

Natural Resources Governance in Africa: How to Benefit from Regional Integration?

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Objectives

- Discuss key challenges for implementing good natural resources governance in Africa
- Offer a perspective on how they can be overcome
- Raise awareness on how the AMV can improve governance in the extractive industry in Africa, including the role of RECs

It is a Changing World

Development paradigms: They shift and influence governance agenda

- Condition political agendas and policy choices: The business of “geopolitics”
- 70’s: Opec and nationalizing the EI
- Late 80’s and 90’s (The “Buyers market”: The Washington Consensus and privatising the EI
- 21st Century: Justifying mining and the search for a new social contract for mining (MMSD, etc)
- Now (Super cycle/sellers market?): Mining as a development industry (AMV, NRC, etc)

So context matters and it has changed

- We have moved from a buyers' market (Commodity prices were low) in the 80s to a sellers' market now
- We have moved from the Washington Consensus and the “Strategy for Africa Mining” to the AMV
- China and India have entered the ball game
- Mining has a much better profile
- Strategic stockpiles back in fashion: Rare metals and rare earths are in the US “critical” list of minerals
- There is policy space for developmental strategies
- Environmental stewardship is being mainstreamed
- We have governance gains: EITI, (APRM), CSOs

Remember: In the 80s and 90s, the mantra was

“The recovery of the mining sector in Africa will require a shift in government objectives towards a primary objective of maximizing tax revenues from mining over the long term, rather than pursuing other economic or political objectives such as control of resources or enhancement of employment. This objective will be best achieved by a new policy emphasis whereby governments focus on industry regulation and promotion and private companies take the lead in operating, managing and owning mineral enterprises.”

Strategy for African Mining – World Bank, 1992

What's happening now in Africa?

- Hear the voices: The model is being questioned. Africa wants RBI, more linkages, local processing
- ADFVIII (Oct 2012): Link mining with Africa's structural transformation
- Mining Indaba 2013: Called for long-term broader benefits for all, "decent" mining, and a transition from an extractive industry to a development industry (Ed O'Keefe blog FT, Feb 2013)
- CoM 2013 in Abidjan: Defined path for Africa's commodity-based industrialisation with more linkages, local processing and value addition
- In 2009, the AMV had already captured all of those dimensions

The continent believes that

It has a unique window of opportunity:

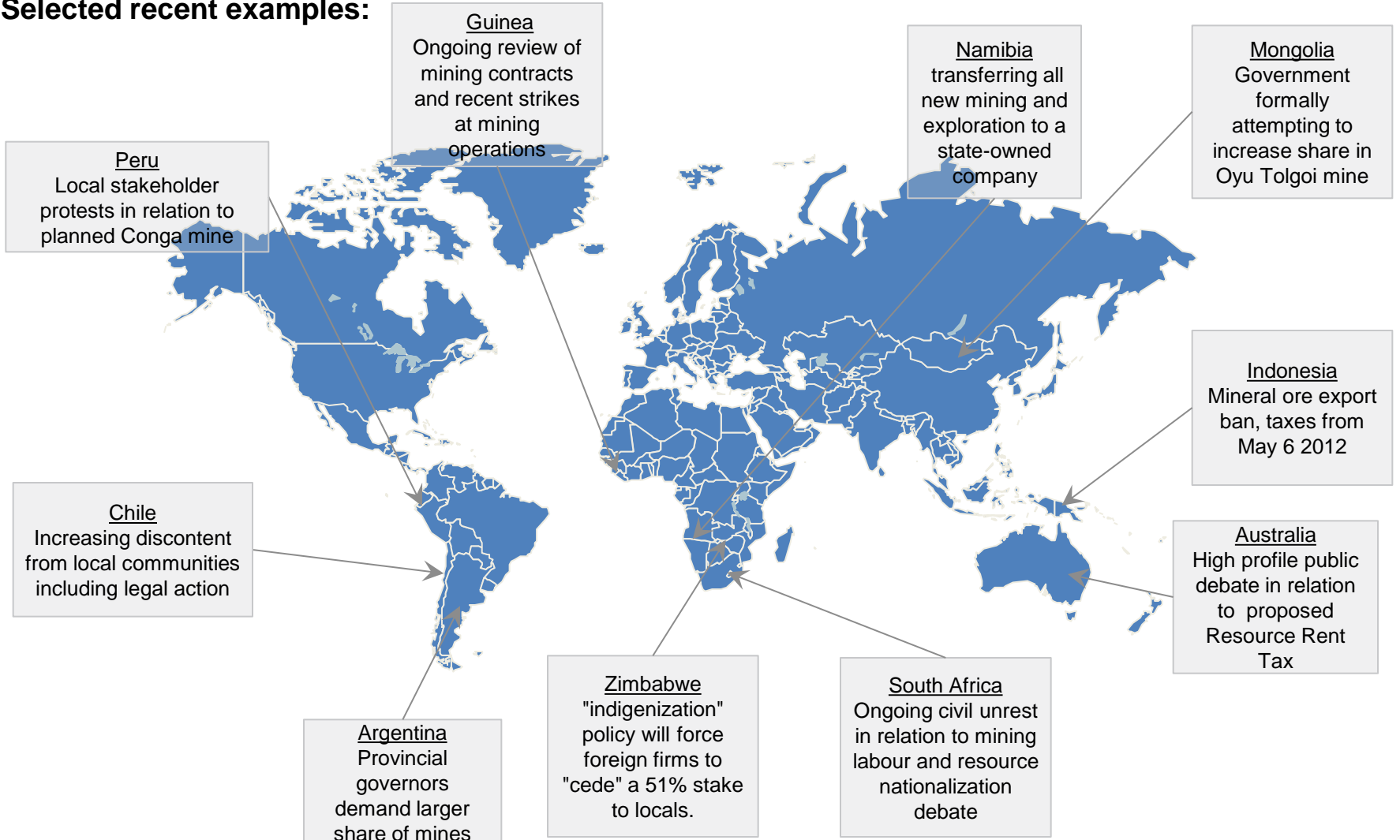
- More policy space
- Great potential to harness: Its current geological knowledge is poor
- Increased competition for its resources which can strengthen its bargaining power
- Sustained growth and good investment profile (Zambia, Rwanda Eurobonds)
- 2 billion people by 2050, young population, growing middle class, rapid urbanisation
- Despite blips, market fundamentals can sustain historically high commodity prices
- Strength of its blueprint: Endorsed at high-level, AMV captures the pulse, aspirations and goals of the continent

But

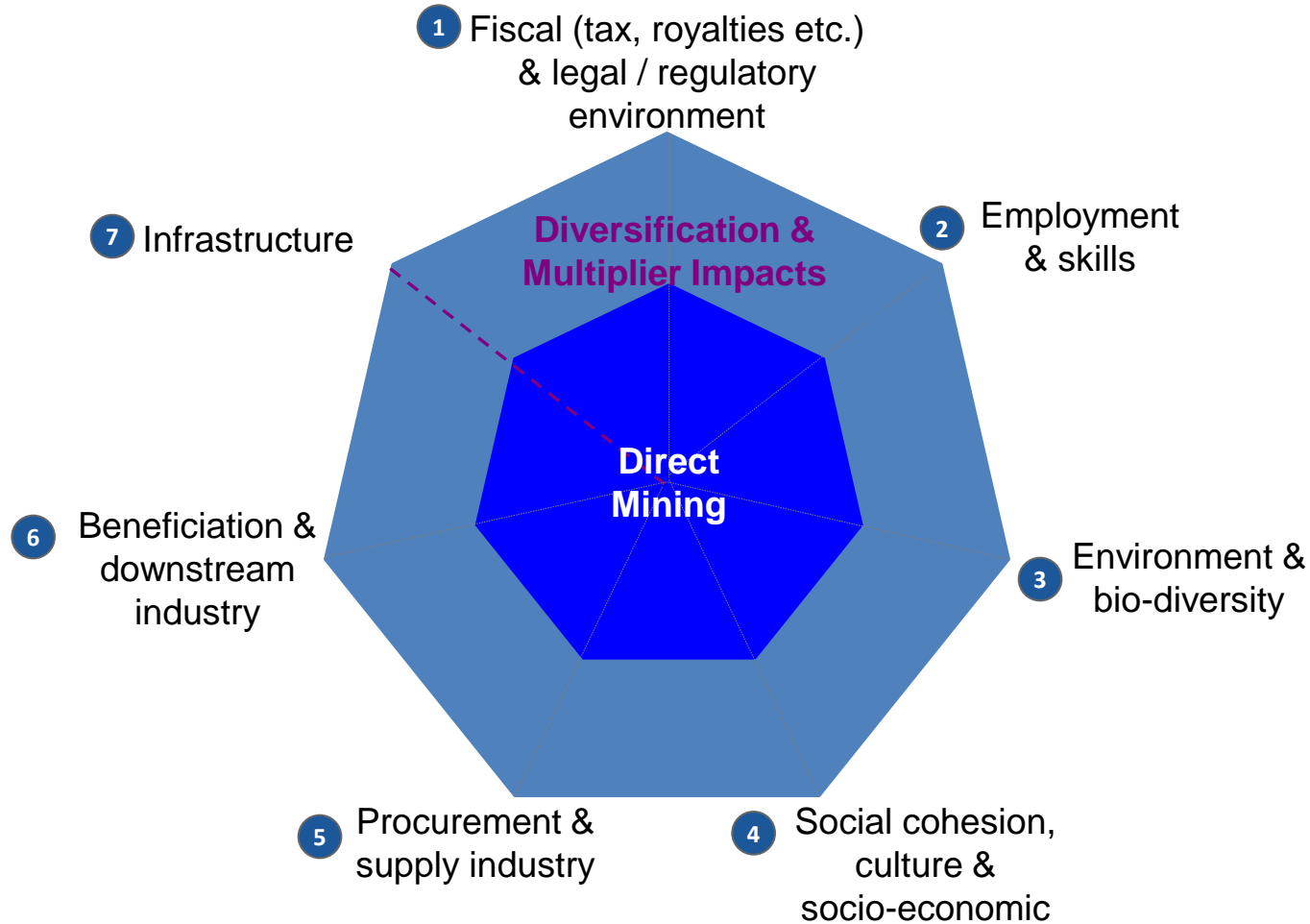
- The continent is also impatient, expectations are high and benefits are not equally felt: Fault lines are emerging
- Stakeholders' perceptions of what constitutes mineral value/benefits differ (see WEF MVM)
- Failure to manage the divergence in expectations can lead to conflict and tension between stakeholders
- Linkages still at an infant stage and face many barriers (NTBs, BITs, procurement policies, infrastructure and knowledge gaps)

The rise of new mining related conflict and policy debates has increased the importance of creating a shared understanding of value

Selected recent examples:



Identified 7 dimensions which drive value for all stakeholders



A broad definition of value is important – it not just economic in nature (i.e. can be emotional, social) nor is it necessarily a positive concept

And

- Governance gains and changing power relations: Strong CSOs are starting to hold governments accountable
- Social licence to mine: not only to companies, but also to governments (e.g. gas in southern Tanzania)
- Captains of industry ready to engage in development (ICMM Mining Partnerships for Development Toolkit: How to maximise benefits to countries and communities)
- “Joint responsibility ”gaining traction: Dodd Frank Act, OECD Guidance, Africa Common Position for post 2015 Development Agenda (SDG on EI)

With so Many Challenges

Getting it right is still a great challenge

- Legacy: How to overcome the enclave nature of the industry
- Irreversibility: How to make a non-renewable resource an asset that benefits all including future generations
- Creating wealth with equity: How to avoid a race to the bottom
- Distributing and investing mineral wealth wisely
- The Dutch Disease: A perennial problem
- Capacity gaps (asymmetries, silos, connecting the dots, strategic planning, cumulative impacts, post-mining life)
- Governance deficits (rentier behavior, participation)

The macro-economic and governance challenge

- Can the resource curse be avoided?
- How to avoid the Dutch Disease?
- How to enhance participation of nationals in mining assets?
- How to avoid rent seeking and corruption?
- How to avoid “political underdevelopment” (Mick Moore) arising from “unearned income”
- What social compact to pursue (CMV, APRM /NPoAs)?

The capacity and institutional challenge

- How to balance aspirational goals and the reality?
- What set of policies, laws, standards, guidelines should countries formulate which are congruent with their capacity to enforce them?
- How to bridge capacity gaps and asymmetries between host countries and TNCs (contract negotiations; capital gains tax; ring fencing; marketing and pricing of mineral commodities)

The capacity and institutional challenge (2)

- The case of mineral tax administration and auditing of mining companies: Transfer pricing and illicit financial flows
- How to capacitate parliaments, CSOs, local communities and other non-state actors to play a meaningful role in decision making?
- How to address capacity gaps at sub-national level (e.g. ASM licensing at local level)?
- What institutional frameworks would facilitate integrated administration of the sector?
- How to break departmental silos?

What Should Inform Policy
Responses? There is no Universal
Recipe!

Stage of the development in a minerals cycle

- Nascent mineral economy: Requires mineral investment flows
- Youthful mineral economy: Rapid mineral expansion, Dutch Disease
- Early-Mature: Slowdown of mineral output, promote sectoral diversification
- Late-mature: Decline in mineral output, boost skills acquisition for lateral migration and sidestream linkages

Policy responses to a minerals-driven cycle (Richard Auty)

Stage	Character	Macro effects	Policy response
Nascent	Mineral investment flow	Exchange rate pressure	Create rent tax, build capital funds, establish revenue stabilization funds, grant Central Bank independence
Youthful	Rapid mineral expansion	Exchange rate appreciation, Dutch Disease effects	Sterilize windfall rents, expand domestic absorptive capacity
Early-Mature	Slowdown of output mineral	Growing tax and foreign exchange constraints	Substitute new tax sources, encourage domestic savings, promote sectoral diversification
Late-Mature	Decline in mineral output	Persisting tax and foreign exchange shortages, rising unemployment	Depreciate real exchange rates, boost skills acquisition

External dynamics

- International law
- Trade and investment treaties
- Market access
- State of world economy
- Resource intensity of world economy and commodity prices
- Competition
- Geopolitics

Local context

- Culture and mining history
- Capacity to administer the sector, manage and restructure the economy
- Strength of private sector, CSOs, CBOs
- The learning curve process followed by a country
- The political economy and institutional environment:
The geopolitics of mining; local politics and power game; expectations and social bargains (Bomani Commission in Tanzania)
- The country's bargaining power and initial endowments
- Country's risk profile

To Help the Continent, the AU
Adopted the AMV

What is the AMV?

- Its goal is to create a -
“Transparent, equitable and optimal exploitation of mineral resources to underpin broad-based sustainable growth and socio-economic development”
- It is not about mining; It is about development!”. It essentially seeks to use Africa's natural resources sector to transform the continent's social and economic development path. It is a regional integration effort!

The AMV strategies

- A win-win conversation beyond optimising the current scramble for Africa's resources and aimed at potentiating a future beyond mining
- Improve the level/quality of Africa's resource potential data (gm and mineral inventory): It strengthens the continents' bargaining power: AMGI
- Fight for more fiscal space: Robust, but flexible tax regimes that are responsive to economic circumstances; beware of stabilization clauses, BITs/IAs; export taxes to promote local value addition?
- Innovate licensing schemes to boost competition and realise better value: Go beyond "First come and first served" and explore auctioning through differentiation of mineral terrains

The AMV strategies (2)

- Strengthen capacities to manage mineral sector especially in tax structuring, contract negotiations, value chain auditing, monitoring transfer pricing, investment agreements, linkages development (AMSI)
- Boost Africa's capacity to negotiate contracts and extract better deals (AMDC, ALSF, EI-TAF)
- Audit, review and renegotiate (if required) existing mining agreements
- Manage mineral wealth better (APRM, oversight committees, stabilization funds, prudent spending, active countercyclical policies)

The AMV strategies (3)

- Improve revenue transparency, sharing and use through improved governance: Domesticated EITI, Dodd Frank Law, New EU legislation
- Boost the contribution of ASM
 - Embed ASM in mainstream rural economic activities
 - Work towards converting ASM into viable businesses eg through cooperation and mentorship by LSM
 - Adopt a regional approach to bridge technical and financial challenges
- Manage expectations (WEF MVM)

The AMV strategies (4)

- Explore legislated CSR to provide certainty and uniformity
- Embed CSR in a broader social development agenda
- Strengthen effectiveness of environmental and social impact frameworks
- Develop African resource companies (It is not only CODELCO: We have Office Cherifien des Phosphates in Morocco)
- State owned companies: Need a judicious analysis
- Double (local) or cross listing (DSE): To increase local participation

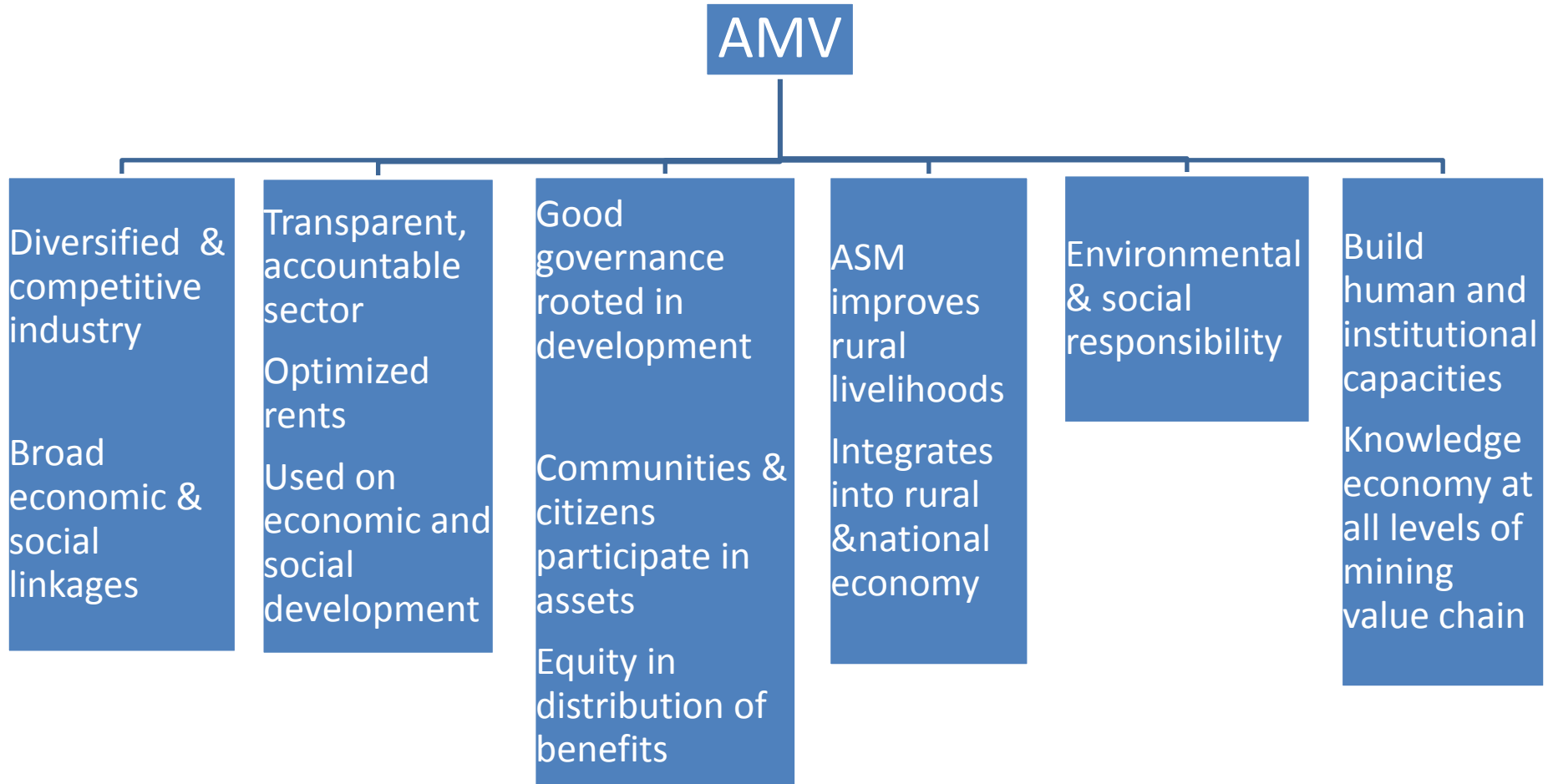
The AMV strategies (5)

- Unbundle the “minerals complex” (from exploration to fabrication, markets and mine closure) to bundle/Marry with industrial and trade policy (Malaysia)
- Promote mineral clusters (Region II in Chile) and support SMEs (local content provisions) to enter the supply chain
- Address infrastructure constraints (Resources for infrastructure deals, resource corridors, SDP, DCs) and other market failures (economies of scale, market size)
- Promote RI and facilitate factor flows

The AMV strategies (6)

- Mainstreaming the AMV at national (CMVs) and regional levels and secure buy in: Essential
- Above all, be smart: Understand your comparative advantage, build and expand it, and explore your niche

The AMV principles for development



The AMV requires a broad range of expertise and partners to implement – the Heads of State asked ECA, AUC and ADB to coordinate this and establish the African Minerals Development Centre (AMDC)

AMDC work streams

Policy and licensing

Development Goal – The mining sector in Africa supports a broader share of social and economic development objectives

Mineral policies lack dev. objectives –focus is on tax & equity participation

Fiscal terms are poorly designed

Transfer pricing is common – Africa losing \$50 bn per year!



Embed dev objectives in policy & legal frwks

Optimise NPV of resource rents

Legislate against transfer pricing

Build value chain analysis capacity



Establish SWFs

Explore infrastructure funds

Establish long term community dev funds

Invest in broader national capacity building

Now

Medium term

Long Term

AMDC work streams

Governance and participation

Development Goal – A socially and environmentally accountable sector that provides broad benefits to all stakeholders

Weak transparency and
stakeholder participation
Regulation and
management of environ
and social impacts is poor
Human rights are violated
Power asymmetry prevent
equity in distribution of
benefits

Improve policy and
institutional space for
transparency and
participation
Build stakeholder
capacities to understand
the mineral value chain
Embed CSR in long term
development f/works

Improved equity in
benefit sharing eg with
communities and local
authorities
Improved human rights
in Africa's mineral sector
Improved social and
environmental
management of the
sector in Africa

Now

Medium term

Long Term

AMDC work streams

Artisanal and small-scale mining

Development Goal – Increased income for the ASM sector leading to improved livelihoods of rural communities

Sector is poorly regulated often with illicit activities
Most operations are subsistent and not viable
Technical skills and technology use are poor
Environmental and social management is poor

Upgrade knowledge, skills and technologies in the ASM sector
Develop programmes to improve viability of ASM operations
Embed ASM into rural development strategy or local economy

A viable ASM contributing to local and national economy
Strengthened skills and capacities of ASM operators
Reduced negative environmental, health and welfare impacts from ASM

Now

Medium term

Long Term

AMDC work streams

Development Goal - Mining sector makes a significant contribution to African resource-based industrialisation and social economic development

Sector is poorly linked to other economic and social sectors

There is little R & D into new processes and creation of mineral value added

Poor infrastructure limit opportunities



Need policies that encourage innovation and beneficiation

Local content policy

Link beneficiation with industrial dev and other sector strategies

Explore collateral infrastructure & mining investment eg SDIs



Greater diversification of national economies

Improved economic linkages within the national economy

Improved availability of infrastructure for collateral economic and social use

Now

Medium term

Long Term

AMDC work streams

Building human and institutional capacities

Development Goal – to create a knowledge based a mining sector that underpins an internationally competitive African industrial economy

Mineral development institutions are currently weak

Human skills are poor at various levels of the mining value chain

General stakeholder understanding of value chain is poor

Diversify E & T funding to include private sector

Include development objectives in mining & delivery

Build stakeholder capacity to participate in decision of the mining value chain

A mining sector with a competitive skills base and high productivity levels

Strengthened capacities of stakeholders to make decisions affecting the mineral value chain

Now

Medium term

Long Term

Can the AMV Work?

Yes, but with some problems

- How to rally together, trigger a “movement” and combine a broad range of stakeholders with the legitimacy and capability to take decisions?: State actors can’t deliver it alone
- How to build support for reforms and enforce the implementation of decisions? What kind of incentives can strengthen decision making?
- How to support the decisions beyond political and electoral cycles given the long-term gestation period of mining?
- Moving beyond short-termism and tunnel vision as opposed to the big picture and staying the course

Yes, but with some problems (2)

- Failure to connect the dots: Poor understanding of comparative advantages and harness opportunities
- Institutional cohesiveness: How to overcome silo mentality (e.g. Failure to align mineral and industrial/trade policy)?
- Managing expectations: It is a complex agenda which requires time, patience, and perseverance
- Which frameworks and analytical tools to use to evaluate economic and social impacts and build a common knowledge base on benefits streams among interested parties (WEF MVM?)

Yes, but with some problems (3)

- Outsiders will pick and choose elements of the AMV agenda that suits them :Who benefits the most?
- Too many detractors in a congested field: Players looking for private gain???
- Being captured by the political economy of natural resources: Vested interests within and without
 - Domestic beneficiaries of current model
- Sustaining the sustainable development agenda when commodity prices are depressed
- Financing change –who will pay?
- Development partners coordination

What Can Trigger Better
Implementation?

Some success factors

- Shared vision, but phased (Short, medium and long-term actions) and context specific action (There is no “one size fits all”)
- Leadership, political will, proactive government action, and focused and **effective public policy**
- Phases are not mutually exclusive: Implementation can be fastened depending on internal and external factors (Auty)
- Developing a robust Theory of Change anchored on a good understanding of the local political economy
- Broadening ownership and establishment of a “movement”, smart partnerships and an alliance for change: State and citizens -from conflict to common purpose; coordinated action between public, private, CSOs, and community stakeholders (CMV)

Some success factors (2)

- Advocacy, communication and dissemination: Expand the coalition for change and build new champions
- Dialogue, dialogue, dialogue: To achieve high-level coordinated action between public, private, CSOs, and community stakeholders (The Maputo High-level Dialogue asked for this)
- Build global alliances and solidarity: Africa's structural socio-economic transformation is a shared responsibility
- Policy space and ownership of the development process: The cornerstone!
- A capacitated African developmental state (AMSI): It is a must!

Some success factors (3)

- Mining included in the discourse on domestic resource mobilisation and reflected in relevant budget and planning frameworks (PRSPs, MLTSFs, Visions 2030, etc)
- Domesticate transparency processes (APRM) and strengthened overall governance (CSOs, legislature)
- Independent, accountable institutions able to operate across longer-term horizons
- The “minerals complex” (from mining/extractive industry to a minerals industry): New institutional mindset, break silos and departmental rivalry and optimise sectoral contribution (e.g. infrastructure)

Some success factors (4)

- Collective and concerted action/The African voice: Indispensable
- Among African states – from competition for FDI to cooperation for change
- RECs policy harmonisation efforts: SADC Framework and Implementation Plan; SADC Skills Study and Forecasts; ECOWAS Directive on the Harmonisation of Guiding Principles and Policies in the Mining Sector; COMESA work on Linkages and Value Chains; EAC Legal and Regulatory Frameworks for the Development and Promotion of Extractive Industries and Value Addition

Some success factors (5)

- Through the AMDC, implement the AMV Business Plan
- ADF VIII (23-25/10/2012) on “Governing and Harnessing Natural Resources for Africa’s Development”: Was an important rallying point for Africa to strengthen its voice and position
- Build on early success: CMVs (Lesotho, Moz, Tz); AMSI (IDEP), AMV Day (an exercise of AU leadership)
- But, move fast: The game changes fast!

Just a minute more on the CMVs: It is Important

- A template(s) to mainstream the AMV at country level: No size fits all though!
- An embodiment of national aspirations on the developmental role of the EI that is linked with the country's overall vision and development plan
- A holistic platform that elevates the responsibility for EI beyond the confines of a sectoral ministry
- A shared blueprint that can outlast political cycles (???)
- An RBM compliant business plan to coordinate support, scale-up implementation and measure progress

Thank You!