Inter-American Development Bank

Transparent Governance in Times of Uncertainty

Institutions for Development Sector

Innovation in Citizen Services Division

Best Practices and Strategic Proposals for the Extractive Industries

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Abstract

The extractive industries in Latin America and the Caribbean must regain public trust and ensure its contribution to sustainable development from the economic, social, and environmental perspectives. This publication weighs these challenges against the development of policies aligned with international transparency standards and integrity, as a first step toward improving governance and preventing corruption in the extractive industries. It analyzes experiences and makes recommendations for strengthening the institutions charged with managing and monitoring the sector, harnessing new technologies and encouraging coordination between the government, civil society, and the private sector. The authors present studies that highlight innovative solutions in Argentina, Colombia, and the Dominican Republic and suggest ways to foster the good governance of natural resources based on adopting best practices in three strategic areas: national oil companies, sovereign wealth funds, and regulation of beneficial ownership.

JEL classifications: H50, H71, L71, L72, L78, O54, Q32, Q33, Q38

Keywords: citizen participation, extractive industries, gas, governance of natural resources, institutional capacity, mining, oil, public policy, transparency

Contents

Prologue

Strengthening transparency and integrity is a priority for the Inter-American Development Bank (IDB). In recent years, there has been an upsurge in corruption cases, some of them associated with the extractive industries, imposing high costs on our societies, economies, and democracies. Experience shows that a robust and transparent institutional structure is fundamental for managing natural resources with integrity and efficiency, benefiting the State, the private sector, and civil society.

This publication consolidates the exchange of ideas generated at the First Regional Forum on Strengthening Transparency and Good Governance in the Extractive Industries in Latin America and the Caribbean, held on April 23–24, 2019, and organized by the IDB, the Extractive Industries Transparency Initiative (EITI), and the Natural Resource Governance Institute (NRGI). The content has been enriched by the contributions and comments of more than 75 delegates from 11 mineral- and hydrocarbon-producing countries of the Latin American and Caribbean (LAC) region. Representatives from government, business and civil society from Argentina, Brazil, Chile, Colombia, Ecuador, Guyana, Mexico, Peru, Dominican Republic, Trinidad and Tobago, and Suriname participated in the event. Also present were representatives from state-owned enterprises (SOEs), such as YPF S.A. of Argentina, Ecopetrol of Colombia, the National Gas Company of Trinidad and Tobago (NGC), and Suriname's State Oil Company (Staatsolie), civil society organizations such as the Wilson Center and Oxfam, and multilateral organizations, such as the International Monetary Fund (IMF) and the World Bank.

One of the conclusions that emerged from the event is the need to increase efforts to make the extractive industries increasingly responsible for its activity, at both the social level and environmental level. When extractive activity is conducted with transparency and according to best practices, it can generate positive multidimensional impacts for society. For the private sector, transparency and the prevention and control of corruption are good business practices. It is essential that companies in the sector are committed to applying principles of corporate social responsibility as a first step toward guaranteeing transparency and business integrity and, in this way, a development that is sustainable and mindful of future generations.

These international standards are also a window of opportunity for promoting better management in the extractive industries. In the Dominican Republic and Trinidad and Tobago, implementation of the EITI has provided the opportunity to make substantial improvements in sector governance. With support from the IDB, these countries have made progress implementing ideas about how the industry operates and is regulated in key areas, such as the awarding of mining concessions. Establishing mechanisms of dialogue is a further key aspect that must be considered, especially to facilitate collective action among different actors to improve the sector's institutions.

Strengthening institutions and fostering new technologies and coordinated action between government,

civil society, and the private sector are fundamental if the development of the extractive industries is to be sustainable, transparent, and inclusive, and for it to generate greater benefits for society as a whole. Transparency and integrity are key factors in consolidating democratic governance and deepening the transformation of the State, in such a way that it responds to growing social demand in LAC countries. Citizenship is built through transparency. Modern and efficient governments are characterized by open, agile, and citizen-centered public administration.

Finally, I would like to take this opportunity to pay homage to the memory of Ramon Espinasa Vendrell, a staunch defender of good governance and institutional quality in the extractive industries. With his extraordinary individual, intellectual, and professional qualities, Ramon was able to help cultivate a generation of excellent professionals to follow in his footsteps.

Ana María Rodríguez
Vice-president of Sectors and Knowledge
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We are also very grateful for the invaluable contributions that emerged from the Regional Forum on Strengthening Transparency and Good Governance in the Extractive Industries in Latin America and the Caribbean, held on April 23–24, 2019. We wish to highlight the active participation and comments made by the following sector authorities: Pablo Terrazas Lagos, Chile's Under-Secretary of Mining; Alberto Reyes, Vice-Minister of Hydrocarbons of the Dominican Republic; Alexandre Vidigal de Oliveira, Brazil's Secretary of Geology, Mining and Mineral Processing; Fernando Benalcázar, Vice-Minister of Mines in Ecuador; Ruth de los Santos, Director General of Policies and Tax Legislation at the Dominican Republic's Treasury Ministry; and Devin Munroe, Procurement Specialist for the Department of

Energy's Oil Resources Governance and Management Project in Guyana. We also thank our colleagues at international agencies, including Alpa Shah, economist at the International Monetary Fund (IMF), and Susana Moreira, a specialist at the World Bank, and to representatives of multi-stakeholder groups deployed in different countries: Victor Hart, Executive Director, Trinidad and Tobago EITI; Sebastián del Hoyo, National Coordinator, EITI Argentina; and María Eugenia Gálvez Flores, National Coordinator, EITI Guatemala.

We appreciate the valuable contributions made by representatives of public-private companies in the sector, which were represented at the Regional Forum, especially: Lorena Sánchez, Director of Corporate Affairs and Corporate Governance at YPF S.A., Argentina; Daniel Suárez Mejía, Director of Corporate Responsibility at Ecopetrol, Colombia; Zahira Ilahibaks, Corporate Governance Leader at the State Oil Company, Suriname; and Sheldon Jerome, Commercial Industry and Energy Efficiency Manager at Trinidad and Tobago's National Gas Company. The significant contributions from research center and civil society representatives were also appreciated: María Barón, at Argentina's Directorio Legislativo Foundation; Maritza Ruiz, civil society representative (ENTRE) from the Dominican Republic; César Gamboa, from Law, Environment and Natural Resources, and Oscar Díaz, of Viceversa Consulting, both from Peru.

Finally, we would like to highlight the participation of our IDB colleagues, Eric Parrado, Chief Economist; Flavia Milano, Team Leader of the Civil Society Engagement Strategy; Edgardo Mosqueira, Coordinator of the Public Management Cluster; and Diego Arisi, Lead Specialist of the ICS Division, who made valuable contributions at the Regional Forum. We also thank Alix Cortés, Raúl Romero, and Nicolás Raigorodsky, whose help throughout the different stages of this paper's production was invaluable.

Executive Summary

The new millennium began as an age of abundance for the countries of Latin America and the Caribbean (LAC). High commodity prices prompted extraordinary investments in new energy and mining projects. This economic growth meant that the size of the middle class doubled between 2002 and 2014, reaching 186 million people in the last decade (Duryea and Robles, 2016). This has also produced citizens who demand more of their governments and greater access to information.

Nonetheless, the economic growth associated with the extractive industries in this period also had its downside. The surge in social and environmental conflicts had a negative impact on confidence in civil society, communities, and investors. Moreover, many of the region's countries failed to effectively apply transparency and sustainability criteria when managing the revenues generated during this period of abundance. Institutional weakness and inadequate government capacity at both the national and the subnational levels exacerbated the conflicts. Thus, they lost a historic opportunity to invest the surpluses from natural resources in the creation of solid institutional frameworks that would enable them to manage extractive industries with transparency, integrity and economic criteria that would lead to social and environmental sustainability.

The boom period stemming from rising commodity prices ended in 2014. Public and private investment was cut back, ushering in an economic downturn in various LAC countries. This vulnerability with respect to commodity price fluctuations underscores the urgency of strengthening the management of revenues and expenditures in times of abundance, as well as the need to build institutional mechanisms for managing volatility and providing stable rules for the extractive industries.

Alongside falling commodity prices, a wave of corruption scandals affected nearly all the countries of the region. To a large extent, the origin of these scandals could be attributed to large-scale infrastructure projects, several of which were linked to national oil companies. This revealed failures in corporate controls, but also further problems faced by institutions in the sector, such as a weak rule of law, political interference in state-owned enterprises (SOEs), and little accountability in the region's democratic systems.

Going forward, the challenge will be to achieve the objectives of transparency and sustainability in a time of relative resource scarcity. In this context of uncertainty and institutional fragility, several countries in the region have decided to implement principles of transparency in the extractive industries. The Extractive Industries Transparency Initiative (EITI) has doubled its members in LAC in the last five years, which demonstrates political willingness to make progress on regaining the citizens' trust and strengthening institutions in the extractive industries. In some countries, such as Colombia, implementation of the EITI supported technological innovation that enabled information to be published online via the *MapaRegalías* platform as well as the standardization of data reporting processes and formats, which improved decision making in the sector.

Transparency is a diagnostic tool that helps reduce information asymmetries. Transparency initiatives represent the first step toward regaining trust but are in themselves insufficient for preventing corruption or improving governance. Therefore, implementing principles of transparency must be accompanied by improvements in governance, such as for example: (i) strengthening the management of public investment systems, including improvements in information systems and project monitoring; (ii) building institutional capacity at the subnational level; (iii) using technological innovation to improve transparency and integrity in the extractive industries; and (iv) improving coordination between public institutions, the private sector, and the citizenry.

At the same time, governments of the region continue to face three key strategic challenges when it comes to enhancing responsible management of the sector: (i) the need to strengthen the principles of good governance in SOEs; ii) the need to create or improve sovereign wealth funds that allow inter-generational savings to be used in times of crisis; and (iii) the need to strengthen transparency in the regulation of beneficial ownership.

It is critically important for SOEs in various countries of the region to strengthen their corporate governance structures to rebuild trust with the public and investors. It is therefore necessary to implement transparency, accountability, and integrity directives that limit undue political influence on decision making and reduce incentives for corruption in operations with private firms.

Various governments of the region have created sovereign wealth funds to generate savings over the long term and stabilize fiscal revenues in periods of contraction. These tools manage the revenues derived from the extraction of raw materials and fiscal surpluses, and they have proven to be useful in response to a fall in commodity prices. The region's sovereign wealth funds can improve transparency and management with the adoption and implementation of voluntary standards, such as the so-called Santiago Principles.

One lesson learned from the corruption scandals is that the rules of banking secrecy and opacity in corporations facilitate money laundering operations and corruption in general. Such complex ownership structures favor tax evasion, mask inappropriate relationships, and hide conflicts of interest, nepotism, and collusion in bidding processes. One way to mitigate these risks is to make the regulation of beneficial ownership more transparent. Various voluntary transparency standards have adopted the publication of information about beneficial owners as a guiding principle in the fight against corruption and money laundering.

This paper highlights innovations in the field of transparency and the extractive industries. The objective is to identify contributions aimed at generating quality information and improving management in the sector, as well as implementing institutional reform agendas that enhance the governance of national enterprises and sovereign wealth funds. It also offers a panoramic overview of various innovation initiatives supported by the Inter-American Development Bank (IDB) in this regard, although these do not give the whole picture. Other initiatives involve institution building and administrative simplification, fighting corruption, citizen participation in auditing, and best practices in awarding licenses and contracts, among others, which complement the initiatives described in this publication. Together, these efforts reflect the constantly evolving relationship between governments and citizens in the LAC region.

Introduction

This paper identifies innovative transparency practices in the extractive industries developed by LAC countries in recent years, which have been implemented through the combined efforts of governments, civil society, and companies. The innovations accompany the adoption of international voluntary transparency standards, further boosting reforms that strengthen governance in the extractive industries. At the same time, governments face the challenge of improving governance and efficiency in their national oil companies and their sovereign wealth funds, once adjustments have been made in response to the end of the commodity price super-cycle.

The publication, in 2014, of Governance with Transparency in an Age of Abundance (Vieyra and Masson, 2014)[1] represented a historic opportunity. In Latin America and the Caribbean (LAC), growth has been traditionally linked to commodity prices (Bebbington et al., 2019). The boom period, which began when China joined the World Trade Organization (WTO) in 2001 and lasted until 2014, generated an enormous flow of revenues that financed investment in human development, institution building, and inclusive economic growth. The boom also kept growth rates positive in the majority of the region's countries, despite the crisis that affected the developed countries starting in 2008.

This boom coincided with an era of democratic freedom unparalleled in most of the continent, as a consequence of the transitions toward democracy begun in 1990. In a similar vein, the extractive industries' contribution to sustainable development meant that some countries began to adopt sector-based institutional governance systems, with a division of functions and checks and balances, as well as rules on transparency and corporate governance for managing the sector's resources. These measures were aimed at promoting the efficient use of resources, strengthening institutional decision making and public policy evaluation capacities, and preventing corruption.

Five years after the price collapse in 2014 and the consequent cycle of spending adjustments (Figure 2 on page 6), it is important to recognize that there is a gap between adopting standards of governance

[1] One of the main arguments of the volume edited by Vieyra and Masson (2014) is that good governance and transparency facilitate the implementation of public policies and reduce the incentives for corruption. Good-quality, reliable, and timely information helps to monitor and supervise the use of the revenues generated by the extraction of metals, oil, and gas. In this paper, we adopt the consensus identified in above-mentioned volume insofar as transparency is a necessary step toward solving problems of governance in the extractive industries, but we suggest that transparency alone is not enough to ensure that mineral and hydrocarbon revenues translate into social or economic wellbeing. In this sense, transparency is a diagnostic tool, because it generates good-quality information that helps improve decision making and accountability, reduces information asymmetries, and boosts investor confidence, which impacts on reducing corruption. Furthermore, governance means the institutions, rules, and regulations that establish rights, obligations, processes, and authority for managing and regulating the extractive industries, in which transparency is a fundamental tool. See Chapter 3 of the volume edited by Vieyra and Masson (2014).

and corporate monitoring and their implementation in practice.[2] The existing evidence regarding this gap helps reveal the challenges faced by the region as a whole. The Resource Governance Index of the Natural Resource Governance Institute (NRGI), which measures the quality of governance in the oil, gas, and minerals sector, includes, in its 2017 evaluation, 12 countries in the region. In this group, only Chile achieved the highest evaluation category, scoring 81 points out of 100; Brazil, Colombia, Mexico, Peru, and Trinidad and Tobago, meanwhile, achieved "satisfactory" performance, with a range between 60 and 70 points, whereas Argentina, Bolivia, Cuba, Ecuador and Guatemala scored less than 60 points, equivalent to the "poor" or "weak governance" categories.[3] The World Bank Governance Indicators also evaluate six fundamental aspects of management: (i) voice and accountability; (ii) political stability and the absence of violence/terrorism; (iii) government effectiveness; (iv) regulatory quality; (v) rule of law; and (vi) control of corruption. These indicators show that, in terms of governance, the LAC region remained stagnant between 2013 and 2017.

The greatest corruption scandal in the history of LAC involved private companies—Odebrecht and others—at its core, but it was intimately linked to the extractive industries through such a flagship company as Petrobras. Its repercussions included the fall of incumbent heads of government, as in the case of Peru. Although the fight against corruption transcends the scope of extractive industries institutions, these cases affect its governance and its reputation, thereby harming national companies. This is no coincidence. The flow of resources from fiscal revenues and royalties, as well as investments in minerals and hydrocarbons, created incentives for corruption at all levels. Corruption scandals revealed failures in governance in the extractive industries and fully highlighted the insufficiency of control and accountability systems, among other problems.

The application of rules of governance and transparency in public institutions is a first crucial step toward facing the challenge of achieving sustainable growth in the region, satisfying the aspirations of a growing middle class and digital citizens, and contributing effectively to tackling new risks, such as global warming. Experiences such as implementing the Extractive Industries Transparency Initiative (EITI) standard in the region, or reforms of the way oil resource concessions are granted in Brazil, Colombia, and Mexico, can act as a guide. For example, these countries created systems of governance that include independent technical agencies responsible for administering access to hydrocarbon reserves through international auctions with open bidding. Mexico adopted this model following a constitutional reform in 2013. In 2015, the independent regulatory agency began to organize international auctions. In only three years, Mexico carried out nine bidding processes and awarded 107 hydrocarbon exploration and production contracts with 73 companies from 20 countries. These contracts could generate investment estimated at US$161 billion throughout the life of the projects.[4] In spite of the initial success, however, in December 2018 Mexico slowed the implementation of this reform.

In addition to strengthening governance institutions, several of the region's governments have adopted tools such as sovereign wealth funds to directly or indirectly

[2] Corruption scandals threaten democratic legitimacy in the region and reflect the weakness of the rule of law; for a deeper analysis of the cause of corruption and the proposals for change that respond to the transnational, national and regional nature of corruption, see IDB (2018).

[3] https://resourcegovernanceindex.org/data/both/issue?region=LAC.

[4] The reform of the Mexican energy sector attempted a radical transformation of the entire sector. In addition to opening up oil and gas exploration and production to participation by private companies, the new legislation (approved between August 2012, secondary legislation, and December 2013, constitutional changes) sought to create competitive and efficient energy markets in liquid fuels and natural gas. Moreover, it reformed the electricity sector to attract investment in clean energy generation that would enable greenhouse gas emission reduction targets to be achieved. Strengthening the institutions and independent regulators was a central element of these changes. The initial results of opening up the oil sector can be viewed at: https://sites.google.com/view/librosblancoshidrocarburos2018/presentaciones-de-transici%C3%B3n.

manage the revenues arising from the extractive industries. The creation and operation of sovereign wealth funds have had several objectives: economic stabilization in times of crisis, strategic investment in financial markets, and long-term savings. Countries such as Chile, Mexico, and Trinidad and Tobago have already opted to establish a sovereign fund. Another country that might well benefit from creating a fund of this type is Guyana. With just under a million inhabitants, the country may be producing 120,000 barrels of oil per day by 2020, three times the total production of Peru in 2016. Assuming a price of US$50 per barrel, such production could generate annual revenues totaling more than US$2 billion. A sovereign fund in line with the best international practices (such as the Santiago Principles, for example) could help Guyana manage its resources with transparency, efficiency, and good risk management.

All the examples demonstrate the need to generate good-quality information and improve data system management. At the same time, the initiatives support the plans for institutional reform in the extractive industries, in coordination with civil society organizations that play a fundamental role in such plans. The aim of this publication is to highlight some of the governance and transparency initiatives in the extractive industries that the IDB has analyzed in recent years. Nonetheless, certain important matters for preventing corruption in the extractive industries, such as observance of best practices in granting licenses and contracts, conflicts of interests, and regulatory capture of the State, fall outside the scope of this publication and, in any case, are a complement to the initiatives highlighted herein.[5]

The IDB Report of the Expert Advisory Group on Corruption, Transparency and Integrity in Latin America and the Caribbean[6] included an exhaustive review of the transparency and anticorruption plans for natural resource governance, as well as challenges to governance in the sector. It is grouped into growth strategies, systematic evaluation of vulnerabilities to corruption, and mitigation of risks and conflicts.

This publication is divided into four sections. The first is a description of the new panorama in the region's extractive industries, the result of economic, institutional and social conditions in the last five years. The second reviews innovations in transparency and governance and shows the importance of facing the challenges posed by corruption and the loss of trust in institutions. The third section presents the strategic aspects that have supported improved governance in the extractive industries, including strengthening the governance of national enterprises, sovereign fund management, and making progress on the implementation of transparency rules for beneficial owners. The final section presents conclusions and recommendations.

[5] A thorough analysis of the transparency tools available for fighting corruption in the extractive industries can be found at: https://www.transparency.org/whatwedo/publication/combatting_corruption_in_mining_approvals.

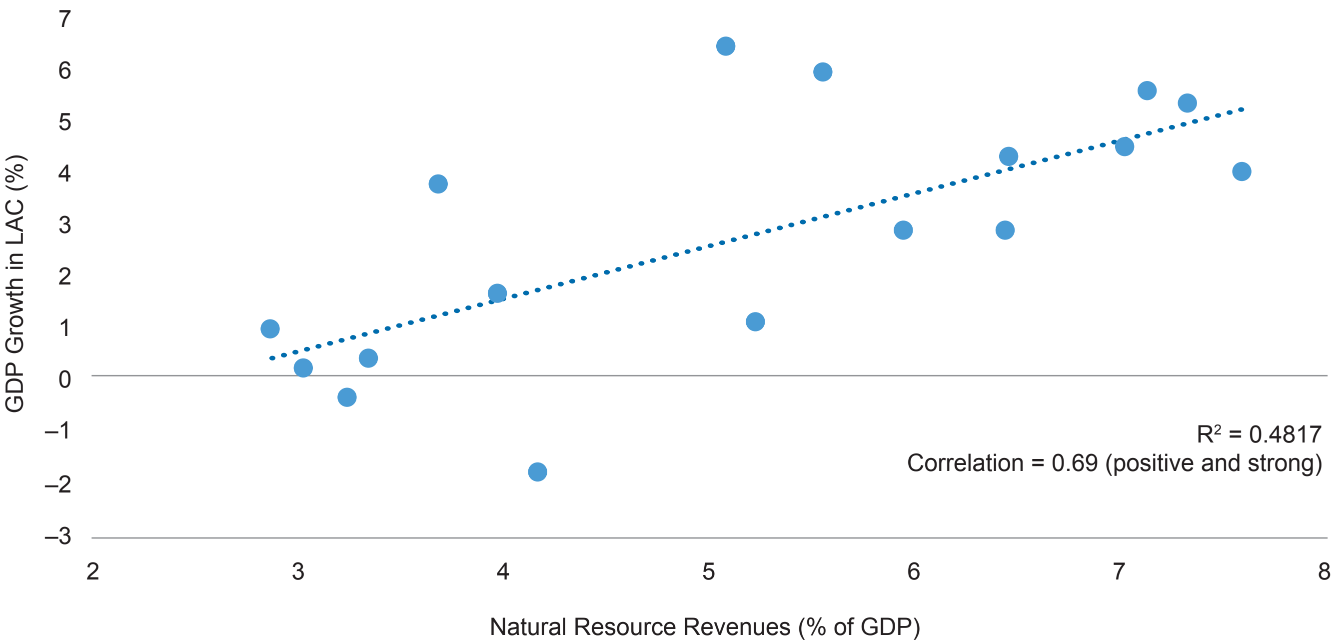
[6] https://publications.iadb.org/sites/default/files/publications/spanish/document/Informe-del-Grupo-Asesor-de-Expertos-en-anticorrupcion-transparencia-e-integridad-para-America-Latina-y-el-Caribe.pdf.

A New Panorama in the Extractive Industries of Latin America and the Caribbean

1

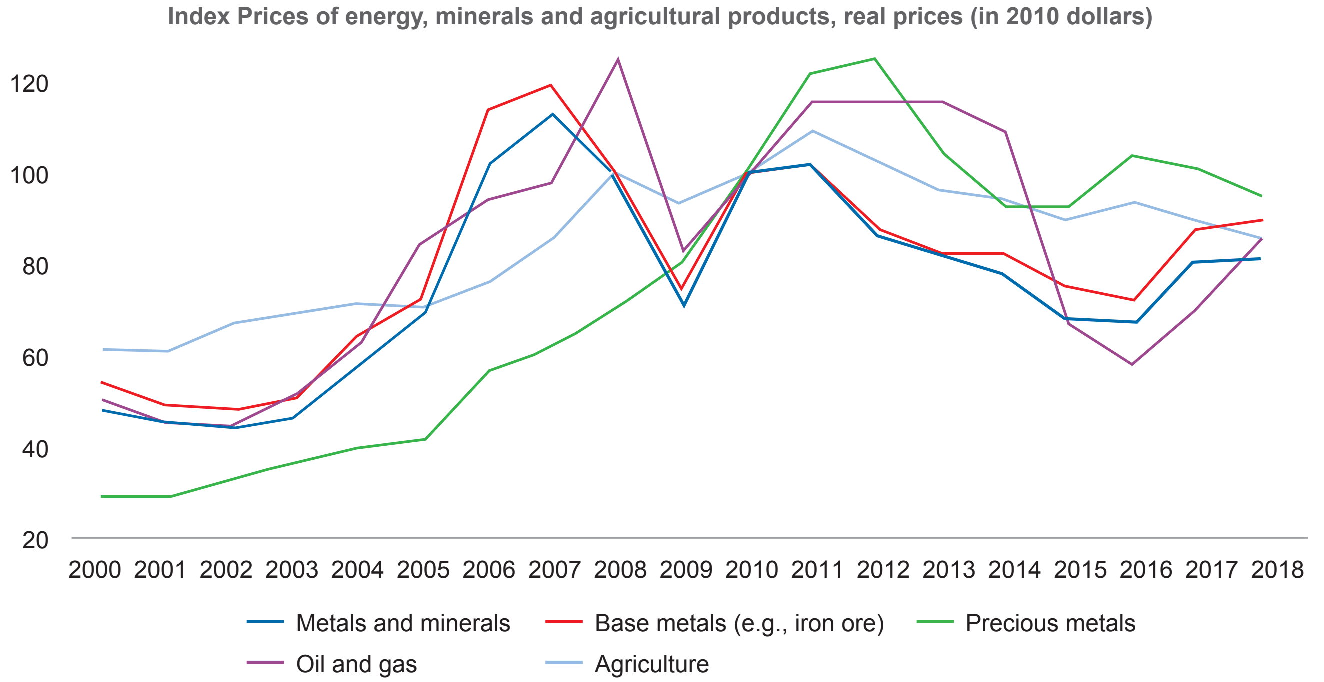
During the first decade of the twenty-first century, the rise in commodity prices enabled the expansion of investment in new energy and mining projects in Latin America. This renewed activity coincided with social and environmental conflicts that revealed local opposition to a large number of projects, while at the same time creating incentives for numerous cases of corruption. In economies highly dependent on raw materials (Figure 1), the fall in commodity prices between 2012 and 2014 (Figure 2) reduced fiscal revenues and led to cutbacks in both public and private investment. This was followed by an economic slowdown and, in some cases, recession (De Sá and Espinasa, 2018). From 2016 onward, the price recovery has been accompanied by greater volatility. This trend highlights the challenge of efficiently managing revenues, but also the importance of having mechanisms that permit the adoption of policies that stabilize the economy and respond to crises in a region rich in natural resources (Walter, 2016).

FIGURE 1. GROWTH OF GDP IN PERCENTAGE TERMS COMPARED TO NATURAL RESOURCE REVENUES AS A PERCENTAGE OF GDP, 2000–16



Source: World Bank development indicators.

FIGURE 2. EVOLUTION OF COMMODITY PRICES



Source: World Bank development indicators.

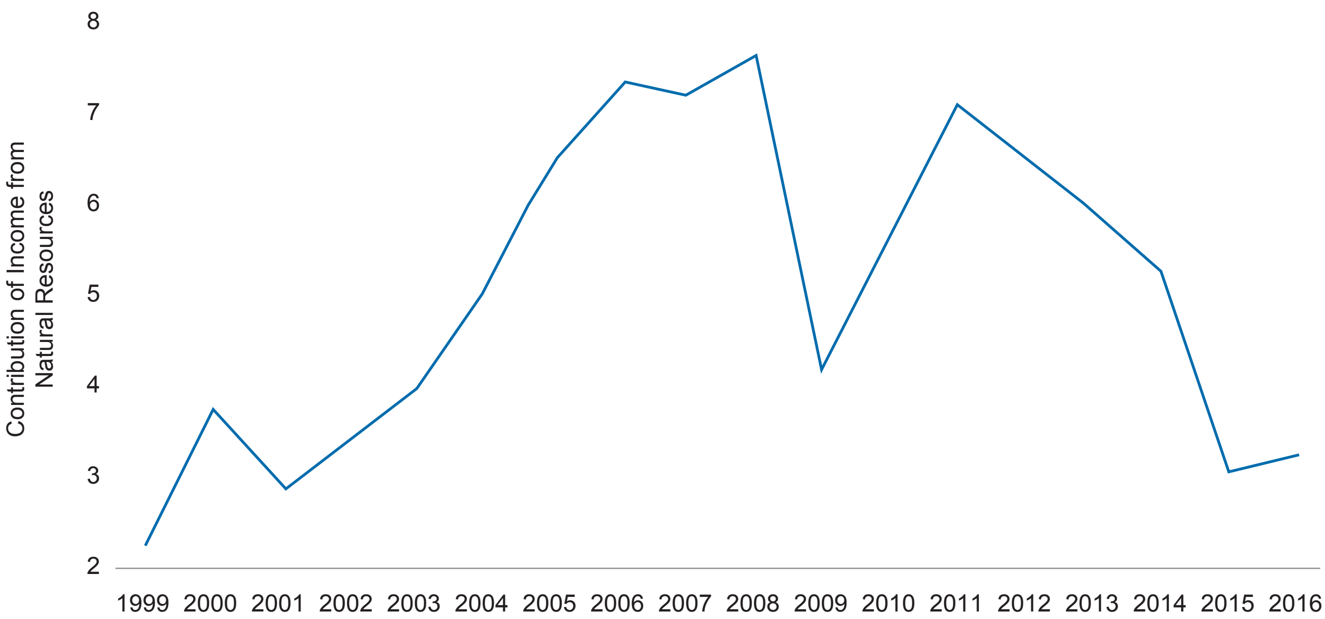
2014–19: The End of Abundance and the Return to Uncertainty

Oil and mineral resources drove economic growth between 2003 and 2014. Revenues from natural resources represented more than 4 percent of regional gross domestic product (GDP) in the period (Figure 3), with a contribution higher than 7 percent in 2005–07. Rising prices led to higher public and private revenues, investments, and social transfers, boosting employment and salaries in the majority of sectors. According to the IMF (2018a), between 2000 and 2014, all of the region's oil- and mineral-exporting countries managed to reduce poverty at a higher rate than that achieved in importing countries. The region reduced structural poverty, while also expanding opportunities for education and health and coverage of basic services.

In the social arena, significant progress was achieved in this period. For example, for every percentage point of per capita GDP growth, the size of the middle class also increased by one percentage point between 2002 and 2014. This indicates that the middle class doubled in size, reaching 186 million people over the last decade (Duryea and Robles, 2016). This structural change has profound consequences when it comes to citizen demands, which include the area of access to information.

The end of the growth cycle in fiscal revenues and royalties associated with minerals and hydrocarbons forced the region's countries to adjust their budgets. The decline in mineral prices began in 2012, while the price of oil fell in 2014 (Figure 2). Although the fall was relatively minor in percentage terms, the impact was significant considering the industry's sheer monetary volume. Consequently, investments in the sector fell as resources were concentrated in more attractive reserves. For example, investment in the global oil sector fell from US$780 billion in 2014 to US$420 billion in 2016. The main national oil companies slashed their investment budgets in extractive activities. During this

FIGURE 3. CONTRIBUTION OF NATURAL RESOURCE RENTS AS A PERCENTAGE OF GDP IN LAC



Source: World Bank development indicators.

period, Petrobras cut its annual average investment in exploration and production by 25 percent; Pemex, by 13 percent; and Ecopetrol, by 49 percent.[7] This meant lost business opportunities, lower public investment, a fall in employment and a loss of fiscal revenues. Brazil went through a deep recession as a result of these trends, which in turn affected the entire region.

Between 2016 and 2017, prices began to rebound, once more attracting private investment. In mining, the S&P Global Market Intelligence data reported a recovery in investment, from 2016 and 2017 onward, when investment in base metal exploration grew 15 percent, rising from US$7.3 to US$8.4 billion, the first year of growth in global exploration after four years of declining budgets. Latin America is the most attractive region, with 30 percent of global investment in 2018, concentrated mainly in six countries that attract 91 percent of total investment: Argentina, Brazil, Chile, Colombia, Mexico, and Peru.[8] Starting in 2016, global and regional investment in oil exploration and production also began to show signs of life, with a growth rate of 4 percent in 2017, to reach US$450 billion, and 5 percent in 2018, reaching US$470 billion (International Energy Agency, 2018).

Expansion of Extractive Projects, Local Opposition, and Conflicts

The conflicts related to extractive industries in the region have a long history that reflects economic, political, and

[7] Calculations based on data provided by the Wood Mackenzie platform, consulted in August 2018. The comparative results are shown in “Factores que motivaron la implementación del nuevo modelo petrolero” (https://sites.google.com/view/librosblancoshidrocarburos2018/presentaciones-de-transici%C3%B3n).

[8] In Argentina alone, the budget for exploration rose from US$151 million in 2016 to US$241 million in 2018, equivalent to an increase of 60 percent, according to figures released by the Mining Policy Secretariat: (https://pages.marketintelligence.spglobal.com/rs/565-BDO-100/images/World-Exploration-Trends-Report-2018.pdf).

cultural contexts. In more recent times, the conflicts have also been associated with the absence of rules that guarantee prior and informed consultation with local or indigenous communities, insufficient social and environmental impact evaluation, the lack of community benefits, negative impacts on access to resources such as water, displacements, and unfulfilled expectations.[9] The available evidence suggests a significant problem. For example, in 2017 the Atlas of Environmental Justice documented more than 400 cases of environmental and social conflict in regions where extractive activity took place (Watkins et al., 2017), and the Latin American Mining Conflict Observatory[10] identified 256 mining-related conflicts. Furthermore, according to the NGO Global Witness, 197 environmentalists were murdered in the world in 2017, 116 of them in Latin America.[11] Certain high-profile cases have gone to the highest courts in the land, only to end up in regional tribunals.[12] In general, the inability to prevent and manage this type of conflict represents a failure of governance in the sector.

In addition to the social and human cost, the failure of projects due to conflicts harms the economy, reduces competitiveness, and breeds mistrust. A study by the IDB (2014) of 200 infrastructure projects, including in the extractive industries, revealed that 36 cancellations were caused by conflict, whereas 162 projects suffered delays and 116 ran over budget. Delays and interruptions in mining projects can cause weekly losses estimated at up to US$20 million (Davis and Franks, 2014). The cost of mining conflicts has led the industry to adopt best practices in its operations with the goal of mitigating them. This response must be reciprocated by updating the regulations that would enable social demands to be effectively satisfied.

In general, the absence of information and institutional weakness at all levels of government aggravates the conflicts.[13] A study by Watkins et al. (2017) shows that a lack of project transparency is associated with 68 percent of the documented conflicts. Moreover, institutional capacity affects the response to and the consequences of these conflicts. For example, institutional capacity, measured by the Rule of Law indicator, according to the World Justice Project, is correlated with the severity of the conflicts; in other words, the most severe conflicts are seen in the countries that score lowest on the Rule of Law index (Figure 4). Moreover, the greater the institutional capacity, the better the responses that the companies tend to give to communities, resolving conflicts through dialogue and cooperation (Figure 5) (Watkins et al., 2017).

Relations with indigenous peoples often add complexity to conflicts caused by mining and energy projects. Indigenous peoples' rights must be respected, and their interests reconciled with those of the extractive industries and with national development needs. According to the Special Rapporteur to the United Nations General Assembly, the extractive industries have had negative, and even devastating, consequences for indigenous peoples (United Nations, 2013). States must therefore strike a balance between the decision to exploit mining and energy resources and the right to self-determination and, where applicable, the principle of free, prior, and informed consent.

The lack of legislation to implement the right to free, prior, and informed consent, established in the

[9] The conflicts linked to the extractive industries are classified as environmental or social. The first group is related to the loss of value in environmental services, as well as the deterioration of the environment and negative impacts on the surrounding ecosystem or in the zone of influence of the extractive projects; the second, in the absence of the State, unfair revenue distribution and deterioration of the communities' trust in extractive company activities.

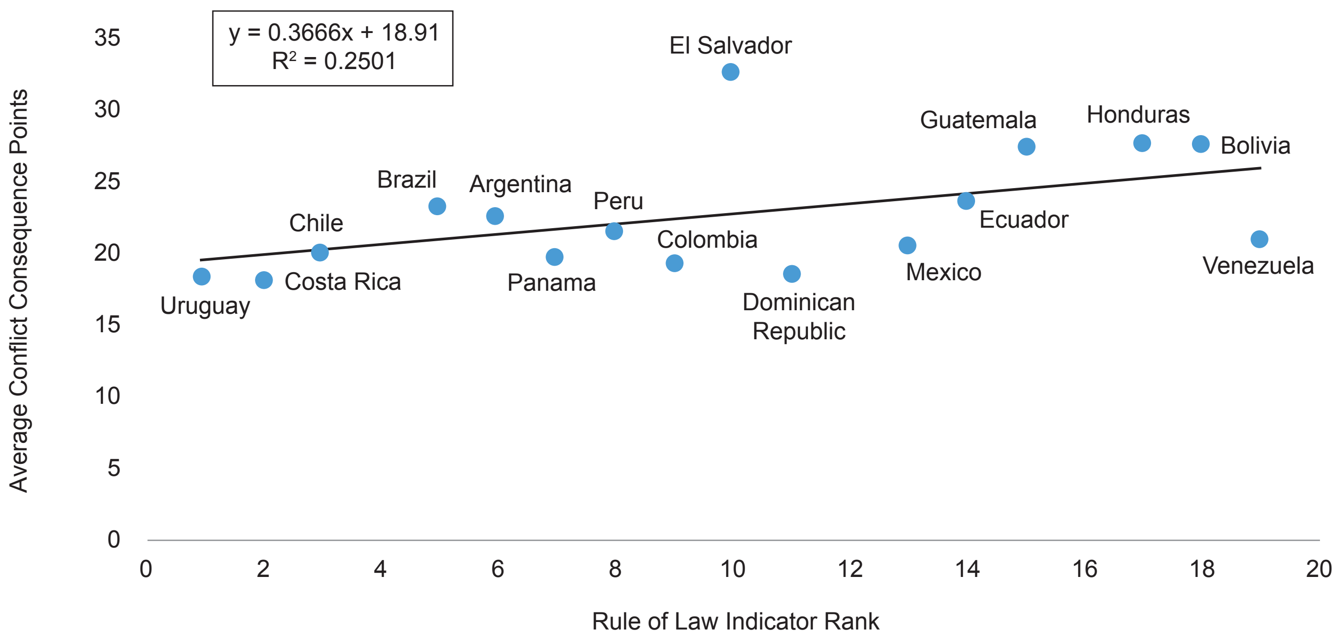
[10] https://mapa.conflictosmineros.net/ocmal_db-v2/.

[11] https://www.globalwitness.org/en/blog/new-data-reveals-197-land-and-environmental-defenders-murdered-2017/.

[12] High-profile cases include: Eco Oro and the Páramo of Santurbán, in Colombia; Tundayme and the Mirador, in Ecuador; and the Bambas, in the region of Apurimac in Peru.

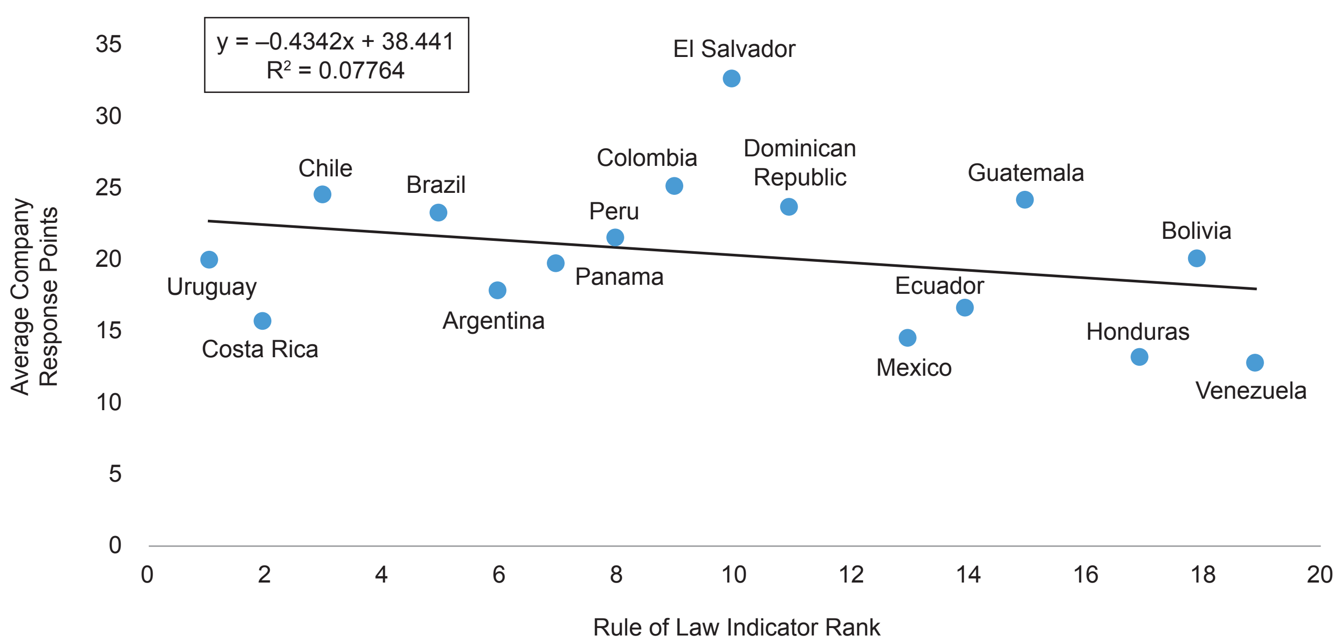
[13] This institutional weakness is evident in the lack of timely information and effective decisions for efficient social investment, the scant executive capacity of public policy at the local level, the segmentation of the sector, which limits the prevention and solution of conflicts, and the lack of effective legal resources to protect and guarantee rights.

FIGURE 4. SEVERITY OF LOCAL CONFLICTS AND THE RULE OF LAW



Source: Watkins et al. (2017).

FIGURE 5. RESPONSE OF COMPANIES TO CONFLICTS AND THE RULE OF LAW



Source: Watkins et al. (2017).

International Labour Organization (ILO) Convention 169 on indigenous and tribal peoples, is an obstacle to resolving social conflicts in indigenous areas, in addition to legal insecurity regarding land ownership and the lack of rules to guide the negotiations.[14] One example of progress toward establishing the right to prior consultation and free and informed consent occurred in Mexico in 2014, within the framework of the new Hydrocarbons Act, which requires taking these rights into account before including areas where indigenous people live in bidding for oil exploration and production contracts. Nonetheless, the Mexican legislation only regulates projects in the hydrocarbons sector and fails to include mining projects.[15]

Transparency is a first step toward building trust between local communities, companies, and governments. Access to information must therefore include the legal and technical basis for decision making, evaluations of compliance with the law (environment and social obligations), and project regulation. All of this must take place within a framework that involves local communities in decision making. Effective participation by local governments in resolving these conflicts requires developing their institutional capacities to prevent and plan in accordance with the impact of the projects.

Corruption Scandals and their Impact on the Extractive Industries

The crisis provoked by falling commodity prices was aggravated by corruption scandals that affected the majority of the region's countries. The most notorious case was the discovery of money-laundering networks and bribes in Brazil, with its epicenter in the extractive industries. Corruption scandals affected all the Brazilian political parties, while charges were also filed against presidents and vice-presidents in 11 different countries. For at least 13 years, this mechanism for bribery and undeclared political contributions determined who would be the beneficiaries of the main Petrobras contracts. The mechanism included contracts with over-inflated costs aimed at capturing public resources. For example, the Pernambuco refinery had an initial budget of US$2.4 billion, but the investment needed to complete it a decade later rose to US$18.5 billion (Cuadros, 2016). According to estimates, undeclared political contributions financed between 50 and 90 percent of all political campaigns in the country (Cuadros, 2016).[16] The investigation caused the fall of Dilma Rousseff's government, and the resulting legal processes affected more than 280 people.

The scandal led to the biggest corruption investigation in history. In December 2016, the U.S. Department of Justice revealed that Odebrecht and Braschem had accepted their responsibility for a bribery scheme that began as early as 2001 and that had used the international financial system to make payments that rose to approximately US$1billion. The company agreed to pay US$3.5 billion in fines.[17] The fines paid as a result of the investigations coordinated by Brazil, the United States, and Switzerland were the highest financial penalties ever imposed on a company (OECD, 2019a). The publication in November 2017 of the *Paradise Papers* revealed more details about the use of shell companies, tax havens, and electronic documents to pay bribes in exchange for infrastructure

[14] Of the 23 countries that have ratified ILO Convention 169, 15 are from LAC. However, not all countries have approved laws to implement this right. See a summary in Foundation for Due Process and Oxfam (2018).

[15] The Escazú Agreement, adopted in March 2018, offers a recent example of a response to demands for effective access to information, public participation, and access to justice in environmental affairs in LAC. The Agreement was opened for signing by the 33 countries of LAC in September 2018, and by March 2019, 16 countries had signed. It establishes specific arrangements for promoting, protecting, and defending human rights activists in environmental affairs. Its objective is to guarantee the right to a healthy environment through access to information, public participation, access to justice, capacity building, and cooperation (https://www.cepal.org/es/acuerdodeescazu).

[16] The estimate of undeclared contributions comes from Lazzarini (2011).

[17] https://www.justice.gov/opa/pr/odebrecht-and-braskem-plead-guilty-and-agree-pay-least-35-billion-global-penalties-resolve.

project contracts. In Latin America, the investigations have directly affected 18 presidents and vice-presidents, with accusations, processes, and sentences in Argentina, Brazil, Peru and Uruguay. Investigations continue in at least 11 countries, including two in Africa. These cases of corruption affected the credibility of the democratic system in nearly all Latin America and confirmed observations indicating that the extractive industries, and the national companies operating in hydrocarbons and mining, are the most vulnerable to the risks of corruption.[18]

National oil companies suffered damages to both their finances and their reputations as a consequence of these corruption networks. In 2014, Petrobras had to postpone the presentation of its annual report because the independent auditor refused to authorize it. Moreover, the company reported more than US$17 billion in losses of value due to embezzlement and overvalued assets in 2014 (Petrobras, 2015). In April 2015, Petrobras declared US$2.527 billion in overvalued assets and corruption during 2014 in its audited financial statement (Petrobras, 2015). The scandal coincided with the fall in international crude oil prices, provoking additional losses of US$12 billion due to asset revaluations in 2015 (Petrobras, 2015). These costs, coupled with the damage to its reputation and the increase in debt, led Moody's to downgrade the Petrobras debt investment rating to "speculative."[19]

In response, Petrobras has sought to regain the trust of the public and investors. The company has cooperated with all investigations in various jurisdictions and amended its rules of corporate governance to strengthen decision-making processes. For example, it is now mandatory for two representatives to be involved in decision making. The oil company also strengthened the legal and regulatory compliance system to guarantee the integrity of both processing and contracting to ensure that cases of corruption are monitored and sanctioned (Petrobras, 2015).

The scandals and legal investigations forced the company to act. The publication of losses due to bribes and asset revaluations meant that the impact on Petrobras and its capacity to meet its financial obligations could be estimated. The losses forced the oil company to cancel projects, reduce costs, and announce sales of assets valued at US$13.7 billion. This effort to reduce its debt and rebuild investor confidence has recently begun to bear fruit. In 2018, for the first time in five years, Petrobras posted net positive revenues, which rose to US$6.8 billion. Its debt rating has also improved, although it remains in the "speculative" bracket, according to the Moody's credit rating.

This experience shows that the corporate and institutional governance systems in place before 2014 were insufficient to prevent acts of corruption and were not designed to cope with problems of the scale that was created by the use of the international financial systems for money laundering and bribery. Institutional controls were designed to limit direct political intervention in companies, reduce potential conflicts of interest, avoid arbitrary decisions, and promote accountability. Nonetheless, the implementation of these controls turned out to be too weak in the face of such incentives to break the rules. In the corruption scandals that erupted in 2014, entire networks of suppliers and politicians were implicated in a system in which a constant flow of funds was needed to achieve workable coalitions. The legal investigations and subsequent responses by private companies and the State to strengthen corporate governance are a first step toward incorporating the lessons learned from this crisis about strengthening institutions. This process must strengthen those elements of corporate governance that are key to detecting and preventing

[18] These sectors are more regulated, tend to be natural monopolies and run projects with high capital costs (OECD, 2018a).

[19] Moody's began downgrading the Petrobras credit rating in October 2013, from A3 to Baa1, still with investment grade, due to the high level of debt and capital investments resulting from political decisions. In February 2015, Moody's downgraded it further to Ba2, with a speculative grade, as a result of the losses caused by corruption, lack of liquidity, and delays in publishing the audited financial statements. Numerous reports about Petrobras can be found at: www.moodys.com.

corruption, such as internal auditing systems, in which internal units must be free to act independently, complemented by external audits.

The countries in the region face the challenge of establishing sustainable development goals in a context in which volatility is an intrinsic characteristic of extractive industries, while also responding to an increase in social conflicts and the impact of corruption scandals. The voluntary adoption of international transparency standards is a step in the right direction toward rebuilding trust in institutions. Implementing these initiatives has generated innovations in countries such as Argentina, Colombia, and the Dominican Republic, which have strengthened the capacity of the sector's institutions. While transparency may be the first step toward rebuilding trust, it has also demonstrated its usefulness for diagnosing failures and evaluating the policies that improve governance, as will be seen in the following section.

International Transparency Standards as Mechanisms for Fostering Better Governance in Extractive Industries

2

The exercise of democratic rights requires access to information about government actions and citizen participation in accountability. Most countries of Latin America and the Caribbean (LAC) have passed access to information laws,[20] thereby creating a legal basis for accountability and citizen participation, although there is room for improving the effective implementation of these instruments. Recognizing the right of access to information has found expression at the international level in, for example, the recently signed Escazú Agreement.[21] Likewise, this right is recognized in the World Bank's New Environmental and Social Safeguards (specifically, in Standards 7 and 10) (World Bank, 2017), as well as in the Inter-American Development Bank's (IDB)Safeguards and Sustainability policies and its Civil Society Engagement Strategy.[22] In each case, these instruments put the focus squarely on information, which will enable them to have a real impact on societies, which are increasingly being included in public decision making.

Alongside these regulatory frameworks, there are voluntary standards for transparency, governance, and preventing corruption that use access to information as a tool. There are three standards in particular that have acquired the highest regional backing: (i) the Extractive Industries Transparency Initiative (EITI); (ii) the Open Government Partnership (OGP), and (iii) the Global Forum on Transparency and Exchange of Information for Tax Purposes (the "Global Forum"). These three mechanisms are based on using disclosure of information or transparency as a lever to raise the quality of government management. They also include principles of fiscal and data transparency pertinent to the sector.

In the extractive industries, the implementation of transparency standards has helped assess institutional capacity gaps, unequal incentives, and unforeseen consequences. In Colombia, for example, the disclosure of the way mining and oil company royalties were distributed to local governments helped identify political and economic distortions in the life of the communities, as well as cases of corruption and inefficiencies in resource allocation. This situation led to changes in monitoring, project approval, and resource distribution systems (Arisi and González Espinosa, 2014). In the Dominican Republic, the EITI reports highlighted that opportunities to strengthen the auditing mechanisms of mining activity provided a source of data relating to production, volumes, and values[23] useful for estimating fiscal revenues. In Mexico, the OGP promoted the disclosure of extractive industries contracts, which the government began to put in practice in 2015, when

[20] The countries that still lack access to public information laws are: Cuba, Suriname, and Venezuela (https://www.rti-rating.org/country-data/).

[21] On March 4, 2019, the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean was approved at Escazú, Costa Rica.

[22] https://www.iadb.org/es/temas/sostenibilidad/acerca-de-nosotros and https://www.iadb.org/es/sociedad-civil-v3/estrategia-sociedad-civil%2C20951.html.

[23] https://eitird.mem.gob.do/primer-informe-eiti-rd-informacion-contextual/.

the National Hydrocarbons Commission (Comisión Nacional de Hidrocarburos, or CNH) signed the first contracts following the reform of the energy sector.[24] The political and technical dialogue to make data more transparent ended with the acceptance of Mexico's candidacy to implement the EITI standard in 2017.

The implementation of voluntary standards has created incentives to innovate in the use of technological tools. The experience of the Global Forum has demonstrated that automatic information exchange is indeed possible from both the political and the technological standpoint. The innovations support reform agendas in modernizing management systems in the extractive industries. Various experiences in Argentina, Colombia, and the Dominican Republic demonstrate opportunities for improvement in data production, registration, and disclosure systems, in the use of information for evaluating public policy decisions, and in building capacity to manage the extractive industries.

The Extractive Industries Transparency Initiative

The EITI is a multi-partner initiative with a transparency standard applied by 52 countries around the world. The voluntary EITI standard sets out a series of requirements to help member countries improve governance in oil, gas, and mining. The standard comprises two components: (i) a process governed by a tripartite group (government, industry, and civil society), which helps build trust in the transparency agenda, and (ii) the reporting and disclosure of information regarding sector management. The EITI aims to supply information to decision makers, investors, civil society actors, academics, and journalists, among others, with the aim of improving extractive industries governance.

The EITI standard has undergone significant evolution. The first EITI rules of 2009 were focused on disclosing information about payments made by companies and comparing them with government revenues. The subsequent updates (EITI Rules 2011, EITI Standard 2013, EITI Standard 2016, and EITI Standard 2019) include themes that are integral to governance in the extractive industries. In 2013, the standard included the publication of data about natural resource reserves, regulatory frameworks, contracts, transfers to local governments, how much revenues contribute to the economy, and the management of state-owned companies. In 2016, the standard established measures to disclose the beneficial owners of extractive licenses and projects. In the fifth edition, agreed in principle in February 2019, the requirements include the mandatory disclosure of information regarding projects and subnational transfers, the release of audited company financial statements, and the transition to systematic disclosures, among others (Barlett, 2019).[25]

In LAC, the EITI has doubled its membership in the last five years. Of the 52 EITI member countries, ten are in the LAC region. The benefits of implementing the EITI include strengthening multi-sector dialogue and structural improvements in management mechanisms in extractives, as in the case of Colombia. Among the results visible in most countries is the transformation of information disclosure channels, now centered on online data publication portals, surpassing the traditional printed reports. The EITI data portals in Colombia, Mexico, and the Dominican Republic are examples of new digital transparency platforms that release regularly updated data in a structured fashion. The portals facilitate access to data and their download for subsequent reuse and analysis.

The EITI standard has created incentives for improving information systems in the sector. Nonetheless, the structural improvements require government commitment and coordinated processes over the

[24] All the hydrocarbon exploration and extraction contracts signed by Mexico with private companies are available at the CNH Bóveda Digital de Contratos: (https://www.gob.mx/cnh/articulos/boveda-digital).

[25] The complete list of the decisions taken in principle by the EITI International Council at the 42nd meeting in February 2019, in preparation for the EITI Global Conference, held in June 2019 in Paris, are available at: https://eiti.org/BD/2019-25.

medium term. In contrast to the transparency portals, the information systems institutionalize procedures for gathering good-quality data from a variety of sources, storing data according to management processes, enabling data processing, supporting decision making, and facilitating citizen participation.

Information technologies facilitate compatibility between sector management systems and make them more efficient, which enables data capture, analysis, and disclosure using agile and intuitive formats. This opens up opportunities for better data integration and higher-quality registers, compatible with more robust transfer and expenditure management auditing and monitoring systems. The EITI represents a starting point because it provides an initial assessment before opening the door for governments to take action aimed at structural improvement, as shown in the case of *MapaRegalías* in Colombia. This tool marked a milestone in modernizing management and transparency in the extractive industries and public investment, demonstrating how technology can transform the relationship between governments and citizens through integrated improvement programs (Arisi, Cortés, and Vieyra, 2017).

Despite the opportunities for institution building, implementing the commitments to the standard takes time, especially in countries with limited or nonexistent sector data management systems. Although progress on voluntary adoption of the EITI is significant and is reflected in the number of candidate countries and the wealth of information published, countries still face challenges in implementing transparency and good governance measures that can be sustainable in the sector. The EITI progress evaluation has awarded the maximum level of compliance ("satisfactory" progress) to only one country in the region, another three received the "significant" progress rating, one country as been suspended for failing to comply with the disclosure schedule, and five evaluations are pending (Table 1). The EITI impact evaluations reveal that limited political commitment, local capacity, and resource availability hamper progress in applying the standard at the national level.

TABLE 1. PROGRESS ON EITI IMPLEMENTATION IN LAC

Country	Year of Adherence	Level of Progress
Colombia	2014	Satisfactory
Honduras	2013	Significant
Peru	2007	Significant
Trinidad and Tobago	2011	Significant
Dominican Republic	2016	Suspended
Argentina	2019	Pending evaluation
Guatemala	2011	Pending evaluation
Guyana	2017	Pending evaluation
Mexico	2017	Pending evaluation
Suriname	2017	Pending evaluation

Source: Web page of individual countries, available at: www.eiti.org.

Colombia is the only country in the region to post satisfactory progress in implementing the EITI standard.[26] Compared with the rest of the countries that have implemented this initiative, Colombia stands out due to achievements in this area during the first reporting cycle. This result reflects the legal reforms and the institutional improvements undertaken in parallel with the EITI, with significant support from the IDB, and the high level of government commitment to these processes, as detailed in the case study of Colombia below. This initiative included strengthening information systems and creating data platforms to improve the management of a sector with an enormous economic and social impact (Arisi, Cortés, and Vieyra, 2017). Colombia's results indicate that plans are underway for building the institutional capacities that guarantee the capture and disclosure of good-quality information as well as the professional skills to use such information in management processes, operational accompaniment, and public policy making. The performance of other countries, such as Peru and the Dominican Republic, reveals advances in transparency but limited progress in improving governance in

[26] https://eiti.org/colombia#colombias-progress-by-requirement.

the sector. Other countries must do more to implement the standard. For example, Argentina was accepted as a candidate country at the beginning of 2019 but faces significant challenges ahead due to its federal structure.

The next stage in EITI implementation is to establish complete, regular, and reliable public information systems, including review mechanisms and access to backup documentation. The goal is to create continuous disclosure systems, integrated into public management processes, and to improve data quality. As part of EITI implementation, various countries have taken the initiative and published data online, integrating standard reports with government and company systems. This change requires identifying solutions that are adapted to the local reality, using databases, websites, and portals to generate reporting systems based on primary sources of information.

Institutionalizing transparency in sector management systems and processes will help reduce the resources dedicated to publishing reports and prioritize the identification of institutional failures. Colombia is a case in point, where the IDB has applied this lesson-learning and continuous improvement experience to create online information tools with the goal of improving decision-making processes and public policy making in the extractive industries. This example will be further developed below.

The Open Government Partnership and Commitments in the Extractive Industries

The second voluntary standard of transparency related to the extractive industries and adopted by several of the region's countries is the OGP, which promotes transparency in public management. Member countries commit to establishing an action plan, in collaboration with civil society, with the aim of identifying potential reforms (Figure 6). The specific commitments are to increase transparency, accountability, and public participation in the business of government. The action plans must address four principal areas: (i) fiscal transparency; (ii) access to information; (iii) asset declarations by public officials, and (iv) citizen participation.[27]

Among almost 70 OGP member countries, 16 are in LAC.[28] Action plans in the region establish as priorities public integrity, improvement in public services, efficient management of public finances, accountability, and corporate responsibility. The OGP promotes innovation in public policy making and the harnessing of new technologies to transform the culture of government and better serve the citizens. This has given rise to the design and execution of open data portals that enable countries' commitments to be monitored online.[29]

In 2017, analysis by the Natural Resource Governance Institute (NRGI) found that 7 percent of the OGP commitments are related to the extractive industries (Jia et al., 2017). Moreover, of the 1,176 commitments registered in the region's action plans, only 12 represent improvements in transparency and governance in the extractive industries.[30] In spite of these indicators, some commitments are significant. For example, Mexico announced its adherence to the OGP and its intention to implement the EITI standard. Guatemala promised to submit reports detailing the regional distribution of the royalties paid by the extractive industries, including the local projects to which these revenues were transferred.

Furthermore, the Openness in Natural Resources Working Group (ONRWG), part of the OGP, has

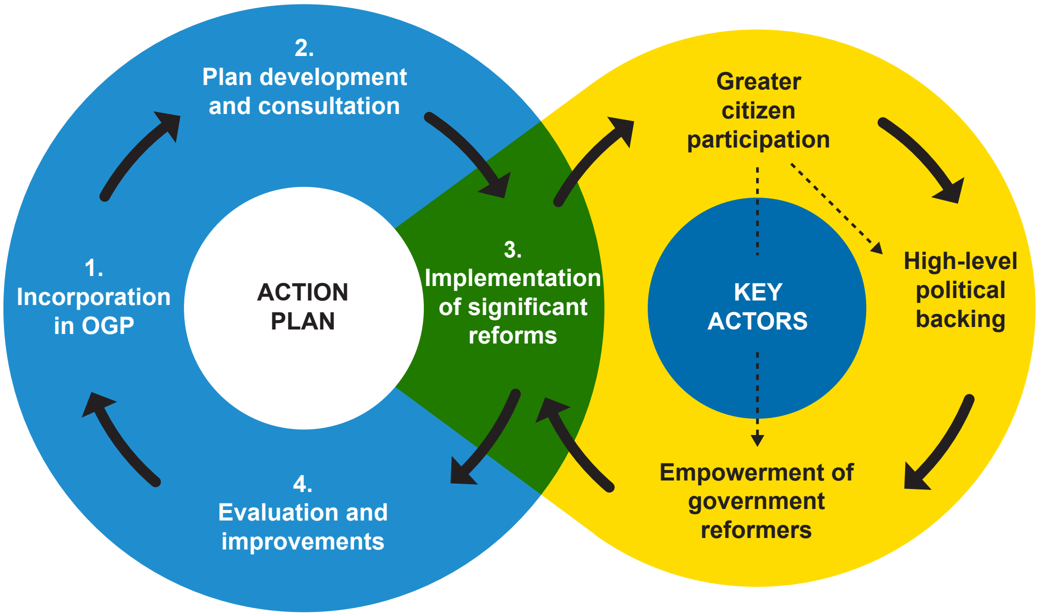
[27] http://www.opengovpartnership.org/sites/default/files/OGP_Booklet_Spanish_Digital.pdf.

[28] The member countries in the region are: Argentina, Brazil, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Panama, Paraguay, Peru, Trinidad and Tobago, and Uruguay.

[29] Country action plans: (https://www.opengovpartnership.org/stories/latin-american-countries-ogp-action-plans).

[30] http://www.opengovpartnership.org/sites/default/files/OGP_Whats%20in%20the%20New%20OGP%20NAPs_report_Spanish_web.pdf.

FIGURE 6. OPEN GOVERNMENT PARTNERSHIP CYCLE OF IMPLEMENTATION



Source: OGP handbook: http://www.opengovpartnership.org/sites/default/files/OGP_Booklet_Spanish_Digital.pdf.

recommended the use of technological and diagnostic tools to establish systems for monitoring extractive resource-related commitments (Jia et al., 2017). The OGP Support Unit states that to improve governance in the extractive industries, countries must make commitments in three areas: (i) disclosure of beneficial owners; (ii) publication of oil, gas, and mineral production contracts; and (iii) reporting of information regarding environmental impact (Lintzer, 2016). This initiative has also prioritized strengthening transparency in national companies, due to concerns raised by the action plans of Argentina, Chile, and Mexico (EITI, 2018). This agenda coincides with the agreements recently adopted by the EITI Council.

The Global Transparency Forum and Information Exchange

The third transparency initiative is the Global Forum on Transparency and Exchange of Information for Tax Purposes, created under the auspices of the OECD in 2009. The Global Forum has the status of an international agency responsible for implementing standards of transparency and information exchange in the fiscal sphere. However, as distinct from other transparency mechanisms, it lacks citizen initiatives or inter-sector round table meetings. Faced with the growth of cross-border financial operations, the Forum seeks to build capacities in tax administrations to combat tax evasion and fraud. Its mission is to equip tax administrations with the legal, administrative, and technological tools necessary to create the Automatic Exchange of Information Portal, for taxation purposes and with a common standard.[31]

The Global Forum has more than 154 member countries. In 2017, the first year of operation of the OECD's Common Reporting Standard, more than 100 countries and jurisdictions completed their first information exchange according to this standard.[32] The 2018 Annual Report estimated that the participating

[31] http://www.oecd.org/tax/transparency/automatic-exchange-of-information/#d.en.352380.

[32] http://www.oecd.org/tax/transparency/about-the-global-forum/.

countries identified €93,000 million arising from taxes, interest, fines, and other extra-territorial investigations carried out since 2009 (OECD, 2018b).

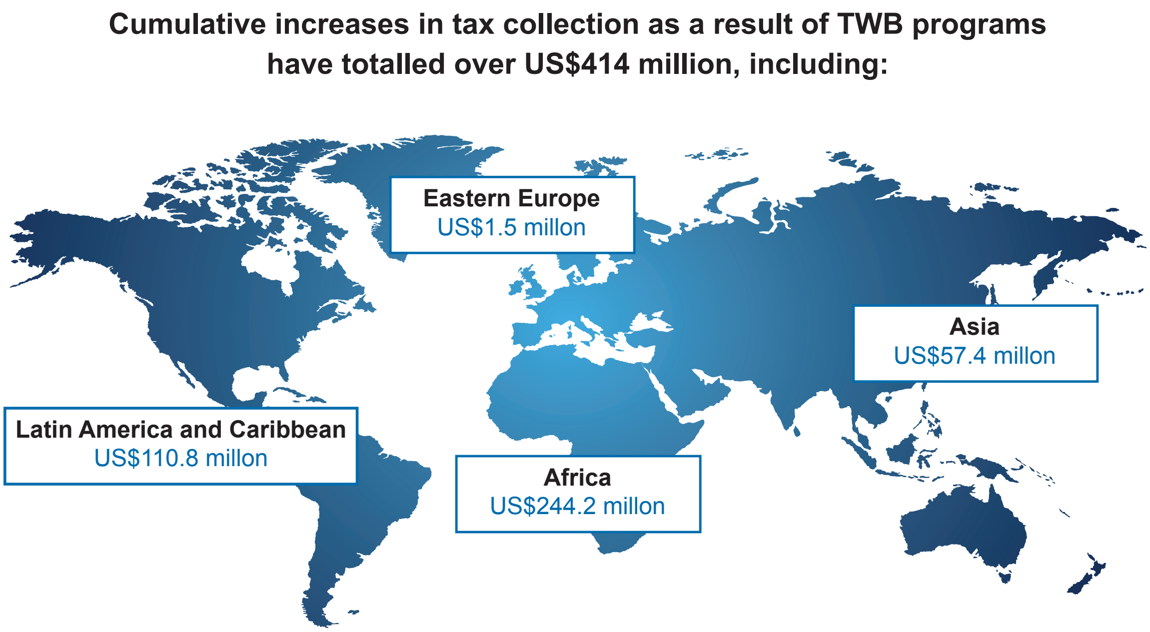
In the field of corruption prevention, the Global Forum offers support to reduce fiscal risks in the digital age, preventing the erosion of the tax base and earnings manipulation. It also promotes general and fiscal audits for the mining, raw materials, telecommunications, and financial services sectors. The Tax Inspectors Without Borders program, a joint OECD/UNDP initiative, recovered US$110.8 million in LAC (Figure 7). As part of its actions to prevent corruption, the Forum also proposes publishing information about beneficial owners in the extractive industries (OECD, 2018c).

In LAC, the Global Forum is the benchmark for best governance practices to fight against tax evasion through the exchange of financial information and the use of technology platforms. In 2018, the member countries in the region agreed to the Punta del Este Declaration, which seeks to maximize the potential of using exchanged information to tackle corruption and other financial crimes (OECD, 2019b). The Dominican Republic is a good example of the importance for this type of initiative, and other related ones, such as the Financial Action Task Force (FATF). Its congress unanimously approved a law aimed at preventing and combating money and other asset laundering, in accordance with the recommendations derived from the country's progress evaluation within the framework of this initiative.[33]

One issue championed by the Global Forum in LAC is implementing standards on the exchange of information about the real beneficial owners behind companies and legal entities. Bringing more transparency to

[33] "Las organizaciones sociales ausentes en la Ley sobre lavado de activos". Hoy Digital, 14 August 2018. Available at: http://hoy.com.do/organizaciones-politicas-ausentes-en-la-ley-sobre-lavado-de-activos/

FIGURE 7. RECOVERY OF ASSETS BY TAX INSPECTORS WITHOUT BORDERS



Source: OECD.

bear on beneficial ownership is essential in preventing and sanctioning tax evasion and other illicit activities, including corruption, which take advantage of the opacity of certain legal and ownership structures. The third section of this paper provides more specific information about beneficial ownership and the FATF principles in this area and describes how they are embodied in the international standards.[34]

Case Studies: Innovation for Good Governance in the Extractive Industry

The implementation of international standards has encouraged innovations that strengthen institutions' capacity to manage the extractive industries and the reform plans aimed at enhancing governance. The following section presents a selection of case studies that exemplify the way in which implementing voluntary standards has helped innovation in matters of transparency and underpinned more ambitious plans to improve governance in the extractive industries in Argentina, Colombia, and the Dominican Republic. These cases also demonstrate the progress that transparency initiatives can bring, although there is still a gap between the voluntary adoption of standards and their implementation.[35]

Case Study 1: Argentina: Using Transparency Tools to Develop Mining Potential

In Argentina, the volume of mining production tripled, while also doubling in value, during the first decade of this century.[36] Although the activity stagnated starting in 2011, the second quarter of 2017 production and investment saw a return to growth, achieving positive performance in 2018 (KPMG, 2018). Mining contributed approximately US$2.5 billion to GDP (approximately 0.5 percent of national GDP), US$880 million in taxes and royalties, and local purchases of more than US$940 million in 2017. Mining contributed 3 percent of GDP and 6 percent of Argentina's total exports in 2016, as well as ARS 15,000 million in royalties, income taxes, social security and other contributions. In 2017, Argentina's principal mining product was gold, with 71.4 percent of production, followed by molybdenum (11.9 percent), silver (9.8 percent), and copper (4.8 percent).[37] According to the Mining Policy Secretariat, investments in the sector could reach US$20 billion annually in 2020.[38] If this goal is achieved, the value of mining production could reach US$12.8 billion by 2025.[39]

According to the diagnostics carried out with the support of the IDB throughout 2018, the main challenge facing mining development is the sector's institutional and legal structure. In Argentina's federal structure, the provinces are owners of mining rights and it is up to each province to complement the procedures contained in the National Mining Code with respect to concessions. The provinces, moreover, are responsible for monitoring operations, collecting royalties and elaborating sector development policy.

[34] See IDB and OECD (2019).

[35] The region's countries also had an opportunity to improve the implementation of access to information laws, as shown at the beginning of this section. With respect to voluntary standards, the impact of their adoption on governance has been low. This is evidenced by certain international comparisons that were carried out; for example, the NRGI Resource Governance Index.

[36] The gross value of mining production, adjusted for inflation, grew at an annual rate of 7 percent between 1993 and 2008. As a reference, the Argentine economy achieved an average annual growth of 3.3 percent in the same period.

[37] Between 2016 and 2018, the budgets aimed at increasing reserves in mining operations to boost production rose from US$50 million to US$68 million (an increase of 36 percent). The exploration project budgets jumped from US$56 million to US$112 million (100 percent increase), while the budgets of early exploration projects (higher risk investments) went up from US$45 million to US$61 million (a 35 percent increase). This information was taken from the website of the Argentine Government's Mining Policy Secretariat, in November 2018 and May 2019 (http://cima.minem.gob.ar).

[38] The mining sector project investment portfolio comprises approximately 400 prospectuses, of which only a fraction are currently in the operation phase (16 projects).

[39] The Argentine Chamber of Mining Companies expects that in the next five years the sector could receive US$20 billion in investments. Despite important announcements of investment in the sector, seven of the country's provinces restrict mining activity, which hampers the development of the activity and compliance with projections.

The Argentine government seeks to exploit the sector's potential by broadening the scope of mining policymaking; in this case, the Federal Mining Council (Consejo Federal Minero, or COFEMIN), which consists of the mining authorities from all the provinces in the nation. One of the Council's initiatives was to sign the New Federal Mining Agreement (Nuevo Acuerdo Federal Minero, or NAFM) in 2017, which establishes principles for generating integrated and reliable information that helps develop mining policy, including a commitment to promote transparency in the management of the industry.[40] The NAFM includes objectives such as improving federal coordination by institutional strengthening and creating unified mine registry and land registry systems. It also seeks to facilitate coordination in economic and taxation matters, such as the tax regime, infrastructure funds, royalties, and public provincial companies. In any case, to enjoy full legal status, the NAFM must achieve prior approval in the National Congress and provincial legislatures.[41]

These objectives face institutional and technological challenges. In response to these challenges, since 2017 the IDB has supported the Ministry of Energy and Mining in managing mining sector information in a centralized fashion in the context of a federal state. This project has identified and analyzed the federal legal structures, as well as options for developing a common technology platform. Argentina's federal structure requires the provinces to generate the information needed to operate an integrated system.

One way of addressing the institutional challenges in the extractive industries is by gathering timely and good-quality information, generated by each province, that enables integrated decision making. The intensive use of new technologies helps carry out this project, increasing transparency, identifying possible discrepancies, improving monitoring and oversight capacity, and enforcing corruption prevention tools. One key aspect to improve this project is to link the national objectives of fostering mining activity with the interests of the provinces. The NAFM seeks to establish common standards and coordinate initiatives to generate information that will improve decision making in the sector.

The Mining Policy Secretariat of Argentina identified challenges of institutional coordination, capacity, and weakness that need to be overcome for the project to succeed. With technical support from the IDB, the Secretariat initiated the creation of a unified information system. In 2018, the partners of this project launched an initial version of the Argentine Mining Information Center (Centro of Information Minera Argentina, or CIMA), an information system for a transparent and competitive mining sector.[42] The contents of the first version include: (i) activity and production levels, overseas trade, employment, prices, the 2017 Mining Census register, legal regulations, and infrastructure; (ii) industrial minerals and their uses; (iii) assistance for mining producers; (iv) studies and reports; (v) a geographic information system; (vi) a mining suppliers register; (vii) a forum for small and medium-sized mining enterprises (mining SMEs); and (viii) international initiatives.

The platform is still under construction. The CIMA has broadened its scope by incorporating information about mining investment projects and investors, as well as the first socio-environmental indicators consolidated at the national level. The CIMA was incorporated into the Unified Geographical Mining Registry System. In April 2019, the Mining Policy Secretariat made progress toward enabling visualization of the mining concession procedure for certain provinces (already available for the province of Jujuy and under

[40] The NAFM was only signed by authorities in metal mining provinces: Buenos Aires, Catamarca, Córdoba, Corrientes, Entre Ríos, Jujuy, Misiones, Mendoza, Neuquén, Salta, San Juan, Santa Cruz, Santiago del Estero and Tierra del Fuego. The Federal Mining Agreement 2017 is available at: https://www.argentina.gob.ar/sites/default/files/acuerdo_federal_minero.pdf. The transparency commitment is included in Principle 23.

[41] The NAFM has not been ratified because none of the provinces has moved its debate in Congress; it is currently under discussion at COFEMIN's Institutional Affairs Commission. Although the NAFM was only signed by provinces with mining activity, COFEIMIN is comprised of all the provinces, which offers a space to strengthen the commitments to transparency and access to information in the mining sector throughout the country. While the NAFM still lacks legal force, it serves as a political declaration to guide the development of the sector.

[42] http://cima.minem.gob.ar.

construction in three more provinces). This platform marks a first step in resolving the challenge of data dispersion caused by Argentina's federal structure.

Internal users are evaluating the first version of the CIMA information system as a way to identify demand for content and to propose changes in its design and usability. In the future, the system will enable all mining information to be centralized through alphanumeric, documentary, and georeferenced databases by integrating all the provinces, thus generating a homogeneous product. To this end, the system's design enables each provincial node to contribute to the national mining information service without losing its operational independence.

Development of the system requires operating agreements, within the framework of the Federal Mining Council, to ensure that the provinces contribute the statistical, documentary, and geographical information necessary according to a data model that helps develop a common module for automating access to information. This would enable a network to be created with the provinces, with active nodes of the CIMA, which can provide national and international products and services. The provinces must also organize and coordinate the installation of the hardware, basic software, software applications, and connectivity, and put the system into operation. In addition to the data dispersion issue, the provinces lack the appropriate tools to generate geo-referenced data and maps. The use of free tools with desktop applications and networked services can develop maps that can be used in an Internet-based service.

Building capacities poses a challenge for the provinces. The current staff needs continuous training programs that take advantage of and fully exploit their experience with mining activity. Virtual courses, web forums, and other alternatives are among the possible tools available to make the work more efficient.

The Argentine government's mining sector development strategy includes implementation of other transparency initiatives. In 2019, Argentina formalized its adherence to the EITI[43] and included this commitment in the national plan agreed with the OGP (Open Government Partnership and Presidency of the Nation, 2017).[44] The specific commitment is to create a mining information platform that provides access to "…national, provincial, local and external data regarding mining activity, which permits the different actors to obtain validated and transparent information for decision making at both the public and the private level" (Open Government Partnership and Presidency of the Nation, 20176: 70). This highlights the importance of transparency initiatives in supporting efforts such as those of the CIMA, which aim to build trust and attract investment. Likewise, civil society's central role in implementing the EITI standards must also be highlighted, not only for its role as an integral member of the tripartite group (companies, public sector, and civil society), but also because it appropriates the information produced, reviews it, and uses it, while at the same time demanding that the standard should go beyond merely reconciling payments and revenues by driving specific institutional reforms that impact the lives of citizens.

Finally, the government launched a reform plan that includes three points relevant to governance: (i) approval of the Access to Public Information Act, finally passed after 20 years of effort by civil society; (ii) the sanction of the penal responsibility of legal persons with a view to complying with the OECD's Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; and (iii) the proposal to reform the Public Ethics Law.

Case Study 2. Colombia: Institution-Building for Transparent and Efficient Management in the Extractive Industries

Extractive industries have contributed to economic growth in Colombia. Foreign direct investment (FDI) in the sector reached US$7.8 billion in 2013 (8.5 times

[43] https://eiti.org/es/news/argentina-declara-su-compromiso-unirse-al-eiti.

[44] Commitment of adherence to the EITI: https://www.opengovpartnership.org/tag/alianza-de-gobierno-abierto.

higher than the 2002 figure and 1.7 higher than in 2010). The sector's share of total exports between 2010 and 2013 was 72.4 percent. Fiscal revenues from the sector (royalties, taxes, and shares) rose from US$9.1 billion in 2010 to US$19.7 billion in 2013 (Arisi, Cortés, and Vieyra, 2017).

The analysis conducted by the IDB to support Colombia's National Mining Agency concluded that the main challenges to the sustainable development of the extractive industries include short-term problems and institutional shortcomings (Arisi, Cortés, and Vieyra, 2017). The government launched an institution-building project to manage the sector's revenues efficiently and transparently. This initiative adopted a two-pronged approach: within the State, it sought to improve inter-institutional interaction and cooperation; externally, its purpose was to improve communication and trust with external actors.

The project with Colombia sought to build the capacity of public entities to design and implement information and knowledge generation and management processes, as well as to structure monitoring and oversight mechanisms in the extractive industries. This initiative has promoted training in managerial, professional, and technical skills.[45] One result of this project, which got underway in 2012, is the creation of a transparency system that provides information about oil and mining royalties online. This helped strengthen sector auditing and opened the door to EITI implementation and an enhanced dialogue with external actors, such as communities, citizens, and civil society organizations, to support the change agenda.[46] Improving information systems also helped reduce the time needed to process mining concessions from 861 to 180 days, by creating a dedicated group of civil servants. This improvement in productivity renders annual profits estimated at US$2 million per year. Moreover, the new system helped improve the recovery of the mining portfolio, increasing the amount recovered by 27 percent in only one month.[47]

To achieve these results, the strategy built consensus among government, companies, and civil society based on a single premise: natural resources are public goods and generate value for society as a whole. Starting in 2013, Colombia implemented an institutional capacity-building strategy in the extractive industries centered on four concrete actions: (i) resolve inefficiency in handling procedures and service provision by the mining authority; (ii) improve the institutional capacity of the entities that monitor and audit activities in the sector, by updating mining auditing and formalization policies to international standards, including production auditing and at the pithead; (iii) eliminate information dispersion and facilitate its use for management decision making and citizen access; and (iv) strengthen transparency in extractive industries management in Colombia.

The mining authority embarked on a policy of formalization and auditing based on specialized information, comparative analysis, and best practices. With IDB support, the government created the *MapaRegalías* platform to manage information about mining and oil royalties transferred to the local authorities, the projects financed, and the data relating to extractive activity, to improve access to public information for all stakeholders. Finally, Colombia adopted the EITI standard to facilitate dialogue between different actors that would enable priorities to be identified with the aim of increasing transparency and improving governance in the extractive industries. These capacity-building efforts yielded four main lessons:

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[45] In accordance with various studies, these skills improve the coordination and management capacities in institutions. Cohen, 1993; Mizrahi, 2004; Rueschmeyer and Evans (1985): management capacity in a bureaucracy improves inter-institutional coordination and coherence. These elements are fundamental for effective government intervention (Franco, Scartascini and Tommasi, 2014).

[46] Elinor Ostrom suggests that institutional changes, including procedural and regulatory changes, occur at various levels. The greatest transformations include informal rules, which include communities, citizens, and civil society in institutional change (Aguilera Klink, 2012). According to Zimmermann (2004), the capacity of a system implies collaboration and collective construction among both state and non-state actors, results-based platforms of dialogue that facilitate joint action by the State, companies, and civil society.

[47] Data presented by Diego Arisi during the first Regional Forum Strengthening Transparency and Good Governance in the Extractive industries in Latin America and the Caribbean, organized by the IDB, April 23–244, 2019, in Washington, DC.

1. The use of new information and communication technologies strengthens the effective management of the sector and improves transparency. The creation of *MapaRegalías* helps reveal the origin, the distribution and the allocation of public resources, building trust among stakeholders (public and private) in the extractive industries.
2. The generation and exchange of timely and good-quality information improve decision making. The Ministry of Mines and Energy created mechanisms for simplifying, standardizing, and facilitating the exchange of information and analysis among government, industry, and civil society.
3. The greatest challenges in terms of transparency are present at the subnational level. The authorities at these levels must develop the capacity to manage, monitor, and be accountable for the use of public resources and the profits arising from extractive activities in their jurisdictions. Implementation of the *MapaRegalías* system identified capacity gaps while providing a tool for resolving them.
4. Adopting transparency standards is a first step toward improving institutional capacity. In Colombia, the EITI confirms that dialogue is an effective tool for defining joint plans between different actors. Citizen participation mechanisms, which recognize the autonomy of the communities and aims to incorporate their inputs, help communicate opportunities for economic and social benefits. This exercise brought together 21 civil society organizations as part of the EITI Round Table in Colombia. The EITI National Tripartite Committee was able to build consensus between the State and these actors.

Progress on the institution-building agenda identified three priorities for governance plans in Colombia:[48]

1. Continue to strengthen sector planning, management, and monitoring systems. Extending the National Mining Agency's evaluation and innovation experience to other entities would enable them to adapt to improvements in their national systems; moreover, the improvements identified in the auditing and mining concession processes must continue to be implemented as well as lessons learned to strengthen institutional processes throughout the sector.
2. Address capacity gaps in information and knowledge management. The Mining and Energy Planning Unit should be consolidated and tasked with information and knowledge management, thereby serving as a model for other government entities. Conduct a National Mining Census to gather updated and reliable information on mining activity and continue to implement the *MapaInversiones* platform to extend the *MapaRegalías* experience throughout the Public Investment System. This would improve investment management and generate information for monitoring and fiscal management.
3. Establish a long-term management framework with the aim of implementing international voluntary standards.

Implementing the EITI standard could include consolidating an information system that uses the *MapaRegalías/MapaInversiones* platforms. This could lead to a complete automation of the EITI report. Furthermore, a communications, disclosure, and accountability strategy must be developed that can communicate the results of the EITI reports in both national and local spheres, designing messages that take into consideration the country's demographic characteristics and respond to citizen demands for information. Complementary tools, such as establishing a *MapaEcopetrol* platform, might help improve information management and enhance transparency at the national oil company. Moreover, a Public Expenditure Observatory in Colombia, part of the IDB's strategic lines of action, would help involve the Comptroller General of the Republic (the country's supreme audit institution) in transparency initiatives and improvements in fiscal management.

[48] The proposals can be examined in greater detail in Arisi, Cortés and Vieyra (2017: 24–26).

Case Study 3. The Dominican Republic: Transparency Initiatives as Part of an Institution-Building Strategy in the Extractive Industries

The Dominican Republic has the second most important gold deposits in the region in the Pueblo Viejo mine, with a production of nearly 1 million troy ounces per year.[49] In 2016, mining production represented 42 percent of exports.[50] The first mining exploitation concessions date from 1950, and the country is in the process of auctioning hydrocarbon blocks for exploration. In 2010, the government granted the Pueblo Viejo concession to private actors. In spite of this history, the Ministry of Energy and Mines (MEM) was established only in 2013 and now oversees extractive industry policy.

With IDB support, the MEM prepared an institutional capacity-building strategy based on an assessment of capacities. Its objective is to increase sector management efficiency and effectiveness to attract new investments. The strategy recommends strengthening four main functions: (i) regulations and organization; (ii) strategy and planning; (iii) procedures and information systems; and (iv) human resources. The assessment and design process received inputs from the main decision makers, civil servants, and other actors. The government is working to define the next steps for improving sector management and relations with the communities in which the industry operates.

As part of the extractive industries reform process, the Dominican Republic signed its adherence to the EITI standard in February 2016. The EITI National Commission in the Dominican Republic, with IDB technical support, has published two reports. The first report called for sources of data to be identified, information disclosure, and an intergovernmental dialogue established to define the relevant information. During the implementation process, the country defined a baseline for sector management, the state of the data, and the information systems needed to publish and disclose its EITI report. The exercise revealed gaps in the regulatory and auditing framework, dispersion of data, and challenges in the relationship between industry and civil society.

The publication in November 2017 of the first EITI-RD mining sector transparency portal (or EITI report) marked a milestone by offering statistical data and recommendations on sector governance.[51] These recommendations highlighted the need for a reform agenda centered on the MEM, with three areas of action: (i) bring the regulatory framework up to date; (ii) improve land registry and information in the mining concession areas, and (iii) improve production and operation data collection. This experience has given rise to a proposal to reform the Mining Law. The Executive is preparing draft legislation to submit to Congress.

In 2018, the updated EITI portal-RD, carried out with IDB technical assistance, sought to strengthen institutional capacities in the extractive industries. The dialogue between government entities revealed communication failures and sector data shortcomings caused by data dispersion, multiple formats and the lack of digital archives. The second EITI report invested resources in gathering, systematizing, structuring, and validating the information ready for publication. This exercise generated inter-institutional coordination due to the combined work of the MEM and its peers in the Directorate General of Mining, the Treasury Ministry, the Directorate General of Internal Revenue, and the Directorate General of Customs, among other institutions. The dialogue led to the establishment of an Auditing Round Table to coordinate cross-cutting issues to monitor the sector.

Implementation of the EITI has enabled the government of the Dominican Republic to begin to resolve problems of information coordination, systematization, and quality. The EITI also opened an opportunity to evaluate information management systems and sector data quality. The potential for improvement identified the need for a cross-cutting, medium-term improvement program focused on auditing and information

[49] EITI-RD Transparency Portal. Available at: https://eitird.mem.gob.do/informe-eiti-rd/produccion-y-exportacion/.
[50] EITI-RD Transparency Portal. Available at: https://eitird.mem.gob.do/informe-eiti-rd/produccion-y-exportacion/.
[51] https://eitird.mem.gob.do/informe-eiti-rd/recursos-narurales/exploracion-minera/.

systems. Improvements in auditing the sector concentrate on production data, which are key for efficient collection of mining revenues; presently, civil servants enter data manually in an Excel document, relying on uneven and incomplete reports from mining concession owners. This limits the information available to the state entities, as it depends on reports being completed by the owners. Field audits are limited, and government entities duplicate functions. The second improvement is related to improving databases to eliminate disparities in extractive industries data sources, processes, and registration. The list of mining concessionaries, for example, does not tally with the list of taxpayers. With unified and verified databases, better public policies could be implemented in the sector.

The next step in the Dominican Republic's transparency agenda is to undertake integrated efforts that take advantage of the progress described to have an impact on governance. One challenge facing the EITI process is to reduce the attention paid to operational aspects of the standard and concentrate resources instead on creating incentives that improve governance. The lessons learned from other participatory action against corruption provide an opportunity in this sense. In particular, the Participatory Anti-corruption Initiative recommendations for the Dominican Republic could be revisited, with the aim of building capacities in civil society organizations to improve monitoring in key areas of reform, in exploiting the use of data and the disclosure of information. It is therefore important to make use of participatory dialogues such as the one offered by the EITI and thereby identify reform proposals that help improve extractive industries management (Kaufmann, Gallina, and Senderowitsch, 2015).

How can information be made more useful and empower stakeholders?

The countries in the region have made progress in adopting international voluntary transparency standards such as those described in the preceding case studies. This has ushered in innovations in the use of technological tools that boost institutional capacities, as well as reform plans aimed at improving governance in the extractive industries. As the cases of Argentina, Colombia, and the Dominican Republic demonstrate, transparency initiatives are a first step toward modernizing information systems and building trust with the public. Although limitations and pending questions for the future of governance in the extractive industries have been identified, there are also several potential opportunities:

1. **Using data to strengthen accountability processes**. Data is a fundamental component in corruption prevention.[52] It also informs the debate about public resource use and distribution, as in the case of the Dominican Republic,[53] where information released by the EITI portal prompted civil society to question the formula of transferring mining revenues to the municipal governments and to demand that the government disclose itemized accounts for this type of transfer. Transparency has also limited the paternalistic use of public resources, as in the case of Peru, where the disclosure of information by the EITI can be correlated with a 14 percent reduction in abuse of power indicators (Yong Kim, 2016). These examples show the potential of transparency initiatives to have a decisive impact on governance in the sector.
2. **Exploiting the use of data for diagnosing process failures and evaluating public policies in the mining and hydrocarbons sector**. For example, thanks to *MapaRegalías* in Colombia, auditing of revenues arising from the extractive industries and its allocation to public project execution were improved. Consequently, the number of irregularities detected and referred to a monitoring institution (mainly the Attorney General) rose

[52] As Christine Lagarde stated: "The scope of transparency is limited. It needs to be complemented by accountability in order to become a powerful element for discouraging corruption" (Lagarde, 2016).

[53] Trinidad and Tobago is an example in which the EITI has indicated the need to improve the management of the sector. In its 2017 report, it underscored the need to reform and improve the efficiency of the tax administration to close gaps and minimize revenue losses from the mineral sector, LNG contracts, and shared production (EITI, 2017b).

from only 57 in 2013 to more than 1,000 in 2016 (data provided by the IDB). Moreover, an impact evaluation carried out by the IDB (forthcoming) provides further evidence about the effects of this intervention, which produced an increase of around 11 percentage points (7 percentage points when controlling for other factors) in the rate of project finalization in the year following its implementation (August 2014).

3. **Information is the basis for strategic and intercultural communication**. Using accurate and timely information allows more complex challenges to be met, for example, ensuring that the information responds to the needs of local agents and empowers them as part of the process of change. The greatest challenge, therefore, is to overcome intercultural barriers, including linguistic diversity, among other circumstances. A good example of this is Peru. The Ministry of Culture recognizes 47 indigenous languages, of which Quechua (the language with the greatest number of speakers at the national level) represents 13.9 percent of the total population, followed by Aimara, Ashaninka, and Awajún.[54] Incorporating and integrating indigenous languages in consultation and accountability processes in the extractive industries would improve dialogue and build closer relationships with the local populations within the framework of extractive development projects.

The potential uses of data mentioned above demonstrate that international standards, technology tools, and strategic communication approaches are cross-cutting elements of initiatives aimed at improving transparency in the sector. This vision, however, must be complemented by attention to strategic matters. The following section describes the three areas in which the use of information is an essential and leading requirement for achieving good governance in the sector.

[54] The importance of indigenous languages is so significant that the United Nations declared 2019 the International Year of Indigenous Languages. See: https://en.iyil2019.org/.

Three Strategic Themes on the Extractive Industry Transparency and Governance Agenda

3

In a new context of uncertainty and adjustment caused by corruption scandals, which also offers new opportunities thanks to innovations in data management, three strategic areas of transparency and governance plans for the extractive industries warrant attention: (i) national oil companies; (ii) sovereign wealth funds, and (iii) regulation of beneficial ownership. These areas are crucial for the efficient use of public resources, for confronting times of crisis, and for sanctioning cases of corruption. Corporate governance of national oil companies, transparency and accountability in sovereign fund management, and addressing the grey areas that surround the beneficial owners of public contracts are key for regaining citizens' trust in institutions. This paper identifies international standards and best practices that, if effectively implemented, can help to strengthen governance and reduce risks associated with corruption and the inefficient use of resources in these three areas.

The first strategic theme is improving the management of national oil companies in the extractive industries. Corruption scandals in the region have affected national oil companies directly. The advances in corporate governance by the main companies—Ecopetrol, Pemex, and Petrobras—were insufficient to prevent political influence on decisions and offset the incentives for corruption in their operations.[55] The importance of these public flagship companies means that they must strengthen their corporate governance structures to regain the trust of the public and investors alike. A detailed study of the data on the activity of these companies at the global level can be found in the National Oil Company Database report, published recently by the Natural Resource Governance Institute (NRGI).[56]

Second, sovereign wealth funds have demonstrated their importance in calming the effects of the volatility of commodity markets. They act as stabilizing agents of the economy and guarantee intergenerational equity (Parrado, 2017). These tools can be strengthened by adopting best governance and transparency practices, such as the Santiago Principles. Adopting principles of transparency will ensure the funds' legitimacy with an increasingly demanding citizenry and also support their operation in international financial markets.

Third, disclosing the real identity of suspicious companies, or the beneficial owners of public contracts, could be the first step toward regaining trust against a backdrop in which corruption scandals have eroded democratic legitimacy. For example, mandatory publication of information about beneficial owners of projects, contracts, and licenses in the sector could reduce the use of anonymous fiscal structures that

[55] National oil companies are highly vulnerable to the risk of corruption due to factors relating to the scope of their operations, their multi-million-dollar contracts, and the political influence of the sector's authorities (OECD, 2018). Although the majority have formal corporate governance rules, some lack cross-checking procedures and internal monitoring objectives, or even transparent and competitive contracting mechanisms.

[56] https://resourcegovernance.org/analysis-tools/publications/national-oil-company-database.

disguise people who are politically compromised or have conflicts of interest.

In all three themes, the need to improve standards can be illustrated using the results of the NRGI, which evaluates 11 countries from the region on transparency, accountability, and value creation. This exercise illustrates the gap between adopting rules of good governance for national oil company management, transparent concession award processes, accountability in the sector and sovereign fund management, and actual practice, which has yet to achieve the standards adopted.[57]

National Oil Companies: Strengthening Corporate Governance to Reduce Risks of Corruption

Within the extractive industries, the hydrocarbon sector perceived to be the most susceptible to bribery and other illicit acts, according to a study by Transparency International (Transparency International, 2011) and corroborated by Ernst & Young (2014). National oil companies are open to various risks of corruption. One is the sheer size of their commercial operations, through which purchase and procurement processes, as well as commercial agreements (the sale of hydrocarbons, oil and gas trade associations, oil contracts, and so on), can be compromised in the absence of adequate transparency and monitoring mechanisms. A further risk factor is that, due to their technical and geographical nature, oil activities cover huge regions and include international operations and complex projects,[58] which makes oversight more difficult. Furthermore, political interests can weaken internal monitoring systems, particularly when these systems are geared toward legal formalities, rather than mitigating business risks in, for example, hydrocarbon commercialization and investment decisions. Finally, political interference in civil service appointments, decision making, and corporate priorities weakens institutions and undermines the nurturing of an ethical and transparent business culture. Corruption risks in extractive companies are more than just a perception.

An OECD study of corruption in international companies revealed that 19 percent of the cases sanctioned for bribery were extractive industries, making extractives the most vulnerable sector, followed by construction (15 percent), transport and storage (15 percent), and information and communication (10 percent) (OECD, 2015).[59] This includes state or publicly owned enterprises (SOEs).

Transparency and corporate governance structures help mitigate these risks, as well as facilitate compliance with the mandatory regulatory and legal responsibilities undertaken when accessing and operating in the international financial system. Transparency and other best practices of corporate governance help build trust among investors, banks, civil society, clients, suppliers, communities, and others; maximize the companies' value and their position in the financial and stock markets; create incentives for efficient management and supervision based on informed decisions; reduce costs, cost overruns, and transactional losses; and counteract corruption, influence peddling, and other practices that undermine the company's value.

Corporate governance is embedded in a legal and institutional framework that must be considered to strengthen the integrity of national company management. When there is direct state participation in the oil

[57] 2017 Resource Governance Index (NRGI). Measuring the quality of governance in the oil, gas and mining sectors of 81 countries. Available at: https://resourcegovernanceindex.org/about/global-report

[58] Large, complex projects or one-off projects are open to special risks of corruption. As Rose-Ackerman (1975) explains, it is not the same for a government to procure a shipment of pencils (entirely homogeneous) as to build a dam or a large refinery (extremely heterogeneous). In contrast with homogeneous goods, heterogeneous goods often have special qualities or functionalities, which can generate high variable costs and cause unexpected cost overruns or unforeseen price fluctuations. More information on this matter can be found in Rose-Ackerman (1975).

[59] The study includes an analysis of 427 international bribery cases.

sector,[60] governments face the challenge of balancing the functions and responsibilities of a State, which are mainly planning and regulatory, with an oil company's commercial activities.[61] This creates bureaucratic strife and conflicts of interests among the different state agencies. Some countries resolve these problems by turning the oil companies into vertically integrated enterprises, with a monopoly over the entire oil industry and authority (either legal or de facto) to act as the regulator for the sector.[62]

Norway's oil industry provides an alternative model. In this case, the State created an institutional governance model based on exercising sovereignty over its oil resources through planning and regulatory agencies, allowing competition between its own national company and private companies, as well as maintaining market conditions with free prices (Wirth, 2018).[63] This state participation model defined clear rules and separated functions, which meant that regulatory and planning capacities could be developed independently of the national oil company.

In Latin America there are three examples of institutional governance based on the separation of functions and clear rules as an alternative to direct intervention by the State: Brazil (1997), Colombia (2003), and Mexico (2013), which adapted lessons learned and broadened the scope of previous reforms. This model has three elements: (i) openness to competition; (ii) separation of functions, and (iii) rules of corporate governance.[64] The autonomous regulatory agencies are part of this model, guaranteeing the implementation of the rules and supporting the smooth, transparent, and safe operation of the markets.

In this institutional framework, the State uses the rules of corporate governance to define the objectives of its national oil companies and to establish decision-making mechanisms with built-in accountability and disclosure of information. These measures help create a level playing field for competition and provide certainty for investments in long-term projects. The creation of autonomous regulatory agencies strengthens the State's planning and regulatory capacities and enables national oil companies to focus on creating value. The rules of corporate governance in national oil companies help professionalize and modernize the commercial units (which have been developed along corporate lines), providing them with independent, transparent, and professional management.

In spite of bribery and money-laundering scandals, adopting institutional governance systems has yielded tangible results. In Brazil, Colombia, and Mexico, it

[60] Direct participation by the State in the oil sector has several justifications. The original mission of national oil companies is to capture rents and maximize fiscal revenues from the production of hydrocarbons. These vertically integrated companies are natural monopolies in a strategic sector, which means that the State must regulate decisions that affect the rest of the economy. These oil companies are also generally the largest in their countries in terms of revenues generated or technological capacity, and it has been argued that they should be used as public policy tools to promote employment or distribute social and economic benefits through subsidies in the final consumer energy prices. In NGRI (2015), there is a summary of the arguments and options for direct participation by the State through oil companies.

[61] This generates public policy dilemmas such as, for example, whether to maximize the fiscal burden on oil companies or allow them to conserve resources to invest; whether to reduce costs or maintain subsidies.

[62] For example, Malaysia does not have a hydrocarbons ministry. Policy making and commercial operations are the responsibility of different departments of the national oil company Petronas, whose director reports directly to the prime minister. In other cases, the oil or energy ministries assume the planning and regulatory functions and represent the interests of the State as owner of the oil company. See Lahn et al. (2007).

[63] Norway divided the different functions of the State among several agencies: energy policy making is the concern of the Ministry of Oil and Energy; regulation is entrusted to the Norwegian Oil Directorate, the Oil Security Agency and the State Environmental Agency; Statoil (now Equinor) runs commercial operations, and taxation authority resides with the Ministry of Finance.

[64] Openness to competition requires ending the monopoly of the national oil companies; however, creating a competitive market is a different process, which must be based on legal security and clear rules for all players. The separation of functions complements the definition of rights and the rules for entering the market. Separating functions establishes clear objectives for fiscal, energy, and regulatory policymakers, as well as creating checks and balances to limit arbitrary decisions.

has helped attract investment and boost exploratory activity.

In Brazil, reform of the sector and its governance rules resulted in notable success in exploration. Paradoxically, this success affected the continuity of openness and created incentives for corruption. The economic recession and the political crisis that followed led the Brazilian government to go back to international bidding processes for awarding production contracts. Nonetheless, since 2016 Brazil has become the continent's major oil producer, surpassing historic producers such as Mexico and Venezuela.

In Colombia, openness and institutional governance rules have enabled the country to tackle a fall in oil reserves and production. An example of confidence in the institutional framework is the increase in FDI in the oil sector. FDI reached a peak of US$5.471 billion in 2012. These investments slowed the decline in proven oil reserves, which began growing again between 2011 and 2014. Production also started to increase again between 2009 and 2015.

In Mexico, reform is more recent. Legal changes took place between 2013 and 2014 and mandated the National Hydrocarbons Commission to organize competitive and transparent auctions for oil exploration and production contracts. The first round of bidding for oil contracts was held in 2015. The success of the model exceeded expectations, despite the fact that the auction took place amidst falling oil prices. As previously highlighted, in just three years, Mexico adjudicated 107 oil contracts in nine bidding processes. In the event of commercial success, these contracts would represent investments of US$161 billion throughout the life of the projects. In the next three years, the first stages of these contracts envisage investments of US$10 billion for exploration and production. These competitive and transparent auctions create tax revenues for the State higher than those collected in countries such as the United States and Brazil.

However, corruption risks in the sector demand policies to strengthen corporate governance and maintain competitiveness. The legitimacy of institutional governance systems depends on favorable results, such as attracting investment for new projects, while the citizens' trust must also be restored. To identify corporate governance standards and best practices that mitigate risk in national oil companies, the IDB is currently engaged in reviewing instruments and recommendations with the aim of establishing directives relating to transparency, accountability, integrity, and corruption prevention.[65] These principles could guide an eventual IDB intervention in projects aimed at strengthening corporate governance in the region's national oil companies, in addition to the recommendations recently published by the Expert Advisory Group on Anti-corruption, Transparency and Integrity in Latin America and the Caribbean (IDB, 2018).

National oil companies must obey laws on transparency and access to information. The role of national and international civil society is therefore fundamental when it comes to reviewing and using the information available, as well as appropriating it and overseeing investments by the State in business ventures, especially when linked to the management of its energy resources. One of NRGI's main lines of action is promoting transparency in national oil companies. To this end, it has created indices and databases, such as the recently published National Oil Company Database,[66] which includes more than 70,000 data points from

[65] These principles derive from the following instruments: Guidelines on Corporate Governance of State-owned Enterprises – 2015 (OECD); Guide to Extractive industries State-owned Enterprise Disclosures – 2018 (NRGI); EITI Standards - 2016 (EITI); the G20/OECD Principles of Corporate Governance – 2016 (G20 and OECD); Guiding Principles on Companies and Human Rights – 2011 (UN); 10 Anti-Corruption Principles for State-Owned Enterprises – 2017 (Transparency International); Guidelines on Multinational Companies – 2011 (OECD); The Extractive industries Transparency Measures Act – 2014 (Canada); EU Rules on Disclosure Requirements for Extractive and Forestry Industries – 2013 (European Union); International Standards to Combat Money-Laundering and Terrorist Financing – 2012 (FATF); International Professional Practices Framework (IPPF) – 2015 (IIA).
[66] https://resourcegovernance.org/events/discussion/global-launch-national-oil-company-database.

more than 70 national oil companies around the world. The database offers detailed information about the production, earnings, expenditures, balances, payment of taxes, and company performance; it also facilitates comparison in terms of time and between companies, supporting governance and strategy-building.

Information and the companies' pro-transparency efforts enable reports and data on company management issues, operations, and processes to be produced and published. Furthermore, participation in financial markets, through either bonds or shares, means that national oil companies are subject to reporting regulations on operations and audited financial statements, in addition to the market discipline reflected in the value of their debt or assets. National oil companies must publish information regarding their subsidiaries and dependent companies. In many cases, these organizations fail to report information. Likewise, national oil companies must publish information and data on centralized portals that facilitate consultation, easy access, and data processing and analysis.

Transparency policy can be defined by either the company's Board of Directors or by the law regulating national oil companies, including updated information about the structure, operations, processes, and governance of the company as a whole. Transparency portals should incorporate efficient search engines and include the list of board members and other individuals who occupy senior positions and who can therefore be classed as politically exposed persons. Implementing a transparency platform that includes data visualization and georeferencing would enable simplified visualization of relevant information, including the origin and destination of the sector's resources. It should also be linked to procurement systems, with a view to encouraging competition.

The information needs of all stakeholders (public and private) in the company must be directly and completely satisfied through accountability. Their specific information needs must be identified in detail, with the intent to monitor compliance using accountability processes.

Furthermore, implementing a system to track compliance with obligations ensures adequate and preventive monitoring of compliance with the company's regulations and obligations, thereby enabling major risks to the business to be identified in a timely manner and monitored. Specialized internal monitoring agencies must follow a policy that consolidates efforts in this area and replicate them in all subsidiaries.

To maintain the credibility of duly audited financial statements, a biannual competition system is recommended. This enables auditors to be rotated, thereby maintaining concentration and discipline throughout the reporting exercise. The auditor's integrity must be preserved at all costs, as the decision of the independent auditor of Petrobras demonstrated in 2014 when they refused to sign off on the company results (MarketWatch, 2014), forcing them instead to estimate and disclose the impact that corruption had had on operations, plans, and assets.

To ensure integrity in decision making, independent members of the Board of Directors should be appointed, including experts with a proven personal and professional track record selected by competitive recruitment processes. The selection and appointment process should be assigned to an independent entity, with the goal of professionalizing the management of the companies. The Board of Directors' committees may also include independent experts not directly employed by the company. In Mexico, in view of the lack of full separation between the government and the company, the Pemex Organic Law envisages the inclusion of independent advisors. In accordance with its rules, independent advisors can veto projects by voting against them, thereby maintaining the integrity of the decision-making process.

Internal monitoring systems must be complemented by an auditing system that includes the subsidiaries, thereby monitoring risk and taking decisions whenever necessary up to the executive level. Monitoring and control of hydrocarbon contracts and commercialization must be supported by a monitoring system that integrates information from the business group as a whole.

A fundamental task of monitoring and control systems is to closely monitor payments made to third parties, verifying compliance with the contracts. This task must pay special attention to the possible payment of inflated costs, a frequently used mechanism used in fraudulent transfers. This has been a problem in cases of cost overruns, such as in the Petrobras refinery in Pernambuco, the Ecopetrol refinery in Cartagena, and the bailout of two fertilizer-producing companies by Pemex.

Finally, institutional culture is a key factor in the fight against corruption. Therefore, ethical codes and compliance with regulations should be strengthened at all internal levels, as well as in the counterparty to commercial transactions.

Sovereign Wealth Funds: A Tool to Counter Sector Volatility and Generate Savings over the Long Term

Sovereign wealth funds are government-owned instruments that operate like investment funds (Capapé and Guerrero, 2013). There are two types of funds, classified by their source of financing: those that receive revenues from raw materials (commodity-financed) and those that obtain revenues from other sources (non-commodity-financed funds). In the second group, some funds may be partially or indirectly financed with public resources arising from commodities, but their main financing derives from revenues from sales by the State, payments to the State for concessions, or funds from budget surpluses. In an example of long-term planning, the Chilean funds receive revenues as a result of applying the structural balance rule in effect since 2001. This rule establishes an annual fiscal expenditure ceiling consistent with the central government's structural revenues, thereby isolating the fund from fluctuations of economic activity, copper prices, and other factors that determine fiscal revenues.

Seven sovereign wealth funds operate in Latin America and the Caribbean (LAC), managing revenues from the extraction of raw materials and other fiscal surpluses. These funds exist in Chile (which has two), Mexico, Panama, Peru, Trinidad and Tobago, and Venezuela. In total, sovereign wealth funds manage assets valued at US$65 billion. The Panamanian fund receives revenues collected by the Panama Canal Authority, while the Peruvian fund is financed by budget surpluses.[67] The other five funds receive revenue transfers from hydrocarbon or mineral production or exports (Table 2).

The potential and importance of commodity-financed sovereign wealth funds can be illustrated by comparing their assets. For example, the combined assets of the

[67] Founded in 1999 with US$100 million, it has multiplied in value by a factor of almost 100 over the last 15 years.

TABLE 2. THE SOVEREIGN WEALTH FUNDS OF LATIN AMERICA AND THE CARIBBEAN

Sovereign Fund	Assets (US$M)	Country	Revenue Source	Year Established
Oil Revenue Stabilization Fund^	24,200	Mexico	Hydrocarbons	2015
Economic and Social Stabilization Fund	14,500	Chile	Mining	2007
Pension Reserve Fund	9,800	Chile	Mining	2006
Fiscal Stabilization Fund^	8,250	Peru	Fiscal	1999
Heritage and Stabilization Fund	5,610	Trinidad and Tobago	Hydrocarbons	2000
Panamanian Savings Fund	1,450	Panama	Fiscal	2011
Macroeconomic Stabilization Fund^	10	Venezuela	Hydrocarbons	1998

Source: Capapé and Santiso (2018).
Note: Using a stricter definition (see Capapé and Guerrero, 2013), the Sovereign Wealth Funds marked with ^ would be excluded from the classification, such as the funds dedicated exclusively to stabilization, with 100 percent national portfolios, or those that invest solely in fixed-income securities.

two Chilean funds were equivalent to more than 8.5 percent of the country's GDP in 2018, exceeding one third of annual public expenditure in the country (data from 2017) and representing 60 percent of the Central Bank of Chile's international reserves (data from December 2018). In other countries of the region, these funds are more modest, but in all cases the existing assets are equivalent to at least 2 percent of total public expenditure carried out in 2017. In Peru, the assets of the Fiscal Stabilization Fund are equivalent to 18 percent of public expenditure, whereas in Colombia they are comparable to 4 percent of public expenditure and 7 percent of its international reserves (Capapé, 2017).

Sovereign wealth funds have been used to maximize the financial profitability of public assets and make strategic investments (Coronas Valle and López Jiménez, 2013), as a stabilization instrument for addressing macroeconomic impacts and mitigating the effects of external shocks, or for intergenerational saving (Capapé, 2017). Commodity-financed sovereign wealth funds can also mitigate the macroeconomic effect known as the "the natural resource curse" in natural resource-rich countries that lack institutional capacity in other sectors to operate at their maximum potential (Frynas, 2017).

The main objectives of the region's funds have been twofold: macroeconomic stabilization and long-term savings to finance future obligations. The funds of Mexico, Peru, and Venezuela have revenue stabilization objectives, with national asset portfolios concentrated in fixed-income securities. In Trinidad and Tobago, the Heritage and Stabilization Fund (HSF) includes both objectives within a single instrument. There are two funds in Chile, one for stabilization and another for savings. The Economic and Social Stabilization Fund, established in 2007, accumulates resources to finance fiscal deficits or repay public debt, whereas the Pension Reserve Fund, set up in 2006, finances long-term pension obligations.

The case of Chile reflects the importance of building a legitimate plan, with broad support from all political forces, to define the fund's goals and operations over the long term. In addition to adopting transparency and accountability rules in their operations, the Chilean funds have a financial committee that makes investment decisions collectively. These foundations have permitted Chile to combine a structural balance rule with the operation of its funds to reduce expenditure volatility, increase public savings during economic expansions, and reduce perceptions of risk regarding the economy. This has enabled the government to rely on an automatic stabilization mechanism (French-Davis, 2016; Parrado, 2017). For example, between March 2009 and May 2010, Chile withdrew nearly US$9.5 billion (3.5 percent of GDP) from the Economic and Social Stabilization Fund to support economic reactivation in the face of falling fiscal revenues caused by the global financial crisis (Parrado, undated). Moreover, this fund has also reduced interest rate volatility and maintained a more competitive and less volatile real exchange rate, protecting the competitiveness of the export sector against increases in the copper price (Briones and Vergara, 2013).

The funds designed for stabilization in times of crisis demonstrated their usefulness in tackling volatility caused by the end of the cycle of high prices. The examples of Peru and Trinidad and Tobago illustrate this function. In December 2015, the Peruvian government withdrew US$1.267 billion from the Fiscal Stabilization Fund to mitigate a fall in current revenues. In December 2017, Peru withdrew an additional US$1.869 billion to finance reconstruction following damage caused by the "El Niño" phenomenon, which caused extensive damage in the north of the country. These withdrawals injected nearly one percentage point of GDP on each occasion (Salas, Camacho, and Alzamora, 2018). Furthermore, Trinidad and Tobago used US$628 million of its Heritage and Stabilization Fund between 2016 and 2017 (equivalent to 3 percent of the country's GDP) to address the drop in oil prices (IMF, 2018b).[68] This fund handles US$5.5 billion in

[68] A challenge facing the Heritage and Stabilization Fund is to satisfy its two objectives of stabilization and savings, which has led some to call for dividing the fund in two, with a specific objective for each one.

assets, equivalent to 34 percent of GDP and 50 percent of Central Bank reserves.

Sovereign wealth funds can operate in accordance with current best practices in these matters, which are enshrined in the Santiago Principles. This set of 24 Generally Accepted Practices and Principles for Sovereign Wealth Funds is a standard elaborated by the International Working Group designated by the IMF and approved in Santiago, Chile, in September 2008. In 2009, based on these principles, 23 IMF member countries with sovereign wealth funds formed the International Forum of Sovereign Wealth Funds, an organization headquartered in London that comprises 31 sovereign wealth funds. It recommends governance structures and promotes transparency and accountability as well as investment practices that respond to economic and financial criteria of profitability and adequate risk.

The Santiago Principles incorporate recommendations in three areas: (i) legislation, objectives, and coordination with macroeconomic policies, which guarantees that the fund operates in accordance with the country's legal arrangements; (ii) establishing rules of governance with a clear division of functions, to ensure accountability and operational independence; and (iii) attempting to strike an appropriate balance between investment, expected performance, and risk management.

Adopting the EITI standard can help to strengthen sovereign fund governance, as it requires publication of information regarding the use of resources derived from oil and mining revenues.[69] Adopting the EITI and the Santiago Principles strengthens information reporting and the integrity of revenue management. The need to strengthen these two aspects can be illustrated by the fact that while 38 countries have a commodity-financed sovereign fund, only 14 are EITI members (two in Latin America and the Caribbean: Mexico and Trinidad and Tobago).[70]

These experiences and governance principles provide a guide to best practices that a country can follow when deciding how to manage oil or mining revenues with transparency, accountability, and efficiency. The government of Guyana is facing this decision as the country is set to become a major oil exporter. In Guyana, oil discoveries and the progress made on projects mean that, by 2020, the country will have an oil-producing capacity estimated at 120,000 barrels per day. This volume represents annual royalty payments of an estimated value of US$2 billion, equivalent to 60 percent of the country's annual GDP. The volatility inherent in these activities is a risk for the government, which has decided to create a fund to manage these revenues. The project to define the fund's mission and its institutional design was supported by an IDB technical review. The government published a note entitled "Managing Future Petroleum Revenues and Establishment of a Fiscal Rule and a Sovereign Wealth Fund", which proposes a series of governance, transparency, and accountability measures (NRGI, 2018). The proposals include:

1. Objectives, such as: (i) reducing the volatility of oil revenues and public expenditure, (ii) sterilizing oil revenues to avoid a loss of competitiveness in other productive sectors, (iii) enabling future generations to benefit from the exploitation of natural resources, and (iv) financing development priorities by promoting inclusive and sustainable economic and social growth.
2. A fiscal rule, entitled the Economically and Fiscally Sustainable Amount, to set the maximum withdrawal possible in each fiscal year and to reduce the discretion to withdraw funds every year.

[69] The EITI standards now include the publication of full information about natural resource management, ranging from the awarding of concessions to the reporting of royalties and taxes paid by the companies, and even the use of such revenues by governments. Further instruments for strengthening the governance of sovereign funds include audits of their operations and their financial statements (www.eiti.org).

[70] Peru met the EITI standard in 2016, but its sovereign fund received budget surpluses. Papua New Guinea and the Democratic Republic of the Congo complied with the EITI standard of 2015. Satisfying the evaluation of the 2016 standard is still pending.

3. An online system for contributions to the fund, in line with best international practices, which clearly identifies the sources of revenue, eliminates intermediaries, and simplifies the management process.
4. Rules of operation specifying the types of assets in which the fund can invest, that include: (i) bank deposits in dollars in foreign financial entities with an A rating or higher, (ii) treasury bills with an A rating or higher, (iii) shares in companies listed in the MSCI World Index and sovereign bonds from countries listed in the Barclays Global Treasury Index, (iv) derivatives linked to the fund's investments, and (v) gold.
5. Minimum professional and ethical standards for the fund's workers and managers (internal and external).
6. Rules for operating overseas that ensure compliance with legal, regulatory, and disclosure requirements applicable in the host jurisdictions.

These rules signify progress in the debate about creating a sovereign fund. Likewise, they enable civil society to demand quality from such a fund and thereby remain vigilant and support it with the understanding that the fund's performance must ultimately benefit the public interest it represents. There are, however, three matters pending resolution. The first is to guarantee the impartiality and independence of the advisory committees on decision making, the Macroeconomic Committee and the Sovereign Investment Committee. According to the rules of the final note, the Ministry of Finance sets the economic and fiscally sustainable rule for defining annual withdrawals from the sovereign fund, advised by the Macroeconomic Committee. However, the members of this committee are chosen by the same Ministry, proposed by government agencies and entities, which might call their impartiality and independence into question. One alternative would be to create a Macroeconomic Committee comprised of independent international experts, along the lines of a Fiscal Council, for the purpose of establishing a structural balance rule and defining the contributions to, and cash withdrawals from, the sovereign wealth funds. The second is ensuring the existence of mandatory external auditing by, for example, an international and independent auditing company. Finally, the sovereign fund must define a fiscal rule that enables the government to use it to guarantee revenue and expenditure stability, but also to invest during recessions caused by oil production or price volatility.

Beneficial Owners: Lifting the Veil of Secrecy in Extractive Projects

One of the lessons learned from the corrupt activities revealed by the investigation of *Lava Jato* (ACFCS, 2015) and confirmed by the Panama Papers (ICIJ, 2018) is the distinction of the way anonymous companies use banking secrecy and opacity rules to carry out money-laundering and bribery operations. The risk of these mechanisms is that they are utilized by politically exposed persons, or persons with conflicts of interest, to hide wealth. The lack of transparency in complex ownership structures can help actors in the oil, gas, and mining sector to evade taxes or even conceal inappropriate relationships with civil servants. These maneuvers represent a risk to public receipts caused by tax evasion and can be used for corrupt practices, as well as to conceal conflicts of interest, nepotism, or collusion in bidding processes, while at the same time generating losses in resources, inflated prices, and inefficiencies that affect all citizens (Global Witness, 2014).[71]

One proposal for preventing a repetition of such cases as *Lava Jato* is to strengthen transparency in the regulation of beneficial ownership. According to the Financial Action Task Force (FATF), beneficial owners are

[71] At the global level, losses caused by the opacity in the sector are palpable, especially in developing countries: in the Democratic Republic of the Congo, the opaque nature of five significant mining agreements meant that the country lost around US$1.4 billion between 2010 and 2012, the equivalent of the revenues accrued from the country's oil, gas and mining sector throughout the same period. See the EITI country reports for the Congo at: https://eiti.org/democratic-republic-of-congo.

natural persons who exercise effective control or hold possession over a client in whose name a transaction is made, or who exercise effective final control over a legal person or legal structure (FATF, 2012). In other words, those who obtain the final economic benefit through intermediaries charged with masking their real identities. However, despite consensus around the need to regulate beneficial ownership, for example through the above-mentioned FATF, the Open Government Partnership, and EITI standards, there are different definitions at the international level, especially between different national jurisdictions, which complicate unified regulation in the region (Knobel, 2017)[72] (see also Section 3 above, on voluntary transparency standards).

In the extractive industries, it is important to identify the risks associated with the opacity of beneficial ownership throughout the life of a project, such as: (i) when awarding concessions for extractive activities, the hidden participation of politically exposed persons can heighten the risk of corruption in bidding and contracting processes; (ii) during the operational phase, anonymous ownership can hamper accountability for negative environmental or social impacts, or weaken existing policies that promote local value creation; and (iii) in revenue management, companies can make transfers between related entities (through price transfers) to evade taxes.

Disclosing the real identity of the beneficial owner is a crucial instrument for mitigating these risks, given that it lifts the veil of secrecy and identifies the real beneficial owners of a company or a natural resource concession (IDB, 2018). In response to this global problem, in 2013 the G8 leaders agreed[73] on principles for dealing with beneficial ownership, which were set out in the FATF Guidance on Transparency and Beneficial Owners (FATF, 2014) and the G-20 High Level Principles on Beneficial Ownership, both published in 2014 (NRGI, 2016). These principles must be effectively implemented, especially with the aim of mitigating risks created by opacity in the extractive industries.

In this respect, the EITI has adopted making beneficial ownership transparent as part of its standard. Starting in 2020, all EITI members must: (i) disclose the real name of whosoever requests, participates in, or possesses a license or contract for oil, gas or mining exploration or production, including the identity of the owner (name, nationality and country of residence; and (ii) publicly identify any politically exposed person who is the owner of oil, gas, and mining projects. The information must be published in public registers and in the EITI reports.

Since 2013, more than 40 EITI member countries have published work plans to disclose data on beneficial ownership, including Colombia, Dominican Republic, Honduras, Peru, and Trinidad and Tobago. Moreover, the EITI has published copious information to guide and support countries in their efforts to disclose beneficial ownership, such as: (i) Guidance Note on developing a roadmap for the disclosure of real beneficial owners (EITI, 2016a); (ii) Guidance Note on tools for including information on real beneficial owners in EITI reports (EITI, 2016b); (iii) Information Sheet on the disclosure of real beneficial owners (EITI, 2017c); and (iv) Guidance Note 28 on supervising the elaboration of reports on real beneficial owners by the EITI multiparty group (EITI, 2017a).

These instruments support the design of regulatory options in this area with specific priorities for the extractive industries. Bringing transparency to beneficial ownership can be complemented with different measures throughout the project value chain. For example, civil servant wealth declarations enhance transparency during the bidding and concession stages; transparency in prices or regulatory capacity building supports transparency in fiscal revenues, while targeted transparency initiatives involve local actors (including the industry's trade associations) during the operational phase. It is also worth highlighting the

[72] See also Section 2, which addresses voluntary transparency standards.

[73] https://www.gov.uk/government/publications/g8-action-plan-principles-to-prevent-the-misuse-of-companies-and-legal-arrangements.

important role played by civil society as a stakeholder in scrutinizing the information, preventing acts of corruption and conflicts of interest, and in general, shining a light on those in charge and how they manage the exploitation of mining and energy resources.

Disclosing information about this issue is a complex process. The first step is to assess the legal and institutional limitations in each country. Understanding national and local legislation, as well as the capacity of the government, is fundamental for guaranteeing the correct implementation of data openness in this area. For example, in an EITI pilot project in Honduras,[74] the exemptions contained in the access to information laws represented a challenge to full disclosure. Similarly, in Trinidad and Tobago, confidentiality provisions existing in the national legislation hampered adequate implementation of the EITI standard. Study of the local legislation led the IDB and the Trinidad and Tobago government to negotiate the signing of exchange of information agreements with the industry and to request a reinterpretation of the legislation to the Attorney General, who ruled in favor of applying transparency measures in the sector. Analysis of both cases reveals that, when it comes to implementing stronger transparency measures in the sector, countries must consider making legal amendments to make beneficial ownership more transparent.

[74] https://eiti.org/sites/default/files/bo-honduras-finalreport12-10-2015.pdf.

Conclusions 4

In a context of uncertainty caused by commodity price volatility following a boom period, the extractive industries and its institutions of governance must regain the trust of the public and obtain the social license needed to initiate new projects. This paper proposes tackling this challenge by creating policies aligned with international transparency and integrity standards. For this purpose, a roadmap is needed to identify a series of institutional and legal reforms that serve to rebuild trust in times of uncertainty and resource scarcity.

A transparent extractive industries not only requires disclosure of information about fiscal revenues, but also improved communication with citizens. Improving data management means guaranteeing the quality, reliability, and availability of statistical data. Moreover, both the public and the communities must be able to easily access valuable information about diverse variables, ranging from the initial project evaluation to its possible consequences with regard to water, land, and energy. One transparency and data reporting mechanism that may help to rebuild trust consists of using information to create new metrics to more efficiently monitor the effects—both positive and negative—of sector activities. This could include, for example, a multidimensional information system that could quantify human and social capital creation by extractive industries, or information regarding potential development opportunities in the sector, including both physical and human capital.

Building institutional capacity at the subnational and local levels is essential for the future. Local governments are the closest interface between companies and civil society. It is therefore important to strengthen their capacities to manage resources and address the conflicts caused by extractive projects. Decentralization and the existing systems of fiscal transfers, royalties, and fees in many of the region's countries mean that local governments must now manage more resources and take on new responsibilities. Shortcomings in the institutional capacity needed to manage these resources, however, have led to an increase in the perception of corruption or lack of representativeness in the institutions closest to the citizen. The case of Brazil, documented by Ardanaz (Vieyra and Masson, 2014), shows that a higher flow of revenues can lead to less transparency and insufficient monitoring during the execution phase.

Three recommendations can open the way for the future of governance. First, local governments must exploit technological innovations to improve data quality and transparency in the extractive industries, as well as foster data sharing among local stakeholders. Second, the region's countries must strengthen subnational institutional capacity to manage and bring transparency to commodity-financed public investments; consolidate intermediation and coordination mechanisms between the State, subnational government, industry, and civil society and strengthen second-tier institutions, such as national water authorities and other agencies. Third, they must use transparency-based innovations to improve public investment systems and strengthen project management, as well as maximize the efficiency and effectiveness of

extractive industries projects. Information systems are able to connect the budget cycle with public investment program implementation, ensuring the traceability of resources, as demonstrated by the *MapaRegalías* platform in Colombia. These systems improve the quality and timeliness of data for decision making, which is also the fundamental basis for accountability and public sector entity management, at both the sub-national and national levels.

In addition to these cross-cutting themes, the region must prepare itself strategically on three key fronts to achieve good governance in the sector, by: (i) adopting best practices of transparency, integrity, and corruption prevention in national oil companies; (ii) creating sovereign wealth funds; and (iii) regulating beneficial ownership.

With regard to national oil companies, adopting and implementing voluntary transparency standards has helped to manage the risks of corruption in extractive companies. However, additional effort is required, which includes: (i) adopting systems based on independent regulators with transparent and competitive processes for awarding contracts; (ii) strengthening corporate governance structures; and (iii) building a culture of integrity and accountability that limits undue political influence on decision making and reduces the incentives for corruption in operations with private companies.

Against a backdrop of volatility and declining economic activity, sovereign wealth funds have demonstrated their usefulness as savings mechanism tools during booms, and for sustaining countercyclical policies in times of crisis. Adopting best governance and transparency practices, such as the Santiago Principles, strengthens these fiscal policy tools to satisfy citizens who are increasingly demanding with respect to public resource management. Countries such as Guyana have shown interest in learning the positive lessons from other countries such as Chile with the goal of successfully managing its recent discoveries of raw materials (oil, in this case).

Finally, it is important to redouble efforts to eliminate the opacity of anonymous companies, which facilitates money-laundering and bribery. One proposal is to bring more transparency to the regulation of beneficial ownership. Various voluntary transparency standards, such as the EITI, the Open Government Partnership, and the Global Forum, have adopted increased transparency of information about beneficial owners as one of their basic principles, in line with citizen demands that public resources be managed with greater integrity. The OECD's efforts to create implementation tools also contribute to this task.

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