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BEYOND VOLUNTARISM
The Changing Role of Corporate Social Investment in the Extractive Resources Sector

THE UNIVERSITY OF QUEENSLAND
AUSTRALIA

SMI CSRM
Centre for Social Responsibility in Mining

SMI CSRM
Centre for Social Responsibility in Mining

csrm@smi.uq.edu.au
www.csrm.uq.edu.au

The Centre for Social Responsibility in Mining (CSRM) is a leading research centre, committed to improving the social performance of the resources industry globally.

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CSRM Research Team

Professor David Brereton, Deputy Director, Sustainable Minerals Institute
Ms Karen McNab, Research Project Manager
Ms Julia Keenan, Research Officer
Ms Julie Kim, Research Assistant
With assistance from: Vigya Sharma, Mirella Gavidia, Bárbara Oñate Santibáñez and Bernadetta Devi.

BG Group Project Team

Ms Ramanie Kunanayagam, Head, Social Performance
Mr Tom Blathwayt, Social Investment Manager (former)

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Executive Summary

Historically, corporate social investment has been represented as essentially a voluntary activity, linked to the broader corporate social responsibility (CSR) agenda. Our analysis of emerging trends in the global oil and gas and mining sectors suggests that this traditional view of corporate social investment is in need of re-thinking.

Broadly defined, corporate social investments are initiatives undertaken, funded, or otherwise supported by companies, where the intended primary beneficiaries are external to the company, yet there is a benefit for companies in making such an investment. Examples include donations and other contributions to civil society groups and organisations, direct funding and delivery of social programs, under-writing the cost of social infrastructure (e.g. schools, hospitals and housing), setting up foundations, funding directly or in partnerships with others livelihood, income generating, skills and capacity development programmes and payments to externally-controlled funds that are earmarked for social purposes (e.g. improving education and health outcomes).

Historically, corporate social investment has been represented as essentially a voluntary activity, linked to the broader corporate social responsibility (CSR) agenda. From this perspective, companies decide on what and where to invest, having regard to such factors as community and government expectations, the social risks that are present in particular contexts, corporate values, promotional opportunities and other strategic priorities (e.g. improving liveability for employees and their families).

Good practice guidance emphasises that companies should endeavour, where practical, to align their social investments with government development priorities and look for partnering opportunities with governments and other development actors. However, it has generally been assumed that ultimate responsibility for social investment decisions still sits with the company, rather than the State.

Our analysis of emerging trends in the global oil and gas and mining sectors suggests that this traditional view of corporate social investment is in need of re-thinking. In some countries, the value of the social spend required by government, as a condition of project approval, now dwarfs the value of voluntary contributions made by companies. Some ostensibly 'voluntary' contributions have been negotiated in a context where the alternative to making a commitment would have been direct government intervention, or significant delays in obtaining approval. In some parts of the world, governments are also becoming more prescriptive about the process that companies should follow when determining social expenditure priorities.

The report, which has been commissioned by and carried out in conjunction with BG Group, addresses four broad questions concerning these trends:

1. **What are the main ways in which governments are now seeking to regulate social investment by resource companies?**
2. **Why are governments becoming more active in this area?**
3. **How should resource companies be responding to these developments?**
4. **From a government perspective, what are the most effective – and sensible – policy instruments?**

The research on which the analysis is based involved interviews with 'key informants' from mining and oil and gas companies, and international organisations, supported by extensive desktop research. In all, 19 examples of State intervention were identified across 13 jurisdictions. Detailed case studies were undertaken for six of these jurisdictions: India; Indonesia; Kazakhstan; Nigeria; Queensland, Australia; and South Africa.

KEY FINDINGS

Mechanisms

Governments around the world are using a variety of mechanisms to influence and control corporate social investment in the sector. These range from including conditions in investment agreements, through to legislated requirements for social investment plans to be approved for individual projects, to more ad hoc, negotiated, arrangements. In some cases, multiple mechanisms are being used within the one jurisdiction to control or influence corporate social investment by resource companies. At this stage, there is no evidence of a dominant model emerging, although some approaches are more common than others.

In most of the cases studied, companies have retained some control over how they meet their social investment commitments. However, there are also several examples of resource companies being required to contribute substantial funding directly to entities controlled by governments, or third parties (e.g. commissions). These include: the Fund for Indigenous Peoples and Peasant Communities in Bolivia, Final Production Sharing Agreements in Kazakhstan and the Niger Delta Development Commission in Nigeria.

In some jurisdictions, governments are empowering local level actors to negotiate directly with companies over their social commitments. This has mostly been linked to the formal recognition of Indigenous rights, but some countries have adopted, or are considering adopting, a more general requirement for companies to enter into community agreements. These developments are adding to the pressure on resource companies to increase their level of social investment.

Drivers

Exercising more control over corporate social investments is only one of several ways in which governments are seeking to increase the development contribution of resource companies. Other manifestations of this trend include:

- increases in taxes, royalties and resource rents (although this may now be abating)
- requirements for local equity
- local content requirements in relation to employment and business development
- requirements for project infrastructure to serve broader societal purposes (e.g. open access roads and railways, provision of electricity supply to communities).
- To a large extent, State efforts to leverage better development outcomes from resource projects (including more social investment) have been a response to country-specific drivers. However, there has also been an element of 'contagion' whereby, as momentum gathers, governments feel more emboldened to follow the example of others.

The main drivers of increased State intervention in the social sphere have been:

- a generalised pressure to respond to rising societal expectations
- increased social conflict and reduced community support for resource projects, which in turn has created an imperative to more clearly demonstrate the local development benefits of resource projects
- perceptions in government and the wider society that resource companies are not 'doing enough' relative to the large profits that have been generated in recent years
- fiscal and capacity constraints which are prompting governments to seek out alternative sources of revenue to meet societal expectations.

One of the factors that has made it difficult for companies to counteract these pressures has been a lack of persuasive evidence that voluntary social investments by resource companies have produced positive, broad-based, development outcomes for impacted communities and regions

The underlying drivers of increased State intervention will remain strong, notwithstanding that energy and minerals prices have recently eased. What is occurring is arguably a structural shift in the relationship between resource companies and governments; it is not just a passing fad.

Implications for companies

The operating environment for companies is becoming more complex and more variegated, so it is no longer sensible – or even possible – for companies to use a standardised approach to social investment across jurisdictions.

Global companies need to be attuned to differing government and societal requirements and expectations and respond accordingly.

While there is cause to be concerned about some of the arrangements that have been implemented or proposed, well-designed government interventions could actually be to the benefit of companies by providing greater structure and focus to social investment decisions and establishing a more level playing field.

From the perspective of companies, the main risks of increased government regulation of corporate social investments are: excessive project costs, loss of decision-making control, reputational damage from being associated with poorly designed and implemented initiatives, and government misuse of social funds.

Resource companies can mitigate these risks, and potentially gain a competitive advantage, by engaging in constructive dialogue with governments about the design and implementation of policy interventions.

Companies can also take proactive steps to improve project-related development outcomes by:

- supporting and advocating for processes that will increase transparency and accountability (e.g. public reporting by both companies and government on the value of social investments and how they are allocated)
- seeking out opportunities to collaborate with governments - at the local and national levels – to clarify development objectives and priorities and identify areas where company funded initiatives are likely to be most effective
- ensuring that social investments over which the company has control are well designed, properly implemented and regularly evaluated, thereby modelling good practice for other actors
- strategically using discretionary funds to help build government and community capacity in the area of community development; for example, by funding training programs and access to independent expertise.

An increase in prescribed social investment is not necessarily a reason for companies to wind back voluntary investments.

Maintaining the capacity to respond to local issues and concerns will be important, especially for companies operating in areas with large unmet development needs. Also, there are ongoing reputational and branding benefits for companies from being seen to go 'beyond compliance'. Inclusion of a voluntary Social Investment component also enables companies to leverage influence over mandatory Social Investment to ensure it delivers sustained benefits to directly impacted and disadvantaged communities.

There would be value in companies adopting new reporting protocols which utilise a broader definition of social investment. Most major resource companies still only present data on voluntary payments. In doing so, these companies risk significantly understating the scale of their development contribution. This approach also reinforces the idea that social investment is an add-on, optional, activity, rather than a core business activity.

Considerations for government

Policy instruments for regulating corporate social investment should be 'fit to context' and 'fit for purpose'. In particular, governments need to be wary of adopting processes that exceed the capacity of the State to staff and support these processes. Unwieldy and inflexible regulatory processes also can act as deterrents to investment.

Less directive ways in which governments can enhance development outcomes from resource projects include by:

- providing guidance to companies on the social and economic development priorities for communities and regions where resource development is occurring, or is planned
- engaging with companies on how they can best contribute to these objectives
- establishing local and regional coordinating mechanisms, especially in areas where there are multiple resource projects.
- Where governments levy companies directly for 'social contributions', it is important that they are transparent about the sources of that money and how it is managed and spent. This will provide increased confidence for society –and also for the resources sector – that these funds are being used appropriately.

Implications for communities

Locally focused social investment initiatives are more likely to be effective if community members are involved in their design and implementation.

Multi-stakeholder structures, such as collaborative forums and jointly controlled trusts, are potential mechanisms for increasing community involvement.

Educating communities on their rights and obligations as citizens will facilitate constructive engagement and help promote good governance and accountability at the local level.

Future research

This is a very dynamic space, so there would be value in setting up a process to monitor future trends in the regulation of corporate social investment in the resources sector. Other areas of productive inquiry include:

- collecting more 'on-the-ground' information about the operation of the various regulatory instruments identified in this study, with a view to ascertaining what has – and has not – worked, and under what circumstances
- using this information to prepare guidance documents for governments and other actors on how to design and implement regulatory instruments that are 'fit to context' and 'fit for purpose'
- undertaking additional work on the relationship between various drivers and socio-political contexts and how they have shaped the design of different schemes
- finding better ways to measure the development contributions and impacts of resource projects, with a view to comparing outcomes under different regulatory and institutional arrangements.

Report Contents

1. Introduction

1.1 Background

In the broadest sense, corporate social investments are initiatives undertaken, funded, or otherwise supported by companies, where the intended primary beneficiaries are communities or other external stakeholders. Examples include: donations and other contributions to civil society groups and organisations; direct funding and delivery of social programs; under-writing the cost of social infrastructure (e.g. schools, hospitals and housing), setting up foundations; and, payments to externally-controlled funds that are earmarked for social purposes (e.g. improving education and health outcomes).

Historically, much of the social investment undertaken by companies has been quasi-philanthropic, but in recent years leading resource companies have begun to use these investments more strategically to mitigate social risk, protect their corporate social licence to operate, and address growing societal expectations.

Reflecting this more strategic approach, the BG Group Social Performance Standard requires Social Investment to be conducted in a way that:

i. creates benefits for [community]… groups over and above the benefits available through standard project and operational expenditure

ii. assists target beneficiaries to meet their development priorities; and

iii. contributes to the ability of the Group or business to meet its objectives

(http://www.bg-group.com/sustainability11/ManagementSystems/Pages/Socialperformance.aspx).

While the focus of corporate social investment has shifted over the years, it continues to be seen by as essentially a discretionary activity. This is reflected in company reporting practices, which generally only capture the financial value of voluntary contributions.[i1] Similarly, the current Global Reporting Initiative (GRI) guidelines define community investments as: *voluntary donations and investment of funds in the broader community where the target beneficiaries are external to the company.* [2]

In a similar vein, a recent publication of the International Finance Corporation (IFC) equates the term 'strategic social investment' with:

> *[v]oluntary contributions or actions by companies to help communities in their areas of operation address their development priorities, and take advantage of opportunities created by private investment—in ways that are sustainable and support business objectives. (IFC 2010, i)*

Recent political developments globally suggest that this view of corporate social investment may be losing its currency. Progressive resource companies continue to make substantial voluntary social

[1] Shell, for example, explicitly state in their 2011 Sustainability Report that 'our figures do not include investments that are part of contractual agreements with host governments'
(http://reports.shell.com/sustainability-report/2011/servicepages/search.php?q=%22social+investment%22&pageID=41573&cat=m).

[2] *(*https://www.globalreporting.org/resourcelibrary/G3.1-Guidelines-Incl-Technical-Protocol.pdf)

investments but this is increasingly occurring in a context in which the State is also an active player. In a growing number of jurisdictions, companies are being required, or pressured, to contribute to the social and economic development of impacted communities and broader society. This goes well beyond the payment of royalties and taxes, or the incidental creation of employment and business opportunities. Examples of this 'new interventionism' range from governments stipulating special levies or payments into government controlled funds, through to legislative requirements on companies to spend a proportion of profits or operating costs on social programs, and processes that require companies to negotiate agreed contributions with government . In some instances, indigenous and other communities are also being empowered by government to enter into agreements directly with developers.

Understanding these trends and their potential implications is critical for global resource companies seeking to position themselves as responsible developers and to secure and maintain their licence to operate. There are also important practical questions to address about the design and efficacy of the various policy instruments that governments are now using, or proposing to use.

1.2 Objectives and scope

This study has been commissioned by and undertaken in conjunction with BG Group, a leading global resources company in the hydrocarbons sector. It addresses four broad questions:

1. What are the main ways in which governments are now seeking to control and influence social investment by resource companies?
2. Why are governments becoming more assertive in this area?
3. How should resource companies be responding to these developments?
4. From a government perspective, what are the most effective - and sensible – policy instruments?

The report encompasses both the mining and hydrocarbon sectors. Historically, corporate social investment in oil and gas has had a lower profile than in the mining sector, due to much of the extraction occurring off-shore (with commensurately fewer direct impacts on local communities) and the dominance of state-owned oil companies in many parts of the world. However, downstream and land-based extraction, including unconventional gas extraction processes, is increasing the salience of social management considerations for oil and gas companies as well.

The study focuses primarily on efforts by government to directly influence the size and flow of corporate social investment. It should be noted, however, that in some jurisdictions (e.g. Canada and Australia) governments also play an important indirect role by creating frameworks in which companies and Indigenous peoples can negotiate legally binding agreements. In some cases, this approach is also being extended to non-indigenous communities, through general requirements on companies to enter into community development agreements (Brereton, Owen and Kim 2011). Increasingly, these local level agreements are being used as a mechanism for locking companies (and sometimes governments) into social investment commitments and for delivering social development programs (see Text Box 1).[3]

[3] CSRM has recently completed another project, also commissioned by BG Group, which explores Indigenous agreement making processes in Australia (Limerick et al 2012), as well as a World Bank commissioned study on community development agreements (Brereton, Owen and Kim 2011).

Text Box 1: Agreement-making with Indigenous Peoples

Increasing recognition of Indigenous rights in both national and international legislation and policy has resulted in greater engagement between resource companies and Indigenous communities. Legal, political and social drivers require companies to ensure that the negative impacts of resource operations are minimised, mitigated and appropriately compensated, and that traditional landowners derive long term benefits from projects on their land.

One of the main mechanisms for codifying the relationship between companies and Indigenous peoples is a negotiated benefits sharing agreement. These take many forms and vary considerably in their content and structure. In many cases, the process and obligations for negotiating agreements with Indigenous Peoples are required under law, usually as part of Indigenous land rights or subsurface rights legislation. These types of requirements are found in a number of jurisdictions, some of the main examples being Indigenous Land Use Agreements (ILUAs) in Australia and Impact Benefit Agreements (IBAs) in Canada. Company-traditional landowner agreements are also becoming more common in Latin America and other regions where Indigenous land/subsurface rights are recognised.

Typically, agreements occur where there is a mandatory requirement for consultation/negotiation with recognised traditional landowners, however there are also some cases where companies negotiate with Indigenous Peoples 'as if' they have been determined to be traditional landowners, even though there is no legal requirement. Increasingly, companies are recognising the 'business case' for going beyond mandatory requirements and entering into voluntary agreements with Indigenous peoples. There has been a trend away from narrow agreements that just provide up-front payments to groups, and toward more broadly conceived agreements that focus on long term and sustainable development for Indigenous communities.

Successful agreements aim to be beneficial to both parties by providing:

- the basis for developing a relationship between company and community
- a proactive method for addressing community concerns and expectations
- a set of agreed objectives on a range of issues including any or all of the following: compensation, royalty payments, environmental impact management, cultural heritage management, employment and business development, community development, health, education, infrastructure, complaints and grievances, partnerships with third parties and/or governments, land access and land transfer, and so on
- a governance structure for engagement and dialogue between company and community
- potential avenues for redress if agreements are not adhered to
- provision for future generations through some form of a trust, endowment fund or equivalent.

1.3 Research approach

Information presented in this report comes from desktop research of academic and non-academic sources and interviews with 13 'key informants' selected on the basis of their knowledge of social investment in mining or oil and gas. Seven of the interviewees were from resource companies (3), independent consultants (2), international NGOs (2), government (1) and a research institute (1).

Interviews followed a semi-structured format, with questions focussing on participant observations and perceptions about the implications for companies, governments and communities

As part of the desktop research, we conducted an initial scan to identify the variety of ways in which governments around the world were seeking to direct, or influence, the size and flow of corporate social investment in the extractives sector. We paid particular attention to those jurisdictions where BG Group operates, but also looked at other countries where there was evidence of increased State intervention.

Based on the scan and information provided in the interviews, we selected six jurisdictions for more detailed analysis:

- India
- Indonesia
- Kazakhstan
- Nigeria
- Queensland, Australia
- South Africa.

For each jurisdiction, we collected data on:

- the specific regulatory mechanisms that were in place, or had been proposed
- the political and regulatory context in which these schemes were introduced.
- the size (or quantum) of the contributions that were being required or expected of companies and how this was determined
- who had control over expenditure
- the focus of the investment
- the level of specificity about required activities or outcomes
- the accountability framework
- monitoring and reporting requirements.

The case studies were prepared using publically available information from academic journals, industry publications, policy briefs, news media and company websites. In most instances, this information was supplemented by information gathered in the interviews.

1.4 Report outline

Study findings are presented under the following headings:

- **Section 2: Conceptual framework** – provides an overarching definition of social investment and presents a classificatory scheme.
- **Section 3: Mapping the landscape** – presents examples of government intervention, summarising the key features in tabular form
- **Section 4: Trends and drivers** – discusses the drivers behind increased State efforts to influence corporate social investment and related trends in resources sector policy and practices.
- **Section 5: Implications** – considers the implications of these trends for companies, governments and communities and makes suggestions about how these actors should be responding to the challenges and opportunities that are likely to arise
- **Section 6: Summary of findings** – presents an overview of findings and outlines recommendations for further research

2. Conceptual framework

2.1 Defining corporate social investment

As indicated in the introductory section, the term 'corporate social investment' is used here as an omnibus term to describe any initiatives undertaken, funded, or otherwise supported by, companies, where the intended primary beneficiaries are external to the company. In contrast to the approach taken by organisations such as the Global Reporting Initiative (GRI) and most major resource companies, we do not assume that such investments will always be voluntary. It is the purpose to which funds are put, rather than who determines that purpose, which ought to be the basis for distinguishing 'social' from other investments.

An advantage of using this broader definition is that it provides a more complete picture of what the companies are contributing to the community. Companies that focus only on the voluntary aspect are at risk of significantly understating their contributions, particularly in some jurisdictions. Reporting only voluntary contributions also reinforces the idea that social investment is an add-on activity, rather than a core business activity undertaken through a variety of mechanisms.

2.2 A typology of social investment

One of the objectives of this study was to develop a typology that could be used to categorise and compare different forms of social investment. For this purpose, we created a simple four cell classificatory scheme, organised around two broad criteria: 1) whether the investment was made voluntarily, or to meet a government requirement; and (2) whether the company was, or was not, involved in the governance of the funded initiatives.

In the matrix (Figure 1) the top two quadrants are the domain of what has traditionally been characterised as 'voluntary social investment' and the bottom two are both forms of 'prescribed social investment'. The four categories can be distinguished as follows:

1. *Voluntary social initiatives*. These are company controlled or managed social initiatives which the company has invested in of its own volition. An example would be a company – funded community foundation, or a partnership with an NGO to deliver a livelihoods program. As already noted, leading resource companies have become more strategic in their approach to these investments and will now often consult with government and other parties in setting priorities. However, the defining feature of these investments is that ultimate control – including the power to cease, reduce or redirect funding – remains with the company.
2. *Voluntary contributions.* These bear a close resemblance to traditional corporate philanthropy and are often characterised as donations. An example would be where a company donates money to an emergency relief scheme established by government or a charitable organisation (e.g. the Red Cross). In these cases the company has a choice on whether or not to contribute financial support to a particular initiative but, once having done so, has little or no input into how that money is expended.
3. *Regulated social initiatives*. These are company-funded initiatives that have been undertaken at least partly in response to government requirements. An example would be

where a company is required by legislation to commit to a minimum level of social expenditure, and/or to submit a Community Development Plan to Government for approval. With these types of arrangements, companies retain some responsibility for program design and implementation, but within parameters set by government.

4. *Mandatory contributions*. This fourth category refers to payments which companies have been required to make directly to government, or to government controlled funds, and which are represented by government as 'social contributions'. In these cases, the company has little, if any, influence over how that money is subsequently spent. An example would be payments made to regional governments in Kazakhstan pursuant to Final Production Sharing Agreements (FPSA).

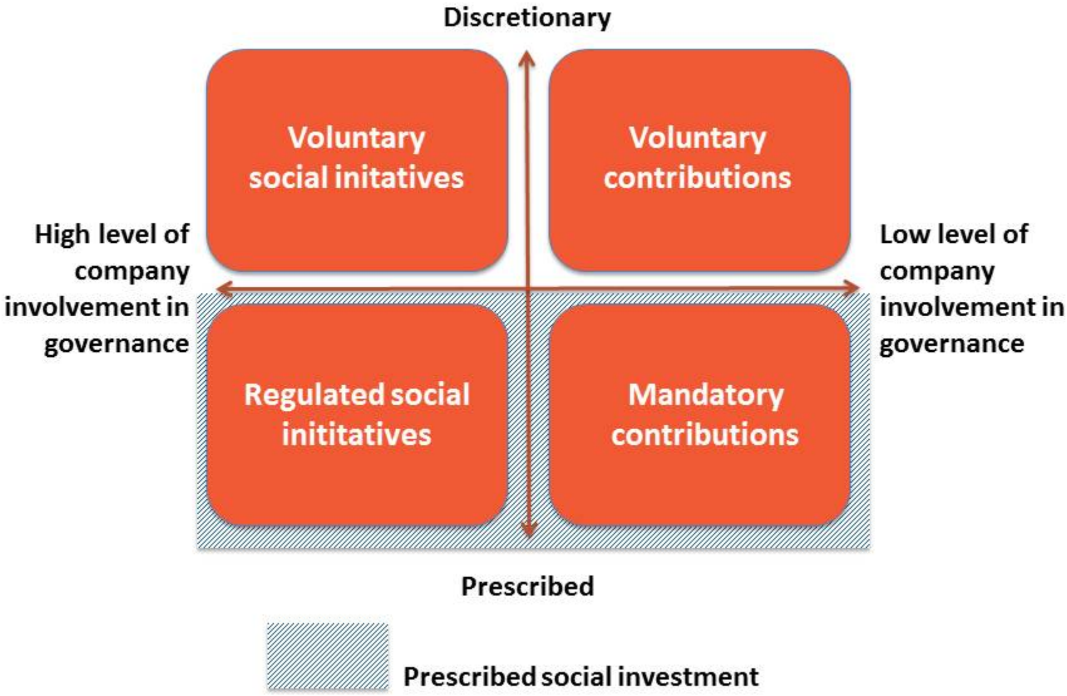

Figure 1: Forms of corporate social investment

These four forms of social investment are not mutually exclusive. To the contrary, they can – and often do – co-exist. For example, coal seam gas companies in Queensland have been required to submit and have approved Social Impact Management Plans (SIMPs) which contain substantial ongoing investment commitments (*regulated social initiatives*), typically run their own community funds (*voluntary social initiatives*), from time to time make one off donations to emergency relief funds (*voluntary contributions*) and, in the future, may be required to contribute to regional infrastructure funds under government control (*mandated contributions*).

By necessity, typologies involve a degree of simplification. As the next section demonstrates, there can be significant differences within categories, as well as between them. Also, the line between the different categories is not always clear-cut in practice. For example, the now dismantled *Aporte Voluntario* in Peru (see below) was in reality an offer that companies could not refuse. Conversely, some apparently mandatory commitments, such as some conditions in Social Impact Management Plans (SIMPs) in Queensland, are essentially codifications of what the company would probably have been prepared to do on a voluntary basis.

Notwithstanding these conceptual limitations, the framework presented above is a potentially useful tool for companies to map the composition of their social investments at the project and country level. From a research perspective, it can also assist in mapping trends over time and making cross-jurisdictional comparisons.

3. Mapping the landscape

This section presents examples from around the world of current or proposed government initiatives aimed at exerting some control over the social investments made by resource companies. These examples were identified through desktop research and from the interviews with key informants. This is not meant to be a comprehensive review (for example, we did not include Mongolia, which is proposing to introduce mandatory local development agreements), but it does provide a reasonable level of coverage.

The examples, 19 in all, are drawn from 12 jurisdictions; comprising two Australian jurisdictions, two South American countries, four African countries and four Asian countries. In some jurisdictions more than one type of instrument is used, or has been proposed, which explains why the number of examples exceeds the number of companies.

3.1 Overview

Table 1, below, uses the following descriptors to provide an overview of the various regulatory arrangements identified in the scan.

- **Legal and/or administrative mechanism utilised:** Options include: investment agreement, other negotiated agreement; government approved plan/program; mandatory payment to a fund/third party; payment directly to government; and approved social investment budget.
- **Management responsibility:** Is the funded activity managed by government, the company, through a partnership or a third party?
- **Focus:** Are the primary intended beneficiaries: local communities impacted by the development, regions, the broader society or specific groups (e.g. Indigenous peoples)?
- **Method for determining the quantum of investment:** Is the required level of investment determined using a set formula, by government in response to context-specific factors or through case-by-case negotiation?
- **Stated objectives:** How does Government characterise the purpose(s) of the regulatory scheme? Options here include: compensation for impacts; industry development; poverty alleviation; human development; institutional capacity building; infrastructure development; community development; impact management; environment protection; and benefit sharing.

Table 1: Examples of prescribed social investment schemes (existing and proposed)

Country	Scheme	Description	Type	Management responsibility	Mechanism	Focus	Method for determiningquantum	Stated objectives
New South Wales (Australia)	Environmental Planning and Assessment Act, 1979 - Development contributions, (1989, 1992, 2000, 2006)	Development contributions (e.g. money, land, buildings or works in kind) paid to local or state governments for shared local or state infrastructure, facilities and services.	Mandatory contribution	Government (State or local)	Payment to government	Local and regional	Case-by-case (Section 94A payments are a % of the cost of development)	Infrastructure development
Queensland (Australia)	Sustainable Resource Communities Policy, 2008 - Social Impact Management Plans (SIMPs)	SIMPs must be developed for 'significant' and 'major' resource projects to identify social impacts (via SIA), strategies for addressing impacts and responsibility for implementation (shared between company, state and local governments and community).	Regulated social initiative	Joint (Company's role in the management of SIMP actions is negotiated with the state government)	Government approved plan/program	Regional	Case-by-case; negotiated	Impact management; Infrastructure development; Community development
Bolivia	Fund for Indigenous Peoples and Peasant Communities ('El Fondo de Desarrollo Indígena'), 2005	Five per cent of the Direct Tax on Hydrocarbons ('Impuesto Directo a los Hidrocarburos (IDH)') is paid to the Fund and to be used for projects created by Indigenous organisations, and implemented by the prefectures and municipal governments.	Mandatory contribution	Government	Allocation of taxes and royalties	Indigenous people	Formula (5% of the direct tax of hydrocarbons or IDH)	Community development
	Hydrocarbons Law, 2005 (and subsequent decrees such as the Nationalization Decree, 2006)	Companies must reach an agreement with Indigenous communities for new hydrocarbon projects. All social and environmental impacts must be fully compensated through direct payments, provision of materials and project funding.	Regulated social initiative	Company	Binding negotiated agreement	Affected Indigenous people	Negotiated	Compensation

Country	Scheme	Description	Type	Management responsibility	Mechanism	Focus	Method for determiningquantum	Stated objectives
Equatorial Guinea	Tax Code (EGTC), 2004 - EG Hydrocarbon Law No. 8/2006	Social investment requirements specified in Production sharing contracts (PSC) or other similar contracts between the Equatorial Guinea Government and the contractor.	Mandatory contribution	Government/ company	Payment to fund/third party	Local/national	Negotiated	Human development[4]
India	Mines and Minerals (Development and Regulation) Bill, 2009 - Section 43, sub-section 2 (Contributions to District Mineral Foundations)	Annual payments to District Mineral Foundations which will be responsible for distributing monetary benefits to persons/families affected by mining operations in the district.	Mandatory contribution	Third party (District Mineral Foundations are non-profit trusts chaired by the president of the local government with industry, affected populations, and state and federal government agencies.)	Payment to fund/third party	Regional	Formula (coal - 26% after tax profit; other minerals - equivalent to royalty; or whichever is higher)	Compensation; Poverty alleviation
	Mines and Minerals (Development and Regulation) Bill, 2009 - Section 26, sub-section 3 (CSR documents)	A requirement to develop a CSR document for each mining plan to outline a scheme for annual expenditure on social and economic activities for the benefit of host populations	Regulated social initiative	Company	Government approved plan/program	Local/regional	Case-by-case	Poverty alleviation
Indonesia	Limited Liability Company Law, Law No. 40, 2007 – Article 74	A requirement for companies with business activities in the field of and/or related to natural resources, to perform their Social and Environmental Responsibility (CSR)	Regulated social initiative	Company	Government approved plan/program	Local/regional	Formula (by verbal consensus: coal - US $0.08 per ton of production; gold - 2% of profits)	Community development

[4] Schemes that have been abandoned or substantially modified since the research for this study was undertaken

Country	Scheme	Description	Type	Management responsibility	Mechanism	Focus	Method for determiningquantum	Stated objectives
	Mineral and Coal Mining Law no. 4, 2009 - Articles 108 and 109	Companies must develop a program of Community Development and Empowerment (CDE) in consultation with government and community	Regulated social initiative	Company	Government approved plan/program	Local/regional	Case-by-case	Community development
	Draft Ministerial Decree, 2011 - Community Development and Empowerment	Companies must develop a planning blueprint for CDE that is integrated with the regional development plan, and is signed off by local government and communities as part of the regulatory approval process	Regulated social initiative	Company	Government approved plan/program	Local/regional	Case-by-case	Community development
Kazakhstan	Final Production Sharing Agreement (FPSA)	A commitment of funds annually to the development of social infrastructure projects within the project region.	Mandatory contribution	Regional government (Preliminary approval by national oil company, project and regional government)	Payment to government	Regional/local	Case-by-case	Community development
Nigeria	Niger Delta Development Commission Act, 2000 - Niger Delta Development Commission (NDDC)	All oil companies must make payments into a fund administered by the NDDC to support human development, infrastructure, health services and community development in the Niger Delta.	Mandatory contribution	NDDC (governed by a board of one industry member, members from oil- and non-oil-producing states and federal ministries of finance and environment)	Payment to fund/third party	Regional	Formula (3% of profits/total annual budget)	Infrastructure development; Human development; community development
	Corporate Social Responsibility Commission Bill, 2009	Proposes an obligatory spend of 3.5% of gross annual profits per annum on CSR.	Regulated social initiative	Company	Social investment budget	National	Formula (3.5% of gross profits)	Human development; Environment protection; Community development
	Nigerian	A Community Development	Regulated social	Company	Binding,	Local	Negotiated	Community

Country	Scheme	Description	Type	Management responsibility	Mechanism	Focus	Method for determiningquantum	Stated objectives
	Minerals and Mining Act, 2007 - section 116[3].14	Agreement must be developed with the local community to ensure the transfer of social and economic benefits.	initiative		negotiated agreement			development; Impact management; Environment protection
Peru	*Aporte Voluntario* (Voluntary Contribution), 2007-2012	An agreement between industry and the Peruvian government for mining companies to pay 2-3.5% of pre-tax profits to social projects over a five-year period.	Regulated social initiative	Companies (generally through foundations audited by government)	Payment to fund/third party	Local/regional	Negotiated	Community development; Human development; Infrastructure development
Philippines	Mining Act, 1995	Requires companies to allocate at least 1% of direct mining and milling costs for a social development management program.	Regulated social initiative	Companies	Social investment budget	Local	Formula (1% of direct mining and milling costs)	Community development
	Indigenous Peoples Rights Act, 1997	Requires companies to allocate 1% of gross output to Indigenous people/ Indigenous cultural communities from mining activities in their lands.	Regulated social initiative	Companies	Payment to fund/third party	Affected Indigenous people	Formula (1% of annual gross revenue)	Compensation; Community development; Human development
South Africa	Mineral and Petroleum Resource Development Act, 2002 - Social and labour plans	A requirement to contribute to the human development of historically disadvantaged black South Africans and local economic development.	Regulated social initiative	Company (with the approval of the Department of Mineral Resources)	Government approved plan/program	Local	Case-by-case; negotiated	Human development; Community development

Country	Scheme	Description	Type	Management responsibility	Mechanism	Focus	Method for determiningquantum	Stated objectives
Zimbabwe	Indigenisation and Economic Empowerment Act , 2007 - Community share ownership trusts	A mechanism for contributing to the requirement on foreign-owned companies for 51% of equity to be owned by Zimbabweans. This component of indigenisation involves vesting equity (10% in some cases) in community trusts specifically for the social development of communities in mining areas	Mandatory contribution	Third party (Community trust)	Payment to fund/third party	Local	Formula	Human development

3.2 Approaches to determining quantum

As can be seen from Table 1, governments have used two main approaches to determine the quantum, or amount, of the social investment required of companies. This has either been by: (a) applying a *standard formula* (e.g. a percentage of production, operating costs, or profit); or (b) determining the contribution on a *case specific basis.* The latter often involves some degree of negotiation – formal or informal - between the government and the company, having regard to factors such as national and local development or political priorities, the nature and scale of impacts to be mitigated and the size and profitability of the project.

Table 2 shows that the use of standardised formulas to fix contributions is becoming relatively common. In most of these cases, the company retains some influence over how these funds are allocated and expended (regulated social initiatives), but there are several examples of resource companies being required to contribute substantial funding directly to entities controlled by governments, or third parties (e.g. commissions). Examples include: the Fund for Indigenous Peoples and Peasant Communities in Bolivia, Final Production Sharing Agreements in Kazakhstan and the Niger Delta Development Commission in Nigeria.

Table 2: Prescribed social investment schemes categorised according to method for determining quantum

Quantum or amount of investment determined by	Prescribed social investment	
	Company involvement in governance (regulated social initiatives)	Minimal or no company involvement in governance (mandatory contributions)
Case specific considerations and/or negotiation	• India - CSR Document • Indonesia – community development and empowerment program • Queensland (Australia) – Social Impact Management Plan • South Africa – Social and Labour Plans • Nigeria – Community Development Agreements	• Kazakhstan – Final Production Sharing Agreements • Equatorial Guinea – Production Sharing Contracts • Zimbabwe – Community share ownership trusts • New South Wales (Australia) – Development Contributions
Standardised formula	• Peru – Voluntary contribution • Indonesia – Social and environmental responsibility (CSR) • Nigeria – Corporate Social Responsibility Commission • Philippines – Mining Act • Philippines – Social development management program; contributions to Indigenous people/ Indigenous cultural communities	• India – District Mineral Foundations • Bolivia – Fund for Indigenous peoples and peasant communities • Nigeria – Niger Delta Development Commission

3.3 Summary

The scan highlighted that a diversity of instruments and approaches are being used, or have been proposed, to direct and influence corporate social investments in the resources sector. Most of these schemes have a local or regional, rather than national, focus, but otherwise there is no evidence of a dominant preferred approach emerging. Even within jurisdictions, it was quite common for multiple mechanisms to exist side-by-side.

In all, we identified seven instances where companies were required to make direct contributions to 'social' funds controlled by government or third parties, and 12 instances of 'regulated social programs' in which the company had some involvement in the implementation and governance of the initiatives that they were required to fund. The 'formula approach' and the 'case specific' approach to determining quantum were utilised with roughly equal frequency.

It is noteworthy that several of the schemes that we identified were still being finalised, or had only recently being implemented. Likewise, two schemes – the *Aporte Voluntario* in Peru and Social Impact Management Plans in Queensland – have been abandoned or substantially modified since the research for this study was undertaken, and new examples have emerged. This is a clear demonstration that this is a very dynamic space and highlights the need to regularly update the information in the tables.

4. Trends and drivers

This section focuses on the factors that are driving government efforts to exercise more control over corporate social investment in the resources sector. These observations are based on insights provided by interviewees, key findings from the case studies and supporting desktop research.

4.1 The broader context

There is a general tendency for governments around the world to become more assertive in their dealings with resource companies; this is not a trend restricted to the sphere of corporate social investment. Other examples of increased State activism include:

- *Indigenisation requirements* (e.g. Indonesia, Zimbabwe and South Africa all have requirements for divestment to national/local shareholders)
- *local procurement and local content requirements* (e.g. 'Broad-based black economic empowerment' (BBEE) in South Africa, and obligatory local content plans in many countries, including Nigeria and Zimbabwe)
- *mandatory downstream processing or restrictions on the export of raw materials* (e.g. new regulations in Indonesia which will ban or restrict export of raw minerals)
- *skills capacity building requirements* (e.g. Social and Labour Plans in South Africa)
- *a more prescriptive approach to the design and location of infrastructure (e.g.* in relation to the siting of the railway for the Simandou Iron Ore project in Guinea).

Text box 2: A multi-faceted response to global drivers

Requiring companies to expend funds on social objectives is often part of a broader approach to ensuring a greater contribution by the resource sector to the development objectives of countries. In Brazil, for example, there are several mechanisms through which government is securing greater resources to support its own development objectives.

In addition to being required to pay an R&D levy, resource companies are expected to include local content requirements in their concession bids with higher local content more favourable towards winning concessions. The tax policy in Brazil also includes incentives in the form of tax credits to encourage companies to invest money that would otherwise go to the government to fund social programs or donate to existing government-sponsored or approved social welfare funds. Likewise, donations to not-for-profit entities in the area of social welfare and/or research and development are tax deductible.

4.2 Key drivers

To a large extent, State efforts to leverage better development outcomes from resource projects (including more social investment) have been a response to internal factors. However, there has also been an element of 'contagion' whereby, as momentum gathers, governments follow the example of others.

The relative weight of different drivers varies from jurisdiction to jurisdiction, but the case studies point to the following as recurring themes:

- rising levels of social conflict and violence related to the social, economic and environmental impacts of resource operations (e.g. Peru, Nigeria, Bolivia and India)

- historical failures of government to deliver improved services and economic development (the majority of our case studies)
- increased pressure on social and physical infrastructure due to rapid growth (a particularly important driver in Queensland)
- demands from sub-national governments in resource producing regions to receive a greater proportion of resource revenues (e.g. Peru)
- a history of poor outcomes from limited voluntary social investment/traditional CSR by companies (e.g. in India and Indonesia)
- reactions to the privatisation of previously nationalised resource sectors, leading to social investment being viewed as a 'replacement' for services that would once have been provided by state-owned companies (e.g. in Kazakhstan and South Africa)
- claims for recompense for historical injustices/inequities (e.g. in South Africa, Nigeria and India)
- activism by Indigenous peoples asserting the right to control development on their lands (e.g. Bolivia).

Text Box 3: Multiple drivers for reform in Indonesia

The adoption of mandatory Environmental and Social Responsibility (ESR) and Community Development and Empowerment (CDE) requirements for resource related companies under Indonesian legislation is occurring in the context of national and industry reform, and as a consequence of the drivers for ESR/CDE.

Broadly, the national push for legislative reform is about:

- redressing the imbalance between the power of the central government and the provinces by devolution of authority to the provinces
- contending with nepotism and corruption within the Suharto regime
- balancing conditions for attracting foreign investment and ensuring benefit for the people of Indonesia.

National drivers for the new mining law, following decentralisation, have included:

- the need to address inconsistencies and overlaps in law at central, provincial and district levels
- the proliferation of corruption and excessive demands on businesses at the district level
- a history of conflicts surrounding mining operations and strong opposition from anti-mining NGOs (such as WALHI and JATAM).

The main drivers for including ESR/CDE as mandatory requirements are thought by observers to be:

- increased focus on CSR world-wide
- perceptions that resource companies were unduly benefitting from the operating conditions in Indonesia, while communities were bearing significant impacts
- several conflicts relating to environmental and human rights and mining companies which remain unresolved
- an attempt to push for best practice in corporate governance as a preventative measure.

It is no accident that governments became more assertive at a time of historically high prices for minerals. When companies are perceived to be making large profits from resource extraction, there are stronger societal demands for more of this wealth to be 'shared' in country. A compounding factor here is that, in contrast to previous booms, telecommunication technologies have given people in developing countries much easier access to information about company profits and community rights.

When prices are high, then expectations on the part of government and communities and often wider society are that companies need to deliver more direct benefits. In many of these countries there is strong upward pressure on governments to improve living standards and deliver better development outcomes.

5. Implications for policy and practice

There trends described in this report present a variety of challenges – and opportunities – for resource companies, governments and communities.

5.1 Implications for resource companies

Understanding the risks and benefits

It is the long term interests of companies to take a balanced view of the risks and benefits of the new regulatory frameworks that are emerging. Companies also need to acknowledge that there are powerful societal drivers for these changes

Well-designed regulatory mechanisms could enable companies to take a more structured approach to social investment than is possible with traditional CSR. Historically, voluntary social investment programs have often been driven by business objectives around reputation and social licence, rather than broader development goals. Even when these programs have been formulated with the aim of contributing to sustainable development, their impact may be limited if they are not coordinated with or complementary to state or donor investments. For example, experience has shown that, where multiple companies operate in a region (e.g. as in the Niger Delta, or the Queensland gas fields), individual companies find it difficult to work together to achieve greater coordination and scale. In these cases, a centralised fund or a coordinated approach, in which all companies participate, arguably has greater *potential* to deliver synergies and to address issues requiring a higher level of investment, not appropriate or possible for individual companies.

Locking companies into social investment commitments could facilitate a more strategic approach by companies, by enabling multi-year planning, insulating social investment from cost-cutting when companies are under financial pressure; and, avoiding 'short-termism'. In addition, greater clarity from government regarding social investment obligations would help to level the playing field and reduce 'free riding' by other companies which are less committed to CSR.On the other side of the ledger, there are significant downside risks for companies, especially where government interventions are poorly designed and/or implemented. Depending on the context, these can include:

- Companies being required to direct funding to initiatives which do not address local needs or expectations.
- Potential reputational damage where companies are seen to be associated with poorly run, corrupt and/or ineffective government controlled social programs.
- Administrative log jams; for example, when investment plans have to be approved by under-resourced and under-equipped regulatory authorities (a major issue with the new Indonesian laws).
- Diversion of company 'social' contributions to other government and political purposes. This can happen where funds are under government control and there are no clear processes to determine what funds can be used for, or to preserve funds for their intended use.

- Loss of flexibility, due to companies becoming locked into plans and commitments that do not allow them to adapt to changing circumstances.
- Promotion of a compliance mentality. Requirements for a standardised approach to social investment could encourage some companies to adopt a 'tick the box' approach, thereby wasting resources on activities that do not result in genuine development outcomes.

Managing the risks

Companies can choose to respond passively to a loss of control over their social investment by arguing that 'we are just doing what government wants us to do', or 'we pay the money, it is up to them to decide how they spend it', but this path is fraught with danger from a reputational and risk management perspective. If the residents of a region fail to see benefit from having a resource project in their midst, it is likely that social discontent will still be directed at the company responsible for the project. Also, companies cannot afford to allow local conflicts to go unresolved, in the hope that government will take responsibility for sorting these out.

The challenge for resource companies is to find a way of engaging constructively with governments to ensure that any policy interventions enhance, rather than undermine, efforts to increase the social development dividend from resource projects, without at the same time creating deterrents to responsible investment. This objective can best be advanced by:

- *Communicating to government at various levels that the company is keen to see positive development outcomes for impacted communities and regions and wants to have a dialogue about how this is best achieved.* This can include offering to partner with government agencies and/or other organisations on some initiatives.
- *Actively supporting measures to improve transparency and accountability in government.* This goes beyond signing up to initiatives such as EITI to embracing more proactive measures, such as supporting credible NGOs to educate local communities about the roles and responsibilities of government.
- *Ensuring that social investment programs under company control are designed, implemented and evaluated in ways that are consistent with good practice.* The foundations established by leading mining companies in Peru to manage the 'voluntary' social investment negotiated with the Peruvian Government (e.g. the Antamina and Yanacocha Foundations) are examples of what is possible when a rigorous approach is taken to planning and implementing company funded initiatives.
- *Taking a 'whole of business approach' to social performance.* Leading companies are increasingly attuned to the importance of focusing not only on their 'social spend' but the bigger issue of their development dividend. This brings to the fore broader areas of social performance such as local supplier development, growing skilled workforces at the regional and national level, and, in the case of land-based projects, better utilisation of infrastructure to support local and regional development. To a large extent, the ability of a company to deliver positive development outcomes – as distinct from showcasing individual programs and initiatives – will depend on how well it does in these other areas.

- *Strategically using discretionary investment to help build government and community capacity.* This can be done, for example, by funding well regarded development NGOs to work with governments and communities to better understand and define development needs, or by providing education and training opportunities for government personnel.

The future of voluntary social investment

An increase in government-prescribed social investment does not necessarily reduce the need for companies to make voluntary social investments. In practice, as just indicated, companies will often find it difficult to wind back their voluntary investment, because of the reputational issues involved and the ongoing need to manage local social risks. Having said that, the way in which voluntary investment is used in these settings is likely to differ from when there is little or no government involvement. Specifically, this brings the issue of alignment into play. Possible uses of voluntary investments in this context include to:

- address specific local issues and concerns that are not adequately dealt with through government-managed processes
- build and maintain positive stakeholder relations, especially at the local level (e.g. by providing support to local organisations and events)
- enable companies to deliver more effectively on obligations imposed by government (for example, by building the human and social capital required to achieve mandatory local content, training and employment targets)
- support initiatives to strengthen government and community capacity, particularly at the local level.
- leverage and influence the type of programmes mandatory social investment will cover and ensure there is maximum benefit to targeted beneficiaries e.g. directly impacted and disadvantaged communities.

Reporting on social investment

There is currently no uniform approach amongst resource companies to reporting social investment. In particular, there is no agreement on whether prescribed investments – and, in particular, mandatory contributions - should be included or not.

Our suggestion is that companies should consider providing a breakdown of their investment according to the four categories that we identified earlier into this paper: voluntary contributions (i.e. donations), voluntary social investments, mandatory contributions and regulated social programs Additional work would be required to define criteria for classifying investment as being of one type, rather than another. However, the advantage of this approach is that it would provide a full accounting of the different ways in which a company is making a social contribution, identify the level of company control and accountability, and also differentiate those companies that are contributing over and above what they are required to do.

5.2 Considerations for governments

The design of regulatory arrangements and the way in which they are implemented has the potential to influence investor certainty and confidence and therefore investment decisions. The mobility of capital may be reducing because high quality resources are becoming scarcer, but there is still a big-picture trade-off to be made between increasing the obligations on developers and continuing to provide a globally competitive investment environment.

Key considerations for governments in developing and implementing schemes to regulate corporate social investment are:

- *Use approaches that are 'fit to context' and 'fit for purpose'*. There is little to be gained from developing regulatory processes which require more resources and expertise than the State is able to provide. For example, efforts to give a greater role to local level government in Indonesia have largely failed to date, because this level of government lacks the necessary expertise and resources. Similarly, governments need to be clear about what objectives they are seeking to achieve through their interventions, rather than just imitating what others have done or taking regulatory models 'off the shelf'.

- *Promote coordination and alignment*. Governments can potentially play a valuable coordinating role in bringing together the otherwise disparate social investments of individual companies and aligning these activities with broader development objectives. This requires, however, that governments have some clarity about their development objectives and are able to communicate this to other actors, and also have the capacity to set up and maintain the necessary coordinating mechanisms. Also, in setting priorities, it makes sense for governments to engage with companies, rather than unilaterally imposing requirements.

- *Leave space for voluntary social investments.* For reasons already indicated, it makes sense for regulatory arrangements to be developed in a way that enables complementary investment through voluntary initiatives, rather than creating disincentives for companies to continue with such investments.

- *Share responsibility for implementation***.** It is risky for either companies or governments to take sole responsibility for the implementation of social investment programs. Where companies have full control, their activities may not be aligned with local or national development objectives and may actually undermine the authority of the State (e.g. by reinforcing community perceptions that government is not fulfilling its responsibilities). Conversely, as indicated, government may not have the capacity to deliver programs effectively at the local level, especially in more remote regions. There is also a heightened risk of corruption and of funding being diverted to other purposes (e.g. to support general operating costs, rather than program delivery) if government is the sole player.

- *Ensure transparency*. Both governments and companies should be able to demonstrate how funds earmarked for social purposes have been expended. This is essential for accountability and transparency, and for building public confidence that impacted communities are sharing in the benefits of resource development.

- *Build in flexibility*. The ability of resource companies to fund and support social programs will fluctuate with price cycles, business priorities and throughout the life of a resources project. Likewise, community needs and aspirations may vary over time. Ideally, regulatory schemes should enable adaptation to changing circumstances. This can be done, for example, by instituting regular review points such as the two to three-year review milestone for

Queensland SIMPs. For the same reasons, a negotiated, case-by-case, approach to determining the quantum of social investment in a project has advantages over the use of a fixed formula.

- *Provide clarity*. Regulatory schemes ought to provide clarity around the expectations of resource companies. Without this, it will be difficult to enforce these schemes and they will be subject to the same variation in performance as voluntary social investment. The requirements for companies to develop CSR programs under Indonesia's Limited Liability Company Law No. 40/2007 and India's Draft Mines and Minerals (Development and Regulation) Act 2009 are two examples of where further clarification is needed to support implementation and enforcement.

5.3 Implications for communities

For a whole range of reasons, greater involvement by government in regulating corporate social investment will not necessarily result in better outcomes for communities. As always, much will depend on how these schemes are designed and operate in practice.

Communities will be more likely to derive long term benefits from resource projects if the following conditions are met:

- companies and governments consult with communities (at the relevant scale) when determining social development priorities, rather than making these decisions unilaterally

- processes are in place to account for how both government and corporate social funds are expended and to ensure that funds flow to those for whom they are intended and are not captured by political elites

- there is ongoing investment in building the capacity and knowledge of local communities, including in relation to governance

- regulatory processes are sufficiently flexible to allow for the negotiation of locally-relevant social development programs

- the presence of the resource sector is not used as an excuse for governments to withdraw from the provision of services.

Communities can also contribute to better development outcomes by:

- utilising opportunities to actively engage with industry and government to identify needs and priorities
- building their own capacity to engage with industry and government
- using available processes and structures to hold industry and government to account for delivering on their undertakings.

6. Conclusion

6.1 Final observations

Increasing State involvement in the regulation of corporate social investment in the resources sector is part of a broader trend.

The findings of this study give weight to the view that governments globally are becoming more assertive in their dealings with resource companies. Efforts to increase and direct the social investment contributions of resource companies are just one manifestation of this broader trend.

Increased government intervention in the sphere of corporate social investment is here to stay.

Notwithstanding that prices for energy and minerals have begun to ease (at least for the time being) the pressures on governments to increase the development dividend from resource projects will remain. In one form or another, increased government control over corporate social investment will remain a salient part of the landscape in which resource companies operate.

There is, however, no indication yet of a dominant regulatory model emerging.

Governments' choice of regulatory instruments is influenced by a number of different factors at the local level, including: the capacity of the State, the performance of voluntary CSR to date, the relationship between government, business and society and existing legislative and fiscal regimes for the resources sector. This has resulted in a diverse array of schemes being adopted, or proposed. To date, no one model has emerged as the preferred approach; nor does this seem likely in the future.

Increased state activism in this and other domains is adding substantially to the complexity of the operating environment of global resource companies.

The changes documented in this study present significant challenges for global resource companies. Social investment is no longer something that companies can choose to do at their own discretion; increasingly, they must respond to government requirements and community expectations. Companies that are likely to fare best in this new operating environment are those which have a strong adaptive capacity and are able to demonstrate a willingness to cooperate with government and other actors in delivering improved development outcomes for impacted communities and society more broadly.

There will continue to be a role for voluntary social investments.

It will generally be in the interest of companies to maintain a voluntary social investment program, regardless of government requirements. Apart from the reputational benefits for companies of being seen to go 'beyond compliance', there is strategic value in retaining the capacity to respond to local issues and concerns.

Governments need to be careful not to over-reach.

What might seems like a good idea in theory, such as the devolution of planning responsibility to local level government in Indonesia, is unlikely to work in practice if the entities responsible for administering key processes lack the necessary resources and expertise. More modest forms of intervention may actually produce better outcomes. For example, it may make more sense to define flexible parameters within which companies should operate, rather than seeking to enforce detailed planning approval processes.

6.2 Further research

This report has provided a broad overview of current trends in relation to prescribed social investment - and has identified some of the potential implications for policy and practice – but it is by no means a definitive study. Not all jurisdictions where this is a live issue have been included in our review. Moreover, this is a very dynamic space: government policy and practice can change quite quickly in response to local factors, so it is likely that some of the information presented here is already in need of updating. Furthermore, some of the schemes that have been described are still under development, or have only recently been implemented, and it is still not clear how they will play out in practice. Conversely, since the research was completed there have been substantial change in two of the jurisdictions included in this study (Peru and Queensland).

One suggestion for further work, therefore, is to set up a process for tracking developments in this space on an ongoing basis. Other areas of productive inquiry could include:

- collecting more 'on-the-ground' information about the operation of the various regulatory instruments identified in this study, with a view to ascertaining what has – and has not – worked, and under what circumstances

- using this information to prepare guidance documents for governments and other actors on how to design and implement regulatory instruments that are 'fit to context' and 'fit for purpose'

- undertaking additional work on the relationship between various drivers and socio-political contexts and how these have shaped the design of different schemes

- finding better ways to measure the development contributions and impacts of resource projects, with a view to comparing outcomes under different regulatory and institutional arrangements.

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Centre for Social Responsibility in Mining
Sustainable Minerals Institute
The University of Queensland, Australia
csrm@smi.uq.edu.au
www.csrm.uq.edu.au