Local content in the oil, gas and mining sectors: Enhancing the benefits at the subnational level

Policy framework prepared for Revenue Watch Institute
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1. Introduction

At the core of this paper prepared for Revenue Watch Institute is the assumption that there is a need for greater effort in ensuring local content development increases economic activity within the geographic area affected by oil, gas or mining (OGM) projects. While there are significant national economic expectations around the extractives sectors, likewise around the participation of local industries, the purpose of this paper is to consider how to maximise benefits to local communities and to mitigate potentially negative economic outcomes associated with extractives activities.

An important consideration is the journey local content development has taken in the context of the OGM sector – in theory and practice. A paper commissioned by Revenue Watch Institute ('Social Funds in Peru', Korpela, 2009), makes the point that corporate social responsibility (CSR) has evolved from being voluntary to being assumed and expected. Similarly, the role and expectations of local content have evolved and it has become a critical element of the resource sector's engagement within the countries of its operations. Public policy in this area has also started to develop and ideally should be linked with industry development priorities. Approaches vary widely across countries, however, and are dependent on each country's individual development path.

Regardless of the regulatory landscape, operating environment or the best intentions of involved parties, truly successful local (or national) content outcomes can only be driven by the cooperation and aligned intent of the four key sectors (actors) involved. These are: the government – national and sub-national; the company or project proponent; civil society groups (broadly defined) and donors including international financial institutions (IFIs).

The sectors have different drivers, goals and stakeholders and collectively form a complex system of interactions, influences and ultimately outcomes. Application of their role varies significantly between countries and the intersection between them can create unique opportunities for progress in local economic development. This, in part, explains why there isn't a distinct or singularly proven approach to local content development although the guiding principles for creating the right enabling environment are becoming better known.

The relationship between central and provincial government is a key aspect of sub-national local content. How resource revenues or royalties flow to the sub-national level, the legislative power between the two, the capacity of national and provincial government, and the state of the local industrial base are all relevant to the development of sub-national local content strategies.

Local content outcomes are not achieved quickly and this is especially true where the operating environment has a weak or limited industrial base, where skills and technical capacity are not aligned to the industrial sector and where a business enabling environment is yet be fully realised. While early progress is possible at the lower end of a supply chain, opportunities of greater economic value take time to develop.

The policy framework offered in this document largely assumes a developing country context or a more resource- or capacity-constrained environment. The framework has been developed based on inputs gathered during two phases: a review of secondary data, interviews with Revenue Watch Institute partners in Ghana. The document starts with an overview of the current 'state of play' in local content and some of the issues apparent when taking a subnational perspective. The respective roles of the four key sectors/actors are outlined, considering their key drivers. Finally, a set of recommendations is offered on the specific role that Revenue Watch Institute could fill, in keeping with the organisation's mission and value proposition.

2. Overview of issues related to local content

2.1 Current approaches to realising the potential benefits of local content

It is broadly accepted that procuring from local small-to-medium enterprises (SMEs) and employing locally can bring significant social and economic benefits to communities. In addition to creating business for suppliers, local procurement can stimulate economic activity and attract further investment, both through suppliers engaging other suppliers for inputs and through the multiplier effects of employees of local businesses spending some of their wages in their communities. Other benefits can include: improving the quality of life for employees and business owners and operators (through increased income and education/skills), dissemination of new technologies and innovation to other market participants, and attraction of investment in social infrastructure (SEAF, 2007; Esteves and Barclay, 2011).

With this end in mind, various governments have endorsed local content policies and legislations. Contemporary local content policies in OGM activities vary in scope and level or type of regulation applied. (A mapping is provided in Appendix A[1].) In some cases, local content policies are designed for a clearly identified target group(s) in spatial, industrial or social terms. In some other cases, they are part of a strategy to fundamentally transform the local economy. In such cases, it is expected that new productive activities arising directly and indirectly from OGM activities will make a sustainable contribution to employment and income generation in the long-run. The level of complexity and uncertainty attached to different interventions varies with a number of factors: the number of actors expected to benefit from the intervention; the initial state of the local economy relative to expected outcomes; and the alignment of local content interventions with other industrial and developmental policy interventions.

Regulatory mechanisms available to ensure that local content provisions are implemented are usually specified in local content legislation and regulations outlining local content requirements. OGM companies can also commit to certain local content requirements under the terms of individual concession or framework agreements. The strength of regulatory mechanisms varies with the specified monetary and operational consequences for OGM companies in case of non-compliance. Some provisions do not specify any type of sanction for non-compliance, but instead only suggest to OGM companies that preferential treatment should be given to local suppliers and workers. When non-compliance arises, these provisions can ultimately rely only on moral suasion. It is also important to keep in mind that sourcing locally, assuming all other factors are equal, makes good business sense for the company in some cases.

Regulatory mechanisms include those that mandate the purchase or use by OGM companies of goods and/or services of domestic origin or from domestic sources, allow for a price premium for domestic suppliers when evaluating tenders ('price preferencing'), reserve a proportion of contract value or a whole contract for execution by domestic enterprises ('reservation'), or make access to specific fiscal incentives subject to compliance with specified local content requirements. These requirements may be contained in a local procurement plan. Its implementation may be overseen by national or subnational government regulatory agencies. It is common for the companies to be required to regularly report on progress against a predetermined plan.

Contemporary experiences and practices across countries vary as to their definitions of local content and also the scope and regulatory mechanisms available. Members of the World Trade Organisation (WTO) are technically bound under the National Treatment Obligation (NTO) clause. Under this clause, foreign companies cannot be forced to buy from local suppliers or hire local service suppliers if a better alternative in terms of price or quality exists abroad. In theory, many

[1] The countries reviewed include: Afghanistan, Albania, Argentina, Armenia, Angola, Australia, Bangladesh, Belize, Benin, Bolivia, Brazil, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Canada, Chad, Chile, China, Colombia, Congo, Croatia, Democratic Republic of the Djibouti, Ecuador, El Salvador, European Union Countries, Equatorial Guinea, Gambia, Ghana, Guinea, Guinea Bissau, Haiti, Honduras, India, Indonesia, Japan, Kazakhstan, Kenya, Kuwait, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mexico, Mozambique, Myanmar, Mongolia, Namibia, Nepal, Niger, Nigeria, Norway, Paraguay, Papua New Guinea, Peru, Philippines, Russia, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Solomon Islands, South Africa, Sri Lanka, Tanzania, Thailand, Timor-Leste, Togo, Trinidad and Tobago, Turkey, United States, Uruguay, United Arab Emirates, Uganda, Ukraine, Venezuela, Yemen, Zambia and Zimbabwe.

regulatory mechanisms employed by WTO member countries fall outside of what is permissible by the WTO but often member countries still tend to implement their preferred regulations. A view held by some experts within international development institutions is that developing countries should not be encumbered by such restrictions in their pursuit of a social and economic development agenda, particularly when leveraging foreign direct investment in the extractives sector. There is a marked lack of evidence on the effectiveness of mechanisms to inform debate.

2.2 The negative impacts of local content interventions on resource-affected communities

There are a number of local content-related triggers leading to adverse consequences. For instance, setting inappropriate key performance indicators (KPIs) and targets for local content can encourage perverse behaviour. One example of this is 'fronting' where companies are established with the prescribed local ownership or address, but the decision-making and benefits are held by individuals other than those who are not targeted beneficiaries of the local procurement policy (Esteves and Barclay, 2011). The impact on the local economy is also restricted when goods supplied to resources companies are merely imported, repackaged and resold by local firms (WBCSD, 2012).

Some other examples of unintended negative consequences of local content interventions include:

> Relatively high wages paid by the large resources companies that can result in local people being drawn away from other businesses in town. As a result of these losses, local communities can find their already limited services sector shrinking even further. The loss to communities is compounded because they may also suffer a major loss in human capital, as experienced retailers, administrators, nurses and teachers leave their professions to work in the resources sector;

> Community dissatisfaction that can result from seeing only basic works being given to local people. Community perceptions that particular groups have been favoured in the allocation of employment or business opportunities can negatively affect social cohesion and lead to disputes within groups ;

> Unethical behaviours which lead to community discontent. Some examples include local content interventions being closely aligned with public officials' or investors' other local businesses; targets resulting in selection of contractors unable to meet prequalification without falsifying capabilities; extortion of fees to be part of a tender list; authorisation of single/sole sourcing without appropriate governance arrangements; bid rigging between contractors to increase prices; or bribery of officials to provide certification;

> SMEs that have the resource company as their sole, or major, client can be left vulnerable to the business cycles of the larger company and there may be little in the way of opportunities for diversification. This issue is compounded when the resource project is at a remote location and the only "game" in town – underlying demand is set by a single source. Resources business cycles typically go from boom to bust over the time frame of several years with some cycles reaching decades. The fluctuations in international demand attribute to the severity of the cycle of the resource extractive industry. The resulting impacts on employment, income and investments in local businesses can have a devastating effect on the local communities heavily dependent on the industry. Some communities located in remote areas with difficult accessibility could be especially negatively affected.

> The development of an educated and skilled labor market can affect 'sense of community' as this labour may move to other locations for employment.

Before promoting the benefits of local content, it is important to consider these changes, and the risk of local content to the local community and its social and economic development.

2.3 Local content as a vehicle for subnational economic development: constraints and opportunities

The extent to which resource-affected communities actually benefit from the changes brought about by local content interventions will depend on their capacity to take up the opportunities and their level of dependency on the resource sector. While some communities will benefit more from developing their own industries, most (subnational) regions are likely to benefit by adopting the dual approach of diversifying the local economy and enhancing the links to the rest of the world (where local suppliers have high capability). An important step for policy-makers, resource-dependent communities and proponents - which is little-practiced - involves undertaking a basic socio-economic analysis to determine the level of resource dependency and the specific industries that should be encouraged to operate in the region. These results inform the local content policy development process. Knowledge of the success factors and their indicators assists these communities to assess and increase their capability to develop initiatives for local content.

One important opportunity lies in the emergence of partnerships between industry, governments, support institutions and development agencies to establish supplier linkage programs, with a view to enabling SMEs to access financing and skills development programs, technical mentoring and support for the development of business management skills (Deloitte, 2004; Jenkins et al., 2007; Nelson, 2007; Ruffing, 2006; UNCTAD, 2001). Linkage programs also focus heavily on institutional strengthening activities to encourage an enabling environment for SME development. One particular focus has been in assisting women to establish their own small businesses by providing them with access to legal, business and financial systems, thereby reducing the gender gap that prevents many women from participating in economic life (ODI, 2005; Wise and Shtylla, 2007).

A further opportunity exists in the evolving attitudes amongst some multi-national corporates towards local content, as evidenced in the shift in the way the business case is communicated. In many instances, the initial motivation for investing in local content was a need to comply with formalised commitments, either to a host government, an investment partner, or an Indigenous community, or pursuit of a social license to operate. Compliance was deemed necessary in order to secure access to resources. Over time, however, specifically in the case of local procurement, these companies had become increasingly motivated by the desire to establish and maintain enduring partnerships with local suppliers for mutual benefit. Resource companies are now engaging in a range of local procurement interventions that are designed to increase local business access to contract opportunities. These strategies include: assigning higher preference weightings to local businesses in competitive bidding processes; sole sourcing arrangements with local suppliers; price matching, that is allowing local suppliers to match the price of other suppliers; breaking large contracts into smaller ones (unbundling) to create opportunities for smaller local suppliers; requiring non-local suppliers to sub-contract locally or to enter joint ventures with local suppliers; providing technical and management training and mentoring; and linking local businesses to other service providers and agencies that promote technological innovation and provide access to finance (Esteves et al., 2010).

A major constraint lies in the misalignment of the OGM project development timelines, timelines set by local content regulations, and timelines required to build local capability. For example, typically, for local businesses to be able to participate in the Construction phase, supplier capability interventions need to start approximately three years before construction starts. One year is spent in identifying local businesses, undertaking into supplier capability gap assessments, and integrating into tenders of larger contractors. Two years are spent undertaking training and improvement to meet project requirements. The dominant practice of waiting for the Feasibility and Planning Phase to develop strategies for supplier and workforce development is too late. It is often at this stage that owners require the large EPC /M (Engineering, Procurement, Construction/Management) contractor to consider local content. EPC/M contractors tend to operate in a cost driven, highly competitive market and unless specifically incentivised to develop local capability, will make procurement and employment decisions based on cost, quality and timing considerations. For these reasons, local content opportunities and local community capability assessment should be identified during the studies conducted at Exploration, Conceptual and Pre-feasibility phases. At each of these phases, the challenge is to manage community expectations, and to identify which skills should be developed that can be applied to other sectors if the project is not approved.

The studies and management plans that permitting authorities require of OGM proponents present an opportunity. In addition to consideration of bio-physical/environmental, social and health impacts associated with the project, proponents and governments could be applying the same level of rigour to assessing local procurement and employment opportunities. Integrating local content management plans into permitting processes open up the prospect for meaningful analysis and stakeholder participation and negotiation in identifying the future needs for sustainable economic development at the subnational level.

There are a number of frameworks available to guide collaborative planning for subnational economic development. For example, Appendix B suggests some indicators of human and economic capital that represent factors contributing to the success of local economic development (Markey et al., 2005, p. 146). It is also important to consider other determinants of innovation at a local level, such as density/accessibility between firms; local-international linkages; and local and regional innovation policies and investment (Crescenzi and Rodríguez-Pose, 2012). The WBCSD (2012) has proposed a set of indicators that represent factors contributing to the success of local content in particular. These factors are described as drivers in the local economy that affect firm-level competitiveness. A distinction is made between drivers of competitiveness at the microeconomic or macroeconomic level. Microeconomic drivers include: human resources and management capabilities; technological capabilities; access to finance; access to procurement opportunities with large investing companies; and local infrastructure (such as transport, energy and communications); and clusters and support structures (such as industry commissions and trade associations) to generate additional synergies and opportunities for local firms. Macroeconomic drivers include capital markets; regulatory environment, and ease of compliance and certification with regulation; import and export regimes, investment incentives; national infrastructure; and workforce improvement, through educational and training policies.

The WBSCD (2012) report also argues that conducting such analysis in a multi-stakeholder deliberative space can be useful in informing which drivers of subnational competitiveness sit within the responsibility of government, and which are influenced through collaborations between OGMs, government, CSOs, and other partners.

2.4 A spatial perspective of local content

When designing a local content strategy, the initial step is to define the place of reference. The dominant approach is to focus on the national level. Another approach (sometimes referred to as 'local-local', 'localised', or 'community' content) is to equate this place with the smallest administrative unit, or combination of units, where the natural resource extraction projects take place, be it the village, the town or the municipality. While it is true that these small administrative units where resources are located are the ones directly concerned with the productive usage made from the unit's own resources, this is merely the starting point of the true spatial extent through which the OGM industry effects span. In particular, two spatial dimensions are important when placing the subnational context in a broader light.

The first spatial dimension is one of natural resource extraction activities. Although the actual extraction of resources is fixed in space, being entirely dependent on the actual location of the resource, a large part of the activities of the rest of the value chain are unattached and flexible. In fact, the actual extraction process, as a highly capital intensive process, may not actually make use of local resources other than land and water. OGM companies operate in highly integrated global value chains (GVCs), in which the local economies do not necessarily participate. This is partly explained by the existence of higher scale economies in the production of inputs in other locations, concentration of ownership along the chain, the level of risk and uncertainty and lack of specialised knowledge and capital in the local economy.

The second spatial dimension to consider is the distribution of economic activity within the country in question. Agglomerative forces at work make population and economic activity concentrated across space. New businesses are drawn to dense places because of the availability of inputs, services, specialised labour and costumers. For instance, for the case of Ghana, Bloch and Owusu (2011) report that the large majority of the firms making up the mining inputs cluster is concentrated in the Accra Metropolitan Area and in the adjoining metropolitan area of Tema, where they are in close proximity to the headquarters of the producing mining companies. This implies that even for activities taking place within the same country, there is a significant effect of distance. For instance, for suppliers that could benefit from linkages with OGM companies, the only way to operate may be by locating in an already dense location, implying that the suppliers have to incur transportation costs, which are often prohibitive for small producers in a country with poor infrastructure. Furthermore, it is important to note that because of the concentration of economic activity in selected places, the bulk of the creation of new businesses derived from OGM linkages may entirely bypass the local-local, or even the regional (sub-national) economy.

These considerations do not imply that some local economies are condemned to never develop their own industries. Rather, it points to the fact that designing the most beneficial interventions at the subnational level cannot be done independently of other regional and national efforts. Doing so runs the risk of replicating or even contradicting other policy undertakings, and may not achieve the necessary momentum that is required to create dynamic, sustainable industries. A narrow view of space can limit the options of community businesses to basic services, such as catering and cleaning, that need to be sourced locally and constitute a source of employment for locals, but are not in themselves a source of dynamic gains. Firms can exploit their unique advantage of being at close proximity to the OGM project site by being part of larger competitive undertakings happening at the regional and national levels, such as the creation of industrial parks, clusters and growth poles, or building technological capacities and shaping governance for the upgrading of local businesses in GVCs (Fessehaie, 2011).

With this perspective, the role of actors at the subnational level is to work actively in the design of such projects to ensure that they stay in tune with the aim of maximising the benefits of OGM activities for the local population. This role is explored in the following section.

3. The role of different actors in maximising the benefits from local content to resource-affected communities

3.1 Government

The role of the government needs to be considered at different levels as the role of central government versus sub-national government varies greatly in terms of local content policy development and practice. Their respective powers, law making capacity and role in establishing and monitoring agreements with resource companies can determine their contribution to local economic development outcomes. One common role, however, is creating a business-enabling environment through positive policy frameworks, building national and local capacity, strengthening institutions and investing in industry development, as well as constructive oversight of companies' local content plans.

Constraints within the public sector that can impact on local content development include weak or under-developed industry policy, overly bureaucratic business registration or licencing processes, uncertain tax regimes, poor infrastructure, ambiguous laws, local rent seeking activity, corruption and limited human resource capacity. Donors play an important role here in strengthening the public sector through institutional capacity building programs and public sector reform initiatives.

Box 1 lists some examples of broad drivers of government. The roles that national and sub-national government can play to assist in local content development are also provided. It is assumed that sub-national governments can play a more hands-on role because of proximity to the OGM activity and their need to represent local interests, but may have limited policy jurisdiction depending on the structure of government in the given country.

Box 1. Drivers of government

> Protection of the national interest
> Enact and enforce laws
> Represent constituencies
> Fulfil national and international obligations and commitments
> Be seen as open and transparent
> Ensure the economic and social prosperity of their peoples
> Maximise and optimise the benefits of their resource endowment (national and sub-national government)
> Protect localised social, environmental and economic interests (for sub-national government)
> In some cases oversee their own national resource company

Roles in local content development

National level

- > **Provide a stable macro-economic and political setting** – to support attraction of industry investment, whether national or foreign direct investment.
- > **Create a business-enabling environment** – practical measures include reducing the complexity for a business to start-up, lowering barriers to entry such as overly burdensome regulations, incentivising business growth and expansion, supporting the development of industry skills programs.
- > **Establish an industry development program** –aligned to the development of skills and industries sought by mining and O&G supply chains.
- > **Support infrastructure development** – which in turn supports the production and movement of goods and services around mine sites thereby helping local businesses participate.
- > **Link licences to local content** – wherever feasible ensure local content development plans are in place by companies as part of their license or concession. Ensure these plans flow through to obligations of major contractors and sub-contractors and are localised to support sub-national outcomes. Plans should include some form or targets, be measurable and be publically available. Associated is the need to establish clear legislation, regulations and rules around local content obligations or expectations of companies. Appendix C provides step by step guidance of how local content considerations can be integrated into the studies informing permitting processes.
- > **Link concession payments to local capability programs -** Governments can require a portion of OGM concession payments to be allocated to funds for capability programs at the subnational level. These early interventions can allow adequate time for the required capability to be built to take advantage of opportunities brought about by the project construction and operations phases.
- > Monitoring and enforcement of compliance to commitments in Minerals Development Agreements (MDAs)/Production-Sharing Agreements (PSAs) - The location and extent of the local content development activity (as well as other contributions to local social and economic development) can be dictated by government requirement through MDAs or PSAs. These instruments carry significant potential, as they define the rights, roles and responsibilities of all stakeholders. Ensuring commitments are implemented also requires independent, reputable agencies to audit Local Content Management Plans.
- > **Allocate royalty and tax arrangements to decentralized authorities -** Governments have the ability to encourage subnational content by allocating royalties and taxes to decentralised authorities and enabling these authorities to allocate funds based on development needs. They can also impose lower royalties and taxes on OGMs if by doing so, OGMs are incentivised to increase levels of local content in a way that demonstrably contributes to sustainable development of the subnational economy and thus reduces the obligations on government to provide welfare support services. This type of negotiation requires a shared understanding of the benefits, costs, risks and responsibilities related to subnational content development.
- > **Establishment of socio-economic development funds -** Economic linkages and strengthening of capability can be facilitated by establishing funds or trusts to return a portion of royalty income to communities, or enter into co-financing arrangements with OGM contributions to community development.
- > **Local and regional development plans -** Where national governments are the permitting authority, they can exert influence over subnational local content programming decisions by requiring that the local content management plan is integrated with subnational development plans. This calls for information sharing and cooperation between sectors and different levels of government.
- > **Direct donor activity -** to align with significant resource sector investment –i.e. funding of roads around resource-rich areas, funding of technical vocational and educational training programs, finance programs for SMEs, support for CSOs.
- > **Ministry or department of trade and industry** – could establish a supplier certification process and database which companies could draw on when seeking to identify SMEs for local content opportunities.

Sub national level

> **Establish a small business support agency** –to offer structured support for SMEs in areas such as business registration processes, advice for starting a new business, linkages to other SMEs etc. It could also offer training on basic elements of running a business. Such an agency could promote opportunities stemming from local mining investment.
> **Set local content targets** – where legally able, establish local targets in conjunction with companies in the area. If not enshrined in law, a cooperative agreement that is publically declared can act as a powerful tool in ensuring companies maximise local content outcomes.
> **Technical vocational education and training** - should be a key aspect of education policy at the sub-national level. While initial funding may come from the national government, innovative financing agreements may be struck with companies if spending is linked to the development of a labour market they can draw from.
> **Simplify business processes** – where performed at the sub-national level, establish fast-tracked registration services for SMEs. Likewise, establish concessions on expensive business establishment processes.
> **Supporting CSOs** – this might take the form of provision of facilities, training or access to information linked to building the capacity of local businesses.

Broader issues to consider

> Government needs to optimise the returns realisable from resource investment, whether from domestic or foreign direct investment sources. In doing so, trade-offs are sometimes made in agreements with project proponents regarding taxes, royalties and their commitment to local content targets.
> It is important that the company is not assumed to be the solution or financier of a function or responsibility typically performed by a government. This is often seen in areas such as the provision of infrastructure, health, education and other services linked to enabling local content outcomes.
> There may be times when sub-national or community-level laws or regulations conflict with those set by a national government thus creating a level of uncertainty for a company. This in turn may impact on willingness to invest or commit to local content outcomes.

3.2 OGM companies

For the purpose of this paper, it is assumed that companies are public or private entities, not government-owned or controlled entities. While the roles proposed could still apply to government-owned or controlled entities, the level of direct control and influence differs and may affect local content outcomes. Beyond the explicit licencing agreement associated with a given mining concession, the company needs to establish and maintain a social licence to operate within the communities around the project site and beyond. Ensuring social and economic benefits flow to the local community is one important avenue for a company to pursue. Optimising local content opportunities within its supply chain is practical and can potentially be commercially attractive for the company.

Practical challenges however exist in achieving this goal. In a developing country context, the most common challenge is the lack of underlying industrial capacity in the given geography. Building local supply capacity is in the interest of all but needs to be a medium to long-term objective. Short-term goals need to be developed to ensure early and successful engagement with the local supplier community. Appendix D contains examples of OGM-led subnational local content interventions in practice.

The company has other important obligations in the operation of its mine that include meeting set standards in health, safety, social and environmental management. They must meet regulatory obligations to the government and contractual obligations in off-take agreements, and maximise financial returns for shareholders.

Box 2. Drivers of OGM companies

> Maximise return to shareholders
> Operate effectively and efficiently while ensuring the maintenance of strong health, safety, social and environmental management standards
> Be seen as good corporate citizens including through transparency of actions
> Meet regulatory and contractual commitments

Roles in local content development

> **Provide demand for goods, services and labour** – while the employment and expenditure associated with an OGM project is substantial, it can't be assumed that it can be localised. A structured and clear strategy is required to ensure the local workforce and business community can participate in the opportunities either directly or indirectly. The strategy should include a local content component and establish clear metrics and a reporting framework. In doing so, it may require the company or its major contractors to deviate from their usual procurement practices by creating smaller supply packages, provide set-asides, offer local preferencing, forward financing or rapid payment terms. Simplifying procurement processes and forms of contract are measures that can also support access to opportunities.
> **Communicating opportunities** – the company needs to communicate opportunities in ways that will reach potential employees and suppliers. Outreach programs might include traditional media, social media, text messaging, community meetings and other channels seen by local communities to be effective. Drawing on the resources and reach of CSOs is another mechanism available. Procurement notices and information about business opportunities need to be aligned to local cultural, language and medium-relevant practices.
> **Access to finance – cash, credit and equity** –the company can adjust its terms of trade meaning that the company pays suppliers early thus assisting with the supplier's cash flow. Other adjustments related to the severity of liquidated damages, length of warranties, adverse use of credit checks and forward financing can all assist an SME's viability. A company could also invest in specific SMEs giving the company and the SME some confidence in the ability to meet supply commitments.
> **Industry cooperation** – companies operating in the same vicinity can aggregate demand for goods and services known to be locally available in order to maximise the value of local content supplied. This may require the unbundling of contracts to ensure such goods are not part of imported supply chains. Companies could also cooperate to jointly fund skills and supplier development programs.
> **Skills and SME mapping** – undertake or fund a diagnostic of local workforce and business capacity. This could include identifying gaps between demand and supply capability and wherever viable putting in place programs to help build missing capacity or address structural flaws in the local market.
> **Support CSOs** –local CSOs can be a bridge between the company and the business community. This may require helping build the capacity of the CSO, which could then play a role in monitoring and reporting local spending. Where commercially appropriate, CSOs could be allowed access to business plans, local content strategies and other information supporting the transparency of business dealings.
> **Workforce and supplier development programs** – assist in building local capability that aligns to supply gaps identified in the mapping diagnostic. The company could fund this or be a significant contributor.
> **Appoint someone to be accountable** – declaring a public face to the company's local content strategy is an important demonstration of its commitment to maximise local content outcomes. It also provides a logical contact person for the community, businesses, CSOs and government to engage with on local content issues. This person would also report on outcomes against the agreed local content plan.

Broader issues to consider

> The company needs clarity and a degree of certainty to ensure it can operate in a viable manner and requires the government to set clear rules and expectations. In the context of local content legislation or regulation it is important for the company to sign on to these and believe they can be achieved. Targets that are unachievable may drive perverse behaviour and encourage the manipulation of data reported about local spending.
> The company cannot be seen as the de-facto government funding all social goods and services. Managing community and local businesses expectations is an ongoing challenge.
> Companies will not typically engage directly with donors aside from initiatives such as business linkages programs. Donor relationships are the purview of governments and to some extent CSOs.

3.3 Civil Society Organisations (CSOs)

CSOs are defined in this context as organised, independent (preferably politically non-aligned) groups who have an externally focused role in communicating with the community, public or private sector. This includes NGOs (international or national), industry bodies (business chambers) and the media. Many of the roles played by CSOs will require supplementary funding support, as typically their own operational budgets are meagre. Companies can engage and remunerate such groups to perform certain functions on their behalf, as can government or their agencies.

Box 3. Drivers of CSOs

> To represent a special interest or cause including local economic development
> To be seen as independent and not a quasi-extension of a government or company
> To ensure minority groups and stakeholders are heard
> International NGOs have a global brand to protect

Roles in local content development

- **Advocacy** – promoting the interests of the local business community. Raising awareness within the company of local supply capability and also gaps in capability the company may be able to assist in strengthening. Lobbying government (national or sub-national) for better resource allocation to support the growth of local businesses and, more broadly, human resource development. At times, CSOs can play an intermediary role between the government and the company on very localised disputes or conflicts. In instances of non-compliance with legislated local content commitments, anti-corruption laws or human rights violations (e.g. through the activities of local security forces), CSO advocates can use the media to leverage public opinion, and influence government agencies and OGM home countries responsible for enforcing the companies' obligations to conduct independent investigations and sanction as appropriate.
- **Organising or aggregating local businesses** – into more formal groups; creating economies of scale to enable participation in supply chain opportunities that individually the local businesses could not. Likewise, CSOs can play a co-ordinating role between companies operating in a similar geography in order to combine supply opportunities for commonly sought goods or services.
- **Partnerships for implementation** – CSOs can be implementing partners of social or industry-focused programs funded by companies. Such programs could include business skills training, proposal writing, financing and product or services pricing. Literacy and other skills development programs could also be supported in this way.
- **Business hubs** – CSOs, including local business chambers, could provide training venues, access to ICT services, printing and other services to support SMEs.
- **Independent monitoring and reporting** – within the boundaries of commercial confidentiality, CSOs, including media organisations, can monitor and report local spending by companies as measured against publicly declared local content targets.
- **Access to finance** - micro-finance institutions can play a critical role in enabling SME participation in a supply chain, primarily through the provision of working capital loans, business insurance services and saving schemes. Some institutions could offer training in financial management and other capacity development programs. CSOs can fill the gap in the financing chain as many SMEs cannot secure funds from the conventional banking sector.
- **Advisory services to companies** – this can be an important service to a company so it can gain a better understanding of local social, cultural or language issues which might influence the company's engagement with the local community. This knowledge plays out in a very practical way in how companies communicate opportunities to local businesses and engage with them.

Broader issues to consider

- In engaging CSOs, companies and government need to balance their expectations of what they seek from them with their structural and practical constraints. They often have limited human resource capacity and lack an understanding of the mining and O&G sector. Many also have practical constraints such as limited facilities, whether office space, IT or communications equipment, and mobility due to lack of transport. Funding of programs is often an issue for CSOs and at times their preferred independent status can be challenged if they are seen to be funded by one party.

3.4 Donors

In this paper, donors comprise traditional bi-lateral donors such as DFID, the EU, USAID, AusAID and others; international financial institutions (IFIs) such as the World Bank Group (including the IFC); the African Development Bank (AdDB), the European Bank for Reconstruction and Development (EBRD); and the United Nations and its specialised agencies such as UNDP, UNCTAD and others.

Given the diversity of the donor landscape, the nature and level of contribution varies significantly. Individual agencies can play very active roles if supporting local economic development is part of their agenda in a given country. Other agencies might support broader social and infrastructure development that contributes indirectly to local economic development.

Box 4. Drivers of Donors

> Their national interests whether trade, security or politically focused
> Managing domestic economic constraints that influence aid budgets
> Their own national aid agenda and sector priorities
> Poverty alleviation, although executed through widely different approaches
> Sector orientations, e.g. DFID and EU support more private sector growth programs compared with e.g. AusAID

Roles in local content development

- **Align programs to support industry development** – this might include clearly linked activities from institutional strengthening of trade ministries to reforming business regulations, through to localised supporting business linkages programs. Other initiatives could include building human resource capacity, health programs, infrastructure development and other programs that contribute to improving economic activity but are less directly linked.
- **Support CSOs** – through capacity development programs and in the provision of operational funding in some circumstances.
- **Technical assistance** – at times donors may provide individual experts or fund small consultancies that are directed to support localised industry development. Other forms of technical assistance are linked to a broader aid program or a loan from a development bank such as the World Bank. In addition, donors, as a collective, are a repository of technical expertise and research materials that can assist government and industry.

Broader issues to consider

- Donor-led activities are designed to align with the recipient country national development agenda. Timeframes for development of these programs are typically multi-year and likewise in their implementation. Individual program/project designs are often rigid therefore can be less adaptive to an emerging need and, once in progress, it is difficult to insert new activities. As such, companies cannot rely on receiving supplementary support for their own programs from donors and indeed some donors have a policy of not supporting commercial activities ie local content development of private sector organisations.
- Donors almost exclusively engage with government, more often at the national level. Institutions like the IFC and the EBRD are an exception and have an almost exclusive private sector focus.

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4. Options for Revenue Watch Institute

Revenue Watch Institute's entry into the local content arena requires careful consideration of the role the organisation will play, clarity of objectives, and knowledge of strengths to be leveraged for effectiveness. Some suggestions are offered below, selected for their alignment with RWIs current focus. Some of these suggestions have emerged from interviews conducted with RWI partners in Ghana.

Other potential roles for RWI in the local content space could be linked to the roles identifies in Section 3. In particular, RWI potentially fills a role in support of CSOs as they build their capacity to engage with the emerging resource sector and address community interests associated with the sector.

Policy objective	Potential RWI activities	Examples of similar RWI activities[2]
Active and informed citizen participation in local content planning, implementation and monitoring	> Facilitate multi-stakeholder deliberation in setting shared local content priorities, through provision of funding, capacity building and technical assistance to partners and district governments. > Inform citizens of potential impacts (positive and negative) of local content development > Assist communities in disaggregating OMG procurement demands (goods, services and labour) to better understand where local content opportunities can be developed.	> **Blora and Bojonegoro districts (Indonesia):** Through cooperation with the Open Society Foundations Local Government and Public Service Reform Initiative, worked with local partners to form multi-stakeholder groups to oversee regional development planning. Local government ownership was secured through a Memorandum of Understanding, signed in June 2008. Shortly after, both district governments issued decrees, legitimising the projects and each partner organised a seminar and three district-level workshops. > **Arequipa (Peru):** more than 600 citizens participated in drafting the regional development plan.
Transparency and accountability in local content	> Working with government, civil society and companies to develop transparency mechanisms, such as a public database of upcoming OGM contracts, and successful bidders.[3]	> **Indonesia**: RWI's engagement with civil society, government and the private sector led to local transparency laws governing public accountability of oil and gas revenues. > **Nigeria**: the RWI-funded Bayelsa Expenditure and Income Transparency Initiative (BEITI) developed a multistakeholder platform to track state revenues, transfers and expenditures. BEITI membership includes companies committed to disclosing payments they make to the state government.

[2] Source: http://www.revenuewatch.org/index.php
[3]Refer to the ePilbara example in Appendix A.

Policy objective	Potential RWI activities	Examples of similar RWI activities[2]
Aligning OGM activities with local economic development planning and industrial policy	> Working with governments to facilitate companies as sources of information for estimating demand for local inputs, as well as for forecasting social, environmental and economic challenges; and to involve companies in planning processes to align corporate social responsibility investments with public plans for local capacity building and industry development. > Working with government to develop a tool to forecast employment, and goods and services demanded by OGMs in the region, potential economic benefits from sourcing these locally and investment required to meet capability gaps,, and to design budgets accordingly. > Work with CSOs to support or fund socio-economic baseline studies in emerging resource areas to guide or underpin the development of local content positions papers/public policy. > Work with CSOs and industry to analyse the gaps in current industry policy to identify areas that can lead to greater support for LC outcomes amongst local industry.	> RWI works with partners to help them understand revenue flows between companies, central governments, subnational governments and other institutions such as traditional councils. > Arequipa and Piura (**Peru):** assistance from RWI helped the regional governments develop a tool to forecast oil, gas and mineral revenue transfers and formulate their annual budgets based on these estimates.
Local revenue management for capability development	> Working with subnational governments to manage revenues from OGM activities, for investment in skills, enterprise development and other enabling conditions for local content	> RWI is researching possible tools for local revenue management, as few subnational governments have legal authority to establish stabilization or savings funds. > **Ghana:**RWI is working with the African Center for Economic Transformation (ACET) and the Norwegian government's Oil for Development Program (OfD) on the development of an Extractive Resources Facility to be based in ACET's offices in Accra, Ghana. The facility will provide technical assistance to African governments in the development of extractive industry legal and fiscal systems, the negotiation and monitoring of contracts, and the development of effective regimes for environmental management of extractive projects.
National regulations for improved state and local government action	> Working with partners to improve the national local content policy environments to increase effectiveness at state and local government levels.	> **Peru:** RWI supports efforts to change policies restricting the use of revenues by subnational governments.

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Policy objective	Potential RWI activities	Examples of similar RWI activities[2]
Increase participation of Indigenous Peoples and other vulnerable peoples in OGM projects	> Working with indigenous communities on including indigenous content aims in Impact & Benefits (also called Participation) Agreements. > Working with CSOs representing women and vulnerable groups on their participation in local content	> **United States:** Research project on management of oil, gas and minerals in native communities. Early work in the **Philippines and Indonesia.** > **Ghana**: RWI's work led to traditional chiefs agreeing to publish the audit of their accounts.

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Appendix A. Mapping of local content policies & regulation

Regulations specifying minimum Local Content targets

Regulatory mechanisms are designed with the aim of increasing the procurement and hiring opportunities available to local enterprises and workers. Currently, 31 countries that are WTO members that are also considered Least Developed Countries (LDCs) can introduce measures that deviate from the NTO clause for a defined period of time on the grounds of their "individual development, financial or trade needs, or their administrative and institutional capabilities" [4]. Out of this group of 31 countries, only Angola has introduced explicit local content requirements (see Table 1 below).

In countries with a small or weak industrial base and a limited skilled workforce these limitations have a material and direct impact on what is possible or realistic in terms of a country's short term local content objectives, whether it be legislated or not. In a LDCs context, it is often the case that the majority of the inputs and services required by the OGM's global supply chains are sourced abroad, through imports or expatriate labour. In this case, local content provisions that attempt to stimulate local economies are often constrained by a lack of regulatory options that can be reasonably applied.

There are two main reasons why most LDCs countries have not enacted local content regulations: the very prominent mismatch between international companies' requirements and local supplier's capabilities on the one hand, and the limited capacity that LDCs have in introducing, implementing and regulating legislation, on the other. Additionally, international investors face significant additional challenges in LDCs in terms of their operational risks, stemming from constraints in public infrastructure, security and often an underlying low level of local supply capacity. This risk combined with unrealistic or unworkable local content regulations can be a major deterrent to investment.

Currently, the group of countries that have translated local content requirements into their national legislations remains limited. Existing local content legislations vary in the precision with which they define what is understood by 'local', the specificity with which they define the obligations of OGM companies, and the number and power of regulatory tools available to the state . Some other non-LDC WTO member countries have deviated from the NTO clause by translating local content policies into legislations and regulations (e.g. Indonesia and Nigeria)[5], while others (e.g. Kazahkastan) are not WTO members.

While regulations with precisely defined scope and goals can be, in theory, more powerful in terms of enforcement, they may also prove to be too rigid in the face of changing competitive circumstances. Legislations that are not in accordance with local realities can be counterproductive, as they may lead to economic inefficiency and increased corruption.

[4] Under the modification of the agreement of TRIMs by Annexure F on Special and Differential treatment of the Doha Work Programme Ministerial Document (2005).

[5] As a consequence, these countries may be challenged by other members before the WTO Dispute Settlement Panels.

Table 1: Local content legislations

Country	Legislation	Description of relevant articles	Source
Angola	The Ministry of Petroleum (MinPet's) Order No. 127/03 of Nov. 25, 2003.	Angolian companies should be awarded the relevant contract "whenever their bid is not higher than 10% above the bids submitted by foreign companies." Services and goods reserved for local contractors: The provision of services and supply of goods that do not require substantial investment or expertise (e.g., catering, gardening, cleaning, transportation or water supply) is reserved to Angolan companies: that is, companies in which 51% of the share capital is held by Angolan nationals. Angolan contractors may subcontract foreign companies to perform the contract. Preferential treatment: Angolan companies benefit from preferential treatment in competitive tenders for services and goods. The order provides that they should be awarded the relevant contract whenever their bid is no more than 10% higher than the bids submitted by foreign competitors.	Original Legislation/Menas Local Content Online
	Decree 20/82 Mandatory Hiring and Training Of Angolans by Foreign Companies Operating in the Angolan Oil Industry Official Gazette (Diário Da República) I Series No. 90	The Decree stipulates the requirement to submit a plan of recruitment and training of Angolan personnel which shall comprise "all the work positions including those of administration and management and shall include programs for technical specialization and professional training or improvement in the national territory or abroad for the personnel employed or to be employed by the companies or foreign entities." The final decision on the training programs and periods of training to be adopted is responsibility of The Minister of Petroleum, while foreign companies have the responsibility of their execution. Additionally, companies are required to submit every quarter "a detailed report on the accomplishment of the plans for recruitment training and assistance for training (formação e estágios) of the Angolan workers pointing out the difficulties met at its accomplishment and suggesting solutions for those difficulties". The Decree specifies that the recruitment and training (formação e superacção) of the Angolan workers "shall be planned in order to get the established goals of percentage of the whole number of workers hired by companies or foreign entities". For these companies "have the obligation to consecrate every year an amount in convertible currency for Angolan personnel training which will constitute a revenue of the General Budget of the State and will have as a counterpart at the budget of expenses an amount registered under appropriate item". The Decree also specifies the consequences of non-compliance with these regulations: the non full accomplishment of the plan of recruitment and training of Angolan workers by the companies or foreign entities can cause the cancellation of the contract, or alternatively, the Ministry of Petroleum can establish a pecuniary penalty which can reach an amount equal to the double of the sums which would have been spent if the duty had been accomplished.	
Indonesia	New mining law in December 2008, replacing a "Contract of Work" system with a system of licensing. Law n. 4/2009	Under Articles 95 –112 and 128 -133, companies are obliged to carry out the processing and refining of mining products in Indonesia, and the extent of the required local processing and refining are to be specified in the Implementing Regulations. Additionally, comanies must give priority to the utilization of local employees and domestic goods and services in accordance with the prevailing laws and regulations. In order to conduct operational production activities, companies must also allow participation by local entrepreneurs in accordance with the prevailing laws and regulations. reagrding Ownership, the Law establishes that after 5 years of production, "companies must divest part of its foreign shareholding (if any) to the Government, Regional Government, State Owned Business Entity (Badan Usaha Milik Negara or "BUMN"), Regional Owned Business Entity (Badan Usaha Milik Daerah or "BUMD") or (iii) Private	Original Legislation, Chirstian Teo & Associates (2009)

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Country	Legislation	Description of relevant articles	Source
Kazakhstan	New Law on Subsoil and Subsoil Use (the "Subsoil Law") 2010	Under this new law, if a subsoil user wants to buy certain equipment, or hire a subcontractor for drilling, processing or other subsoil-related activities, he is obliged to follow the Procurement Rules approved by the state. These rules include long-term procurement plans from major operators and specific local content requirements defined in terms of percentages of "Kazakh content". Kazakhstan has established a target of 50% local procurement from Kazakh suppliers by 2012. "Kazakh content" refers to use and development of local production and labour force, as well as technology transfer. Such development is ensured through creation of legal mechanisms obliging subsoil users to use local goods, works and services in their operations, as well as to increase proportion of local employees among their staff and their contractors' staff. Under Article 70.6 (Purchase of Goods, Works and Services for Oil Operations) of the Subsoil Law, "a subsoil user's expenditures for purchasing GWS made in violation of the Procurement Rules or on the basis of the tender held outside Kazakhstan shall be excluded by the competent authority for the costs, accounted as performance by the subsoil user of its contractual obligations". This exclusion causes the failure to perform contractual obligations of the subsoil user which automatically entails the risk of early termination of the subsoil use contract by the Competent Authority. Subsoil users under the obligation of meeting a certain percentage of Kazakh content can procure goods with CT-KZ Certificate. A CT-KZ Certificate is issued by the Technical Regulation and Metrology Committee to Kazakh manufacturers of goods for a period of one year. This certificate also gives the right for the conditional 20 per cent discount to suppliers when participating in a tender. production and labor force, as well as technology transfer. The draft subsoil law would also require that U.S. companies enter into a joint venture with KazMunayGas, the national oil company, which would own a minimum 51 percent share in all new exploration and production contracts.	Original Legisation/World Bank (2012)/Grata Law Firm (2012)
Nigeria	Nigerian Oil and Gas Industry Content Development Bill, 2003	The Nigerian Oil and Gas Industry Content Development Act 2010 contains provisions to enhance local participation in all aspects of oil operations. These include specifying minimum amounts of local materials and personnel used by oil and gas operators in the country. For example, the law stipulates that 65% of divers in energy projects must be Nigerian, and 60% of steel ropes must be made locally. Additionally, the Nigerian Content Division (government division empowered to work with industry stakeholders to develop local strategies and	Original Legisation/Menas Local Content Online
Russia	2011 Amedments to the Strategic Sectors Law (SSL) of 2008 and PSAs	The SSL introduces a list of 42 strategic sectors in which purchases of controlling interests by foreign investors must be preapproved by the Russian government. Local content provisions do exist in Russian law, but the terminology is so vague that actual local content clauses are negotiated in each contract. Existing PSAs, local content requirements are, if anything, becoming more stringent. International operators are expected to employ a diverse range of strategies to ensure their projects bring stable and sustainable growth to Russian communities. This includes "unbundling" of contracts and price preferencing for local contractors but focuses most strongly on micro-changes to procurement policy – ensuring indigenous firms are as informed and capable of bidding and competing for contracts as the international suppliers.	US Trade Representative/Menas Local Content Online

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Country	Legislation	Description of relevant articles	Source
South Africa	Mining charter. Competitive Supplier Development Programme. In February 2007, the DTI published Codes of Good Practice in the Government Gazette that included a new generic scorecard to measure a company's level of BEE in areas such as equity ownership, management, employment, procurement from black-owned companies, and development of black-owned enterprises	The Codes permit multinational corporations to earn BEE equity ownership "points" for empowerment actions in non-equity areas, provided the DTI approves and provided the multinational has a global corporate policy of owning 100 percent of the equity in its subsidiaries. South Africa's local content policy is driven by pragmatic economic concerns more than real resource nationalism, as in many states. Supplier Development Plans, for instance, are to "reflect a balance between developing local industry and obtaining maximum value". The CSDP has four elements: 1. A strategic local supplier development plan, 2. A procurement policy, 3. Integrating the process into the DPE and SOE management systems, 4. Institutional support in the form of a competitive supplier development program run through the DPE. Supplier Development Plans are intended to locate opportunities which can improve the capacity and of local suppliers. At all stages of the process, consultation with suppliers and the identification of key performance benchmarks is required. Skills development and local procurement are two of the main areas of focus. Some of the plans are relatively modest, reflecting the government's awareness that local companies are not yet capable of ensuring adequate supplies. The targets include local procurement expenditure of 40%, local consumable goods of 50%, local services of 70%, and where a supplier is a multinational, the multinational is required to contribute 0.5% of the amount paid by the local company to a social contribution fund.	Original Legislation; US Trade Representative
Ecuatorial Guinea	Articles 88 – 93 of the country's Hydrocarbons Law	National personnel are to be integrated into "all levels" of contractors' organisations, and the contractors are required to carry out any projects of "public benefit" designated by the government. The Law stipulates that "during the term of this contract, the parties comprising the Contractor (other than the National Company) shall spend a minimum (insert amount) Dollars per calendar year, to provide a mutually agreed number of ministry and National Company personnel with on-the-job training in the Contractor's operations in Equatorial Guinea and overseas and/or practical training at institutions abroad, particularly in the areas of natural earth sciences, engineering, technology, accounting, economics and other related fields of oil and gas exploration and exploitation. Additionally, during the term of this contract, the parties comprising the Contractor (other than the National Company) shall transfer to the Ministry a minimum of (insert amount) Dollars per calendar year which the Ministry shall use at its sole discretion to educate and train Equatoguinean personnel selected by the Ministry at universities, colleges or other training institutions selected by the ministry and for other general training and educational purposes". These costs are recoverable as a Petroleum Operations Cost.	Original Legislation; Menas Local Content Online
Zimbabwe	Amedments to the Mines and Minerals Act	According to the authorities, under the Indigenisation and Empowerment Act for the mining sector mining companies are expected to submit indigenisation and empowerment plans to the Ministry of Indigenisation; the plans must spell out how they plan to meet the Act's requirements for 51% shareholding in indigenous hands within five years. The Indigenization and Economic Empowerment Bill will give Zimbabweans the right to take over and control many foreign-owned companies in Zimbabwe. Specifically, over 50% of all businesses in the country will be transferred into local black African hands. The bill defines an indigenous Zimbabwean as "any person who before the 18 April 1980 was disadvantaged by unfair discrimination on the grounds of his or her race, and any descendant of such person" (The Economist, "Blackening the Economy", 13 September 2007. Viewed at: http://www.economist.com/world/africa/displaystory.cfm?story_id=9804332.	WTO; The Economist 13 Septemeber 2007

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At the subnational level, there are a few recent examples of legislations specifying explicit local content requirements on sourcing local goods and services and/or setting a percentage of local participation or training of workers in OGM-affected communities. One of such examples is the Regulation of Regents Number 48/2011 on local content on the oil and gas industry of the district of Bojonegoro, Indonesia. In particular, Article 7, Chapter III establishes the ways in which operators will facilitate the involvement and/or empowering local content, including the mandates to supporting partnerships between public local enterprises and local entrepreneurs by *providing a space* for " local enterprises /local entrepreneurs to partner with large firms with the appropriate competencies to strengthen capital/ competence/ capability transfer", and also by providing a space for "a more advance local enterprises /local entrepreneurs to be able to partnership with local entrepreneurs who hosted the project activities". This legislation, however, does not specify what is understood by "providing a space", what the reach of such clause is, or how the objective will be measured and/or monitored.

In the case of labour, the legislation mandates the centralization of the recruitment process in Bojonegoro region, the possibility for locals for access opportunities for apprenticeship training, the mandate to carry out the recruitment process by "giving a rational proportion for local labor through a competitive selection system", and mandates the contractors to "provide a database on the availability of local labor in accordance with the needed qualification". The legislation does not set specific targets for number of locals to be trained and/or hired, the time-frame of the objective and the potential sanctions to operators in case of non-compliance. Only in the category of unskilled work does the legislation mention an explicit target of 100% of local labor, from which districts and villages in the project area should be prioritized. Furthermore, in Chapter 4, the mandate to provide information about potential opportunities for the local community in a transparent manner is included but the ways in which this objective is to be carried out are not mentioned explicitly. Further, the legislation makes the requirement to "offer each package of work to be performed by local contractor" conditional on the local availability of the adequate suppliers by stating that this is to be done "if the work could be carried out by local entities".

There is more ample evidence on tightening up of approval and regulatory processes to require proponents to produce local content plans that include the participation of enterprises and workforce in the subnational resource-affected area and that are aligned with the regional economic development plan. Some examples are summarised in Table 2.

Table 2: Examples of sharpening of approval and regulatory processes

Country	Policy/regulation	Specific requirement
South Africa	Mineral and Petroleum Resources Development Regulation, Ch, 2, Part 2 : Social and Labour Plan	The contents of a social and labour plan must include, among others, the employment equity statistics and the mine's plan to achieve the 10% women participation in mining and 40% historically disadvantaged South Africans (HDSA) participation in management within 5 years from the granting of the right or the conversion of the old order right. A local economic development programme which must include, among others, the procurement progression plan and its implementation for HDSA companies in terms of capital goods, services and consumables and the breakdown of the procurement
Indonesia	Article 74 of the Law on Limited Liability Companies (2007)	Companies doing business in the field of and/or in relation to natural resources must put into practice Environmental and Social Responsibility (ESR), and that ESR "constitutes an obligation of the Company which shall be budgeted for and calculated as a cost of the Company performance of which shall be with due attention to decency and fairness." Furthermore, Article 66, stipulates that annual reports must contain at least: a report on the implementation of Environmental and Social Responsibility (ESR).
Philippines	Amendments to Sections 134-136 of DENR Administrative Order No. 96-40, the Revised Implementing Rules and Regulations of Republic Act No. 7942, otherwise known as the "Philippine Mining Act of 1995"	A Social Development Management Plan or SDMP is a comprehensive five-year plan required to be prepared by all mining operators in the Philippines under the national law. The SDMP begins with the commencement of mining production and would be in place for the life of mining operation. The SDMP describes the programs, projects and activities that would be undertaken by the mining operator to promote the general welfare of the inhabitants of the barangays where the mining area is located as well as neighboring barangays. The Law stipulates that foreign companies shall, at their own expense, "give preference to qualified Filipino citizens in the hiring of personnel for its mining operation, the majority of which shall originate according to priority from the host and neighboring" and that companies shall "give its firm commitment to skills re-formation and entrepreneurship development for people in the mining communities as an integral part of the mine decommissioning process." Activities recognized under Philippine law, and which form part of an SDMP, include, among others: • Human resource development and institutional building programs in the local community

		• Enterprise development activities which support income generation • Assistance for infrastructure development and support services in the community
State of Queensland Australia	Sustainable Resource Communities Policy: Guideline to preparing a social impact management plan	"After assessing the project's social impacts, the project proponent is required to prepare a social impact management plan. Among the social impacts, other issues the plan addresses are: stakeholder engagement, workforce (training and employment), worker accommodation and housing, local industry participation, health and community services. The plan should be developed in consultation with government and community stakeholders."

Regulations to give preference to locals but no targets specified

Alternatively, some countries bound by the NTO clause have adopted a significant number of local content policies within the parameters established by international trade and investment agreements. These policies aim at directly increasing the participation of local workers and suppliers without establishing legally binding national local content legislations and regulations. Enforcement in these cases relies in mechanisms with different degrees of power, that range from specific commitments in Production Sharing Agreements to general agreements on the need to support local content that do not impose any sort of restrictions on OGM companies.

The need for such policies arises when: OGM companies have limited knowledge of local capabilities; when local agents have limited access to procurement and employment opportunities in OGM companies; and/or when the government is uncertain of the benefits of stronger policy actions, including legislation. Unlike other types of interventions, initiative for this type of policies can come not only from national, regional or local governments, but also from OGM companies, local and regional organisations, or NGOs and other types of civil society organizations at the community level.

Examples of these types of policy include: ensuring "full, fair and reasonable" access to opportunities to local suppliers[6] (initiated by national or subnational governments); compiling a list of 'capable' local suppliers[7] (local government agencies); identifying and informing about business opportunities for local companies at the project phase[8] (OGM companies); and, harmonizing supplier requirements and encouraging the implementing of certification systems for local suppliers[9] (local government agencies and/or OGM companies). A particularly relevant policy for local Small and Medium Enterprises (SMEs) is the requirement for 'unbundling' contracts.[10] Unbundling contracts involves breaking packages of work or supply agreements into smaller parcels that are within the capabilities of targeted businesses to fulfill (Engineers Against Poverty, 2011).

The advantages of these type of policies is that they can be readily implemented because they do not depend on enacting regulatory tools, and that they can be flexible to the needs of the local economy and the OGM companies. Their main disadvantages are that their effectiveness depends on the existence of a pool of competitive potential local suppliers, and that compliance cannot be legally enforced.

At the subnational level, the imposition of monitoring and reporting requirements on companies serves to increase visibility and access of opportunities for resource-affected communities to participate in OGM activities. The provisions of the Mineral and Petroleum Resources Development Regulation (Chapter 2, Part 2) of South Africa provide an example (See Box 5).

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[6] Australian Industry Participation National Framework.
[7] See for instance the supplier registry system developed by the Industrial Association of Angofasta and mining companies in Chile, or the supplier databases developed by the NGO SBP in South Africa, Tanzania and Malawi.
[8] ExxonMobil Local Content Plan in Papa New Guinea.
[9] Atacama mining cluster, Chile.
[10] In Canada these are established under Participation Agreements (PAs) between local affected Aboriginal communities and mining companies.

Box 5: Mineral and Petroleum Resources Development Regulation, South Africa

Chapter 2, Part 2
The requirement of a human resources development plan not only has to identify, but also report on the number and education levels of the employees and the number of vacancies that the mining operation has been unable to fill for a period longer than 12 months despite concerted effort to recruit suitable candidates. Additionally, companies must submit a report on the implementation of a career progression plan, a mentorship plan and an internship and bursary plan in line with the skills development plan and the needs for the empowerment groups.

Mandated community engagement processes in resource regions (such as in Papua New Guinea, Queensland Australia, Peru, Indonesia, Philippines and Bolivia) also serve to provide information on opportunities. Mandated requirements to include benefit sharing or other community development focused initiatives have also been included in some country's mining regulations. However, as a legislative requirement this is still comparatively rare. Countries with strong policy and regulatory approaches include Chile, Papua New Guinea (PNG), and South Africa. In addition, Egypt, Eritrea, Guinea, Mozambique, Nigeria, Sierra Leone, and Yemen have recently introduced community development regulations. It is understood that Ghana, Tanzania, the Democratic Republic of Congo (DRC) and Namibia are increasingly seeking to entrench community development initiatives within their policy framework (World Bank, 2010). The examples of Peru and Papua New Guinea are provided in Table 3.

Table 3: Community development regulations in Peru and Papua New Guinea

Country	Policy/regulation	Specific requirement
Peru	Decreto Supremo Nº 071-2006-EM, establishing the 'Mining Programme of Solidarity with the People' between the Peruvian State and mining companies	The decree establishes a 'voluntary, extraordinary and temporary' economic contribution of 2 per cent of the mining companies' net annual profit since 2007 and up to a maximum of four years. This contribution is intended for development projects related to education, health, nutrition, productive chain development and infrastructure in the area of operation of the mining companies.
Papua New Guinea	Section 3 of the 1992 Mining Act	Requires the formation of Development Forums. The Development Forum is a process of negotiation between national, provincial and local governments, affected landowners and project developers prior to the issuing of a Special Mining Lease. The outcomes of these negotiations in the forum are typically a tripartite set of agreements between national government, provincial government and landowners, and a Mine Development Contract between the national government and mining corporation.

Regulations to build local enterprise and workforce capacity for LC participation

Given that policies aiming at increasing access to opportunities have only limited impact on the size of the local supply of goods, services and labour, some countries have adopted complementary policies aiming at increasing the size of the local supply and workforce availability. Examples of this type of policy include those aiming at increasing local participation via specific requirement to transfer know-how and skills related to OGM operations to local enterprises and workers, and the requirement to train the local labour force. A related strategy is the requirement to form joint ventures with local public or private companies, in order to ensure, in a more direct way, the transfer of knowledge and technology from foreign OGM companies to local companies.[11] These initiatives can also come from OGM companies and other non-governmental organizations, for instance when OGM companies design and support programmes for private sector development.[12]

[11] In countries where the state is an active economic player, such as China and Brazil, this policy has been accompanied with an increasing share of public ownership on OGM related industries (Deloitte, 2010).
[12] See for instance the Small Business Initiative, Anglo Zimele (by Anglo American) in South Africa, Chile and Brazil; and Newmont's

The impact of this type of policies on the local supply depends on the timely coordination of complementary industrial, educational, technological and local content policies. For instance, there can be significant training of workers in the midst of increasing skill shortages if training requirements are not accompanied by extensive educational investments on the right areas. Furthermore, the stimulus to the local supply should also be strong enough to ensure that the local supply is sustainable and ultimately internationally competitive in terms of quality, value and scalability. Even after coordinated efforts have been made, and important sums of money have been invested, it can be the case that the local industry remains uncompetitive.

At the subnational level, some countries have mandated spend on enterprise and skills development as part of social spend funds required to be set up by mining companies. The Philippine example is provided in Box 6, others include India, Papua New Guinea, Peru, Kazakhstan and South Africa.

Box 6: Revised Implementing Rules and Regulations of Republic Act No. 7942, Philippines

Section 136. Development of Host and Neighbouring Communities.
The Contractor/Permit Holder/Lessee shall perform the following:
a. Coordinate with proper authorities in providing development plans for the host and neighboring communities;
b. Help create self-sustaining income generating activities, such as but not limited to, reforestation and production of goods and services needed by the mine and the community. Where traditional self-sustaining income generating activities are identified to be present within the host and/or neighboring communities, the Contractor/Permit Holder/Lessee shall work with such communities towards the preservation and/or enhancement of such activities; and
c. Give preference to Filipino citizens, who have established domicile in the host and neighboring communities, in the hiring of personnel for its mining operations. If necessary skills and expertise are currently not available, the Contractor/Permit Holder/Lessee must immediately prepare and undertake a training and recruitment program at its expense.
The Philippines' Minerals Action Plan also provides for the rights of Indigenous Peoples, through the Free and Prior Informed Consent (FPIC) as provided for in the Indigenous Peoples Rights Act, as well as the rights of communities with tenurial instruments. Mining companies are required to implement a Social Development and Management Program that allocates 1% of the direct mining and milling costs for community development.

Government-led initiatives with voluntary industry participation

There are also examples of non-mandated, voluntary approaches to local/sub-national government and proponent collaborations to increase visibility and access to opportunities. Two Australian examples include:

Country	Government organisation	Description
Queensland, Australia	Mackay Whitsunday Regional Economic Development Corporation	C-Res (Community Resourcing) is a subsidiary of the Mackay Whitsunday Regional Economic Development Corporation (REDC). The entity was specifically established to deliver a mining company's (BHP Billiton Mitsubishi Alliance's (BMA)) Local Buying Program. The program aims to provide opportunities for small businesses with less than 25 full-time employees to competitively supply goods and services to BMA in townships throughout the Bowen Basin region. In addition to providing supply opportunities, the Local Buying Program, through the establishment of a Community Foundation, aims to deliver community and economic development programs to enhance and build local business and community capability and capacity. The Foundation aims to enhance the economic viability of the wider community and region through programs targeting new business, existing business growth, employment programs and economic benchmarking. (http://c-res.com.au)
Western Australia, Australia	Pilbara Development Commission	ePilbara is an online Business Capability Register for the Pilbara region in the state of Western Australia managed by the Pilbara Development Commission, and supported by a number of OGMs and Chambers of Commerce and Industry. To be listed, companies must meet the following criteria: a Pilbara postal

business linkages programmes with the IFC in Peru and Ghana.

		address, employees permanently based in the Pilbara and the ability to provide products or services from the Pilbara location. The website, www.epilbara.com.au also provides access to the ProjectConnect service, which links project developers and their major contractors with their own categorised electronic library of suppliers. On the ProjectConnect site, OGMs publish upcoming tenders, and whom the tenders have been awarded to. ProjectConnect is a service provided by Chamber of Commerce and Industry of Western Australia. (www.epilbara.com.au)

International legal and policy frameworks influencing increase in subnational content

Advocated in the International Labour Organisation (ILO) Convention 169 on Indigenous and Tribal Peoples (1989) and the United Nations Declaration on the Rights of Indigenous Peoples (2007), FPIC recognises various fundamental rights of Indigenous peoples. The FPIC concept has been adopted by the International Finance Corporation and other international entities. There is evidence of the FPIC philosophy being applicable to other vulnerable groups that are project-affected (Hill et al. 2010; Nish and Bice 2011). The output of such a process is typically an Impact and Benefit Agreement, or Community Development Agreement (Gibson and O'Faircheallaigh 2010; ICMM 2010; O'Faircheallaigh 2011; Nish and Bice 2011). Due to more agreements being negotiated directly between proponents and Indigenous Peoples based on the principle of FPIC, more agreements are including commitments to local Indigenous content and training and enterprise development opportunities. Three examples are provided in Table 4 (Esteves et al., 2010):

Table 4: Agreements between OGMs and Indigenous Peoples

Region	Parties to agreement	Description
Western Australia, Australia	*Rio Tinto Argyle Diamond Mine, and Traditional Owners*	Argyle's policy for local Aboriginal content is driven by its Mine Participation Agreement with Traditional Owners, and is supported by a Management Plan specifically dealing with Business Development and Contracting. The principle underpinning the Plan is Argyle's commitment to increasing business opportunities connected with the Mine's operations for local businesses in general, and Traditional Owner businesses and local Aboriginal community businesses in particular. Argyle defines 'local' in the agreement as the East Kimberley Region. The company is obliged under the Agreement to notify the Business Development taskforce (comprising Traditional Owners and company representatives) of company intent to let any contract over an agreed amount in a year, relating to the provision of goods or services to Argyle at the mine site. In addition, any request for tender over this value requires the tenderer to demonstrate how they will involve Traditional Owner businesses in the contract, how they will employ and/or train Traditional Owners, and how they will provide benefits to Traditional Owners. All else being equal, Argyle commits to giving preference to tenderers who bring the greatest opportunities to Traditional Owners.
Northwest Territories, Canada	*Diavik Diamond Mines Inc, Rio Tinto and five neighbouring Aboriginal groups*	The Benefits-Impacts Agreement was viewed as an important instrument of economic change for people who had traditionally been left out of the mainstream economy. With an agreement in hand, Aboriginal individuals have been in a strengthened position to access banking finance and to negotiate. There are a number of specific scopes of work (contracts) that are embedded in Participation Agreements with Aboriginal authorities within the Diavik sphere of influence. These contracts tend to be very large in scope and are enduring for the life-of-mine. In legal terms, they are 'ever-greened', which means, subject to performance, the Aboriginal contractor will have the work as long as the mine is in production, right through to closure. While the scope may vary from time to time as a result of changing production conditions, Aboriginal contractors that have ever-green contracts maintain the right to continue as an integrated part of the Diavik operation.
Gulf region of northern Queensland, Australia	*Century Mine, MMG, Queensland Government and the four Native Title Groups of Waanyi, Mingginda, Gkuthaarn and Kukatj*	Century is a signatory of the Gulf Communities Agreement (GCA), an agreement between Century, the Queensland Government and the four Native Title Groups of Waanyi, Mingginda, Gkuthaarn and Kukatj. One of the aims of the Agreement is to promote economic development opportunities for the people of the lower-Gulf region. Tendering and awarding of Contracts as per the GCA is enabled through three phases: business identification, the tendering process and business assistance. Century Mine has a department which liaises with the Native Title Groups and the company's contracts department to identify viable businesses. Tenderers are first evaluated for their eligibility as a Native Title GCA party, prior to the technical assessment. The GCA Department facilitates support to provide tenderers with information on business set up requirements and ongoing business management, e.g. preparation of BAS statements, payroll, training, health, safety and environment procedures and human resources policy.

While the above examples focus on local content in upstream OGM activities (i.e. sourcing local goods and services and/or setting a percentage of local participation or training of workers), one example from India that would allow the enforcement of local content requirements at the subnational level focuses on beneficiation or downstream value adding activities (refer to Article 68 in Box 7 below). However, here it is worth noting that the subnational (district) mechanism does not have decision-making powers in this particular respect, but the State and National authority.

Box 7: India's 2011 Mine and Mineral Law (MML)

Article 26:
Without prejudice to the generality of the provisions of the mining plan, there shall be attached to the mining plan in respect of all major minerals, a corporate social responsibility document, comprising of a scheme for annual expenditure by the lessee on socioeconomic activities in and around the mine area for the benefit of the host population in the panchayats* adjoining the lease area and for enabling and facilitating self-employment opportunities, for such population, and the lease holder shall, at the end of each financial year, publish in his annual report and display on the website, the activities undertaken during the year and the expenditure incurred thereon.

Article 56:
(1) The State Government shall, by notification, establish a trust to be called the District Mineral Foundation, a non-profit body, in each district in the State where a mining lease has been granted or is in operation, in the manner as may be prescribed by the State Government.
(2) The object of the District Mineral Foundation shall be to work for the interest and benefit of persons or families affected by mining related operations in the district.
(3) The Governing Council of the District Mineral Foundation shall be responsible for,-
(a) distribution of monetary benefit to persons or families affected by mining related operations in the district; and (b) undertaking such other activities as are in furtherance of the object of the Foundation, including creation, management and maintenance of such local infrastructure for socio-economic purposes in areas affected by mining related operations and facilitating the implementation of the Sustainable Development Framework.

Article 68:
(i) Provided that notwithstanding anything contained in this Act, the National Authority may, on the request of the Central Government or any State Government, render advice on sustainable development framework for minor minerals; recommend suitable mechanisms to moderate royalty and profit sharing percentage to support investment in remote areas or for induction of special technology or for promoting mineral beneficiation or to produce downstream products of strategic value or to create infrastructure.

*The district panchayis a form of local self government at the village or the district level

Relevant policy development in Ghana

In the first quarter of 2010, the Ghanaian government released the Local Content and Participation Policy Framework (LCPPF) in petroleum activities. One of the objectives of the LCPPF is the attainment of at least 90% of local content and participation throughout the oil and gas value chain within a decade. The Framework also requires "every profit, operation, activity or transaction" to have an Annual Local Content Plan (ALCP) which must include details on: 1) ownership of oil and gas businesses, 2) procurement of local goods and services, 3) training and technology transfer, 4) employment and training of Ghanaians, and 5) local capability development.

The LCPPF mandates that "all operators in the oil and gas industry are to be required to procure, as far as practicable, goods and services produced by or provided in Ghana in preference to foreign goods as services. Operators shall engage in local procurement of goods and services which are competitive in terms of price quality and timely availability." This means that these principles are in line with the NTO clause, which excludes the possibility of increasing procurement and employment opportunities through regulatory tools without incurring possible sanctions. Despite this, the Framework specifies that local content in the provision of goods and services starts with a minimum of 10 per cent by value in the first year of operations and must increase by a minimum of 10 per cent each subsequent year or 'as may be specified in regulations.'

With regard to training, the Framework requires all operators to "submit a detailed Annual Recruitment and Training Programme (ARTP) for the recruitment and training of citizens of Ghana in all job classifications and in all aspects of petroleum activities, which may be carried out in or outside the country". Furthermore, the ARTP sets out specific targets to be met in a limited time period for management staff, core technical staff and other staff. It also requires the submission of a training scheme to be approved by the Petroleum Regulatory Agency. Furthermore, quarterly reports on the execution of the ARTP are mandated. Additionally, under 'Local Capability Development' provisions, the LCPPF emphasizes the need for providing all aspects of training, including low, middle and high skill training.

The LCPPF emphasises the need for providing all aspects of training, and specifies that "transparent fiscal incentives and rewards" will be given to Operators that exceed the goals set forth in the ALCP and ARTP. The nature of these fiscal incentives has not been specified in the Framework, so it is not possible to evaluate if they would be attractive enough for operators, especially if these can be potentially outweighed by the cost saving of importing inputs (Ayine, 2010).

With regard to mining, the Minerals and Mining Act (MMA) of 2006 is far less specific than the LCPPF in all respects (see Table 5). With respect to Local Content and Local Participation Article 105 on "Preference for local products and employment of Ghanaians establishes that "(1) the holder of a mineral right shall in the conduct of mineral operations, an in the purchase, construction and installation of facilities, give preference to (a) materials and products made in Ghana, (b) service agencies located in the country and owned by (i) citizens, (ii) companies or partnership registered under the Companies Code 1963 (Act 179) or the Incorporated Private Partnerships Act, 1962 (Act 152), and (iii) public corporations to the maximum extent possible and consistent with safety, efficiency and economy; (2) the holder of a mineral right shall, in phases of its operations, give preference in employment to citizens to the maximum extent possible and consistent with safety, efficiency and economy." "Consistent with safety, efficiency and economy" is a euphemism for "price, quality and availability" and in this sense is compatible with the NTO clause. In any case, the bar for compliance is set at a low level as mining companies can, if agreed by the government vary commitments due to concerns over safety, efficiency and economy.

The MMA does not establish explicit targets for local content or local participation, does not specify training and transfer of technology and know-how requirements, does not require the submission of local content and training plans and does not specify either incentives or sanctions for mining companies. The Draft National Mining Policy of Ghana, released in 2010, does not substantially change the provisions relating to local content in the MMA and the newer draft policy. With respect to Local Content, it establishes that "the mining legislation requires mining companies to give preference to qualified Ghanaian suppliers of local and national goods and services. The Minerals Commission will periodically review the Mining List to ensure, among others, that items that can be procured locally are not brought into the country under concessionary duty arrangements." It does not, however, provide further details as to what constitutes a 'qualified supplier', and does not give further details as to how the Mining List is constructed. Such ambiguity can be problematic if a dispute arises.

With respect to Local Participation, companies are required to "1) submit a programme for the recruitment of qualified Ghanaians to be approved from time to time by the Government; and, 2) to submit from time to time a programme for the training of Ghanaian personnel for the approval by the Minerals Commission. The Commission will ensure that companies exhaust all reasonable means to find qualified Ghanaians before any quota for the employment of expatriates can be approved." Thus, the provision accrues 'qualified' Ghanaians but does not contemplate training for unqualified Ghanaians, does not set a specific time for the submissions of training programmes, and does not specify penalties for not submitting such programmes.

Table 5: Comparison of Oil/Gas and Mining policies in Ghana

	Oil and Gas (LCPPF 2010)	Mining (MMA 2006 and DMP 2010)
Sets specific national goals for Local Content	Yes	No
Requires approval of Local Content Plan	Yes	No
Preference conditional on price, quality and timely availability	Yes	Yes
Specific targets of local employment	Yes	No
Specific provisions on training	Yes	No
Specific provisions on technological know-how and skills	Yes	No
Fiscal incentives and rewards in connection to local content and training Plans	Yes	No

A Minerals Development Fund Bill has been passed into Ghanaian law. The bill includes provision for a mining community development scheme into which proceeds from royalty payments and development funds of mining companies and other sources would be paid. The funds would be allocated by local development committees for infrastructure projects in mining communities. The bill will also prescribe guidelines for corporate social responsibility projects, standards for health and safety standards and environmental impacts.

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Appendix B. Indicators of contributing factors to local economic development

Factors	Some Indicators	Data sources
Human capital		
Skills Education and training	Professions and skills in community Level of education in community by age groups and level of qualifications obtained; Availability of training programs (including adult education)	Skills inventories; Asset mapping exercises Official statistics (e.g. Census); Number of conventional educational institutions; Courses available by educational/training organisation
Leadership	Diversity of leadership; Inclusions; forums; support; delegation; Mentoring programs	Community survey
Civic engagement	Ability of residents to engage in development activities	Community survey
Entrepreneurial spirit	Flexible and dispersed community leadership; Acceptance of controversy; A school system that emphasized scholarly endeavours	Community survey
Labour force readiness	Labour force participation; A number of workers between 25 & 44 years old (demographics 18-44/ 65+); Life expectancy; Infant mortality; Incidence of disease; Access to medical services; Incidence of suicide, drug and alcohol abuse; Presence of healing centres of addiction programs; Incidence of poverty; Social assistance levels	Official statistics (e.g. Census); Profile of community services; Health and social assistance statistics; Qualitative methods (e.g. interviews, observations)
Economic capital		
Health of local (regional) economy	Level of export base/trade relationship; Employment/unemployment/underemployment; Population growth rate; Population growth in popular areas (i.e. coastal) Real GDP (GRP) per capita; Multi-factor productivity (Gross product per combined unit of labour and capital) Gross per capita disposable income; Income and income distribution; In-/out-migration levels; Social assistance levels; Economic multipliers; Office vacancy rates; Building permits; Ratio of mining area rehabilitated to total mining area	Official statistics (e.g. Census); Travel surveys and statistics; Local qualitative information
Diversity	Share of industries output in local economy;	Official statistics (e.g. Census);

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Factors	Some Indicators	Data sources
	Employment and income by industry	Local firms (e.g. annual reports, interviews); Business licence information
Adaptability	Research and development; Staff training programs; Compliance with new industry standards and regulations; Access to information (e.g. internet, resource centres, postsecondary institutions, networks with external agencies and other communities); Land use changes	Local firms (e.g. annual reports, interviews); Inventory of services; Internet service providers; Evidence of linkages with external organizations
Health of local businesses	Diversity and security of markets; Local purchasing, hiring, investment, leakage; Supply and demand linkages among local businesses; Availability of financing; Personnel turnover; Profit margin/costs of production; Price stability	Local firms (e.g. annual reports, interviews); Leakage modelling or surveys Market information
Sustainability	Is the production ecologically sustainable (e.g. harvesting, extraction); Annual energy consumption by sector/capita; Emissions per year/capita	Ecological indicators; Qualitative data (e.g. interviews)
Informal economic activity	Voluntary and unpaid household activity (e.g. child care by family members) Small scale mining?	Community survey; Official statistics (e.g. Census)
Local control	Local ownership and control; Local employment; Local spending; Dependency on government revenue and external markets	Local firms; Leakage surveys; Official statistics (e.g. Census); Resource management agences
Access to capital	Access to traditional funding; Level of public funding; A number of alternative forms of financing; Investor confidence; Tax base; Evidence that community is willing and able to invest in community economic development or initiative	Data from funding bodies; Interviews (e.g. local organisations, financial institutions); Inventory of available services; Official statistics (e.g. Census)
Location/infrastructure	Distance from the markets; Proximity to other communities; Quality and number of physical capital; Traffic density; Average commuting distance to/from work	Official statistics (e.g. Census); Qualitative assessment of local conditions; Sales tax information, retail, income and population; Road distances
Service amenities	Number of tourist attractions; Cultural and service amenities; Educational facilities; Health care services; Community festivals; Arts programs and events; Range of retail and service businesses	Inventory of services; Qualitative assessments; Visitor/residents surveys

Source: Esteves and Ivanova (2012), Markey et al. (2005) and UN (2007)

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Appendix C. Integrating subnational local content policies into regulatory OGM permitting and approvals processes

Through the permitting process, OGM companies can be required to contribute more effectively to subnational development by:

> Undertaking a social and economic analysis of the investment in order to identify the potential subnational social impacts associated with local content efforts
> Working with local government to identify the key sectors that contribute to economic development in resources-affected areas, and pursuing local content with those key sectors
> Investing in collaboration with government, civil society and NGOs in strengthening the human and economic capital that contributes to competitive employees and suppliers.

The primary objective of the assessment is on establishing processes to manage the social and economic issues brought about by the pending change. Such processes are participatory, and involve government, communities, civil society and proponent collaborations, and include the following steps and considerations:

Table 6: Steps in assessment of negative and positive impacts of OGM local procurement activities as part of regulatory Environment and Socio-Economic Impact Assessments (ESIA)

Mechanism	Aspects of assessment
Step 1. Demand side analysis	
Systematic process of evaluating goods and services demanded and workforce opportunities based on a number of considerations or criteria that deem it a suitable candidate for subnational content	Examples relating to local procurement: • Level of risk to the business of non-supply: a category which has a significant impact on the operations if not supplied might be better suited to a globally competitive business with an established track record of reliability in terms of scheduling and quality; • Level of technical and managerial complexity of the contract: the uniqueness and sophistication of some goods and services means that they may only be found outside of the region; • Extent to which sourcing the category locally brings about a positive impact to the community, for example through consistency of demand; transferability of skills and sustainability of demand post-closure or post-contract; potential for local direct job creation; and • Extent to which the community has expressed an interest in a particular opportunity: In some contexts commitments are enshrined in agreements with communities or government for a specific opportunity to be made available to local businesses, such as construction of mine accommodation. • Timeframes within which supply is required: This affects the ability to factor in reasonable lead times for developing supplier capability and capacity to produce and deliver within required timeframes, where this is required. • Supply chain efficiencies to be gained: Localising certain items presents opportunities to save on transport and warehouse costs
Step 2. Gaining an understanding of the communities affected by the local content intervention	
Collation of baseline data; local & regional community profiles; stakeholder mapping and analysis; and community engagement	The context analysis will reveal: • Communities' vulnerability to external changes, which is demonstrated by their ability to adapt and convert their assets into sustainable livelihoods • Communities' dependence on OGM activities , for instance, settlements initially built to support the OGM activities and cease to exist when the operations completed; settlements initially built to support the new OGM activities but have grown since then and are host to a variety of industries; existing settlements (in many cases, predominately agricultural) expanded to support the new OGM activities; or an area of highly diversified economic activity

Mechanism	Aspects of assessment
	• Competition for human and economic capital • Internal community power relations, e.g. between tribes, elders, elites, migrants • Whether social divisions in society might be intensified as a result of the local content intervention • Relevant historical background, including history with previous OGM proponents e.g. broken promises, failure to deliver benefits • Future needs for sustainable economic development
Step 3. Scoping the key social and economic issues emerging from the context analysis	
Seeking input from experts and stakeholders	Some examples of issues are: • Main barriers to entry of local businesses (financial restrictions, technology, skills, etc.) • Physical infrastructure and services needed to enable local content development at the subnational level • Need for linkages with other manufacturing and service sectors along the value chain • Potential competition from suppliers in other regions/cities in the country • Need for collaborative approaches to local economic development planning to develop certain sectors which capitalise on the strengths of the area and have high potential to be competitive and attract investment • Risk of distortions to the local economy (e.g., in-migration, concentration of economic activity around the project area, changes in the level of economic diversification and displacement, inflationary effects, changes in patterns of land use and other societal impacts; and institutional change)
Step 4. Identifying strategies to mitigate potential negative impacts and maximise opportunities	
Seeking input from experts and stakeholders	For example: • Skills development and supplier development program • Collaborative investment of program start-up costs between industry, government and local businesses • Align local content strategy with government subnational regional development planning; • Collaborative investments to encourage economic diversification, fill gaps in sectors being drained through social investment, and alternative markets for suppliers; • Communicate opportunities using mechanisms based on transparency, fairness and equity • Procedures for pre-qualifying local suppliers, initiatives to develop their capability and/or resources to monitor safety and quality assurance
Step 5. Developing a monitoring plan to track implementation, variations from mitigation actions, unanticipated social changes	
Involving communities and government	• Mandatory reporting metrics • Voluntary reporting metrics to track impact of subnational content • Independent mechanisms to monitor subnational local content • Reporting to stakeholders
Step 6. Implementing strategies	
Proponent's Subnational Content Management Plan; incorporating commitments and management plans into Impact & Benefit Agreements with communities; and Mineral Development Agreements with governments	In addition to the proponent's commitments, the final Subnational Content Management Plan would include respective roles and responsibilities of: • National government officers • Local government officers • The NGO/CSO sector in ensuring local communities benefit from local content development • Organizations providing capacity development to beneficiaries of local content initiatives (i.e., chambers of commerce, SMEs support institutions, etc.)

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Appendix D. Examples of OGM subnational local content interventions[13]

Company	Strategies
Increasing the access of local businesses to opportunities	
Total Indonesia, Indonesia	> Adapted the design of their investment to increase the opportunities for local content > Considered total life-of-contract cost rather than single point-in-time contract cost, ensuring procurement decisions take into account the cost-benefit over time of sourcing from a local firm against an international firm.
Cameco, Saskatchewa, Canada	> Targeted for 35% of all goods and services to be sourced from northern-based Aboriginal-owned businesses. > Conducted workshops to communicate upcoming contract opportunities within the business, and to provide guidance as to how to go about becoming a Cameco supplier.
Newmont Boddington Gold, Western Australia	> Applied price preferences to local businesses during the final analysis of bids. > A regional content preference is available to businesses located outside the prescribed areas that use goods, materials or services in contracts that are purchased from businesses located within the prescribed areas. All tenderers are required to show the actual cost of their local or regional content.
Argyle Diamond Mine, Kimberley, Western Australia	> Made a number of adaptations to procurement systems to make these more accessible to local Aboriginal people, which include: a paper-based Expression of Interest form, which is distributed through Traditional Owner organisations and the company office reception; providing a consistent point of contact in the procurement department for each tenderer; allowing for lodgement of tenders by email or post; offering a longer notification period to Traditional Owner groups (beyond the three months specified in the Participation Agreement) on opportunities coming up, to enable better preparation.
OZ Minerals, South Australia	> Established a website on The Industry Capability Network (ICN) site, through which suppliers were invited to lodge an expression of interest for packages of work. The ICN undertook a first round of screening and the EPCM contractor followed with a short listing process.
Developing strategic partnerships and agreements	
Total Indonesia, Indonesia	> Sponsored the creation of the Indonesian Welding Society and facilitated a partnership with the French counterpart society.

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[13] Case studies adapted from Esteves, et al. (2010)

Company	Strategies
Century Mine, MMG, Gulf region of northern Queensland	> Signed the Gulf Communities Agreement (GCA), an agreement between Century, the Queensland Government and the four Native Title Groups of Waanyi, Mingginda, Gkuthaarn and Kukatj. > Tenderers are first evaluated for their eligibility as a Native Title GCA party, prior to the technical assessment. The GCA Department facilitates support to provide tenderers with information regarding business set up requirements and ongoing business management, e.g. preparation of BAS statements, payroll, training, health, safety and environment procedures and human resources policy.
Rio Tinto Argyle Diamond Mine, Kimberley, Western Australia	> Argyle's policy for local Aboriginal contracting is driven by its Mine Participation Agreement with Traditional Owners, and is supported by a Management Plan specifically dealing with Business Development and Contracting. Under the agreement and all else being equal, Argyle commits to giving preference to tenderers who bring the greatest opportunities to Traditional Owners. > The company is obliged under the Agreement to notify the Business Development taskforce (comprising Traditional Owners and company representatives) of company intent to let any contract over $250,000 in a year, relating to the provision of goods or services to Argyle at the mine site. Any request for tender over this value requires the tenderer to demonstrate how they will involve Traditional Owner businesses in the contract, how they will employ and/or train Traditional Owners, and how they will provide benefits to Traditional Owners.
Rio Tinto	> Encouraged the establishment of a joint venture (ESS Gumala) between Compass Group's remote services division, ESS Support Services Worldwide, and the business arm of the local traditional owner group, Gumala Enterprises Pty Ltd, as a means of providing contracting opportunities to Traditional Owners. Compass Group is a hospitality and support services company operating across 55 countries.
Ahafo Mine, Newmont Ghana Gold Ltd (NGGL)	> NGGL entered into a partnership with the International Finance Corporation (IFC) to establish the Ahafo Linkages Program. The objectives of the program are to increase income and employment opportunities in local communities by building the capacity of local enterprises that are directly or indirectly related to NGGL activities, and to improve the environment for business development. > The IFC Linkages Program includes Technical Assistance Programs which range between two and four years to optimise local procurement by strengthening local SMEs and entrepreneurs linked to IFC's investment clients or large multinational companies.
ExxonMobil-owned Esso, Chad	> Partnered with the IFC to develop local suppliers for the Chad-Cameroon Oil Development and Pipeline Project. Before the supplier development program began, all possible procurement opportunities were segmented according to their level of difficulty and a star rating system for the SMEs was developed.

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Company	Strategies
Actively engaging and supporting communities	
Cameco, Saskatchewa, Canada	> Employed a business specialist to assist communities in establishing businesses and to access financial resources or a business partner.
BHP Billiton Iron Ore, Pilbara, Western Australia	> The company is made aware of potential opportunities during engagement processes with Traditional Owners. This enables intervention at an earlier phase to assist people with establishing business structures and administration, rather than waiting for vendor pre-qualification processes to identify capacity needs.
Rio Tinto Iron Ore, Pilbara, Western Australia	> In planning for a new project, the projects team works with the community team to identify opportunities for Aboriginal businesses, and ensure Aboriginal businesses are invited to tender.
Identifying and classifying local productive capacity	
Anglo Ferrous, Minas Gerais, Brazil	> Profiled businesses located in affected communities and assessed their capability by drawing a random sample of 365 companies from the industrial, commercial and services sectors. The data collected was used to develop a Business Action Plan in collaboration with local community leaders.
Rio Tinto Iron Ore, Pilbara, Western Australia	> Commissioned an independent inquiry to identify systemic blockages to Aboriginal business procurement and make recommendation to increase Aboriginal involvement in the supply chain.
Rio Tinto Iron Ore, Pilbara, Western Australia	> Implemented a system to track progress through joint reporting by the procurement and community relations divisions on Aboriginal business spend, using the 'Lean' monthly reporting system. The metrics for this system are built into management incentive and reward programs.
Directly supporting local business development	
BHP Billiton Iron Ore, Pilbara, Western Australia	> Provided assistance via an accountancy firm that assists with governance, periodic audits and risk management, and provided access to a range of other consultants assisting with items such as preparation of prospectuses.
Anglo Zimele, South Africa	Anglo Zimele Development and Empowerment was established in 1989 to empower BEE entrepreneurs in South Africa. It is made of three funds: > Anglo Khula Mining Fund, providing financing for local junior mining companies in the exploration and pre-feasibility phases until they are able to demonstrate a commercial return; > Small Business Start-Up Fund, which provides loan finance in the communities residing around the mining operation. Small business hubs provide training and mentoring in business skills; > Supply Chain Development Fund, which works with Anglo American's procurement departments to incorporate local SMEs into the supply chain. The fund provides loan and equity financing and technical assistance. > Capacity is built in four ways: training programs and/or on-the-job training; a

Company	Strategies
	technical mentor; assistance from business development officers in management, marketing, operational, and financial aspects; and personal guidance and mentoring from Anglo Zimele staff.
Rio Tinto Coal & Allied, Hunter Valley, New South Wales	> Provided funding support to the Hunter Region Business Enterprise Centre, which enabled the Centre to employ two full-time business facilitators who provide free advice to small and medium businesses looking to start up or grow. The Centre also provides support to local Aboriginal communities.
Anglo Ferrous Brazil's Supplier Development Program	Established a Supplier Development Program with the following elements: > Management training: entrepreneurial awareness; initiatives to improve education levels of managers; joint development (owner/family/employees) of a strategic company vision; business management courses; technical training courses in specific areas of work; financial management courses; > Business development and growth: programs to support higher education for employees, courses focusing on sales, production and administration, market research of local demand, financial disclosure, participation in trade fairs and events, and bulk purchasing incentives; > Improvements to unprofitable businesses: diagnostics of individual companies experiencing financial difficulties in order to evaluate profitability and potential market repositioning and awareness of the potential to move into other market segments; > Creation of new enterprises: entrepreneurial awareness, promoting the establishment of new suppliers of raw materials, machines and equipment, campaigning to repatriate local residents who have been trained and are living or working elsewhere, attraction of young people to the region through study grants; attraction of company subsidiaries and suppliers, promotion among investors interested in expanding into, or creating new businesses in affected municipalities.
Mozlink, Mozambique	> Established a mentor's program to support local businesses in the technical and business categories. Technical mentors typically are employees of the lead company selected to volunteer to work with the SMEs, and address the Health, Safety, Environment and Community (HSEC) and Maintenance Capability and Quality Management categories. Business mentors are usually external business consultants contracted to carry out the task of mentoring SMEs in developing business skills, and address Business Management; Finance; Human Resource Management; Marketing; and Tendering.

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Appendix E. Summary of Ghana stakeholder interviews

Key themes to emerge from five (5) interviews:

- LC outcomes will not be maximised by regulation alone
- Government has role to play subsequent to regulations being enacted through ongoing support for industry development
- OGM companies should ensure they optimise opportunities for local businesses
- CSOs need support to create better awareness of what LC can and cannot achieve
- There will always be a gap in expectations between what communities seek and what OGM companies/or the resources sector can provide

Key points made / observations	Selected quotes
Legislation or regulation	
Some legislation is prescriptive and others are more encouraging in terms of how they are framed. Key is the spirit of the law or intent, not how regulated it is. Enabling constructive dialogue between government and industry is most important. Government must recognise and understand its role in these laws or regulations in terms of making them succeed and not just assume once enacted they will be successful. LC agreements/outcomes are best achieved through a negotiated process of agreeing procurement plans and arrangements. In developing LC policy government needs to consider the level of investment required to support SMEs, the level of likely risk of failure and SME's ability to deliver for the mines. In many countries, companies are asked to demonstrate they are doing everything they can to maximize LC outcomes, whether regulated or not. In Ghana the delay in the passing of the O&G LC law is creating uncertainty for local business. It is not clear which part of the value chain is included. Need to create awareness about what LC means in a given country setting. LC definitions could be extended to include the provision of local services by companies such as health and education.	*If too restrictive, industry will comply to the letter of the law and not the spirit of the law* *The latter delivers more value to a country* *Simply writing a law doesn't then by de facto mean the law will work and be effective* *If dialogue is constructive companies can put problems they anticipate on the table and the government can help address those problems* *A country's focus should be on enabling a mine to be profitable as unprofitable ones don't delivery much to an economy. Greater dividends from the mine enable the government to better fund schools, health services and other community benefits* *National value creation is key and it can't be at the expense of other aspects of the process.*
Industry development	
Categories of companies to be developed needs to be an integral part of	*Ghana lacks enterprise development and it is something*

Key points made / observations	Selected quotes
industry policy. Capacity development of local firms is a key responsibility of government. Training needs to be provided to help companies become competitive. Lack of access to finance or capital is a major constraint and poses a competitive threat for local firms when trying to compete against firms coming in from other countries. Lack of local industry certification is a problem for local businesses when trying to enter the supply chain of international OGM firms. Government must create the right environment for businesses to develop and be competitive – this includes ease of registration, clear regulations, making infrastructure available etc. Awareness of business opportunities is important.	*the government is not doing anything about*
Corruption	
Is an issue and needs addressing.	
Sub national level	
It is a false assumption that localised outcomes will follow new resource activity. Factors shaping where industry is established are in aspects such as where raw material comes from, access to infrastructure for distribution, labor availability, proximity to reliability power etc., and these will determine location of economic activity. There is a limit to the level of LC that can be assumed for the vicinity of the mine and it is typically lower value goods and services. However, there are certain types of goods and services near the vicinity i.e. catering, health services etc. The question should be what type of goods and services are best sourced from the vicinity - those are the ones which should be targets as there is a natural synergy to the mine and the community. Does not make sense to develop industries around a mine unless a broader market exists. Underground resources are vested in the States (National) where land is vested in local government (negotiating land access etc.). As such LC is usually dealt with at the national level, as it doesn't typically involve land access or rights. LC issues are not about land so don't fall into the category of things to negotiate with local government	*When it comes to LC the truth of the matter is that locality of the mine isn't going to be the heart of that (LC) economic activity........location of factories for example is driven by different factors than where the mine is......* *The main thing is that the country benefits.*

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Key points made / observations	Selected quotes
Labour	
By definition, labour is more mobile than goods or services. Can't assume a level of skilled labor will be available in all new mining locations. Graduates are young, more mobile, move from mine to mine therefore do not really represent LC as these skills can't be considered localized. Mines are typically developed in remote areas so can't assume a pool of skilled labor. Unskilled or less skilled labor may be available locally. Could invest in upgrading education to help develop labor market but then can't expect it stay in the local area. Chinese investment and the implications of imported labor.	*I was born in a village but haven't lived in one for 30 years. Ironically because a school came to the village* *Along 120km of pipeline under construction not one Ghanaian worker can be seen on this project* *An educated labor market doesn't always mean you will have a steady community…(because of labor mobility)*
Community expectations	
Always will exceed reality and remains a tension throughout the life of the project. CSO expectations are sometimes at odds with reality. This is mainly due to their lack of industry specific knowledge. Forms part the relationship management requirements. Politically expediency does take over sometimes. Some CSOs tend to support communities' emotive positions, not fact-based positions about expectations. CSO's role is to educate not just advocate. CSO's need knowledge of the industry so they can better understand why some decisions are made at the OGM company or government level. Some CSOs are considered more aggressive than other so their brand is important in terms of establishing their credibility with government and OGM companies. LC should extend to the provision of services. Some confusion about LC and CSR, and at times these concepts are used interchangeably.	*The ghost in the room is the gap between expectations and what is possible* *Some assume OGM companies are a bottomless pit in terms of what they can do for a community.* *RWI is considered the voice of reason…..they have the trust and can be brokers or moderators between community expectations and reality…..a most valuable contribution* *Local communities expect that the benefits of mining reach them and their children……in providing to them jobs and services* *Education is key but enemy of this is time and resources* *Companies should offer local procurement opportunities not roads as part of their CSR*

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