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Increasing Fiscal Benefits through Commercial State-Owned Enterprises in the Mining Sector

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1.0 Introduction

State-owned enterprises (SOEs) are significantly more prevalent in the oil and gas sector than mining. The change came in the 1950s, when many oil-producing countries began to feel unfairly treated by private companies who had been granted generous concessions in return for which government had no claim to the petroleum produced, merely receiving royalty payments and unreliable tax revenues. The rising wave of independence post World War II, led many governments to want to reassert their sovereignty over natural resources and increase their share of the profits from oil and gas.¹ A position that was welcomed by the United Nations.²

In addition to the political appeal, it was thought that ownership would equip host countries with the skills to be able to operate their own oil fields without the involvement of foreign firms. Countries often ended up with 100% ownership, which was then vested in a National Oil Company (NOC). There was a transitional period during which some private companies' concessions continued, but these arrangements were mostly phased out after the 1978-79 oil price shock. Consequently, 86% of the world's oil reserves are state-owned today, and growing in terms of output.³

Oil and gas producing countries were not alone in desiring greater state participation in the sector. SOEs in the mining sector date back to the early 20th century when political movements such as the Soviet revolution and decolonization increased the desire for countries to regain ownership of their resources.

¹ (Duval et al. 2009)

² (Shihata 1976, 261) The Programme of Action on the Establishment of a New International Economic Order issued by the U.N. General Assembly on May 16, 1974 specifically welcome "the increasingly effective mobilization by the whole group of oil-exporting countries of their natural resources for the benefit of their economic development."

³ (Mitchell, Marcel, and Mitchell 2012, 37) Output from state-owned oil reserves grew by 40% between 2000 and 2010, while output from private reserves fell by 20%.



Examples include Finland's Outokumpu (1914), Sweden's Luossavaara-Kiirunavaara Aktiebolag (LKAB) (1890) and Morocco's Office Chérifien des Phosphates (OCP) (1920). As more countries gained independence, they nationalized their mining assets. They shared the view that the concession regime had allowed international mining companies and foreign investors to obtain most of the rent from the mineral industries, leaving very little of the proceeds for the host country.⁴ By 1984, SOEs controlled half of the value of metals produced (The World Bank, 2011). High commodity prices and demand for minerals to build back economies after World War II sustained the profitability of SOEs.

However, unlike oil and gas, the rise in state participation in the mining sector, whether through complete nationalisation, or contractual arrangements, was comparatively short-lived. By the end of the 1980s, state participation in mining had stopped almost entirely in developed countries. Whereas when nationalisation had begun, mining was at the top of the market benefitting from unprecedented growth in metal production and prices post-Second World War, over the ensuing 30 years metal prices were in almost continuous decline (The World Bank, 2011). By contrast, oil prices rose exponentially during the period.⁵ This meant NOCs were in a better position to absorb any economic inefficiencies arising from state ownership, which was coming under pressure due to the rise of the free-market approach.⁶

There are a handful of mining SOEs today. Chile's Corporacion Nacional de Cobre de Chile (Codelco) (Odendal & Dolo, 2018), Indonesia's PT Aneka Tambang (ANTAM), Saudi Arabia's Ma'aden (Trade Arabia, 2022) and Sweden's LKAB (Nilsen, 2022). Some of these entities have been so successful that the presence of private mining companies has reduced in the host country (Caprioni, 2013).

There has also been renewed interest in state participation since mineral prices began to rise from 2003/2004 onwards. Namibia established Epangelo in 2013 (Epangelo Mining Company, n.d.) while Erdenes Mongol LLC was formed in 2007 (Erdenes Mongol, n.d.). Zambia Consolidated Copper Mines Limited (ZCCM-IH) which was formed in 1982, and until recently managed government's minority share, has taken over full control of Mopani Copper mines from the private sector (NS Energy, 2021). Finally, the recent demand for critical minerals is leading some countries to want to capture more benefits through SOEs. Mexico has established a SOE for lithium. Chile has similar plans.

Despite mixed historical experiences, the current level of interest in direct state participation makes it important to understand the conditions under which state owned mining companies can be successful. This policy paper gives recommendations to governments who are considering introducing, expanding, or reforming commercial SOEs in their mining sectors.

⁴ (Otto 1995)

⁵ See Figure 1 (Radetzki 2012, 384).

⁶ (Radetzki 2008) Radetzki argues that one of the reasons for less privatization in oil is because of a more forgiving attitude towards inefficiency nurtured by the high profitability of the oil industry.



2.0 Reasons to Establish an SOE for Mining

Governments have often relied on SOEs to assert greater control over their economy and over the exploitation of natural resources in particular. They can assign various objectives to their SOEs in the mining sector:

2.1 Control of Strategic Minerals and Energy Security

SOEs can be formed to control specific minerals that are considered strategic for a country. This is one of the reasons SOEs have been more common and enduring in oil and gas. The role of oil in energy generation means there have been strong economic and national security reasons for oil-producing countries to retain control of supply through SOEs.⁷ There have also been cases in the mining industry. During World War II, for example, the aluminum industry was under strict control by governments because of its use in the aviation industry. Iron ore, used to produce steel, has been critical to countries' industrial development, and hence iron ore mines were nationalised not only in developing countries, but also in European countries such as Sweden (The World Bank, 2011).

Nowadays, many countries are categorizing technology minerals required for the energy transition as strategic minerals. "Technology minerals" are the geological sources for the metals, alloys, and chemical compounds used in the production of modern technology.⁸ Electric vehicles, for example, depend on cobalt, copper, nickel, and lithium. Countries home to these resources may wish to assert greater state control over them through fiscal and industrial policy. For example, Chile considers lithium to be strategic because of its use to manufacture nuclear weapons and as such, it can only be mined by the state-owned enterprises (Perotti & Coviello, 2015). Similarly, Mexico, has legislated for the state to exclusively mine lithium and has since formed a state-run lithium mining company- Litio paraMexico (Reuters, 2022). Of course, not all minerals will be strategic. However, those that are, may warrant greater state control.

⁷ (Mitchell, Marcel, and Mitchell 2012, 12) It constitutes roughly 57% of global energy consumption

⁸ (Ali et al. 2018, 4).



Box 1. Emerging Lithium SOEs in the Americas

Mexico recently set up a new SOE called LitoMx (Lito paraMexico) which will be responsible for managing the exploration, exploitation and refining of lithium. The objective is to secure the country's energy sovereignty over lithium which is considered strategic and necessary for the energy transition, technological innovation, and national development⁹. The law lists clear, well-defined objectives for the SOE including to identify geological areas with probable lithium reserves together with the Mexican Geological Service. It also describes the board composition and financing structure.

Chile also plans to set up a majority-owned SOE for lithium. The goal is for the government to partner with private sector lithium companies. While Chile has extensive experience in the metallic mining sector through CODELCO, they believe their lack of experience in the non-metallic industry, specifically lithium, requires the involvement of the private sector as a strategic partner. Private companies' expertise in the lithium space, according to the government, is an opportunity to advance exploration and development of lithium projects in Chile¹⁰. There are no details yet on the size of the state's ownership stake in the Chilean lithium SOE, or institutional arrangements for the exercise of the state ownership function. Currently, Chile leases its lithium exploitation licenses to private companies through a bidding system.

Peru also considers lithium a strategic mineral given its use to power electric vehicles. The Andean country aims to build a lithium processing industry as it has huge proven reserves of lithium located in Puno¹¹. The Peruvian government has set up a working group led by the mining ministry to recommend good practices to explore, exploit, and industrialize its lithium¹².

These initiatives are not new in the Americas. For many decades, Bolivia has had a state-owned lithium company Yacimientos de Lito Bolivianos (YLB). Only YLB is allowed to extract the mineral. YLB has had difficulties to mine lithium commercially by itself¹³, and is looking for strategic partners to strengthen its mining capacity¹⁴.

2.2 Increase Mining Revenues

SOEs have typically been associated with higher government revenues (Bauer, 2018). Governments can collect not only taxes and royalties, but also dividends from SOEs. If the state becomes the only investor, all benefits are channelled to the state as opposed to being shared with the investor. Governments can also direct their companies' spending beyond their core commercial mandate into so-called "quasi-fiscal" or "parafiscal" expenditures, such as serving national debt, or building or maintaining infrastructure. These activities might make sense in the country context, however there is also a risk that they drain the SOE of the funds needed to fulfil its commercial role (Manley & Wake, 2015).

Governments may also aim to avoid loss of revenue from tax evasion and tax avoidance. In theory, the government as a shareholder of a mining company should direct it to report the true extent of

⁹ [DOF - Diario Oficial de la Federación](#)

¹⁰ [Creación de la Empresa Nacional del Lito: el desafío legislativo que viene - Senado - República de Chile](#)

¹¹ [Perú apunta a la producción local de baterías de litio \(camiper.com\)](#)

¹² [RM N° 317-2022-MINEM-DM.pdf.pdf \(www.gob.pe\)](#)

¹³ "YLB has been spread too thin and tasked to develop too many complex projects simultaneously and consequently has not made very much progress in the last decade," Payne Institute analysts wrote in a June 2020 report. [Bolivia vies to join lithium producers club after years of disappointment | S&P Global Market Intelligence \(spglobal.com\)](#)

¹⁴ [Bolivia still evaluating six firms for lithium mining partnerships | Reuters](#)



its profits domestically. Private (foreign) shareholders, on the other hand, might be tempted to direct the company to engage in aggressive tax planning and profit shifting. In practice, it is still necessary for the tax authority to closely monitor the SOE. In 2016, CODELCO withdrew from a joint venture with China Minmetals Corporation following concerns from the Chilean tax authority about the channelling of exports through a company in Bermuda. It was also required to pay US\$ 149 million in back taxes in 2015 (Hanni & Podestá, 2019).

Finally, having a SOE may make it easier for government to adopt a contractual regime, often considered more robust to profit shifting than the concession regime typically used in mining. A contractual regime is where the state retains ownership of both the resource, and production (e.g., a Production Sharing Contract or Risk Service Contract). Governments may find it easier to sell their share of production and manage commercial operations through an SOE.



Box 2. CODELCO and OCP's contribution to government revenues in Chile and Morocco, respectively

Ex. Codelco-Chile

Codelco remits to the government the following monies (African Development Bank, 2016)-

- a. income taxes which include a first category tax of 20% and a surcharge of 40% which is applicable to all public companies in Chile
- b. a specific mining tax
- c. statutory transfers to the armed forces of 10% of export earnings
- d. profits at the end of the year as agreed between the ministry of finance and Codelco

Private companies on the other hand remit to the government income tax, withholding taxes and more recently royalty payments (Azzopardi, 2021).

Codelco controls 6% of the world's copper reserves. Since its formation in 1976, it has given excess of USD 115 billion for the Chilean state. In the first five years since its formation, Codelco increased production by 50%. In 1996, while private investors remitted to the government USD 156 per ton in taxes, Codelco paid USD 860 per ton. In 1999, private investors remitted USD 350 million in taxes, less than half what Codelco paid in taxes in 1994, when it only produced 39% of private investors production. Coldeco contributed 11% of government revenues between 1990- 2010 (Odendal & Dolo, 2018).

Codelco's success has been attributed to operational efficiency evidenced the reducing number of employees over the years and its strength in underground and open pit mining.

Table 1. Codelco's performance in the past six years.

	2016	2017	2018	2019	2020	2021
Copper production (thousands of fine metric tons)	1,827	1,842	1,806	1,706	1,727	1,728
Transfers ¹⁵ to the treasury (millions of USD)	942	1,366	1,809	1,000	1,292	5,548
Adjusted ¹⁶ EBITDA (millions of USD)	2,918	5,667	4,696	4,043	5,289	10, 379
Direct number of employees	18,605	18,562	18,036	16,194	15,267	15,609

Source: Codelco's website

Table 2. Morocco's OCP's performance in the past five years

	2017	2018	2019	2020	2021
Revenues (millions of USD)	5,000	5,950	5,620	5,930	9,360
EBITDA (millions of USD)	1,310	1,820	1,590	1,960	4,040
Dividend per share (USD)	2	3	4	5	6

Source: OCP's website



2.3 Replace Private Investors

SOEs can replace private investors where they are reluctant to invest because of economic and political reasons. For example, ZCCM-IH took over the running of Mopani mines after the investor stopped operations over economic reasons (NS Energy NS, 2021). Public capital may also be able to take a longer-term approach than private capital.

2.4 Gather Market Power

With a better control of mineral supplies, governments can ensure a more reliable, less volatile market that provides sustained benefits to producers. The example of the Organization of Petroleum Exporting Countries (OPEC) shows how government control of production and exports of a commodity can be used to stabilize prices and ensure long-term returns for producing countries. One-third of global oil production is regulated by OPEC. By controlling the supply of oil, it has typically been able to prevent oil prices falling below levels desired by members.¹⁷

In the past, bauxite producers also found coordination useful. The International Bauxite Association (IBA) existed from 1974 to 1994. It arose at a time when the bauxite industry was dominated by a small number of global corporations that dictated prices paid to producers. The IBA was able to improve the return for members through exchange of information. It disbanded once the industry had become less integrated and opaque.¹⁸ Morocco's OCP dominates the international phosphate market as it controls 70% of the world's phosphate reserves. Most phosphate benchmark prices are set in reference to OCP's products. China has established SOEs to consolidate its control of the strategic rare earth minerals and influence prices (Chang, 2022). Indonesia is also exploring developing an OPEC style arrangement for technology minerals (Dempsey & Ruehl, 2022).

3.0 Potential Risks for SOEs in the Mining Sector

Many SOEs have failed to achieve these objectives and have often been plagued by poor governance (World Bank Group, 2014). There are risks for countries in giving SOEs a large role in the development of the mining sector. The main ones are the following:

3.1 Inefficient Sector Development

SOEs might not be able to develop the sector as efficiently as private investors, especially in complex geologies. While not directly analogous, Iran faces declining oil production in part because the NOC has struggled to financially motivate oil and gas companies to deploy the technical know-how needed to improve the operational efficiency of existing fields. Iran has tried

¹⁵ Includes income taxes, royalty, export tax and dividends

¹⁶ Adjusted EBITDA is the "net income plus income tax, royalty, export tax, interest expenses and depreciation and amortisation"

¹⁷ (Baunsgaard 2001, 4) While OPEC has deliberately kept oil prices low at different points, it controlled the fall in prices, rather than mineral-producing countries which are typically price-takers.

¹⁸ (James 1994)



to address this challenge by making the fiscal terms of its contractual regime more attractive (e.g., a fee per barrel) on the one hand, and requiring the transfer of technology and know-how to a local Iranian partner on the other.

Technological innovation is becoming increasingly important in the mining sector. Declining global mineral reserves mean that mining companies are having to explore new deposits found deeper in the sub-soil. Likewise, as mining activities mature, companies are faced with declining ore grades, rising stripping ratios and increasing hauling distance due to deeper ore locations. Other factors include improving mine safety and managing environmental impacts, making new technologies critical to the mine of the future (IGF, 2021).

3.2 Lack of Access to Finance

SOEs may struggle to raise the capital required to fund exploration and development, which are critical to establish sustainable mineral production (McPherson, 2010). The severe debt crisis unfolding across many resource-rich developing countries makes this even more problematic (Jensen, 2022).

In the medium to long-term, new mining SOEs could finance themselves via market capital by listing shares on public stock exchanges. Public listings can create strong incentives for SOEs to act with discipline and accountability, while also generating revenues. This may be a long way off, however. CODELCO, one of the most successful state-owned mining companies globally, is yet to list, despite having considered it on a few occasions over the last twenty years.

3.3 Political Interference

Under government control, SOEs are susceptible to political interference. State officials may want to directly manage the day to day running of the entity or make critical decisions that concern the entity through the advisory board. They may appoint board members who may not have the skills required to run profit-making entities, who might put their political goals ahead of the company's commercial interests, or simply as a way to reward political allies - using SOES as a source of patronage. Short term decisions that align with the political cycle can be detrimental to the success of the entity given the long-term nature of mining projects. This can result in the SOE operating inefficiently with low revenues, unsustainable costs, a bloated workforce, or underinvesting in exploration and development (Patrick R. P. Heller, 2014).

3.4 Lack of Transparency

IMF defines transparency to encompass timely, relevant, reliable, frequent, clear, and open information about the entity (IMF, 2018). Transparency can not only deter corruption, but it can also increase the possibility of SOE acquiring external financing and partnerships as well as increase public trust (EITI, 2020).

The Resource Governance Index 2021 indicates that SOEs continue to lack transparency especially on commodity sales and corporate governance (Natural Resource Governance Institute, 2021).



Lack of transparency breeds corruption. It has resulted in revenues from SOEs being diverted to secret accounts (NRGI, 2019) to benefit a few individuals, and a general loss in SOE efficiency. Those SOEs that take on additional roles such as investing on socio-economic activities such as building infrastructure create additional governance risks. These expenditures are made off-budget, escape parliament's oversight and as such become a challenge to monitor (EITI, 2020). On the contrary, evidence shows that state entities with no corruption can match the performance of private entities (Baum, Hackney, Medas, & Sy, 2019)

Despite most countries having in their domestic law key provisions that relates to transparency (such as the Glass Accounts Law in Mongolia, (Namkhajantsan, 2022)), and in some cases requirements to comply with the Extractives Industries Transparency Initiative (EITI), their commitment to transparency appears partial at best. This can be attributed to political interference or/and a lack of political will to hold SOE management and board to account.

4.0 Conditions for the Successful Implementation of Commercial SOEs

Below are key recommendations for governments that are considering introducing, expanding, or reforming commercial SOEs in their mining sector. It draws lessons on the design, governance, transparency and accountability of SOEs from an extended literature review, as well as practical experience from several SOEs in operation.

4.1 Clear Objectives

SOEs should have clear, well-defined objectives that are stipulated in the laws and regulations of a country. These objectives should not be conflicting. Carrying out commercial roles while at the same time performing regulatory functions may be a challenge. The SOE may for example, act as a "gate keeper" by awarding itself mining licences only to keep them idle and sell them to private investors at a premium in the name of performing its licensing function - as the DRC's Gecamines has often done (The Carter Center, 2017) (Manley & Wake, 2015). Where possible, the SOE should focus on its commercial objective and a separate entity put in charge of other non- commercial responsibilities. This is the case for Codelco.



Box 3. Comparing the mandate of CODECLO and Erdenes Mongol LLC

Ex.X-Codelco

Codelco does not engage in distributing its revenues to the Chilean economy, rather it gives money to the state to support the development of socio- economic activities (Odendal & Dolo, 2018).

Ex.X-Erdenes Mongol LLC

On the other hand, Mongolia's Erdenes Mongol LLC, as in the case of Morocco's OCP, is responsible for licensing, marketing the sector as well as managing the state's equity interest through its subsidiaries. It has 15 subsidiaries pursuing different objectives (Mongolia EITI, 2021). Most of its subsidiaries are in joint venture partnerships with private investors while in some they fully own the mining license. It also has business outside the mining sector such as hospitality, infrastructure, and power generation.

Despite the many roles and subsidiaries, the entity has only made profits¹⁹ in three years totalling USD 12 million and accumulated debt worth USD 260 million by the end of 2019 (Bauer & Namkhajianstan, 2019). Erdenes Mongol LLC's low profits have been attributed to its quasi-fiscal expenditures such as infrastructure (Ayushsuren & Bauer, 2022). The quasi-fiscal expenditures have raised the debt and liabilities for Mongolia relative to its profitability.

4.2 Adequate Technical Capacity

The SOE should have the technical resources to carry out its objectives. In case of limited technical capacity, joint venture partnerships such as the partnership between the government of Botswana and the De Beers Group (De Beers Group) could serve as an option for the state to gain expertise from the private sector. Countries could also require private mining companies to partner with local entities to ensure that SOEs have a reliable supply of local know-how and skills, to carry out commercial operations in the future.

Alternatively, the state mining company should focus on those objectives that can be presently met as they continue to develop expertise i.e., starting with one mining license, mineral or one aspect of the value chain such as extraction before expanding. For example, both Peru and Chile plan to establish state owned mining companies exclusively for lithium. This should allow them to develop deep expertise in the production, and sale of lithium, rather than having to be familiar with multiple minerals. This could be a good option for countries looking to assert greater control over technology minerals.

4.3 Sustainable Financing Structure

The SOE should have a healthy financial structure to carry out its objectives. The mining sector is cost intensive with large capital requirements at the start of a project as well as continuous need for re- investment to maintain production. There is a long lead time between the construction of a mine and when revenue from mineral sales is generated. Given the volatility of commodity prices, early revenue projections are also uncertain. There could be periods with little or no revenue

¹⁹ Most of the profit is attributed to Tavan Tolgoi subsidiary.



transfers to the state coffers in the early years of production or during a downturn in commodity markets.

The SOE may need funding from the financial market. To be eligible for funding, the SOE's credit rating should be sound and the project's return should be sufficient to pay back the capital injected. Outside of capital markets, the last recourse is state funds. But it can be difficult for the SOE to fully rely on capital from the state, which itself is often in debt.

It is important for the SOE to operate efficiently to ensure that it can pay back its debt. Mongolia's Erdenes Mongol LLC debt levels has increased four times since 2019 to 2021. This increase in debt has not been matched with increase in profitability (Ayushsuren & Bauer, 2022). The SOE may be required by the financial institutions to meet certain international standards on transparency, financial reporting as well as on audit to ensure it operates efficiently.

Government may also consider reducing the amount of revenue it is entitled to receive from the SOE when it is undergoing expansion or during low commodity price cycle. In 2019 for example, a new law was introduced to phase out Codelco's mandatory contribution to the military (Sherwood, 2019).

Box 4. CODELCO financing structure

With a high credit rating of S&P A+ as of 2021, Codelco funds its projects mainly from international bonds. Codelco also resorts to the state for funding especially where overborrowing from the debt market could affect its investment grade and balance sheet (Cambero, 2015). In 2015, when Codelco was hit with low copper prices and faced delays in expansion, the government committed to return USD 1 billion it had received from Codelco and USD 3 billion through a treasury debt (Reuters, 2015).

4.4 Independent and Professional Board

The SOE advisory board should be composed of independent and professional board members. Board members are responsible for steering the SOE in the right direction. They are responsible for making critical decisions concerning funding, dividend payout as well as the general operations of the entity. Financiers are interested in the profile of board members when deciding whether to fund the entity.

It is important for the law to be clear on the competency, the term, and responsibilities of the board members. The board should also be independent (no conflict of interest) and representative of all stakeholders including civil society. They should be vetted publicly.



Box 5. The board structure of CODELCO and Erdenes Mongol LLC

Ex. X- Codelco

Codelco's board consists of nine professionals. Three are appointed by the president, four by the council of High Public Administration and the remaining two are representatives from the Federation of Copper Workers (FTC) and the National Association of Copper Supervisors (ANSCO) (Codelco, 2022). The board's responsibilities include to submit Codelco's budget to the ministry of finance, consent to transfers of profits to the treasury, and approve loans. The board is also in charge of the appointment and removal of the entity's executive president (Codelco, n.d.).

The board underwent several changes to reduce political interference and to ensure that it has a long-term view. The term for members was changed to four years as opposed relying on the presidential cycle. Other changes include increased professionalism of the members and removing representation of government officials (Bande, 2011).

Ex. X- Erdenes Mongol LLC

Erdenes Mongol's board comprises six senior government officials and three independent members (Mongolia EITI, 2021). Whilst the law mandates for the independent members to be selected by non-government organizations, this is not the practice. The board is mandated to approve the formation of subsidiaries including their respective boards. The board makes decision concerning dividend payouts and re- investments.

The board has been the subject of political interference resulting in high turnover of board members that match with political cycles. Politicians have also by-passed the board and made decisions regarding the subsidiaries. (Bauer & Namkhajjanstan, 2019)

4.5 Regular Audits

The requirement for audits for SOEs should be provided for within the law and enforced. Audits are an effective monitoring tool. There are different types of audits which are relevant for the SOE. These include cost audits, performance audits and financial audits. Audits are also useful in identifying risks which can assist in establishing controls. Auditors need to be autonomous. While the role of auditing is undertaken by the state audit department, the state mining company should consider procuring external auditors who apply international audit standards. The audit reports should be made public.



Box 6. Audit policy of CODECLO and OCP

Ex. X- Codelco

Chile's law provides for auditing of Codelco. Internal audits carried out by Codelco to review consultancies between 1997 and 2015 shows that Codelco could be vulnerable to irregularities in contracting with Politically Connected Persons (Cárcamo, Monardes, & Moya, 2018). Codelco has since improved its standards by putting in place an anti- corruption system.

Ex. X- OCP

OCP is audited by external auditors in line with the International Standards on Auditing. It also has an audit and risk committee, made up of the government commissioner, chief financial officer for OCP S.A, as well as representatives from the central bank, and department of public enterprises and privatization. The committee meets twice a year and it is mandated to review the risks, compliance and control function of the entity and advising the board.

4.6 Maintain Transparency and Accountability

The requirement for the SOE to be transparent should be legislated in law and enforced. Governments may consider signing up to international standards on transparency such as the EITI or the Open Government Partnerships (OGP) to align with global transparency standards now expected by citizens and investors. Transparency should cover both the governing framework (e.g., conduct of conduct, anti- corruption policies and board composition) and the financials (e.g., revenues, expenditures, and budget). NREGI's *"Extractive Sector State- Owned Enterprise Disclosures"* provides a useful tool for governments on "what" and "how" SOEs should disclose (NREGI, 2018).



Box 7. Transparency standards and obligations of Erdenes Mongol LLC and OCP

Ex.- Erdenes Mongol LLC

Bound by the 'Law of Mongolia on Glass Account'²⁰ and the EITI²¹, Erdenes Mongol LLC and its subsidiaries are required to disclose the following information to the public (Mongolia EITI, 2021).

- Ownership stake in all mining companies operating within Mongolia
- Financial instruments e.g., loans, bonds and guarantees
- Material²² monetary transfers to the state as well as transfers from other mining companies to Erdenes Mongol LLC and its subsidiaries
- Financial statements and audit reports
- Work plan including targets, performance, and justification on excess savings
- Procurement plan, capital expenditures and audited procurement reports

EITI's transparency assessment of Erdenes Mongol and its subsidiary stands at "satisfactory progress". According to the 2020 assessment report, not all subsidiaries disclosed the above-mentioned information. Erdenes Mongol LLC, for example, does not disclose data on production and sales (NRGI, 2021). From its website, the recent financial report was released in 2018. Nevertheless, the requirements for disclosure under the Law on Glass account and the EITI has increased the level of transparency by the subsidiaries.

Ex.- OCP

OCP began publishing its financial statements from 2018 on its website. It also publishes its code of conduct as well as the anti- bribery and anti- corruption policy. However, it does not disclose information relating to revenue transfers to the state or disaggregated information on its sales, including buyers and the price at which the commodities are sold (NRGI, 2021).

5.0 Conclusion

SOEs can either fully, partially, or completely fail to deliver on their objectives for resource-rich countries. Their success is mostly dependent on their internal governance framework and how it is enforced. Governance looks closely at the role of management and the advisory board in meeting the objectives of the state entity. When designing an SOE, governments should consider ex-ante the objectives, technical capacity, and the funding options available for the entity. They could also consider focussing on a single strategic mineral to build deep knowledge and expertise. Transparency is vital for the success of a SOE. Not only can it deter corrupt practices, but it also helps to build trust and buy- in from resource owners- the citizens. Resource rich developing countries typically have limited financial resources. Channelling money into the state entity means less funding directed to other sectors such as education and health. The onus should be on the SOE to deliver benefits for its citizens.

²⁰ The law was adopted in 2014 and it requires public entities to disclose to the public on finance- related information

²¹ Mongolia joined the EITI in 2007

²² The law on Glass Account defines "material" as anything above MNT 5 million



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