



Sierra Leone Mineral Sector Benchmarking Assessment Report

Summary Report

October, 2018



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Acronyms

A4P	Agenda for Prosperity
ACC	Anti-Corruption Commission
AETR	Average effective tax rate
AfDB	African Development Bank
AIM	Alternative Investment Market
AML	African Minerals Limited
ARPS	African Rail and Port Services
ASM	Artisanal and Small-scale mining
ASSL	Audit Service Sierra Leone
ATAF	African Tax Administration Forum
BAN	Budget Advocacy Network
BSL	Bank of Sierra Leone
CDA	Community Development Agreement
CIT	Corporate Income Tax
CMP	Core Minerals Policy of 2005
CRF	Consolidated Revenue Fund
CSR	Corporate Social Responsibility
DACDF	Diamond Area Community Development Fund
DfID	Department for International Development
EC	European Community
EDSA	Electricity Distribution and Supply Authority
EIAs	Environmental Impact Assessments
EIRA	Extractive Industries Revenue Act, 2018
EPA	Environmental Protection Agency
ERMS	Environmental Regulations for the Minerals Sector

ESR	Environmental and Social Regulations
FCAS	Forestry Cadastre
GIMS	Geo-data Information Management System
GoSL	Government of Sierra Leone
HIPC	Heavily Indebted Poor Countries
IDA	International Development Association
IGC	International Growth Centre
IMF	International Monetary Fund
IPFMRP	Integrated Public Financial Management Reform Project
ISF	Intergenerational Savings Fund
ISPSC	International Ship and Port Security Code
KHL	Koidu Holdings Limited
LCC	Local Content Compact
LCP	Local Content Policy
LTO	Large Taxpayers Office
MAB	Minerals Advisory Board
MCAS	Mining Cadastre System
MCO	Mining Cadastre Office
MDA	Minerals Development Agreement
MDAs	Ministries, departments and agencies
MDRI	Multilateral Debt Relief Initiative
MLA	Mining Lease Agreement
MMA	Mines and Minerals Act of 2009
MMMR	Ministry of Mines and Mineral Resources
MNC	Multi-National Companies
MNT	Minerals Negotiation Team

MoF	Ministry of Finance
MSG	Multi Stakeholder Group
NACE	National Advocacy Coalition on Extractives
NaCSA	National Commission for Social Action
NaRGEJ	Natural Resource Governance and Economic Justice Network
NMA	National Minerals Agency
NMJD	Network Movement for Justice and Development
NPPA	National Public Procurement Authority
NRA	National Revenue Authority
NSAs	Non-state actors'
ONS	Office of National Security
PFM	Public Financial Management
PIMU	Public Investment Management Unit
PMT	Precious Minerals Trading unit
PPA	Power Purchase Agreements
RDF	Revenue Development Foundation
SEA	Strategic Environmental Assessment
SIA	Strategic Impact Assessment
SISG	Shandong Iron and Steel Group
SLBC	Sierra Leone Broadcasting Corporation
SLEITI	Sierra Leone Extractive Industries Transparency Initiative
SLIEPA	Sierra Leone Investment and Export Promotion Agency
SLNC	Sierra Leone National Carrier
SPU	Strategy and Policy Unit
SRL	Sierra Rutile Limited
SSL	Statistics Sierra Leone

TDFA	Transformational Development Fund Account
TDSF	Transformational Development Stabilisation Fund
TSA	Treasury Single Account

1. Introduction

This report summarizes the findings and recommendations of the Sierra Leone Mineral Sector Benchmarking Report - a government-led self-assessment of the management of mineral wealth in Sierra Leone. Further details on the findings presented in this report can be found in the full report.

Commissioned by the Ministry of Mines and Mineral Resources (MMMR) and the former Office of the Chief of Staff to the President of Sierra Leone, the report is based on the deliberations of a diverse panel of Sierra Leonean specialists drawn from government, civil society and the private sector, as well as detailed research prepared by a team of local researchers and international technical experts. As Sierra Leone works to rejuvenate the mining sector and plan for the future in light of the fall in commodity prices, this report aims to build consensus and lay the foundations for inclusive policy processes.

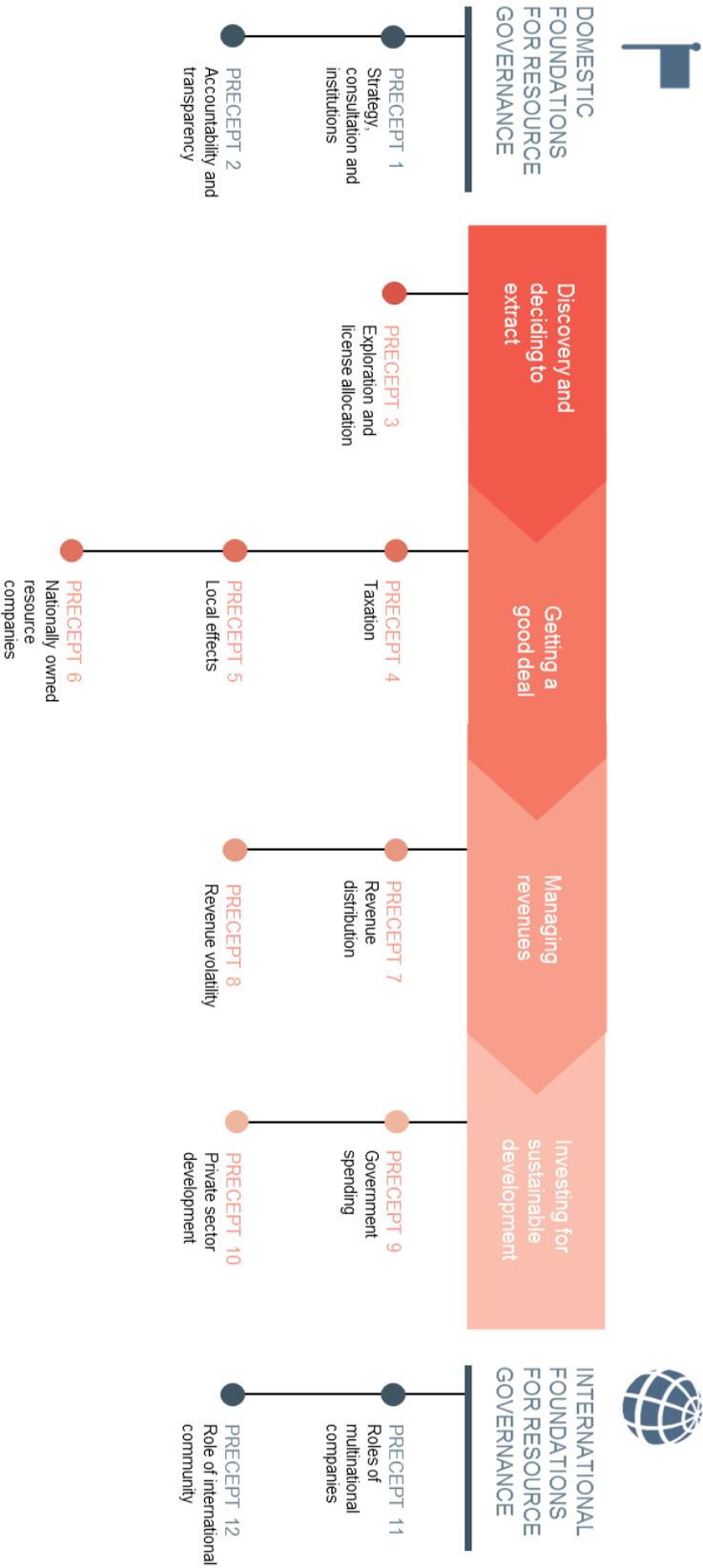
This report has been structured using the Natural Resource Charter benchmarking framework. The framework consists of 12 good practice principles (“precepts”), which cover the sequence of choices faced by governments in relation to mineral resource extraction (see Figure I. The Charter framework has been specifically designed to be compatible with the African Mining Vision (AMV) and other standards such as the Extractive Industries Transparency Initiative (EITI).

2. Process

In early 2014, the Ministry of Mines and Mineral Resources and the former Office of the Chief of Staff worked together to draw up plans for a detailed Mineral Sector Benchmarking Process, which would use the Natural Resource Charter Benchmarking Framework as a technical input to the implementation of the African Mining Vision (AMV) in Sierra Leone. In December 2014, a benchmarking secretariat was established within the MMMR to coordinate the research and report review processes. The Mineral Sector Expert Panel (MSEP) was constituted in November 2014 and convened for the first time in April 2015, but the review process did not commence until late 2015 owing to delays relating to the Ebola crisis.

Research consisted of desk review, consultation and interviews with key stakeholders from government, civil society, the private sector and the international community. Research outputs were reviewed by the expert panel during deliberative workshops held in 2015 through 2016. As the work neared completion, the panel increasingly turned its attention towards developing a set of recommendations that Sierra Leone could use to turn the results of the research into action. This report presents summary of issues identified in each precept, key findings and recommendations.

Figure I – Overview of the Charter



1. Precept 1: Strategy, coordination and public contribution

The overarching strategy for how Sierra Leone plans its resource wealth for development is rolled out in many documents. In the previous administration, mineral resource management was featured in Pillar Two of the Agenda for Prosperity (A4P), Sierra Leone's third generation Poverty Reduction Strategy Paper (PRSP) with two high-level objectives being to ensure that mineral wealth supports national economic and social development and that resources be managed in a transparent and accountable way. Beyond this, the only other source for overarching guidance comes from the now out-dated Core Minerals Policy of 2005 (CMP). Operating beneath these documents, the details guiding each part of the management of mineral resources and their revenues are provided in a range of policies and laws. Key among these are the Mines and Minerals Act of 2009 (MMA), the Environment Protection Agency Act of 2008 (EPA Act), and individual Mining Lease Agreements (MLAs) negotiated between government and mining operators for each mining project. Revenue management and spending is currently guided by general laws and policies relating to finance, budgeting and public procurement.

There are a multitude of government institutions tasked with implementing the strategy for mineral development. These include: the Ministry of Mines and Mineral Resources (MMMR), which has primary responsibility for making policy for the sector; the National Minerals Agency (NMA), which is responsible for implementing and administering mineral sector governance regimes; the Ministry of Finance (MoF), which has primary responsibility for making fiscal policy for the sector and managing the resulting revenues; the National Revenue Authority (NRA), which is responsible for implementing and administering fiscal policy; the Environment Protection Agency (EPA), which has primary responsibility for administering environmental regulations; and the Local Content Agency, which has primary responsibility for implementing local content policy and law. Local government institutions, such as City and District Councils and Chiefdom Administrations, are also important, being responsible for ensuring that communities in mining areas benefit rather than lose from mineral sector operations. There are also important roles relating to justice, education, labour, and private sector development which involve other government ministries.

Beyond government, parliament, the media and civil society also have important roles to play in the implementation and development of government strategy. Not only do they provide a channel for the wider public to engage with the strategy process, but they also play an important role communicating government policy and building understanding around government decision making. This is essential for building the foundations of trust upon which policy can be built.

Looking ahead, there are a number of proposed and ongoing policy processes which can be used to strengthen the strategy and coordination framework. Key among these is the draft Sierra Leone Minerals Policy, the draft Artisanal Mining Policy for Sierra Leone and the draft Geo-Data Management Policy of Sierra Leone. Together, these can be used to coordinate and guide mineral sector reform initiatives. On the operations side, there are planned reviews of the MMA, the NMA Act, the EPA Act and the Mines and Minerals Operational Regulations. Regarding taxation, the Extractive Industries Revenue Act 2016 is instructive.

Key findings	Recommendations
<p>1.1 Absence of a comprehensive and overarching strategy for the mineral sector.</p> <p>There is no comprehensive document that brings together all the relevant issues to guide governance and management of the mineral sector for transformational development in the long term. Currently, governance and management regimes of the minerals sector do not comprehensively respond to linkages and diversification that the African Mining Vision envisages. Guidance on how different objectives with various trade-offs should be prioritised is limited. Specific guidance on areas such as shared infrastructure and revenue management also require improvement. (See benchmarking question 1.1 for additional information)</p>	<p>1.1.1 Government should adopt and use the Sierra Leone Minerals Policy, the Artisanal Mining Policy of Sierra Leone and the Geo-Data Management Policy of Sierra Leone to develop a comprehensive mineral sector governance and management strategy.</p>
<p>1.2 Overlapping institutional mandates and poor coordination.</p> <p>Throughout the sector, lack of coordination between Government stakeholders has</p>	<p>1.2.1 Utilising the model of the multi-stakeholder Expert Panel established during the benchmarking assessment, the mineral sector could benefit from the creation of a high-level Inter-</p>

Key findings	Recommendations
<p>the potential to undermine attempts to cultivate a consistent and coherent approach to natural resource management. While coordination has been improving, challenges remain including the continued potential for duplication of responsibilities between key institutions and structures such as the NMA, MAB, and the implementation of Community Development Agreements (CDAs) by the MMR/NMA and Community Development Action Plans (CDAPs) by the EPA. (See <i>benchmarking question 1.2</i>)</p>	<p>Ministerial, Department and Agency (Inter-MDA) Committee and Multi-Stakeholder Group on Minerals Development to guide decision-making across the mining decision chain covered in this report. The main objectives for the strategy should be to:</p> <ol style="list-style-type: none"> a. enhance multi-stakeholder consultation and collaboration on mineral sector governance and management; b. guide decision-making with a view to getting a fair deal for the country; c. ensure that the benefits are properly managed and equitably distributed; d. integrate mining with the rest of the country's economy and its social structure. <p>The committee should be comprised of Ministers and heads of Government Departments and Agencies that are central to the management of mineral resources.</p> <p>1.2.2 The Ministry of Mines and Mineral Resources should revise the MMA 2009. Among other things, the revised MMA should incorporate the recommendations of the Management Functional Review of the MMR conducted in 2016. Also, the revised Act should remove the policy formulation functions in the Director of Mines who now sits at the NMA and place it in the new Director of Mining Policy at the MMR (see 1.2.3).</p>

Key findings	Recommendations
	<p>1.2.3 Government and its development partners should work together to establish the revised organogram of the MMR to enable smooth and effective functioning of the Ministry.</p> <p>1.2.4 A revised MMA and NMA should clarify roles and responsibilities of key institutions and structures relevant to mineral sector governance and management including the roles, responsibilities and composition of the MAB. A revised NMA should contain express provisions about the regulatory functions of the agency whereas the revised MMA should sufficiently outline and policy formulation and supervisory duties of the NMA.</p> <p>1.2.5 The CDA and CDAP should be harmonised to reduce implementation bottlenecks of A technical committee should be established to look at the overlaps between the CDA and the CDAP with the view to having a harmonized approach. Also, the committee should look at requirements for EIAs for various classes of mining licences and make recommendations to be captured in the revised MMA.</p> <p>1.2.6 In revising the MMA 2009 and probably the Local Government Act 2004, alignment of development projects implemented within the CDA framework must be aligned with local development plans (LDP). Implementers of CDAs must be</p>

Key findings	Recommendations
	<p>made to work in close collaboration with Local Councils to avoid duplication of development activities for effective financial management and adherence to value for money principles. Specifically, it is recommended that at least the development officer of the locality where a CDA is prepared should be a member of the CDA/CDF management committee</p>
<p>1.3 Limited public involvement. Mineral sector policy formulation discussions are predominantly held within the corridors of power. Public consultation is largely limited to a select group of civil society organisations, particularly those based in Freetown. Rarely is the wider public consulted, and there is no formal requirement to do so. Consequently, the public lack the awareness and understanding that are needed for them to effectively contribute to mineral sector policy discussions. (See benchmarking question 1.4)</p>	<p>1.3.1 Government should require public consultations in the development of all policy/legislation pertaining to the mining sector. Any requirement should stipulate who will be responsible for arranging public consultations, what the timeframe would be, and who should mobilise the necessary resources. This can be incorporated into the update of the new minerals policy and given formal effect in the regulations to the revised Mines and Minerals Act.</p> <p>1.3.2 Mineral sector policy discussions should go beyond the corridors of government to include non-state actors including private sector actors and civil society. To do so, a Multi-Stakeholder Group on minerals development should be established to create formal avenues for broad multi-stakeholder involvement in the governance and management of the mineral sector. Specifically, the reinstatement of dialogue forum between the Ministry of Mines and Mineral Resources and civil</p>

Key findings	Recommendations
	society could improve flow of information and make decision making processes more inclusive.

2. Precept 2: Accountability

There are a number of rules that mandate transparency and availability of information on the government's management of the minerals sector. At the most fundamental level, there is the Right of Access to Information Act 2013, which gives every person the right to access information held by or under the control of a public authority unless it is classified. The Right of Access to Information Commission, established to implement The Right to Access Information Act, is fully operational though beset by human capital and logistical challenges. The MMA 2009 requires the MMR to develop a transparency framework for the sector, and that the public has access to a range of information including the register of mineral rights, the cadastral survey map, non-confidential agreements and non-confidential reports submitted by mineral right holders. This framework has been developed around the GoSL Online Repository managed by the NMA, which is the primary source of public information on the mining sector. All large-scale mineral lease agreements have been published online: they can be accessed on the websites of the MMR, NMA as well on the ResourceContract.org. The Sierra Leone Extractive Industries Transparency Initiative (SLEITI) is also key for the continuing advancement of transparency.

There are three main official oversight institutions tasked with holding government and public officials to account: Audit Service Sierra Leone (ASSL), Parliament and the Anti-Corruption Commission (ACC). ASSL is responsible for scrutinising public spending of funds. Independent of the government, it is able to audit the accounts of central government, local government authorities, public authorities and other bodies administering public funds, and is mandated to submit annual reports to Parliament through the President. In addition to responding to annual audits prepared by the ASSL, Parliament is mandated to approve all mining legislation as well as MLAs. Its parliamentary committees, including the Parliamentary Committee on Mines and Mineral Resources, are also responsible for evaluating annual reports of performance by MDAs. The ACC was established by the ACC Act 2000 to oversee implementation of the National Anti-Corruption Strategy. The ACC is an independent body with the power to investigate and prosecute all instances of corruption allegedly committed by public officials, with all public officers required to declare assets and liabilities each year, and when leaving office.

Beyond these official institutions, civil society, the media and the wider public also have important oversight roles. Fulfilling this role requires adequate

information and sufficient capacity to understand the issues, including for the management of expectations. There also needs to be a robust enabling environment, so that these groups can scrutinise the management of the sector effectively and without harassment. Civil and political freedoms are enshrined in Section 15 of the Constitution of Sierra Leone, and further developed in subsequent legislations, whilst the judiciary is an independent third organ of Government.

Key challenges	Recommendations
<p>2.1 Accessing information remains difficult</p> <p>Despite significant improvements in the availability of information, communication challenges remain. There is poor internet connectivity, low levels of literacy, and limited knowledge of what information is available and where it can be located. We are yet to see whether the Right of Access to Information Act will be fully and successfully implemented, as the Right to Access Information suffer from human resource and logistical challenges. While SLEITI reports provide crucial financial information, this of limited use of funds and does not capture impact of activities through which the funds are used. Gaps in reporting obligations for SLEITI exist and there are serious concerns about whether Sierra Leone will be able to meet the new EITI Standards. (See benchmarking questions 2.1.1 – 2.1.6)</p>	<p>2.1.1 Government with support from its development partners should facilitate the effective functioning of the Access to Information Commission to assist in the implementation of the Right to Access Information Act, 2013.</p> <p>2.1.2 Government should work in close collaboration with local councils to improve on public education related to mining policies, laws and regulations as well as disclosures of revenues received from mining operators at all levels. It is essential that communication is done in a manner that local residents can understand and communicate in.</p> <p>2.1.3 Government should use the opportunities that the fibre optic system has provided to expand ICT programs in communities outside the capital city of Freetown. This is critical to enhancing the capacity of residents of mining communities to access the internet for information about mining operations in their localities and hold public officials to account.</p> <p>2.1.4 Government should require mining companies to produce abridged versions of their EIAs to make it easier for less educated people to understand their contents. Also,</p>

	<p>Government should popularize ResourceContracts.org which provides annotations to all MLAs on the websites of the MMMR and NMA.</p> <p>2.1.5 A revised minerals policy and law should capture full transparency of the mineral sectors. The regulations to the new mining law should provide for processes that will enhance transparency and accountability in the minerals sector. Together, the minerals policy, mining law and regulations should improve on transparency and accountability in relation to payment and expenditure in the mining sector. Simultaneously, government should build the financial and human capacity of the SLEITI Secretariat and the Multi-Stakeholder Group.</p>
<p>2.2 Lack of effective oversight</p> <p>The mining sector currently lacks effective oversight occasioned by the failure to enforce annual audit requirements, which in the case of the Ministry of Mines has included discrepancies in reported revenue, and unauthorised spending of license fees. The Anti-Corruption Commission (ACC) is active. However, the conviction rate of corruption cases prosecuted is significantly low, and concerns about political subjectivity remain. Very few Members of Parliament have thorough knowledge and understanding to constructively scrutinize developments in the mining</p>	<p>2.2.1 The Parliamentary Committee on Mines and Minerals should improve its oversight functions of MDAs responsible for mineral sector management and increase engagement with citizens. There is need for professional development and technical support to the parliamentary committees with oversight functions over mineral sector institutions.</p> <p>2.2.2 The Parliamentary Commission should work with Government to improve human capital and logistics within the Public Accounts Committee to enhance efficiency.</p> <p>2.2.3 Accountability of the Anti-Corruption Commission should be extended to the public to ensure that</p>

<p>sector. Approval of laws relating to mining and Mining Licence Agreements (MLAs) rarely generates critical discussion or debate in parliament. (See benchmarking questions 2.2.1 – 2.2.3)</p>	<p>the activities of the ACC are rigorously monitored and evaluated. The ACC should improve its outreach among citizens and strengthen public education programs. Significant efforts by the ACC should be put into prevention of instead of punishment of corrupt practices.</p>
<p>2.3 Absence of an informed critical voice on mineral sector management.</p> <p>Despite the significant change in the outlook for the mining sector, public expectations about the potential transformative impact the sector can have on the country’s development still run high. Resulting from a lack of a government communications strategy, these public misunderstandings are unhelpful for citizens and dangerous for government. The capacity of civil society and the media to inform and constructively influence the national debate is also limited. While these groups have gradually improved their knowledge on matters related to the mining sector, their understanding is largely limited to social issues not comprehensive mining sector governance. As a result, they were noticeably absent during the ceasing of operations and subsequent takeover of the iron ore projects. Similarly, there are a limited number of local research institutions actively investigating issues of mining sector management. (See</p>	<p>2.3.1 Government, Local Councils and mining companies, in the case of the latter through the Chamber of Mines, should produce a comprehensive communications strategy that seeks to temper public expectations with realistic aspirations. Civil society including the media should assist in rolling out this communications strategy.</p> <p>2.3.2 Government, its development partners and mining companies, working through the Chamber of Mines, should continue to support or implement capacity strengthening programs for civil society groups and the media to enhance accurate information exchange and possibly cooperate on public education on mineral sector governance issues.</p> <p>2.3.3 Government and the Chamber of Mines should increase support to mineral sector research through grants to researchers and undergraduate students. A well-equipped minerals development resource centre for research on mineral sector management that is open to all interested persons should be established at the MMMR. A well-developed website for the MMMR should be established to increase visibility of the work the MMMR does as well as make research on</p>

<p>benchmarking questions 2.3.1-2.3.3)</p>	<p>mineral sector issues easier for researchers.</p> <p>2.3.4 Government could work with international development partners and mining companies to establish an independent think tank on extractives similar to that of the Uongozi Institute in Tanzania.</p> <p>2.3.5 Public and private universities should encourage research into extractives by lecturers and students and provide logistical support to departments relevant to policy formulation, operations and regulations of the mineral sector.</p>
<p>2.4 Weak judicial system to justly and fairly decide disputes.</p> <p>At the moment, the judicial system faces series of challenges in the execution of its core functions – justly and fairly dispensing justice to those who seek it. Issues of cost, timeliness, legal competence, and perception of bias and corruption, hinder access to the formal justice system, particularly for members of the public. Also, concerns about human rights violations in mining communities persist. Other law enforcement agencies have weak institutional, logistical and human resource capacity to effectively deal with breaches of the law and dispense justice. As a result, the country has low ratings for ruling justly in several international and local surveys. Often, it is the most vulnerable of society that suffer as a consequence. Poor</p>	<p>2.4.1 Government should show a strong commitment to ensuring independence of the judiciary through legal reforms such as the separation of the office of the Attorney General from that of the Minister of Justice.</p> <p>2.4.2 The judiciary should curtail the unbridled use of discretion by officers of the court through Codes of Conduct and Practice Directions, and should improve on case management to reduce cost of litigation and impact of adjudication on the public.</p> <p>2.4.3 Legal aid should be expanded to include support to victims of hurtful resettlement conditions by mining companies.</p> <p>2.4.4 Government should show strong commitment to support civil rights and liberties by respecting and implementing recommendations of reports of breaches of civil liberties and rights such as reports produced</p>

<p>confidence in the justice system is also undermining the state's capacity to attract 'big players' in the mining sector to come invest in the country. (See benchmarking questions 2.4.1-2.4.2)</p>	<p>by the Human Rights Commission of Sierra Leone and other independent government agencies charged with the responsibility to uphold civil liberties.</p> <p>2.4.5 Law enforcement agencies such as the Sierra Leone Police and the Sierra Leone Armed Forces should have the capacity to hold its officers accountable for their actions particularly when executing lawful orders. Intra-agency accountability mechanisms should be robust enough to discipline belligerent members of law enforcement agencies.</p>
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3. Precept 3: Exploration and licence allocation

The Directorate of Geological Surveys at the NMA has primary responsibility for the collection and management of geological information. Geological information is collected through both government-led geological surveys and company exploration activities. The former, which have recently involved the contracting of external organisations using donor funds, cover large areas with the aim of indicating the potential for mineral deposits. The intention is then for companies to undertake more detailed exploration to either prove or disprove the existence of these deposits. As set out in the MMA 2009, companies agree a work programme and minimum expenditure requirements with the NMA on the granting of the licence, which they are then required to adhere to. Any geological information they collect is then required to be submitted to the NMA, which remains confidential until the licence-holder is no longer active when it becomes publically available for a fee. Government decisions such as whether to prioritise exploration to increase its holding of geological data or to encourage mining activity to generate immediate revenue are made on a case-by-case basis.

The MMA, and its corresponding regulations, set out the process for the application and granting of licences. Licence applications are considered and granted on a first-come-first-served basis. Artisanal licence applications are made to the NMA, with its Director of Mines having the authority to grant artisanal rights. For industrial licences, a company makes an application to the NMA, which processes the application and verifies that the eligibility criteria and all other requirements have been met. The MAB, which consists of a

diverse range of government stakeholders, is responsible for making recommendations to the Minister of MMR who has the ultimate authority to grant industrial rights. On the granting of a licence, licence-holders are required to adhere to the licence terms and conditions set out in general legislation. Large-scale licence-holders are able to negotiate an individual mining lease agreement with Government the terms and conditions of which may be inconsistent with other legislation. The MLA is then submitted to the President for approval before being laid in Parliament for ratification.

Key challenges	Recommendations
<p>3.1 <i>There are large gaps in the scope and content of the government's geological data.</i></p> <p>An increasing amount of geological data is being collected through government-led geological surveys, but data collected from exploration license-holders continues to be a significant source of geological information. However, with very few companies undertaking significant exploration activities currently, this source is drying up. While minimum expenditure requirements are thought to be undemanding, this low activity suggests any change to them should be approached with caution. Nevertheless, monitoring and enforcement of work programmes requires improvement. The transfer of the Geological Survey functions from the MMR to the NMA appears to have increased the government's capacity to manage geological surveys and assess company data, but the NMA still has some capacity constraints in this area. (See benchmarking questions 3.1.1 – 3.1.4)</p>	<p>3.1.1 Government should improve its ability to carry out pre-licensing surveys. Government-generated geological information can be used to identify mineral resource wealth, attract high quality investment through competitive bidding. NMA's financial and technical capacity in the area of geological data collection should be strengthened. Also, Government could seek assistance from external partners to obtain geological information (e.g. aeromagnetic, geophysical and geochemical).</p> <p>3.1.2 Government should improve monitoring of work programme performance by mining companies. The NMA must have the necessary capacity and technical facilities to collect, systematically assess, verify and publish quality geological data from companies.</p>

<p>3.2 There is no overarching strategy guiding decisions on licencing</p> <p>In the absence of a comprehensive licensing strategy, the focus has been on a rapid expansion of large-scale mining activity to finance immediate development needs. However, this has meant a reduction in the collection of geological information which could strengthen the Government's negotiating position. The practice of awarding mineral rights to less robust and non-resilient companies should be abandoned with increase efforts put into attracting 'big players' to invest. (See benchmarking question 3.2.1-3.2.2)</p>	<p>3.2.1 Government should carry out a strategic assessment of the sector to inform licensing decisions and ensure that they are based on a long term outlook. Similar to the way that the government already requires environmental impact assessments to identify potential risks and impacts of individual extractive projects, government should undertake a strategic assessment to identify the potential risks and impacts of policy decisions relating to licensing in the mining sector. These assessments should also be more inclusive of other sectors, involve a wide range of stakeholders, include sustainable development/natural resource accounting, and be made public so that they are subject to public scrutiny.</p>
<p>3.3 Companies do not always meet eligibility criteria before being awarded a licence and are then able to negotiate licence terms.</p> <p>There have been successful applications which do not meet the eligibility criteria set out in legislation. Some licensees have failed to show that sufficient exploration has taken place whilst others have lacked the financial resilience to withstand a fluctuating commodity market and have a record of flouting the law. These selection errors are seen to be partly a consequence of a lack of government capacity to undertake sufficient due diligence on licence applicants, but also result from the push to maximise mining activity to finance</p>	<p>3.3.1 Government should enforce eligibility criteria when it awards licences. Licences should only be granted to applicants that meet the eligibility criteria. This will ensure that only companies with the technical and financial capacity can invest in the sector.</p> <p>3.3.2 The NMA should develop its capacity to conduct due diligence on licence applicants, including their financial viability to absorb market shocks and the commercial viability of the proposed projects.</p> <p>3.3.3 Collaboration between the MMR, NMA and MAB should be improved on the revocation of licences to ensure that all areas with mineral potentials are used as productively as possible.</p>

<p>immediate developmental needs. On the award of a licence, most licence-holders are required to adhere to general legislation. However, all existing large-scale projects in Sierra Leone are operating under a negotiated MLA, the legal provisions of which, in some cases, are inconsistent with the mining law. A recently developed Model MLA is intended to limit this negotiability going forward, but is yet to be tested. Before the enactment of the Extractive Industries Revenue Act 2018, fiscal terms in all MLAs were negotiated with the final agreement inconsistent with fiscal policies. While the amount of information available to the public on the licence allocation process has increased tremendously in recent years, including the publication of all large-scale MLAs, there continues to be room for improvement. (See benchmarking questions 3.3.1-3.3.6)</p>	<p>3.3.4 Government should finalise a model Minerals Development Agreement (MDA) for large scale mining to create a contract framework that will provide a more uniform base from which negotiation can be undertaken. Once finalised, the model contract should be publicly available.</p> <p>3.3.5 While current human capital gaps in the MMR makes a compelling case for the continued existence of the MNT, closing this gap to enable the MMR develop sufficient capacity to that leadership on mineral negotiation should be a long term objective of Government. In the short term, Government should support capacity development of members of the MNT, whilst engaging the services of external consultants to fill immediate capacity gaps. Providing the team with legal status would facilitate this capacity development process, as well as strengthen its decision-making capabilities.</p> <p>3.3.6 Government should work towards improve communication around licensing processes. The NMA should work towards harmonising licensing fees at chiefdom levels and increase efforts to improve understanding of licensing procedures throughout the country. Information about mineral development agreement negotiations should be communicated to the public to avoid misperceptions.</p>
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4. *Precept 4: Taxation*

The MoF has primary responsibility for making revenue policy, though the MMR also has a role in setting the fiscal regime for the mining sector. The legal basis for the existing fiscal regime is provided by the MMA 2009, which cross-refers to other legislation such as the Income Tax Act 2000 and the Extractive Industries Revenue Act 2018. Recently enacted, the EIRA 2018

consolidates the fiscal regime into a single law albeit with links to other financial laws such as Finance Acts that will be passed by parliament. However, irrespective of the specific regime stipulated in general legislation, all large-scale mining projects have an MLA with individual fiscal regimes. The current fiscal regimes in general legislation and MLAs prioritise reliability over rent capture, with significant royalties and progressivity currently limited to the corporate income tax (though a resource rent tax is included in the EIRA). State participation is limited, with currently only one arrangement of this nature (10 per cent free carried interest in African Rail and Port Services, the project company which owns and manages the rail and port infrastructure of the Tonkolili project). However, the GoSL does have the right of representation on two of the large-scale companies' boards.

The NRA has primary authority to administer and collect mining revenues. The NRA Act 2002, as amended by the Finance Act 2007, gives the NRA the mandate to assess and collect all tax and non-tax revenues unless otherwise specified by other legislation. The NRA therefore collects all revenues from the mining sector, with the exception of some payments made to the NMA, EPA and local government. The division of roles and responsibilities in the administration process is slightly more complex given the sector-specific knowledge and expertise required to undertake some of these functions and therefore the greater capacity of the NMA to do so. A key mechanism for the required coordination and cooperation between these agencies as well as other MDAs is the Extractive Industries Revenue Taskforce. A MoU between the NMA and NRA has also recently been developed, though not yet endorsed. Revenues collected by the NRA are transferred to the CRF (though the NRA is able to claim 3% of the revenues it collects). The majority of other revenues are retained by the collecting MDA or directly transferred to subnational entities.

Parliament and its Parliamentary Committee of Mines and Mineral Resources is responsible for providing oversight of the fiscal regime of the mining sector. All MLAs have to be ratified by Parliament, and, as stipulated in their respective Acts, annual reports of performance have to be submitted for approval by the NRA, MMR and NMA. These MDAs are also required to be audited by the Auditor General on an annual basis, with the resulting report available to the public. The public has access to other information relating to the fiscal performance of the sector. Legislation and MLAs are available online and information on revenues is available from the GoSL Online Repository, annual EITI reports and the MoF website.

Key challenges	Recommendations
4.1 <i>There is a consolidated fiscal regime for large-scale mining.</i>	4.1.1 Government should operationalise the PFM Act 2016 by enacting the PFM Regulations

<p>The Extractive Industries Revenue Act 2018 is in place and consolidates the fiscal regime for the mining sector into a single law. Whereas existing MLAs have project specific fiscal regimes, going forward, the EIRA will be instructive for prescribing fiscal regimes for mining companies. The Public Financial Management Act 2016 provides for the management of extractive industries revenues. Importantly, the PFM Act 2016 provides that revenues accrued from extractive industries will be committed to transformational development projects being capital projects or other projects for achieving objectives related to inequality, infrastructure, education, health care, or such other area as may be specified by Government from time to time. (See benchmarking questions 4.1.1 – 4.1.8)</p>	<p>and setting up the Transformational Development Fund Accounts.</p> <p>4.1.2 Government should provide for stability clauses in legislation whilst ensuring that stability clauses are not excessive and do not restrict government’s ability to renegotiate when it is reasonable to do so.</p> <p>4.1.3 Where tax incentives are awarded to mining companies, they must be done with regard to long term national development priorities. MoF should make public the tax concessions and cost-benefit analysis related to them.</p> <p>4.1.4 Government should take full advantage of its entitlements to board participation, appointing competent and dynamic staff to serve on the boards of mining companies to improve information flow and increase its influence on decision-making.</p>
<p>4.2 Revenue collection is undermined by the relevant agencies suffering from limited capacity to enforce the fiscal regime, coordination issues and problematic funding arrangements.</p> <p>Of most concern is the NRA’s challenge to independently audit company accounts, providing opportunities for the erosion of the country’s tax base. The lack of information on beneficial</p>	<p>4.2.1 Government could empower NRA to commission external auditors to partner government tax auditors to both meet immediate audit needs and build internal capacity. However, the need for this action depends on the effectiveness of existing support to the NRA from development partners.</p> <p>4.2.2 Government should ensure that companies disclose beneficial ownership structures. Companies should be required to disclose their global corporate structure</p>

<p>ownership compounds this problem, making it difficult to establish whether transactions are being carried out on an arm's length basis. Revenue collection efforts have also been complicated by lack of clarity of roles between the NRA and NMA. These challenges are receding following bilateral discussions between the two bodies and through the Extractive Industries Revenue Taskforce. However, the continued absence of systematic information sharing processes is problematic for timely analysis and monitoring of company activity and compliance. Another set of challenges relate to the financing of the NRA and NMA. The NRA can currently claim 3 percent of all revenues it collects. However, this arrangement has also not provided funding that is either reliable, certain or predictable, with frequent delays in MoF remitting the funds and the amount dependent on the health of a highly volatile sector. The NMA is currently funded by a fixed amount appropriated in the annual budget. This funding stream also suffers from the problem of unreliability whilst the amount of funding is deemed insufficient. Moreover, there is a perception that, despite the significant role of the</p>	<p>rather than merely their immediate shareholders. Alongside this, the ACC should improve its monitoring of public officials' disclosures and consider increasing its disclosure requirements to cover politically exposed persons (PEPs) which includes family members and close friends.</p> <p>4.2.3 Tax enforcement regulations should be made clearer and remedial and/or punitive measures established.</p> <p>4.2.4 Government should give support to NRA and NMA to take appropriate action when companies do not comply with statutory requirements. While it should not be considered a replacement for enforcement tools such as financial penalties, a public index on company compliance could be a useful tool to incentivise improved compliance.</p> <p>4.2.5 Performance audits of tax administration and enforcement institutions should be done more frequently and made more rigorous. There should also be greater legal protection provided for whistle blowers.</p> <p>4.2.6 Government should actively improve collaboration and information sharing among agencies engaged in tax collection. The MoU between the NMA and NRA should be endorsed, and then a quarterly report which sets out progress with its</p>
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<p>NMA in the NRA’s ability to collect revenue, the NRA receives all the reward. Finally, while the retention power of some MDAs is recognised in legislation, given the Government’s ongoing cash flow constraints, this arrangement therefore results in inefficiencies in the management of government resources. (See benchmarking questions 4.2.1 – 4.2.4)</p>	<p>implementation should be produced and submitted to the Minister of Finance. Building on the improvements in information sharing as a result of the Extractive Industries Revenue Taskforce, processes should be developed to make this sharing more systematic and, where possible, electronic and automated.</p> <p>4.2.7 Government should maintain the current funding mechanism for the NRA, but increase the timeliness of payments. Government should give due consideration to the current funding arrangement of the NMA ensuring that sufficient and reliable funding is provided for its operations, and that it reflects its importance in the administration and enforcement of the fiscal regime.</p> <p>4.2.8 Government should fast-track the operationalisation of the PFM Act 2016.</p>
<p>4.3 Parliament lacks the understanding and knowledge to effectively carry out fiscal oversight. <i>Despite Parliament and its Parliamentary Committee on Mines and Mineral Resources having the de jure power to provide oversight of the mining fiscal regime, it does not do this in practice. There is limited debate from Parliament as a result of insufficient expertise and understanding of the mining</i></p>	<p>4.3.1 The capacity of Parliament should be developed to provide fiscal oversight. Efforts should be made to ensure that Parliament not only has the de jure power to provide oversight of the extractive industry fiscal regime, but is also able to do so in practice. This will require training of parliamentarians to build up their expertise and understanding of the mineral sector.</p> <p>4.3.2 Government should continue improving public availability of information on fiscal matters.</p>

<p>sector, poor information and a lack of political interest due in part to the sensitive nature of the sector. Nevertheless, while revenue information is not necessarily provided in a timely manner, the amount of information available to the public has increased tremendously in recent years. These improvements notwithstanding, there is a lack of information on the operational performance of companies both within government and available to the public, one of the reasons why the government faces challenges in publishing forecasted tax and non-tax revenues (See benchmarking questions 4.3.1 - 4.3.2).</p>	<p>Most notably, the timeliness of revenue information should be improved. In the long run, MoF should publish forecasted tax and non-tax revenue on the mining sector, but this will require access to improved project economics from companies, and increased forecasting capacity to be built up within MoF.</p>
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5. Precept 5: Local effects of extraction

The local effects of mining can be broadly divided into environmental and social issues, but there are intrinsic overlaps and interactions between these two areas. While this dynamic is reflected in the institutional framework, the EPA has primary responsibility for making environmental policy in the absence of a ministry for environmental matters, and for implementing this policy. The MMR has primary responsibility for making policy on the social impacts of mining, whilst the NMA is responsible for implementation. The legal framework for environmental protection is predominantly provided in the EPA 2008 and the legal framework for social protection is mainly set out in the MMA 2009, but there are environmental and social provisions in both pieces of legislation. The Mines and Minerals Operational Regulations 2013, Environment Protection (Mines and Minerals) Regulations 2013 and Mines and Minerals Environmental and Social Regulations 2013 are also important components of these frameworks. Artisanal mining (AM) is covered in these documents. However further policy guidance for this sector is provided in the Artisanal Mining Policy 2011. A revised Artisanal and Small-Scale Mining Policy was developed in 2013, but was not finalised and is now being updated in tandem with the revision of the Core Minerals Policy.

The environmental protection regime is centred on the requirement for prospective license holders to submit an Environmental Impact Assessment (EIA) to the EPA as a pre-condition to securing an industrial mining licence. As part of this process, the development of an Environmental Management Plan (EMP), which sets out how environmental hazards are to be mitigated, and plans for project closure and responding to environmental disasters are also required. Other classes of licence – reconnaissance, exploration and artisanal mining – are not currently required to conduct an EIA, but their impact on the environment is monitored. The EPA is primarily responsible for monitoring, but given the NMA’s responsibility for regulating the operational side of mining projects, it also has a role.

Protection of local communities against the adverse impacts of mining activity (in addition to environmental damage) has a number of components. Compensation is payable for any disturbance to the rights of the owner or lawful occupier of land within a licence area. Surface rent is also paid to owners of the land on which large-scale mining takes place. This payment is agreed between the licence holder and landowners, and then distributed across a number of local stakeholders. Licence holders whose operations would compel the involuntary resettlement of people are required to submit a resettlement action plan (RAP) before the commencement of mining operations. Prospective industrial mining licence holders are also required to submit a Community Development Action Plan (CDAP) as part of their EIA, which sets out how adverse social impacts are to be mitigated, and then implement it over the licence period.

Communities can benefit from mining activity occurring in their locality through increased employment opportunities and infrastructural development by licence holders. Further mechanisms have been established to harness benefits from the mining sector for communities, which are overseen by the MMR and NMA. The Diamond Area Community Development Fund (DACDF) is paid into by exporters of artisanally mined diamonds and used to finance development projects in affected communities. A similar arrangement exists for industrial mining. Small- and large-scale companies that meet specified criteria are required to pay into a Community Development Fund (CDF) to implement local development projects as set out in a Community Development Agreement (CDA) between the company and primary host community (signed off by the Minister of Mines). Given the risk of CDAs being dominated by companies’ wishes and being captured by the local elite, the government has not encouraged the development of CDAs until sufficient guidelines are in place. Companies therefore have entered into their own arrangements with communities. However, a model CDA is now close to being finalised at which point companies will be required to sign CDAs.

Key challenges	Recommendations
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<p>5.1 Provisions for environmental and community protection are incomplete</p> <p>While government should be commended for a robust framework for the development of EIAs prior to project commencement, significant constraints exist that prevent their effective implementation, including insufficient company expertise and limited government capacity in the scrutiny of EIAs. A further issue of concern pertains to how compliance with EMPs is subsequently monitored and enforced. There are also a number of challenges in the public dissemination of EIAs reports to stakeholders and the wider public. This issue speaks to the limited consultation with communities on matters of community and environmental protection, providing a trigger for community grievances. Another common grievance is the perception that compensation for the costs of extraction is insufficient, and prone to capture by local elites. Resettlement practices are also generally thought to have been below satisfactory, in part due to the lack of a legal or regulatory framework to prescribe what RAPs should include. Communities with grievances often find that there are few channels available for amicable dispute resolution.</p>	<p>5.1.1 Government MDAs (including EPA, MMR, NMA, Water Resources, Energy, NPAA, MAFFS etc.) should take a unified approach to environment and community management. As part of this, the EPA and MMR/NMA should review, harmonize and consolidate relevant extractive sector regimes as well as their approaches towards EIAs on different classes of projects.</p> <p>5.1.2 Government should undertake an SEA for the mining sector to ensure that the adverse cumulative impacts that accrue at a wider scale beyond the ‘footprint’ of individual projects are considered in decision-making on the allocation of licences and the obligations of licence-holders.</p> <p>5.1.3 Government and its development partners should support capacity strengthening of regulators to effectively carry out robust vetting of EIAs and effective monitoring of the implementation of EMPs for mining operations (including progressive rehabilitation).</p> <p>5.1.4 The EPA should publish all EIAs on its website and should require mining companies to submit abridged versions of EIAs to the Agency and in sufficient number for onward distribution to the general public.</p> <p>5.1.5 Government should review the compensation and resettlement framework. As a matter of priority, Government should prepare and adopt a Resettlement Policy, and</p>
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Previous violent confrontations point to the need not only for better dispute resolution mechanisms, but also for a more clearly stated policy on security and the use of police force in mining communities. Provisions for environmental disaster protections are also weak, compounded by lack of a SEA for the mining sector. Finally, there are serious concerns around provisions for project closure, which do not state clearly who will be responsible for project closure and how these processes will be funded. (See benchmarking questions 5.1.1 – 5.1.8)

then prepare and enact a Resettlement Law and Regulations. Resettlement plans should be prepared and implemented in accordance with international standards, specifically IFC Principle 5 on Involuntary Resettlement. According to this principle, involuntary resettlement compensation must go beyond a financial payment for land and take into account the non-financial investments required to re-establish sustainable livelihood. Resettlement projects should be implemented according to the highest possible standards, leaving affected communities as good, or better off, than they were before resettlement.

5.1.6 Government should work to establish grievance management channels and improve conflict resolution mechanisms available to mining communities. Mediation and arbitration procedures should be easily accessible for citizens. They should also be credible, independent and cost-effective. The Human Rights Commission could be a strong partner for implementation of this recommendation.

5.1.7 Government urgently needs to develop a policy on the execution and use of (state and private) security in mining areas, possibly in partnership with the Human Rights Commission. While the use of state security forces to protect mining company interests should be encouraged within the security

context of Sierra Leone, there should be robust operational guidelines that ensure respect for human and peoples' rights even in times of civil protests and social tensions (taking into consideration existing institutional regulations and procedural codes as well as regional, continental and international human rights protection conventions that Sierra Leone has subscribed to). State security forces should be held to account for any breaches of rules of engagement in situations of dealing with protests by community people.

5.1.8 Government needs to develop a policy and legislative framework relating to environmental disasters, and improve its capacity to implement it. It should strengthen the capacity of the Disaster Management Unit of ONS to effectively prepare for and respond to environmental disasters, and establish a disaster response unit at the EPA to complement the efforts of the ONS and enhance monitoring activities. A joint operational structure for collaboration between these two bodies should be developed. Finally, regulations for disaster response should have clear penalties for breaches.

5.1.9 Government should improve its provisions for mine closure and land reclamation. Specifically, it should improve the relevant regulations and in doing so clarify which institution has primary responsibility to implement mine

	<p>closure and land reclamation activities. It should also establish a separate account for land reclamation and mine closure activities and enforce company contributions to this fund. Management of this fund should be done jointly by government, mining operators and community representatives.</p>
<p>5.2 Several challenges prevent communities from fully benefiting from mining.</p> <p>Despite commitments and tangible efforts by government to encourage capacity building and the development of skills that will allow people living in and in close proximity to mining sites to be more employable, the challenge of meeting demands and aligning labour market needs with appropriate training remains high. Similarly, large-scale mineral projects offer considerable potential for stimulating integrated, multi-user, multi-purpose infrastructure – a development which could open up new opportunities to benefit communities by stimulating zones of new local economic activity along “resource corridors”. Nevertheless, evidence suggests that government is yet to leverage this opportunity as effectively as it could (see precept 10). Additional development in mining affected areas is</p>	<p>5.1.1 Government should facilitate the full operationalization of the Skills Development Fund by increasing the portfolio and using the funds for its purpose in collaboration with Ministry of Higher and Technical Education and Ministry of Labour and Social Security. Government should also give support to the TVET coalition, and other PPP mechanisms, to ensure that the skills gap and the mismatch in skills in the local market are addressed.</p> <p>5.1.2 Government should support mining companies to extend infrastructure to host communities. Where mining companies have capacity to extend electricity, water supply, and road infrastructure to host communities they can do so, however Government must also facilitate distribution of these services, for example power transformers and power lines and integrate management of these service providers into local management plans for sustainability sake.</p> <p>5.1.3 Government should harmonise CDA and CDAP frameworks with the view to having an integrated</p>

<p>supported by the DACDF and CDF. Despite these mechanisms, it is perceived that distributions have not always filtered down into the communities, which has implications for the risk of social conflict. (See benchmarking questions 5.2.1 - 5.2.3)</p>	<p>approach to community development. There is also a need for legal and regulatory reforms to ensure that development projects implemented under the CDA/CDAP frameworks are aligned and implemented in coordination with the Local Development Plans of Local Councils.</p> <p>5.1.4 Government and its development partners should provide technical support to Host Communities for community development project design and implementation within the CDA framework. Support should also be provided in the form of monitoring to ensure that the funds are being used for community development purposes. This monitoring should also be extended to use of the DACDF.</p> <p>5.1.5 Government should review and clarify the amount that companies are required to deposit in the CDF to implement Community Development Agreements given the perception that the intention was that 1% of mining revenues should be paid into the CDF (and not the current legislated requirement of 0.01%).</p>
<p>5.3 Artisanal mining continues to be unregulated.</p> <p>A new ASM policy has been developed and awaits adoption by cabinet. Environmental concerns are a major problem, and while there are measures to</p>	<p>5.3.1 Government should adopt the AM policy to address the significant social and environmental impacts of AM activities, and ensure that they positively contribute to local economic development.</p> <p>5.3.2 A strategy for formalisation of the AM sector should be developed in tandem with revision of the AM</p>

<p>mitigate and deal with these issues, effective implementation and enforcement mechanisms remain weak. Continued use of environmentally-damaging practices points to a more general problem of many artisanal miners being unaware of basic regulations relating to the sector. While government documents reference the importance of training, capacity building and knowledge dissemination for those involved in AM, the main policies and acts governing the sector do not outline effective mechanisms to do so, nor provide any indication of who should be transferring the knowledge. As a result, awareness raising and information dissemination in Sierra Leone's AM sector continues to be poor. (See benchmarking questions 5.3.1 – 5.3.5)</p>	<p>policy. This should include technology and knowledge transfer from large-scale and small-scale mining companies to artisanal miners.</p> <p>5.3.3 Economic diversification schemes should be developed to increase the benefits of artisanal mining and support miners who want to transition from mining to alternative economic activities.</p>
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6. Precept 6: Nationally owned companies

Does not apply to Sierra Leone

7. Precept 7: Saving and allocating revenue

Operationalisation of the Public Financial Management Act 2016 will allow for mining revenues remitted to central government to be treated differently to revenue from other sources. The Act contains a fiscal rule controlling their use. The fiscal rule requires all extractives revenues to be deposited in a Transformational Development Fund Account (TDFA). This rule links the level of expenditure to non-extractive revenue collection in the preceding year, and

only permits expenditure on ‘transformational development projects’ identified in the MTEF. Any surplus revenue accumulates in a stabilisation fund – the Transformational Development Stabilisation Fund (TDSF) – which will be used to smooth expenditure over a twenty-year period. Then, when larger amounts of resource revenues are accumulated and the stabilisation fund has reached a specified threshold, revenues will be deposited in a savings fund – the Intergenerational Savings Fund (ISF).

With no saving currently taking place, allocation decisions currently centre on how revenues are spent. All central and local government institutions set out their capital and recurrent spending needs during the annual preparation of the MTEF and these are evaluated by the MoF. An important factor during this decision-making process is the long term rate of return that expenditure is expected to yield, especially that funded by mining revenues given their finite nature and the need for intergenerational fairness. Decisions around the funding of public investment projects are undertaken by the recently established Public Investment Management (PIM) Unit in the MoF. Another important factor is the distribution of benefits across the country, again, especially in the case of mining revenues given that the country’s minerals are owned by all of its citizens yet mining communities need to be compensated for the adverse impacts of mining in their locality. An important mechanism for accounting for these considerations is the Local Governments Equitable Grants Distribution Formulae, which determines the allocation to each of the 21 local councils. Additional financing is provided to local councils for community development projects on a case-by-case basis. Funding earmarked for mining-affected areas is not sourced from the CRF, but is provided by the Diamond Area Community Development Fund paid into by artisanal miners, and the Community Development Fund paid into by small- and large-scale miners (see Precept 5).

Key challenges	Recommendations
<p><i>7.1 Sierra Leone lacks a framework to make decisions over whether resource revenues are spent now or saved for future generations.</i></p> <p>The government does not currently save revenues from the mining sector. Given limited revenues and the country’s urgent development needs, it appears that the focus for the government in relation to</p>	<p>7.1.1 Government should implement the PFM Act 2016 which makes provision for the establishment of the Transformational Development Fund (TDF), Transformational Development Stabilisation Fund (TDSF) and the Intergenerational Savings Fund (ISF), the related</p>

<p>ensuring that both current and future generations benefit from current resource revenues should be on continuing to develop infrastructure and human capital whilst taking steps to better manage increasing recurrent expenditure and rising debt. Indeed, the prevailing economic climate suggests that the saving of resource revenues is still some years off (though there is need for some saving for stabilisation purposes even during this period (see Precept 8)). However, the spending-saving decision needs to be better informed than it is at present with recent turmoil in the mining sector resulted in considerable uncertainty about medium-term revenue inflows and a comprehensive study or needs assessment of current and future generations yet to be conducted. The spending-saving decision should also be made within a specified framework, especially in preparation for saving when more significant amounts are collected. The fiscal rule provided for in the PFM Act 2016 has not been operationalised. In the midst of market uncertainties and continuing budget credibility challenges, there is growing perception that the likelihood of the government initially following the fiscal rule is low. (See benchmarking questions 7.1.1 – 7.1.3)</p>	<p>fiscal rule to guide decisions on how resource revenues are used and the establishment of governance mechanisms (such as an Investment Advisory Committee).</p> <p>7.1.2 MoF should facilitate the preparation and adoption of accompanying PFM regulations, which should make the design of the fiscal rule more robust, state the point at which the fiscal rule will come into force and establish rules around governance of the funds, including sanctions for violations of the fiscal rule.</p> <p>7.1.3 Government should improve budget credibility by strengthening budget planning; minimising extra-budgetary expenditures; and improve domestic revenue mobilisation supported by strong political will.</p>
<p><i>7.2 There is no analysis on the rate of return of public investment projects to guide allocation decisions.</i></p>	<p>7.2.1 Government should strengthen the capacity of the PIM Unit to undertake rigorous economic and</p>

<p>Given Sierra Leone’s low capital stock and the downward trend in inflation, the government’s decision to increase capital spending in recent years is appropriate for the maximisation of social returns. However, there is no available report or analysis on the rate of return of public investment projects. For government funded capital projects, feasibility studies are not done and internal rates of return are rarely calculated. No evaluations are carried out either before or upon completion of projects to determine whether the returns of projects justify the investments. The PIM Unit has been established in MOF to remedy these shortcomings and ensure that resources are allocated effectively. However, it still needs to be fully staffed with appropriately skilled personnel. (See benchmarking question 7.2.1)</p>	<p>financial analysis of public investment projects to ensure that transformational projects funded by Government and its development partners are those that provide the greatest return on investment.</p> <p>7.2.2 Government should establish regulatory instruments that require objective report on economic and financial analysis that shows impressive rate of return as a precondition for the approval of transformational development projects.</p>
<p>7.3 The low capacity of local councils is affecting the effectiveness of locally distributed resource revenues.</p> <p>Though local council capacity has been improving, they still do not possess sufficient capacity to carry out their functions effectively; suffering from multiple weaknesses in areas of planning, internal audit, procurement, monitoring and evaluation systems. Pressure to improve in some of these areas is undermined as a result of local councils still having limited autonomy over their functions with line ministries continuing to exert significant control by insisting on</p>	<p>7.3.1 The capacity of local councils needs to be further developed to ensure that they can effectively manage resource revenues. The role of local councils also needs to be clearly separated from that of chiefdoms in a revised Local Government Act.</p> <p>7.3.2 Government should develop the capacity and level of awareness of communities to ensure that they are cognisant of government and mining companies’ obligations to</p>

<p>funds being allocated to realise strategic goals. While improving, the lateness of transfers and the deviation between the amount received and budgeted also constrain local government capacity. Finally, management of resource revenues is seen to be affected by the uneasy relationship between local councils and chieftom authorities which seems to exist in the management of development funds and projects. (See benchmarking question 7.3.1-7.3.2)</p>	<p>them and are able to fully benefit from revenue distributions.</p>
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8. Precept 8: Volatility

The potential for revenue volatility was demonstrated in 2014 as iron ore prices fell dramatically, resulting in significantly lower revenue collection and expenditure cuts. Volatility will pose an even greater threat in the future if the share of resource revenue increases as expected. Domestic debt is currently the main policy instrument used to address volatility. This financing is raised either through the sale of Treasury bills to the market or the government borrowing from the Bank of Sierra Leone (BSL) using Ways and Means Advances (an overdraft facility limited to 5 per cent of the previous year's domestic revenue). While the use of debt to manage revenue shortfalls is short term in nature, this activity is informed by the Debt Sustainability Analysis and Medium Term Debt Strategy developed by the MoF. Going forwards, the Transformational Development Stabilisation Fund (TDSF) provided for in the PFM law, if implemented, will replace debt as the main short-term instrument. However, the government has recognised the importance of expanding the tax base through diversification of the economy for managing volatility in the long term (see precept 10).

Key challenges	Recommendations
<p>8.1 Mining revenue volatility poses a threat to budgetary management and the wider economy. The use of domestic debt as the main short-term policy</p>	<p>8.1.1 Government should implement the PFM Act 2016, which makes provision for the establishment of the Transformational Development Stabilisation Fund (TDSF) to manage resource revenue volatility.</p>

<p>instrument to address volatility appears appropriate given market liquidity and debt sustainability. However, debt should be well managed and only used to finance expenditures that yield a high return. Consideration should also be given to the potential for significant domestic financing to crowd out the private sector, especially as this is perceived to be one of the reasons why access to credit remains a constraint in Sierra Leone. Going forward, the government aims to manage revenue volatility by establishing the TDSF and operationalize the PFM Act 2016. This should occur before larger revenues materialise. Nevertheless, governance of this fund will be a key determinant of its effectiveness. In particular, budget credibility and corruption perceptions need to be significantly improved for the fund to work well. (See benchmarking questions 8.1.1 – 8.1.3 and 8.2.1 – 8.2.3)</p>	<p>8.1.2 Government should improve budget credibility by strengthening budget planning; minimising extra-budgetary expenditures; and improve domestic revenue mobilisation supported by strong political will.</p> <p>8.1.3 Government should pursue diversification of the economy by increasing investment in infrastructure, and supporting growth in the agriculture, tourism, fisheries, ICT and manufacturing sectors with a focus on value addition (Precept 10).</p>
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9. *Precept 9: Efficiency of public spending*

The capacity of the government to undertake spending efficiently and effectively will become increasingly important if mining revenues increase as expected. Government began the process of modernising the PFM system through the donor-funded Integrated Public Financial Management Reform Project in 2009. On its completion, the government developed a PFM Reform Strategy for the period 2014-2017, which is supported under the new donor-funded Public Financial Management Improvement and Consolidation Project. The Institutional Reform and Capacity Building Project also supports improvements in spending capacity at both the central and local governments

levels. Budget preparation and execution is monitored through several mechanisms. Official oversight is provided by two parliamentary committees (the Budget and Finance Committee and the Public Accounts Committee), the ASSL and ACC, whilst development partners conduct assessments through the Multi-Donor Budget Support Performance Assessment Framework (MDBS-PAF) and Public Expenditure and Financial Accountability (PEFA) Assessment. Public scrutiny is also possible, particularly since publication of a Citizens Budget, a simplified version of the government budget.

The efficiency of public spending does not only depend on the administrative capacity of the government, but also on the capacity of the economy to absorb spending increases without hitting supply bottlenecks and causing inflationary pressures. The fourth pillar of the A4P, being the country’s development agenda under the previous administration, identified the need to improve absorptive capacity and sets out a strategy to do so, which includes infrastructural development, the capacitation of small and medium enterprises and increasing regional trade.

Key challenges	Recommendations
<p><i>9.1 The strategy for improving spending capacity lacks specific objectives, and procurement processes don’t always adhere to best practice.</i></p> <p>Although there is a broad strategy for improving spending capacity, clear and specific objectives need to be set with realistic targets. MDAs are given budget ceilings within which they must operate; however the efficiency of that spending (which is related to capacity) is not directly targeted. There is also no process for agencies to learn from previous mistakes or admit in an open environment any mistakes made. Such a mechanism would improve capacity building outcomes. Nevertheless, the constraints facing spending MDAs are numerous and currently beyond the resources available from both government and donors for capacity building programmes. Aside from capacity constraints, adherence to</p>	<p>9.1.1 Government should implement the recommendations of the Administrative Barrier Study to set aside and use some percentage of license fees for capacity building of MDAs that manage expenditure of resource revenues.</p> <p>9.1.2 Procurement processes should ensure that expenditure above a certain threshold (as provided for in the NPPA and Procurement Manual) are made through open competitive bidding.</p> <p>9.1.3 Regulations for the better operationalization of the NPPA should be prepared and adopted. These regulations should provide</p>

<p>the National Public Procurement Act continues to be an issue. Competitive bidding processes are often not followed. Failure to ensure compliance with the procurement manual and limited coordination of procurement plans with budgeting and budget execution also remain a challenge. In contrast, there have been significant improvements in the development of the MTEF in the past years (though there are still problems with the selection of public investment projects (precept 7)), and in budget transparency. (See benchmarking questions 9.1.1–9.1.5)</p>	<p>conditions precedent for the use of waiver discretion.</p> <p>9.1.4 The selection of projects to be included in the MTEF should be based on thorough feasibility and cost benefit analysis. The recurrent cost implications of capital projects should also be considered during budget planning phase.</p> <p>9.1.5 Citizens should be consulted during the preparation of supplementary budgets.</p>
<p>9.2 <i>The capacity of the Sierra Leonean economy to absorb investment is limited by a number of interlocking challenges.</i></p> <p>Sierra Leone suffers from the lack of well-functioning administration districts, insufficient transport networks, power, water and sanitation. Work also needs to be done to improve access to ICT, deepen efficiency of the sea port, customs posts and links to other countries. The construction sector has been growing to accommodate expansion in demand for construction services, but the timely issuance of construction permits is still a bottleneck. The financial sector also poses a bottleneck that can constrain economic capacity if not addressed. Access to credit by the private sector is not easy with average borrowing rates in the range of 19-30% for over a decade. Another key area affecting economic capacity</p>	<p>9.2.1 Government should continue to increase investment in the country’s physical infrastructure, including transport, power, water and ICT, to improve the absorptive capacity of the economy.</p> <p>9.2.2 Government should continue with the implementation of doing business reforms. In particular, Government (together with BSL) should broaden and deepen financial sector reforms to improve access to credit especially for the private sector. In line with this, Government needs to pay bills in a timelier manner. Delayed payments to Government suppliers means that some suppliers may default on loans, resulting in a higher volume</p>

<p>and competitiveness is the legislative framework. The new Customs Act 2011 decreased the cost and time to import, but some weaknesses still exist. The formal laws addressing land rights and governance in Sierra Leone have not been changed since the 1960s, posing yet further problems. (See benchmarking questions 9.2.1 – 9.2.5)</p>	<p>of non-performing loans in the banking system, which threatens financial sector development.</p> <p>9.2.3 Government should improve human capital through policy, regulations and curriculum reform, particularly in the area of technical vocational education and training, to support expansion in the sectors requiring reform.</p>
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10. Precept 10: Private sector growth and linking the extractive sector to the economy

Growth of the mining sector can make other export sectors less competitive under a phenomenon called Dutch Disease. While there is little evidence to suggest that Sierra Leone has suffered from Dutch Disease in the last decade, there is a concern that future booms in mining could crowd out the non-mining economy. Even if these Dutch disease effects do not emerge, given the finite nature of the country’s minerals, the economy could suffer in long term if it becomes overly dependent on mining. To mitigate these threats, the first pillar of the A4P focused on diversification and economic growth. The government’s strategy for increasing diversification has been informed by the Sierra Leone Growth Poles Programme, which aims to spread development from the core of the three identified poles to the periphery through spill-over effects (whilst conducting scoping of the Growth Triangles concept, in collaboration with the MRU States). The government has identified agriculture, fisheries, tourism and manufacturing as sectors that have long-term potential for inclusive and sustainable growth and therefore will be the focus of the new national development strategy.

Linkages between the mining sector and the rest of the economy, through infrastructural development and local content, are recognised in the fourth generation PRSP of Sierra Leone as being crucial for diversification and broad-based development. The government does not currently have a broad national strategy for infrastructural development, but there are two notable decision-making entities. A Public-Private Partnerships (PPP) Unit under the Office of the President oversees government policy on leveraging of private investment in infrastructure via PPP. An Infrastructure Committee, under the leadership

of the Ministry of Works and Infrastructure, includes several MDAs and aims to improve coordination of infrastructure decisions.

The LCA, which succeeds the Local Content Unit of the MTI, has primary responsibility for overseeing the use of local suppliers and labour in the mining sector. The Local Content Agency Act 2016 (LCAA), which legislates parts of the Local Content Policy (LCP), provide the overarching framework for the use of local content in the economy as a whole. However, the MMA also sets out local content requirements specifically for the mining sector. Given the constraints that the private sector currently faces in sourcing capable local suppliers and labour, the government has a number of capacity development programmes, including a Skills Development Fund and a Supplier Development Fund (though the establishment of the latter was only provided for in the LCAA so is not yet operational). Alongside these government initiatives, the MTI, Chamber of Mines and the Chamber of Commerce have signed a Local Content Compact (LCC) which provides a framework for the implementation of the LCP through a public-private partnership.

Key challenges	Recommendations
<p><i>10.1 The need for diversification of the economy has been recognised but government activity in this area could benefit from improvement.</i></p> <p>The government is adopting three main policies in its pursuit of diversification: improving infrastructure, enhancing human capital and attracting new private capital. However, infrastructural development opportunities are being missed with improving but still inadequate coordination between government and mining companies resulting in mining transport and power infrastructure being used solely by mining companies and not leveraged for wider economic benefit. The Infrastructure Committee is a step towards better coordination of</p>	<p>10.1.1 Government should pursue its economic diversification policies set out in the national development program in order to avoid Dutch disease and promote sustainable economic growth. Specifically, Government should invest in promoting commercial agriculture (agribusiness), linking this sector with small holders for value addition. Government should also set up the Export Diversification Fund, which accrues a small percentage of mineral exports, to support other sectors in enhancing their export capacity.</p> <p>10.1.2 Government should continue to pursue the Growth Triangles concept, in collaboration with the MRU States, which will provide</p>

<p>infrastructure decisions, but it is yet to be seen how effective it will be. In 2013, the World Bank advised that a strong regulator be appointed to oversee infrastructure developmental related to the mining sector. In terms of the policy for attracting private capital, the use of tax incentives is not a credible policy toward long-term diversification. In addition to the potential for abuse, tax incentives may attract firms that are not robust enough to survive without such incentives. (See benchmarking questions 10.1.1 – 10.1.3 and 10.3.1)</p>	<p>significant opportunities for diversification through sub-regional trade and investments.</p> <p>10.1.3 As a matter of policy, Government should set a broad national strategy for infrastructure development. This should include options for leveraging the infrastructure of mining companies to spur on other sectors of the economy. Planning and subsequent development of infrastructure and any downstream linkages should be undertaken in line with development of the Growth Poles strategy.</p>
<p><i>10.2 While the use of local content in the mining sector is important, the Local Content Agency Act 2016 does not fully reflect the realities of the country’s capabilities.</i></p> <p>The current legal framework for the mining sector, the Mines and Minerals Act (2009), considers the commercial realities of the sector and seeks to attract inward investment by stipulating that local sourcing is required where “qualified and competitive”. However, the LCAA makes provision for a series of explicit local preferences with regard to labour and procurement. These requirements do not take into account the ability of the domestic economy to realistically meet the set targets, thus making the Act less robust.</p>	<p>10.2.1 Government should implement the Supplier Development Program and Supplier Development Fund through the Local Content Agency and facilitate the full operationalization of the Skills Development Fund by increasing the portfolio and using the funds for its purpose in collaboration with the Ministry of Technical and Higher Education and the Ministry of Labour and Social Security. Government should also give support to the TVET coalition to ensure that the skills gap and the mismatch in skills in the local market are addressed.</p> <p>10.2.2 The Government should, through the Local Content Agency and Small and Medium Enterprises</p>

<p>A number of studies, mainly donor-led, analysed local market capability to service the mining sector. These in their entirety do not meet the requirement of an effective demand/supply market analysis, nor does it appear that the targets set in the LCP and the LCAA, have taken the results of these studies into considerations. How the MMA and LCAA interact is yet to be clarified, but the understanding is that the MMA will inform the Local Content Plans that companies submit to the LCA. Agreements on these plans are binding, and can be different to the targets set in the LCAA 2016. (See benchmarking questions 10.2.1 – 10.2.9)</p>	<p>Agency provide capacity strengthening support to SMEs to enable them provide the goods and services needed by the extractive industries.</p> <p>10.2.3 Although a robust demand/supply market analysis was not done in drafting the Local Content legislation, the follow up regulation should attempt to better reflect the realities of the country's capacity. Regulations to the Local Content Agency Act should also be harmonised with the Mines and Minerals Act, Mining Regulations, labour laws, procurement legislation and any other related legislation.</p>
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11. Precept 11: Role of companies

Mining companies operating in Sierra Leone are required to comply with a number of financial, environmental, social and disclosure obligations set out across the legal and policy framework. Such obligations include the payment of taxes and fees set out in general legislation and Mining Lease Agreements; as well as preparation and implementation of an Environmental Management Plan, resettlement of affected persons based on an approved Resettlement Action Plan, contribution to community development efforts through a Community Development Agreement and Community Development Fund and submission of a range of reports to government.

However, there is an expectation that companies take steps that go beyond these minimum statutory requirements to respect the highest international standards. For example, by adhering to international guidelines on environmental management and publically disclosing financial information through the SLEITI reports. Companies are also expected to support Sierra Leone's efforts to maximise potential benefits arising from mining activities and further national development goals; for example, through coordination on local content, training and educational initiatives and infrastructure

development. Current avenues to do this include the Local Content Compact, the Growth Poles Initiative, Power Purchase Agreements to enable the construction of large-scale energy generation projects and the alignment of CDAs with Local Development Plans of the local councils within which the companies operate.

Key challenges	Recommendations
<p><i>11.1 There is inadequate coordination between government and mining companies on national development objectives.</i></p> <p>While companies could be doing more by going beyond legal requirements in terms of financial disclosure and environmental and social matters, of most concern is the lack of coordination on infrastructural development given the huge transport and power infrastructure deficit in the country. This is in part due to government’s failure to clearly identify opportunities for shared infrastructure up front, preventing companies from incorporating national needs in their planning. Discussions regarding collaboration on construction of a deep sea port and rail suggest that there is scope for coordination as long as government clearly communicates its needs and engages companies accordingly. Coordination between government and companies was beginning to improve before the Ebola crisis and commodity price crash. However, the non-functioning of the Chamber</p>	<p>11.1.1 Mining companies should consider themselves as partners in development and should integrate sustainable development projects into their core business function, and act responsibly in complementing the efforts of Government towards sustainable development.</p> <p>11.1.2 The Chamber of Mines should be revived and encourage its members to assist public accountability through voluntarily release of information to the public about all payments to government, and other actors including payments within Corporate Social Responsibility framework.</p> <p>11.1.3 The Chamber of Mines should produce a code of conduct for their members that will guide operations in line with the 10 Principles of the International Council on Mining and Metals (ICMM) and International Financial Corporation (IFC) standards; and establish a mechanism to hold their members to account.</p> <p>11.1.4 Government should set out a broad national strategy for infrastructure development to enable effective coordination with mining companies and maximize the potential for shared infrastructure.</p>

<p>of Mines is evidence that coordination and collaboration between companies is virtually non-existent, resulting in duplication of infrastructure and unnecessarily high operating costs. (See benchmarking questions 11.1.1 – 11.1.3)</p>	<p>11.1.5 Where mining companies intend to construct infrastructure, Government must encourage them to make multi-user and multi-purpose infrastructure where possible, potentially through Public-Private Partnerships, and participation from other interested private parties. All infrastructure must be constructed according to clear standards (i.e. standard rail gauges) so that it can be used by multiple parties, including the Government.</p>
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12. Precept 12: Role of international community

There are a number of avenues through which the international community is able to support Sierra Leone to effectively manage its mining sector. It can promote and enforce public disclosure requirements for companies operating in Sierra Leone but registered in their jurisdiction, filling in gaps in, and reinforcing, reporting requirements that exist in Sierra Leone to reduce the scope for companies to be involved in tax avoidance or corrupt practices. Recent changes in public disclosure requirements include the US Dodd-Frank Act, the EU Accounting and Transparency Directives and the Canadian Extractive Sector Transparency Measures Act. There are a number of other international initiatives designed to tackle malpractice in these areas. These include the International Tax Compact, Publish What You Pay, Extractive Industries Transparency Initiative and Corruption Perception Index. Cooperation between the National Revenue Authority and other national tax authorities also has the potential for providing important information of tax issues pertaining to companies registered in other jurisdictions.

The international community can also provide direct support to the government and other actors involved in governance of the mining sector, through technical assistance and capacity building programmes. The main development partners operating in this area in Sierra Leone are the International Monetary Fund (IMF), World Bank, African Development Bank (AfDB), UK Department for International Development (DfID), United Nations Development Programme (UNDP) and German Corporation for International Cooperation (GIZ). These organisations tend to roughly divide the different components of mining sector management between them to

prevent duplication or overlap. A formal coordination mechanism, the Mining Sector Working Group, was established in 2014.

Key challenges	Recommendations
<p>12.1 <i>More needs to be done to advance global norms to increase the government's capacity to tackle issues of tax avoidance and corruption.</i></p> <p>So far, development partners have been unsuccessful in advancing the extension of international financial disclosure requirements to junior mining companies. Despite recent improvements in international corporate regulation, the vast majority of mining companies operating in Sierra Leone are not covered by these international financial disclosure initiatives due to where they are registered, and, most importantly, their financial turnover. It is imperative that development partners assist Government to lobby for expanded coverage of these reporting requirements to include small to medium size mining companies. These disclosures are not only important for tackling tax avoidance and corruption, but also for the performance of effective due diligence of companies looking to operate in Sierra Leone. Similarly, there has been no support to facilitate formal cooperation between the</p>	<p>12.1.1 International financial disclosure requirements should be extended to junior miners. Development partners should advocate for extension of international financial disclosure requirements to junior miners, such as those companies currently operating in Sierra Leone.</p> <p>12.1.2 Development partners should facilitate cooperation between tax administrations. Development partners should help facilitate formal collaboration between the National Revenue Authority and other tax authorities to help Sierra Leone mitigate tax avoidance/ evasion.</p>

<p>National Revenue Authority (NRA), and tax authorities in other jurisdictions, an important source of information to tackle issues of tax avoidance in the mining sector. (See benchmarking questions 12.1.1-12.1.5)</p>	
<p>12.2 <i>Competing Priorities Preventing an Integrated Approach.</i> Development partners in the mining sector are comparatively well organised, however initial coordination challenges regarding revision of the Sierra Leone Minerals Policy, and the Sierra Leone Mineral Sector Benchmarking Project, demonstrates that challenges remain. Of greater concern are the competing priorities of various partners, demonstrating limited understanding of the trade-offs in the mining sector, preventing Government from taking an integrated approach. The absence of a collective strategy has left aspects of the decision-making chain underfunded, as well as noticeable gaps regarding support to deliberations with London Mining and African Minerals. (See benchmarking question 12.1.6)</p>	<p>12.2.1 Government and development partners should strengthen the policy function of the Ministry of Mines and Mineral Resources. Development partners must support the Ministry of Mines and Mineral Resources to improve implementation and enforcement of mining legislation, as well as policy development including the establishment of a mining development and management resource center for researchers and other interested persons.</p>