

# **IBIS Policy Extractive Industries**

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**The aim of the IBIS' Policy on Extractive Industries is to:**

- Empower people and their organisations to influence decision-making on activities aimed at the extraction of natural resources
- Establish human, environmental, social, cultural and economic rights and sustainability as a guiding principle for any extractive activity
- Establish as a guiding principle that revenues from extractive industries must be transparently managed with the right to information; revenues must be maintained in the country through adequate taxes and invested in development for poor people.

## Introduction

*This policy rests within the IBIS' Vision 2012: IBIS works for a just world, in which all people have equal access to education, influence and resources. It is a key objective of this strategy to empower poor people to defend their rights, strengthen their influence and get access to the value stemming from the natural resources.* Linked to IBIS' Governance Strategy and governance programmes the policy suggests to support civil society organisations to claim their rights and exert influence on the natural resources at the local, national and international levels. IBIS' Governance Strategy "Citizens Rights in Governance" points to:

*"Pressure from foreign companies and other groups can make governments prioritise short-term gains over long-term sustainable development, which leads to ruthless exploitation of natural resources through mining, oil and gas exploitation, often in geographical settings where poor people live and without having any benefit from the revenues. Through the work on citizens' rights in governance IBIS will search for possibilities for supporting poor people in influencing exploitation of natural resources..."*

## Definition

IBIS' Policy on Extractive Industries focuses on the extraction of non-renewable resources such as oil, gas and minerals (coal, gold, diamonds, copper, etc.). Many of the problems related to lumbering and plantations are similar, and will in some cases be considered in this policy and the activities it will direct.

## 1. Background

All the countries in which IBIS operates are rich in natural resources. The countries rich in natural resources are in general poorer, have slower economic growth, and are more unequal, corrupt and under-developed than other developing countries. This is often associated with fragile democracies and insufficient procedures for social accountability and citizen's participation. This situation is referred to as the "resource curse".

This paradox is due to many factors. First of all the extraction of the natural resources in most countries is not well governed and the economic development model pursued is often favouring foreign investments and exportation of resources instead of benefiting the local population. Extractive industry is the most corrupted sector world wide and benefits from generous incentives provided by the host countries – frequently on the advice of the World Bank. Most of the revenue () is retained in the companies extracting natural resources or embezzled by political leaders and elites governing the countries. The extraction process itself seldom brings many jobs for the local workforce. Even though foreign direct investments are often high in this sector, most of the revenue escapes the countries without being adequately taxed, and the activities do not necessarily generate other economic activities.

In addition, the extractive industries in most cases have devastating consequences for the local areas where they are operating. Natural resources are frequently found and extracted from environmentally fragile areas like forests, close to water supplies, or on the agricultural land of communities. The extraction process often carries severe pollution of the surroundings,

contaminating water, earth and air, cutting down forest and depleting the agricultural land. Moreover, negative social and cultural impacts on the people living in the areas of the extraction are usually high.

Natural resources often fuel conflicts. The highly valued resources generate tense conflicts between local populations and central governments and between states, causing and financing civil wars and armed conflicts.

In South America IBIS has many years of experience in supporting indigenous people in the defence of their rights confronted with extractive industries, mostly focusing on the social and environmental consequences. With this global policy IBIS will strengthen these activities, also on the African continent where natural resources are as abundant. Furthermore, IBIS will contribute to track and democratize the use of revenues from the extraction of the natural resources.

## **2. Key Aspects in the Extraction of Natural Resources**

### **Rights, Standards and International Laws related to Extractive Industries**

The extraction of natural resources must be carried out with respect to human rights and collective rights as outlined in international treaties and national laws. During decades the extractive industries have extracted natural resources from indigenous and other peoples' territories without any previous negotiation with the affected communities or compensation for the damages caused. According to the UN Declaration on the Rights of Indigenous Peoples, indigenous peoples should not be forced off their territories and must give their "Free, Prior and Informed Consent" (FPIC) for industries to start operations in their territories. This right should also be attributed to non-indigenous peoples. Furthermore, the Right to Information on any activity, assessment, decision making, contract, etc should apply.

A central element is therefore to empower citizens and indigenous people affected by extractive industries to claim their rights and guarantee their participation in all decisions about whether the extraction should take place and if so, how the extraction should be carried out. IBIS' policy aims at ensuring that the extraction of natural resources does not force communities off their lands or undermine their livelihood without their "free prior and informed consent", and immediate economic compensations negotiated with representative organisations of affected people.

IBIS encourages children and youth to participate in education activities and deter from small scale mining. IBIS also stresses the need for extractive industries to respect decent labour rights and standards in the extraction process as established in international treaties.

IBIS promotes and defends these rights and holds governments, companies and investors engaged in extractive industries accountable to comply with these rights as well as with human rights as defined in the international legal framework.

### **Human, Environmental, Social and Cultural Aspects of Extractive Industries**

The extraction of natural resources has an enormous effect and often devastating consequences for the environment and the people living in the extraction areas. Therefore, IBIS stresses that affected communities should receive complete and timely information about how the companies' activities will affect them. A key instrument is independent environmental and social impact assessments carried out in due time in order to direct decisions on extracting resources, and not last minute

exercises after decisions already have been taken. If the assessment of the consequences of the extraction reveals that the environmental, social, and cultural effects outweigh the benefits from extraction the “no investment option” should be applied. Government have the duty to ensure the highest possible social and environmental standards are pursued, protected and sanctioned.

In general, extractive industries should not take place in protected areas, fragile ecosystems or other areas of high conservation or ecological value. Furthermore, it is essential that companies extracting natural resources use adequate equipment and cleansing measures so to avoid contaminating soil, water and air. The companies must refrain from dumping mine and/or oil waste into rivers, lakes, streams or oceans. Mechanisms for rehabilitating the areas of the extraction should be negotiated before the extraction process starts.

The decision on whether or not to extract fossil fuels like oil, gas and coal should be considered in the light of these resources’ contribution to CO<sub>2</sub> emissions and climate change. Especially in cases where these resources are found in fragile eco-systems and forest areas where the extraction also will contribute to deforestation. This is considered to have a double effect on climate change: firstly valuable forest containing huge amounts of CO<sub>2</sub> is depleted, and secondly the use of fossil fuels contributes further to CO<sub>2</sub> emissions.

Further, measures must be taken to avoid or minimize negative social and cultural consequences of the extractive industries such as: traditional cultures challenged by new settlers and workers of the extractive industry; women brought into prostitution; health related consequences such as HIV/AIDS and venereal diseases.

In indigenous territories the UN Declaration on the Rights of Indigenous Peoples should always be applied when considering extraction of natural resources. The designation of indigenous land as protected area should not lead to the exclusion of indigenous peoples from the control and monitoring of their resources.

### **Revenue Aspects of Extractive Industries**

Natural resources carry a potential for accelerated economic development of poor countries and communities. To unleash this potential, corruption within the sector must be avoided. Transparency is the first step towards good governance of natural resources, and civil society plays a key role in demanding transparency and accountability. In many countries contracts and revenues are kept secret and this lack of accountability facilitates embezzlement, corruption, and revenue misappropriation. It is therefore crucial that companies’ disbursements to concessions, contracts, royalties and taxes are made public. Likewise, the governments must transparently disclose what they receive from the extractive industry sector. This is necessary for citizens to hold their governments and the companies accountable.

In addition to transparency issues it is important that the resource rich countries get the most out of the revenues from the natural resources, in order for their governments to invest in social and economic development. To ensure this IBIS promotes that a legal framework for regulating the sector should be in place in all resource rich countries. This raises the opportunity for the governments to set adequate prices for concessions and for them to develop contracts which include an adequate payment of royalties, taxes and other payments from the companies to the government. IBIS supports an adequate taxation by taxing the companies to the highest possible level without deterring investments.

Another necessary step to ensure a fair return on natural resources is to stop multinational companies’ aggressive attempts to evade taxation of their profits. IBIS therefore promotes efforts

against possibilities of transfer, mis-pricing, and illicitly moving revenues out of the countries to tax havens.

Last but not least this policy aims at ensuring that the revenues from extraction of natural resources collected by governments are used to undertake action that benefit the poor people and compensate people affected by the extraction.

### 3. Guiding Principles

IBIS has a set of guiding principles for working with extractive industries:

- Avoid extraction of natural resources in protected areas or fragile ecosystems.
- Transparent decision making processes and independent human, environmental, social, cultural and economic impact assessments are prerequisites.
- Land rights and territorial rights should be ensured prior to any extraction of resources and activities should be planned as an element of development planning at local and national levels.
- Extraction should be avoided in areas of armed or militarized conflict or when they will contribute to financing and escalation of conflicts.
- Respect for human rights as outlined in international conventions and laws, including the right to free, prior, and informed consent (FPIC) of affected communities.
- Ensure that projects do not force communities off their lands or deplete their livelihoods. If communities accept the extraction based on FPIC, adequate compensation must be negotiated with affected people and their accredited representative organisations.
- Minimise contamination of water, soil, and air. Refrain from dumping waste into oceans, rivers, lakes, or streams. Companies should cover all costs of closing down; cleaning up; solving health problems caused by the industry; and rehabilitating the areas of extraction based on the principle of the polluter pays the price.
- Full transparency in all phases of the activities from the first studies, to assessments, contract and revenues from activities, including accounts of companies and taxes paid. This is inspired by the Extractive Industries Transparency Initiative (EITI) and enhanced as suggested by the Publish What You Pay (PWYP) campaign.
- Strengthen regulation of extractive industries through binding multinational frameworks enforcing human rights, transparency, and adequate taxation. This regulation should build on the highest international standards inspired by; UN Principles for Responsible Investment (UNPRI); Responsible Mining Standards; and standards developed by civil society for responsible investment and lending.
- Maximise the economic contribution from extractives to developing countries through progressive taxation, ending tax evasion and illicit capital flight. This is inspired by standards suggested by Tax Justice Network.
- Maximise employment of local workforce and respect workers' rights and decent labour standards, including safe working conditions.

- Extractive industries, investors and governments are responsible for the consequences of the extractive industries and should accordingly be held responsible. The governments have to assume the role of regulating extractive industries and of protecting human, social, environmental, cultural and economic rights.

#### 4. Activities and Actors of Extractive Industries

IBIS is very adept to support partners in the defence of their rights confronted with extractive industries at the local level and link these experiences up to national and international levels. At the local and national levels, IBIS will support partners and civil society organisations and networks to defend environmental, social, cultural and economic rights and claim transparency, adequate taxation and investment for development. IBIS will strive to have these activities closely linked to activities within existing thematic programmes, especially governance programmes.

This support for local and national actors will be combined with international advocacy and lobbying through international networks and awareness raising in the North.

IBIS will work with strong national and international networks. In the countries of operation, collaboration with national and international CSOs will be pursued. Internationally IBIS will link up to the Publish What You Pay (PWYP) campaign and with the Extractive Industries Transparency Initiative (EITI) and other important actors like Revenue Watch Institute, the Oxfam family, ActionAid and Christian Aid. On the issues of capital flight IBIS will work with Eurodad and Tax Justice Network. In Latin America IBIS will work with networks and partners supporting indigenous peoples' rights.

Through its activities IBIS will target companies, investors and governments.

All **companies** directly engaged in extractive industries or contributing to the supply chain for the extraction should comply with the highest international standards and rights. Companies should be transparent in their decision making, economy and processes related to the extraction process and subscribe to the EITI initiative. Furthermore all extractive companies should make country-by-country reporting and publish their profit, as well as taxes and royalties paid in each and every country in which they operate.

**Private investors** like Danish investment funds or pension funds and **International Financial Institutions** (IFIs) (like the World Bank, regional development banks; the European Investment Bank; Danish Export Credit Fund) should be held responsible for the impacts of the operations they are investing in. IBIS will monitor and work with these investors to support compliance with the highest international standards of socially responsible investments (SRI) and advocate for getting transparency and tax payment included in the agenda and standards. The standards and guidelines of IFIs should be further developed to the highest levels, building on CSO initiatives like Eurodad's Responsible Lending Charter and thinking on Responsible Mining. The participation of IFIs as lenders to extractive industries often provides an avenue for CSOs to demand higher standards and responsibility than if the extraction is only a relation between a private company and a developing country's government. In addition, IBIS believes that IFIs should reduce loans to fossil fuels and invest more in renewable energy.

The World Bank and the IMF have played an unfortunate role in promoting a deregulation and privatisation of the extraction of natural resources and urged developing countries to compete for investments through a race to the bottom of tax reducing policies. This policy must be changed.

**Governments** (Denmark, OECD countries, China and other countries hosting extractive industries) should regulate these companies to ensure compliance with the highest international standards and rights. Governments should subscribe to the EITI initiative and put pressure on companies to subscribe to the initiative and implement its standards. Governments should also support the enforcement of international standards and rights.

Governments and particularly the EU should furthermore contribute to international tax cooperation and regulation of tax havens in order to prevent tax evasion and capital flight. This includes setting new and improved accountancy standards for companies in order to make inter-company transactions transparent and stop the illegal transfer and mis-pricing within companies depleting developing countries of their tax base. The OECD and EU countries should abolish tax havens and develop multilateral agreements of automatic exchange of tax information. Finally, OECD governments as donors should support the development of strong tax systems in developing countries.

**Developing Countries' Governments** have the responsibility to ensure that the legal framework is in place to regulate the extractive industries and enforce international rights and conventions. Through transparent, uncorrupted decision making they must engage with and be accountable to parliament, civil society, and other stakeholders. IBIS will be supporting civil society to hold governments accountable and monitor the revenues raised by governments.

## 5. Operational Aspects and Concerns

The huge economic interests around extractive industries make power holders among governments and companies sensitive to civil society organisations who question the extraction of natural resources or demand- transparency in the management of the resources.

In countries with security risks for partners or IBIS staff a context specific prevention strategy will be developed. IBIS will to the outmost defend partners and staff exposed to threats and repression, if necessary by mobilising international support.

## Annex 1: Principles and organisations referred to

**Free, prior, informed consent:** The United Nations Declaration on the Rights of Indigenous Peoples, Article 10, states: “Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.” <http://www.un.org/esa/socdev/unpfii/en/drip.html>

**Extractive Industries Transparency Initiative (EITI):** It is coalition of governments, companies and civil society an effort to make natural resources benefit all. The initiative sets a global standard for transparency in oil, gas and mining. It sets standard for companies to publish what they pay and for governments to disclose what they receive. <http://eitransparency.org/>

**Publish What You Pay (PWYP):** Is a global civil society coalition that helps citizens of resource-rich developing countries hold their governments accountable for the management of revenues from the oil, gas and mining industries. <http://www.publishwhatyoupay.org/>

**UN Principles for Responsible Investment (UNPRI):** The Principles are voluntary and aspirational. They are not prescriptive, but instead provide a menu of possible actions for incorporating environmental, social and corporate governance issues into mainstream investment decision-making and ownership practices. <http://www.unpri.org>

**Responsible Mining Standards:** The Framework for Responsible Mining is a joint effort by NGOs, retailers, investors, insurers, and technical experts working in the minerals sector. It outlines environmental, human rights, and social issues associated with mining and mined products. <http://www.frameworkforresponsiblemining.org/>

**Tax Justice Network (TJN):** Is an independent organisation dedicated to high-level research, analysis and advocacy in the field of tax and regulation. It works to map, analyse and explain the role of taxation and the harmful impacts of tax evasion, tax avoidance, tax competition and tax havens. <http://www.taxjustice.net>

**Revenue Watch Institute (RWI):** Is a non-profit policy institute and grantmaking organization that promotes the responsible management of oil, gas and mineral resources for the public good. <http://www.revenuewatch.org>