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THE BUSINESS
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FORUM

THE POSITIVE POTENTIAL OF THE PRIVATE SECTOR

Conference Report

Responsible Growth Paths: Policies and Practices from the Extractive Sector

Business Humanitarian Forum

Geneva, Switzerland

May 15/16, 2014

Conference co-hosts

The Business Humanitarian Forum (BHF) established in 1999, encourages better understanding and cooperation between the public and private sectors, and works with partners to address humanitarian problems and promote sustainable economic development. The BHF does this by arranging for direct private sector involvement and investment in areas where it is needed, and by providing training and facilitating dialogue between organizations and private companies. The BHF builds awareness that business has a strong, long-term interest in supporting the work of the humanitarian community, and that private sector investment is the key element for economic development and overcoming long-term humanitarian problems. Both sectors are essential for the stabilization and social progress of developing and post-conflict societies. The BHF has initiated and carried out several reconstruction projects in post-conflict areas and helped create partnerships between businesses, development agencies and local governments. The BHF has also sponsored contact groups, workshops and conferences to heighten awareness of the important role business can play in alleviating humanitarian problems. The BHF is a non-profit association based in Geneva and was founded with the encouragement of UN Secretary General Kofi Annan. For more information on the BHF, visit www.bhforum.org

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The legal duty to protect human rights will always lie with the state. Similarly, the promotion of peace and human rights and the provision of a sustainable socio-economic order is the responsibility of the state. However, the implications for human rights and the private sector go beyond legal interpretations. The implementation of governmental human rights obligations may impact on the activities of business, just as activities of corporations and private actors may impact positively and negatively on governments to meet these obligations.

Switzerland therefore regards dialogue with private actors with a specific impact on human rights, such as corporations, and their integration into peace and human rights policies, as an important form of co-operation. The Human Security Division is therefore constantly working together with representatives of the private economy, civil society and governments to develop methods and instruments, aimed at minimizing the negative influences of business activities on human rights and the course of conflicts, and promoting ways in which they can have a positive impact.

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I. Introduction

The conference on 'Responsible Growth Paths: Policies and Practices from the Extractive Sector' took place on May 15/16 at the BHF in Geneva. It was co-hosted by the BHF and the Swiss Federal Department of Foreign Affairs.

The event, which was held under Chatham House rule, provided a cross-sector platform to advance discussions on some of the most critical social, environmental and corporate governance issues the extractive sector is facing, notably by addressing responsible practices from both companies and governments.

It included 10 broad thematic sessions ranging from presentations on resourced based development in Botswana over insights on the relevance of CSR practice for the investment community to a panel session discussing the case for responsible shale gas development.

The two-day conference brought together some 80 attendees from companies, key international organizations, governments, NGOs as well as from academia, in consonance with the BHF mandate.

II. Conference presentations

Extractive Industry Overview: Potential and Pitfalls

The purpose of the opening session was to provide an overview of the extractive industry in terms of some key current corporate social responsibility (CSR) and governance issues. First, the speaker gave the audience a brief introduction on the theory of resource curse and highlighted the difference between resource abundance and dependence. According to the speaker, the key challenge is how to avoid resource dependence and promote economic diversification in countries with a substantial lack of other assets. With regards to resources and development, he emphasized that resources can become a factor of de-industrialization, but do not per se pose a concern for countries that are not industrialised to begin. The main challenge, therefore, is how a country can fuel its industrialization process on the basis of available resources. The speaker also stressed the nature of resource wealth as a liquidating asset rather than a source of revenue. In terms of the link between resources and human development indicators, he emphasized that there are cases of countries that perform well in this regard despite not having been able to diversify their economy.

The speaker also discussed the complex issue of resource ownership. In general, resources belong to the country where they are found. The question then is whether governments really act in the best interest of their population, whether and how governments distribute the resource wealth among population groups and if they manage to strike a balance between the interests of multiple stakeholders. Other critical aspects addressed licence agreements for foreign companies and taxation issues relating to exports. Finally, the speaker discussed to what extent future generations should also profit from current resource wealth by comparing a few cases.

Regarding the link between resources and conflict, the audience was reminded about the importance to question whether mineral resources are the underlying cause for a conflict or aggravating an existing one. Discussing the link between resources and governance, the speaker pointed out that literature exists in support for both arguments - that resource wealth weakens and strengthens institutions. Furthermore, the links between resources and corruption, democracy and human rights were also addressed including the quintessential role of transparent and accountable governments. To conclude, the speaker pointed out that the

extractive industry inevitably has an impact also on the local environment, even though the damage can be limited and site restoration can be imposed.

As the moderator opened the floor for comments and questions, an attendee wanted to know how the resource curse could be overcome in countries with no or very limited industrialization. The speaker responded by stressing his view that resources per se are not the curse, but instead a poor level of governance is the problem. When resources are made good use of, there is certainly potential to break the vicious circle between minerals and poverty. While that may not always be an easy task, a number of best case practices show how resources can be leveraged for development.

Resource Based Development: The Case of Botswana

The **first speaker** started the session by looking at the relationship between resource dependence and GDP growth in specific countries during a period of three decades. While the correlation seemed to be slightly negative, there is no consensus on the nature and existence of a resource curse phenomenon. Also, GDP indications often fail to adequately mirror the reality in African countries and they do not reflect the nature of resources in terms of liquidating assets (natural capital depletion). Hence, the speaker stressed the crucial importance for a country to wisely invest the wealth generated from mineral resources, notably in health, education, and infrastructure projects, in order to avoid depleting the general wealth.

Addressing the case of Botswana, he highlighted the country's positive and quite unique development path, in particular regarding levels of genuine savings per capita, although the indicator failed to capture diamond extraction. However, Botswana faces some of the challenges common to resource-rich countries, such as high inequality and low investment in tertiary education. Best practices can be drawn from diverse case studies to address some of the problems common to resource-rich countries. Firstly, in an attempt to avoid the symptoms of the Dutch Disease, Botswana established the 'Pula fund' that rests on two pillars to ensure that the resource wealth is wisely invested. Sustainable budget legislation demands that government consumption expenditure be covered by non-mineral revenues. The budgeting process now includes popular consultations. The speaker also mentioned an example from

Chile, where the government has tasked a board of international experts to set a conservative price forecast for copper. The government is only allowed to run a deficit when the copper price lies below the calculated future reference price (anti-cyclical policy). Another example given was Alaska, where the constitution demands that citizens be handed direct dividends from extractive revenues. Similar revenue allocation could also work for developing countries, especially in post-conflict phases (peace dividend). Finally, the speaker concluded by emphasizing the centrality of institutional checks and balances and stated that companies can also play a role in supporting a country's institutional governance development while avoiding the risk of 'regulatory capture'.

The second speaker provided the perspective from the case country. He began by emphasizing that despite the country being referred to as a success story, it still faces huge challenges. The speaker gave a brief overview on the country's history and highlighted that during the time of its independence, the country was performing very poorly in terms of its ranking in economic and social indexes. Subsequent leaders of the country, however, were committed to national development based on the principles of democracy, a consultative process, economic development, unity and self-reliance. The policy concerning the development of the mining industry included an emphasis on the maximization of economic benefits to the nation while enabling private investors to earn competitive returns. This meant creating a transparent and predictable environment for investors, encouraging linkages with the rest of the economy, generating employment and training for citizens, and safeguarding the environment.

The speaker also highlighted that the country's success can be greatly credited to partnerships. As an example, he cited the fact that the government never pushed for majority ownership in mining companies, but instead recognized the importance of external expertise. With regard to governance issues, mineral revenues are consolidated under a national fund and distributed according to a long term and annual national development plan ensuring benefits for the citizens as well as investments for the future. Promoting government accountability and fighting against corruption have also been central policies in the country. To conclude, the speaker discussed the country's future challenges, especially related to limited economic diversification and a low level of competitiveness. In the future, the country aims to further strengthen its capabilities along the diamond value chain

The third speaker represented a mining company that has played a significant role in Botswana's mining industry. Firstly, the audience was given a brief introduction about the company, after which the speaker highlighted that his company's



public-private partnership is probably the most successful in the world in terms of the benefits it has brought to all sides over the years. The recently renewed agreement between the company and Botswana aims to further transform Botswana into a leading diamond trading and manufacturing hub, which markedly includes a migration of company activities and skills transfer from London to the capital of Botswana.

The speaker also introduced the company's beneficiation programme that notably includes job creation, skills transfer, economic diversification opportunities, and attraction of foreign direct investment. The company perceives its beneficiation programme as an imperative given its own economic presence and commitment to Botswana. Finally, the speaker presented the effects of the beneficiation programme, namely the estimated number of jobs that have been created and the business ventures that have been established. Future business opportunities in Botswana lie in making the country the "destination of choice" for the diamond production and trading industry.

A question from the audience inquired about examples of how a company can support local development. One of the speakers made reference to Statoil's exemplary work in Venezuela, where the company supported the development of a national judicial system in cooperation with UNDP. Another comment from the floor highlighted the potential of South-South cooperation among governments by sharing best practices of good governance. One of the speakers noted that while this kind of cooperation already existed to some extent, more needed to be done in favour of truly democratic and accountable systems in these regions.

Open and Accountable Management of Revenues: the Extractive Industry Transparency Initiative

The purpose of the third session was to discuss the open and accountable management of revenues from natural resources through the lens of the Extractive Industries Transparency Initiative (EITI).¹ The **first speaker** began by introducing the initiative as one response over concerns for good governance in the extractive sector brought up in the previous sessions. Firstly, he noted that EITI is a coalition of tripartite nature including business, civil society and governments, and that it operates at the international and national level. Secondly, the speaker emphasized that EITI is also a standard with a detailed set of requirements - both mandatory and voluntary - regarding the disclosure of governments' receipts and companies' payments. A multi-stakeholder group leads the process of implementation at the country-level.

The speaker also discussed the history and progress of EITI highlighting that the present process and system took time to develop. In the beginning, the initiative was joined mostly by developing countries, but later on more developed countries took part as well. According to the speaker, this was a key turning point in achieving equal requirements for all countries.

The second speaker provided a company perspective on the EITI. As a signatory to the initiative, the company recognized from the outset its role and potential in contributing to a more stable investment environment in the country. Government management of revenues is key, because taxes and royalties constitute a significant source of host government's income. The speaker also discussed the company's experience on EITI implementation in two countries, Canada and Mauritania. In Canada, the government made a commitment to develop a transparency standard by spring 2014 and the Mining Association of Canada has developed a proposed framework to support this. Some of the key features of the process are recommendations on payment categories and thresholds, project definitions and format for reporting. In addition, the speaker mentioned that strong focus has been placed on ensuring equivalency with other jurisdictions especially in the EU and the US. Next steps in the process include reconciling views from all constituencies on disclosure of payments to aboriginal groups, establishing penalties for non-reporting and focusing on audit requirements.

¹ See Annex III

The second country example was Mauritania, which joined the EITI already in 2005, but which achieved compliance status only in 2012 due to a period of instability. Since 2009, the process has been led by a national committee, in which the company's representative is also serving. The committee is responsible for establishing reports, selecting independent administrators and validators and to raise community awareness about the EITI and its implications. Some of the future challenges in Mauritania are related to agreements on terms of reference, particularly in determining the relationship between company audit processes and independent auditors. Determining an approach on the disclosure of social investment programmes is also important as full disclosure can sometimes lead to misunderstandings. To conclude, the speaker highlighted that based on the company's experience, key factors of the EITI's success include alignment with other reporting protocols, focus on good governance, accountability and transparency, on-going dialogue between different stakeholders, and raising awareness and understanding among the local communities.

The third speaker of the session presented an example of EITI implementation in a case country. First, the speaker provided a brief introduction on the history of the country's oil industry and the management of its oil wealth through a state oil fund. He highlighted that the objectives of the oil fund are preservation of macroeconomic stability and transformation of hydrocarbon reserves into financial assets with the aim of ensuring sustainable income not only for current but also future generations. The speaker also emphasized that accountability and transparency are key aspects of the successful fund management, and that the latter has achieved these objectives also through active participation in the EITI. In terms of the EITI operation at the national level, the country has established an interagency committee that collects data from state agencies and other state controlled entities concerning the revenues they receive and prepares regular reports on extractive sector revenues. All revenues of the government are reconciled with payments of extractive sector companies by a credible, independent auditor, applying international standards. Furthermore, the committee, extractive companies and civil society participate actively through the multi-stakeholder group. The day-to-day coordination of EITI implementation is run by the national EITI secretariat that is hosted by the Oil Fund. The speaker concluded by discussing the achievements of the EITI at the national level and emphasized that the initiative has provided a great platform for dialogue between government, companies and civil society.

The fourth speaker of the session represented a civil society organization. He began by emphasizing that the EITI has brought about great progress since its inception. He pointed out

that only 12 years ago, the level of transparency was completely different and that a great deal of secrecy surrounded the questions of revenue management in the extractive sector. Improvement has also taken place in terms of the provided information, as nowadays the reported data are very detailed. He also highlighted that in comparison to other initiatives in this field the EITI was widely appreciated and implemented due to the inclusion of financial data. The speaker also emphasized that despite the EITI's progress in enhancing transparency, the latter is only useful if available information is accessed and used. Information should be presented in an easily understandable manner that emphasizes the benefits that mineral wealth can bring to citizens. Technical aspect should be focused on only once the key focus on citizens' interests is included. Monitoring the budget and strengthening institutions are further important aspects when aiming to maximize the positive contribution to development. Finally, the speaker emphasised that the EITI standard does not look into costs of oil, gas and mining operations, an area that can foster a lot of corruption. This area, and other issues such as environmental and social concerns, should be addressed via the EITI or through an organization with the same multi-stakeholder governance body. That is a key precondition to achieve good and balanced results. The speaker also cautioned that sometimes it may take longer than foreseen to notice some progress on the ground. Nevertheless, the EITI provides a very important dialogue platform through which civil society, governments and the extractive industry can jointly address critical issues.

A comment was raised from the audience pointing out that when information is publicly available to citizens, the importance of managing expectations must also be taken into consideration. The dialogue with civil society and helping to build up its capacity in local communities are also important.

Relevance of CSR Practice for the Investment Community

The purpose of the third session was to examine the importance of CSR from the perspective of the investment community. **The first speaker** set the stage by introducing the main concepts and mechanisms relating to Socially Responsible Investment (SRI). Firstly, it was highlighted that SRI is a special form of active investing, which means that the investor assumes that not all relevant information is reflected in the price. As a consequence, one could deduct that traditional investors might systematically make inferior investment decisions

compared to SRI investors. The motivations for the growing SRI trend, however, stem not only from profit maximization but also from ethical considerations.

The speaker also introduced a mechanism often used in SRI, exclusionary screens, which refer to investors refraining from including certain companies in their portfolio. The financial effects of exclusionary screens were explained both for transition and equilibrium phases. Exclusionary screens also have an impact by making capital more costly for excluded firms. Nevertheless, the speaker emphasized that the effects of environmental, social and corporate governance aspects on the share price are ambiguous in the long term. The case that SRI would automatically lead to a superior financial performance is still not clearly decided. Finally, the speaker concluded by noting that following strict CSR strategies can have long-term benefits for companies, in as much as they likely won't have a too short-term orientation of stock performance. This is particularly the case given the fact that laws on CSR will likely be tightened in the near future.

The second speaker of the session provided a perspective of a company that tracks companies' reputation based on their Environmental, Social, Governance (ESG), CSR and sustainability performances. The speaker discussed the reputation of extractive companies from different pers-



pectives and through the lenses of positive and negative news items regarding extractives. He stated that in general, the reputation of the extractive sector is worse than average and that oil and gas companies receive more negative news coverage than metal and mining companies. Of the topics raised in relation with extractive companies, labour and human rights seem to be more of an issue for metal and mining companies whereas environmental aspects are the main concern regarding the oil and gas sector. The speaker also mentioned that employment issues are featured less often in news coverage concerning extractive companies than for the overall economy. To conclude, the speaker reflected on the regions most referred to in connection

with extractive companies. He pointed out that ESG related risks and opportunities are front and central for extractive companies operating in Africa and Latin America.

The third speaker of the session presented another dimension of SRI based on a more engaging role of investors toward extractive companies. This approach has become more and more common and is practised particularly by larger institutional investors. Instead of excluding certain companies from portfolios, investors aim to engage with the companies and seek to improve their corporate behaviour. The rationale for this approach is that investors would rather have better than fewer companies in their portfolios. The speaker gave some examples of cases where stakeholders met with companies to discuss particular issues, for instance on how to deal with child labour. Investors are therefore increasingly using their leverage to influence companies and to shift perspectives. In that regard, extractives are more and more cooperating with the investment community to address and solve key problems. The session concluded by a discussion on the comparison between exclusionary screens and active engagement as the main contemporary approaches for SRI.

Opportunities of Cross-sector Engagement on CSR

The next session aimed to highlight the different opportunities for cross-sector engagement on CSR issues. **The first speaker** represented the investment community and began his presentation by introducing his company's approach to responsible investment. The company has launched Europe's first ethical fund in 1984 and an investor engagement program in 2000. The company's approach to engagement includes ESG risk identification, engagement with companies to address material ESG risks and active voting to reinforce engagement.

The speaker also talked about the growing challenge of community relations and introduced the audience to case studies, in which community relations played a crucial role. He highlighted that in Latin America over 60% of delayed mining projects are related to community issues. The speaker also stressed that such cases represent huge financial costs for involved companies. Therefore, it is important to consider the reasons behind these cases. One likely cause is lack of sufficient understanding of communities' perspectives and expectations. In addition, companies might not fully understand the complex relationship between the communities and national resources in different areas. To conclude, the speaker

emphasized that investors are concerned with community relations performance of companies, because of both direct and indirect impact on shareholder value. The former is, for example, caused by missed production targets, and the latter by reputational risks. From an investment's perspective, it is important that companies identify and approach community leaders at an early stage, set up grievance mechanisms, measure the socio-economic impact of their presence for local communities, and ensure transparency and dialogue.

The second speaker discussed community engagement and provided insights in the light of recent research conducted by the organization. It was noted that there has been a considerable improvement in the global, regional and industry-specific CSR frameworks and reporting tools. However, even though Corporate Community Engagement (CCE) is to some degree addressed in existing frameworks, it is not given the central role it deserves. When taking into consideration the nature of CCE as on-going relationship building process, more practical toolkits and context driven step-by-step handbooks would be more useful for companies instead of the broad existing CSR schemes.

The speaker also discussed some recurring company shortcomings in CCE. Firstly, the focus on CSR schemes takes the emphasis from day to day CCE and secondly, CCE strategies are insufficiently integrated into both business decisions as well as into operations on the ground. Furthermore, companies often resort to late and inconsistent engagement with communities as a damage control instead of using proactive approaches. The speaker also noted that seemingly small issues can escalate to major problems with the communities. Conflicts or problems with communities are sometimes not the fault of the company, as the latter might find themselves in difficult situations between conflicting groups or facing communities with unrealistic demands. It's therefore key that companies engage communities as early as possible and that they maintain the dialogue throughout their presence. The speaker also reflected on some of the causes of company-community conflicts and highlighted that the reasons often vary between sectors. For the mining sector, issues related to resettlement are the prominent cause, while the oil sector faces first and foremost environmental complaints. Companies also face community issues over alleged too close cooperation with militia groups or local police. The speaker concluded by highlighting the severe consequences that extractive companies may face when relying on weak CCE policies.

The session concluded with a discussion highlighting the importance of more robust and integrated CCE policies and to strengthen capabilities at an operational level. Also,

communication and cooperation between the HQ and teams on the ground needs to be improved. It was also emphasized that while CCE represents only one part of the broader CSR concept, good performance in CCE clearly would improve the overall CSR performance.

UN Update on Human Rights, Decent Work and Environmental Impact

The first session of the second day provided an update from representatives of UN agencies working on topics that are of importance to extractive companies. **The first speaker** addressed the issue of human rights in the extractive sector through the lenses of the Guiding Principles on Business and Human Rights, the so-called Ruggie principles.² These principles reflect and build on the three-pillar structure of the “Protect, Respect and Remedy” framework. The speaker highlighted that the Human Rights Council unanimously endorsed the principles in 2011 and that they have been widely adopted and enforced by governments, public and private sector organizations, businesses, industry and trade union networks, as well as civil society organizations.

The human rights mechanisms in many of the treaty bodies cover issues that are of interest to extractive companies. There has been significant progress in engaging business on human rights issues but some key issues still seem to persist. The speaker continued by highlighting a few case examples and recent developments including regarding the annual forum on Business and Human Rights and the Nairobi process that aims to embed human rights due diligence through the application of the UN Guiding Principles in the emerging oil and gas sector in Kenya. Speaking from her own experience on the ground, she underlined that issues regarding extractive companies’ operations are very high on the agenda in many countries and that the concerns raised, notably by civil society organizations are quite pronounced. Therefore, the most important step for companies is to fully engage with local communities. That said, not all the accusations made against companies’ behaviour are justified, but they nevertheless exist and should be appropriately dealt with by companies. To conclude, the speaker referred to a recent report³ that emphasizes the cost of company-community conflicts in the extractive sector. There is still not enough understanding of how costly problems with

² See Annex III

³ Ibid.

communities can be for companies. When this is taken into consideration, the business case for strong corporate community relations is obvious.

The second speaker represented an international organization with a specific mandate on labour and employment. She began her presentation by introducing the organization's area of work and how it provides assistance to governments on labour law and to companies on issues ranging from CSR to alignment of corporate policies with international labour standards. The organization's international conventions cover several areas highly relevant for extractive companies, such as occupational health and safety, working time, wages, social protection, relationship with indigenous people and child labour. The speaker also underlined that when discussing responsible growth paths in extractives, it is important to look at how to enhance the positive impact extractive companies can have for surrounding communities through the creation of more and better jobs. The crucial point is how to ensure that huge investment in the mining sector can contribute to broader national development through job creation, skills development, and spill-over effects to other sectors of the economy in host countries. To illustrate this, the speaker noted that the extractive industry has limited potential for direct employment creation because of the capital-intensive character of the industry but that there is great potential for indirect job creation through inclusion of local suppliers and spill over effects. It is therefore key to ensure that FDI leads to a more inclusive growth in the host countries, with decent jobs being created both in the mining operations itself and surrounding communities.

The third speaker of the session represented an international organization focusing on environmental issues. He began by introducing the different activities and initiatives⁴ through which the organization is involved in the extractive sector, with a particular focus on the mining industry. This includes metals' life-cycle assessment work, stakeholder engagement and community participation, environment and security, and environmental cooperation for peace building. In terms of life-cycle assessment, an international resource panel has been established to produce scientific assessment reports on the global metal flows, where extraction of metals is naturally also included. He explained that primary metals production is responsible for 7-8% of the global energy use and a global rise in metals demand is expected in the next decades. Recycling plays an important role in decreasing the environmental pressure of metals' life-cycle, but the majority of metals have recycling rates lower than 1%.

⁴ See Annex III

The speaker also talked about the work in raising awareness and preparedness for emergencies at a local level. As an example, he referred to a project that has been carried out by his organization in Peru jointly with local mining communities and focusing on transport of chemicals in mining operations. His organization is also involved in an initiative on environment and security, which addresses issues such as the closure of mines and environmental remediation for mining legacies. To conclude, the speaker referred to a project on environmental cooperation for peacebuilding aiming to promote responsible and sustainable development of extractive industries in fragile states.

An attendee wondered about how all these standards and guidelines are actually implemented on the ground. He also pointed out that due diligence in the supply chain is challenging but also very important for companies as they are sometimes also held accountable for violations committed by their subcontractors. One of the speakers responded by emphasizing that there is indeed still lot of work to be done in terms of the implementation on the practical level. This is particularly so given that all cases are very context-specific and no one size fits all solution exists. In addition, some of the accusations placing the responsibility of subcontractors' violations on the shoulders of companies are misinterpretations of the guidelines, as the companies are first and foremost responsible of their own behaviour.

Voluntary Principles on Security and Human Rights: Policy and Practice

The purpose of the session was to discuss the Voluntary Principles on Security and Human Rights (VPs)⁵ and to learn about pros and cons of this initiative and its methodology from different stakeholders. **The first speaker** began by highlighting the critical significance of issues related to human security for the extractive sector. The VPs have been introduced in 2000 as a response to international criticism regarding human rights risks for communities in the context of security of extractive companies. They were established through a multi-stakeholder process involving a number of governments, mining and energy companies and leading human rights NGOs.

The underlying assumptions behind the principles are that states have to protect and promote human rights and that companies have to respect them. The VPs provide guidance on topics centred around three issues: risk assessment, engagement with public security forces, and relations with private security services. In terms of risk assessments, companies should review the human rights record of public and private security forces, evaluate the rule of law and conduct conflict analysis. When engaging with public security forces, companies should conduct human rights training programs, and with private security services, the VPs should be included in respective contracts and agreements. The speaker also highlighted several points that are expected from companies implementing the VPs, notably establishing a comprehensive risk assessment, training security providers, consulting with local communities and setting up a reporting process for alleged human rights violations. Benefits for companies implementing the VPs include increased cooperation and problem solving among stakeholders at a local and national level, improvement of companies' risk assessment and mitigation, better community relations and management of social conflicts, and finally prevention of corporate complicity accusations and reputational risks.

The second speaker addressed the implementation of the VPs from a company's perspective. He highlighted that extractive companies face issues related to security and human rights in a very direct way. They often engage with public security forces because they have no other choice. He complimented the VPs for providing a platform through which dialogue between company and public security is enabled, expectations of both parties can be clarified, and state's responsibilities confirmed. The VPs also contribute positively insofar as they facilitate

⁵ See Annex III

human rights trainings and raise respective awareness. The speaker noted that trainings can be implemented in several ways and provided by third parties, the company or a police academy. For companies, it is important to positively contribute to national law and order and thus to community safety and security as these also directly impact company safety and security. Therefore, the company aims to influence and support the state while also directly assisting the local communities.

The third speaker represented a company that provides capacity building and training for extractive and non-extractive companies to implement the VPs on the ground and to integrate and mainstream human rights standards into business operations. Firstly, he highlighted



that interaction with local communities is crucially important to understand if and where human rights issues could emerge. Some of the key issues addressed during trainings are building awareness of human rights and international humanitarian law among the public and private security forces, and training communication and de-escalation skills. The speaker also emphasized that staff of private security forces might be accustomed to using force as a first solution and would thus need to be taught to restrain in specific situations. Dialogue between communities, employees and vulnerable groups is also important as human rights concerns are often very context-related. Regarding arrest and detention, he explained that many private security forces have been police officers for a long time and hence might still be inclined to resort to arrests. They should therefore be reminded that they no longer have legal enforcement rights. Key factors favouring successful training include a baseline study, a background analysis of security forces and their motivation as well as tailored sessions reflecting local context and specific human rights issues. In addition, the speaker underlined the importance of local ownership.

The fourth speaker referred to the experience his company has had with human rights and security issues in developing countries. First, he emphasized that the company has recently expanded its activities to include mining operations and is now confronted with some of the already mentioned CSR issues concerning the sector. The company decided from the outset that they would engage with all relevant stakeholders through an on-going and transparent dialogue. He shared two case studies with the audience, one concerning an open mine project and another regarding a chemical process plant. In the first case, the dialogue approach with stakeholders functioned very well. In the second, however, the company had to deal with several community issues despite adopting the same open approach. So the same type of approach can lead to very different results depending on the specific project. The speaker also highlighted the fact that some NGOs acting as mediators between the community and the company can instead put pressure on the company to adopt questionable demands. The speaker also mentioned an example of a strike which was followed by a dialogue in the course of which it came out that the company had nothing to do with the main reason behind the strike. In the light of the mentioned examples and to conclude, the speaker stated that one cannot always foresee if and what community problems might arise during a project, but an open and transparent stakeholder dialogue is a necessity in any case.

Overview on Grievance Mechanisms

The next session discussed latest research⁶ and best case examples on company-led community grievance mechanisms. The speaker began the presentation by providing an overview of the landscape of grievance mechanisms and by stating that such mechanisms can exist at the institutional level (e.g. national human rights institutions or OECD National Contact Points) and at the operational level (e.g. company and project based mechanisms). The research focussed on grievance mechanisms implemented at the operational level by companies to manage conflicts with communities. Her research used a number of company case studies to identify the impact and effectiveness of mechanisms from the community perspective.

⁶ See Annex III

Firstly, the speaker stated that there has been a significant increase in company-led grievance mechanisms and that they were being applied more broadly and to a wider number of project sites than before. Secondly, companies are increasingly using company-community grievance mechanisms in a more meaningful way, namely to avoid and prevent conflicts rather than just to manage conflicts once they occur. The speaker went on to explain that many companies have adopted grievance mechanisms as a consequence of the widely acclaimed Ruggie principles as well as in response to the demands of external and certification schemes. In addition, the speaker underlined that such mechanisms can offer alternative means of recourse for communities where judicial paths may be unavailable or inadequate. There is also increased recognition of grievance mechanisms supporting businesses' bottom line, as they can help to avoid reputational risks or operational delays, hence avoiding financial costs.

The speaker continued by presenting some good practice examples of design and implementation of company-community grievances. She notably stated that maintaining regular contact with communities and addressing grievances in a systematic but still flexible manner were two crucial aspects. Most importantly, grievance mechanisms should be seen as a way to better understand the root causes of conflict, to avoid them happening again in the future. Local ownership and capacity building are also important to ensure communities make full use of grievance mechanisms, and communities and civil society organizations should be trained in understanding how specific mechanisms work. Some implementation challenges include allocation of resources and staff time and balancing company-wide guidance with the need for some flexibility to allow for context-specific design that suits the needs and communication preferences of local communities. Furthermore, it's important to highlight the different roles of government and business to all stakeholders, particularly to involved communities, as conflicts that arise may in fact be due to a failure of government to meet their responsibilities, rather than necessarily a failure of the company. The speaker concluded the presentation by providing some recommendations for the implementation of grievance mechanisms. She highlighted that companies should take advantage of existing guidance tools provided by organizations such as IPIECA, ICMM, the Shift Initiative and Access Facility. Finally, the mechanisms should be one tool in a much broader approach to engaging with communities and preventing and manage company-community conflict.

The audience was asked to share some of their experience on the implementation of grievance mechanisms. An attendee explained that her company has established a grievance mechanism a year ago and that it has proven to be a very helpful tool for addressing community issues.

However, one of the challenges the company is facing is the amount of resources needed for dealing with grievances within given time limits. Another point raised from the audience highlighted the importance to recognize the difference between grievance mechanisms for local communities and companies' workers as the latter also need to deal with topics such as freedom of association. It might be difficult to draw a clear line between these two groups, as members of a community may also represent the interest of labour forces.

Better Gold Initiative: An Introduction

The purpose of the session was to introduce the audience to the Better Gold Initiative (BGI)⁷ and share some experience relating to its implementation. **The first speaker** began by highlighting that Switzerland has a long tradition as one of the world's leading commodity trading centres.

The Better Gold Initiative, established in partnership with the Swiss State Secretariat for Economic Affairs, was founded on the premise that Artisanal, Small and Medium Scale Mining (ASMM) is at risk of losing access to formal value chains due to new requirements. What is more, ASMM represents a significant portion of the global mining industry. The focus on providing a path toward formal recognition of such small and medium scale mines also has a positive impact on the economic, social and environmental progress of resource-rich countries and is thus in line with objectives for Switzerland's development assistance. More specifically, the initiative aims to contribute to the sustainable development of ASMM communities in selected countries by strengthening both the supply and demand of sustainable gold. Working in cooperation with Fair Trade, Fair Mined and Responsible Jewellery Council organizations, the initiative supports and encourages the mines in question to implement respective standards.

The speaker also discussed the experience of operationalizing the BGI in the project pilot country, Peru. Sustainable gold supply has been strengthened by providing technical assistance to formalize and certify the involved processes. In addition, the initiative has contributed to the policy dialogue at the national level in Peru. At the same time, demand has been stimulated by creating awareness within the Swiss industry and by establishing a

⁷ See Annex III

respective business platform. The speaker highlighted that some of the initiative's first results include an ongoing policy dialogue, a functioning business service platform for ASMM in Peru, and increased membership-base of the Swiss Better Gold Association (SBGA). To conclude, he mentioned that the initiative plans to expand to other countries and to focus more on already industrialized small- and medium-scale mining operations as well as to advance certification by the Responsible Jewellery Council.

The second speaker discussed the Better Gold Initiative from a business perspective. After briefly introducing his company, he stated that the company is a founding member of the initiative. He also underlined that while the company already has a strict sourcing policy in place, it expects the initiative to further educate the market. The main attributes of the SBGA include supporting demand for responsible gold and managing the overall process from demand to offer.

There has been growing awareness of responsible gold in the jewellery and watch industry and the demand in Switzerland is quite substantial. The speaker reckons that the initiative has considerable potential to further expand in the future. One of the next steps and challenges is to ensure member alignment and for the organization to become self-sufficient by 2016.

Questions were raised from the audience asking for more clarification on what the formalization of mines means in practice and how the initiative deals with illegal mining issues. The speaker highlighted that artisanal, small and medium scale miners are often uneducated and not aware of the existence of specific standards. By teaming up with local NGOs, the initiative provides such miners the knowledge and tools that help them to comply with standards. In terms of illegal mines, the speaker emphasized that there are clear criteria mines need to fulfil in order to join the initiative, such as full legality status, but technical assistance is provided for mines that would like to join. He also highlighted that the interest for sustainable gold is also growing among banks and that the demand for certified gold already exceeds the available supply.

Panel Session: What is the Case for Responsible Shale Gas Development?

The last session of the conference discussed the controversial topic of shale gas development and provided viewpoints from different sides of the debate. **The first speaker** set the stage for the discussion by providing a technical introduction and summary on shale gas from a geological perspective. He began by mentioning that rocks with shale gas exist in large amounts, but until quite recently, they were considered as being of little use to the industry. In conventional petroleum systems, a small portion of fluid migrates toward the reservoirs, while in unconventional petroleum systems, the generated hydrocarbons stay within the source rock. As the shale gas is trapped in the rock, horizontal wells need to be drilled as low as three kilometres. By applying the technique of hydraulic fracturing, i.e. fracking, high-pressure liquid fluid is injected to a drill hole in order to allow the gas to migrate to the well.

The speaker also listed the main controversies regarding shale gas operations. Firstly, fracking requires the use of large amounts of water, which is problematic in areas where water scarcity already poses significant challenges. Another issue is whether the specific content of the



used chemical mix should be disclosed to the public or whether it is part of a company's intellectual property. A third contentious point concerns the management and monitoring of surface water and shallow groundwater and how ground water sources can be protected from contamination. Finally, the speaker stated that the regularly required well perforations – the low permeable reservoirs often have limited hydrocarbon volumes – might lower the financial incentives and add environmental risks.

The second speaker began by emphasizing that a considerable amount of recent international research is unfortunately not being taken into account in discussions on shale gas throughout

Europe. Firstly, many of the cited environmental impacts of shale gas development are overemphasized as the same or similar issues exist also with other forms of energy production and not specifically only related to the fracking technology. The safety and efficiency of shale gas development has substantially improved during the last three years and companies are increasingly considering the possibilities provided by shale gas. The speaker went on to fundamentally question the widespread conviction that fossil fuels can be replaced by renewable energy sources in the coming years. Therefore, a more realistic and balanced approach and mix between renewable and fossil fuels would be more efficient.

The speaker also underlined that shale gas is a domestic resource, which allows countries to become increasingly energy independent or at least to reduce costly energy imports. For example, the resource security of the US will dramatically improve in the future due to shale gas. If Europe on the other hand will not develop its own fossil fuel resources, it risks becoming increasingly dependent on even more costly energy imports from often unstable producer and transition countries. The speaker highlighted that the gas price in Europe is already up to three times higher than in the US, which affects negatively on the overall economic competitiveness of European industries (i.e. energy intensive ones). In terms of environmental impacts, the speaker underlined that the current debate seems to be ignoring some of the scientific facts and energy megatrends. Firstly, in contrast to global climate change policies, the use of coal has in fact increased more than any other energy source during the last decade. Hence, it should be borne in mind that shale gas has a smaller carbon footprint than coal. Secondly, importing energy resources from faraway places also generates additional high emissions and energy consumption during the transport via pipelines or shipping transports, which are often not taken into account in climate analyses. When both of these aspects are taken into account, the use of domestic shale gas resources as an alternative to coal and long-distance pipeline gas or LNG would translate into comparatively lower carbon dioxide emissions. This is demonstrated, for instance, by the coal-to-gas switch in the US energy mix and the reduction of CO₂ emissions. To conclude, the speaker emphasized that any fossil energy source has inevitably some environmental risks and that the key question is more how the risks could be best mitigated, controlled and contained by effective and independent regulation regimes. In Europe, shale gas reservoirs are mostly deeper underground than in the US, which means that extraction is more costly, while environmental risks such as ground water contamination are smaller.

The third speaker represented an environmental NGO and provided an opposing viewpoint to shale gas development. Firstly, he reminded the audience that the global society is facing a major threat from climate change, the impacts of which are already visible. He went on to state that the energy sector is the biggest driver of climate change and in order to avoid dangerous levels of global warming, most of the fossil fuels must remain in the ground. Therefore, instead of developing new technology for extracting fossil fuels, the focus should be on the transition to renewable energy sources. The speaker argued that by shifting the policy debate away from renewables, shale gas development is a trend that is undermining this transition. In addition, shale gas poses environmental risks in terms of its impact on water resources, contamination of ground water and soil sealing. The speaker concluded by highlighting that even if these environmental risks were managed, the main purpose of shale gas development should be called into question. The aim of providing more and cheaper fossil fuels contradicts fundamentally with the climate change mitigation policies, which require most of the fossil fuels to stay in the ground.

Answering a question from the audience regarding the potential for shale gas development in Europe, one of the speakers stated that it could provide abundant energy for about 40 years. Another speaker indicated that current reserve estimates are still associated with large uncertainties and therefore effective produceable resources are still poorly known. It was also mentioned that the price of shale gas does not adequately reflect all external costs related to the extraction process. Furthermore, there are higher political and social hurdles in Europe to extract shale gas reserves compared to the United States. Also, potentially lower energy prices may stimulate more consumption and therefore counter the overall goal of an energy decrease.

III. Concluding remarks and key takeaways

The wide participation and active partaking by company representatives, governments, UN agencies, academia and NGOs clearly indicated a strong interest in the topic of the conference and underlined the usefulness of such a cross-sector approach to address critical issues in the extractive sector.

To start with, one key point is the need for good public governance in countries with extractive industries so that obtained revenues from licences and operations really contribute to a broad economic and social development, thus also avoiding aspects of the so-called resource curse.

While extractive companies have improved their CSR policies and practice, they are often not putting enough emphasis on corporate community engagement including appropriate grievance mechanisms as the former is more often than not at the heart of conflicts with local communities.

A number of extractive companies still underestimate the potential financial, social and environmental consequences of insufficient approaches to CSR.

As a consequence, the CSR performance of extractive companies is playing an increasingly important role for the investment community.

There are a number of important and widely accepted standards regarding good governance and CSR, such as the cited UN Guiding Principles on Business and Human Rights, the Extractive Industries Transparency Initiative, the Voluntary Principles on Security and Human Rights and the Better Gold Initiative, which governments and companies can use and promote as tools that help prevent or limit negative CSR impacts by extractive industries.

Finally, the panel session highlighted the difficulty of reconciling the need for cheap and reliable energy resources as a crucial driver of economic development and addressing significant concerns of environmental as well as social impacts stemming from the extraction of fossil fuels.

ANNEX I: List of attendees

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ANNEX II: Conference Agenda

Responsible Growth Paths: Policies and Practices from the Extractive Sector

(Event held under the Chatham House Rule*)

**International Environment House II
Geneva, Switzerland
May 15/16, 2014**

Thursday, May 15

- 13:00 Registration and Coffee
- 13:15 Welcome and Introduction
- 13:25 Extractive Industry Overview: Potential and Pitfalls
- 13:45 Questions and Discussion
- 13:55 Resource Based Development: The Case of Botswana
- 14:25 Questions and Discussion
- 14:40 Open and Accountable Management of Revenues: the Extractive Industries
Transparency Initiative
- 15:10 Questions and Discussion
- 15:25 Coffee Break
- 15:40 Relevance of CSR Practice for the Investment Community
- 16:20 Questions and Discussion
- 16:35 Opportunities of Cross-sector Engagement on CSR
- 16:55 Questions and Discussion
- 17:10 Conference Adjourn
- 19:00 Dinner

Friday, May 16

- 9:00 Welcome Coffee
- 9:30 UN Update on Human Rights, Decent Work and Environmental Impact
- 10:00 Questions and Discussion
- 10:15 Voluntary Principles on Security and Human Rights: Policy and Practice
- 11:00 Questions and Discussion
- 11:15 Coffee Break
- 11:30 Overview on Grievance Mechanisms
- 12:00 Networking Lunch
- 13:25 Better Gold Initiative: An Introduction
- 13:45 Questions and Discussion
- 14:00 Panel Session: What is the Case for Responsible Shale Gas Development?
- 14:50 Questions and Discussion
- 15:05 Concluding Remarks
- 15:10 End of Conference

* In order to encourage frank exchange, the conference was held under the Chatham House Rule of confidentiality. For that reason, individual speakers are not identified in this agenda.

ANNEX III: Selected Resources

Extractive Industries Transparency Initiative

<http://eiti.org/>

UN Guiding Principles on Business and Human Rights

www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

Davis, Rachel and Franks, Daniel M. 2014. “Costs of Company-Community Conflict in the Extractive Sector.” Corporate Social Responsibility Initiative Report No. 66. Cambridge, MA: Harvard Kennedy School.

<http://shiftproject.org/publication/costs-company-community-conflict-extractive-sector>

Global APELL Platform

<http://apell.eecentre.org/>

UNEP International Resource Panel (IRP)

www.unep.org/resourcepanel/

ENVSEC initiative

www.envsec.org

Voluntary Principles on Security and Human Rights

www.voluntaryprinciples.org/

Wilson, Emma and Blackmore, Emma (editors). 2013. “Dispute or dialogue? Community perspectives on company-led grievance mechanisms.” International Institute for Environment and Development, London.

<http://pubs.iied.org/pdfs/16529IIED.pdf>

Better Gold Initiative

www.seco-cooperation.admin.ch/themen/05404/05405/05406/05411/index.html?lang=en

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