SEVENTH MEETING OF THE POLICY DIALOGUE ON NATURAL RESOURCE-BASED DEVELOPMENT

30 November – 1 December 2016

Draft Summary Report

The meeting was conducted under Chatham House Rules: "When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed."

I. Meeting objectives and structure

On 30 November – 1 December, under the co-chairmanship of Liberia, Norway, Kazakhstan, Germany and Guinea, twenty-two government delegations from Africa, Asia, Europe, and Latin America, as well as representatives from ten partner organisations and international institutions, and thirty-one major firms, industry associations, civil society organisations, academia, law firms and think tanks convened at the OECD for the Seventh Plenary Meeting of the Policy Dialogue on Natural Resource-based Development. Partner organisations in attendance included African Development Bank's Legal Support Facility and Natural Resources Centre, the African Minerals Development Centre, the Commonwealth Secretariat, the European Union Commission, the International Institute for Sustainable Development on behalf of the Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development (IGF), the UN Educational, Scientific and Cultural Organisation (UNESCO), the UN Conference on Trade and Development (UNCTAD), and the World Bank. High-level participants included H.E. Mr Abdoulaye Magassouba, Minister of Mines and Geology, Republic of Guinea; H.E. Mr. Mosebenzi Joseph Zwane, Minister of Mineral Resources of the Republic of South Africa; Mr Günter Nooke Personal Representative of the German Chancellor for Africa, Federal Ministry for Economic Cooperation and Development (BMZ); and Mr. Ryotaro Suzuki, Minister and Deputy Permanent Representative of Japan to the OECD. The Chair of the Governing Board of the OECD Development Centre, H.E. Ambassador Pierre Duquesne, welcomed participants on both days of the Plenary Meeting.

The OECD Development Centre, acting as a neutral knowledge broker, contributed to framing the broad thematic areas and specific issues for discussion, as outlined in the background documents distributed to all participants in advance of the meeting. Besides the OECD Development Centre, the OECD Centre for Tax Policy and Administration, the Directorate for Financial and Enterprise Affairs, the Sherpa Office and Global Governance Unit, and the Directorate for Trade and Agriculture were also represented.

The two day meeting was structured around six sessions. The first day was dedicated to the Negotiation Support Forum, a joint initiative of the OECD Policy Dialogue and the G7 CONNEX Initiative, undertaken as part of Work Stream 3 (Getting Better Deals). The second day was dedicated to advancing work under Work Stream 1 (Shared value creation and local development), Work Stream 2 (Revenue Spending and Natural Resource Funds), and Work Stream 4 (Domestic Resource Mobilisation: BEPS and corruption).

II. Summary of the Discussion and Conclusions

Throughout the course of a fruitful two day meeting, participants commended the collaborative spirit, high quality analysis and inclusive partnership underpinning the Policy Dialogue. Under *Work Stream 1 – Shared value creation and local development*, participants welcomed the launch of the *Compendium of Practices*, an online tool that helps operationalise the *Framework on Collaborative Strategies for In-Country Shared Value Creation*. The *Compendium*, first introduced at the Sixth Plenary Meeting, contains examples of practices that illustrate in a concrete way how the *Framework*'s guidance can be implemented by the private and public sector. Participants discussed an initial set of five examples, validated three of them, and agreed to continue to add new examples going forward.

Under *Work Stream 2 – Revenue Spending and Natural Resource Funds*, participants considered the key characteristics, trade-offs and opportunities of Strategic Investment Funds, as a form of special purpose investment vehicles to achieve productive development outcomes. The experiences from Kazakhstan's *Samruk-Kazyna*, the *Fonds Souverain d'Investissements Stratégiques* of Senegal and the *Ireland Strategic Investment Fund* show how strategic investment funds can help natural resource rich countries manage long-term financing challenges and shrinking fiscal space, while balancing policy and commercial objectives.

Under *Work Stream 3 – Getting Better Deals*, participants welcomed the *Guidance to assemble and manage multidisciplinary teams for extractives contract negotiations* and the *Terms of Reference Template for recruiting advisers for extractives contract negotiations* as useful tools to ensure governments' ownership and to strengthen capacity to engage in effective negotiations alongside, wherever feasible, the transfer of knowledge. Participants recommended some adjustments to improve the uptake and utility of the Guidance and the Terms of Reference amongst developing countries. Participants embarked for the first time on a dialogue on *Key attributes for longstanding contracts* and discussed contractual mechanisms to deal with change. It was agreed to pursue this dialogue, with the objective of working towards symmetric, non-discriminatory and adaptive mechanisms that work for both governments and industry and that can help to build mutual trust during contract negotiations

Work Stream 1 - Shared Value Creation and Local Development (Session 5)

Session 5 was co-chaired by Hon. Sam Russ, Deputy Minister for Operations, Ministry of Lands, Mines and Energy of Liberia and Mr Petter Nore, Chief Energy Analyst, Norwegian Ministry of Foreign Affairs. The discussion focussed on the *Compendium of Practices*, a companion tool to the Fra*mework for Extractive Projects on Collaborative Strategies for In-Country Shared Value Creation.*

Following the Sixth Plenary Meeting, a Working Group on the Compendium of Practices was formed with participants drawn from both within and outside the Policy Dialogue, from backgrounds that included industry, government, and civil society. The Working Group met three times via teleconference - during September, October and November, and provided input that helped formulate the Compendium of Practices, giving feedback on the look and feel of the website, as well as the broader goals of the Compendium. Working Group members also helped leverage their respective networks to generate interest in the Compendium and provide examples from their own experiences.

At the Seventh Plenary Meeting, the Compendium of Practices was formally launched. Five examples from the Compendium were tabled for discussion and possible validation. The examples provided do not suggest that the solutions are necessarily replicable elsewhere. The examples are intended to showcase instances in which win-win collaboration has worked in practice and why, with due consideration given to specific conditions and circumstances and enabling factors. The examples further offer lessons learned that may be useful in similar situations.

The examples discussed in the meeting touched on four out of five of the Framework's steps, covering a wide range of different situations, including stakeholder consultation and expectation management, local employment, access to finance, innovation, water reclamation and shared infrastructure, and training. Each example was presented by one or multiple kick-off interveners with knowledge of the example. The draft examples were circulated as part of the package of background documents that was provided to participants in advance of the meetings. During the meeting, three examples were formally validated by meeting participants, with the first and five examples intended to be validated at a later date. The five examples that were discussed were:

- *How can stakeholders be engaged and expectations of outcomes managed?* (STEPs1 & 2)
- *How can employment opportunities in a remote mining area be created?* (STEP 3.1)
    - *Validated for inclusion in the Compendium.*
- *How can access to credit be facilitated for SMEs?* (STEP 3.1)
    - *Validated for inclusion in the Compendium.*
- *How can water scarcity and competing industrial and domestic use be managed?* (STEP 3.2.2)
    - *Validated for inclusion in the Compendium.*
- *How can joint ventures support the development of new competitive capabilities?* (STEP 3 and STEP 4)

In each discussion, kick-off interveners focussed on the enabling factors, obstacles, and lessons learned that characterised and emerged from each experience. This provided rich grounds for discussion, sometimes by providing ways through which similarities and differences between experiences could be teased out, and in other cases by providing areas of reflection across other aspects of development. There were a few commonalities that emerged.

One was the vital importance of having a value proposition reflecting the interests of relevant stakeholders. This was true from both government action and action spearheaded by the private sector – otherwise, it is difficult to create win-win solutions that are durable and sustainable. Anglo American's water reclamation plant in South Africa illustrates this. It makes sense as an initiative for Anglo American in terms of both mitigating its environmental impact (cleaning up mining waste) and providing a service to the community (clean potable water), and helping to secure its social license to operate. It made sense as an initiative for the community, as it provided a source of potable water at market rates as well as local involvement in planning and in the operation of the project. Finally, it made sense for the government of South Africa as an innovative solution to water supply in a water-scarce and drought prone region of the country. It also made sense financially – the rates being charged for the water helped offset the cost of operating the plant, while also providing the resource to the community.

Another recurrent theme was the vital importance of effective stakeholder consultation. Participants noted that this was a vital step in the extractive sector succeeding, agreeing that this was true regardless of the scale, whether a local project or a country wide envisioning of the role of the extractive sector in national development. There were a few broad lessons that came through in the different examples:

- Engagement should not be static - consultation should take place as soon as possible, and should be an ongoing process over the lifecycle of the project.
- Having a strong business case for a project is necessary but not sufficient – it also has to make sense for all stakeholders.
- Win-win solutions are essential for the long-term success of an initiative.
- Early consultation and communication strategies are key to managing stakeholder expectations.

Stakeholder outreach was most effective when it happened early and often, and was inclusive in the sense of reaching out to both local community members who were directly impacted by projects as well as government officials at local, regional, and national levels. Participants noted that having these outreach processes take place at an early stage can mean the difference between failure and success. As one participant noted, getting to the point of extraction and realising that the appropriate skills are not available is not a good scenario.

Early consultation also ensures that the projects and programs that are developed are responsive to the actual needs of the community – this can help build trust and create effective relationships. From the examples presented by participants it was clear that the most effective programs are ones that were developed organically, with different solutions considered once the problem was identified. In the case of low availability of water for community and industrial users, Anglo American held community consultations and entertained different options to see which best fit the needs of stakeholders, as well as interlocking regulatory requirements from different bodies in the South African government. In the case of Vale, the Joint Education and Training Authority (JETA) was developed out of substantive consultations with the impacted communities, including skills assessments, as well as consultation with the provincial and federal government to ensure that it meets education requirements.

Participants also noted the importance of understanding the situation with regards to consultation and stakeholder outreach. There are usually stakeholders who have an interest in the project/locality and these stakeholders may have overlapping authority. These can include: central, regional and local government, traditional leaders and civil society. In the case of the example of Afghanistan, media reports about the country's mineral wealth had created potentially unrealistic expectations among its citizens, and part of the process was about better communicating realistic expectations and timelines to the public. However, participants pointed out that the communications issues were often radically different in different contexts – sometimes it wasn't about expectations being too high, but about convincing a local community that was going to be impacted by a project that it was worth it. In those cases, there may be resistance from the communities directly impacted, but support from the national government. In other cases, local communities might be supportive of developing extractive projects, even while other citizens are concerned about the environmental impacts. Ultimately, no matter what the expectations are of different stakeholders, understanding those expectations is vital to managing them.

Participants also agreed that stakeholder consultation and outreach is something which should continue throughout the project lifecycle. In the case of Vale, that meant meeting regularly with stakeholders throughout the course of JETA operation, and continuing to do so. In the case of Shell, that meant establishing a focal point within the company to ensure that there was close coordination with contractors with regard to ensuring that loans were properly dispersed. Good consultative practices ensure that everyone who has an interest in the project is involved in the discussions. This also helps ensure buy-in, and shared interest in its success.

A common thread during the discussion was the importance of *context*, both in terms of consultations and project implementation. In Afghanistan, the cultural context was a vital shaping factor: the stakeholder consultation process had to find a way to reach out to women, within a culture that can make participation in public life difficult due to strict gender norms. A participant noted the key role that civil society has for acting as a two way street during consultative processes –as a conduit to provide information to consulting bodies as well as pass new information back to the community.

Participants emphasised the importance of investors conducting due diligence on the skills and educational context of the locality of the proposed project. There is little point in offering employment or advanced training to members of the local community if those people do not already have a basic education. Participants mentioned the example of Pakistan – where girls are often prevented for cultural reasons from

completing their basic education. In South Africa, investors are encouraged to consider the needs/requirements of the local community through a framework called the Social Labour Plan, which allows the investors to see the progress of various health, education and other programs in that region. However, participants noted that it is not the responsibility of the investor to take over the educational requirements from the host government and that a regional approach to the development of skills is recommended to maximise positive impact.

Participants noted that the legal framework is also important. In Canada, the Joint Education and Training Authority (JETA) was established by Vale, local aboriginal governments, the provincial government, and the federal government. However, the process was facilitated by the Impact and Benefits Agreements (IBAs) that were signed between Vale and the Aboriginal governments, as well as a legislative framework that permits preferential employment of aboriginal groups. The process of negotiating the IBAs also helped build relationships with communities. JETA also benefited from funds that the government of Canada provided to support employment opportunities in Aboriginal and First Nations communities.

Flexibility of project development and implementation was also important in the examples, both in terms of supporting initial success and in terms of learning from experience and reacting to changing environments. In the case of Anglo American's water reclamation plant and Shell's program to support finance for SME's in the Nigerian supply chain, expansions on existing programs are being developed that incorporate lessons learned. In Nigeria, Shell's program to support better access to finance for SMEs in their value chain has been revamped with an expanded list of participating banks and more safeguards to ensure that loans are dispersed and repaid in a timely manner. In the case of JETA, the programme operated during the pre-construction and post-construction periods – once the mine was operational, other training initiatives were developed to ensure that progression continued. Now that the Voisey's Bay mine is shifting from open-pit to underground, new training programs are being developed.

Going forward, the Compendium's success will depend on the ongoing willingness of participants to share examples from their own experiences as well as leveraging their networks to contribute examples. As examples continue to be validated and added to the online Compendium, another session will be held at the Eighth Plenary Meeting in June 2017 to discuss another set of examples for inclusion.

Work Stream 2 – Revenue Spending and Stabilisation Funds (Session 6C)

This session was chaired by Mr Dastan Umirbayev, Director of Macroeconomic Analysis and Forecasting Department, Ministry of National Economy, Republic of Kazakhstan, and had a thematic focus on Special Purpose Investment Vehicles, in this instance Strategic Investment Funds (SIFs). The objectives of the session was to consider the key characteristics, trade-offs, and opportunities of Strategic Investment Funds, centred around: developing an improved understanding on how domestic investment can help to transform natural resource revenues into productive development gain; and sharing experiences and peer learning on good operational practices to support SIF effectiveness in domestic investment.

Recalling the work on stabilisation funds, participants noted that most of them are invested exclusively in foreign assets for reasons of macro-economic stability and due to limits in the absorptive capacity of the domestic economy. Making targeted investments in the domestic economy is an altogether different enterprise from global portfolio investing – it requires different organisational capabilities and different skills sets - and stabilisation funds, which are essentially long term savings vehicles, are not necessarily the best instruments for realising domestic investment. A better option may be to establish a purpose-built domestic investment vehicle, like a Strategic Investment Fund (SIF) – as an additional means of deploying capital in the domestic economy, alongside conventional spending via the budget.

Historically, strategic investment funds stem from the effects of the financial crisis, which resulted in the drying up of existing sources of financing. Existing sources of funding are nowhere near those needed, particularly in Africa, and the only way to address this is through a partnership approach or a 'shared value proposition' and collaborative investment. A Strategic Investment Fund is a means to achieve this. SIFs have a double bottom line, which may be explicit or implicit in the investment mandate, and which aims to achieve both a competitive or market-based return on capital (due to their opportunity cost) as well as an additional development objective, such as creating jobs, developing or reviving particular sectors of the economy etc.

Often times, SIFs operate across a spectrum of objectives, crowding-in foreign investment through some form of collaboration and co-investment, catalysing new industries and reinforcing the competitiveness of existing assets by having them following corporate governance standards or partially privatising them to introduce market based mechanisms into their corporate behaviour.

The most difficult thing to do in managing SIFs is measurement. On the one hand the investment must have a commercial proposition, but this must be balanced against social impacts. But measuring this requires robust capacities for data collection and statistics, which are often lacking. In terms of the frequency and metrics used to monitor social impacts, participants noted that many SIFs use proxy measures; ISIF does this biannually and uses Gross Value Added as its metric. ISIL also conducts six-monthly surveys, for which there is a pro-form template, to measure results. ISIF also has a confined investment universe. Within that investment universe, ISIF is then free to invest. In such cases, the cost-benefit analysis is likely already done. In Senegal, the Fund reports to the Ministry of Finance, against a matrix. The Government has stated global objectives (policy), for example on import substitution and access to energy; and the Fund is responsible to report, not only on returns on investments, but also on the impact of its work in terms of achieving these objectives. While recognising that measurement is difficult, participants noted that it allows the Fund to remain independent from other factors – for example, the policy trade-offs - and enables the project to be measured foremost against its economic viability.

Finally, participants asked what, if any, proportion of SIFs are currently tackling climate change. Rough estimates suggest that only 2% of government owned funds are currently engaged in the renewable energy market or green energy. However, the data is misleading, as many of the hybrid funds created are climate change related. The World Bank and ITMA Capital (Morocco) have just launched a hybrid fund, the Green Growth Fund, as a collaborative investment model to tackle climate change. The World Bank is also undertaking a survey to identify Climate Funds to define measurement indicators, and the platform and system that might be needed to track financial contributions to climate adaptation and mitigation initiatives.

Work Stream 3 – Getting Better Deals (Sessions 1-4)

The Negotiation Support Forum was held on 30 November under the auspices of the G7 Japanese Presidency of the CONNEX initiative and the co-chairmanship of Mr Günter Nooke, Personal Representative of the German Chancellor for Africa, Federal Ministry for Economic Cooperation and Development (BMZ) and H.E. Mr Abdoulaye Magassouba, Minister of Mines and Geology, Republic of Guinea.

It was announced that a CONNEX Support Unit would be established in Berlin in January 2017. The Support Unit will be implemented by GIZ and aims at providing limited institutional structures to the CONNEX initiative, in order to enhance its visibility, ensure its representation internationally and make it more accessible and efficient for partner countries seeking advisory support. The CONNEX Support Unit is designed to complement long term capacity building efforts under the third pillar of the CONNEX Initiative.

Participants greatly valued the Negotiation Support Forum to forge stable, lasting, sustainable contractual relationships. It was recalled that the OECD Strategy on Development calls for strengthened OECD's contributions to 'higher and more inclusive growth in the widest array of countries'. This requires moving beyond the rhetoric of shared benefits between producers and consumers of natural resources and entrench these good intentions in negotiated contracts. In this respect, participants recognised that the distinctive contribution of the Negotiation Support Forum is to offer a neutral space for dialogue among OECD, non-OECD, industry and experts on a level-playing field to look into workable approaches for shaping durable contracts. As a result of dialogue, the Forum is developing a toolbox through which producer countries and extractive industries can work together in a constructive manner.

The Negotiation Support Forum was devoted to the discussion of the Guidance on assembling and managing multidisciplinary teams for complex extractives contract negotiations, the Terms of Reference Template for recruiting advisors and initial proposals for key attributes of long-standing contracts.

The Guidance was prepared by the OECD Development Centre with substantive expert input from the Friends of CONNEX Negotiation Support Forum, who met via teleconference in September, October and November to provide feedback on preliminary drafts. The main purpose of the document is to offer host governments the tools they need to assemble multidisciplinary teams in order to engage effectively in extractives contract negotiations, find ways to make governments and local or foreign experts work together in a productive manner and, to the extent possible, retain expertise for future use. Participants acknowledged that the Guidance is not intended to be comprehensive and does not aim to provide a step-by-step guide on negotiations preparations. Rather, its main focus is on the **process** of establishing a multidisciplinary team for contract negotiations.

Participants welcomed the Guidance on multidisciplinary teams as a useful document to guide governments in pulling together the right expertise when entering in contract negotiations. The Terms of Reference were also considered useful for governments to ensure accountability, avoid mission creep and control costs.

Putting the Guidance in context, participants noted that getting to a good extractive contract means establishing a quality partnership between different stakeholders, who are aware that they are entering into a long-term relationship, whatever the quality of drafting or the specifications in the contracts are. A good extractive contract balances the interests and perceptions of all stakeholders involved. A balanced playing field, recognising both the legitimate interests of the host countries to realise value and build capacity, and the need for a fair return on investment, is essential for these contracts to be sustainable. But, it is also imperative to fully understand the expectations of other stakeholders. If people don't believe that the contract is balanced, it does not matter what the contract actually says. To tackle this issue, Guinea has organised a national dialogue to reflect expectations and develop a shared vision for the development of its extractive industry, with a baseline situation, resulting from a series of surveys, which will be used to measure progress over time. While it is not necessary to have a communication expert in the negotiation room, participants recommended that governments should benefit from the right expertise to develop a communication strategy since the beginning of the process to project the right message to national stakeholders and international partners.

Participants reiterated the importance of planning and preparation ahead of actual negotiations. It was observed that African countries have not fully reaped the benefits associated with the development of their resource endowments not just because of badly negotiated contacts, asymmetry of information and lack of capacity, but more importantly for lack of long-term strategic vision. With the adoption of the African Mining Vision, heads of state have now developed a new vision, shifting from a rent base to a sustainable development model, entailing a structural change in the extractive sector. Contracts need to be properly aligned with the visions of African governments and people. It was observed that is imperative to test the

provisions of a contract against the tenets of the African Mining Vision, as African governments deepen its domestication. The Guidance is intended to help producing countries to set up a team that would serve this vision. In this respect, it is vital to realise that the issues at stake in extractives contracts are not narrowly related to extractive activities, and they are not well appraised by negotiation teams. Most of them relate to infrastructure and linkage development, public-private partnerships, investment climate, dispute avoidance and resolution. If these issues are not well understood at the start, negotiations are doomed to fail. Planning is thus central to effective contract negotiations, and economic planners should be a part of the core negotiation team, as this will ensure that contracts are negotiated within the parameters of the economic pathway the country is choosing for its future, with due consideration of the development of backward and forward linkages and any cross-border activities. It is particularly important for the negotiating team to have a negotiation mandate. This will bring legitimacy to the team and ensure that the government does its homework in terms of the long-term objectives and economics of the project. For trans-boundary projects, the question was raised whether the establishment of a joint inter-government team would be appropriate. It was recommended that government-to-government negotiations take place first to come up with a coherent and shared inter-governmental position, followed by the setting up of a unified negotiation team and lastly opening up to the investor.

With respect to the timeframe of the Guidance, participants discussed the opportunity to focus just on the negotiating stage, while a lot of the preparation needs to be done in advance. Without having the ambition of detailing each and every step of how to negotiate contracts, the Guidance takes this preparation process into account and explicitly addresses the main actions to be taken before the negotiations start, with a focus on the expertise and skills needed to make this happen. These include setting clear parameters for negotiations, clarifying which issues are open and which are left out of negotiations; understanding different scenarios and possible alternative outcomes, to develop an informed and unified government position, and understanding the full value proposition of the project (including economic, social and environmental aspects). Participants underlined that the most difficult part of the negotiation is precisely getting internal agreement before negotiations even begin. That's why the Guidance suggests mechanisms, like the establishment of inter-ministerial committees, to facilitate internal coordination and reach a consolidated position.

It is understood that the Guidance by its very nature will have to be tailored to the specific country context and nature of the deal involved, as well as the specific phase of the project. In this regard, participants noted that the composition of the team may differ for different stages of the extractives process from exploration to production. Ideally, a government should first develop a national strategy for the sector and then put in place a legal and regulatory framework. In this scenario, the majority of clauses can be set out in the relevant mining code or petroleum law, and will not need to be drafted independently for each contract. Participants encouraged producing countries to adopt extremely detailed legislation to leave little room for contract negotiation. However, this may not be possible either because the legal framework is not sufficiently developed or the contracts are particularly complex. Participants recognised the relevance of the Guidance in contexts where contracts still need to be negotiated and are often subject to different points of pressure, often rising to the surface at the end of the negotiations and leading to sub-optimal results.

In this respect, model contracts can play an important role, which would warrant further elaboration in the Guidance. It was clarified that in the case of Ecuador, the negotiations were based on a model contract developed from the International Bar Association Model Mining Development Agreement (MMDA), which is valuable in setting an agenda and in providing a checklist for negotiations. There was also a moratorium on negotiations while the model contract was being developed. As a result, the concluded contracts were tightly tied to the model contract, and any variations essentially reflected geographical conditions and the specific nature of the project, with no deviations on fiscal terms or environmental requirements.

Participants emphasised the importance for the government to retain ownership and management of the negotiation process to reach durable contracts, especially when advisory support is sought, if local expertise is not available.

On constituting a government's negotiation team, participants noted that the assembly of the team depends to a large extent on the political economy of the host country. For example, when decision-making tends to be centralised, and when a major investment is at stake, inevitably any final decision will be made by the head of state, or the prime minister. In this case, it is important that whoever is leading the team has the confidence of the head of state or government.

In terms of who participates in the government's negotiation team, participants agreed on the merit of establishing a core group, which will usually consist of representatives from key agencies across government: the Ministry of Finance, the Revenue Authority, Legal Office, Ministry of Mines, Planning, Geology and Environment. Depending on the specific issues under discussion, flexibility in the team composition will allow for additional expertise to be brought in for specific negotiating sessions. It was further recommended that the lead negotiator be a government official or national expert, as this will help bridge the trust deficit in a multidisciplinary team with the likely involvement of foreign experts and avoid that future governments seek to undo what was done by foreign experts. It was stated that the advantage of having a technocratic leader would be the ability speak more openly. Often times these assignments require rapid response and immediate deployment, and it is difficult to build trust that quickly. That in mind, it was recommended that the Terms of Reference build in a certain amount of time for communication between the government and advisory team to build that trust before the negotiations commence.

In terms of community participation, participants noted that it is often said that the community needs to be at the negotiating table in order to fully represent their views, but this is not necessarily always the case. In some cases it can be counter-productive as it can result in grand-standing. An alternative approach would be to engage communities before negotiations start and then go back once the deal is done to explain the solution reached on critical issues, such as relocation of communities, use of water sources, or decommissioning/mine closure.

Ultimately, participants acknowledged that, whether or not communities are at the negotiating table at a given time is a strategic decision for the negotiating process; more important is to ensure that community engagement is not seen as a series of two-way relationships between communities and the investor, communities and the government, and the government and the investor. Rather, it should be seen as a three-way relationship. This should be built in, in a much more integrated way in the Guidance. A further suggestion was to think of community engagement not as a series of inputs but as a variable set of procedures that could be reflected along a continuum, beginning on the one hand with community consultation, and having community presence in the room, and extending as far as securing tripartite agreements, as seen in other sectors and as being explored by several academics.

In terms of *subject matter expertise*, participants emphasised the importance for host countries to benefit from industry experts, typically a short term specialist, who can assist the government to understand the market and the complex forces at play and how far negotiations can go. Next is financial expertise to construct financial models or interpret the financial data provided by an investor, which enables government to challenge the data, as appropriate. Furthermore, participants felt that legal capacity is of paramount importance. Domestic law firms are often very small, and while working on other work, it is very difficult for them to focus exclusively on contract negotiations. Lawyers will typically need to be externally recruited to complement the expertise of local lawyers. It was further suggested to emphasise the importance of tax specialists to gauge the impact of varying fiscal provisions. The lack of geological expertise was also highlighted as a particular issue, and an issue that arises after exploration, when investors are looking for security of tenure over their investment. In this context, the question was raised

as to the willingness on the part of CONNEX to assist with the development of geological knowledge, to 'know your resource' in order to negotiate. Social and environmental expertise was regarded as a key component to realise the full value of the project, alongside with economic spill-overs.

Qualifications and weighting ratio also need to take into account lessons learned from very complex extractive contracts, long experience and practice of national laws on mining, oil and gas, infrastructure, licencing, public law, etc. Simply requesting, for example, that lawyers have a post-graduate degree and 15 years of experience is insufficient. Guinea is one country, like many Francophone countries, in which public law plays a leading role in contract negotiations, and it does not make sense to hire lawyers who do not have experience with public law or the Guinean legal regime. What is important is to ensure there is a discussion with government to understand the issues, and from there adjust the qualifications and weighting ratio.

Participants stressed the need to select the right individuals, including any external advisers, and ensure their commitment and dedication throughout the negotiations to avoid imbalances that affect the efficiency of the process. Large investors and developed economies also mobilise external experts to negotiate complex contracts. Participants further noted that it is important to understand that remuneration is going to be much more competitive, given the need for highly specialised knowledge. It is also important to integrate any external advisers in the team as early as possible in order for them to understand the political and economic dynamics driving where governments want to go. In the preparatory phase of the negotiations, this entails first of all reconciling any divergent views among different ministries and agencies and factor in the time needed to build trust with any external advisers recruited to support the negotiations. However, where rapid response and immediate assistance is required, it is difficult to build trust immediately. In order to ensure ownership, the government needs to be involved in the selection process to complement available government's expertise. Part of the problem stems from the procurement process, whereby technical, legal, financial social and environmental advisers are frequently selected on a silo basis. This makes more difficult to get people to work together and establish the right dynamic within a team.

Key questions raised were: who chooses the advisers? Who assembles the team, the donor organisation or lead advisor (e.g. a law firm)? How to assure that the advisory team is fully loyal to the needs of the host country? Participants recommended that the government always take part in the selection process. Often times, advisers are presented by donors. This poses potential challenges as the advisers presented may not be familiar with the host country, its endowments and specific challenges and needs of the governments. For countries in which domestic expertise is available, the World Bank just checks compliance with fiduciary obligations. Otherwise, the selection of the adviser is made by the World Bank, but the selected consultant needs to be endorsed by the government. With respect to the quality of advice received with the support from donors, it was noted that the composition of the government negotiation team is seldom disclosed. Governments were encouraged to take a more proactive stance to fill any gaps in their expertise, match the capacity of the counterpart, and secure the best advice and support from donors. With regard to building alignment within the team, the case of Afghanistan offers some lessons. The negotiation team was selected by the US Department of Defence to help with the development of a sustainable mining industry in the country, but interviews of technical, financial, legal experts were carried out jointly to ensure a collaborative environment since the very beginning. Another solution could be for the lead advisor to crowd in the others.

Participants considered that it is crucial to clarify in the terms of reference that the role of the adviser is to advise, offer solutions and a way out when roadblock arises, but not making decisions. The preparatory phase is an opportunity for the government and experts to develop an understanding of their respective roles in the negotiating team. Sometimes the adviser may be less of a subject matter expert and more someone who is facilitating dialogue among the different and competing goals of the government.

Sometimes the government may need someone simply keeping track of the multiple exchanges occurring. Other times advisers might be market experts or very technical experts. Sometimes advisers can perform both the technical and softer roles well. Accordingly, it was recommended to fully reflect these different roles in the Terms of Reference Template. Competition among experts should also be avoided and this should be reflected in the soft skills selection criteria, to demonstrate the ability of the adviser in inserting him/herself into a team and being effective. Years of general technical experience are not by themselves sufficient to guarantee good quality advice.

Participants brainstormed on innovative approaches to efficiently procure external expertise. Building on previous experiences, it was suggested to draw an atlas of experts for future reference or set up a panel of advisers engaged for different projects. The point was made that part of the problem may be the limited supply of experienced advisers. Contrasting this view, other participants observed that it was not a problem of the market being limited, but rather a problem of procurement policies driving it back to more limited market options. This is a question of whose procurement policies will apply and when, and where will this lead. For example, many donor organisations have rules around round-tripping, or require that advisers come from their home country, and that a certain percentage of resources revert to home countries. This is a real problem. Some international donors also treat international and local consultants quite differently, which not only prejudices consultants in terms of fees paid, but also prejudices experts from developing countries in terms of the recognition these consultants get in the fields in which they work. Concluding on the question of procurement, it was noted that in some situations, advisory support terminates or expires before negotiations are concluded. Participants emphasised the importance of ensuring the continuity of advisory support for the entire length of the negotiations.

With a view to bridging the trust deficit, participants emphasised the importance for governments to take full advantage of the first league diaspora. Indeed, skills do not necessarily need to be flown in and handed over from external to internal. Participants noted that it would be important to ensure that the Terms of Reference do not presume that international advisers are needed in all cases; but rather, reflect the critical role played by local lawyers and advisers, who bring country specific skills to the table and can advise on the local impact of specific legal provisions in a way that foreign experts cannot. It would be helpful for the qualification criteria of the Terms of Reference to recognise the need for experts to work collaboratively with local experts (lawyers or otherwise).

It was observed that advisers need to be considered for their local, cultural and language knowledge and genuine loyalty to the countries they serve. But, trust and cultural understanding are subjective measures that are very difficult to measure, and public procurement rules are tied to objective measures to ensure fairness. Participants recognised the tension between trying to balance fairness and transparency versus relationships.

While recognising that the guidance does a good job in managing issues related to conflict of interest, some participants suggested that the terms of reference could be more explicit and articulate the different forms that a conflict of interest may take, namely legal, commercial and sector. For instance, lawyers may be exposed to legal conflict, depending on the bar they are coming from and the rules they are expected to abide by; a commercial conflict may arise for example when 90% of the lawyers' business is with mining or oil and gas companies. While there might be no legal duty to disclose because there is no legal conflict, one could question the ability of such lawyers to provide neutral advice. Sector conflicts may arise in situations in which an adviser to the host government represented a mining company operating in another jurisdiction which is a direct competitor of the company with which the host government is negotiating.

Participants discussed whether and the extent to which advisory support in contract negotiations can contribute to capacity building efforts. Participants generally agreed on the need to dissociate long-term capacity building from short-term support to negotiations. However, participants considered ways to

ensure that long-term needs for transfer of skills take are duly taken into consideration when providing advisory support, with a view to avoiding the risk of perpetuating dependence on external support, rather than enabling local empowerment. It was observed that the "fly-in and fly-out" model, with experts bringing in their sophisticated skills, needs to be combined with transfer of knowledge and long-term human and institutional capacity building that can live above and beyond technical support. Participants noted that there are many different elements to capacity building, ranging from human capacity, through institutional capacity, to employee retention and government's commitment to continuous professional learning, which raise broader governance issues. Host countries are encouraged to provide opportunities for the formation of their own cadre of national experts through, for example, the establishment of centres of excellence, preferably at regional level, and to develop strategies to retain those experts.

While recognising that capacity building is a multi-faceted and long-term endeavour and that highly specialised knowledge cannot be quickly and easily transferred, the Guidance and its Terms of Reference Template suggest practical arrangements to maximise benefits from external advisory support. Expectations for capacity development and related arrangements should be specified upfront in the terms of reference.

With specific regard to monitoring and performance evaluation criteria, the point was made that they need to be tailored to government's skills and capacity to assess in an objective and effective manner the quality of advice provided. Criteria for evaluation and monitoring should be designed based on the skill and capacity that exist within the government. There must be skilled staff for quality control, monitoring of costs, and for other more complex activities.

During the afternoon sessions, participants turned to the proposed key attributes for long-standing contracts. At the Sixth Plenary Meeting of the Policy Dialogue on Natural Resource-based Development held on 22-23 June 2016, participants had embarked on a discussion on how contracts can be designed to withstand the test of time, building in the balance between flexibility and predictability which minimises the need for renegotiation and fosters robust, stable and durable deals. As a first step in this direction, it was agreed to articulate the key attributes of long-standing extractive contracts, providing some level of comfort for both host governments and investors. In response to this demand, the OECD Development Centre set out three proposed key attributes of long standing contracts. It also identified mechanisms and provisions that may be a source of tension between the parties and suggested approaches to understand trade-offs, minimise identified problem areas, and take more informed decisions.

The main objective of the sessions was to take steps towards building a shared understanding and progressive convergence around the key attributes of long-standing contracts, with a view to improving alignment and, where possible, reconcile expectations between host governments and investors, and provide a useful framework that could be used by negotiating teams for shaping durable and balanced deals. Participants further discussed contractual mechanisms and examples from contemporary contractual practice, with participants reviewing lessons from evolving practice on the ways in which contract terms can anticipate and deal with price, cost and volume fluctuations over time, as well as changes in law that may affect the financial equilibrium of the contract. Participants were reminded that what was at stake here was not to secure widespread agreement but to have a clear understanding of the views, needs and expectations of different constituencies.

It was explained that the proposed key attributes are forward looking and are not intended to be retrospective in application. They are without prejudice to specific contract terms in accordance with the specific needs of the country.

Turning to the formulation of the proposed three key attributes tabled for consideration, participants observed that an extractive contract can be seen as a form of marriage. What makes a contract durable is

for both parties to understand how and why the contract was first entered into. Typically, this occurs because host governments have resources that they would like to monetise, and they bring in investors because those investors have money and capital, and they have expertise (technical, project management and operational). It is necessary for both parties to understand one another's position, and to have access to adequate information in order to reach that level of understanding. Investors should understand that the government is a steward or custodian of country's natural resources; and government's need to appreciate that investors have a fiduciary obligation to their shareholders and bondholders, and that because of the cost of capital, industry expects a return on investment, and to be compensated for more than just the capital invested. Indeed, besides capital, investors bring technology and technical expertise, and any compensation offered needs to reflect the risks that investors bear.

Participants agreed that, typically, the terms agreed in the initial contract reflect the risk assessments of both parties at the time – i.e. both parties probably thought the deal was fair and equitable at the time. Invariably this situation may change over time as a result of exogenous variables, such as distortions in price or other factors which can alter perceptions of the fairness of the deal. Also, the point was made that variables or risks anticipated at the outset of the project should not provide the basis to renegotiate the contract. Investments will necessarily be subject to the inherent risks of business. It was submitted that in the business of exploration, for example, the risks of failure are high. It was observed that if such risks are underestimated, this should not form the basis for renegotiating the terms of the deal. There is no obligation on the part of government to ensure that the investor secures superior returns; or that a project survives at all costs. But, a balanced approach, establishing a fair return on investment was recommended. Investors are subject to geological risk, reservoir risk and price risk – only one in ten exploration wells is likely to result in a commercial discovery – and investors are willing to assume those risks, but they are reluctant to add political, regulatory and fiscal risk to that matrix.

Participants agreed that long-life contracts may require adjustments to contractual terms, and this is appropriate provided that they result from good faith negotiations and are mutually agreed. This does not imply that these mechanisms for adjustment or for renegotiating the contract should be necessarily pre-defined; nor does it imply unilateral changes to the contract by either party. Rather, no matter how many provisions are included or how well the self-adjusting fiscal terms are defined, circumstances can occur in which the total value of the resource is not being realised, and it is in the interests of both parties to get together to make adjustments to contractual terms to secure the full value of the contract. Nevertheless, the discussion showed that the question of contractual stability remain among the most divisive issues, particularly when marrying the concept is married with stabilisation provisions.

In terms of ensuring durability of a contract, it was observed that there is a need to maintain alignment over the length of the contract which may last for 30-40 years, and this can be very difficult to do. The equitable sharing of benefits is important; where it does not exist, it can result in misalignment that can destroy the value of the contract. One means by which to ensure continuous alignment in financial and economic interests is through self-adjusting and responsive fiscal terms, to ensure that when unknown factors come into play (e.g. higher prices, lower costs or larger resources), besides the risk reduction factors identified at the outset of the project, then the government can get a higher share of the resources. However, some participants cautioned against creating disincentives for incremental investment, which happens when the progressivity applied creates a rate of taxation that is so high that it discourages incremental recovery projects or marginal field recovery later in life. For example, in the oil and gas sector, late-life and near-field operations are often of marginal in economic terms, and companies actually need fiscal relief to increase investments or undertake more challenging operations, rather than providing for a progressive government take.

On the mechanisms for adjusting contracts to changed circumstances, participants discussed the role of periodic review clauses in contemporary contractual practice. There was a wide acceptance of the utility of

a periodic review clause provided these clauses were well drafted. Periodic review should be triggered on the basis of clear substantive criteria, and objective economic data. They should not simply be triggered at regular time intervals. Participants cautioned that an overreliance on periodic review clauses may cause other problems for a government. For example, if a government has limited administrative capacity, they may not be in a position to participate effectively in a review process or a renegotiation, and this may take resources away from competing responsibilities in monitoring and implementation. It was further noted that although periodic review clauses can play an effective role in contract management, parties should not have to rely on a contractual provision to talk to each other.

For periodic review provisions, it can be difficult to define the trigger events and there may be disagreements, for example, as to the definition of terms. For example, what does it mean to have a "materially adverse impact"? One company can experience a materially adverse effect that is not applicable to another (market capitalisation, size of portfolio etc.). Once a precedent is set in this regard, it can become very difficult to change. Another common clause around which parties can encounter difficulties in implementation is the requirement of economic equilibrium provisions to "negotiate in good faith", which is a requirement to negotiate but not necessarily to reach a solution. The result of this is that a company may go through the motions of negotiating but may still be reluctant to agree on changing any contractual terms that have a detrimental effect on the economic parameters of the project. It is important to realise, as a key concept in public economics, that contracts are incomplete by their nature. A contract cannot, in principal, foresee every possible circumstance, so there have to be dispute resolution procedures that are followed to deal with any changes or disagreements.

Turning attention to the formulation of the key attributes, participants observed the following.

In respect of *Key Attribute 1*, participants expressed some reservation about including automatic review provisions in extractive contracts. Although it would be important to think through how to renegotiate the terms of a deal when drafting the initial contract, and not when crises arise, the question remains – how would you define contractual flexibility in these terms? Pre-defined flexibility in contractual terms to adjust , to exogenous changes in circumstance not envisaged as part of the risk profile of the contract may be necessary, but this would only apply to the types of exogenous circumstances.

Participants also drew attention to the distinction between stabilising changes to contract and stabilising changes to regulation; as these have fundamentally different consequences for the host government. Stabilising changes to legislation can infringe on the sovereignty of a country as they seek to prevent the country from future legislative change. It is an inherent right of a government to legislate in the public interest, and particular attention in the paper was paid to evolving health and safety, human rights, and environmental standards.

Participants cautioned against conflating two different scenarios: where there is a change in law or the regulatory conditions that affects the economics of the project; and where there is a change in market conditions that affects the economic equilibrium of the project. It was recommended that the paper clearly separate these issues to avoid any unintended outcomes. Related to this, the question was raised whether stabilisation provisions are intended to stabilise economic returns or whether it is designed to apportion risk. In terms of the issues and trends associated with the implementation of these contractual provisions; participants particularly underlined, as an essential premise, that if an investor has to invoke a stability clause then the relationship between the contracting parties has already broken down. Participants further considered the political economy rationale behind the use of stabilisation clauses. Perhaps the most honest motive is if the government wants to bind itself. Another motivation may be signalling – the government wanted to reflect that it is open for business and is willing to adopt stabilisation provisions to attract foreign direct investment. But there is also the possibility that the stability provision is put forth as a smokescreen, for example where a government in a post-conflict context wants to attract short-term investment, when in fact they are not committed to those provisions in the long-term. What these factors

reflect is that, what it is useful to look for, are those mechanisms in the contractual arrangement or underlying legislation that help the parties to build trust; because if that trust breaks down, there is no stabilisation provision that will protect existing arrangements, and there will be serious effects on both parties if that clause has to be invoked.

In terms of contemporary contractual practices in managing changes in conditions, the evidence suggests there is a lot of inconsistency, and this is reflected in the current paper. This implies the need to define, as clearly as possible, what changes might bring about a circumstance of dispute, and what changes might bring about the need for some negotiation or contractual amendment; and it is important to be as specific as possible at the time the original contract is drawn up. In terms the scope and content of stabilisation provision, participants underlined that it is difficult to discern any 'best practices' and is likely more useful to look at other devices – such as responsive fiscal terms. Responsive fiscal terms adjust to the economic realities that emerge over the life of the project, which does not necessarily mean being progressive. So, responsive fiscal terms were identified as one essential ingredient for durable contracts. Another essential ingredient is non-discriminatory legislation, so that when government develops and implements measures without singling out a singular investor, but treat all investors in the same way. These alternatives to stabilisation may prove more useful for preserving the relationship between the contracting parties through the life of the contract.

In short, any building blocks that can be used to create trust from the beginning, very small scale, often simple, like calibrating models, are far more important than chasing after, what is really an impossibility, which is the complete contract that anticipates all circumstances, which simply is not feasible.

On *Key Attribute 2*, participants recognised that inequitable revenue sharing can result in the misalignment of contracting party interests. Consequently, there was a view that governments need to receive some revenue in each year of production, and there are mechanisms that can be put in place to achieve this. Others expressed the view that it may be unrealistic to ensure a consistent and stable flow of revenues due to the inconsistent nature of extractive projects. Other participants suggested that commercial risks should remain with the mining company, particularly in the event that a venture appears unprofitable. Participants further observed that many of the agreements seen in oil, gas and mining projects are not traditional concession agreements; rather, they are production sharing contracts/service contracts, which pose more limited risks for investors.

On *Key Attribute 3*, sharing the pain and sharing the gain was singled out as especially important from a government perspective, as governments cannot carry all the risks or burden of a contract, it must be shared. Some participants further held the view that governments should not be responsible to share the commercial risks of an investment.

Some participants felt that the proposed key attributes were formulated around the need to maximise economic benefits for the host government and investor, which is necessary for a sustainable and durable contract. But in addition to that, it is also important to look beyond purely economic benefits, to think of extractives in terms of the way in which they can catalyse sustainable development. Contracts should not just be about revenue, but should be constructed in a way that supports a shared vision and common objectives for the development of the sector and the economy more broadly. Some participants also felt that the issue of policy space could be reflected more clearly in the formulation of the key attributes, while other participants called for separate attributes on values creation and transparency.

Emphasis was placed on the need for robust and upfront information sharing to manage financial expectations, to promote good faith between the contracting parties, and to ensure effective, sustainable and adequately informed contractual clauses. Transparency of fiscal expectations builds trust. The process of exchanging information need not be excessively onerous for the parties but should involve outlining the financial objectives of the parties, calibrating financial models, and sharing data. For example, before

making a decision to invest, a company ordinarily has to present a business case to an internal investment committee or its board of directors. This business case, or part thereof, could be shared with the government at this stage in order to clarify expectations. If the business case includes a 20 year prediction for the commodity price, this can be built into the contract, and if that average price dramatically changes, then the initial expectations of the parties are markedly off-course, this then could trigger a renegotiation of the contract. This approach can prevent windfall losses and windfall profits from being assumed by only one party. Good faith is necessary but insufficient; what is needed is a clear statement of economic objectives or interests, which can be measured or reviewed periodically on the basis of objective economic data. Building on the idea of sharing hurdle rates, it was further suggested that a trigger for negotiations could first ask: has there been a reasonable return on investment and does it take into account the risk taken? If not, renegotiations should be enabled. This should not focus solely on changing circumstances of the investor company but the changing circumstances of the country also – it should aim for symmetry between the contracting parties.

Timor-Leste is an example of where clear negotiating objectives were set out at the beginning so that both parties knew where they stood, and this has been largely successful. In this case, the parties' shared and agreed to objectives first then proceeded to negotiate the contract. The result was that both parties ended up better off than they expected to be.

It was agreed that the Friends of CONNEX would continue the discussion on the key attributes, with a view to developing a revised and expanded set of principles for consideration at the Eighth Plenary meeting on 14-15 June 2017. Concluding the session, participants agreed to pursue the objective of working towards symmetric, non-discriminatory and adaptive mechanisms to align government and industry interests and help to build trust. Participants further agreed to reflect recommended measures such as greater transparency and the exchange of information regarding the financial expectations of the contracting parties, responsive fiscal regimes, and a value proposition that reflect twin goals – a return on investment and the overall development benefits for the host country –within this program of work.

Work Stream 4 – Domestic Resource Mobilisation (Session 6A and 6B)

The first part of the session focused on Mobilising Resource Revenues from the Mining Sector: Tackling Leakages and Building on the OECD/G20 Actions on Base Erosion and Profit Shifting (BEPS), while the second part was devoted to update participants on progress made with the work on mineral product pricing.

Within the framework of the OECD Development Centre's Policy Dialogue Work Stream 4, this session provided the opportunity to launch the collaboration between the Inter-Governmental Forum on Mining, Minerals, Metals and Sustainable Development (IGF) and the OECD Centre for Tax Policy and Administration (CTPA), on the current tax challenges for developing countries in taxing their mining sectors. The OECD Centre for Tax Policy and Administration provided an overview of the main conclusions reached during a working-level meeting of experts held in October 2016 at the OECD to discuss and prioritised the main challenges (summarised in reference document for the session) in the taxation of mining.

Reflecting the global commitment to counter practices resulting in the erosion of the domestic tax base, participants welcome the collaboration between the OECD and the Inter-Governmental Forum on Mining, Minerals, Metals and Sustainable Development to tackle in 2017-2018 twelve priority issues related to BEPS in mining, with the objective of building a common knowledge base, improving understanding across governments and industry, and providing responses. Progress on stopping international profit shifting is essential to ensuring developing countries can find the funds needed to achieve the Sustainable

Development Goals. Participants noted that an important source of tax base erosion is where there are asymmetries in knowledge and information between governments and business. The OECD/G20 initiated BEPS process represented a fundamental international change to stop tax base erosion, and it was important to send a strong message that profit shifting will not be tolerated by developing countries. Participants also noted that quantifying the extent of profit shifting is important, whilst also noting several bodies have already done substantial work in this area. Participants also noted the importance of engaging with sub-national governments, particularly where they have an important role in revenue policy setting and administration, and the importance of engaging with business to ensure governments understood how they operate and their business models.

Noting the strong potential synergies between the two country groupings, the OECD and IGF will commence work on several of the highest-priority issues, subject to additional donor funding, for delivery progressively over 2017 and 2018. This work is intended to be practical and suitable for developing countries. Progress on these issues will be reviewed at the next Policy Dialogue meeting.

With respect to on-going work on mineral product pricing, the OECD Centre for Tax Policy and Administration provided an overview briefing on the production of bauxite and alumina, which connects into a wider study into the pricing of mineral products traded in intermediate forms for the G20 Development Working Group. Participants noted the importance of better understanding bauxite pricing practices and how to foster greater market transparency. As many companies are vertically integrated from mining bauxite through to producing either alumina or aluminium, it can be difficult for countries to find information on open market transactions of bauxite that is of comparable specification and to understand how the increases in value of alumina and aluminium per tonne should be allocated along the value chain. Participants also noted that transacted prices are part of the wider story of profit shifting, and that – whilst outside the scope of the current work - cost structures of businesses and their profit margins for different stages of transformation are important to identifying where tax base erosion is occurring. Several countries indicated their willingness to work collaboratively to test the methodology for the determination of product mineral pricing, and progress will be reviewed at the next Policy Dialogue meeting.

The OECD Centre for Tax Policy and Administration also provided an overview briefing on the content of the thermal coal pricing study (provided as reference document for the session). Participants welcomed the draft study and discussed the importance of understanding the economic and market context to the trade in coal. They noted the key role that national energy and environmental policies (such as international efforts to reduce carbon emissions) play in influencing prices for coal and other energy sources.