

G20 Targeted Approaches to Addressing Corruption in the Extractives Sector

Recent studies on anti-corruption investigations show that the extractives sector, including mining and hydrocarbon industries, is one of the **most vulnerable economic sectors** to corruption, particularly with respect to bribery of foreign public officials.¹

Any type of firm may be involved in corruption in the extractives sector, including multinational listed companies and their subsidiaries, as well as state-owned enterprises. Illicit payments flow through complex structures with multiple layers of subsidiary firms and shell companies, and across a number of jurisdictions.

The role of public officials in relation to the extractives sector includes: licensing of exploration and exploitation; the collection of royalties, fees and taxes; applying customs regulations; and implementing environmental regulations.

Finding an effective way to address the problem of corruption in the extractives sector is vital if countries are to achieve their full economic potential. A 2013 study revealed that, in 2010, the revenues generated by the extractives sectors of 58 resource-rich countries totalled US\$2.6 trillion.² Recent cases illustrate that the losses due to corruption in the extractives sector can amount to a significant share of national GDP.

Certain **generic approaches**, endorsed at the highest levels of government, and taken by the relevant national or state level authorities, are as crucial to fighting corruption in the extractives sector as they are in other parts of the economy. These approaches include: ensuring **laws and regulations are clear, coherent and comprehensive**; building **strong institutions** in the relevant areas with the necessary capacity to carry out their functions, including enforcing effectively the relevant laws and regulations; and tackling the risks raised by opacity of legal persons and legal arrangements in line with the G20 High Level Principles on Beneficial Ownership Transparency.

However, the following **targeted approaches** are particularly effective in mitigating the risk of corruption in the extractives sector and potentially **other** high-risk sectors.

Analysis of corruption risk

¹ The OECD Foreign Bribery Report published in 2014 shows that 19% of the 427 enforcement cases monitored between 1999 and 2014 were in the extractives sector (the largest sector share).

² Revenue Watch, *Resource Governance Index* (2013).

To respond to the **complexity of resource extraction** processes and offset the associated corruption risks, lead authorities³ can work with anticorruption agencies and other government bodies to analyse the control, oversight, and accountability mechanisms for **each step of the value chain**. This analysis can help highlight (a) any gaps in accountability; and (b) any lack of clarity about who is responsible for taking action when impropriety or other non-compliance with rules comes to light.

Transparency in licensing arrangements

To minimise the risk of **abuse of licensing arrangements**, lead authorities can ensure clear records of license owners are held in licensing registries, together with details of the specific rights associated with a license, and the specific location of the assets covered by a license.

Effective governance

To address the corruption risks associated with both state-owned enterprises (SoEs) and privately-owned companies, lead authorities in home and/or host countries, working with anti-corruption agencies,

- can, as appropriate, review the **regulations and statutes** governing enterprises to ensure a clear separation of responsibility for: public policy; company administration; government fiscal management; regulatory oversight; and commercial activity;
- can require companies to publish **annual reports** that are prepared in accordance with International Financial Reporting Standards or, where appropriate, nationally accepted accounting standards;
- can encourage companies to establish effective **anti-corruption programs** based on risk assessments, and have their substance and implementation reviewed by internal and external independent bodies;
- can ensure that rules exist requiring all **payments and transfers** made between companies, or between companies and the Government to be properly recorded, and, where appropriate, made public.

³ The term 'lead authority' refers to relevant national and/or state level authority as appropriate.

Effective tax collection

Tax authorities, in conjunction with lead authorities and anti-corruption agencies, can ensure maximum compliance and minimise corruption risk in the collection of taxes on the extractives sector by:

- adopting a comprehensive approach for gathering and transmitting all **extraction and revenue data** from extractives companies to the competent tax authorities;
- instituting practical measures to deal with **transfer pricing risks**. This includes developing the expertise of tax authorities to detect mispricing and miss-invoicing through sharing of effective audit procedures and building on ongoing work at the OECD and the G20 Development Working Group, which are respectively looking at clarifying the application of pricing methods for commodity transactions and working to address the difficulties in accessing comparable data for benchmarking – for example, where minerals are not internationally traded;
- increasing clarity and transparency when **tax holidays** are granted and ensuring that a typology of available tax concessions is publically recorded.