

CONTRACTS OF WORK, BIDDING, AUCTION STRUCTURE FOR GRANT OF EXPLORATION AND MINING RIGHTS

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I. Introduction

The topics of this discussion paper: contracts of work, bidding and auctions, are all underpinned by the general question of how do governments best determine who should undertake mineral activity projects including exploration, development, and mining operations and what may be the best international investment agreement type. These issues will be discussed in the following order: 1) State auctions for mineral exploration projects; 2) State tenders for mineral concessions; and 3) Contracts of Work (CoWs).

II. State Tenders/Auctions for Minerals Activities Projects

A. State Auctions for Mineral Exploration Projects – Lowest Cost

1. Overview of Issue

Can auctions be held to obtain the lowest cost bid to undertake mineral exploration projects (to be paid from the state budget)? From comments regarding the scope of this discussion paper, those exploration results would then be intended to become the basis for a feasibility study if a mineral resource of sufficient economic interest is found. (However, it should be noted that it is extremely unlikely that a contractual exploration program would be detailed enough to produce information sufficient to undertake a feasibility study. This approach disregards the large amount of work that a company normally does to evaluate a property both geologically and economically after exploration is concluded. In most countries, there is a development stage between exploration and feasibility studies.)

Short answer: country tenders for geological exploration are very unusual, however, not unheard of. A discussion of the relevant issues and some of the known international projects for geological exploration are discussed below.

2. Important Factors/Issues

The nature of the above kind of auction would be to attract bids by companies for specified areas who seek to obtain a “services contract”¹ to fund geological services and equipment to undertake geological exploration. Often these will take the form of a two-step bid or two-step process: the technical bid and the commercial bid. The technical bid is to pre-qualify bidders based upon experience, expertise and work program. The commercial bid is the bid that prescribes the lowest monetary amount the bidder will accept.

The primary issues surrounding such an auction include the following:

¹ The exact type of contract or agreement which might be appropriate is not discussed in this paper, although it would be important to determine the most appropriate legal vehicle to undertake this kind of work.

Concerning the State's interests:

<i>Issue</i>	<i>Relevant Inquiry</i>
Area determination	How does the state logically determine areas that are geologically relevant for exploration and auction?
Level of interest by companies	<ul style="list-style-type: none"> ▪ Would companies want to bid for this kind of contract? ▪ Would the “right” kind of companies be interested in bidding for these auctions? ▪ How many companies would need to express interest? ▪ How would interest be expressed?
Cost/benefit analysis of auctions to the government	<p>Is this kind of auction of more or less benefit to the State (versus exploration licenses) in terms of:</p> <ul style="list-style-type: none"> ▪ Building expertise and experience in State geologists? ▪ Obtaining the best quality information for an area? ▪ Can this kind of information be generated from a less-costly source? (Eg, exploration licenses; cooperative projects with other countries' geological surveys)
Bidding structure	One or two tier structure (technical and/or competitive)
Pre-qualification of bidders	<p>How would the government pre-qualify bidders (domestic and/or foreign)?</p> <ul style="list-style-type: none"> ▪ What would constitute adequate background information for pre-qualification? ▪ Would there be minimum experience and work program thresholds for companies? ▪ How would these be determined? ▪ Who would determine these? <p>(limited capacity in most developing countries will make determining and evaluating such criteria very difficult)</p>
Pre-tender meetings and site visit	Sometimes compulsory
Performance guarantee	Sometimes performance guarantees are required – example 2% of contract price
Bid review and selection	How would the State correlate quality-of-exploration-program and monetary bid amount? (assuming that a better quality work program would cost more than a poorer quality exploration program).
	Will there be a correlation between higher quality work programs and exploration success? Can a minimum “quality of work program” be realistically specified?
	How would the government compare bids from disparately qualified companies?
	Does the government have the necessary expertise and competence to accurately judge exploration company qualifications, experience and/or work programs to obtain the best-qualified and best-monetary bid?
	Can the State's decisions on the above be quantified in order to justify selection of certain companies in a transparent and open manner?

	What would the risk to the State and the nation be if unqualified companies obtain bids? (Time incurred for exploration? Incorrect conclusions of resources/economics of exploitation?)
	Would this kind of auction be included in the mining law or other law?
	Which ministry or agency should be the lead agency? How would other agencies cooperate and coordinate for oversight and regulation functions?
	What role would provincial or local authorities play?
	What kind of reporting would be required?
	Can this kind of auction be compromised by bidding collusion? By corruption? What realistic and concrete safeguards can be put into place to reduce these risks?
Undertaking cost	Will the State agree to pay the price of a low-cost bid?
Winning bidder performance	What milestones would be appropriate to check progress?
	What will be reporting requirements? Cooperative work with State geologists?
Grounds for bid termination?	How would unsatisfactory performance be dealt with? What would be grounds for termination?

The main issues for a company to consider bidding in a State auction for an exploration services contract for a specified area are the following:

Bid procedure	Has the State put together a comprehensive and fair bid procedure?
Bid security and fairness	Has the State provided for adequate bid security such that confidentiality of bids is assured? Has the State implemented bidding fairness precautions to preclude collusion or corruption so that a company does not prepare bids that will not be fairly considered? Is transparency and openness in the process guaranteed? How can this be objectively determined?
Bid review and award	Is the agency providing oversight, review and award of bids clearly stated?
	What role will provincial or local authorities play?
	What kind of reporting would be required?
	Can this kind of auction be compromised by bidding collusion? By corruption? What realistic and concrete safeguards can be put into place to reduce these risks?
Undertaking cost	Will the State agree to pay the price of a low-cost bid ? What is the basis for the bid: cost plus reasonable profit? Cost plus? Can bid-preparation costs be included?
Oversight of exploration activities	Fair oversight regulation that will not require more cost to perform than anticipated in the bid?
	Appropriate and predetermined milestones/reporting requirements to check progress?
	Known cooperative work with State geologists?

Grounds for bid termination?	What would be considered unsatisfactory performance such that the contract can be cancelled or not paid? What would be grounds for termination?
Dispute resolution	Are there procedures to question bidding procedure and awards? Are there procedures to question contract oversight and/or termination issues?

3. Pros/cons of “Contract Exploration”

Pros & Cons re State auctions for exploration projects

<i>Pros</i>	<i>Cons</i>
Country retains control of areas that may be perceived as resource rich that can then be released at a later stage to entity/companies as a concession at the development, feasibility study or operations stages	Assessing costs to undertake exploration work in remote areas with difficult access to prepare a bid would be extremely difficult. In addition, companies may fear that costs might increase if conditions are more difficult than originally anticipated at the bid stage
Obtaining services by contract is not difficult; country may have legislation already that guides tenders for goods and services (eg, infrastructure contracts) that can be modified for specifics of geological exploration by cooperation between relevant ministries	Unlikely that best exploration companies will bid on projects if there is no guarantee of the right to develop and/or mine the project
	Possibility that contract exploration may not recognize full resource/economic potential and development issues
	Contract exploration will not have possibility of developing any found resource as motivation
	Obtaining accurate resource/reserve estimates will be difficult
	An entity/company that would take over the area as a concession/lease to undertake feasibility study will likely require exploration to be redone to their standard and according to their own exploration models
	Unlikely that a feasibility study can be generated on “contract geological exploration” for reason above plus information concerning economics information may or may not have been done
	State budget is exposed to geological risk, ie, the State could spend money

	but not have any realizable deposit to show whereas regular licensing puts burden to finance and risk of success on private companies
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4. International Practice

Most countries do not contract out geological exploration for hardrock mining. It is slightly more popular for oil and gas, for example geophysical activities like seismic surveys. However, general baseline geology is normally carried out either by State geologists within the State geological survey or by universities.

Developing countries that have limited numbers of staff or inexperienced staff often enter into cooperative research programs with other government's geological surveys or universities. Some countries contract directly with other geological surveys (eg Saudi Arabia, Oman, Yemen, Chile, Cuba and Peru have contracted directly with the US Geological Survey to undertake paid geological surveys). This primarily takes the form of geological mapping and general geological surveys to obtain broad-based regional geological knowledge at various levels mapping levels (eg, reconnaissance is generally at a scale 1:50,000 – 100,000 km; detailed exploration is normally done at 1"/mile or at a more detailed scale).

On the other hand, detailed exploration to find economic mineral deposits is almost universally left to specialized exploration companies (SOE's, junior mining companies and mining companies). International statistics concerning exploration overwhelmingly indicate that juniors are becoming increasingly important for greenfield (areas not currently undergoing mining operations) exploration.

However, there have been a few instances where countries or international organizations have let contracts payable by a funding agency or government for geological exploration. These are in countries generally where there is a lack of interest or capacity by exploration companies or SOEs. Recent examples include:

Country	Dates	Tendering/paying entity	Comments
Republic of Niger	2009	Funding: European Development Fund Contracting Agency: Ministry of Economy and Finance Contract Supervision: Geological and Mining Research Center (CRGM) of Ministry of Mines and Energy (MME) Cost: Approx.1524000 EUR	--"Program to Strengthen and Diversify the Mining Sector in Niger: Production of Satellite Image Maps of Niger and Completion of Prospecting Campaign" -- "Service contract" with fixed-price part and part with reimbursement on submission of documentary evidence not to exceed a maximum budget --GIS work plus exploration; geological mapping and regional prospecting; ground work on geophysical anomalies
Botswana	2005-6	Funding: 8 th European Development Fund	--"Economic Diversification of the Mining Sector"

		Contract Supervision: BCL Ltd. Mining Co. Cost: Unspecified	--“Works contract” for exploration; 180 days; brownfields (at mine site) exploration
Tanzania	2009	Funding: World Bank Cost: not specified for this component	One component of the “Sustainable Management of Mineral Resources Project in Tanzania” is for contracts for exploration services to undertake baseline surveys for eight mining zones.

B. State Tenders for Mineral Projects/Concessions by Bidding – Highest Bids

1. Overview of Issue

The international oil and gas industry has utilized tenders for concessions/blocks for many years. This is in large part because the technology for development of oil and gas, although dependent on the area in which it takes place, is well known and relatively standardized with many companies that actively vie for concessions. However, tenders via bidding procedures for mineral projects have been less utilized by governments largely because of the unique risks, costs and development concerns inherent in mining projects.

Are there circumstances where competitive bidding procedures are viable to tender areas for mining development operations? Bidding procedures have been most utilized in the last several decades where countries have tendered geologically prospective areas to companies.

2. Important Factors/Issues

There are definite issues, both pro and con, involved in utilizing bidding procedures for prospective mineral properties. For areas that might be competitively tendered, the following issues will be relevant to both the State and companies:

- Is there sufficient geological information available for the concession area which can be analyzed by a company to determine the amount of the resource and economic potential sufficient to base a bid;
- Will there be sufficient geological information available for the concession area for the State to place an “upset”, “reserve” or “minimum” price or is the State willing to tender an area without one or to commission an independent valuation?
- Is there sufficient interest by companies in a sufficient number of areas to justify putting in place a bidding procedure
 - through legislation, and to
 - marshall the inter-ministerial, agency and administrative cooperation and coordination that will be necessary?
- Has there been a detailed cost/benefit study prepared to determine that revenue to the government will be greater in a bidding arrangement than utilizing more accepted and recognized leasing/licensing arrangements?
- What will be the basis of the bid for the concession? “Bonus” bidding, cost of work program, total anticipated investment?

- What will happen after the bids are analyzed and a winner is awarded the concession? Will a contract be negotiated? Will the contract be affected by the amount of the bid?
- How will environmental and social programs be included in the bidding system?
- Different types of auctions have included: “lottery”, open or oral, or sealed bids.

<i>Issue</i>	<i>Relevant Inquiry</i>
Area determination	How does the state logically determine areas that are geologically relevant for tender?
Level of interest by companies	<ul style="list-style-type: none"> ▪ Is there sufficient interest by companies to justify bid process? ▪ Would the “right” kind of companies be interested in bidding for these auctions—companies with proven track records technically, socially, environmentally? ▪ How many companies would need to express interest? ▪ How would interest be expressed to trigger a tender?
Cost/benefit analysis of tenders to the government	Is this kind of process of more or less benefit to the State (versus mining licenses)
Bidding structure	One or two tier structure (technical and/or competitive)
Pre-qualification of bidders	<p>How would the government pre-qualify bidders?</p> <ul style="list-style-type: none"> ▪ Would there be minimum experience and work program thresholds for companies? ▪ How would these be determined? ▪ Who would determine these?
Pre-tender meetings and site visit	Sometimes compulsory
Performance guarantee	Sometimes performance guarantees are required – example 2% of contract price
Bid review and selection	<p>How would the State correlate quality of the program and monetary bid amount? (assuming that a better quality work program and operations would cost more than a poorer quality program and operations).</p> <p>How would the government compare bids from disparately qualified companies?</p> <p>Does the government have the necessary expertise and competence to accurately judge company qualifications, experience and/or work programs to obtain the best-qualified and highest-monetary bid? (again, most developing countries with limited staff and staff experience would find this aspect of tendering areas extremely difficult)</p> <p>Can the State’s decisions on the above be quantified in order to justify selection of certain companies in a transparent and open manner?</p> <p>What would the risk to the State and the nation be if unqualified companies win?</p>

	Would the tenders be included in the mining law or other law?
	Which ministry or agency should be the lead agency? How would other agencies cooperate and coordinate for oversight and regulation functions?
	What role would provincial or local authorities play?
	What kind of reporting would be required?
	Can this kind of auction be compromised by bidding collusion? By corruption? What realistic and concrete safeguards can be put into place to reduce these risks?
Undertaking cost	What kind of financial assurances would be required to assure performance?
Winning bidder performance	What milestones would be appropriate to check progress?
	What will be reporting requirements? Cooperative work with State geologists?
Grounds for bid termination?	How would unsatisfactory performance be dealt with? What would be grounds for termination?

3. Pros & Cons re State Tenders of Concessions by Bids

<i>Pros</i>	<i>Cons</i>
For areas that have active interest by several companies, a tender process may provide additional revenue to the government over and above traditional royalty and tax instruments	“Active interest” is difficult to accurately assess – sometimes “active interest” is merely interest in a frontier area to determine whether the company wishes to do anything else
Only with respect for equal treatment, transparency and proportionality, can public auctions allow appropriate competition to take place and be an effective way to award concessions	Companies that may be willing to submit a license application to explore for economic mineral resources may be less willing to bid for an area unless it has sufficient information on which to base a bid obligating them to spend a specified amount of money for a “bonus” or “bid”
	Bidding procedure must be developed to deal with specific circumstances of mineral properties
	Tenders can be subject to collusive (ring) bidding or rigging by staff
	Tenders can make the costs of a commodity rise in country
	If information is not accurately assessed, the block may be rendered economically unviable and significantly slow the progress of regional development and the State loses revenue
	Actual production from block can fall short of estimated reserves

	Companies that do not have sufficient experience can bid for speculative purposes on an area if there is insufficient technical oversight or corruption—slows development and State loses revenue
	Other desirable goals (socio-cultural development, regional economic development, environmental protection) and successful or unsuccessful track records are not always quantifiable for the State to assess in the bids

4. International Practice

Many countries have utilized tenders for bids for mineral properties in the past to greater or lesser success. Some recent examples include:

<i>Country</i>	<i>Bidding Process</i>	<i>Comments</i>
India	Proposal to amend MMDR 1957	Proposal to amend Mines and Mineral Development and Regulation Act (MMDR) 1957 has been drafted by the Group of Ministers (GoM) since 2004 to facilitate allotment of major mineral areas including coal blocks; seeks to attract \$2 billion US annually (but this may be overly optimistic?); auction would be triggered by more than one bid for a particular mineral area; successful bidder would be one that quotes highest reserve money; for coal—production sharing and maximum exploitation would be one parameter for granting license; proposal gives higher weight to bidders having plant; track record, status of end use of product would be factors
China	Exploration and Mining Rights, Tender, Auction and Bidding Management Tentative Procedures, MOLAR, 11 June 2003, eff. 1 August 2003.	Where there are areas where exploration (with sufficient information to support finding of viable asset) or mining rights have expired, or the State has funded exploration, the state or province level MOLAR can determine that auction, tender or bid is appropriate. Foreign mining companies can follow incorporation laws to participate (although significant uncertainty exists in procedures) Auction--there must be a minimum of three bidders; winning bid must be higher than reserve price set by government (valuation can be commissioned by province or state bureau); --Tender—notice posted 60 to 90 days in advance; each participant will file a tender package; review based on overall merit of proposal; minimum of 3 tenders; --Bidding—for mining rights, public notice must be posted 20 days in advance; bid period runs for

		10 days; highest bid will be posted at venue of bid (replaced by higher bids as received); at end of 10 day period, highest bid is accepted; None of the above used for extensions, renewal. After award, a contract must be signed with State Example: in Xinjiang in 2004, 7 mines auctioned for 22 million US
Ukraine		Privatization of iron ore mine and steel production plant; has been controversial with largest bid not being accepted in favor of smaller bid by domestic consortium
Russia		Udokan copper field declared strategic field in 2005; political wrangling and influence peddling slowed process for five years; now up for auction, planned starting price for 20 year license set at 192 million US; require investment of 1.6 billion US; success yet to be seen; uncertain legislative basis for bidding; some allege that auctions are inconsistent with Laws on Subsoil
France	French Mining Code, amended 1994; “ <i>mise en concurrence</i> ”	Based on explicit technical and financial qualifications
Tanzania	Tanzanian Mining Act	Utilizes an alternative tender system when Minister determines that public interest is best served by invitation of applications for tender; review of bids includes proposed work program, expenditure commitments, financial and technical resources, previous experience of applicant in exploration and mining
Peru	Private Investment Promotion Agency auctions mineral properties	Example, in 2004 Xstrata acquired Las Bambas (30,00 ha of land) through auction; \$121 million US bid provides for upfront payment of \$91 million for option right and \$30 million US during option and construction phases; base price for bidding was \$40 million plus 2% royalty; company will have 6 years to complete exploration and feasibility work; social development fund to get \$21 million over life cycle of mine if option is exercised
Indonesia	New Law on Mineral and Coal Mining (“ <i>Minerba</i> ”), 16 Dec. 2008 (not yet effective).	Minerals can be subject to auction for exploration through feasibility (“ <i>IUP</i> ”) and production (“ <i>IUPK</i> ”) similar to oil and gas; however, the law has not been signed and regulations governing the procedure have not been issued
Nigeria	Bureau for Public Enterprises run tenders for deregulation of	Initial auction for privatized assets were unsuccessful due to low turnout of bidders; applicants must be pre-qualified and pay a nominal (approx \$200US) per mining area for bid

	coal and mining sectors	documents; of 13 developed mining areas, only six areas initially auctioned
United States	1920 Mineral Leasing Act for "KMAs" (known mineral areas); Bureau of Land Management (BLM), Energy and Minerals Division; mostly oil and gas	System has evolved through several types of competitive bidding including lotteries, open, oral, sealed and minimum acceptable bidding procedures.
Examples of other countries include:	Cambodia, Costa Rica, Mexico, Philippines, Romania, Uganda	

The common parameters of successful tenders appear to be:

- Relatively clear understanding of geology and distribution of anticipated resources, that is, more mature areas of development rather than properties that require significantly more exploration to define resource areas;
- Companies are familiar and comfortable with the tender and bid process;
- Bidding process is open, transparent and subject to question via dispute resolution to counter possible fraud, collusion and corruption in the tender process;
- The process after the tender is well understood (eg, negotiation of an investment contract).

II. Contracts of Work for Minerals Projects

A. Overview

A Contract of Work (CoW) is a contractual form for mineral resource development used in Indonesia for domestic and foreign (through national incorporation and domestic partners) investment. CoWs and other types of investment contracts are different than the traditional license or concession agreement which generally is issued pursuant to a country's mining law. A CoW is also usually differentiated from a "joint venture" contract which is most often a partnership agreement governing the relationship between various domestic and/or foreign parties and often governs investment terms as well. The subject of types of investment contracts is complicated and the purpose of this discussion paper is not to technically address all the different types of investment contracts. More important to this discussion is the realization that property rights, risks, ownership and economic balances, responsibilities and obligations drive the development of agreements in the minerals sector.

Some type of contract or agreement is usually desirable when comprehensive mineral legislation does not exist, the legislative system as a whole is not well developed or undergoing rapid change, or when the government and an entity agrees to vary the terms of standard legislation, particularly with regard to royalties, taxes and other fiscal obligations (although there are often other variants to general laws as well) to adjust to the unique characteristics of investment in the minerals sector. This latter point is not often well understood in developing countries.

B. Important factors/issues

The most important factors underlying the CoW's success for Indonesia (both in terms of attracting investment and by generating revenue to the government) was two fold:

- it created (within each "generation" of CoW) certainty concerning the terms and conditions that would apply over a project's life (terms would not be subsequently renegotiated) and
- the investment regime (the mining law with its system of exploration permits (SIPP) and KPs (for smaller areas) and CoW (for larger areas) guaranteed that a company undertaking exploration could, if it were successful in locating an economic mineral deposit, continue to the development and mining stages with a CoW.

Looking carefully at the CoW system (and other successful mineral regulatory regimes) that have attracted foreign exploration demonstrates that the following are the most indicative of success:

- access to land and other resources necessary for exploration and mining
- the right to mine after successful exploration
- transferability of exploration and mining rights
- protection against material changes in law affecting substantive rights
- coordinated and cooperative interagency administration through a lead agency
- coordinated policy as to central-provincial authorities
- convertibility of currency and foreign exchange
- repatriation of profits
- agreement to dispute resolution through international arbitration
- protection from illegal mining
- international best practice requirements for environmental and socio-cultural issues

A reliable source of information on this is the Fraser Report that specifically lists what aspects of regulatory regimes are most important to companies in making investment decisions.²

C. International Practice

One question that has been raised is which countries have used a CoW format and have been either successful or unsuccessful. The answer to this question is that each country has its own variant of an investment contract based on its unique investment law and mining law. There are very few direct corollaries to the Indonesian CoW. However, other individual nation's investment systems in general may or may not resemble the Indonesian CoW in one manner or another but not for reasons that are germane to this discussion.

Also, "success" depends on definition. If "success" is judged only by amount of exploration generated and resulting mining and revenue generated to the government, then the Indonesian CoW's can be viewed as "successful" as billions of dollars have been spent and generated from mining in Indonesia under the CoW system. However, if "success" is determined by whether the CoW was able to stand the "test of time"

² See the well-regarded survey of mining companies of the Fraser Institute at www.fraserinstitute.org/researchandpublications/publications/6534.aspx

and maintain a high level of development, it has been extremely problematic for a variety of economic and political reasons since 1997. It should be noted that the existing and latest generation of CoW in Indonesia is a 7th generation document and an 8th was considered though never put into place. Seven or eight generations of a contract should indicate that the original CoW met with only limited acceptance. Certainly, after 1997, the CoW system has broken down and would not be considered successful in that context. Also, arguably, the original Indonesian CoW's success was a result of highly concessionary terms to industry and based on probably one of the largest and richest resource bases of copper and gold in the world and the largest in Asia. Without this unique context, the CoW would not likely be seen as successful.

An additional issue for discussion is what stages of mining should an investment contract (and/or the draft mining law) for the minerals sector in Vietnam cover, for example evaluation of reserves, development and mining as in Indonesia's CoW or whether it should be limited to a specific stage such as mining? Instead of looking directly at the CoW (which as previously noted must be seen in the context of its investment law and mining laws) this issue may be better analyzed by more general comparison with successful mining regulatory regimes and investment regimes. As mentioned previously, the most successful regulatory regimes link exploration rights to the right to mine. As noted, the totality of the Indonesian regulatory and investment regime including the CoW did guarantee the right to mine, irrespective of what stages the CoW technically covered. The most relevant inquiry would be what kind of investment contract would be most appropriate for Vietnam given its level of mineral sector development and its specific investment law and mining law or draft mining law. This issue requires a more detailed inquiry.

The last question raised is how foreign companies provide for CoW's in their minerals laws. Again, each country is slightly different in its approach. Some countries provide a comprehensive mining regulatory regime in their mining law such that contracts are unnecessary. Other countries only have a "framework" mining law (and /or Investment Law) which then either authorizes a specific authority (for example, the appropriate Minister) to enter into contracts or agreements with entities (as specified) to carry out mineral development activities. There have often been contradictory practices and provisions between Investment Laws and Mining Laws in centrally planned economies. It is critical that the authority to enter into contracts (and scope of the authority) be stated in the mining law to make sure that the ability of that authority to enter into contracts is not later questioned. The minimum rules regarding this are proper delegation of authority, indicating the proper scope of the delegation, who has the authority and scope of oversight and who has the ability and scope to remedy/terminate the contract. For example, some countries have delegated the authority to enter into contracts to one Ministry (for example, Foreign Investment), but have delegated authority to oversee the sector generally to another Ministry (Natural Resources or Mining) causing *significant* regulatory problems down the line (eg China, Lao PDR). This has been a significant issue in most centrally planned economies of Asia. This also generally raises the issue of "lead agency" and the importance of one agency overseeing the activities of the sector. Other mining laws name a type of contract that shall be utilized and provide that a specific agency or Ministry shall be responsible for developing and implementing the contracts. Specific references from various mining laws for these above types of references can be provided in the future if they are deemed useful to the drafting process.