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**Kosovo**  
**Regulatory reform for promoting sustainable mining sector  
development**

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## **Currency Equivalents**

US Dollars and Euro are used throughout the report  
(unless indicated otherwise)

## **Weights and Measures**

Metric System

## **ABBREVIATION AND ACRONYMS**

EI	Extractive Industries
EIA	Environmental Impact Assessments
EITI	Extractive Industries Transparency Initiative
ESTAP	Energy Sector Technical Assistance Project
GIS	Geographical Information Systems
ICG	International Crisis Group
ICMM	Independent Commission for Mines and Minerals
LSM	Large-Scale Mining
MARD	Ministry of Agriculture and Rural Development
MESP	Ministry of Environment and Spatial Planning
MDTF	Multi-Donor Trust Fund
MRMP	Mineral Resources Management Plan
PFM	Public Financial Management
SIA	Socio-Economic Impact
SME	Sized Mining Companies
SSM	Small-Scale Mining Sector

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## **EXECUTIVE SUMMARY**

Kosovo's soil is well endowed with minerals which can provide for significant economic impact for development if managed in a sustainable manner. Despite of its relatively small size, Kosovo has abundant deposits of various minerals including lignite, ferronickel, lead, zinc, magnesite, silver, and other ores. In addition to its mineral deposits, Kosovo is also rich with various construction materials such as silicate, clay, sand, marlstone and decorative stones.

While Kosovo's mineral resources could contribute to its economic development, a sluggish privatization process, gaps in the regulatory framework (specifically with regard to fiscal, social and environmental rehabilitation issues), insufficient monitoring capacity and shortcomings in existing policies – in addition to political and overall economic circumstances -- have prevented the sector fully developing to its potential.

The authorities in Kosovo could increase the attractiveness of the mining sector to investors and improve the sharing of benefits from resource use by strengthening further the regulatory framework on mining. This policy note proposes priorities for achieving this: it assesses the existing legal and regulatory framework, based on which it provides policy recommendations to achieve a more environmentally and socially sustainable mineral development.

The proposed recommendations focus on changes in the legal and regulatory framework. First, fiscal aspects of mining operations, environmental and social issues are areas that need to be addressed in a comprehensive manner in the legislative framework. Second, there is a need to further clarify the responsibilities of key mining sector authorities, particularly concerning the licensing process and the role of the regulator. In addition to regulatory changes, some (public) investment would be necessary for exploration activities in order to assess Kosovo's mineral resources. Finally, the regulatory framework and legal obligations need to be implemented and enforced to provide a predictable and rule-based environment for investors.

## I. INTRODUCTION

1.1 Kosovo's soil is well endowed with minerals which can provide for significant economic impact for development if managed in a sustainable manner. Despite of its relatively small size (10,887 square kilometers), Kosovo has abundant deposits of various minerals including lignite, ferronickel, lead, zinc, magnesite, silver, and other ores. Furthermore, Kosovo's territory has not been fully explored, and it is likely that it contains additional deposits to those that have already been identified through explorations done up to end of the 1980s. In addition to its mineral deposits, Kosovo is also rich with various construction materials such as silicate, clay, sand, marlstone and decorative stones.

1.2 The World Bank's 2010 Country Economic Memorandum on Kosovo (World Bank 2010) suggested that Kosovo's minerals could become an important contributor to economic growth (through employment and exports) over the medium and long-term. In addition to the over 14 billion tons of lignite, which are expected to drive the development in Kosovo's power sector in the next decades, utilization of industrial minerals and construction minerals could be an important generator of economic activity in mining and construction sectors.

1.3 Prior to the dissolution of the former Yugoslavia, the mining sector was an important growth engine for Kosovo's economy. However, the mining capacities suffered from neglect during the 1990s, as well as from war damage. For example, the lead-zinc company Trepca was the largest mine in the former Yugoslavia, with more than 20,000 employees, and included integrated mining and downstream processing operations. The mine continued to operate as a state-owned company in the 1990s, but operations were halted in 2000, mostly for political reasons, but also for environmental reasons. Despite donor efforts to rehabilitate the mines with the intention of resuming operations, the mines remain idle.

1.4 Kosovo's long tradition in usage of mineral resources, its young and dynamic labor force, and geographical position (combined free market access to the European Union and the Balkans); provide an important competitive advantage for mining development. Reviving the mining sector would require substantial investment and can only be accomplished by relying on foreign investors, and possibly domestic private investors. However, several obstacles need to be overcome to attract the substantial FDI required to restart operations. These obstacles are of political, environmental and regulatory nature.

1.5 The objective of this policy note is to provide the Government of Kosovo with suggestions on how to strengthen governance of the mineral sector in order to promote its development. The focus of this policy note is largely limited to the regulatory aspects of the mining sector, and to non-energy minerals.<sup>1</sup> The analysis shows that further strengthening of the legislative and institutional framework would promote investment in the sector which in turn would contribute to Kosovo's economic development.

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<sup>1</sup> The policy note does not discuss the development of lignite resources for energy production.

1.6 The policy note is structured as follows: the first section summarizes the most important mineral reserves in terms of their economic value. Section 2 analyzes the most promising brown- and greenfield investments, which would offer the highest yield for Kosovo's economy. Sections 3 and 4 provide an overview over the regulatory framework and point to challenges that exist in the design and implementation of the framework. Section 5 puts forward policy recommendations for promoting sustainable development of Kosovo's mining potential. The final section (6) provides concluding remarks.

## II. KOSOVO'S MINERAL RESERVES AND PRIORITY AREAS FOR REVITALIZATION

2.1. The purpose of this chapter is to provide an overview of Kosovo's mining deposits, and will summarize the information available on reserves of: (i) energy and metallic minerals, (ii) industrial minerals, and (iii) construction materials.<sup>2</sup>

### 2.1. Kosovo's Mineral Reserves

#### *Energy and metallic minerals*

2.2. *Lignite* is Kosovo's most important energy resource and, according to Government's estimates from 2007, lignite deposits amount to approximately 14 billion tons, of which the bulk is considered to be mineable.<sup>3</sup> Lignite has been the main source of energy for Kosovo accounting for 97 percent of the total energy production (from two thermal power plants). Major lignite basins are the Kosovo lignite basin and the Dukagjini lignite basin. The coal deposit of the Kosovo lignite basin, especially the Sibovc deposit, is regarded as one of the best in terms of average stripping ratio (1.0 to 1.2 m<sup>3</sup> of overburden per ton of lignite). Moreover, it has low sulphur content, with calorific value (8,100 kJ/kg) that is similar to other lignite deposits in Europe.

2.3. *Lead, zinc, and silver* deposits are also significant and can be found in the northern and eastern part of Kosovo, in the so-called Trepca belt. Extraction of these minerals has long tradition starting from the 1920's. In addition to developed mines of Trepca complex, including those that are currently closed, a number of other mines were explored but never developed.

2.4. Kosovo is also rich with *nickel* and *cobalt* located in two mines Gllavica and Cikatova e Vjeter. The assessed geological reserves in the two mines amount to around 13 Mt with average nickel content of 1.3 percent and cobalt content of 0.06 percent (Mining Strategy). The extraction of nickel was restarted in 2007 with the privatization of the Ferronikeli complex (see Box 3 in World Bank 2010).

2.5. Extraction of *bauxite* was also an important activity until the early 1990s. At the peak of extraction in the 1970s, annual production exceeded 200,000 tons. The current reserves are estimated to be around 2.7 Mt. Despite the substantial reserves, there are no active bauxite mines at present and also no aluminum smelter.

2.6. *Chrome, manganese, and copper* can also be found in the areas rich with iron, though these reserves are at a smaller case than those of the previously described minerals. Chrome was extracted until 1991 in several mines (estimated 1 Mt extracted), but these mines have been inactive since. Manganese

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<sup>2</sup> The information presented in this section is based on the Government's (draft) mining strategy as well as on analytical work done as part of the World Bank's Energy Sector Technical Assistance Project (ESTAP) III (Study: Descriptive Economic Assessment Database, 2007), and draws on both published and unpublished work. As part of the ESTAP project, a database was compiled containing all known ore deposits and occurrences as well as all industrial minerals and construction materials.

<sup>3</sup> It needs to be noted, however, that rapidly progressing and sometimes ill-regulated housing has diminished the quantity of mineable lignite.

deposits are estimated to reach 5 Mt and are mainly found in the Trepca region. There are no available data on the reserves of copper, but its common presence signifies a potential for extraction.

### ***Industrial minerals***

2.7. Kosovo's soil contains large reserves of nonmetallic, i.e. industrial minerals, such as *magnesium*, *kaolin*, *halloysite*, *bentonite* and *quartz*. These minerals also offer potential for exploration and extraction.

2.8. *Magnesium* can be found in two mines, Magura and Strezoc, and the estimates deposits are of around 4.1 Mt though the ore reserves of this deposit type need to be confirmed by further exploration. Two magnesium mines were opened in the 1960s and one of them continued to operate until 1999.

2.9. A large *kaolin* deposit (10 Mt) is found in Karaçevë i Ultë. Kaolin has been explored extensively in the past, yet the economic potential of the current kaolin resources has been found to be limited. Karaceva kaolin was used in the ceramic tiles factory in Kamenica. Both the mine and the factory have been privatized (sold to two separate owners). Nevertheless, the ESTAP III study recommended exploring near existing kaolin deposits in the future.

2.10. *Bentonite and bentonitic Clay deposits* can be found in the southeastern part of the country; however, bentonite is not mined at present. Explorations activities carried out in the 1970s confirmed a 100 Mt deposit. This was verified again in 2009 by a new drilling campaign carried out by private companies. Bentonite may become an important raw material with wide application in the industry due to its absorption and adsorption properties, which justifies further exploration of it.

2.11. *Halloysite* has been found in the lead and zinc mine district of Novobërdë (estimated deposits of 2-3 Mt) as well as in the kaolin deposit near Karaçevë i Ultë. This mineral is typically used in the manufacture of porcelain, bone china and white china, as well as increasingly for high-tech ceramic applications. Halloysite deposits of high value such as those of Kosovo can only be found in few other places in the world (New Zealand, Turkey, China and the U.S.), which suggests that exploration of this mineral should be further developed.

2.12. *Quartz*, which occurs in Kosovo as quartzite, hydrothermal vein-quartz and quartz sand may be used for production of railroad and road ballast. The Binca area is estimated to contain about 3.1 Mt of quartz while additional 2.5 Mt are estimated to be found in the Strezoc area.

### ***Construction minerals***

2.13. A wide range of *silicate hard rock* deposits and occurrences used for construction minerals can be found in Kosovo. To date, silicate hard rock have been rarely explored and exploited, but because of their high quality, they could become an important construction mineral source in the future. The main potential use of silicate hard rock as construction raw material is for the production of aggregates. To a smaller extent, the utilization as dimension and decorative stone may be also possible. The deposits of silicate hard rock with high protection values are found mainly in northern, northeastern and eastern Kosovo.

2.14. *Carbonate hard rock* is also common and can find its use as crushed limestone and marble for the production of aggregates. Besides cement production, carbonate hard rock can be of further use in the production of quicklime and the chemical industry. The carbonate hard rock is not well utilized at present despite the fact that Kosovo appears to be well endowed with high-class calcium carbonate hard rock.

2.15. *Gravel and sand* is widely spread on Kosovo's territory, though there are only few large deposits and occurrences of material with a wide grain size spectrum suitable as a concrete component.

2.16. Kosovo possesses large *clay* mineral resources. The largest deposits are located in the Fusha e Kosovës basin. The clay is predominantly plastic, alternating with silt and fine-grained sand layers, and can be used for the production of hollow blocks or perforated bricks and subordinately as sealing material for landfills. Wall and roof tiles could probably also be produced. The substantial deposit size could support a production in larger scale manufacturing plants. Pliocene clay is also widely present and is used for brick production. Potentially, this clay can also be used for the production of roof and floor tiles and as sealing material for landfills.

2.17. Deposits of *marlstone* have been found in northwestern and in southeastern Kosovo and part of them are being exploited by a private company (Sharrcem) for production of cement.

### ***Other reserves***

2.18. In addition to the above mentioned mineral and construction material deposits, other natural resources as well as additional deposits may be found in Kosovo's soil. The territory of Kosovo has not been fully explored, and new exploration has been minimal over the past two decades. For example, earlier explorations done in former Yugoslavia indicated that some rare metals and rare earth elements may be discovered on Kosovo's territory. These included gold and platinum, as well as niobium, lanthanum, cesium and others. In addition, petroleum and gas exploration was conducted in the 1960s and 1980s and it was assessed that further exploration should be undertaken as there is a possibility of presence of petroleum and gas. It should be noted that the law on mines and minerals does not regulate exploration and exploitation of petroleum and natural gas.

## **2.2 Priority Areas for revitalizing the mining sector**

2.19. Only a fraction of the currently available potential is used, while large sections of mineral reserves are left idle, underdeveloped or still insufficiently explored (Table 1). Specifically, there has been little application of high-tech exploration methods such as geophysical prospecting techniques. Also, no systematic geochemical survey data are available, and some existing drilling data was lost in the conflict during the late 1990s. Given that the value of mineral-related exports has been increasing considerably despite the untapped potential, strengthens the case for further investments into the sector even more (Table 2).

**Table 1. Current Production Status and Exploration Potential for Selected Key Minerals**

<b>Mineral</b>	<b>Current Status / Production</b>	<b>Potential</b>
<b>Lignite</b>	Two major lignite deposits	Lignite of excellent stripping ratio and low sulphur content
<b>Lead – Zinc</b>	Trepca world class deposit	High exploration potential Private capital needed
<b>Ferronickel</b>	1 privatized operation (integrated metallurgical complex) with output now approaching pre-1990 levels (one of the largest operating in Europe)	Good exploration potential
<b>Magnesite</b>	2 privatized operations	Good exploration potential
<b>Copper</b>	None	High probability of associated copper.
<b>Bauxite</b>	Planned to be privatized	
<b>Gold, Silver</b>	Produced as associated minerals from the Trepca mines	Good probability of associated gold and silver
<b>Chrome</b>	Modest production in the past	High exploration potential

*Source:* Government of Kosovo (2010c)

**Table 2. Export Value of Kosovo’s Mineral Exports, 2007 – 2010, in EUR million**

	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
Mineral exports	32.9	14.7	77.4	151.3

*Source:* Central Bank of Kosovo

2.20. With regard to long-term sector development, it is pertinent for a sector revitalization strategy to focus on the most promising deposits, i.e. operations that are comparatively easy to exploit, yield high returns to investment for the private investor, and would also embody far-flung structural change for the mineral sector in general, underlined by substantive increases in employment, fiscal revenues, upgrading of ancillary infrastructure and regional development. The following sections will briefly describe two development priorities for the Kosovo mining sector.

### *Trepca*

2.21. Trepca, a wide-spread mining complex featuring zinc-lead, gold and silver deposits, is the key deposit source in Kosovo. As such, it should resume its leading role within the industry in terms of output and employment. The complex (including all exploitation operations plus the adjacent concentrators and smelters) employed, at its peak-time, more than 20,000 people. The complex itself was closed in 2000. Currently, Trepca is run by the Independent Commission for Mines and Minerals (ICMM) with a limited exploitation license, and is economically supported through ongoing subsidies from Kosovo’s budget. While the complex was dependent on external funding also during the Yugoslav era, there is no reason

why it could not be turned into a viable private enterprise. This is underlined by the fact that the mines still have significant reserves of lead, zinc, and silver.

2.22. The Trepca complex presently includes seven lead and zinc mines, and adjacent downstream processing industries in the form of three concentrators, one lead smelter, and one zinc electrolysis plant. The whole deposit is allocated along three geographical chains, a northern chain, which reaches also into the territory of Serbia, the central chain around Mitrovice, where a number of processing plants are located, and the southern chain around Pristina.

2.23. The northern deposits around Belo Brdo and Crnac represent potential assets for privatization due to their potential productivity. However, these deposits spread across both Kosovo and Serbia, so it would be necessary to discuss cross-border extraction agreements. The mined ore from the northern mines could subsequently be shipped to the Leposavic concentrator, allowing the transport of concentrate to European markets.

2.24. Any market transaction for the northern chain would need to address the following issues: i) if and under what framework cross-border extraction could be instated in order to define the exact economic and financial model of these assets; and ii) how to address environmental issues. Specifically, mine closure plans would need to be drafted, and the tailing dams of the concentrator need to be improved, as the current one is aged and features signs of weakening walls.

2.25. The middle and southern section around Stantrg, Hajvali, Artana and Kisnica are also highly productive sites, with the mine at Stari Trg having been responsible for 40 – 50 percent of the total Trepca mining output shortly before its closure (ICG 1999). The other mines along this area constituted another 30 percent of the former Trepca output. The respective flotation / concentration plants are found in Badoc and Stan Terg, respectively.

2.26. There are various options for the commercial revival of the complex, and the first step in defining the best option is to determine which of the mines and downstream production assets would be most commercially viable. According to a study from Duke University (Duke University 2006), the most feasible option seems to be to continue operation of the mines and of the concentrators, whereas the lead smelter might not be a good option due to environmental concerns. Concentration however is a necessary process to better enable the transport of the raw materials.

2.27. Addressing the environmental legacy issues is a key precondition for the revival of Trepca. These date back considerable time, and have been primarily associated with the above-mentioned lead smelter in Zvecan, close to Mitrovičë, and includes riverine as well as air pollution through the release of sulphur dioxide. The total cost for environmental rehabilitation around Trepca was estimated to be around EUR 120 million (International Crisis Group, 1999). An in-depth environmental assessment is needed to properly assess the liabilities and to subsequently decide if and how to factor these into any privatization process.

### *Lignite basins*

2.28. The Kosovo lignite basin could support energy generation over a couple of decades. The mining areas in the southern parts of Kosova basin should also be taken into consideration. These areas would be suitable for opencast mining activities (low overburden). In the Dukagjini Lignite Basin, two additional potential mining areas appear to offer favorable mining conditions for opencast mining. It is, however, pertinent to initiate further exploration activities for these areas to increase the level of confidence of potential bidders and to allow for good practice tender processes. This should also extend into researching other ways of utilizing these deposits, such as underground gasification. Also, the Government may want to consider promoting lignite extraction by smaller companies, but only if proper monitoring, specifically with regard to environmental safeguarding and management can be assured. For example, it might be worthwhile to consider the development of smaller basins, such as the Drenica area, by smaller companies, with the output to be used for industrial and heating purposes, rather than for electricity production.

### *Other operations*

2.29. Besides the above discussed key assets, the geological potential offers potential for other operations. These include additional lead-zinc deposits, nickel and cobalt, as well as copper, magnesite and bauxite. These types of operations, while being of smaller scale, would have the added advantage of having lower transaction costs, preparation time, and upfront investment than the larger operations discussed above. Their promotion should hence go in parallel with the Trepca and lignite deposits. The development of deposits and quarries for construction material and industrial minerals should also be considered. Their operation, however, will have some different implications, as they will mainly supply the local construction industry, with prices that are difficult to estimate.

## **2.3 Economic Implications**

2.30. In general, development of the mining sector generates various direct and indirect benefits for the country, both at the national and regional level. In many low middle-income countries, mining has been a major contributor, or in several cases, a key driver of economic growth. Mining activities can contribute to economic growth through: i) the development of associated up-, side- and downstream industries (i.e. through business spin-offs caused by back- and forward linkages); ii) the provision of infrastructure that renders other economic activities more efficient (for example, a mining feeder road might enable nearby farmers to transport more of their goods to markets); and iii) the generation of additional public revenues which can be used for various spending priorities. The most successful cases are those that succeed in generating all benefits (Table 3).

2.31. Proactive management of the sector is critical to avoid an enclave character of mining operations with little interlinkages to the rest of the national economy. The rather condensed allocation of mining deposits in Kosovo would provide a good precedence to trigger economic densification through associated industries, which in the medium and long run could even lead to the development of “resource corridors”, i.e. areas where mining operations are the anchor for far reaching economic activities, supported through ancillary infrastructure. Good mineral policy aims to maximize sector investments,

framed by a regulatory framework that allows for a stable tax intake by the state, and that leads those investments into generating skilled local labor as well as linking up with the local and national economy. For the most immediate benefit, mineral sector planning takes into account on how to best achieve the direct benefits and to use them to trigger as many indirect benefits as possible (Table 4).

**Table 3. Direct and Indirect Benefits of Developing the Mining Sector**

<b>Direct benefits</b>	<b>Indirect benefits</b>
<ul style="list-style-type: none"> <li>▪ Local investments</li> <li>▪ Tax contributions</li> <li>▪ Employment and indirect stimulation effects through salaries</li> </ul>	<ul style="list-style-type: none"> <li>▪ Indirect employment in the services and supply industries</li> <li>▪ Indirect tax contributions from salary taxes</li> <li>▪ Knowledge generation which can be used in other industries / sectors</li> <li>▪ Infrastructure upgrading</li> <li>▪ Forward- and backward linkages</li> </ul>

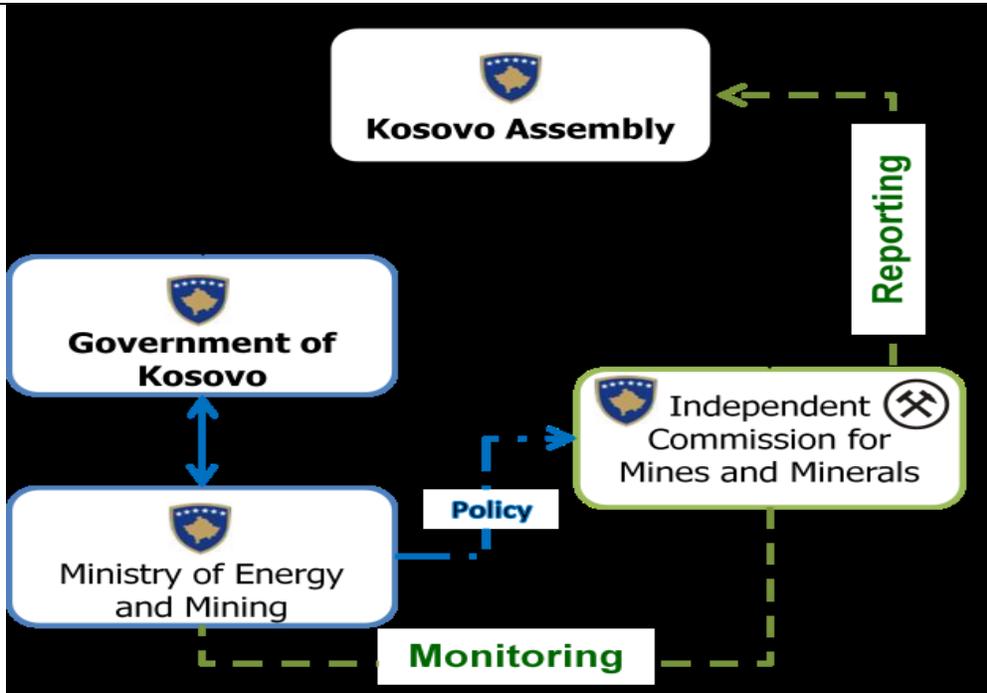
### III. THE REGULATORY FRAMEWORK: STRENGTHS AND WEAKNESSES

3.1. A private sector led revival of the mining sector with the goal of creating substantial direct and indirect benefits can only be achieved under an appropriate regulatory framework that attracts private investment and at the same time ensures that these investments produce shared benefits for investors and the society. This section briefly outlines the legal and institutional framework of Kosovo’s mineral sector, noting the main strengths as well as some weaknesses.

#### 3.1 Institutions: Functions and Responsibilities

3.2. The legal framework for the mining sector<sup>4</sup> – the law on mines and minerals and the law on establishing the Independent Commission for Mines and Minerals -- has been upgraded over the past few years to establish a solid foundation for sector development. These laws define the roles of each institution relevant in the sector and establish the principles for regulating investment. The role of each institution is summarized in the rest of this sub-section (Figure 1 illustrates the relations between the main institutions).

**Figure 1.** Functions and Responsibilities of Key Mining Sector Authorities



*Note:* As of March 2011, the Ministry of Energy and Mining has been transformed into a Ministry of Economy.

*Source:* Government of Kosovo.

3.3. The Ministry of Economy (formerly Ministry of Energy and Mines) is responsible for the preparation of the Mining Legislation, the Mineral Policy, and the Mining Strategy. In addition, it

<sup>4</sup> Another relevant law is the law on the protection of foreign investment.

regulates the sector by setting standards and implementing secondary legislation such as the “Rules for Mining Safety” and environmental protection regulations. The Ministry has also determined that specific mining areas are deemed to be “of special interest”, resulting in different access methodologies (competitive tender processes) which are equally guided through the Ministry. Lastly, it is also in the Ministry’s responsibility to ensure the legal status of licenses in collaboration with the Ministry of Environment and monitors licenses in collaboration with the Independent Commission on Mines and Minerals.

3.4. The Independent Commission for Mines and Minerals (ICMM) is an executive agency and is largely responsible for implementing mining laws, regulations and policies. Its responsibilities include ensuring that all exploration and exploitation of mineral resources in Kosovo are undertaken according to prevailing laws and regulations, and the optimal utilization of mineral resources at all mining operations. It is the institution responsible for regulating access to resources through: (i) the issuance, transfer, extension, suspension and revocation of Licenses and Permits; and (ii) the establishment and maintenance of a mining cadastre and a GIS database containing geographical, geological and additional relevant economic data. Due to its technical capacities, it is also responsible for the provision of technical assistance to the Government on all matters related to mines and minerals in Kosovo.

3.5. The Assembly of the Republic of Kosovo approves documentation as prepared by the Ministry of Energy and Mines, and as approved by the Government. Moreover, the Assembly oversees the work of the ICMM.

3.6. The Ministry of Environment and Spatial Planning (MESP) is responsible for Environmental Impact Assessments (EIA) and the Issuance of Consents concerning mineral exploitation. This consent is a prerequisite for licensing by the ICMM.

3.7. The Ministry of Agriculture and Rural Development (MARD), respectively the Kosovo Forest Agency deal with issuing the above-mentioned consents when forested regions are concerned.

3.8. Finally, municipalities also will have to provide consent for all operations within the limits of a given municipality. The Municipal Consent verifies if the license is in compliance or in violation of local urban planning and if and how it interferes with local communities.

## **3.2 Licensing Procedures**

3.9. This sub-section describes the licensing regimes that the legislation establishes for exploration and exploitation of mining resources. There are several types of licenses, the most important ones being for exploration and exploitation (mining). In addition, mining operations in areas defined to be of special interest are subject to a separate licensing process (both for exploration and exploitation).

### ***Exploration license***

3.10. The issuance of an exploration license is relatively straightforward. To obtain an exploration license from ICMM, no additional approval from additional institutions is required, with the exception of

consent from the owner of the land at the start of research activities<sup>5</sup>. According to the law on mines and minerals, ICMM is obliged within 90 days to make a decision on the request.

### ***Exploitation license***

3.11. The issuance of an exploitation license requires consent from the Ministry of Environment and Spatial Planning (MESP), municipalities and, in cases where licenses are located close by or on forested land by the Ministry of Agriculture, Forestry and Rural Development (MARD). The latter have a 60-day period for reply to license requests by companies. Subsequently, ICMM is required to process and make a decision regarding the request within 90 days.

3.12. While it is not unreasonable in terms of good practice to have reviews and approval schemes by other institutions in addition to the executing agency, anecdotal evidence suggests that the processing of an exploitation license in Kosovo is sometimes prone to excessive bureaucracy, non-transparency and delays. Moreover, the ICMM has published on several occasions implementing (secondary) legislation, with additional requirements on licensing, which cannot be easily found by potential license applicants (not posted on its website).<sup>6</sup> In a World Bank review on licensing practices for instance, investors mentioned cases of exploration licenses being delayed by more than one year. Another investor is facing the arbitration court since one license has not been extended due to a competing claim on the same area by the Trepca operators.<sup>7</sup> Without going into detail of this specific case, it does show that the current licensing acquisition framework does not provide sufficient transparency to an investor. An alternative and more advanced method, which would still leave room for ensuring review and consent apart from ICMM, would be for the MESP and MARD to come up with periodical spatial planning arrangements, indicating where mining would be allowed (possibly differentiating between unconditional and conditional licensing) *a priori*. A Management of Mineral Resources Plan (MMRP) that contains clear objectives and specifications as well long-term goals for development of each deposit could support the process of *a priori* consent between the regulative authorities.

3.13. The periodical spatial planning arrangements could be drafted after respective consultations and in full compliance with existing urban development plans of Kosovo municipalities, and in full accordance with the protected areas of Kosovo, with prior consent from MESP and MARD. After these consultations and approvals, the Ministry of Economy could declare such a plan effective and the ICMM would subsequently be authorized to carry out licensing in complete conformity with this plan.

### ***Licenses for Areas of Special Interest***

3.14. In addition to the standard process for obtaining an exploration or exploitation license, the law allows the Government to designate a specific area in Kosovo as an "area of special interest". In such

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<sup>5</sup> The ICMM has recently begun to require consent from the owner as part of the license application.

<sup>6</sup> For example, the ICMM adopted in 2009 the Administrative Instruction 001/2009 on responsible person, certification of people and companies, content of exploration, and mine plans. This instruction is not easily available to potential license applicants.

<sup>7</sup> According to information provided in an interview.

case, exploration and mining licenses will be awarded and issued through an open, transparent and competitive tender process. In this context, the Government has earmarked nine specific geographic areas as “areas of special interest”, thereby referring to deposits that have been deemed as being of strategic interest for the Government of Kosovo. Areas of special interest are designated for deposits that contain either: i) valuable metallic or industrial minerals or semi-precious stones in a quantity that is of potential interest to three or more operators, or ii) energy minerals. ICMM has collected data on geologic research under the MRMP related to these areas. These data are sufficient for the Government to initiate tendering procedures for the award. The competitive tender process is also applicable for energy minerals such as lignite. So far, the authorities have not yet launched a tender for any of the designated areas of special interest.

3.15. An international good practice scheme depicting prerequisites and key components of a competitive tender process is provided in Annex 1. In addition to the technical steps for the conduct of a tender process as outlined in the Annex, it should be pointed out that the main goal of a tender is to provide the public with leverage to influence the development outcomes of a mineral license. Hence, good practice tenders ensure that bidding includes fields such as the rent share of the state, infrastructure, value-added (in either the up- or downstream industries, if applicable), human resources, training and community development.

### **3.3 Areas for improvement of the Regulatory Framework**

3.16. The implementation of the mining-related legislation has revealed several weaknesses in the regulatory framework. These relate to the (i) preserving the independence of ICMM, (ii) the fiscal regime, and (iii) the social aspects of mining development.

3.17. While the legislative framework provides for effective management of mineral operations by an independent regulator (ICMM), there seems to be a tendency of diminishing the influence and independence of the regulator. For instance, the ICMM has been excluded from the newly established Tendering Committee charged with managing the competitive licensing procedures (see sub-section 3.2 on licensing procedures)<sup>8</sup>. The Tendering Committee, as stipulated in the law on mines and minerals, consist of the Minister of Economy, the Minister of Finance, the Minister of Trade and Industry, the Minister of Environment and Spatial Planning, and the Minister of Labor and Social Welfare.<sup>9</sup> Even though the ICMM is expected to provide advice (if needed) to the Tendering Committee, its presence on the committee would ensure a higher level of political independence of the competitive licensing process.

3.18. Another anomaly with regard to ICMM’s independence relates to the appointment of the Chief Inspector. The "Chief Inspector" who heads the Inspectorate of ICMM and is charged with overseeing mining operations is currently appointed by the Government. As such, this arrangement may cause administrative difficulties between the Chief Inspector and the Director as well as between the Board and the Chief Inspector, which in turn could hinder the functioning of the ICMM.<sup>10</sup> While the Inspectorate

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<sup>8</sup> Licenses subject to competitive award process are governed and regulated by Article 18 of the Law on Mines and Minerals.

<sup>9</sup> The Ministers may designate (in written form) a person to represent them at committee meetings.

supervises the legality of operators, it does not control the work of ICMM's Board of directors. It would make sense for the Chief Inspector to be appointed by the Assembly since that would ensure his/her independence from the ICMM Board. The fact that the Chief Inspector's function is to supervise operators is another argument that s/he should be appointed in the same way as the Director of the Board, i.e. by the Assembly.

3.19. Further to this, there is also diminished independence within the Board itself, since the Board members are appointed based on a proposal by the Government, which could result in a conflict of interest between the (independent) inspection and Board members. It is recommended that the members of the Board are proposed and elected by the Kosovo Assembly.

3.20. Another area for improvement is the fiscal regime which currently does not provide any flexibility concerning mining operations, i.e. it does not address the specific requirements of the sector. The law on minerals does not contain any provisions related to the fiscal regime, except for Article 50 which discusses royalties. Moreover, the law on the profit tax is also silent on this issue, and the Tax Authority of Kosovo does not follow a specific approach to taxing mining companies. Given the specific circumstances of mine operations and their financial and economic models, a modern mining fiscal system takes into account these sector specificities by, for example, taking into consideration the (often considerable) negative cash flow during the first initial years of an operation. Hence, a modern system extends the loss carry forward period and introduces relief provisions for unsuccessful exploration costs. Equally, pooling of exploration costs needs to be allowed for. Finally, given the long gestation periods of mining operations, it is pertinent that both tax agreements and royalty provisions are clearly spelled out and hence allow for good economic modeling / forecasting.

3.21. In addition, the mining law does not clearly define royalties. First, the legislation needs to define whether royalties are paid against production or sales. Second, it needs to define when royalties are to be paid, and third, what the royalty fees should be. The royalty sections in the law describe the mechanism on how the fees are agreed upon. In addition, the law provides space for the royalty fee to be subject to interference from either the Ministry of finance or the Assembly, which may both propose alterations to the royalty fees. Such alterations could subsequently become effective in less than a year. This reduces the ability of investors to undertake sound economic forecasting of investments. It is a good practice to either maintain a royalty fee for a previously agreed or stated time frame, or allow for a sliding scale according to price developments, in which case the legislation would outline the limits of the sliding scale.

3.22. The law is also more or less silent on social issues. Key issues that ought to be covered are compensation and resettlement. If these issues are covered by another law, the mining law should make reference to it. Also, there is no mentioning of community consultations or what the obligations of a mine developer are vis-à-vis a community. Housing on land that has been granted for a concession remains a problem, as the law does not provide for an effective mechanism of removal.

3.23. There is also urgent need to finalize the drafting of supporting regulations related to the law on minerals. Their finalization and approval would allow for more efficient processing of licensing applications in accordance with international norms and standards, in particular:

- the classification and verification of geological reserves consistent with international standards; and
- the continuation of the Mineral Resources Management Plan in cooperation with the municipalities, MESP, the Ministry of Agriculture and other institutions.

3.24. Finally, the legal framework and the mining strategy would need to address the environmental legacy issues, i.e. pollution and other environmental damages from former mining operations. While this policy note does not aim to address the environmental aspects of mining sector development, it is worth nothing that the authorities would have to decide how the mitigation costs will be borne, either by society (i.e. the general budget) or whether some costs can be pushed on the private investors.

3.25. In principle, three different sources for financing environmental rehabilitation are available, which in most cases could be used in a combination: international donor-supported projects, domestic revenues and the new or previous owner of the mine. A selection of funding sources is typically site-specific and depends on the ownership arrangements, the type of liabilities and on economic potential (new owners of highly profitable sites are typically more willing to contribute to the clean-up procedures). In Kosovo's context, it might be beneficial if the Ministry of Economy sets up a distinct unit or office which coordinates between the stakeholders of rehabilitation efforts.

#### **IV. TOWARDS SUSTAINABLE DEVELOPMENT OF KOSOVO'S MINERAL RESOURCES**

4.1. Previous sections have illustrated the potential of Kosovo's mineral sector as well as the strengths and weaknesses of the regulatory framework that governs it. This section outlines policy measures for the authorities to consider that may promote a rapid and sustainable development of Kosovo's mineral resources. The proposed reform measures take into consideration the following key principles:

- Private investment should be the driver of mineral operations, ensuring adaption of market principles and hence economically and financially sustainable operations;
- Private activities should be framed by clear legislation and regulations, addressing not only technical requirements but also environmental, social and legacy issues, including mine-closure requirements.

4.2. To begin, the deficiencies in the division of competencies between institutions have resulted in excessive bureaucracy and non-transparency, inadequate provision of supporting infrastructure, an unclear distribution of responsibilities and, in general, lack of a coherent vision for mining development. Hence, as a first step, reforms should be taken to raise the interest of investors as well as local communities in mineral development. This requires improvements in the legal and regulatory framework as was discussed in the previous section to ensure separation along key regulatory functions, such as: (i) policy-making and planning (ministry), (ii) the award of licenses (fully autonomous ICMM), and (iii) inspection (by independent or cross-ministerial department). In addition, investors need to be made aware of their economic, social and environmental obligations. Second key aspect of the reform is to address the privatization of public mining assets. In this context, conducting tenders of the Zones of Special Interest in a rapid manner could stimulate investment in new mineral development.

4.3. It should be pointed out that the mining sector reform is a long term undertaking. The experience of other countries suggests that the timeframe between reform and measurable improvements may take 10 years. However, well guided reforms and policy measures in some countries have resulted in substantial improvements of sector performance, manifested by significant increases of investment, value of production and of exports (see tables 4 and 5).

**Table 4.** Timeframe of Mineral Sector Reform in Select Countries

	Start of Economic reform	New Mining law	Start of Exploration Boom	Start of main Mineral Production	Typical project
Peru	1990	1992	Early 1990s	Early 1990s	Yanacocha, Antamina
Mexico	Late 1980s	1992	Mid 1990s	Early 1990s	Tysapa
Bolivia	1986	1997	Not yet	Not yet	Inti Raimi
Argentina	Early 1990s	1993	Mid 1990s	1998	Bajo de la Alumbreira
Brazil	1995	1996	1996	Not yet	Salobo
Tanzania	Early 1990s	1998	Mid 1990s	Early 2000s	Bulyanlulu
Burkina Faso	Early 1990s	1997	Mid 1990s	Not yet	Bombore
Madagascar	Mid 1990s	1999	Not yet	Not yet	Ambatovy
Mongolia	1996	1997	1997	Not yet	Boroo
Kazakhstan	Early 1990s	1996	Not yet	Not yet	Bakyrchik
D.R. Congo	1997	Not yet	Not yet	Not yet	Tenke Fungurume

Source: World Bank.

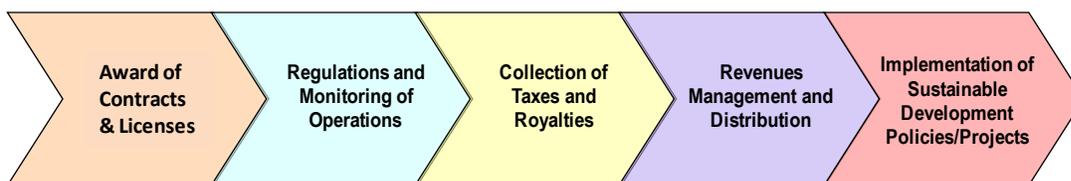
**Table 5.** Mineral Sector Performance before and after Sector Reforms in Select Countries

Country	Exploration Value US\$ Million		Production Value US\$ Million		Exports Value US\$ Million	
	Before	After	Before	After	Before	After
Argentina	<3	150	340	1,310	70	700
Chile	15	250	2,400	7,500	2,300	6,900
Peru	10	200	2,000	3,900	1,900	3,600
Tanzania	<1	35	53	350	53	350
Ghana	<1	N.A.	125	700	125	650
Mali	<1	30	<1	242	<1	230

Source: World Bank

4.4. Successful policies for mining development are guided by the principles of economic, social and environmental sustainability. A modern and sustainable mining policy takes into account the need for policy action at each step along the so-called Extractive Industries (EI) Value Chain. This chain in principle follows the way of the resource from an underground commodity up to its transformation into an economic asset that contributes to local and national development (Figure 2). In other words, the EI value chain helps to allocate specific policy recommendations for each phase in the development of mining resources.

**Figure 2. The Extractive Industries Value Chain**



Source: Extractive Industries Value Chain: A Comprehensive Integrated Approach to Developing Extractive Industries, World Bank 2009.

4.5. The rest of this section provides recommendations on each of the five steps of the EI Value Chain. These measures are summarized in Table 6 which describes the proposed actions as well as the expected objectives. In addition, Table 7 lists the main stakeholders and their responsibilities.

**Table 6. Key Actions for Sustainable Sector Reform**

Section	Actions	Objectives
<b>Award of Contracts and Licenses – Access to Resources</b>	<ul style="list-style-type: none"> <li>Regulatory framework with clearly defined institutional responsibilities</li> <li>Ensure transparent, competitive and non-discriminatory allocation</li> <li>Increase availability of geodata, and attract exploration operations</li> <li>Human capacity building for the mining sector</li> <li>Base allocations and access rights on Mineral Resources Management Plan</li> <li>Improve efficiency of exploration licenses</li> <li>Community consultations</li> <li>Social policy frameworks to address resettlement and compensation</li> <li>Privatization of SOEs</li> </ul>	<ul style="list-style-type: none"> <li>Attract private capital to substitute / complement local investors with insufficient capacities and obsolete technology</li> <li>Comprehensive legal framework</li> <li>Increase capacity of qualified sector staff</li> </ul>
<b>Regulation and Monitoring of Operations</b>	<ul style="list-style-type: none"> <li>Introduce impact assessments (social and environmental) to inform decision-making</li> <li>Capacity building for monitoring agencies</li> <li>Introduce mine closure plans</li> <li>Rehabilitation to alleviate environmental effects and increase attractiveness to investors</li> </ul>	<ul style="list-style-type: none"> <li>Limit the risk of negative and undiscovered environmental effects</li> <li>Have a working pollution monitoring system in place</li> </ul>
<b>Collection of Taxes and Royalties / Transparency</b>	<ul style="list-style-type: none"> <li>Increase capacities for tax assessment and collection</li> <li>Transparent handling of revenues</li> </ul>	<ul style="list-style-type: none"> <li>Decrease tax avoidance and transfer pricing</li> <li>Improve governance of mineral taxation</li> </ul>

**Table 6. Key Actions for Sustainable Sector Reform**

<b>Section</b>	<b>Actions</b>	<b>Objectives</b>
<b>Revenue Management and Distribution</b>	<ul style="list-style-type: none"> <li>• Introduce schemes that smooth public spending, and that takes regional distribution of revenues into account</li> </ul>	<ul style="list-style-type: none"> <li>• Ensure stable benefit sharing arrangements</li> <li>• Ensure stable budget calculations</li> </ul>
<b>Implementation of Sustainable Development Policies and Projects</b>	<ul style="list-style-type: none"> <li>• Multiple use infrastructure (e.g. through PPP schemes)</li> <li>• Support mining SMEs</li> </ul>	<ul style="list-style-type: none"> <li>• Increase the development and long-run impact of mineral operations</li> </ul>

**Table 7. Allocation of Responsibilities of Key Stakeholders**

<b>Stakeholders</b>	<b>Responsibilities</b>
<b>Government of Kosovo</b>	Appropriate management of nation’s mineral resources; establishment of a strategy and framework that allow exploitation benefiting the population in a sustainable manner
<b>ICMM</b>	Ensuring that laws and regulations are applied evenly. Providing access to resources to appropriate investors; advising the Government professionally on all sector related issues
<b>Civil Society</b>	Represent the interest of citizens; guard environmental and social standards; be an active participant in multi-stakeholder dialogue groups; ensure proper legal conduct of mineral operations, and guard for appropriate use of mining derived revenues
<b>Mining Operators</b>	Ensure efficient and clean extraction of resources; ensure the economic sustainability of operations; be a reliable partner to both communities and the Government

#### **4.1 Award of Contracts and Licenses – Access to Resources**

4.6. Sound policies with regard to granting contracts and licenses are the basis for sustainable mineral development. The terms under which access to resources is regulated and licenses are allocated have a significant impact upon all developments within the value chain. In the most basic sense, appropriate policies should take into account transparent, competitive (where feasible) and non-discriminatory methodologies of allocation, and be based on clear legal and regulatory frameworks and well defined institutional responsibilities. For the purposes of Kosovo, proper regulation of this first section of mineral development needs to take into account the following issues: (i) availability of geodata to increase investors’ interest; (ii) Mineral Resources Management Plan; (iii) licensing procedures; and (iv) privatization of SOEs.

### ***Availability of geodata to increase investors' interest and sustain competitive tender processes***

4.7. The first step for ensuring access to resources is to have sufficient knowledge and availability of geodata of mineral resources. As discussed earlier, the exploration activities for several promising minerals could be significantly stepped up. The Government of Kosovo needs to expand its knowledge on underlying geological, geochemical and geophysical data, to trigger additional (private sector led) detailed exploration projects. All relevant data is ideally consolidated under one platform which investors can access. It is also crucial for Kosovo to adapt a reporting standard which is in line with international standards, such as the “Pan European Reserves Committee Code for Reporting of Exploration Results, Mineral Resources and Mineral Reserves”, paired with the introduction of the concept “Qualified Person” with the authority to approve and confirm the presented data. In addition, to generate additional geodata for exploration purposes, but also to increase monitoring capacities, a European standard Geological Survey would be an important contribution for strengthening the sustainable development of Kosovo’s mineral sector.

4.8. Also, while Kosovo still has a good underlying layer of well educated sector professionals, the age structure is not favorable. This would require the introduction and implementation of various training and vocational programs to target young school and university students, as well as raising the attractiveness of necessary subjects and degrees, both in universities and vocational training centers.<sup>11</sup>

### ***Mineral Resources Management Plan***

4.9. An encompassing plan that builds upon the available inventory should be a useful basis for the efficient regulation of mines and minerals. The Government of Kosovo has initiated drafting of an MRMP, and completing this task would be highly desirable. The plan should lay out available resources, investment requirements, social and environmental issues, infrastructure needs and align mineral development objectives with municipal and regional development plans. It should have a multi-sectoral and long term view, having as a goal the long run sustainability of the mining sector and the creation of as many community, local and national benefits as possible. The plan would provide guidance to policy makers with regard to objectives of operations and also act as a framework for well-planned and coordinated exploitation of the mineral assets.

### ***Licensing Procedures***

4.10. In the case of licensing procedures, the current framework that grants access to resources could be improved. These would include ensuring that only a single authority is entrusted with the right to grant exploration licenses to eliminate the risk that multiple licenses are given out in one area. Therefore, any ambiguities with regard to granting the license rights must be removed through consolidation of the responsibilities, including the allocation of developed and undeveloped mineral resources into one administrative unit. The implementation of a clear allocation procedure for undeveloped mineral

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<sup>11</sup> There are vocational institutions providing technical training for the mining industry in Kline, Bardh, Kastriot and Mitrovica. According to a report from the Ministry of Mines (2007) however, upgrading and improvements are necessary with respect to the teaching quality, the curricula and the management of the education system.

resources requires the reservation of a license and transfer of the title to a successful bidder. This could be arranged through an administrative unit charged also with the tendering process.

4.11. It is equally important to increase the efficiency of the licensing process and keep a maximum time limit for evaluating and granting / declining license applications. Furthermore, good policies include public consultations with regard to investments, environmental and social requirements, transparency and revenue distribution in order to ensure that adjacent communities benefit from the operations that affect them. What is currently missing in the legal framework is provisions on social aspects such as resettlement and compensation, land reclamation and distribution of reclaimed land. It is important to ensure and maintain transparency already during the early stage of mining development, including decisions on the granting of licenses, environmental approvals and other mining related issues. Also, mine developers should be obliged to engage early on in consultation processes with affected mining communities, dealing for instance with relocation, rehabilitation and benefit sharing issues. Annex 2 provides details on designing a good practice benefit sharing framework.

### ***Privatization of SOEs***

4.12. As mentioned previously, the operation of modern mining operations should be driven by the private sector, which is better able to raise the necessary financing of investments. A number of formerly operating mines are still under the trust of the Government through the Kosovo Privatization Agency (KPA), though plans for their privatization are in place. However, privatization processes are complex since they require accurate definition of assets (surface and subsoil), accountability for environmental and financial liabilities as well as the status of former employees.

## **4.2 Regulation and Monitoring of Operations**

4.13. Strong oversight and enforcement mechanisms, as well as adequate administrative capacity, are critical for ensuring sustainable mining practices. A good practice on this is to have enforceable environmental and social standards, paired with a clear allocation of responsibilities of the relevant actors (central government, local governments, community, NGOs, and the private sector). Additionally, a conducive regulatory framework needs to cover the fiscal, environmental and social aspects of mining. In this regard, the legal framework should require MESP to conduct environmental impact assessments (EIA) and socio-economic impact assessments (SIA) for all mineral projects.

4.14. Related to the above, a system of financial warranties for mine closure and decommissioning is another widely established good practice. Furthermore, the land affected by historic mining and ore processing should be rehabilitated using standardized environmental assessment procedures and cost estimates. Where feasible, the recovery of precious and base metals from metallurgical and flotation tailings could be considered as revenue source to cover part of the rehabilitation costs. Finally, the establishment of a separate administrative unit could be considered that channels the existing environmental rehabilitation efforts of the international donor community.

### **4.3 Collection of Taxes and Royalties / Transparency**

4.15. Transparency in the management of EI related taxes and other payments is crucial in delivering sustainable outcomes, not least given the finite character of mineral resources, which need to be transformed into alternative means of capital within a limited time. EI related taxes and royalties are often based upon complex technical and contractual arrangements, which require appropriate Public Financial Management (PFM) structures, specifically with regard to assessment and collection capacities.

4.16. It is therefore paramount that capacities that enable policy makers to manage revenues properly are being developed. This includes the capacities to both assess and collect the due amounts of mining operations. It is equally important that EI related revenues are handled in a transparent manner. The public should have the possibility of knowing what transfers are made between the companies and the Government, and if there are any discrepancies between those payments. Hence, implementing international transparency standards like the Extractive Industries Transparency Initiative (EITI) can be an instrument to clearly demonstrate to international and national stakeholders that the Government is engaged in increasing transparency of sector-related revenues by means of greater accountability. In other countries EITI has also been an effective platform for multi-stakeholder consultation around wider sector issues, and in some cases was also useful in identifying shortcomings in PFM or more specifically sector related tax assessment and collection capacities. Annex 3 gives an overview over the functions of this initiative.

### **4.4 Revenue Management and Distribution**

4.17. In Kosovo, mining-induced revenues could be one of the biggest sources of revenue for the state. However, given the nature of mineral revenues, these flows will be volatile and for a limited duration (until deposits are depleted). Governments face frequently difficulties with regard to optimal expenditure patterns which would take into account the volatility of prices as well as the exchange rate effects that could accompany increased domestic spending (the Dutch-disease).

4.18. One possibility to counter both the volatility as well as the exchange rate appreciation would be to sterilize the influx of resource-related revenues by, for instance, saving a specific share abroad. Special funds could be released into the budget on a previously predetermined rate that is ideally counter-cyclical to mineral price developments. This would allow policymakers a revenue stream and reduce the risk of macroeconomic overheating. Additionally, a saving fund could generate additional revenues (from interest) for future generations.

4.19. The distribution of mineral revenues is a challenge that needs to be tackled. As of now, the legislation does not offer clear guidelines as to how this is to be done. The regions that generate mineral revenue, and especially the surrounding communities, should receive their “fair share”. While determining the fair share is typically based on intense domestic political debate, it has become obvious during previous decades that there will be little local support for mineral operations if communities feel left behind. Exclusion of local communities can even lead to resistance and local conflict. Precise patterns that regulate the distribution of revenues, paired with community consultation, should therefore be in place.

#### **4.5 Implementation of Sustainable Development Policies and Projects**

4.20. The purpose of mineral operations should be to provide additional economic benefits to the society, such as generation of local employment, promotion of supporting industries and revenues to the budget. One way for mineral operations can provide a positive external effect is through the planning and building of mining-related infrastructure that is also accessible to other economic actors. This so-called “multi-use infrastructure” has shown to render many other economic activities more efficient and economically viable. For instance, a road going to the mine can be also be used by adjacent farmers can to transport agricultural goods to the market. Developing such multi-use infrastructure typically requires careful planning and collaboration between the national and local governments as well as with the private sector.

4.21. To facilitate direct employment and poverty reduction, it might be useful for the Government, in some cases, to concentrate on strengthening small- and medium sized mining companies (SME) within the small-scale mining sector (SSM). If based on a proper Mineral Resource Management Plan (as described under section 1, access to minerals), which would outline areas that are suitable for SSM, SSM entrepreneurs would complement large-scale mining (LSM). In addition, since SMEs tend to employ more local labor and pay most of their taxes domestically, they are a source for local economic activity which can be increased if indirect business spin-offs (for instance, mining related services and processing plants) are also taken into account. Access to financing, supply with appropriate equipment and training for technical staff are key requirements to enhance the efficiency of mining SMEs. It should be noted that mining SMEs would contribute to sustainable development only if proper monitoring of their operations is in place, and if, in general, they engage in deposits that are not subject to economies of scale. In this context, promoting SME engagement in up-, down- and sidestream support industries is considered to be a safer approach to maximizing their role in the development of the sector.

## V. CONCLUSION

5.1. Kosovo's mining sector has considerable potential to become a key driver of economic growth. First, Kosovo's soil has abundant deposits of various energy, metallic, and industrial minerals, as well as construction materials. Second, the (state-owned) remains of former mineral operations, including metallurgical processing facilities, may offer additional value if restarted or privatized. These deposits and assets are likely to be attractive to foreign and domestic investors given Kosovo's geographic location and free access to the EU market. The lesson from other middle income countries with similar resource endowment is that minerals contribute to overall economic development only if managed and governed based on good practice regulatory framework.

5.2. The authorities in Kosovo could increase the attractiveness of the mining sector to investors and improve the sharing of benefits from resource use by strengthening further the regulatory framework on mining. The mining law regulates the sector relative well and the independent regulatory body (ICMM) has good administrative capacity to carry out its responsibilities. However, analysis along the Extractive Industries Value Chain has identified some shortcomings in each of the five steps of the process. Policy recommendations are proposed to address the identified shortcomings, and these are summarized in Table 7, while the responsibilities of the main stakeholders are presented in Table 8.

5.3. The proposed recommendations focus on changes in the legal and regulatory framework. First, fiscal aspects of mining operations, environmental and social issues are areas that need to be addressed in a comprehensive manner in the legislative framework. Second, there is a need to further clarify the responsibilities of key mining sector authorities, particularly concerning the licensing process and the role of the regulator. In addition to regulatory changes, some (public) investment would be necessary for exploration activities in order to assess Kosovo's mineral resources. Finally, the regulatory framework and legal obligations need to be implemented and enforced to provide a predictable and rule-based environment for investors.

## **Annex 1: Prerequisites and Key Components of a Competitive Tender Process:**

### *I. Prerequisites:*

- Preparation of list of mining properties available for bidding,
- Identifying environmental and other liabilities attached to the mineral resource,
- Establishing a basic bidding value taking into account any liabilities
- Compiling promotional technical brochures,
- Selecting venues for the promotion of mineral resources,
- Preparing confidentiality agreement,
- Selecting documents for a data room,
- Setting data room fees,
- Determining payment procedures for data room fees,
- Defining procedures for the disclosure of potential conflicts of interest,
- Preparing a list of documents and information to be requested from the bidder organization
- Defining the type of guarantee required for securing a financial bid,
- Designing technical and financial screening criteria for pre-qualification,
- Compiling technical, financial and fiscal memoranda for distribution to prequalified
- bidders,
- Determining time and venue for bidders forums,
- Determining venue for public bidding sessions,
- Formulating general legal provisions, for instance regarding the responsibility for
- costs incurred,
- Identifying a contact person within the tendering organization,
- Setting time lines for each step of the tendering process,
- Designing technical and financial screening criteria for the final selection of the successful bidder

### *II. Key Components of the Tender Process:*

- Presentation of information material at various national and international events,
- Call for Expression of Interest,
- Pre-qualification,
- Announcement of pre-qualification results and dispatch of Information
- Memoranda,
- Setting up data room,
- Payment of data room fees,
- Opening data room,
- Due diligence opportunities, including site visits,
- Bidders' Forum,
- Submission of technical and financial bids,
- Public bidding session.

## Annex 2: A Scheme for Community Benefit Sharing

**Sustainable communities** in mining areas are product of good policies and laws that have been planned and implemented at the local level by competent institutions/organizations, with the active participation of community members. Resistance to mineral investments is likely to develop if communities perceive threats to livelihoods or exclusion from the development process. Overarching instruments to ensure that local communities benefit from the extractive industries include:

- *community consultation framework* to assess and assign the roles and responsibilities of government, companies, NGO's, donors, and local affected communities on measures to address environmental and social impacts; and
- *community development plan* facilitated and coordinated by the Government in consultation with stakeholders, including the active participation of communities, to integrate mining and mine closure planning with broader regional economic development plans.

A comprehensive framework for compensation and benefit sharing that leads to a concerted community development is critical factor in the managing of mining revenues for local community development. To be effective, compensation needs to address the community's development prospects. Benefit sharing approaches could be an important tool in transforming a community from a dependent beneficiary into a reliable partner, prepared to manage its own development.

There is a broad range of benefits that can be provided to local communities affected by mining. These include provision of rural infrastructure, small and medium-size enterprise development, formation of human capital through company-sponsored training, providing job skills directly at the mine and in secondary support ("spin off") industries.

A comprehensive community benefit package, in principle, should include:

- ***employment and income-related benefits*** - which would include employment and income related opportunities that would be provided to the affected communities during construction and operating phases, including direct employment by the mine and also indirect employment such as local sourcing of certain supplies and services, and spin-off businesses;
- ***benefits aimed at building local human capital and institutional capacity*** - which would include training for community members (related to direct and indirect employment possibilities), training for community leaders, capacity building for community institutions, and provision of micro credits to support development of small and medium-size enterprise (not only in mining but also in other sectors such as agriculture);
- ***benefits for the community resulting from the development of infrastructure*** - which would facilitate access to: (i) education (schools); (ii) access to markets for local communities to sell their products (roads); (iii) health (medical facilities); and (iv) clean water. Such infrastructure development should, ideally, be financed by both investors and the government, and managed by the community. Benefit sharing will be effective if the accumulation of human and social capital is promoted by improving the education and health standards of the local population and their collective ability to organize themselves, define their priorities, and represent and negotiate effectively their interests with third parties such as the government;

- *trust funds*, efficient mechanisms to sustain human and social capital accumulation, established either for financing local development initiatives (and managed by the community), or for providing funds for future generations.

The following table summarizes the advantages and risks that would need to be considered in developing a benefit sharing mechanism.

**Table 8. Benefit Sharing Schemes**

	<b>Advantages</b>	<b>Risks</b>
<b>Structure</b>		
Partnership Participatory Approach such as Development Forum	<ul style="list-style-type: none"> <li>• Consultative, inclusive, accountable, flexible</li> <li>• Reach mutually beneficial agreement</li> <li>• Emphasis is on mobilizing trust and partnership, rather than on use of coercive force of law</li> </ul>	<ul style="list-style-type: none"> <li>• Developer or government may be unwilling to participate</li> <li>• With large and diverse numbers of firms and affected people assuring fair and adequate representation will be difficult</li> </ul>
<b>Forms of benefits sharing</b>		
Employment and income related benefits	<ul style="list-style-type: none"> <li>• Community preferred benefit</li> <li>• People feel more safe if they get a job</li> <li>• Small businesses created bringing more job opportunities</li> </ul>	<ul style="list-style-type: none"> <li>• Mining highly intensive, limited direct jobs available;</li> <li>• Affected communities lack necessary skills either to work for the mining company or to set up other businesses</li> </ul>
Cash	<ul style="list-style-type: none"> <li>• Less vulnerable to capture</li> <li>• Easy to target</li> <li>• Easy to deliver cash benefits when institutions are weak</li> </ul>	<ul style="list-style-type: none"> <li>• Create cash dependency, promote consumption, and not development or saving</li> <li>• Not effective in large populations</li> </ul>
Public Goods	<ul style="list-style-type: none"> <li>• Promote development</li> <li>• Build lasting human capital.</li> <li>• Create sustainable regional economy after mine closes</li> </ul>	<ul style="list-style-type: none"> <li>• Difficult to provide public goods if weak institutions</li> <li>• Wastage if services not desired by communities</li> </ul>
Training	<ul style="list-style-type: none"> <li>• For community members (both for direct and indirect employment),</li> <li>• for community leaders</li> <li>• Capacity building for community institutions</li> <li>• Provision of micro credits to support small business development (in mining but also other sectors)</li> </ul>	<ul style="list-style-type: none"> <li>• Captured by community elite and not all community members have equal chances to attend training</li> <li>• Community institutions unwilling to participate</li> </ul>
Trust Funds	<ul style="list-style-type: none"> <li>• Financing local development initiatives and which should be managed by the community according to its needs;</li> <li>• Providing funds for future generations</li> </ul>	<ul style="list-style-type: none"> <li>• Weak community institutions not able to participate actively in the decision process for trust funds management</li> <li>• Funds captured by politicians/community elite/local governments and used for other purposes</li> </ul>
<b>Relevant Stakeholders Roles</b>		
Companies	<ul style="list-style-type: none"> <li>• Large corporations may have better capacity and experience in supplying infrastructure than remote and under-</li> </ul>	<ul style="list-style-type: none"> <li>• Not core business of the mining company, raises business costs</li> <li>• Create mine dependency</li> </ul>

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	funded local governments	
State/Local Government	<ul style="list-style-type: none"> <li>• Fosters trust with mining sector</li> <li>• Builds a mining community that is loyal to the mineral sector or firm.</li> <li>• Overcome collective action problems when there are a large number of mines</li> <li>• Builds capacity of local government and communities</li> </ul>	<ul style="list-style-type: none"> <li>• Lack skills and capacity, Vulnerable to capture by interest groups who divert benefits to other purposes.</li> </ul>
Civil society	<ul style="list-style-type: none"> <li>• Provide services to the affected community (training, awareness programs)</li> <li>• Trusted by communities</li> <li>• Able to mobilize funds</li> </ul>	<ul style="list-style-type: none"> <li>• Have their own agenda and can easily manipulate communities</li> <li>• Represent the interest of the sponsor and not so much the interest of the community</li> </ul>
Community	<ul style="list-style-type: none"> <li>• Knows better what it needs</li> <li>• Partner in the development agenda</li> <li>• Better monitoring of the implementation of development programs and their impacts</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of consensus between different groups</li> <li>• Weak community organizations and easy to be corrupted</li> <li>• Captured by interested groups</li> </ul>

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## Annex 3: The Extractive Industries Transparency Initiative (Eiti)

### What is EITI?

The Extractive Industries Transparency Initiative (EITI) supports improved governance in resource-rich countries through the verification and full publication of company payments and government revenues from oil, gas, and mining. The Initiative works to build multi-stakeholder partnerships in developing countries in order to increase the accountability of governments and companies. Good governance is a precondition for converting large revenues from extractive industries into economic growth and poverty reduction. When transparency and accountability are weak, the extractive industries may instead contribute to poverty, corruption, and conflict—the so-called “resource curse.” The EITI is an important step in defeating this “curse.”

### How does it work?

The EITI Secretariat has developed an EITI Source Book that provides guidance for countries and companies wishing to implement the Initiative. The Source Book can be found on the website (in several languages) or hard copies can be obtained from the Secretariat. The process shown in the following diagram, combined with the “EITI Principles and Criteria,” shows how an EITI process would work:

### What are the benefits of implementing EITI?

The primary beneficiaries of EITI are the governments and citizens of resource-rich countries. Knowing what companies pay and what governments receive is a critical first step to holding decision-makers accountable for the use of revenues. Resource-rich countries implementing EITI can benefit from an improved investment climate by providing a clear signal to investors and to international financial institutions that the government is committed to strengthening transparency and accountability. Companies and investors, by supporting EITI in countries where they operate, can help mitigate investment risk. Civil society can benefit from an increased amount of information in the public domain about those revenues that governments manage on behalf of citizens. In summary, implementing EITI as part of a program of improved governance will help to ensure that oil, gas, and mining revenues contribute to sustainable development and poverty reduction.

### The EITI Criteria

The EITI Criteria were agreed at the EITI London Conference in March 2005 and set out what countries need to do in order to successfully implement EITI. The criteria are:

**Table 9. International EITI Secretariat**



Source:

1. Regular publication of all material oil, gas, and mining payments by companies to governments (“payments”) and all material revenues received by governments from oil, gas, and mining companies (“revenues”) to a wide audience in a publicly accessible, comprehensive, and comprehensible manner.
2. Where such audits do not already exist, payments and revenues are the subject of a credible, independent audit, applying international auditing standards.
3. Payments and revenues are reconciled by a credible, independent administrator, applying international auditing standards and with publication of the administrator’s opinion regarding that reconciliation including discrepancies, should any be identified.
4. This approach is extended to all companies including state-owned enterprises.
5. Civil society is actively engaged as a participant in the design, monitoring and evaluation of this process and contributes toward public debate.
6. A public, financially sustainable work plan for all the above is developed by the host government, with assistance from the international financial institutions where required, including measurable targets, timetable for implementation, and an assessment of potential capacity constraints.

### **Which countries are implementing EITI?**

EITI is now a global initiative. More than thirty countries have either committed to, or are now actively implementing EITI, in Africa, Asia, Europe, Middle East and South America. For the most recent list of countries and information on what they are doing, please look at the “EITI Countries” section of the EITI website ([www.eiti.org](http://www.eiti.org)).

### **Who else is involved?**

EITI is supported by an International Secretariat in Oslo, Norway. The Secretariat works closely with the World Bank and the IMF. In addition to the implementing governments, EITI is supported by donors; by many of the largest oil and mining companies in the world, as well as investors in those companies; and by civil society groups many of which work under the umbrella of the Publish What You Pay Coalition. A full list of organizations involved in EITI is listed in the “Supporters” section of the EITI website.

### **How is implementation of EITI financed?**

EITI is financed in part through a Multi-Donor Trust Fund (MDTF) administered by the World Bank. Australia, Belgium, Canada, France, Germany, the Netherlands, Norway, and the United Kingdom all currently contribute to the Fund. The funds are being disbursed to implementing countries to help meet the EITI criteria. Implementing countries also provide their own resources wherever possible. Individual donors also provide some separate funds for EITI implementation on a country-by-country basis.

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