on gas development - 57% of lending; coal investment - 40%; and technical assistance and reform - 3%. In IFC/MIGA there is limited demand from investors, as there are concerns about governance and restricted private access. IFC/MIGA does very selective investment financing of gas - 73% of transactions, and mining projects - 27%.

Working with governments

The World Bank assists governments by lending: for investments - to finance specific projects; for structural adjustment - to support policy and institutional reforms; for technical assistance - to help develop regulatory frameworks and institutions; for trust funds – to assist with planning and capacity-building; and for advisory services and partnerships - that provide information, advice and share experience, at the macro-economic level and for specific sectors.

In working with governments, the focal point is the three year Country Assistance Strategy, and the accompanying Poverty Reduction Strategy Paper and Private Sector Development Paper. For extractive industries the trend for financing is falling.

Assistance to governments is driven by three key beliefs. First, with the right macroeconomic and sectoral conditions, resource projects can contribute to development. Second, in competitive markets, investment and enterprise management are generally best left to the private sector. Third, governments are best focused on protecting the public interest and creating a good legal and regulatory framework for competitive private sector development by:

- setting macroeconomic and sector policy and framework for development;
- providing access to minerals, regulation and oversight of private sector;
- proper fiscal management of revenues; and
- sharing the benefits of development.

In the Asia-Pacific region the Bank believes that resource developments can contribute to economic growth and poverty reduction, but risks need to be managed. Gas developments are deemed a “clean fuel” priority. Private sector investment has to take place within an appropriate regulatory framework.

Within the region, the importance of oil, gas and mining varies widely. China and India have huge coal industries focused on meeting local demand, but they are relatively small compared to the rest of the economy. Indonesia is an important petroleum producer and mineral exporter. Pakistan, Bangladesh and Thailand have important local gas industries. In PNG, oil and mining play a dominant role in exports; there is also a possibility of gas exports. Mongolia is very dependant on coal. All countries face many competing priorities in agreeing to programs with the WBG

Some examples of the benefits for sustainable development from WBG support to extractive industries are:

- increased supply of “cleaner fuels” - natural gas in Bangladesh, Thailand, and China;
- more reliable coal supplies - critical for winter heating in Mongolia and power generation in India;
- bringing international experience to environmental and social issues - India Coal Sector;
- supporting government design of a sustainable mining development policy - examining where the monetary benefits have gone in PNG; and
- mining and community development – good practice in action - Madang conferences in PNG; the next step is “Women in Mining” August 2003.

The World Bank supports governments by providing other types of global advice. It champions development issues and partnerships with governments and others - e.g. a gas flaring reduction initiative with Governments and industry; and the Communities and Small-Scale Mining (CASM) initiative with the UK Department for International Development and others for artisanal and small-scale mining. The Bank sets standards and safeguards for its own operations that can also help guide governments and others. It also provides research and dissemination of best practice on energy development issues - e.g. the Energy Sector Management Assistance Program (ESMAP).

Working with the private sector

Because economic growth is deemed essential for development and poverty reduction, IFC and MIGA help finance private investment in certain circumstances. For instance, if local investors cannot get the right sort of financing, or foreign investors and banks will not invest because of political risks. In such cases, IFC/MIGA will invest and attract other financing and thereby allow good projects to go ahead. In addition, IFC tries to bring added value in terms of sustainable development impact to the projects it supports. IFC is like an investment bank that is focused on development.

Projects have to be commercially viable and must contribute to sustainable economic development. Commercial finance/investors (market rates) must not be displaced. All environmental safeguards and other WBG criteria must be met before going for WBG Board and Government approval. MIGA provides insurance for private investors for losses caused by “political risks” – eg, for war and civil disturbance, expropriation, transfer risk and breach of contract.

An example of a small IFC project is development of the Bhit gas field in Sindh Province, Pakistan. The project involves 9 wells, 24km of gas pipeline and a gas processing plant for about 600bn cubic feet of gas in total. IFC’s role is to provide up to \$30m of long term US\$ finance and to provide comfort to first time investor in Pakistan. The development benefits are expected to include a supply of low cost, high quality fuel; generation of taxes and profits for Pakistan; and jobs and training for local employees.

When possible, IFC works with investors to broaden project impacts, such as in the Mozal Al smelter, a \$1.4bn+ investment that is helping Mozambique recover from years of war. To avoid risks of “enclave project” syndrome, the project includes extensive local

training; a broad community development program that includes education, agriculture and infrastructure; a regular consultation program; SME linkage programs for local contractors; training (including trainers); access to financing; and an HIV/Aids program.

Project environmental and social review

The Bank has environmental, legal and social policies, and guidelines for pollution prevention and occupational health and safety that underpin the environmental and social review procedures. The purpose of environmental assessments is to ensure that projects proposed for Bank financing are environmentally sound and sustainable, and to identify and inform decision makers on the nature of environmental risks (e.g. provisions to ensure compliance and prevent likely non-compliance). Considerable changes in policies and guidelines have occurred over time. The guidelines provide measurable ‘numbers’ for quantifying compliance.

Projects are categorized according to the degree of impact they are likely to have on the environment. Category A projects are likely to have significant adverse environmental impacts that are sensitive, diverse, or unprecedented. Category B projects are likely to have potentially adverse environmental impacts that are site specific and mostly reversible; mitigation measures already exist or can be designed with greater ease than for Category A projects. Category C projects are likely to have minimal or no adverse environmental impacts. Projects in Category FI involve the investment of funds through a financial intermediary, in sub-projects that may result in adverse environmental impacts.

The Bank’s Indigenous Peoples Policy (OP 4.20) is designed to ensure that indigenous peoples: are afforded full respect for their dignity, human rights and cultural uniqueness in the development process; do not suffer adverse effects; receive culturally-compatible social and economic benefits; and benefit from provision of informed participation in the project. There now is a ‘vulnerable people’ focus – eg, the elderly and refugees – rather than strictly indigenous peoples.

The responsibility for implementation depends on which Group member is involved. For IBRD/IDA projects it is the borrowers, the Quality Assurance Group and the Inspection Panel. For IFC, the sponsors, Environment and Social Development Department and the Compliance Advisor/Ombudsman are responsible. And for MIGA it is the applicant and Environment Department staff.

In summing up it was stated that the WBG tries to work as one integrated group. The WBG always has questions: *When to be involved? How to improve the way we work? Can or should we be working differently? With different skills and other processes? Are there new, more effective, more efficient interventions? Can we help countries, communities, firms better? Should we develop new clients and products?* The WBG asks their clients around the world what role they should play in the future with communities, firms and governments, towards new products.

Compliance Advisor/Ombudsman (CAO)

The purpose of the CAO is to advise and assist IFC/MIGA to address complaints by people affected by projects in a manner that is fair, objective and constructive; to enhance the social and environmental outcomes of projects in which IFC/MIGA play a role; to oversee compliance audits of IFC/MIGA's overall environmental and social performance, and on specific projects; and to provide independent advice to the President and management in relation to specific projects, and in relation to broader environmental and social policies, guidelines, procedures and resources.

The CAO has three roles: ombudsman, advisory and compliance. The Ombudsman role is the central role of the CAO and is the most innovative of the three roles. It is aimed at resolving issues by providing a context and process for parties to find mutually satisfactory solutions. The CAO identifies problems, recommends action and addresses systemic issues. It is not aimed at finding fault or apportioning responsibility.

Complaints may be lodged by an individual or community affected or likely to be affected by a project. They can be sent in any language, by mail, fax or e-mail to the office of the CAO. Complainants may be represented by another party, but the representative must show their authority to represent. Complaints can relate to any aspect of the process in a project, but where there is a need to change behavior of an external party, IFC/MIGA leverage decreases as monies are drawn down, or when IFC is a minority shareholder. Confidentiality can be requested, but anonymous complaints will not be accepted.

Complaints are acknowledged within 5 working days, and appraised within 15 working days of receipt, based on if it is a genuine complaint and if it meets the CAO criteria. The complainant is notified if the complaint is accepted or rejected. If accepted, it is assessed and management has 20 working days to respond to the request from the CAO. The CAO Assessment is a preliminary investigation, which is shared with the complainant, sponsor and IFC or MIGA. The decision to proceed could involve facilitation, mediation or further investigation.

Once the complaint is concluded, a report goes to the President, the parties are notified, the boards of IFC/MIGA are briefed upon request, and conclusions are made public. There is always monitoring and follow-up. Where policy issues arise, there is room for advice or further work under the advisor role. Where compliance issues are raised, CAO may elect to undertake an audit.

The office has been operational now for 3 years. Five complaints have been accepted and are ongoing. Two complaints have been rejected. Six complaints are closed or resolved. The CAO has 64 pre-advisory files – tracking issues around projects.

The Advisor Role was requested by the President and IFC/MIGA management. Advice is given in the form of summaries, reports and memoranda to the President. Advice is strategically applied to trends, issues and policy concerns across IFC/MIGA;

concentrating on acting as an early warning system. CAO does not give project specific advice, and all CAO advice is independent.

Compliance Audits may be triggered as the result of investigation undertaken in response to an Ombudsman complaint; and at the request of Senior Management or the President. Audits will run sequentially to Ombudsman investigations, and information disclosed in investigation will be privileged. Audit findings will go to the President, and after discussion with him, to the Board for information. Audit findings will be posted on the CAO website. CAO is bound by IFC and MIGA disclosure policies, with a strong presumption in favor of disclosure, which generates public accountability.

Amongst other things, CAO is making a review of IFC's Safeguard Policies, reviewing MIGA, establishing an internal monitoring and evaluation system, and looking at how to extract a sustainable advantage – eg, its contribution to EIR.

Questions and answers

A participant from Indonesia asked about the involvement and responsibility of government, and then about the reason for the WBG withdrawal from a gas project. The response was that governments have to be informed and have to give a “non objection”. The government's responsibility is in IBRD/IDA projects, not in IFC/MIGA ones. In Indonesia, after energy sector studies by the Bank, there was a mutual understanding to discontinue with the gas project.

A question arose regarding to what extent the bank is willing to encourage or insist on the use of existing international conventions, e.g. on safety, health or indigenous peoples. There has been a lively debate within the WBG over this. Safeguard policies are restricted to specific sectors – eg, shipping of crude oil. Project-based labour standards may not be covered. The Bank refers to international standards where the issue is not covered by safeguards. Should the WBG set standards when international standards are already there? This question cannot be answered right now, as it is under internal discussion.

Regarding mine closure – after the mine is closed, there usually is very little left for the community. Is this concern part of WBG policy? EIR has highlighted the issue of mining companies and limited IFC involvement in a project. What happens thereafter? Sustainable economic activities should evolve during the term of the project. Projects can provide funds for this purpose, and work with government so that investments are made into the community for sustainable livelihoods after the project is over.

Ten years ago this issue came to the attention of the Bank, after the post-communist transition in eastern Europe. The Bank looked at the overall social adjustments that were needed in these economies. The Bank has made loans to post-communist countries for this purpose, mainly for social mitigation effects – eg, unemployed coal miners - and to a lesser extent for environmental effects. It addressed both social and physical sides - regional recovery and regional development, generation of jobs outside of the industry. Looking ahead, mine closure should be considered from the beginning. Governments

need to consider a Conceptual Mining Plan, including both environmental and social concerns, as part of the licensing requirements. Minimize the ‘footprint’ of a project, including development of large social structures – eg, towns, which may not be viable post closure. A post-closure policy is needed with monitoring and protection for many years.

One participant commented that the right framework is important, as is the policy advisory role of the Bank. For instance, structural adjustment programs have a specific objective to speed up investments by streamlining procedures, lessening the time and the number of agencies involved. This can result in bypassing the main environmental organisation in the countries, and strengthen the rights of land owners, but not those of local people. Is it possible that there is a danger from these policies in the case of poor governance conditions? Does the bank recognise this as a danger? The response from the Bank was: yes, this at the core of the EIR. We very much recognise the dangers that exist in countries with poor governance. Technical assistance projects are aimed at building capacity of governments to improve governance. Independently, we have to ensure that sponsors have the capacity to implement projects according to WBG standards. We use the Country Assistance Strategy (CAS) for this.

Another Bank representative agreed that this issue is a major pre-occupation – eg, SOEs are very inefficient, so the Bank promoted governments to shed their ownership role for a regulatory role. Another danger is to rely too much on specialists; it requires a holistic approach to bring everything together. The result is most important, but how to achieve it? CAS is the main instrument, but in resource-rich countries it is not thought out sufficiently. This is why in PNG the big emphasis is on governance (lending has diminished because it did not produce growth and development). Mining countries have poor statistics for overall development. How to take a holistic approach? Technical assistance to mining countries is now on institution building and to support environmental safeguards, previously it was focused just on mining. This is an internal debate in which the Bank is making progress, and the EIR will feed into this process.

A question arose regarding the CAO – is it difficult to make a complaint? The project cycle may not be working. How does the community come up with a complaint and how is it assisted? Maybe the process isn’t working. In response the CAO spokesperson stated that projects do go through environmental staff within the bank, assuring that safeguards are applied. Prior to Board approval CAO findings are requested by the Board. Not all communities know CAO exists, but CAO has an aggressive information program. People do file complaints, but it can be frustrating by the time the complaint reaches the CAO office. It was pointed out that making a complaint is difficult, and that somehow it must be sustained. Many communities don’t have the resources to complain – is the WBG supporting this? It is possible to go through the organisational channels of the WBG?

Many interest groups in the community can get marginalized – is there an appropriate mechanism to help local people? It essentially is up to the community to decide. CAO provides support during the process – eg, in mediation – to help people engage and raise issues or problems.

A question about increased borrowing for India brought the response that India and China are amongst the largest borrowers. In China the Bank has already reached its maximum level, and India is getting close. It is difficult to increase this. A lot has to do with the governments themselves – eg, if they want to borrow or not. IFC has Trust Funds to assist sponsors in preparing projects for financing – eg, technical assistance for small scale entrepreneurs for all sorts of skills.

One participant asked: does the WBG have some kind of road map when entering the energy sector of a country? The Bank has a long term impact on the development trajectory for a sector, and could be influential in providing renewable energy policy advice for industrializing nations, especially in respect to mitigating factors contributing to climate change. In response the Bank stated it is concerned about global climate change and it does have a broad policy, which is elaborated in its “Fuel for Thought” paper. It uses the Kyoto Protocol as the basis. It could approach individual countries with a more strategic perspective. It does energy studies and is providing as much assistance as possible to renewables, but there is scope for a lot more. The Bank tries to assure that a country has energy resources to fulfil its energy needs. Global climate change is an issue, but many developing countries will use fossil fuels for a while in the transition. Fuel costs are subsidised in many countries, and the Bank is likely to advise governments to reduce those subsidies. In looking at the relationship between fuel supply and poverty, the Bank would like to leverage resources, by looking at alternative energy sources that would be a better alternative than traditional sources.

A participant from Sulawesi asked: why is the financing not there for small-scale mining (SSM)? There is a risk of closing SSMs if funding is not available for environmental friendly gold mining. The Bank spokesperson responded that WBG loans to the Indonesian government. If the government considered this a high priority, then money could go to SSM. In Indonesia, under the decentralization process, in the near future individual provinces will be able to approach the Bank for loans or grants.

One of the Fijian representatives asked: with so much going to Asian countries and so little to the Pacific Islands, does the WBG have specific plans for the Pacific Islands? The answer was that the IFC finances very large projects, which are not found on the Pacific Islands. There is a very focused program in the region for SMEs, mainly for technical assistance. There have been no requests for assistance in the extractive industries sector.

A speaker from Papua asked why there were no loans to the agriculture sector as it is badly needed to stem the migration of farmers to Jakarta. He was also worried about their ability to repay soft loans. In reply it was stated that the Bank has broad programs in Papua, but their ability to fund is restricted by the Ministry of Finance (in Jakarta). The central government still continues to make repayments.

A series of questions from the Indonesian Department of Energy and Mineral Resources: does the WBG conduct in-depth studies to ensure natural resources and the welfare of

people is sustainable? The image of the Bank is as a provider of money not assistance to empower nations - has the Bank conducted analysis of its image? Many Indonesian projects once they're finished are not sustainable – has the bank conducted research on its own failures? WBG does not approach things holistically, development has to be considered in an integrated manner. In response the Bank stated that it was aware of studies showing a negative correlation for growth in countries with extractive industries, but some countries have done well – Botswana, Chile and Malaysia. The question is how to improve the prospects? The Bank has ongoing evaluations: there is an independent internal evaluation on extractive industries coming out in the next few months. The Mining Group has been restructured 3 times over the past 20 years, responding to external views. The Bank believes in a holistic approach. This is embodied in the CAS, which now includes civil society and other donors in its making.

From the Indonesian Mining Association came the comment: Indonesia is as big as Europe, therefore there can be no one standard policy for natural resources development. Some regions are very dependent on natural resources, but nationwide it is only 3% of the economy. We must not simplify or standardize. It is not just big companies, we also have to look at subsistent livelihoods. The failure of national welfare is the fault of the government not the private sector. There is a lot of competition for loans: perhaps MIGA can support development of remote areas and support efforts for FDI.

5. Perspectives from the Region

Small-scale mining - PNG

Small-scale mining in PNG is unique in the region, because it is well regulated and self-managed. This is a consequence of the country's mining history, development of its mining law and very strong customary ownership rights to land. Indigenous land rights were first recognized in 1884, and today 97% of the land is owned by indigenous people.

The legislative framework was put in place during the 1920's to regulate mining by Europeans. That remains the basis of the present Mining Act, covering small, medium and large scale mining. The Act grew from a framework to regulate small scale mining to accommodate large-scale mining.

The export of gold is controlled by the Central Bank: buying and selling within the country is unregulated. The market is very competitive and miners receive a good price. The Gold Refinery in Port Moresby offers international prices. It services large and small mines and has an active SSM program. Miners have an income 4 times as high as the average population. 50,000 miners are benefiting 400,000 people.

Small Scale Mining is well supported by international aid agencies and industry. Since 1993, industry has supported an education program - readers for schools, career books and information booklets. Aid agencies – AusAid, World Bank, Japanese Social Development Fund, Asian Development Bank, EU – have provided support for information and communication materials, outreach programs, and technical assistance

for capacity-building, governance, health and safety, mining law and legislation, microfinance and environmental awareness.

SSM is increasingly important to PNG as a growing sector of the economy. Export earnings exceed most agricultural commodities. It is an important component in sustaining communities after closure of large mines. It is important in alleviating poverty and unemployment in rural areas. Outreach programs are improving health and safety, environmental performance and productivity.

There are some very clear reasons for the success of SSM in PNG. First, SSM is well regulated. It has multi-stakeholder participation and broad mining industry support and participation. SSM provides clearly defined and demonstrable outputs, which add long term value. There is strong governance and transparency with programs and funds supported by agencies such as the World Bank. Personnel from implementing agencies have a genuine interest in small scale mining and are not after personal gain. Programs are integrated into an overall plan and do not operate in isolation. Each new program builds on the outputs of the previous one.

Some comments in response to questions: We just stopped using mercury. One problem was the price, which was lower because the colour was altered by the mercury. Most of the mining is alluvial; there is a little hard rock mining. Most of the gold is fairly coarse. No cyanide is used as it is considered too dangerous.

Exploration – Kalimantan, Indonesia

The chief geologist for Kalimantan Gold Corporation, a junior exploration company looking for minerals in Central Kalimantan, presented their experience in introducing community development activities early on in the exploration phase. Being a small company, they worked from the beginning very closely with the local Dayak people, training them to be part of the exploration team. At the same time they started providing on-the-spot health services and sponsoring local children to continue their education. In 1997, together with local people, they established a foundation to do more intensive community development work – providing health services and clean water supply, extension services in agriculture and aquaculture, setting up cooperatives, and strengthening local governance.

The objective of the foundation is to help diversify livelihoods and build up local skills and capacity, so that in the advent of a large mine, local people will be better prepared to manage the impacts and gain some of the benefits. There has also been some preliminary work in ASM, and one of the hopes is that revenues from ASM could help fund some of the community development activities, thus making it self-sustainable.

The company is also concerned with having the right governance and institutional setting at district and province levels, so they have engaged in a tripartite arrangement with the Provincial Government and UNCTAD, the United Nations Conference for Trade and Development. UNCTAD has been active globally with the mining industry and sees a unique opportunity to build a GIS-based mechanism for planning regional development

in Central Kalimantan. UNCTAD is currently fund-raising for this initiative. This would be part of a wider program aimed at building up the capacity at all levels in the government to provide quality services, underpinned by an environment of good governance. This objective is considered essential if a large scale mine is to start up in the province. The company would like to form a wider collaborative partnership with other donors and development agencies, with NGOs, civil society organisations and interested parties from the private sector in order to create an integrated 'development framework'. This framework would then provide a common foundation for orderly and coherent development in the province.

Among the lessons learned so far is the need to build solid, trusting relationships with all interested parties. This has to start from the beginning, at the time of receiving exploration rights, and means involving local people actively as partners in all stages of the activities. Building local capacity is also essential: this has to take place within local communities as well as within the government services. Good two-way communication is another must: people have to be kept well-informed about what is going on and have a mechanism to interact with. Overall, in relationships, there should be an atmosphere of care and enjoyment.

It was suggested that the Bank adopt a broader, 'development' approach, moving away from a strictly 'project' focus, and help create a coherent, integrated development framework on a regional level. The Bank needs to cultivate an in-depth understanding of the context in which projects are set, and foster cross-sectoral linkages and relationships between government, civil society and the private sector. Development planning and investment at both community and regional level should start during the exploration phase, well in advance of establishing an actual mine. The Bank should take a leading role in building capacity for good governance.

In conclusion the speaker suggested that mining should be at forefront of sustainable livelihood development and poverty alleviation, because it taps new wealth that if well-managed can provide the motor for healthy regional development. In order for this to happen properly, there has to be broad, collaborative partnerships, a shared common vision, and a holistic approach. Most importantly, there are no shortcuts, it is long term and human in nature. It starts for everyone from day one of exploration with relationship-building which will underpin orderly, future development. Evaluation of social, environmental and economic impacts, and essential planning must be in place well before mining commences. Demonstration projects are needed to work out how mining can contribute to sustainable development and poverty alleviation.

Questions and Answers

Q: For a big mine to go ahead would you bring in a big company? Is it assured that they will continue your approach? Would you be willing to wait until everything is in place?

A: The reason for working with UNCTAD is to prepare for this. The more important issues are the social and environmental ones. A mine will require one of a handful of specialised big miners in the world. Everyone is realising the changes that are necessary,

big companies are making efforts to work in this way. Once the ground rules are laid, any incoming company will have to play by the rules.

Q: Your success could be your downfall. The area will become a magnet for people from all over the country. How will you deal with the expectations of the locals, in comparison with the skilled people a mine will need?

A: At this point there is high unemployment. We need partnerships: to build training schools and to start the training process now. The whole district has only 21,000 people. The mine development would have to wait for this kind of thing before going ahead.

Q: How to go ahead with extracting gold in a forest full of biodiversity? What kind of methods?

A: It can be handled in a responsible and scientific manner. We have to take the time to do it well. A feasibility study needs more than 2 years, maybe 5 years is required. These issues should be considered as part of the economics of the mine.

Q: In my area a large company provides inputs for community and government reforestation at closure. The company is committed to the environment. Afterwards the area can be used for tourism, so perhaps people can continue with businesses and other activities.

A: How can mining develop an example of good practice? The issues are wealth distribution, the community and environmental concerns.

Extractive industries for sustainable development

Indonesia

The Representative of The Ministry of Energy and Mineral Resources of Indonesia spoke about investment in natural resources – forestry, oil, gold and other resources – being the basis of development potential. He also commented on the recent history of economic and social unrest.

Many policies related to sustainable development have not advanced. Government staff used to have much more knowledge than those in the private sector. Now they are very weak and have very low salaries. This breeds corruption, which impedes development. Economic, political and administrative governance need to be addressed. The challenge to Indonesian society is to create a system of governance that promotes, supports and sustains development. The institution of governance in the three domains - state, civil society and the private sector - must be designed to contribute to sustainable development by establishing the political, legal, economic and social circumstances for poverty reduction, job creation and environmental protection.

The biggest enemy to the Indonesian people and their environment is poverty. It is poverty that moves people into illegal and unregulated logging, forcing a large proportion of the population to go back to more traditional forms of survival, such as ‘traditional’ mining methods, using mercury to extract gold with high degradation to the surrounding environment, the unregulated forms of coal mining that leave lands unreclaimed and devastated.

Our only potential is forestry, oil and mining. Other industries have collapsed. Our main problems are policy problems. We would like the WBG to conduct a study on the core of the problem. Without sustainable development we will have instability in our country.

Questions and Answers

Q: The existing system is still very centralised – when can the regions regulate and manage mines in their territory?

A: The Mining Law is in the State Parliament. Licenses for mining are already delegated to the regions.

India

The former Director of Mining and Geology in Orissa presented the view that the World Bank should not divest itself from Extractive Industries, as that would not be compatible with the Bank's mission of eradicating poverty and achieving sustainable development. To do so would result in social problems and environmental degradation. In India there would be a decline in employment, GDP, export earnings, economic activity and a sharp decline in revenue earnings of the Government, thereby reducing spending on education, infrastructure development, health care and exploration.

Mineral extraction activities do affect the environment, but only to a small extent because the area of land occupied by mining is only around 0.23% of the total land area, and this is not likely to reach even 0.3% in the next 20-30 years. National Parks, Wild Life Sanctuaries, Biosphere Reserves are out of bound for any extractive industry activity. Mining is being carried out with adequate environmental safeguards. Most of the forests in the country where mining takes place have been protected from encroachments *because* a mining unit is already functioning there.

There are several instances where mining has led to improvement in the environment through surfacing and increase in vegetative cover.

Artisanal and small-scale mines are widespread and important to India's economy as they provide employment to large numbers of people in the countryside. Large deposits also may be worked on a small scale. One major constraint in the development of the granite and ornamental stones industry is the disposal of large volumes of waste, amounting to 75-80% of the total volume of rock extracted.

In 1993 the New Mineral Policy introduced significant changes in the sector, with the main goal being sustainable development. Private participation was encouraged, and State Governments were delegated more powers. FDI was made more attractive by amending the Acts and Rules. Emphasis was made on planned mine closure and reclamation of mined out areas. Nevertheless, there still are many encumbrances to smooth development in the industry.

Significant results can be obtained by intensifying exploration activities, and substantial improvement can be brought about in productivity and reduction in product cost,

environment management and social infrastructure. Cost-effective technology should be adopted, and collaboration with world class firms.

The economics of mining and sound environment management depend to a large extent on efficient handling and disposal of overburden/waste, slimes and effluents, and the recovery of mineral values from them. Many other aspects need to be taken care of from more efficient management and recycling of water to better labor productivity. Some of these cost money, but more important is a will to do. The Extractive Industry has to play a pro-active role in this, and The World Bank and associated agencies like ADB, UNEP and UNDP have an important role to play in providing expertise, technical and financial support.

Mine development in a remote location brings with it a wide range of infrastructure and social services development. In addition it provides direct employment, as well as indirect employment and financial returns through ancillary and support activities.

The importance and contribution of the mining industry should be appreciated in this context. With restrictive legislative measures and controls, better extraction techniques and judicious handling of rejects, adverse impact of mining on the environment can be significantly reduced and in many cases, the environment status can be improved. Mining thus is not a cause of concern in ensuring sustainable development. World Bank and its associated agencies would do well to sustain, aid and promote the mining industry in the developing and under-developed countries.

Energy and global warming

A representative from the Australian Business Council for Sustainable Energy (BCSE) made a presentation on sustainable energy prospects and the role of the WBG. Human-induced global climate change has a direct impact on 'sensitive systems' such as water resources; agriculture, forestry and fisheries; human settlements; and industry, energy and financial services. Specific areas are particularly vulnerable: food and water security; incomes and livelihoods; human health; and infrastructure.

Global warming has a particularly significant impact for developing countries, because those with least resources have the least capacity to adapt and are most vulnerable. Adaptation, sustainable development, and enhancement of equity can be mutually reinforcing

The Kyoto Protocol is likely to come into force this year. It is only the first step. US, Australia and others are demanding that developing countries play a larger role. It is only a matter of time before developing countries will be expected to reduce their emissions.

Renewable energy sources are experiencing high growth in comparison with traditional ones. There is a very large potential global market as 2.5 billion people are without electricity. The wind industry is experiencing massive growth, with enough installed generating capacity to power 16 million average European homes. However, 90% is installed in Europe and North America. Solar power capacity is also rapidly increasing, with costs reducing substantially as installed capacity increases.

Developing countries need new technologies for the 21st Century – not old ones. Low carbon emission options are needed to position them for Kyoto II. They need projects that will deliver sustainable jobs, ensure self-sufficiency and have export potential. Appropriately-sized projects are important – big is not always best.

The World Bank Group should be supporting investment in clean energy and not burden developing countries with projects that will increase emissions for many years. The Bank can help position developing countries' economies so they are well positioned for a low carbon economy. The Bank can look for opportunities for clean energy to provide added benefits, and can push for energy efficiency requirements.

The Bank should promote more small projects and energy market reform. It can help develop benchmarks for measuring and evaluating performance.

Questions and Answers

Q: Is hydro included in renewable energy? If so, what is its role?

A: In Australia 10% comes from hydro. Small-scale hydro is OK, but not large-scale because of its environmental impact. Similarly, wind farms are not appropriate everywhere.

Q: Is solar energy a solution for the poor; it is too expensive. Are oil companies the biggest producers of solar energy? Why is it so expensive?

A: Costs are coming down considerably, but there is still a long way to go. Transmission costs are greatly reduced or eliminated. BP is moving into solar energy as a business strategy.

Conflict resolution

The Secretary General of Transparency International Indonesia spoke about her experience in conflict resolution in her previous engagement as chairman of WALHI, a coalition of Indonesian NGOs.

The conflict was between PT. Kelian Equatorial Mining (PT. KEM) a gold mining company subsidiary of Rio Tinto, operating in East Kalimantan since 1988, and the local community of about 7,500 person affected by PT. KEM gold mining operation.

The claims and grievance against PT. KEM were loss of land, building and houses, loss of cash crops and fruit trees, human rights abuse and sex abuses lost of opportunities for alluvial miners and environmental destruction.

The local people had organized themselves under the “*Lembaga Ketahanan Masyarakat Korban Tambang dan Lingkungan*”(LKMKTL) or “Mining and Environmental Victims Society” who then selected their representatives as negotiators. They were assisted and facilitated by WALHI and JATAM (Mining Network) in pursuing their struggle.

After 3 years of negotiation, an agreement was reached with settlement of Rp 64 billions payment (approximately US\$ 8 millions), human right abuses were settled through the

National Commission on Human Rights, including sex abuses, and the local people also obtained benefit from project such as clean water, electricity and better road quality.

Some problems however still exist and not everybody were happy especially those people who wanted more. The overall situation was however better than before.

The key supporting factors that contribute to this conflict resolution are strong commitments from the CEO of Rio Tinto (Indonesia) to resolve this conflict through negotiation. This commitment included replacing PT. KEM President Director when he failed to uphold previous negotiation commitments.

There was no interference by the government due to changing political situation since President Suharto's step down in 1998. When negotiation broke down and resulted in 40 days of blockade by the people, the company invited a former Federal Judge of Australia as mediator, while the Indonesian side invited the Secretary General of Indonesian Human Right Commission. The LKMTL had a vast network with NGO's nationally and internationally, especially in UK and Australia. This network was pivotal in getting attention from top management of Rio Tinto in London and Sydney.

Weaknesses in this settlement were the inability to control staffs that are trying to wrecked the negotiation process with NGO's and establishing splinter group aimed at undermining LKMTL, which is supported by NGO's.

There still is a low level of trust between the community and the company. There remains some disagreement and dissatisfaction, but the situation has improved and compensation has been paid. Communities lack strong leadership, which some companies take advantage of. It was a huge task for the community to manage the settlement – a large amount of money, plus they have other duties. NGOs did not fully trust the negotiation process – eg, WALHI was accused of being too soft with Rio Tinto, while being tough with Freeport and Newmont.

WALHI could not fully assist the community. The negotiation focus was only on financial compensation, the environmental damage and mine closure is being dealt with in a different process, which is less participatory and less transparent.

This process should be a precedent for conflict resolution in Indonesia, but the Ministry of Energy and Mineral Resources did not take it as an example for the country. A lot of people could learn from this, that Indonesians can sit down and have a dialogue, they are not always fighting each other. It should be publicized widely.

Questions and Answers

Q: What was the role of regional government at the time? Put this in a good paper – it can become a case study.

A: Local government's role was as a witness, but they supported the splinter groups, so it was very difficult. In the end they functioned as a witness for the negotiations.

Q: Any suggestions for the WBG's role to avoid these kinds of situations?

A: Local government should play the major role, with the WBG assisting. The principle of 'prior informed consent' should apply, where projects only go ahead when they have given the consent of the community. Most communities do not have the full picture of what would happen.

Q: Do you think the community is better off with or without the mine?

A: How to do it is important. Alluvial miners were rich before and then were deprived. Before they worked for themselves, now they work for the company. The government did not do much – there was no improvement in roads, schools or hospitals. Where are the services to the community from government? How can we extract our mineral resources with the intention to provide the local community the biggest benefit. Corruption is very high. Where does the money go?

Q: Who in the company took the initiative to have the dialogue? Locally? Jakarta? London?

A: NGOs started the process. The company in Australia, supported by London, instructed the Jakarta office. The local office did not want to negotiate.

Integrated social strategy

The Vice President for the Integrated Social Strategy for Tangguh LNG, spoke about this BP project being developed in Papua. Once the project is running it will help Indonesia sustain its global leadership position in LNG exporting, and will generate substantial revenues for Indonesia and Papua. Since the advent of Papuan autonomy, provincial revenue has increased six-fold. Tangguh's contribution could increase this further by approximately 25% within the next 10-15 years. The project is committed to build capacity for local governments to manage the fiscal impact.

The context is complex and planning integrates social, environmental and economic factors. Operations will have a relatively small physical 'footprint' of approximately 800 hectares; no roads are planned. The area is sparsely populated with 5000 people in 9 villages in the immediate area. There are 20,000 people living in the surrounding area. During construction the company expects to employ 5,000 workers, so training and workforce management will be a major task. For security, they intend to form a local company, recruit and train 85 local people, and avoid direct use of government security forces. Only 500 people will be needed for operating the facility, so there will be a lot of layoffs. They would like to see micro-enterprises absorb some of these people.

There are a number of local tribal groups in the bay area, and a forum and foundation will be established as a platform for discussing issues and planning community development. There will be a trust fund to support these and other initiatives. The objective is to have balanced development. They would like to avoid the 'honey pot' scenario that attracts outside people and creates social imbalance. A 'diversified growth strategy' will ensure that project area development benefits local communities, while promoting diversified and sustainable economic growth in the broader region and Papua. The strategy

promotes project activities in towns where capacity exists to accommodate growth—rather than attracting settlers to the project area.

With regard to the social setting, the Tangguh project intends to be a catalyst for community-driven development in the project area. The project's community development activities seek to promote the following basic values: consultation, empowerment, participation, partnership, sustainability, transparency, and respect for human rights. The project will conduct annual participatory planning activities with villages directly affected by the project. This will enable communities to drive their own development, assisted by project resources and partnerships with other stakeholders.

Questions and Answers

Q: A potential influx from outside is very sensitive and very difficult to control?

A: Intend to recruit single people only and to do the recruiting outside the area. Salaries will be transferred to the employee's home city. The project intends to avoid road development, so access is only by boat.

Q: Sounds too good to be true, relations with the company are too smooth, are there no hidden conflicts?

A: The company has a set of principles – eg, justice for all. Will continuously monitor the situation. BP promised no social conflicts.

Q: You appear to be trying to isolate yourself – what about the surrounding community?

A: The local community will pass through the area only by boat. We will try to channel local transportation flows. We want to preserve the mangrove forest.

Consultation

6. Keynote Speech by Dr. Emil Salim

In his opening address to the closed sessions, Dr. Salim emphasized that the essence of the sessions is to understand all the various stakeholders' viewpoints on the possible future role of the WBG in extractive industries, so that poverty alleviation and sustainable development really are achieved. What do stakeholders want?

Once we are clear about this, then what are the areas of consensus and what are the areas of dissent regarding the role of the Bank? And what is the reality in practice? Why is the reality often different from what is intended and what can be done to improve it? So we need to make recommendations that describe clearly what to do.

The Eminent Person urged participants to focus on the WBG and redesign its future role in policies, programs and processes, so that things will really improve. He emphasized that so much is being done, but poverty continues to increase.

Dr. Salim spelled out the four key principles in the EIR terms of reference: transparency, inclusiveness, independence and relevance. All information is available on the website; all stakeholders are included; the EIR is completely independent of all stakeholders and the WBG; and the inputs and outputs must be relevant to poverty alleviation and

sustainable development in all their dimensions. Inputs to the EIR come from these consultations, documents submitted from all quarters, specially commissioned research and field visits to project sites.

Dr. Salim described the final report writing process and the efforts that will be made to make the process transparent and open to everyone. Report writing will be guided by an advisory group selected from key stakeholder groups, and will not be finalized until after a final consultative workshop in Brussels. The website will be used to post drafts and gather comments.

In closing his address, the Eminent Person stressed the importance of being frank, open and tough. And not to follow the traditional Asian way of avoiding conflict by not raising contentious issues. For the benefit of the poor, give me beef, give me solution but not dreams without realities. Thank you.”

7. Case Studies: World Bank Group in Asia-Pacific Region

MIGA – Lihir Gold Limited, PNG

Lihir Gold Limited (LGL) operates in PNG on Niolam, the largest island in the Lihir Group. The rugged topography provides no available land for mineral waste storage. The operations are managed by Rio Tinto according to Rio Tinto policies and procedures (health, safety, community and environment). Production is technically challenging, requiring continuous pumping and geothermal depressurization. All mineral waste is discharged offshore into the deep ocean.

The Lihirian community is a matrilineal society, although province-wide this is changing in response to outside influences. The local population increased from 5800 to 12000 people: mostly returning Lihirians living in other parts of PNG. The community owns nearly 7% of the billion dollar company, and is represented on the Board of Directors. The company employs 978 persons, plus an equal number of contractors - 90% are Lihirians or PNG nationals. It makes a substantial contribution to the local economy. Improvements have also occurred in health and education levels, as well as in permanent housing, roads and health facilities. The Community and Environment Department has 93 staff and an annual budget of USD 7 M. They are moving to community-based project funding instead of payments to individuals, and have created the Lihir Sustainable Community Development Plan. The intention is to break the cycle of corporate dependence and compensation in favour of long term planning.

On the negative side, women’s representation in community decisions is low. There is domestic violence, abuse of alcohol and drugs, and problems related to youth and in-migration. Poor governance is evident at all levels, including lack of transparency in the distribution of benefits, the inability of the State to deliver on previous commitments, and ineffective mechanisms for dialogue and for dispute resolution.

Together with two other agencies, MIGA provided Political Risk Insurance (PRI) in 1995 to the Union Bank of Switzerland, the coordinating bank for project financing.

MIGA's involvement in Lihir ceased in 2000, following loan restructuring. At the time of providing PRI there was no requirement related to poverty alleviation or sustainable development. One of the other agencies, EFIC, commissioned from an anthropologist an annual independent report: "Lihir Social and Economic Review" and independent environmental compliance reviews by Dames and Moore (URS). There is no indication that this material was shared with MIGA.

During MIGA's involvement, social and environmental issues were dealt with in an ad hoc and informal fashion, which made it very easy to avoid critical issues. There was too much reliance on the company to provide proper due diligence. There was a lack of rigor regarding transparency, which raised suspicions from the local community.

Providing PRI was a crucial requirement for developing the project. The need for PRI in PNG is likely to increase, given current financial and governance conditions. Therefore there is a role for organizations like MIGA to support projects that can demonstrate tangible benefits to all participants in development

The World Bank needs to develop closer ties with those companies that are at the 'coal face' in terms of current programs, issues and strategies in the countries where WBG country strategies are being developed. The Bank must look beyond the project proponent and involve the local community in reviewing the WBG's stated objectives. Another challenge is how to get all prospective developers to accept and implement WBG guidelines consistently, in a way that is not financially prohibitive. Regulation and control must be manageable, affordable, equitable and produce tangible benefits. It is beneficial for industry to have an "independent umpire" that brings credibility through well-structured and timely policies. These policies and their implementation must be continually and vigilantly reviewed. Human resources to do this should come from the WBG, together with local project review groups which would include project developers, government and civil society.

The WBG does have a valuable contribution to make to extractive industries, especially regarding technical assistance in capacity-building for governance and to help developing nations find their place in the global economy and social development programs. It should not be left to a company such as LGL to develop capacity in isolation – the WBG can provide a consistency of approach, and in regulations concerning governance, social matters and the environment.

The EIR process is worthwhile: it is much easier to be critical than develop ways of fixing the problems. There is an apparent inconsistency in the perception of the WBG, between what's happening on the ground and the Bank's stated objectives of developing sound environmental and social improvements. TA assistance to the Department of Mining (DOM) has had beneficial outcomes. Whereas the perception that the Department of Environment and Conservation (DEC) is being adequately catered for by other donor agencies is not the reality. DEC is completely ineffectual, therefore the DoM technical

assistance package appears out of step with the wider WBG objective of ensuring community and environmental improvements from WBG involvement. DEC has no technical capacity to review projects, policy implications and implementation, and no enforcement capacity. Inadequate funding leads to poor staff morale and therefore no implementation of core functions. When WBG objectives are transferred to an alternate agency is there a mechanism for checking that the objectives are being enforced and protected?

In conclusion, the WBG's involvement in the project was beneficial in getting the project started, but not so much in ensuring good social and environmental governance for the project. For situations like Lihir, where government is not able to address sustainable development or poverty alleviation, the WBG can play a much needed support role in helping projects contribute to these objectives.

Women and the Lihir Mining Project

“In this age and moment of time, a woman is meant for housewife and child-bearing material and not a partner in development, and sharing the family unit. The norm of being a woman is still treated as second fiddle even though women are partners in the family, clan and tribe”.

Before construction of the large gold mine in 1995, Lihir was very isolated from the rest of PNG and the world. Since then, the lives of Lihirian people have changed greatly.

Lihir is a matrilineal society, whereby land or wealth is inherited through the mothers. Traditionally, this gave women some influence in land use, although political decisions were mainly made by men. This meant that at the time of negotiations women were marginalized. Women leaders stressed the need to ensure that women were joint block executives and had some control over how compensation and royalties were distributed. Men did not support this; with the result that very few women have their names recorded as executives and all money is paid to men. There has been a shift in economic power to a relatively small group of men that has taken away from women the little power they had as recognized providers of food. No women have benefited in the ways that men have from the moneys paid as a result of the mine development. Men were given much more access in setting up businesses. The block executives do not appear to share their compensation payments and royalties with their sisters and their sister' children. Their failure to transform wealth into any form of business that can sustain the lineage may well provide the fuel for future conflicts.

The change in family life-style is most notable in the mine-affected areas. There is an increased dependency on cash for food and recreational activities. In most villages, men's involvement in gardening has declined dramatically.

A group of women on the island formed an organisation in 1991, to represent the interests of women as a result of the development. The objective of the group is to build a strong women's network for free expression and to empower women to become productive and

self-reliant in order to improve conditions within their communities. The group encourages equal participation to ensure that women are included in decision-making processes at all levels - community, church and government. They identify ways women can improve their economic status by improving subsistence agriculture, acquiring business skills, and identifying income-generating activities.

In terms of benefits, the island now enjoys improved facilities - land and sea transport, access ring road, medical facility, bank, post office, communication, airport services – before the mine, Lihir was isolated and neglected by all vital government services. However, there has been a notable increase in social problems, such as squatters, alcohol related problems, criminal activities, marriage breakdown and single mothers. Women have been greatly affected by these changes.

The mine has had a huge environmental impact on Lihir. There is much fear about the negative effects from dumping waste into the ocean, and from air pollution. There is inadequate sanitation in some villages, so beaches and reefs are becoming polluted with rubbish and human waste. The biggest concern is long-term sustainability of food production. The island is small and it will not be able to support such a large population after wages and other benefits cease with mine closure. Gardening needs a lot of land, as fallow times should be about 5 – 7 years. There is not enough land to grow large areas of cash crops, and with land clearing, the forest is shrinking. When the population was smaller, people could catch large fish in the reefs close to their villages.

So far no women have been consulted about the planned Trust Fund for post-mine closure, and no women are on the negotiating committee.

The following actions are recommended to improve the quality of project implementation:

- all stakeholder groups, including women, should be involved and consulted throughout the project cycle;
- an independent monitoring group, funded by the World Bank, should assess the environment and social impact of projects;
- government should not grant approval for resource projects to go ahead unless control mechanisms for sustainable development are in place;
- establish control mechanisms for equitable distribution of compensation and other benefits;
- there should be an alternative solution to sub-marine tailing disposal, regardless of the cost; and
- Lihir Gold should set aside 10% of total earnings in a Trust Fund for use after mine closure for environmental clean up.

There is a price to pay for any extractive industries development, however as input to the EIR, we suggest that an international body of women recommends workable solutions to protect and guide women and families in project-affected areas in their struggle to live a sustainable and healthy life.

What went well?

Community: Improvement of health, infrastructure and education and training

Company: MIGA provided much-needed PRI to a project that has resulted in tangible benefits both locally and nationally.

What went not so well?

Community: Unequal income distribution, environmental impact and social problems

Company: Lack of rigorous monitoring resulting in lack of transparency and suspicion by local community of yet another meaningless review.

What could have been done to achieve a better impact?

Community: Establish control mechanisms for equitable distribution of compensation and other benefits; an independent monitoring group funded by the WBG to be engaged to assess the environment and social impact of the project; and increase involvement of women throughout the development process.

Company: More local dialogue about the role of the WBG both in providing PRI and environment and community stewardship, and better more transparent assessment of the findings.

Questions and Answers

Q: Governance issues appear to be a real problem. Could the WBG play a role in assuring good governance? We share this problem in Indonesia.

Q: MIGA support was essential. STD is an unproven technology, so the precautionary principle should be applied. Why did MIGA not continue their involvement? The project has not promoted women's rights and empowerment of women for achieving sustainable development and poverty reduction. Can WBG demonstrate sustainable development?

Q: It is unlikely there was a CAS in PNG when this project was conceived. What are the criteria for MIGA to support the project? How does MIGA coordinate with WBG? Why did MIGA support this given the social impact? When should the WBG not move in? Where governance is not assured? Is this not a clear example? My impression is that the environmental component and the rule of law also are weak – there is environmental risk, and also social risk. How are these negative environmental and social aspects considered?

Q: Is STD safe and tested?

A: We believe STD is the right technique here, as it has all the attributes of a good site, and we are not having massive impacts. There is ongoing rigorous monitoring by CSIRO, and bioaccumulation testing in fish and flora. As it is a contentious issue for many people, we have recently started work on a 3-5 year research program to identify the unknowns and answer questions from civil society. There will be an international steering committee and a technical advisory group guiding the research program. In balance it has brought benefits; you cannot put a project like this in an island and have no impacts. The company should not be responsible for everything.

A: (WBG spokesman) I'm not directly involved in MIGA, so these are personal views. Why support this type of project? Economic growth can contribute to poverty alleviation.

The project was designed by the company, and approved by the government in a fair and rigorous process. There are different degrees of scrutiny depending on the type of project. Lihir, with that background, broadly fits the type of criteria the WBG looks for. The WBG draws a distinction between the degree of scrutiny, depending on whether the Bank is the main lender, minority investor, or guarantor. Regarding STD – Lihir is a small island, if this project is to go ahead, a large amount of waste will be there. The choice to put it on the land, taking away from gardens, would have a direct and immediate effect. STD needs more scientific study. Regarding social risks, mining does create some haves and have nots. Monetary flows going into the community have consequences. On mine closure: local agriculture is no longer there, but some measures have been taken. Women's issues have to be addressed; they were not in the past.

Q: Women are often excluded because of micro-politics at community level, what might Lihir have done from the beginning?

A: Traditional local structure is the biggest issue. Men were 'blindfolded' by the benefits, and women were excluded. We are still struggling. We are being kept aside, but we are trying our best.

IFC – Sepon Gold Mining, Laos

Sepon Gold NL, owned by Oxiana Resources, with a 20% interest from Rio Tinto, started gold production in January 2003. It is projected to have an initial life of 7.5 years; however a detailed design for copper development is underway. The mine is located in Laos PDR, which has a population of 5.4 million, with very high unemployment (80%) and low GDP. The country is encouraging foreign investment.

A conventional cyanidation circuit is used to recover gold from the oxide ore. Waste rock is dumped next to the pits and tailing is permanently stored in the valley. The area was heavily bombed and defoliated during the Vietnam war, so already it is environmentally very degraded.

A multi-jurisdictional project assessment was needed to meet the requirements of the Laos and Australian governments and IFC/World Bank. The EIA procedure was new for the Ministry responsible but the WBG provided institutional strengthening. The project is classified as 'Category A' by IFC – ie, '... expected to have adverse impacts that may be sensitive, irreversible, and diverse.' The project complied with all of the IFC/WBG policies and directives regarding environmental and social conditions. IFC/WBG priorities were protection of biodiversity, minimising adverse social impact, requirements for resettlement, protection of ethnic minorities, consultation and transparency.

In addition to the 5 volume ESIA, 16 targeted studies were commissioned on sensitive issues such as water quality, biodiversity conservation, land use and resource use, archaeology and cultural heritage. Three detailed plans were prepared in parallel to the ESIA: a Public Consultation and Disclosure Plan; a Resettlement Action Plan; and a Community/Indigenous Peoples Development Plan. Meetings were conducted with government and communities, and with NGOs such as IUCN and Handicap International.

Agreement was reached on resettling 126 people in 2 villages; the resettlement was completed in 2002.

The Government is the primary initiator and implementer for the Community/ Indigenous Peoples Development Plan. Detailed plans were developed with stakeholders, with a focus on agriculture (food security), health and education. US\$8,000/month goes into a Trust Fund for community development.

IFC participation commenced at the outset. The IFC assessment team included an environmental expert, social experts and an investment officer. Numerous missions, exchanges of communiques and round table discussions took place in drafting the ESIA. Costs were shared between Oxiana and IFC. Parallel IFC activities took place to review the existing legal and institutional framework in the mining sector, and to conduct a national mining and sustainable development workshop. A Biodiversity Conservation Development Plan was drafted for the Phou Xang He National Biodiversity Conservation Area, environmental management know-how was transferred, and capacity-building was provided to local staff.

The positive aspects of IFC participation were greater stakeholder participation, formal documentation of the consultation process, a widely-accepted assessment framework (i.e. WBG safeguard policies), expert advice and increased stakeholder confidence in Oxiana. The negative aspects of IFC participation were increased ESIA scope and costs for the proponent, increased complexity of the ESIA process, occasional conflict between IFC's broad focus and the proponent's project-specific focus, and the process was influenced by North American issues and approach.

One of the outcomes was that the project gave IFC a 'foot in the door' to this part of Laos. IFC participation strengthened the project's commitment to community development: US\$96,000 per year to a Trust Fund; focus on education, health and agriculture; other contributors to the Trust Fund sought; and use of local NGOs for program implementation.

A spokesperson from the Laos PDR Department of Domestic and Foreign Investment addressed their experience with the Sepon Gold project. Laos PDR has only recently started transforming from a centrally planned to a market economy. The legislation for mining and environmental protection is quite new.

It is too early to say what went well, as the project is at the beginning stages. There have been no significant environmental impacts so far, as no serious amounts of chemicals have been used. There is a big concern about potential environmental impacts. Lack of fresh water for daily life is one of these concerns. There are no serious social issues, apart from complaints by villages about inadequate compensation for resource loss.

The relevant legislation is relatively recent, apart from the investment law which has been in place since 1994. The mining law was issued in 1997, the environmental protection law in 1999, and EIA regulations in 2000. One limitation of the ESIA was the

consultation process of Oxiana, which mainly consisted of providing information and not having discussions. People could not understand very well technical terminology. Concerns about harmful chemicals were not addressed: the government was not fully aware of the danger from cyanide. The EIA did not include pre- and post-closure plans, and a related financial plan. The EIA did not mention clearly how to sustain the downstream environmental impacts, especially on the river.

There was a lack of transparency in the financial analysis; the use of projected cash flows was not a good measure. So far only financial analysis has been submitted, not social analysis. The company had two types of analysis, one for the government, and the other for the WBG. The one given to the government showed a negative economic outcome, whereas the one to the WBG showed a better picture. A small % of equity was offered to the Laos government (10%). Similarly, compensation for land was lower than the customary rates. Oxiana is a large company in Laos, but junior in the world. What they offered to the government is less than what a small company would normally offer. It is likely that Oxiana does not really want the government to be part of this project.

To achieve better impact, related legislation should be improved and enforced. There needs to be increased monitoring, and capacity-building for the central and provincial governments should be increased. The consultation should be widened by inviting more people into the EIA process, and the EIA should also look at long term sustainable development and not just short term programs. Invite the help of international organisations, NGOs and the WBG. Transparency and assurance that development is for the benefit of the country is needed.

A paper submitted by the NGO AIDWATCH reviewed and commented on the ESIA procedures and organisational structure, on social and community issues, and on environmental management issues. It reveals a serious number of anomalies and shortcomings in the application of the ESIA. In many cases there has not been sufficient in-depth study and analysis, and mitigation planning often has been superficial, alluding to further studies and further elaboration of details later. Involvement of the public and NGOs working in the area has been very weak, and even the government itself is not well-informed regarding potential consequences of many social and environmental impacts. The main contention of the author is that many of these details should have been elaborated and addressed in the proposals before approval to go ahead was given. This is particularly important in an environment of such weak governance and administrative control as in Laos PDR at this time. The IFC should have exercised their influence to ensure that all details regarding economic, environmental and social conditions were fully addressed.

Questions, Answers and Comments

Q: Please explain the North American issues – on the water side? .

A: The focus was on discharge quality not on issues. Discharge guidelines were not specifically useful, impacts are what is important.

C: Public involvement was both formal and informal, including consultations with women and other groups. At the time it was considered comprehensive.

C: The closure plan was only conceptual; the government wanted it more specific, which the company is now working on.

C: The question of the WBG providing funding or guarantee: the choice depends on the host country, and that depends on social and economic issues. The level of development in countries varies. A poor country may bargain on social issues, concentrating on economic issues. How will WBG use their power and push for social issues?

Q: The community development fund: how was the figure arrived at?

A: It was negotiated between the company and IFC. For the Trust Fund, IFC is looking for other donors for this.

Q: Why is IFC no longer part of the financing of this project? What will the company do about poor information?

A: The company chose to raise their own funds.

Q: Who contacted the WBG - the company or the government?

A (government): The company approached the Bank.

A (company): Oxiana raised funds themselves, a commercial decision by the company. IFC is not involved. The benefits brought in by the IFC are the broader focus and the Trust Fund.

A (WBG): IFC is not involved for commercial reasons. Gold prices went up, the shares of Oxiana increased and they were able to equity finance the whole project.

The difference between MIGA and IFC is that MIGA only deals with private companies. It comes in at a later stage - financing has to be in place. IFC becomes involved at the request of a private company, not the government. But because of its involvement as a lender, it becomes involved at a much earlier stage. IFC made a significant contribution, but is not involved in the financing, this happens at times.

Q: Will you still use the same IFC conditions?

A: I would like to think so.

Q: IFC has pulled out for commercial conditions – why is this decision made on commercial grounds? Not development grounds?

A: It was a company decision, not an IFC decision. It also shows a point of changing policy. This project, 2001-2002 in Laos, shows the changed emphasis of the WBG - IFC is evolving and putting more emphasis on social issues.

A: The Bank does not manage projects. When IFC came in, there were social shortcomings. IFC accessed Trust Funds to address biodiversity issues.

IBRD/IDA Technical Assistance – PNG

In October 2000, the World Bank granted PNG a 5 year technical assistance loan of US\$10 million for institutional strengthening in the mining sector. The sector believes it

can contribute to sustainable economic and social development by generating financial capital and by distributing it fairly. It is acknowledged that some environmental damage does occur, but this is well offset by the other benefits. Mining exports in 2002 - mostly gold and copper - represented 52% of the total value, however production is tailing off and will decline rapidly around 2009.

On the national level the sector was facing a series of problems: from decreasing judicial capacity, law enforcement capability and revenue, to increasing political interference and corruption. On the department level the problems were: decreasing budget and public awareness of the sector; increasing complexity of issues; and inability to hire, retain or fire staff.

The Technical Assistance project is with the Department of Mining (DoM) and the Internal Revenue Commission (IRC). The main objectives are to strengthen the institutional capacity of DoM and IRC to: administer and regulate mining and exploration projects; achieve technically, environmentally and socially sustainable private sector investment in mining and exploration in PNG; and recommend an alternative to existing departmental structure. The project has 6 main components:

1. Policy and Regulation: clearer and up-to-date guidelines.
2. Exploration and Mining Technical Audits: better corporate compliance through monitoring.
3. Mineral Tenements Management: more customer friendly and faster.
4. Sustainable Development: reduce landowner discontent and provide better financial governance.
5. Geological Survey: new data and better customer access to data.
6. Internal Revenue Commission: improved understanding of the mining sector and increased revenue collection.

It is anticipated that the project will improve the regulatory capacity of the DoM to effectively manage the industry and related issues. As a result, more exploration and development investment will be attracted. Tax collection will improve, and through pursuing a sustainable development agenda of employment and skills transfer, regional development and orderly planned mine closure, benefits will flow to the nation and affected peoples. There will be improved levels of stakeholder consultation and integration of stakeholder concerns, as well as improved environmental performance and safer operations.

Environment Watch Group – PNG

The NGO, Environment Watch Group, from Port Moresby presented the results of a study and their comments on the WB TA project. Out of 30 persons contacted in a

survey, only 4 persons were aware of the project.

PNG is characterized by a highly diverse landscape, a high biological diversity of wildlife and a very diverse culture with over 800 indigenous tribes. Two thirds of the population lives in rural areas and relies on subsistence livelihoods.

Mining began in PNG in the early 60's on a small scale, until the first large scale copper mine at Bougainville began in the 70's using more sophisticated technology. Other mines that followed soon after all used modern technology. Environmental concerns were enforced under newly developed environmental laws.

Papua New Guinea is almost 100% indigenous, with 95-97% of the land traditionally owned. Regardless of ownership rights, common resources such as minerals and water, by law are state-owned. There has been a lot of controversy and dispute over mining and other extractive industries in PNG, including a civil war at Bougainville in 1989. Industry is concerned with high taxes, government with the falling value of local currency, and civil society with land tenure issues.

There is concern over direct disposal of waste into the environment, such as submarine tailing disposal, riverine tailing disposal, barge dumping of waste rock at sea, and erodeable dumps for overburden or waste rocks. Direct waste disposal is advised as the best option for waste management in PNG. There is no independent monitoring mechanism for verification of what companies report they are doing and environment plans are voluntary. Science is always used by the companies to challenge indigenous people's concerns about the environment.

There are a lot of social issues, from marginalisation and cultural destruction to alcoholism, family and marital problems. If all of this is in the name of development, what is development anyway?

As the NGO movement becomes stronger, transparency is tightened. There is a reluctance to provide information upon request from affected people. There is also a reluctance to engage civil society participation in many fora, which end up being dominated by government agencies and industry.

Most extractive developments are located in remote rural areas, imposing unexpected burdens on local subsistent farmers who have no other alternative means of support. Communities have lost confidence in their own government and are approaching NGOs and other civil society organisations for help. Can NGOs act as catalysts?

The World Bank, through its Mining Sector Institutional Assistance Project, although not directly engaged in funding oil, gas and mining projects, is providing support for all these extractive industries indirectly through this IDA technical assistance loan (TAL) project.

This legal framework which has been referred to as the smallest portion of the whole project is the biggest concern for PNG civil society. This is the backbone on which the

country's mineral resources will be exploited. This is evident through a few outcomes so far – extractive industries exemption from tax payment, 6 exploration licences issued in the 1st quarter of this year in comparison with 6 issued throughout 2002, about 4 mining projects to operate soon, and it is understood that 3 investors have shown interest in supporting extractive industries in PNG.

Civil society's key concerns are environmental pollution, social problems and increased poverty. It is a mistake to promote extractive industries because they cause impoverishment, particularly amongst those in the way of the developer. Promoting extractive industries seems only to benefit a few already rich people. By promoting mining, this IDA TAL loan will not assist the vast majority of PNG citizens.

This project involves 80% expatriate consultants. The review of the current Mining Act is done by consultants who have limited knowledge of the Melanesian (PNG) system that indigenous peoples would like see tied into the new law. Who is the law for anyway? A steering committee consisting of organisational heads of the Department of Mines, Environment and Internal Revenue Commission is not a fair representation of the PNG people. This is purely one-sided and should not be allowed if the Bank sees poverty alleviation as an outcome of this project. There seems to be a lack of transparency as far as information dissemination is concerned.

Environmental Watch Group recommends that for this project civil society should have equal participation in any high level discussions. Mechanisms must be developed to allow transparency in the implementation process of the project. There must be ample time provided to review major policy documents, and provincial workshops should be conducted to educate at least 70% of the PNG populace on this major legislative review. Regarding environmental concerns, the Bank should fund independent environmental research on all projects involving extractive industries. There should be no riverine and submarine tailings disposal, and no new developments if people's rights are deprived. Most importantly, there should be no new mines; there have been too many problems, people need time to reconsider and evaluate.

"The company visits our villages sometimes to tell us about the environment. They give us flashy reports, which many people cannot read. They tell us that there is no problem with the environment. They try to explain the science that no body on this island really understand or believe. We grew up here and we believe that we know the environment better. When there is a change, we can tell straight away. We don't necessarily need scientific explanation. We have been zoned as affected communities and we believe this has been done for a reason. We in Malie, would like a very independent monitoring of the environment by an independent institution. This system of waste management is only hiding the truth about the reality that occurs on the ocean floor beneath the sea. It is the cheapest means that causes environmental destruction that is we cannot see but we can feel (like less fish catches). As you can see our entire livelihood depends on the sea. The mine will come and go but we will remain here. We are very concerned about our children's future."

Words of an elderly man on Malie Island, Lihir

Questions and Answers

Q: TA loans for strengthening environmental protection all fall under the Department of Mines. They are not the primary protection agency, so there is a conflict of interest - need a better check and balance system. Why is this?

A: A narrowly-focused TA is likely to be more successful than a widespread one; and there are many other support programs to the government for governance and public administrative reform. Often the Ministry of Environment is not strong. Already the Department of Environment is getting aid from AusAid.

Q: Can private countries get loans from the WB?

A: Yes, in most countries mining is not a priority.

Q: Dispute link between extractive industries and poverty alleviation. Look at the recent WB report. Why is the Bank still involved and not pursuing its real objectives?

A: The TA loan to PNG represents only 2% of the total, the rest is focused on governance.

Q: How much does mining contribute to GDP? What would be the alternative?

A: 52% of GDP. PNGers are happy with what they have.

Q: Regarding compensation to landowners displaced by the mine, in Indonesia we have 'invaders' claiming land title, is this a problem in PNG?

A: There is no good answer to this. We tried tracing 'bloodlines'. In the future we will make a land user study. No land in PNG is free. People have lost lives over land. It is a big and complex issue that has affected the decline in mining. Compensation is a very difficult issue. People don't want to register land.

Q: It is disturbing to hear of the PNG situation: need to take the issue of corruption by the horns, and need a watchdog function.

A: This came up only 6 years ago in the WB. Capacity-building means a lot of things. The Bank also does capacity-building through sector adjustment loans – eg, by improving fiscal management, corruption is reduced.

Comment: Land tenure in PNG is well organized – the clan system dictates tenure. Village populations are geneology-based. The petroleum industry is managed by cooperative land groups.

Comment: Social mapping is done during early exploration. The group defines the situation, identifies clans and their relationship to the land blocks, but it doesn't always fit. The distribution of benefits has some problems. Need to have a diversified and integrated economy to carry things when copper prices are low. Should not be an either/or situation.

8. Social Issues

Governance, poverty alleviation and sustainable development

Small working groups tackled the question: “*What are the main governance issues concerning extractive industries preventing poverty reduction and sustainable development?*” (obstacles), and came up with the following list:

1. Government lacks vision, political will and leadership, as well as the knowledge and understanding of both industry and the community. Planning capacity is weak.
2. Overall there is a shortage of good legislation, electoral accountability, democratic institutions and transparency in the working of government. There is a lack of strong, relevant legal and regulatory frameworks, and mechanisms for implementation, monitoring and enforcement, as well as clear and transparent policies, guidelines, procedures and implementation plans. Regulations for projects based on non-renewable resources, and the commitment and means to enforce them are lacking.
3. Government lacks fiscal management capability to distribute revenues equitably and efficiently. Corruption is widespread and transparency is lacking.
4. There is insufficient sectoral capacity-building, and inappropriate and insufficient allocation of human resources.
5. Government lacks resources.
6. Coordination between ministries and levels of government is poor.
7. The current paradigm for community development is inappropriate, lacking in participatory approach and methods, and not leading to empowerment and building self-sufficiency. Overall there is a lack of clear and qualitative information and communication. Planning for rural communities should be holistic.
8. Both industry and government need to be more ethical, transparent and accountable – eg, no collusion or bribery. Social and environmental values should be consistent.
9. Financial institutions, like the WBG, lack capacity to assist small projects. WB, IMF and aid agencies have conflicting policies on institutional reform. The WBG takes a non-holistic approach to governance issues.
10. The accountability and representation of NGOs is sometimes problematic.

Human rights – military and police

In Evening Session, the Eminent Person introduced the topic of the relationship between extractive industries and security forces from the military and police, and the serious charges of human rights abuses at the hands of these security forces. The WB is being accused of indirectly supporting this problem. What should the WB do about this?

The situation at Freeport was described: the operation suddenly grew from 200 people to 16,000. There was an enormous in-migration of people, only 30% of whom were Papuan. There were religious differences and social tensions arose, especially between Papuans. Before there was no military, now there is a very large military presence, which gets enormous financial benefits from the relationship – facilities and revenue. The military has a reputation for human rights abuses. After some incidents in 1996, the company developed a human rights policy. There is a human rights compliance officer and one of the company's board members, a judge, is a human rights specialist. All staff have to sign statements honoring the policy. If they had to do it again they would reduce the size of their 'footprint' to minimize social conflicts.

In Indonesia a 'national asset' has to have military protection. Therefore, in these circumstances, it is necessary to learn how to work with the army. Need to have a strong human rights policy and be transparent – ie, 'publish-what-you-pay' to the government and military. What BP is doing is better – discouraging an influx of outsiders by recruiting outside and having a very small footprint on the ground (fly in, fly out). There is an initiative in Indonesia to get the military to be strictly defensive. Police are now responsible for security. Formerly there was a military shadow government right down to the village level. Up to 1997 all senior people in the administration were military. Civilians now have responsibility for the military, but it is still in transition; there is lots of disorder.

It is much better to train and use local people to provide security, but still necessary to build trust and confidence with the military. The WB can play a role here – eg, the IFC can demand a letter of intent for transparency when they negotiate. In the move to regional autonomy, regional governments need a lot of help in building good governance. Perhaps the Bank can help here. It is much easier with 'green field' projects; existing operations need a different strategy. All of this takes time. It is best not too push too hard, not to try to go ahead too quickly. Prepare the ground slowly and carefully. Perhaps the pattern of development adopted by the WB is not suitable for very underdeveloped countries like Papua.

The Bank has to find the best way – there are lots of outside influences at play: political, social, economic. Start building capacity in countries identified as needing it. A more systematic approach is needed for overall development, so that capacity is developed in preparation for industrial development. Be creative, try things out. The Bank should be more proactive in identifying situations and act to build up good governance in poor situations. Who is development for? The government has to make their own plan involving their own citizens. The WB is only a development bank.

In Pakistan there are similar problems with the police – eg, intimidation, planting evidence. Mine owners collude with the police to withhold wages. The trade unions are working on this. In North East India state the region has become militarized under the Armed Forces Special Powers Act. The area is 85% indigenous peoples and is very rich in natural resources. There is no access to government information and there is no avenue to speak out through. Military occupy senior posts in government and administration. In Fiji, the army is problematic: they are sent in whenever there is any labour unrest.

9. Social and Environmental Impacts and Issues

Fiji labour union

A representative of the Fiji Trade Union, Fiji Mining Worker Unions, spoke on the plenary session of the 3rd day about mining from the perspective of the workers. The company mining gold in Fiji is called Emperor Mining Company, which is registered in the Isle of Man or Cayman Island. At one stage the manager said: “in my right pocket there is the Prime Minister, in my left pocket is the President, and in the back pocket all the Ministers”. We agree that there is evidence of corruption in the extractive industries, mostly in the governments of Asia-Pacific. Most of our governments are weak. Fiji is a democratic republic like the republic of Indonesia, but in the last 10 years we have had three military coups. And with that comes problems of suppression of labour and unfair practices.

Most of the workers in Fiji are underpaid. The basic wage in Fiji in the mining sector runs about 1.50 Fiji dollars; in Australian mines, I think the average miner gets about 30 Australian dollars an hour. That is the junior miner, but in Fiji it is \$1.50.

Women are discriminated against in the mines also - they are not allowed to get pregnant. The very moment they ask for maternity leave, then That the end of their employment. Wages for women are also discriminatory.

Housing in the mine is very poor. We had a commission of inquiry in 1995, and the Commissioner in his report admitted that housing in Fiji's only gold mine is unfit for human habitation. He said that even some animals would feel ashamed inside some of those buildings.

Pollution is very common - gases emanate from the tunnels and from the factory. Gases like cyanide, nitric oxide and sulfur dioxide, mostly noxious gases. The water also is not treated, drinking water in particular. Cows and horses bathe up river, and down below is a reservoir where the water is piped to the mining town. Workers are drinking this polluted water with no filter, no chlorination, nothing whatsoever to take care of the bacteria. The colour is muddy - that is the kind of water provided by the company for the miners.

Children very commonly have malnutrition. There are occupational diseases like deafness, asthma, bronchitis, tuberculosis and scabies. These are the common diseases endured by the mining workers and thousands of their family members.

In my term, as an Industrial Relations Consultant and General Secretary, I tried very hard. I went to Parliament to raise the issue of the inhumane and undignified labour practices in the mine. I succeeded in modifying and changing some of the mining regulations and acts. But plenty of work still has to be done to improve the working conditions of those who work in the mines.

I'd like to request the World Bank to please think twice about funding the company in the future, because first you have to consider the people, then the profits. If funds do not filter down to the mining workers, think twice about giving the money directly to the company. Because we want to eradicate poverty, from the union point of view world over, we always regard the World Bank with suspicion. The World Bank is an institution which only survives, only exists, for the benefit of the wealthy and not the poor.

Presentations in Parallel Session

Four groups looked at presentations in four thematic areas – energy and global warming, submarine tailing disposal, artisanal and small-scale mining and corruption.

Energy and global warming

Carbon risk, renewable energy and the WBG

The Transition Institute presented their perspective on the need to make a shift out of high carbon fossil fuels and move to renewable energy sources and technologies. Their concern is the inability of ecosystems to adapt to changes in temperature brought about by global warming. At the current rate of carbon emissions, maximum capacity of the atmosphere will be reached in about 30 years. Given the current reserves of fossil fuels, the sooner we shift to alternative sources, the more choices we will have later. Renewable energy is a viable, non-polluting alternative and there are plenty of resources and technologies available – e.g., wind power employs 70,000 people and 5 million more homes were powered by wind last year.

Energy demand will double in the next 20 years, much of it coming from Asia. To achieve long term sustainability, we have to shift to renewable energy production. The World Bank has a leveraging function in bringing about this change: the Bank can send a strong message either way – e.g., coal could become 'untouchable' like nuclear energy. The Bank needs to consider some options:

- whether or not to continue to support distorted market pricing of fossil fuels or support competitive pricing;
- to facilitate infrastructure development that favors fossil fuel generation over renewable energy;
- to cause long term technology lock-in that would be financially burdensome to reverse; and
- to adversely affect sustainable technology transfer - by undermining markets.

Furthermore the Bank should look at its impact on carbon risk – e.g., fossil fuels are now very exposed to carbon costs, which means investors are becoming exposed to increase project risk - ie, carbon risk. Is the WBG protecting these investors through policy

guarantees and risk insurance; and is it creating or leveraging security in the wider market by not requiring Carbon Liability accounting in project feasibility? The speaker outlined a series of characteristics to facilitate the move to renewables, ranging from supporting favorable policy frameworks to reforming the market for electricity.

In summing up, five points were emphasized:

- the ecological limits of climate change require immediate action;
- Asian energy growth means the region should be a focus of attention;
- fuel switching and demand management are not enough;
- interventions by the WBG can have the effect of locking-out renewables, unless market and policy consequences are understood and corrections made; and
- WBG action should engender the creation of favorable market and policy conditions for renewable energy development and technology transfer.

Questions and Answers

Q: Is renewable energy included in concerns about extractive industries?

A: The issue is about the integration of decision making within the WBG – e.g., oil and gas investments prejudice other alternatives downstream.

A: The WBG has a separate group looking at this, but the key issue is pricing because renewables are often not economically competitive. There is a trade off between poverty impact and climate impact. The Bank wants countries to get the most efficient energy source – eg, Afghanistan has a large source of soft coal and the Bank is considering supporting coal-generated energy there.

Q: Are these two contradictory issues? What are priorities for the Bank – oil and gas or renewable energy?

C: Cost competitiveness can't be the only determining factor if the goal is sustainable development.

Q: A major impact of extractive industries is carbon emissions; Indonesia doesn't have policy on poverty and energy consumption; how to get policy for 'green' energy?

A: Sustainable development implies environmental consequences have to be included; developing countries will suffer the most if they're not included.

Q: External costs of oil and gas are not internalized; so the current cost does not reveal the actual cost, hence there is a distorted price structure.

A: The World Bank supports renewable energy projects, and also sees a role for coal, oil and gas.

A: The important point is that the Bank is the starting point for the subsidy chain, because it provides cheap financing. Renewable energy runs up against this. There won't be change if we continue to do the same things, therefore how do we get to where we want to be? If the Bank continues the same, it may undermine the trajectory of getting there.

Climate change and renewable energy

A presentation from the Bogor Agricultural University put the climate-energy debate in the context of economic growth, environmental issues (climate change) and social capital,

exploring the links between renewable energy technology and climate change. Energy, of which 80% comes from fossil fuels, is decisive in both economic growth and climate change. Energy use is rising quickly in the region, and there are possibilities to conserve energy and promote renewables such as biomass, micro-hydro, wind, geothermal, solar and marine. This can be linked to the Kyoto Protocol, specifically the Clean Development Mechanism for the fast-tracking of small-scale and community-based projects. In Indonesia there have been some pilot projects experimenting with renewable energy and energy efficiency.

In preparing to host carbon projects, countries need to build capacity while institutional and regulatory frameworks are being established. The existing regulatory frameworks favor the use of fossil fuels – eg, investments for fossil fuels are subsidized – so it is very difficult for renewables to compete. In addition, countries have financed their energy sector with loans from the international lending agencies, and because fossil fuels and large hydropower were favored, they now face a heavily subsidized sector, a large debt burden, and significant social and environmental impacts.

The potential for renewables in the region is high – eg, solar heating, biomass and micro-hydro are currently very competitive, and there are many possibilities for wind energy – however the financial and institutional arrangements do not encourage the development of renewables in the region. The difference in costs is mainly due to investment costs, as the generating costs are not significantly different. To facilitate the shift to renewables, investment regulation and multilateral investment policy need to be made more favorable.

The World Bank has created the Community Development Carbon Fund to provide carbon finance to small-scale projects in small and least-developed countries. This fund links small-scale projects with companies, governments, foundations and NGOs trying to improve the livelihoods of local communities via verified emission reduction. The BioCarbon Fund finances carbon projects that sequester greenhouse gases in forests and agro-ecosystems, while ensuring biodiversity conservation and sustainable development. Through the GEF, the Bank could support capacity-building and technology transfer for climate change adaptation. As a leading lending agency, the Bank can play a pivotal role by working to remove policy and financial barriers restricting the uptake of renewable energy, and through capacity-building and technology transfer.

Questions and Answers

Q: Will Indonesia sign the Protocol?

A: Yes, the government supports climate change initiatives, and the bill is in parliament right now.

Q: This is more of a dilemma for poor countries that are dependent on fossil fuels; if extractive industries are discouraged, it will be difficult to provide sufficient energy.

A: It is more of an advantage to sign than not, because there is no obligation to reduce emissions (that is the responsibility of developed countries). The point is not necessarily to discourage extractive industries, but to encourage renewable energy.

Submarine tailing disposal (STD)

Implications of the PNG experience

A speaker from the University of Papua New Guinea (PNG) provided some background information on Submarine Tailing Disposal (STD) and the history of its use in PNG. Due to the severely damaging impacts from riverine tailing discharge, the steep terrain and the high risk of tailing dam breakage, STD has emerged as a major technology option in PNG.

The theoretical aim of submarine tailing discharge is to deposit mine wastes in deep waters, where it is likely they will be trapped below the surface mixed layers and the surface euphotic zones, as a dense deposition on the deep ocean floor. The premise is that the tailings will remain on the deep ocean floor and will cause no harm to marine ecosystems. In comparison to onland tailings retention, it is arguably safer to local people and the environment, especially in places like PNG, with its rugged topography, high rainfall and seismic activity. As tailing dams require continuous monitoring of post-mine remediation, STD is also significantly cheaper in the long term, resulting in considerable savings.

STD can only be considered in areas that have no history of upwelling. Consideration needs to be given to other forms of resource use in those sites, so that the negative environmental consequences of STD don't impact significantly upon other people's ability to use those resources. In general, and in practice, it is inevitable that STDs will have some environmental affects on the receiving environment. The controversial areas are plume shearing, thermoclines, upwelling and pipe breaks – all of which can result in the inadvertent mixing of discharge particles in waters in sensitive ecological zones. Pipe breaks have characterized most STD systems, which means that risk mitigation has to be factored into any consideration that STD is a safe disposal method.

Misima Gold and Silver Mine, located on Misima Island on the eastern part of Papua New Guinea, is an example of very deep STD. The environmental assessments, prediction and monitoring in Misima are being used widely as role models for other mines in the Pacific region. The marine monitoring program has largely been limited to assessing impact in shallow water, and some evidence collected shows higher elevated levels of lead, cadmium and zinc in rock crabs and some forms of shellfish. These levels exceed those at which human consumption is not recommended, however this is probably largely attributable to overburden dumping at the shoreline.

In general it is safe to say that there is little understanding of the impact on the deep-sea ecology of the area, as there is no baseline study to determine what was there before the mine. The impact of Misima on fish populations has not been quantified, and until that work is done, it will continue to be used by both proponents and antagonists of the industry to claim their respective positions.

One of the long standing contributors to the work on STD has stated that “decisions should be made site-specifically and not on the basis of generalized regulations,

prohibiting one or the other tailings management options”. STDs should not be promoted as a safe system, per se, without recourse to the site itself. While STD is probably the most logical disposal method of choice in small islands with favorable conditions, the industry needs to avoid the temptation to promote it in other sites where conditions are sub-optimal, or where feasible on-land tailings retention options exist. Due to the uncertainty inherent in marine disposal, STD should be considered as a last option rather than the default technology of choice, especially in mainland sites.

And this principle needs to remain in force until the science around STD is far better documented. Therefore, the promotion of STD as a solution for tailings management in the Asia-Pacific needs to be balanced with an investment in additional research undertaken by impartial institutions. Parameters need to be defined for defensible risk assessments prior to an STD system being proposed. It also is essential to recognize that many governments in the region possess very little capacity to review EIA work.

Controversy over STD is the result of a heavy mix of agendas, the lack of a peer-reviewed body of literature about STD as a practice, poorly developed risk assessments from industry, and a distinct focus on ‘facilitative science’. This lack of good information has allowed the issue to be hijacked by NGO groups who wish to use the uncertainty to promote their own interests, and has also been used by some in the industry to promote STD systems in sites which have been highly unsuitable. The proposal to conduct a review of the available literature is commendable, as is further applied research directed towards creating an industry code of practice of STD. It may be prudent for the World Bank or the EIR to consider involvement in this process.

The final recommendations are that:

- World Bank financial support for mining developments must include appropriate risk analysis of all physically practical, tailing management systems, not just STD;
- defensible risk assessments have to be developed so that governments can take a measured and informed decision on the efficiency of other tailing disposal options; and
- the Bank should be overseeing any initiative to improve knowledge of STD in existing sites and to work towards a code of practice for the industry.

Questions and Answers

Q: If the tailing is discharged below the thermocline the risk to the environment is probably minimal. But in practice, it is difficult to ensure that the discharge point is 100 m below the surface. People will accept this technology if they know that the point of discharge is below the thermocline. The different temperature, salinity and pressure will force the tailing to settle at the bottom. But if it is at or close to the thermocline, the environmental impact is tremendous. Large mining companies that are going to use this technology have to do what they have proposed - ie, the point of discharge should be below the thermocline.

A: I generally agree with what you're saying, but I also think that the concept that the thermocline in many areas provides an impervious barrier to the mobilization of those tailings is not necessarily true. In some cases it is, in some cases it isn't.

Q: Some tailings disposal systems use salt water, some use freshwater: is there any significant difference in deep-sea disposals from either of these treatments.

A: I don't think it really matters. What's important is that seawater mixes with the tailings, to achieve a density that is greater than the seawater into which they're put so that they flow downhill.

C: Regarding the question about the thermocline, the thermocline is an advantage, but you don't have to have one for this to work. By discharging into deep water, the density is such that it will not rise back up to the surface; the important aspect is that there is no upwelling. On the topic of choosing STD there are a number of considerations besides cost: in Lahir, the complex social issues, the land shortage, and the environmental benefits were important. Regarding plume shearing, subsurface plumes occur but they don't come back up to the surface, and their concentrations are 1000 to 10,000 times lower than what's in the main tepidity current.

C: At Misima we have collected a lot of data on STD over the years that can be shared. I also think that we all share the same belief that STD is not the answer for every location, nor are tailing dams always right. The technology has to be site-specific.

Q: How in the future are we going to combat marine pollution?

A: STD operations, even in the worst case scenario, are not going to contaminate massive quantities of ocean. They will remain relatively discrete, even if they are subject to upwelling or remobilization of suspended particles. They would affect an area larger than the equivalent on land, but there is a far greater demand for clean soil. It is difficult to make a generalization about this, as it depends largely upon the site in question and the materials in question.

Artisanal and small-scale mining
Social and environmental problems

This presentation covered UNIDO's Global Mercury Project, which is aimed primarily at finding ways to mitigate the environmental impacts of mercury use in small-scale gold mining. Worldwide there are approximately 13 million miners in 55 countries, including 2.5 million women and 250,000 children. It is believed that up to 100 million people are dependent on artisanal small-scale mining (ASM). Apart from a few places, ASM is largely uncontrolled and unregulated.

Artisanal mining creates the main environmental and social problems in mining. On the environmental side there are problems with water siltation, landscape degradation, deforestation, destruction of aquatic habitat, and widespread mercury pollution. Artisanal gold miners are responsible for half of the mercury emissions in the world. Their practice of volatilizing mercury is potentially extremely dangerous for human health, as mercury accumulates in the lungs and kidneys. Very simple technologies can be introduced to

eliminate this danger by recycling the mercury using an inexpensive retort. The other danger is eating carnivorous fish, because they are bio-accumulators of mercury. In many artisanal mining sites, children are showing symptoms of learning problems, because mothers transfer mercury to their fetus.

The GEF-funded UNIDO project is working in 6 countries with the purpose of reducing mercury pollution by introducing cleaner technology, environmental health, monitoring, and capacity-building. One of the main targets is women, because 4 million women are working directly in artisanal mining. Mercury is only the tip of the iceberg: an integrated approach is required to deal fully with the situation, because poverty is what drives most people into artisanal mining. The key is developing sustainable livelihoods within a poverty alleviation and community development framework, so that people have alternatives before the minerals are depleted. This requires a supportive policy and legal framework, technical assistance, access to capital and markets, and investment in education and health care.

Questions and Answers

Q: Could you elaborate on your comment that for small-scale mining to be sustainable, some of the obstacles in policy and legislation had to be removed.

A: The mining legislation is based on what is being mined, not on if it is artisanal or mainstream mining, so the human dimension is ignored.

Q: It seems to me the problem here is economic, not technical. The problem is poverty which drives people into illegal activities like mining and logging. And the legal system doesn't work – there is no law and order. We have to move beyond the project approach because it requires long term, in-depth solutions.

A: I agree: mercury is just one point, but the overall problem is enormous and it needs more than studies to bring about change. It requires action.

Q: Mercury must be contaminating ground water around all these places; have there been any studies on this?

A: No one has ever analyzed water for mercury contamination, because the greater danger from these waters is the sedimentation.

Small mines, big issues

ILO is looking at working conditions in small-scale mining (SSM). Half the people involved in SSM are based in the Asia-Pacific region. Globally there are more people working in SSM, than are employed in large formal mining operations. Small-scale miners lack nearly everything – they have no resources, no training, no infrastructure, no suitable equipment, no literacy and no awareness of the depth of their problems. There is also no legal framework for their activities, so they are largely ignored by governments and others.

Most mining accidents occur in small-scale mines, because of poor management and poor equipment. Mining can be risky work – working in very cramped and dangerous quarters with no safety or protective gear, people are exposed to heat and dust with no escape

options should something happen. Most of the poor health is due to noise, dust, vibration, over-exertion, poor ventilation, exposure to mercury, cramped workspace and inadequate equipment. Outside the workplace they are also exposed to poor sanitation, dirty water, diseases (malaria, typhoid, dysentery, TB), malnutrition, substance abuse and HIV/AIDs.

Having the right equipment is important, but it needs to provide fairly immediate benefits. Finding the *appropriate* solution is essential, as needs and circumstances vary from place to place. ILO has produced some safety handbooks, and has developed a convention on occupational safety and health for miners. But for things to change substantially there has to be much better cooperation between companies and trade unions, NGOs and government officials, and the donor community. SSM can become a source of ‘decent work’ – work that is freely chosen, where rights are respected, where there is some social protection, where there is no child labour, where there are reasonable earnings and a reasonable degree of safety and health.

Child labor is common throughout small-scale mining, and is considered one of the worst forms of child labor. ILO is working to remove children completely from mining operations, to send them to school or provide apprenticeships, and to reintegrate them back into the community so they don’t return to mining. If the community is profitable and sustainable then there are likely to be alternative employment opportunities.

With the right approach, small-scale mines can be profitable, productive, safe and healthy. They can contribute to sustainable development and be a source of decent work, and even not destroy the environment. In order to achieve this a consolidated approach is required, taking everything into account and providing real incentives for people to change. The World Bank could consider ASM as a part of an overall poverty reduction activity. The focus could be on building sustainable communities, exploring a range of livelihood options in the community, which could complement or replace ASM. It has to be based on the local situation and needs, with employment opportunities available for women and children who were former mine workers. The Bank could provide micro-finance for ASM and SME activities, and support institution-building for community development. CASM should be made more effective as an information resource, by providing it with funds for community development and separating it away from the Bank.

The Bank must work more closely and more practically on the ground, collaborating with other organizations like the ILO and UNIDO. It must also help bring about changes in legislation that constrains the small-scale mining sector.

Questions and Answers

Q: There are lots of good labor laws but the implementation is poor: how to improve implementation? How can child labor be eliminated?

A: There is a lack of capacity for enforcement in many countries. Mining inspectors could become much more effective. Regarding child labor, it is unacceptable for children to work in mining. It requires support from within the community as well as from the

donors, and it will take a strong commitment because it also requires persistence and will take a long time to change.

Q: Have you come across a location where small-scale mining is integrated into a community and is working with the agriculture sector, receiving supplies, etc?

A: First I want to mention that the bad image of mining is coming from small-scale miners, so it is incumbent on everyone to keep the public well-informed about the positive practices and benefits in the formal mining sector. Regarding the question, such situations do exist, for example in Mali where the mining company provided an area for small-scale miners to work and supported them with technical advice and equipment. But once the large-scale mine was operational most people left the small mine site and provided services to the big mine. Unfortunately there are not too many good examples of integration with agriculture activities.

Q: What role does ILO play regarding enforcing your own conventions and human rights issues?

A: We have to wait for governments to ask us to help, then we prepare a comprehensive program based on local conditions. Our priority area is removing children from work in underground mines.

Q: What is the Bank doing about supporting financing for SMEs, and are you involved in the new mining law in Indonesia?

A: There are funds available for SMEs under the private sector component of World Bank participation, but we are not involved in the new mining law.

Small-scale mining legislation

This presentation from Small Mining International is based on a review of the legislation on small-scale mining (SSM) from various countries. The motivation to enact legislation is basically to control and manage illegal mining so that small mineral deposits can be exploited in a safe, equitable and environmentally more friendly way. In some countries like Ghana and Zimbabwe there are specific laws for small-scale gold mining.

Artisanal and small-scale mining can be defined in various ways, with the most common elements being: that participation is limited to the citizens of the country; sophisticated equipment is not allowed; and there are limits on production levels and investment capital. In terms of general features: legislation distinguishes between extracting minerals for commercial purposes and for personal use; transforming or upgrading from small-scale to large-scale operations is approved in some countries but not in others; and technology development is limited in most countries.

Legislation covers environmental protection, health and safety, market, penalties and incentives. For environmental protection the legislation varies: there have to be environmental protection plans and programs; posting surety bonds is required to ensure compliance with environmental protection and pollution control plans; and there can be an environmental tax to ensure rehabilitation afterwards. Health and safety legislation is covered by the overall health and safety regulations for the industry. For marketing, there

is no common approach: there may be individual licenses for mineral traders, or it may be controlled by a government agency. There are penalties such as fines, imprisonment, and cancellation of licenses or permits. Incentives may also be provided, such as tax exemptions, exemption from royalty fees and grants for prospecting.

Licenses come in different forms. There are informal licenses, such as in Papua New Guinea and Suriname, where if you own the land, you can pan for gold without any bureaucracy. Formal licenses cover variations in physical or social arrangements, sometimes with a separate license for each stage of the operation – ie, mining, processing and marketing. The most common limit is restricting licenses to nationals of the country. Most licenses last for 10 years, which doesn't allow for proper planning or long-term activity. Licenses are transferable and the area permitted is, at the most, 20 hectares, depending on the type of mineral or legal entity applying. Restrictions cover the type of equipment, production limits, and the amount of capital.

It is widely recognized that small-scale mining is important and needs the appropriate regulatory framework in each country. Small-scale mining is also a national industry that should remain in the hands of nationals. However, the motivation of governments in legislating small-scale mining does not always match the priorities of the miners. One reason for this is that promoting the mining sector in developing countries is biased towards large-scale mining, with the aim of attracting foreign investment. There is a need to balance this trend by adopting policies on small-scale mining that promote locally initiated and owned mining enterprises.

Large numbers of small-scale miners continue to operate outside the law, mainly because there is no land legally available. Most concessions are awarded to large mining companies. The perception of small-scale miners is that:

- the legislation is not advantageous to them, so why bother with due process;
- provisions in the legislation are inappropriate, so better not to apply for a permit;
- there is a lack of institutional and administrative capacity and capability to implement the legislation.

Because existing licenses are so restrictive and unsupportive, it naturally leads to illegal activities. When legislation is in line with small miners' needs, the license must be tradable and long term, to promote entrepreneurship and to allow for proper mine planning and closure.

A short case study was presented, based on a recent review of the legislation on small-scale mining in Mozambique. SSM in Mozambique is a means of livelihood, jobs, and business opportunities for nearly half a million people. SSM is viewed as a poverty alleviation process initiated by local people; the government incurs no cost and sees it as an indirect process of grassroots exploration. It was proposed to create two institutional bodies to oversee small-scale mining - one a regulatory body and the other a technical service extension agency. Three licenses were defined: a mining certificate - an improved version of the existing one - for mining within segregated areas in large concessions; a free license, for non-commercial small-scale mining; and a commercial, small-scale mining license for businesses and commercial operations.

Many countries have already enacted small-scale mining legislation, but they are seen to be inappropriate. Perhaps the World Bank Group could help governments to develop appropriate or enabling legislations, as well as the institutional capacity to implement it. The 'how' is still a question. When asked, small-scale miners often say that they can help themselves, but they need the right mechanisms to do so. So the key is institutional capacity-building, and it should be directed towards sustainability, so that people can look after themselves in the long run. Artisanal miners need access to information, services and capital, and somehow the system to do this should be self-funding and self-sustaining.

Questions and Answers

Q: I find that restrictions on capital investment and on production quantities do not encourage small-scale operations. The health education components are excellent but how are they applied and supervised?

A: I also find that those restrictions are not very helpful, although, in some cases, the limit is 3 million US dollars. So, it is basically a useless provision. Having a permit term of two years discourages planning and long term operations.

C: (directed at the ILO rep) Because most SSM is unlicensed, and very little information is available about employment in this sector, how do we find out about what is going on? It is a very large unorganized sector that ILO must take note of.

Q: Are there places where there is legislation outside of the mining law that affects small-scale miners?

A: The legislation I've seen is part of the general mining law. However, in some countries they created a separate act or law, purposely for small-scale mining. Therefore, it would be easy for the Bank to intervene on this because they don't have to look at the whole law.

Q: Legalization of small-scale mining in the developing countries is facing several major challenges. The central and regional governments are almost always on the side of large mining companies. Meanwhile the illegal small-scale operation has been largely ignored, without any assistance to facilitate its development. From this Bali meeting, it is obvious that the WB should have a role. It is known that small-scale mining has contributed directly to poverty alleviation, although it is relatively small, but it is a direct contribution and has impacted the poor. Mineral rights are only given to large companies, where the direct impact on poverty alleviation is slow and not so obvious.

A: It is easier to help legalized operations than illegal activities, because for example, if you work in government, you cannot intervene with illegal activities, as you would be seen as condoning illegal activities. It is the same for the World Bank or other multilateral agencies. Even NGOs tend to shun activities that are illegal. So, the importance of having appropriate or legal operations cannot be overstated.

Q: If the negative impacts of small-scale mining are manageable and SSM is made legal, would small-scale mining still be effective in terms of income distribution and poverty

reduction? What is the proportion of small mining production in national income? How can government collect revenues from these small mining activities?

A: The national income from small-scale mining varies from country to country. For government to collect revenues, first we have to have a law to allow them to do that. So you need a legal framework as a basis for collecting taxes. Each country has its own procedures and methods for doing this. It is not all the same.

A: My experience in Brazil has shown that legislation never works for artisanal mining. The legislation started in 1945 and was changed in 1967 and 1988, but no one respected it. For instance in the Amazon, the artisanal miners discovered 2000 mines sites, but now less than 10 % are with the artisanal miners. They are in the hands of the big companies - the rights of the real discoverers were not respected. So, you have to establish law from bottom to top, respecting the rights of the miners, too.

C: Governments can in fact get dollars directly or even indirectly by allowing the products to be sold at the full market price, by licensing buyers or by buying it themselves. This keeps the product in the country and the money flows into the economy, and the government will get revenues as a result of the follow-on economic activity. In one country in Africa, a year after gold buying was sanctioned, the reported gold production from small-scale miners rose by a factor of ten. They produced the same amount, but it no longer was smuggled out of the country. So, to buy the material at the full market price is going to stop smuggling and the government will gain revenue on the way.

C: There are some very effective laws in small-scale mining. The alluvial mining law in Zimbabwe is an example. The law enabled local councils to obtain permits from the national government, and to receive something from the process. When the local councils realized there was something in it for them, they created a local set of regulations. A similar thing happened in the Philippines regarding illegal sand and gravel extraction; when control was given to the local level, the activity became well contained.

Corruption

Access to information and transparency of revenue flows

Within the context of good governance, a representative from the Indonesian Centre for Environmental Law spoke about the need for and the mechanisms to ensure access to information and transparency of revenue flows. For open and transparent governance, five key elements are required:

- access to information
- access to participation - effective public notice, adequate information, proper procedures, and the appropriate taking-into-account of the outcome of public participation
- access to justice – the right to appeal, a public complaint mechanism, independence, and a professional dispute settlement body
- freedom of the press - the prime vehicle for taking information to the public
- the right of the whistle-blower to be protected

The full scope of access to information includes five rights: the right to know; the right to observe and to attend public meetings; the right to obtain copies of documents (passive access); the right to be informed (active access); and the right to disseminate. There are a number of links between access to information, transparency and good governance. The three pillars of democratic governance - access to information, access to participation, and access to justice - are required for openness and transparency in public resources management. Openness and transparency are effective tools to prevent the mismanagement and abuse of public resources (including mismanagement and embezzlement of national oil revenues). The three pillars will strengthen civil society to perform its role of public control. Having access to information will help citizens call their governments to account over the management of public resources.

There are two types of information access – passive and active. Active access is when citizens are informed without making a request. This can include basic information about the private wealth of public officials and financial reports from listed companies; and non-basic information, such as public safety notices. Passive access is based on making a request for information, some of which is available at anytime without formalities, as well as non-exempted public information. For countries in transition, there are a number of crucial issues, for instance how to make the laws related to state security and secrecy synchronized and consistent with the freedom of information law; and how secrecy can be applied as an exemption. How to define which public institutions are obliged to provide access; how to define public information as passive or active; and how to settle disputes over denying or refusing access?

There are a number of qualifications that are applied to disclosure exemptions, including balancing public interest and potential harm, and having no permanent exemptions. Institutions and agencies that are obliged to provide information access include state institutions – eg, executive, legislative and judicative; institutions established by the state – eg, state auxiliary institutions and regulatory agencies; state enterprises (central and local); contracting-out private companies; and NGOs that received public funds.

The ‘publish-what-you-pay’ (PWYP) principle is an important component in access to information. It provides for disclosure of payments by natural resources companies to governments. The rationale is that natural resources are held in trust by the state for the ordinary citizen, so citizens have a clear right to information about the management of revenues associated with their resources. PWYP must be mandatory, provided and guaranteed in a variety of laws and reporting requirements. By making it mandatory it will eliminate concerns about confidentiality clauses gagging companies publishing payment data, and will eliminate a major international double standard between levels of transparency in the North and South. PWYP will create a level playing field between competitors, preventing more principled and transparent companies from being undercut by their less scrupulous competitors.

National legislation must require extraction companies to disclose payments to, and relevant contractual arrangements with, governments and companies in all countries where they operate. It is important to create public demand and public pressure to

motivate governments in countries in transition to promote open and transparent governance. The World Bank should promote PWYP in any revisions to Company Law.

Transparency of revenue management

The Indonesian representative of Transparency International presented a paper on revenue transparency in extractive industries, and suggested that extractive industries should be viewed only as an intermediary means to build wealth and social welfare, and not as a major factor in economic development. Future generations have to be accommodated in how non-renewable resources are exploited. By giving society, especially vulnerable parties, decision-making power over resource use, future needs can be provided for. Benefits should be enjoyed by the most needy and invested for future generations. Revenues, therefore, should be spent transparently.

Many countries that are dependent on oil, gas and mining are poor and corrupt. In this region, most communities living around oil, gas and mining operations are living below the poverty line. Resource rich countries suffer from a variety of corrupt practices, such as illicit payments to the military, kickbacks to government officials, special perks to officials, opaque financial transactions, bribes to community leaders, manipulating production figures and costs, and embezzlement by government officials.

There have been many conflicts over oil, gas and mining operations – in Aceh, West Papua and PNG – some have involved the military and cost many civilian lives. The increase in military expenditures is suspected to be funded by illicit payments from oil, gas and mining. There also has been loss of land and livelihood due to environmental degradation caused by these industries. The need for transparency from both the government and the industry is urgent in order to benefit the poor and future generations. The Extractive Industry Transparency Initiative, endorsed by the UK Prime Minister, has produced a template that requires companies and government to disclose what they receive and what they pay.

The World Bank at country level should ensure that:

- extraction of oil, gas and mining is an intermediate and temporary means, and not the ultimate objective for economic development; revenues should be invested in strategic areas for future development schemes;
- there are ‘no go’ areas for oil, gas and mining activities; these areas are important to the earth's ecosystems, are rich in biodiversity, including world heritage sites, national parks and conservation areas;
- indigenous peoples’ rights are respected and prior informed consent is enforced;
- resource-rich and highly-indebted countries are not using these revenues directly for debt payment; debt payments should come out of secondary economic activities resulting from extractive industries;
- WB loans will not make the country indebted, due to mismanagement of economic development; and
- maximum transparency in revenue management, and no embezzlement of revenues by officials.

At industry level, the investment should be aimed at:

- maximum transparency in payments and costs of extraction, with compliance to the OECD convention on anti-bribery;
- companies respecting indigenous peoples and community rights, implementing good corporate governance and social responsibility; and
- stimulating companies to invest in green energy and environmentally-friendly technology for mining.

The need for transparency in extractive industry does not outweigh the danger to the ecosystem. Climate change and other severe environmental damage in the region are the consequences of extractive industries. Consequently, the World Bank should invest more in green energy than in oil and gas, and should aggressively help the poor of the developing world to get access to cheap energy. The World Bank should stimulate country policies to create markets for green energy such as solar cells, so that this kind of energy is affordable to the poor. Green energy investment should be a major Bank policy, especially in the most populated areas of the world. The World Bank should phase completely out of the extractive industry sector by 2010.

Questions and Answers

Q: Are International Lending Organisations responsible for the current situation of poor governance?

A: No, but they have some responsibility in that they supported Suharto and ignored corruption. The World Bank should help people move forward, not prevent change. We tried to change the Contract of Work, but faced strong opposition from industry.

A: Don't be too pessimistic, civil society groups have developed, and legislation is being worked to bring about changes.

Q: What if the public doesn't make use of published information?

A: There is a lack of demand in Indonesia, but there are 'information access officers' to demand information. It requires some public awareness building.

C: Corruption is endemic in the region. Communities that have access to civil society organisations are ahead, but there also is a need for human rights and justice - the World Bank should pay attention to this.

C: Need to track payments.

C: Corruption is related to the attitude of the people not the type of energy.

C: The World Bank lacks a strategic approach regarding impacting poverty alleviation; the requirement for poverty alleviation is not imbedded in projects, and there is a lack of clarity on who is accountable.

A: Transparency and a strong enforcement system is required, an independent mechanism. Need to strengthen the capacity of the public.

C: Green energy has less concentration of funds, and therefore may have less corruption.

A: Government has to develop a strong policy about corruption.

Q: How can we solve the problem of corruption? We need to separate the rat from the warehouse, not just raise criticism without concrete action.

C: Mining is a ‘honey pot’ industry – corruption will not go away. It has to do with the quality of human beings in a culture. We need to map out how we get to where we want to go and who’s involved.

Q: What about other countries?

A: in PNG we have Transparency International but company contributions are still secret. Is there another way to get access to information?

C: Evidence shows a link between the presence of extractive industries and the quality of governance. Transparency is one thing but respect for human rights is needed. Honey pots are not enough, need access to information.

C: Corruption is a big problem in Timor Leste. Corruption is also in international organisations in our country – the amount of funds received is not the same as was provided. Money often goes back to donor countries.

A: Our civil society coalition has four strategies – advocacy – ie, watch the laws, change the culture of the bureaucracy, encourage state institutions to develop information management systems and public services, and strengthen public demand.

Recommendations

Small scale mining

The working group was asked to address: “*How can artisanal/small-scale mining be practiced with minimum impact to the environment and maximum impact on poverty reduction in the Asia-Pacific region?*” and “*What role can the WBG take to improve the situation?*”

Discussion

Legal Issues:

It is essential for governments to enforce existing laws. This will require more government inspectors and inputs from NGOs who are on the ground. At the same time existing laws have to be relaxed to acknowledge ASM – develop mechanisms to regulate laws and regulations. Governments have to demonstrate good will for legalizing ASM, and there must be a highly pragmatic legal framework to accommodate different contexts. The law has to acknowledge customary land rights, and provide clear regulations on environment standards and how the law is enforced.

Create advantages to be legal by providing micro-financing, technological assistance and negotiable permits.

Capacity-building Issues:

Some of the tax paid on minerals should go back to increase the quality of human resources through training and education (capacity-building), with an initial investment in training trainers. Management and business skills must be developed through entrepreneurship training on management, financial, and other related matters. Communities have to increase their awareness of the negative environment impacts of certain practices. A pilot project on good mining practices and waste management must be created to demonstrate how it can be done.

Relations:

Good relations have to be established with other stakeholders, including partnerships and alliances with established mining companies. Real ASM communities with deep roots must be established and integrated with other local resources. An institution (association) of small scale mines should be established, as well as the creation of business insurance.

Economic Promotion:

Easy access to markets is essential, as well as linkages with other rural economic activities. Local resources, including employment, should be optimized.

An Integrated Development Approach

Community development, rather than handouts, should be financed directly. This means creating jobs and business opportunities. The approach has to be integrated and holistic in all aspects - finance, technology, markets, etc. People have to be the subject of development – ie, people-centered development – through rural community development.

Technology and Development:

Appropriate operational and management systems for mining have to be in place, including the use of clean, effective technologies and practices. Technological support must be provided for this. Mercury use would be avoided, environmentally friendly technologies and appropriate waste treatment systems would be implemented. Safety and health protection must be provided for workers and for people living in the surrounding community. Child labour has to be avoided.

Possible Role of the WBG (loan, grant, technical assistance):

First there has to be capacity-building in the WB itself. The role of the Bank should expand beyond simply providers of money to become facilitators for development. As part of this change, the Bank has to make a commitment to ASMs, and consider them as fully-fledged businesses. The rules of financing must change to enable the Bank to fund ASM, and appropriate recipient groups have to be identified or created. Institutional capacity-building has to be provided to mining associations, community-based mining organisations and NGOs, covering for example, training, technology, management and finance. The Bank also must help identify relevant organisations to provide assistance to ASM/SSM in capacity-building and long term service provision.

Questions and Answers

Q: Could you say more about ‘changing the rules’, so they should become more flexible, more ‘tropical’ as you called it?

A: We have to create a specific mechanism to provide money or financing or assistance to artisanal mining. And within the rules that we currently have in the World Bank, this mechanism doesn’t exist. Is this the role of CASM? Perhaps the World Bank should try to finance a mining association that is community-based.

A: The Bank has never financed a small project like this. So, they have to find a mechanism within the system to deal with these projects. There has to be some fundamental change in rules or in attitude.

Renewable energy – climate change

The question posed to the renewable energy-climate change group was: “*How can the region mitigate climate change problems related to projections of its energy consumption?*” and “*What role can the WBG play?*”

In looking at how to address mitigation of the climate impacts in the region, as it moves forward, the group looked at where the region is now, where the region is headed and what was a desirable endpoint or intermediate point for the region.

Current Situation:

Currently there are tradeoffs between sustainability, supply of energy, and poverty alleviation. There is relatively high population growth and incomes are low. There is vulnerability to climate change and low adaptive capacity to the impact of climate change – eg, coastal populations. Emissions are rising both per capita and aggregated, and there is high coal use in the region. At the moment there isn’t much automobile use, but there are strong trends towards higher usage. Mobility is reasonably low, but this is expected to rise with wealth. A lot of infrastructure is yet to come - for power, transport and housing, and it is coming fairly quickly. At the moment there is limited access to modern energy services.

Future Prospect:

It is assumed that the demand for energy services will increase per capita. Access to energy services has to rise in the region, and energy services as a total is going to be high. In order for the impacts of the increase to be mitigated, the carbon intensity of energy services has to be low. This means that emission profiles of transport, housing or energy production have to be low. Therefore there will be high growth, but with low carbon use.

WBG Recommendations:

The basic recommendation is that the World Bank Group should leverage policy frameworks to encourage low carbon growth. There needs to be a move towards fully inclusive pricing, to move away from carbon subsidies towards an energy sector that internalizes all external costs – ie, life-cycle costs, impacts. This needs to be a gradual process, not a hard intervention. There needs to be rational energy policies, including tax policies. Subsidies could be kept for off-grid services to the poorest population groups. The move away from carbon-intensive energy sources has to be pushed.

Regulatory standards, coupled with strong monitoring and clear sustainable development objectives, must be introduced to force movement towards lower emissions. There is a need to create a market for carbon. A market price for carbon will create a lot of flexibility in terms of reaching the goals. This could be achieved at a regional level by joining the Kyoto Protocol, or at a national level through a carbon tax. Flexibility is needed country-by-country and region-by-region. There is also the need for appropriate financing to fast-track low carbon technologies, by expanding their scale of application and by reducing their costs. The nature of the financing needs to be quite different, and it needs to be leveraged. Standards should be introduced in sectoral planning, such as for public transport or town planning in terms of energy efficiency.

Questions and Answers

Q: Yesterday, you proposed the approach of decoupling energy emissions which gives possibilities for renewable energy growth. Is that still in? Also, we are suffering price distortion, so the issue for the World Bank is to get the price right for projects in which fossil fuel pollution is affecting climate change. These externalities are not being internalized. In assessing projects, should not the World Bank work with shadow pricing?

A: The move towards fully inclusive pricing was an attempt to capture that, but also allowing some ability to interpret it. The WBG might fully include the pricing, but the country itself might chose to act differently. There should be a pathway to move from deep subsidies to no subsidies, and then moving forward to full internalization of the cost of externalities. We see a strong need for growth and that growth requires energy. We want to see growth and energy demand delivered without significant environmental consequences – ie, with a low carbon signature and a low carbon growth.

A: It is important to recognize that the World Bank is an institution and not a world government. Therefore, where is its power of intervention? Regarding low carbon growth, there are only certain things the World Bank can do. So how to move forward those things that are important to lower carbon growth? This impacts national policy frameworks – eg, energy security drives some of these decisions. Economic development, climate change and the local environment, all impact at a national level, and a country is not going to relinquish its decision around that. So where's the leverage for the World Bank? It can to some extent play within the formulation of longer term national policy frameworks, but it cannot intervene in global pricing or in similar issues. It has to work through a set of intermediaries and it has to have leverage with those intermediaries.

Q: I have several reservations on that particular point. The World Bank is setting standards for the developing countries affecting policy-making, mining law and so on. And that is why the World Bank is more than just a bank. It is a development bank for the world. In Africa, 90% of the mining law changed due to the intervention of the World Bank. Price is very important. Why is renewal energy not growing? It cannot compete with fossil fuels, because fossil fuels are not properly priced. So is it not possible for the World Bank in assessing projects to work internally with the shadow price? If there is a choice in project between fossil fuel or renewable or gas, then they should internalize any externalities in their calculations.

A: I understand your point, but I honestly believe that the leverage the Bank has over projects is going to be much smaller than what it can have over the development direction of a country. I can't see many projects that wouldn't go ahead in one form or another anyway. The integrated development within a country of its infrastructure, mobility and a whole set of things, has more potential for high leverage, than a bit of shadow pricing on a project.

Q: Did your group have any insights about when WBG involvement in coal would make sense? For example, suppose the government of Vietnam were to come to the World Bank and say: Quang Ninh province, which produces 90% of the coal in Vietnam, currently does it very badly, with old fashioned equipment and a rotten environment. We

want to streamline, but we also want to increase production. Can you help us? Under what conditions should or should not the WBG engage in such a request?

A: These are big policy decisions. We didn't get to this question in the group because we were looking at these bigger trends. The important thing is leveraging policy frameworks. What's important is the signals coming out of the Bank, not the money. And the signals can best be manifested through policy change. If those signals are all consistent with the idea of low carbon growth and growth with low carbon, and it manifests in policies, then that will have an affect on the whole sector. It is the idea that is very hard to push the oil tanker around, but it is a lot easier to just kick the rudder.

A: In the transition of the energy system globally and nationally, a whole set of tradeoffs are critical - between things to do with growth, poverty, climate change, energy security and local environmental impact. These don't really occur at the project level. The real tradeoffs occur in national development and there is more scope for understanding and addressing them at the national level. So the issue is recognizing tradeoffs and the level at which they can be resolved meaningfully in terms of short-term, mid-term and long-term.

Submarine tailing disposal (STD)

The working group examined the question: *“How can the main risks of STD/STP be reduced for Asia and the Pacific?”*

The following sequence should be used in preparing for the application of STD. As part of the planning process, the local community must be involved from the very earliest stage in order to evaluate all the options and to provide their agreement if the use of STD is recommended. Public education is essential to engender a full understanding about what is actually involved. This is followed by a full baseline study, which leads into conducting a thorough risk assessment on the proposed technology. Depending on site specifics, this may include a marine biodiversity review of that particular site.

Regular monitoring of the results of STD programs is essential in checking the viability of the technology, as well as to provide feedback into public education and biodiversity review. What all of this is leading to is the development of an industry or technical standard for identifying all the risks associated with the use of STD. A further refinement would be to develop a comprehensive code for evaluating, designing, constructing, managing and continuous monitoring of STD programs. The code would include key elements: protocols for appropriate mixing models; risk assessment methodology; conducting a biodiversity review; a code of conduct; a code of management for the design, construction, management and monitoring of STD.

A small group of people from the industry and NGO community are working with the Australian Center for Mining and Environmental Research on developing a code of practice. An interim steering committee will establish a technical advisory group composed of world-renowned independent specialists in the areas of chemistry, biology, physical sciences and oceanic modeling. The technical advisory group would start to address some of the uncertainties that exist about STD. The deliberations of that research will be fed back to the steering committee. This is a two or three year process, maybe

more, which will identify what we know and what we don't know. Specific research will target the unknowns and come up with a multi-stakeholder position on whether or not to support STD in the future. If the answer is "yes, STD will be supported under these caveats", work on developing the code will proceed. The code will show how appropriate STD is at particular sites compared to other tailings management options. Programs can be designed so there will be no pipe breakages, leakages, etc. Guidelines for construction, day-to-day management, monitoring, continuous review and community participation will be included. The terms of reference and the proposed operating structure for an international steering committee is now available.

What can the World Bank do in relation to mitigating the risks associated with STD? The Bank can actively support development of the code or the process, so it can be used as a basis for future STD projects. There would then be a code, a set of guidelines or criteria, which the Bank and governments would use in assessing when it is appropriate to use STD and under what conditions it can be used. IFC could use its financing leverage to promote best practice for assessment of STD projects.

Q: Two years ago there was a conference in Vancouver which discussed STD and one of the conclusions was that STD was one of the best waste management practices for certain sites. There are a lot of lessons to be learned from the Canadian experience and over here as well. From 35 years of work from two operations in Canada, we can say, from the Canadian perspective, that this is a good practice. Sometimes we are afraid just to affirm this.

A: It comes back to public education and public information. We contracted Canmet, Canada and CSIRO, Australia to do a comprehensive literature review, including all of the grey literature, especially material from the NGO community on STD. That review, due by the end of May, will form the basis of the future research programs.

Q: During the testimonials, Benjamin Kahn warned us that Asia-Pacific has very rich marine resources. He also mentioned that the US has prohibited STD. If the Asia-Pacific seas are so diverse, is it not appropriate, instead of assuming that STD can be applied, to first have a "no go" zone for STD, the same as we have a terrestrial "no go" zone for protected forest.

A: Yes, if there is a protected area or conservation zone, the whole risk assessment would be tied around issues of both "no go" zones and other biodiversity reviews of a particular site. The effects from the STD are not often localized, but that doesn't mean that the whole of the Asia-Pacific region cannot support a STD project. We need to make sure those beneficial conservation values are managed appropriately. We don't yet have a unified set of guiding principals that will enable every player in this industry to manage a STD project according to both the need for conservation areas, thorough biodiversity reviews and good governance, or good management of the project.

Q: Regarding handling the tailings, do you have a disaster management plan in case of any mishap?

A: That would come under the code development, in the basic principals under which a STD project has to be managed. An essential component would be a disaster or

emergency response management plan. The idea of the code is to prevent disasters and accidents happening in the first instance.

Q: Yang menjadi pertanyaan saya, dalam penanganan tailing ini, sebelum dilepas kelaut, apakah itu dieperlakukan atau dilakukan detoksifikasi sebelumnya?

A: The form of STD that is used is dependent on what is being mined. At present, there is a range of pre-treatment options available for tailings. For example, in some of the mines in Indonesia, they have a double tank system. They make sure the tailing is adequately detoxified before it is discharged down the STD system. In our system we complex the cyanide into a ferrocyanide stable complex before it goes down the STD system. So there is a total cyanide residual associated with our STD system, but it is locked up in tight complexes. That would be one of the considerations of the code. What level of detoxification should be carried out before things go down the pipeline.

C: I respect the work of the group, but I think the results would have been very different if the civil society self-selection participants who walked out had been here. So I want to support what that person said about the need for 'no-go' zones in respect to this technology, particularly when it is around marine biodiversity. I'd also like to state that because this technology is so uncertain, the precautionary principle should apply and this technology should not be used.

Q: Regarding the tailings disposal systems used in Canada, does Canada still allow this to happen? Also, which developed countries still use tailings disposal systems for disposal of their mine wastes? Regarding marine "no-go" zones, how can we control what happens under water? How can we stop fish from swimming from one place to another?

A: There are about 19 STD systems around the world, in both developing and developed nations. There are STD systems in Europe, in Wales, in Canada and around the Asia-Pacific. Regarding fish populations, the intention is to make sure the tailings outfall isn't toxic to organisms and results in bioaccumulation. A lot of the work that has been done demonstrates that. It is company information and company reports, but it is based on credible independent scientific evaluations. By involving the public, developing this code, and insuring reputable world class scientists sign off on the testing protocols and the science behind it, we are hoping to alleviate some of the uncertainties.

Q: Clearly this is a terribly complex issue. Much of the judgments here are scientific judgments. The Bank is fundamentally an economic institution, with perhaps 3 scientists out of 7000-8000 people. So what's the process by which we should take these competing claims, this competing information, and come to a decision? It is not quite as simple or straightforward, as some would suggest.

A: There is a continental shelf in the US, so STD is not banned per se, there simply is nowhere within the 48 continental states where it is appropriate. The very purpose of the STD project is trying to reach consensus on these opposing views. Get everyone around the table and reach a multi-stakeholder opinion on whether or not to continue supporting STD. If the group agrees it is appropriate under certain conditions, and develops an operational management plan for STD, then we are suggesting that the Bank could adopt that in reviewing future projects they might be involved in.

Governance – conflict resolution

“How can fair and satisfying conflict resolution between EI companies and local communities be supported?” In exploring this question the group focused specifically on conflict resolution as it relates to extractive industries and local communities. Four levels need to be addressed – before starting, new areas, existing areas and overlaps between new and existing areas.

Before Starting:

Before a project starts, there are a number of issues. There has to be a clear understanding of titles and entitlements. We have to know what the situation is on the ground even before the intervention begins. So baseline studies must be conducted in a culturally sensitive manner, allowing sufficient time and involvement by local people. Clear laws and regulations should already be in place. Previous conflicts must be settled. It is virtually impossible to resolve conflict if there are underlying conflicts that have never been resolved.

In New Areas:

In new areas, develop policies intended to prevent conflict before it arises. Identify potential areas for conflict. Clarify the roles and responsibilities of the various stakeholders, including government at all levels. Involve government in processes whenever appropriate. Systematic public disclosure has to take place, even before contracts are awarded or firms enter into activities. Stakeholders, especially land owners, must be identified by an independent, credible institution before the activity begins. All interest groups have to be identified, not just the elite. The capacity of local people and their community has to be strengthened through empowerment and development programs. Open and transparent communication is essential.

In both Existing and New Areas:

Develop community-based security in the area before the project begins. Do not involve the military. Get local communities involved in monitoring, controlling and securing their own areas. Maintain communication fora, for regular, open and transparent communication with all stakeholders. Provide communities with comprehensive information in a form and language they can easily understand. To manage long term revenue flows, establish trust funds so rightful land owners know they can expect benefits before, during and after operations. Avoid ‘facilitation’ payments at national and local levels. Focus on matching benefits with costs. Respect and uphold human rights.

Existing Areas:

Establish a common interest between the company and local communities, with the possibility of entering into partnership relationships. Local ownership is essential. Keep each other well-informed, and if conflicts should arise, engage independent, credible and professional mediators. Establish mechanisms for redress. Establish an independent complaints mechanism so issues can be raised easily and adequately discussed.

Strengthen local government capacity, which can make a big difference in resolving conflict.

Recommendations to WBG:

1. The role of the World Bank is to make social analysis to determine the root causes of conflict. This analysis has to underpin policy advice. Good policy can help avoid, prevent or certainly minimize conflict.
2. The World Bank should recognize its obligations under the international human rights system as an international organization and develop policies accordingly - policies that will be consistent with existing policies.
3. The World Bank Group could make sure that there is a basic understanding about the project and its consequences, what's referred to as 'voluntary consent'.

There was no consensus on whether or not the World Bank Group should get directly involved in conflict resolution. There are two options: no direct involvement or strengthen the CAO unit to get involved. Finally, the World Bank really should have clear prerequisites, processes and mechanisms for monitoring. This should be an ongoing process, which will be important for dealing with conflict.

Questions and Answers

Q: I understand that the social analysis done by the Bank is for internal Bank purposes.

A: This is an external analysis, not an internal analysis. There needs to be more definition in terms of good governance when the Bank is involved or not.

Closing remarks

In winding up, the Eminent Person commented on several points:

1. The clash of ideas was missing - between black and white - because the hard core NGOs who are very critical were not there. Although the discussions went well, there was no clear polarization of opinion. That was particularly clear in the STD discussion group. That is the consequence when dissenting voices choose not to be involved. It would have been preferable to see different ideas confronting each other face to face, so that when two ideas collide a new truth comes out. This is what happened in the other consultations.
2. There is a new element in which small-scale mining is put into the context of community development. It is not only small-scale mining, but is part of community development. Should CASM not move away from the Oil and Gas Division to another division related to community development? The work should not be limited to studies and seminars, but should look into effective community development in which the small-scale mining is one aspect. Statistics show that when the economy moves up, small-scale mining goes down. But when the economy goes down, the small-scale mining goes up.

3. Conflict resolution was not discussed in the other consultations. Governance was always discussed, but now it goes deeper to look at conflict resolution. Last night, the discussion went much deeper looking at the involvement of the military. In comparison with the other consultations, this is a step forward.

4. Why is the discussion on climate change and renewable energy relevant? The issue is what kind of world do we want? This was not raised in the previous regional consultations. We have to look forward and see how the World Bank can be geared towards these points. “Fuel for Thought” talks about energy, but it plays down the goal of accounting for impact of CO2 on climate change. It is important because Asia-Pacific will be the locomotive of global development over the next 25 years. China, India and East Asia, all are at a lower level of energy use, so it will inevitably go up. But how? Energy decoupled from emissions is crucial for Asia. If Asia develops disregarding pollution and the impact on climate change, then sustainable development will never be globally successful. Asia will dictate whether sustainable development will be globally effective or not.

One of the reasons that the terms of reference of the EIR puts extractive industry in the context of sustainable development, is to address issues like energy use. If the concentration of CO2 in the atmosphere goes too high, as we discussed in London with BP and Shell, Asia will suffer and parts of Pacific Islands like Fiji will sink. The World Bank should take initiatives and be pro-active in determining what to do in this context.

5. Another significant point is to properly ‘ground’ projects of the World Bank to avoid the disconnection between what’s followed and what’s assigned. The job of the EIR is how to connect all of this. The World Bank Group is improving, but it is slow. It was stated that in the early 1980’s, demands were made to the World Bank to support environmentally sound economic development in Indonesia. It was not accepted. Environment sound economic development became an issue for the World Bank only starting in the early 1990’s- ten years later. The same applies on dealing with issues of transparency and good governance as promoted ten years ago by civil society groups. But only recently recognized as a priority issue. So there seems to be a 10 years inertia in the World Bank towards making efforts to change and embrace new ideas.

There is a gap between needs and how effectively they are addressed in the World Bank. That is why it is important to start right away in getting these ideas to the World Bank. We should start now! The World Bank group should start today in using their leverage. This message was not in the other regional consultations. So in spite of not having the hard-core civil society groups with us, it proves that good ideas are not the monopoly of civil society. They are also in the minds of academics, industry people and government representatives.

Policy challenges and barriers

An evening session discussed *“Policy challenges and barriers in the creation of sustainable development in oil, mining and gas.”*

One of the reasons people don't see benefits coming back has to do with trade barriers created by countries. For instance for the Newmont operation on Sumbawa, it was necessary to purchase equipment through a company that was based in Singapore, so most of the benefits flowed out of the country. Another example is with the power plant, which if amortized over 40 years would provide more taxes, but the government insisted on a 20 year period. Trade policies and tax policies can create barriers to sustainable development.

How can we move away from the 'one size fits all' mentality driven by the 'Washington Consensus'. What should be the variables – level of income? size of country? speed of development? What dictates the difference? Policies are needed for 'added value' – eg, Mozambique ships ore to Australia for processing and loses the opportunity to add value in-country because of the global trade regime.

Another example is in Peru where the IMF imposed a strict structural adjustment program, which meant natural gas had to be auctioned off at a cheap price. A more holistic approach is needed for policy setting. Refining nickel in Indonesia at current prices doesn't make sense. Policies have to be country specific, but there is no mechanism to create a holistic approach.

In the CAS policy matrix, inconsistencies are only checked across a sector, not between sectors, which makes it possible to have policies at cross-purposes in different sectors. One of the purposes of the CGI is to pick out these inconsistencies.

Regarding trade liberalization, the question was raised about why the EI doesn't go into high value-added exports. The main reason is that many countries have a tariff on importing refined product but not on the ore. One problem with refining is finding markets for by-products such as sulfuric acid. It might be better to look into how best to deal with imports rather than exports, much of which is decided in other countries.

Another issue is the forced sale of domestic assets. Peru had to break up its national petroleum company into separate assets and sell them off. A SOE from another country bought some of these assets. Does that make sense? Why not make such domestic companies more efficient? The reason IFC supports this is that after it was sold there no longer is pressure on the company from nepotism and other negative influences. There is an efficiency benefit from this type of action. A locally-owned company has a lot of pressures that creates inefficiency. It is much cheaper to sell off a company to the private sector than trying to make it more efficient while it still remains in the public sector. It didn't work that way in Peru – now all strategic assets are foreign-owned.

Another example from Peru regarding tax incentives – the oil and gas industry get tax incentives to explore in the Amazon, whereas there is taxes on environmental control equipment. This creates an imperfect market. This is very common with extractive industries, where in order to take the risk and go into remote and difficult areas, governments provide tax incentives to offset the high risk. This type of investment can create a stabilizing effect in a country, such as in Mozambique which was experiencing a

civil war. An aluminum smelter was successfully built and it created stable growth in the country. It depends on the quality of the company as well.

A lot of policies cause social conflict – can't take a cookie cutter approach. Economic policy shouldn't be solely based upon a wish list from industry. For instance having the Mining Ministry enact environmental law opens the door to biases. Bhutan is the only country that has been successful in isolating itself from global influence, but the situation in the country is like 2 centuries ago. Is this what people want? What does it mean to wait? What is needed to move on?

In some places such as in PNG, the people want a slower process of change. In such cases it would be better to take the risk and go ahead with capacity-building first. It would ensure that conditions were better prepared for any major development. In North Sumatra the World Bank will invest in capacity-building at the regional level for 1 year, to take things to the level of a scoping study.

In Laos, industrial development needs to be balanced with capacity-building for government, plus a trust fund for community development. It is not easy to change people in a short period of time. The country is not prepared to follow the IMF and open the economy up to the outside. The national strategic plan has a very unrealistic industrialization component. Agriculture should be the first priority. The Laotians are not competitive people and they lack business skills. They are under a lot of pressure from their ASEAN neighbours.

10. Final Recommendations

Opening remarks from the Eminent Person

The Eminent Person provided some comments at the start of the final day's session to guide the discussions. Dr. Salim reiterated the importance of getting new ideas to inform the EIR process, and highlighted 7 points or issues that have been raised in this consultation:

- The first is the appropriateness of size and speed of projects so that the intensity of impact on local communities is gentle and in accordance with the capacity of the community to absorb without disrupting cultural and social cohesion. However, what normally happens is the opposite, where extractive industries projects create a large impact that happens quickly and severely disrupts local society and culture
- Second is the issue of gender, especially in matrilineal societies, where suddenly the prevailing decision-making system led by women is completely turned around with men making the decisions and controlling resources.
- Third is the issue of abuse of human rights, especially by security forces acting on behalf of the company, where there is no mechanism for individuals to complain or achieve redress for their mistreatment.

- Fourth is the problem of revenue management. How to equitably manage and distribute benefits flowing from the large revenues generated by oil, gas and mining projects, in order to foster sustainability?
- Fifth is disclosure policy and access to information, so that everyone knows how much money is going to the government and to the company, and how much is flowing back to local communities, fostering greater accountability.
- Sixth is the problem with corruption, which seems so widespread throughout the region. What can be done about it in such poor countries when there are such large temptations?
- Seventh is artisanal and small-scale mining and the idea of putting it within the context of community development, so it becomes just one component in a diversified local economy, thereby avoiding the typical uncontrolled boom and bust scenario.

After identifying these key issues, the Eminent Person stressed that it is not enough to simply identify what needs to be done, but the participants have to address *how* to go about providing realistic solutions that the World Bank can take on board and implement, always being mindful that the Bank is like a very large tanker whose route and destination will need a long time to shift before a real change can effectively take place. The Eminent Person asked for everyone's help in bringing about this change.

Finally Dr. Salim responded to concerns by few representatives from the mining about his comments, as quoted in the Indonesian newspaper on STD practices in Indonesian waters, emphasizing that very little is known about the real impact of this technology, and that this region has a rich legacy of marine biodiversity that has to be carefully protected and tended. Therefore it is imperative to apply the precautionary principle when assessing applications of STD technology. Also, this issue has to be considered in the context of the role of the Eminent Person in having to maneuver between the interests of government, industry and civil society, always keeping in mind the interests of ordinary people in terms of economic, social and environmental sustainable development.

Discussion

A WBG spokesperson cautioned everyone not to look upon the World Bank as some form of world government that is able to bring about sweeping changes. It is better to concentrate on what the World Bank can do rather than how to change the world. In this regard it was suggested to look at two questions: How can the World Bank help with the seven issues in World Bank-funded projects? And, how can the Bank help in its policy development areas?

Dr. Salim responded that he wants the World Bank to become a major force in helping developing countries, similar to what it did previously in Europe to uplift the European economy after the Second World War and thereby change the globe. What's needed now is a 'second wave' revolution for developing countries that will change the globe into a

world with significantly less poverty, in line with the Millennium Development Goals. The Eminent Person urged everyone to commit to reaching the Millennium Development Goals, together with the World Bank, the most powerful financial institution in the globe.

“What is at stake is more than just STD problems; and more than just mining issues. What is at stake is the survival of billions of poor people who live on less than one dollar a day. Look at the people in Chad, in Papua, and ask yourselves why in a world that is so rich are these people so poor? So if the World Bank wants to call itself the International Bank for Reconstruction and Development, then for God's sake, change your corporate culture and become a world force of change.”

Recommendations

The working groups made recommendations on each of the seven topics.

Artisanal and small-scale mining in community development

The ASM working group made 3 major recommendations:

1. Reinforce CASM by hiring rural community development specialists from each of the 5 regions - Latin America, Asia-Pacific, Africa, etc.
2. CASM should find mechanism not just to fund, but also to implement solutions for ASM rural communities.
3. Establish a clear set of priorities for action, based on the size of population engaged in ASM; the severity of the social and environmental impact; if there are child labor issues; and the number of mines in the region.

The mechanism for action should be based on: establishing ‘model’ (pilot) projects in each of the six main regions to show how this can be done; getting WBG specialists to provide advice to regional governments to create or amend regulations to allow legal ASM operations; getting CASM to work with NGOs, the UN and companies interested in working with ASM; and having an independent organization facilitate access of ASMs to CASM.

Corruption

The Corruption working group recommended that the World Bank needs to: strengthen civil society; support press freedom; address collusion; bring about legal reform and legislation and judicial reform; and promote corporate ethics.

To strengthen civil society the Bank should support advocating for transparency in the legal system – ie, “sunlight is the best disinfectant”. A plan for this should underpin the development strategy for Bank policy lending and investment projects. The plan should have a ‘freedom of assembly’ clause, include indicators to measure progress, and have strong linkages to Bank operations.

In promoting press freedom the Bank should provide support for training journalists and support press independence. The Bank can also facilitate press access to extractive industries sectoral activities.

To address collusion, the Bank should ensure there is full financial asset disclosure from government officials. All WBG contracts and agreements must be transparent. The Bank can provide technical expertise to scrutinize contracts, thereby protecting the public interest. The Bank also can support watchdog agencies and NGOs, as well as providing an ombudsman for EI, linked to lending and guarantees. Governments have to disclose details of project planning at all stages. Any lending must be linked to a time-bound plan in which governments commit to funding the military completely from the government budget, and that the military focuses solely on defense. A set of indicators will be required to monitor the transition. Policy advice from the WBG should mandate adoption and application of the ‘voluntary principles on security and human rights’ in EI.

On legal reform and legislation, the WBG should ensure that community property rights and appropriate compensation are included. Regulations and management measures for social and environmental impact must also be incorporated. To achieve judicial reform, the Bank should support provision of coaching and education for judges, and require judges to disclose their opinions in writing.

To promote corporate ethics, the WBG should ratify a new act of ‘voluntary principles’ in a code of ethics for corporations that would be an international version of the US Foreign Corrupt Practices Act (FCPA). Any investment lending would be conditional on meeting these principles and standards. Any advice to countries on reform of their contract system should incorporate principles of the new international FCPA.

Disclosure policy and access to information

In pursuing the objective of getting governments to incorporate a disclosure policy and provide good access to information, the Bank should encourage in its projects the ‘publish-what-you-pay’ principle and the exclusion of tax confidentiality from any agreements. To achieve this, the WBG has to encourage, persuade and insist on governments not including confidential provisions about government payments in their contracts and agreements.

The Bank must also include the above in its work with governments on policy development. They can help make this happen by setting up mechanisms for ‘publish-what-you-pay’ in development projects, and in their support for technical assistance and capacity-building. Critical success factors to achieve the above have to be identified, and there must be a level playing field for all key actors, including big and small companies, NGOs and SOEs.

The Bank has to develop partnership with appropriate civil society organisations, both local and international, such as Transparency International. To convene the various players a ‘hub’ should be established, that among other things will be an information focal point and run workshops. The Bank should use its leverage to encourage

governments to believe this is important. The WBG should also apply this principle to other revenue sources, not just extractive industries.

World Bank projects should require the use of WBG processes for public consultation and disclosure. In influencing policy, the Bank can encourage similar processes or adapt their model for public consultation and disclosure. Due regard to safeguards must also be incorporated - eg, confidential information as necessary for employee rights, human rights, competitor sensitive information, and stock exchange audits for information accuracy. These provisions can be built into contractual requirements. Processes for public disclosure can be included in development projects, technical assistance and capacity-building packages, and in development of the law. In doing so, due regard must be given to international protocols on privacy, collection and use of data, etc. Also care must be given to the timing of release of information.

Revenue management

The Bank should assist in developing codes that will ensure that revenue from extractive industries will be distributed equitably to provincial and local governments (ie, autonomous regions), and to affected communities. The WBG also should assist countries improve revenue management, particularly in areas of revenue leakage. WBG should convene a conference that includes central government, provincial government, local bodies, industry and civil society, to decide if the revenue would be distributed and if so, what is the distribution pattern.

In order to achieve the above, the WBG should produce a document that shows practices followed in both underdeveloped and developing countries. Transparency in revenue collections, distribution and spending at all levels - by governments and companies - should be made known and ensured. There also must be better linkages between individual investments supported by IFC and MIGA, and national development strategy – ie, the CAS.

Human rights and gender in the community

The working group on human rights and gender identified 5 key points they would like the Bank to address:

1. Regarding human rights, the WBG should ensure compliance with international human rights conventions and instruments. In implementing projects, the Bank should seek advice from international organisations with expertise on human rights and legislation – eg, the UN Human Rights Commission and the ILO. Within the Bank there should be a Human Rights Department, and the CAO must have responsibility for grievances and accountability on human rights issues.

In achieving these objectives, the Bank must conduct a ‘Human Rights Impact Assessment and Audit’ for their projects, and provide as a loan condition, appropriate education and monitoring for company staff, government security personnel and local communities. In preparing projects, the Bank must also review existing conditions and problems with human rights at other sites and on the national level. Another loan

condition would be to incorporate the Bank's human rights policy into a system that includes education, enforcement, monitoring and in-depth verification. The Bank will provide advice, technical assistance, policy development and overall monitoring.

2. To address gender concerns, the Bank must ensure empowerment of gender equity, and ensure gender mainstreaming. If the Bank has a gender department it needs to have solid linkages to projects.

To achieve the above gender objectives the Bank first has to make conditional for loan granting, a gender impact assessment that includes a baseline study on the social and cultural status of gender. This study must be conducted in a culturally-appropriate fashion, with the active involvement and participation of women. Women also must be involved in all negotiation processes. In mainstreaming gender, a separate mechanism for consultation may have to be established; corporate governance in the Bank should have a gender policy.

3. The Bank has to ensure appropriate and reduced security in its projects. One of the goals will be that security forces at project sites do not carry guns.

To alleviate concerns about security forces, the Bank should make conditional that the company adopts the 'voluntary principles' for human rights and that there is no involvement of the military. All security forces must have human rights training, as must the country of operation. There must also be prior consultation with communities and their input on security measures.

4. The WBG should facilitate and promote development and strengthening of human rights grievance mechanisms.

In order to achieve this, the Bank has to strengthen and develop national and international mechanisms for human rights, and ensure power of enforcement. Fair labour standards must also be ensured. The Bank must make conditional for loan approval a fair and transparent policy on labour. Requirements must be consistent with the 8 core ILO conventions?

5. The WBG should ensure more equitable land acquisition processes.

To facilitate this objective, the Bank should ensure that companies and governments recognize indigenous land rights and provide fair compensation for resettlement or use of peoples land. All affected community members will have full access to information on company and government disbursements, and will receive expert advice on future options. Indigenous people will have the right to say yes or no to use of their land, based on prior informed consent. No involuntary resettlement will be allowed. Trust or endowment funds will be established for the long term management of resource income revenues.

Appropriateness of size and speed of projects

In looking at the issue of project size and speed of implementation, the working group identified 3 key issues:

1. There should be a long term national development plan with clearly identified priorities, based on national conditions; the Bank can assist in developing the extractive industries policies and strategies components, working in collaboration with other key players.

The WBG should work with the National Development Plan in policy development.

2. Regional development planning and capacity-building should start well before an EI project takes place – ie, during the period of advanced exploration.

Capacity-building by the WBG should assist at the regional level in a country by helping with the Regional Development Plan, including the development of regional infrastructure.

3. To finance these ‘pre-cursor’ activities, funds may be advanced based on future potential income.

WBG management should work with a ‘National Planner Group’ and ensure that the local community viewpoint is ‘heard’ within a ‘participatory’ and consultative process, at an early stage. WBG finance for projects should be conditional on maintaining high standards throughout the process.

11. Closing Remarks by Dr. Emil Salim

In closing, Dr. Salim thanked all of the participants for their contributions to the consultation process - there was a lot of food for thought, especially regarding the example from Papua, where mining could be seen both as a blessing and a curse. One big question is what lies behind the assessment that mining is a curse? Why are some people so very much against mining? The civil society group pressed the Eminent Person very strongly to recommend for the World Bank Group to go out of mining. What is going on in mining? Why do some people feel it is good for employment, for income, for taxation, for development, and others feel the opposite? The answer has to do with its impact on local people. Suddenly there is a big splash in a small lake or pond, and it creates a big disturbance. Is size the problem, or is speed the problem? Then there are issues such as revenue management, the security aspect, the role of the military, corruption, and so on. Although problems have been identified, there are still no clear conclusions.

On a second point Dr. Salim expressed his appreciation that everyone spelled out their disagreements, as well as where they agreed. But the question remains: how to tackle areas of disagreement, such as on human rights, which arose in one of the groups. The process that is going on is helpful in trying to get to the substance of the main issue;

which is the future of the World Bank Group role in extractive industries. Even though it is not possible to answer all the questions, everything will go onto the website for wider exchange. People should continue to provide their ideas, responses, criticisms, or whatever. Through this process, there should arise some ideas on how to move forward, and in which direction to look for the answers, in order to come up with sensible recommendation for the World Bank.

The idea is not to find something that is good for the scientists but bad for the policy makers. What's needed is something that can be used to change the course of the World Bank in the direction of poverty alleviation and sustainable development. The ingredients for the sustainable development model include more than just economic development. People want a different type of development, a different type of welfare creation. The big question is: do extractive industries fit within that different type of development?

The Eminent Person then asked everyone to continue with the discussion and with the exchange of ideas after the consultation, using e-mail and the website. Dr. Salim expressed his hope that government, industry and civil society would become the constituency for new ideas, having proven that they can work together and agree on some things and disagree on others. Now, based on a common understanding, is the time to generate recommendations for the World Bank Group.

In concluding, Dr. Salim expressed his appreciation to everyone involved in organizing the consultation – facilitators, translators and transcribers, and the EIR secretariat staff from Jakarta and Washington.