

NATURAL RESOURCE TAXATION
IN THE ASIA-PACIFIC REGION
AUGUST 11-13, 2015
JAKARTA, INDONESIA

The Roles of National Resource Companies and Regulators

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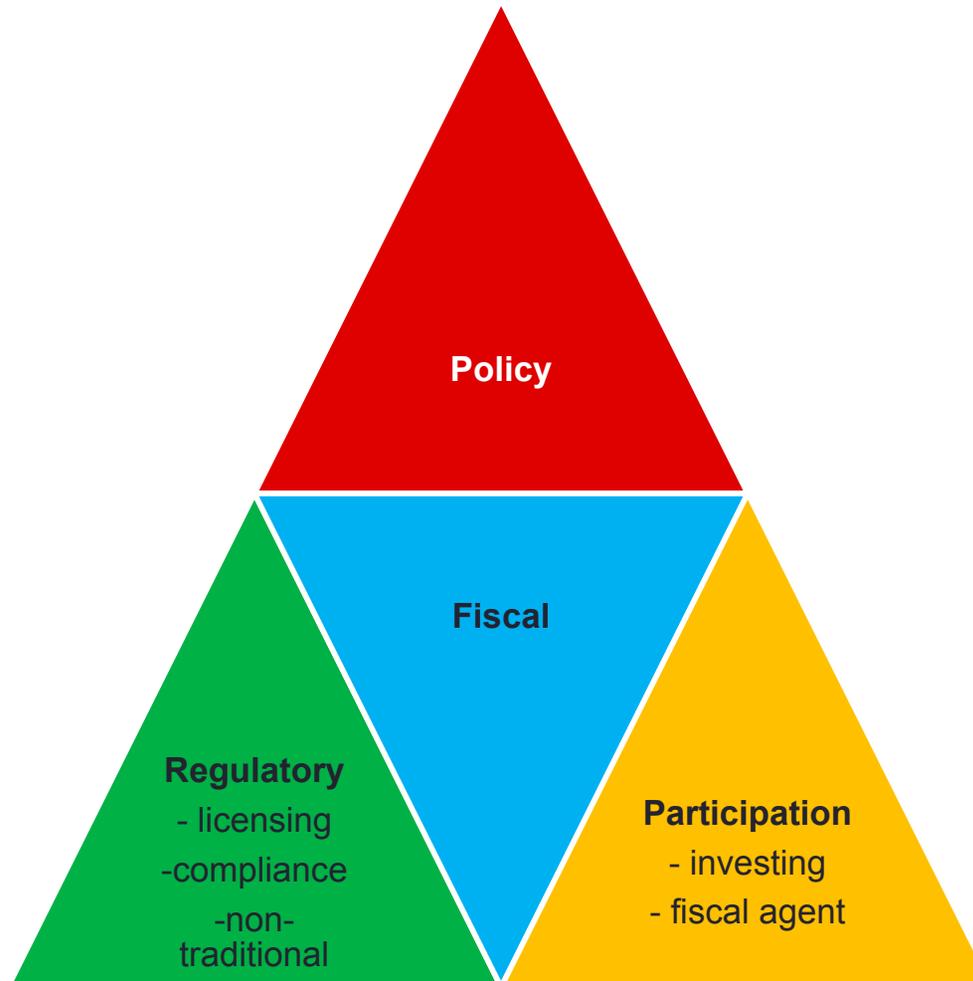
Introduction

- How should management of the extractives sector be organized?
- Policy, regulation and participation roles
- Experiences with Natural Resource Companies
- Tentative conclusions

How should management of extractives sector be organized?

- The extractives sector is one of the most highly state-managed sectors probably because of its high risks and rewards ... but there is no commonly accepted blueprint of how to manage it.
- There are numerous models being used globally and forever being altered – experimentation seems to be pervasive
- Some headline changes this decade illustrate this:
 - PEMEX lost its Constitutional monopoly over the oil sector in 2013
 - NNPC of Nigeria will be split into two – one part regulatory; the other commercial
 - Uganda has set up an independent regulator and established its own NOC
 - Namibia has given exclusive control to state-owned Epangelo over strategic minerals
 - Mongolia swaps equity for royalty on strategic mineral projects
 - US unbundles regulatory functions of the Minerals Management Service
 - Brazil sets up pre-salt oil regime with Petrobras participation and separate state financial interest
 - Indonesia's petroleum regulatory authority ruled unconstitutional in 2012
 - Tanzania sets up separate petroleum policy advisory and regulatory bodies and a national oil company

Main State roles



Policy

- Government wide
 - National development planning
 - Macro-fiscal management
 - Investment promotion
 - Land-use and environmental management
 - Related sector policies (energy, transport, other natural resources)
- Extractives specific
 - separate petroleum
 - Upstream Oil & Gas
 - Mid and downstream, especially Gas Value Chain
 - and minerals
 - Mining
 - Processing

Regulation - licensing

- *Allocation of rights to those best qualified to explore and develop resources efficiently and responsibly*
 - Designation of areas available for licensing
 - Administration of resource rights allocation system
 - Licensing criteria – qualifications and commitments of applicants / bidders
 - Environmental and social impact assessment and permitting
 - Negotiation of contracts

Regulation - operational

- *Assurance of optimal (non-wasteful) and safe recovery of resources*
 - Enforcing compliance with good oilfield/mining practice
 - Exploration and production monitoring and measurement
 - Health, safety and environmental compliance

Regulation – non-traditional

- *Optimal development of spillovers from resource development*
 - Local content
 - Skills & technology
 - Infrastructure / spatial development
 - Domestic use / value addition
 - Community welfare

Fiscal management

- *Optimal capture and wise use of resource revenues*
 - Fiscal policies
 - Design and negotiation of fiscal terms
 - Fiscal administration (tax, other resource revenues)
 - Revenue management
 - Oversight of revenue inflows
 - Revenue allocations

Participation - investing

- Sole risk models: 100%
- Partnership / joint venture models
- More on this from Philip Daniel

Participation – fiscal agent (non-investing)

- Production sharing model mainly used in petroleum
 - Combines several roles:
 - control (quasi-policy)
 - spillovers
 - fiscal regulatory
 - operational regulatory
 - Sometimes combined with investing role
- Free equity model mainly used in mining
 - generally passive JV role (minority or non-voting)
 - holding company or direct MoF holding
 - in principle can have fiscal and operational regulatory function

Experiences with NRCs

- NRC responsibilities have ranged from only addressing participation to addressing all policy, regulatory and participation roles
- In Asia-Pacific Region all models are present and undergoing evolution
- Look at:
 - objectives set for NRCs
 - commercial opportunities and constraints
 - macro-fiscal and governance issues
 - economy wide impacts

NRCs - objectives

- Prioritization of national development interests
 - Offset market failures
 - National champion for resource development
 - Accelerate resource development
 - Accelerate skills and R&D transfer
 - Execute national oil policies (OPEC)
 - Promote economic spillovers
 - Jobs
 - Local content
 - Infrastructure
 - Skills & technology
 - Promote domestic use of resources
 - Security of supply
 - Affordable / stable gas and petroleum product prices
 - Capture and allocate resource rent
 - Direct participation in rent generation
 - Control and fiscal compliance (where partnering with private sector)
 - Covered in more detail in presentation by Philip Daniel

NRCs: commercial opportunities and constraints

Opportunities

- Access to domestic strategic deposits
- Selection of suitable partners to access skills and technology
- State support – protection, finance & guarantees, top people

Constraints

- Asset base limited to domestic assets
- Limited access to risk capital for exploration
- Limited scope to divest
- Re-investment subject to wider economy needs
- Additional quasi-fiscal responsibilities
- Shielded from competitive pressures and market discipline

NRCs: macro-fiscal and governance issues

Macro-fiscal

- High opportunity cost of public funds
- From “cash cow” to “fiscal drain”
- Pro-cyclicality
- Diversification or concentration?
- Off-budget spending and liabilities
- Unsustainable product subsidies

Governance

- Politicization
- Rent-seeking
- Opacity
- Regulatory conflict of interest
- Diverts resources from regulatory capacity development
- “state within the state”

NRCs: economy-wide impacts

Worst case

- Crowds out the private sector
- Operates inefficiently and wastes scarce resources
- De-stabilizes the economy and suppresses diversification
- Corrodes governance

Best case

- Crowds in the private sector
- Emerges as internationally competitive
- Captures rent for priority public development spending
- Generates spillovers that support diversification

Recommendations

- Will leave these to be addressed by Philip Daniel

However ...

- **Natural Resource Charter:** *“In the long run, the government should ensure that the national company’s state agent role is a means to an end—to build an effective set of government institutions, and/or promote a strong industry and operational talent.”*