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The Model Mining Development Agreement

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Some Basic Concepts

- **IF** a principal avenue for developing countries to improve living standards is to attract foreign private investment
- **AND** for many countries, including some of the poorest, natural resource investment is the main kind of investment they may initially be able to attract;
- **THEN** the terms on which that investment is made need to facilitate sustainable forms of development.
- **IN SHORT**, the investment bargain has to work for both the host country and the foreign investor. It is both a commercial transaction and a profoundly important public decision.



Some Limitations

- **NO ONE** thinks that a contract text on its own, no matter how well done, is alone enough to get us on the path of sustainable development. It is at best one of a number of elements that are needed for success.
- **CIRCUMSTANCES VARY**, requiring that a model contract contain a variety of options for resolving the most important issues.
- Many of us believe that a good mining development agreement needs to be preceded by and somehow linked to a good **EXPLORATION AGREEMENT**.
- And that an agreement between investor and host country needs to be accompanied by and somehow linked to an agreement at the local level – a **COMMUNITY DEVELOPMENT AGREEMENT**.



Where Process is Going

- **STAGE ONE: Consultation in March, 2010 in Toronto.** A meeting principally intended to attract government participation – over 100 attendees.
- **STAGE TWO: Consultation in April, 2010 in Toronto.** This meeting, primarily aimed at civil society and academic participants.
- **STAGE THREE: Consultation Website Launched by May 3.** Interactive website that will allow anyone to follow the Model Agreement as it emerges, and comment for attribution or anonymously.
- **STAGE FOUR: We Seek Your Suggestions.** How can the consultation be most effective over the next several months?
- **STAGE FIVE: October, 2010:** MMDA presented to IBA Annual meeting in Vancouver



PROPOSED METHOD OF WORK

- The Mining Law Committee has established a **Working Group** that will manage the drafting process, which will be done by a number of volunteer members.
- The work starts from a base of **existing agreements**, such as the three you have been sent;
- **The objective** is to produce a web based product, available to all, with multiple alternative clauses for key points.
- **Our intent** is that this development take place in a highly transparent environment with an effective process of consultation.



BEYOND OUR PROJECT

- This is a 'hot topic.' There are many organizations interested in this topic and in this project.
- There is an ongoing project focusing on African mining agreements. ECA/AU International Study Group is producing a Framework Report on the Review of Africa's Mining Regimes; review meeting planned for September 2010. Contact Wilfred Lombe, wlombe@uneca.org
- There is also a process called the Fair Mineral Development Initiative of the the World Economic Forum, which kicks off in June in Ulan Bataar.
- There is a related ICMM effort starting in October of this year.
- While we want to maintain communication with these other projects, there are no 'links' beyond that between the IBA project and these other efforts.



SPONSORSHIP

The financial sponsorship that is making organization of this consultative effort, including this meeting, possible is being provided by:

- The International Bar Association
- The Extractive Industries Technical Advisory Facility
- The International Council on Mining and Metals
- The University of Dundee
- The Prospectors and Developers Association of Canada
- International Development Research Centre (IDRC)
- Public Interest Law Group



ADMINISTRATIVE ANNOUNCEMENTS

1. Per diem and travel issues: Kristi Disney
2. Rapporteur, Kelli Schulte
3. We intend to prepare the minutes based on the Chatham House rule: comments will be reported but not attributed to individuals unless the individuals so request.
4. Participants will be given a chance to review and respond to the minutes before they are finalized



INTRODUCTIONS

Let us go around the room.



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AGENDA?

We have prepared a proposed agenda. But if there are topics that you think need to be discussed that are not on this agenda, let us discuss them now (or later), as the group wishes.



Thanks



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