Session 7: Activity Plan Issue:
Guideline Development
Session Objectives

• The Objectives of this session are to:

1. Present a proposed framework for developing guidance on how to approach Extractive Industry (EI) audits

2. Present detailed information on EI audit guidelines recently completed or currently under development

3. Group Work to Identify gaps in current EI audit guidelines

4. Group Work resulting in SAIs taking responsibility on the development of guidelines where there are gaps
Session Outline

Presentations


• Presentation of CCAF Guideline Initiative – CCAF

• Presentation of Financial Audit Guideline Development – SAI India

• Presentation of AFROSAI-E Guidelines – AFROSAI-E
Session Outline

Group Work

Organize participants into Groups and work on three tasks:

1. Comment on the presented guideline initiatives. Particularly on the general usefulness of guidelines, how they are structured etc.

2. Identify the gaps (where guidelines still need to be developed)

3. Identify countries willing to spearhead guideline initiatives

Each Group is given 5 minutes to present
Presentations - GAO

- **Objective**: Present draft framework for developing guidance on how to approach EI audits and compiling existing EI audit guidance
Framework: Develop a guidance document providing a high-level overview of issues related to audits of extractive industries and direct users to existing relevant guidance. In addition, by helping to identify gaps in available audit guidance, the guidance can be used to help guide the development of future Working Group on Extractive Industries (WGEI) products.
The proposed framework has 5 sections:

1. Defines the purpose for the Extractive Industry Guidance
2. Provides the background Information Necessary to Understand Extractive Industries
3. Includes the Considerations and Resources for Audits Related to Extractive Industries
4. Identifies Existing Extractive Industry Guidance
5. Includes Additional Related Resources
1. Guidance

1.1 Purpose of Guidance

• Building off the success of the AFROSAI-E Audit Guidelines for Extractive Industries (oil and gas), the guidance will provide an introduction to auditing extractive industries (EI) that describes the steps of the resource development process, relevant audit considerations and examples for each step of the process, and additional resources for further information.
2. Background

2.1. What are Extractive Industries?

- Brief overview of the types of extractive industries (EI) – including oil and gas extraction, mining of solid minerals such as coal, gold, iron, copper and silver. It will also include statistics illustrating the extensive role of EI in the global economy.

2.2. Current considerations related to EI

- Challenges and problems associated with EI, including technical capacity, environmental and sustainability considerations, revenue volatility, corruption, and damage to export industries through inflation brought on by rapid resource income.
2. Background

2.3. What is the EI Value Chain?

- Will follow AFROSAI-E’s 7 step value chain model that includes the legal framework and resource exploration.
  1. Legal Framework
  2. Resource Exploration
  3. Award of Contracts and Licenses
  4. Monitoring of Operations
  5. Collection of Revenue
  6. Revenue Management and Allocation
  7. Implementation of Sustainable Policies
2. Background

2.3.1. Legal Framework

• Overview of how international agreements, national laws, and regulations provide a framework for developing and managing EI. Additionally, private sector guidelines and codes may influence EI activities.
2. Background

Example of legal framework graphic:

<table>
<thead>
<tr>
<th>Legal Instrument</th>
<th>Brief description and examples</th>
<th>Additional resources</th>
</tr>
</thead>
<tbody>
<tr>
<td>Treaties</td>
<td>The host country may be subject to laws made by a regional or world group through treaties. Examples are the OHADA, a system of business laws for 16 African countries, the rules of the World Trade Organization, and other multinational and bilateral treaties, such as the Law of the Sea. Such treaties may affect several aspects of EI activities.</td>
<td>To identify which treaties your country has signed, see <a href="https://treaties.un.org">https://treaties.un.org</a></td>
</tr>
<tr>
<td>Constitution</td>
<td>A constitution is a set of fundamental rules establishing the powers of the branches and levels of government. A Constitution overrides any other source of law and it is usually difficult to amend. It may specify how revenue from EI should be distributed amongst different levels of government. Constitutions may be written (e.g. Kenya), or unwritten and based on legal precedent (e.g. United Kingdom).</td>
<td>For information on constitutions worldwide, see <a href="http://confinder.richmond.edu/">http://confinder.richmond.edu/</a></td>
</tr>
<tr>
<td>Legislation</td>
<td>Legislation generally provides high level information on the roles and responsibilities of government, how the EI sector should be managed, and which ministries or agencies have oversight of EI. Examples may include EI sector-specific laws, such as Venezuela’s Organic Hydrocarbon Law and revenue management laws such as Ghana’s Petroleum Revenue Management Act, among others.</td>
<td>For information on EI legislation, see the sections 5.2 and 5.3 in the World Bank’s EI Sourcebook. <a href="http://www.eisourcebook.org/">http://www.eisourcebook.org/</a></td>
</tr>
</tbody>
</table>
2. Background

2.3.2. Resource Exploration

- Overview of methods for regulating exploration activities and common exploration techniques, such as seismic surveys, constructing access roads, and test-drilling sites.
2. Background

Example of resource exploration graphic:

**Mineral Exploration Rights**
- **Licenses**: Generally, countries with mineral resources offer separate licenses (or permits) for exploration and extraction of any successful discoveries.
- **Scope**: Licenses may cover all minerals discovered or be limited to specific minerals.
- **Length**: Exploration licenses typically grant rights for an initial period of two to four years, with extensions available up to twelve years. The initial period for extraction licenses is generally about 30 years.
- **Data**: Exploration licenses may require a company to submit all data and information collected or generated in the course of exploration.

**Oil and Natural Gas Exploration Rights**
- **Contracts**: Generally, the right to explore is granted to a company via a contract. These contracts typically also grant the right to develop and extract any successful commercial discoveries.
- **Scope**: Contracts may include provisions for joint development of natural gas resources.
- **Length**: Contracts typically specify a six to eight year term for exploration, divided into phases with work, budget, and other requirements. Development provisions may provide 30-40 years for resource extraction.
- **Data**: Contracts may include provisions for the company to submit all data and information collected or generated in the course of exploration.
2. Background

2.3.3. Awarding Contracts, Licenses, Leases, or Permits
• Overview of the processes used to determine who is allowed to extract minerals, how mineral extraction industries will operate, and the roles of government, state-owned enterprises, and private actors.

2.3.4. Regulating and Monitoring Operations
• Overview of how governments oversee extraction operations and assess production, export volumes, prices, and operating costs.

2.3.5. Revenue Collection
• Overview of how governments collect revenue from EI, such as taxes, royalties, surface fees, production, and production-sharing.
2. Background

2.3.6. Revenue Management and Allocation

- Overview of how a government manages and allocates the wealth derived from EI into programs or national saving.

2.3.7. Sustainable Development Policies and Projects

- Overview of sustainability in terms of financial and environmental management.
3. Considerations and Resources for Audits Related to Extractive Industries

3.1. Provide a 4 step approach when considering audits of EI drawing from various resources, such as the World Bank’s EI Sourcebook, among others,

3.1.1. Step 1: Identify whether there are any extractive industries in the country
   • How to determine whether there are EI activities within a country, including governmental and nongovernmental information.

3.1.2. Step 2: Identify your government’s relationship to these activities
   • How to determine the legal framework related to EI within a country, including oversight responsibilities.
3. Considerations and Resources for Audits Related to Extractive Industries

3.1.3. Step 3: Choose audit topics and priorities

- Considerations for choosing an EI audit topic, such as the potential significance of the topic to overall government activities.

3.1.4. Step 4: Determine the audit approach

- Overview of ways to select audit objectives, criteria, scope, and methodology.
3. Considerations and Resources for Audits Related to Extractive Industries

3.2. Audit considerations for the EI value chain:

3.2.1. Legal Framework

- Describe key issues including the roles of the state, state-owned enterprises, and private actors in EI, as well as elements of the legal framework, such as rights to access resources, environmental protection requirements, and fiscal terms between the state and other actors.
3. Considerations and Resources for Audits Related to Extractive Industries

Example of graphic from Audit Considerations for EI section:

Box 3.2.1.1: Key Legal Framework Questions for SAIs

- What are the legal requirements that apply to each step of the EI value chain, as laid out in laws, regulations, contract terms, or other sources?
  - Are there any steps in the value chain or related EI activities that are not covered by the existing framework?
  - Are there any inconsistencies among legal requirements?
- What are the roles and responsibilities of the relevant parties, such as the state—including the SAI and relevant ministries; state-owned enterprises; and private companies in EI?
  - Using the legal framework as criteria (i.e. what the relevant parties should be doing), are the relevant parties fulfilling their respective responsibilities?
  - To what extent do the relevant governmental institutions have the necessary technical expertise in EI and budget to fulfill their responsibilities?
  - If government institutions do not have sufficient technical expertise and budget, what steps, if any are they taking to address these issues?¹
- Does the SAI have access to all of the necessary documents, such as contracts or licenses?

3. Considerations and Resources for Audits Related to Extractive Industries

3.2.2. Resource Exploration

- Describe key issues including how the government determines who has the right to explore for minerals, the collection of information from exploration activities, environmental considerations, and transparency.
3. Considerations and Resources for Audits Related to Extractive Industries

Example of graphic from Audit Considerations for EI section:

Box 3.2.2.1: Key Resource Exploration Questions for SAIs

- How are exploration licenses or contracts awarded?
  - If the process is competitive, were the criteria for scoring and selecting bidders selected prior to the bidding process?
  - What information is the government providing to bidders and is the same information readily available to all bidders?
- How are potential impacts of exploration or extraction assessed as part of the license or contracts?
  - What is the process for providing surface rights to extraction companies, and will affected individuals or communities receive fair compensation?
- How, if at all, does the government collect, store, and use the information generated by resource exploration?
  - Are there appropriate data quality and access controls on the information?
  - Will the information become publicly available in the long-term?
  - Does the government use the information to assess whether the license or contract process should be competitive?
- Is the process for awarding licenses or contracts open, transparent, and fair?
3. Considerations and Resources for Audits Related to Extractive Industries

3.2.3. Awarding Contracts, Licenses, Leases, or Permits

- Describe key issues including contract terms, how the bidding process is handled, and how contracts and licenses are enforced.
3.2.4. Regulating and Monitoring Operations

- Describe key issues including effective oversight and problems arising from poor or inadequate monitoring and regulation.

3.2.5. Revenue Collection

- Describe key issues including how governments collect and verify data on the volumes produced, consumed, and exported, as well as the prices actually realized by the seller.
3. Considerations and Resources for Audits Related to Extractive Industries

3.2.6. Revenue Management and Allocation

- Describe key issues including the risks of corruption, price volatility and damage to export industries through inflation, as well as methods to alleviate risks, including revenue stabilization and expenditure smoothing.

3.2.7. Sustainable Development Policies and Projects

- Describe key issues including mitigating the impacts of EI through monitoring and detection, environmental reclamation and remediation, public investment, community development, and environmental protection programs.
3. Considerations and Resources for Audits Related to Extractive Industries

Example of graphic from Audit Considerations for EI section:

Box 3.2.7.1: Key Sustainable Development Questions for SAIs

- How, if at all, are potential social and environmental impacts of exploration or extraction assessed?
  - Who performed the assessments?
  - Were there quality control processes in place to ensure all the relevant impacts were considered?
  - Is there a plan in place for monitoring potential social and environmental impacts?
  - What impact mitigation actions, if any, were recommended in these assessments?

- To what extent were social and economic benefits from the EI project distributed equitably?
  - To what extent did the government invest its share of revenue toward public projects that support long-term economic growth (i.e. education, infrastructure, such as roads, community development)?

- To what extent do the relevant ministries have sufficient institutional capacity to enforce existing legal requirements?
  - Do the relevant governmental institutions have sufficient resources, such as well-qualified and experienced staff and budget, to fulfill their responsibilities?

- Did the relevant government ministry receive and review a mine closure plan or well decommissioning plan?
4. EI Guidance

4.1. List of EI audit guidance for oil, gas, and mining activities across all steps of the EI value chain.

4.2. Gaps in EI audit guidance
## 4. EI Audit Guidance – Oil & Gas

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<th>Financial</th>
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## 4. EI Audit Guidance - Mining

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5. Additional Resources

• Descriptions and links to other relevant documents that do not otherwise fit within a particular step of the value chain.
Presentations - India

Financial Audit Guidelines
Group Work – Future EI Audit Guidance Development

Group Work: Organize participants into Groups and work on three tasks:

- Comment on the presented guideline initiatives. Particularly on the general usefulness of guidelines, how they are structured etc.

- Identify the gaps (where guidelines still need to be developed).

- Identify countries willing to spearhead guideline initiatives.
Closing Comments
GAO on the Web
Web site: http://www.gao.gov/