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Mali: Technical Assistance Report: Continued Modernization of the Malian Tax System and Administration—Memorandum on Natural Resource Management

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MALI

CONTINUED MODERNIZATION OF THE MALIAN TAX SYSTEM AND ADMINISTRATION

MEMORANDUM ON NATURAL RESOURCES MANAGEMENT

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Memorandum on Natural Resources Management

The Malian authorities have requested technical assistance in natural resource management from the IMF via a TTF-MNRW.[1] Such a program includes five modules: (1) tax policy; (2) tax administration; (3) financial management; (4) management of revenue produced by the resources; and (5) statistics systems to monitor natural resources (e.g., tax revenue and national accounting system). However, there is no fund in Mali based on income from natural resources (Module 4), or is there any intention to establish one. Moreover, in view of the relatively limited size of the natural resources sector, issues of financial management (Module 3) are not specific to the sector. Finally, the National Assembly adopted a new Mining Code (CM) in 2012, and a draft new Petroleum Code is in an advanced stage of preparation and expected to be submitted to the National Assembly in the coming weeks. The mission takes note of these facts and developments, which limit the scope of work, and will identify the areas in which technical assistance is still needed in the following sections.

Presentation of the extractive sector

The Malian mining sector essentially consists of gold mining. Mali has nine industrial mines in operation, which extracted 46 tons of gold in 2012 (Table 1). The country also has numerous placer mining deposits that produce a total of 4 to 10 tons according to estimates.[2] Control of placer mining is problematic (as it is for all activities of this nature) and may create conflicts with industrial companies in case of eviction and/or utilization of industrial processes, as is the case in Mali.[3] A small manganese operation opened in 2010 but is now suspended for reasons of security and above all financing.[4] A small iron or mining operation is active in the Koulikoro region, but its position is precarious and its reserves do not bode well for the future.[5]A phosphate mine was active long ago in the Gao region, but it ceased operations decades ago and its

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[1] Topical Trust Fund – Managing Natural Resource Wealth.

[2] There is a tremendous margin of error surrounding this figure, given the difficulty in controlling these are mining. The national accounting system assumes four times, while the Chamber of Mines estimates production of 10 tons.

[3] Traditional placer mining is generally not in conflict with industrial gold production. In fact, traditional placer mining is performed at the surface (up to 15 to 25 meters) with rudimentary tools (calabash, filters, various mecanical implements) and generally does not involve complex processes such as grinding or chemical separation of the gold from the source rock using cyanide or mercury. However, traditional placer mining in Mali has recently taken on a more industrial aspect through the use of mechanical scoops, grinders, and chemical products, hence the increasing friction with industrial producers.

[4] A purchaser has been identified.

[5] The mine is operated by an Indian company (Sahara Mining SA) that exports the ore to Dakar. Production began in December 2010, and 135,000 tons of ore were produced in 2011 and nearly 250,000 tons in 2012 before activities were temporarily suspended in 2013 (they recently resumed). The reserves are modest (several hundred million tons at the most). The authorities have yet to fully understand the firm's business dealings, and its regulatory compliance is highly imperfect.

processing infrastructure (phosphoric acid, used for fertilizer) is falling into decay. There are no credible prospects for reopening the mine.

The diversification policy is a failure at this point. The authorities' stated objective of diversifying mining production[6] has not produced a clear, consistent action plan, and there are almost no realistic or significant prospects in the short or medium term for materials other than gold.[7] Apart from precious substances, the high cost of bulk transportation (minerals), the technical and financial difficulties of local processing, and the weak domestic market make it unlikely that Mali's mining future can be defined other than by gold in the short or medium term.

Mali's gold sector has carved out an enviable place for itself in Africa, but the country remains a marginal global producer. While it remains a small player in global terms (Table 1) and its gold production is far outpaced by that of Ghana and South Africa, Mali was stable until recently and its business climate relatively welcoming for mining companies, as those companies confirmed. In particular, they were protected from the recent troubles so that their activities were not disrupted. Such a reputation is long in the making and represents a significant asset for the country.

Tax receipts from the mining sector are a significant but not disproportionate contribution to the national budget. In 2012, receipts from mining permits totaled[8] CFAF 170.3 billion, or 19.6 percent of Mali's total receipts,[9] and 3.4 percent of GDP. This share of receipts is unlikely to derail public financial management, greatly reducing the danger of the "resource curse."

[6] "Memorandum on the diversification of mining production," Secretariat General of the Ministry of Mines (undated).

[7] Several sources mention the presence of various underground deposits in Mali such as copper, tin, uranium, etc. Unless new information comes to light, these are merely geologic indications not promising enough to justify economical exploitation.

[8] Tax receipts from mining operations, including taxes on wages and salaries, dividends, and taxes on production.

[9] These figures do not include subcontractors, and therefore underestimate the mining sector contribution to government revenue and GDP.

Table 1. Mining production in Mali and advanced projects (metric tons)

Concession holder	Mine/Location	Owner /1	rt of production	Legal basis	oduction (2012)	Reserves (2013)/2	Note
SOMISY	Syama	Resolute mining (80%) Mali (20%)	1990	1991 CM	5.036	144.388	Largest mine in Mali.
SEMOS SA	Sadiola	Anglogold Ashanti (41%) Iamgold (41%) Mali (18%)	1996	1991 CM	9.537	124.362	Originally [provided] in the 1970 Mining Code and [incorporated into] the 1991 CM by amendment. The mine recently entered into a deep sulfur phase in 2012 and the corresponding contract was renewed based on the 1991 CM, with a few adjustments.
MORILA SA	Morila	Anglogold Ashanti (40%) Randgold (40%) Mali (20%)	2000	1991 CM	7.686	9.953	
YATELA SA	Yatela	Anglogold Ashanti (40%) Iamgold (40%) Mali (20%)	2001	1991 CM	2.480	1.640	
SOMIKA SA	Kalana	Avnel Gold (80%) Mali (20%)	2004	1999 CM	0.407	33.747	Underground extraction at shallow depths (< 150 m)
SOMILO SA	Loulo	Randgold Resources (80%) Mali (20%)	2006	1991 CM	16.853	195.034	The mine includes two main deposits extracted by open pit methods (Yalea and Gara). Each has an underground extension. The site also includes small satellite open extraction pits.
GOUNKOTO SA	Gounkoto		2012	1991 CM		65.938	
SEMICO SA	:oto/Segala/Dioulaf oundou	Endeavor Resources (80%) Mali (20%)	2006	1991 CM	4.175	22.146	Tabakoto and Segala are two underground mines resulting from open-air pits under the same exploration permit. The mines were originally covered by two permits (TAMICO SA and SEMICO SA) and were merged.
WASSOUL'OR	Kodiéran	Aliou Boubacar Diallo (55%?) Pearl Gold SA (25%) Mali (20%)	2011	1991 CM	0.097	43.646	Largest industrial mine held by a Malian operator.
ROBEX	Nampala	NA	2015-2020	1999 CM	NA	22,440	Robex has other concessions (reserves of 25 tons)
NEWGOLD	Banankoro	NA	2015-2020	1999 CM	NA	24.568	
GLENCAR	Komana	NA	2015-2020	1999 CM	NA	38.880	
RICAN GOLD GROUP	Kobada	NA	2015-2020	1999 CM	NA	NA	
Total					46.272	>704.324	

Sources: Authorities, United States Geological Survey, IMF, various sources.

1/ Iamgold, Avnel, Endeavor, Robex, African Gold Group: Canada; Resolute: Australia; Randgold and Anglogold Ashanti: South Africa; Pearl Gold: Germany; Aliou Boubacar Diallo: Mali.

2/ The definition of reserves may vary by source.

Table 2. Malian worldwide mining production (metric tons)

Country	1995	2000	2005	2010	2011
Mali	7.8	28.7	44.2	36.4	35.7
Ghana	53.1	72.1	66.9	76.3	80.1
South Africa	523.8	430.8	294.7	188.7	181.0
Australia	253.5	296.4	262.0	261.0	258.0
Canada	152.0	156.2	119.5	91.0	96.7
United States	317.0	353.0	256.0	231.0	234.0
Indonesia	64.0	124.6	130.6	106.3	96.1
Peru	57.7	132.6	208.0	164.1	164.0
Russia	132.2	143.0	164.2	189.0	199.6
Uzbekistan	65.0	85.0	90.0	90.0	91.0
Worldwide total	2230.0	2570.0	2470.0	2570.0	2660.0

Source: United States Geological Survey.

Production has declined in recent years, but the further development of existing mines (for example, underground) and the opening of additional gold mines in the coming years could reverse or at least mitigate this trend. Four projects have completed the exploration phase and are now at various stages of development (Table 1), open-air mines have transitioned to the underground stage (e.g., Sadiola), and new open-air pits have opened under existing permits. Accordingly, the Ministry of Mines predicts that production will increase from 46.2 tons in 2012 to 49.2 tons and 59.3 tons in 2013 and 2014, even before the new mines have opened. The fact remains that according to the mission's discussions, the principle world-class deposits identified already are or will shortly be in the production phase.[10] More importantly, several mines will also sharply diminish or discontinue production in the coming years. For example, Morila, Yatela, and Somika are expected to stop production in the next two years. The Ministry of Mines' production forecasts therefore seem optimistic and bet on roughly a 50 percent expansion of production at Semos and

[10] The question of exhausting reserves is complex and sensitive. Figures for resources and reserves vary according to several technical and economic factors and, obviously, according to prospecting efforts. The fact remains that there are few or no known world-class deposits (less than 30 tons, or 1,000,000 ounces) that have not been or will not be exploited in the coming years. According to the authorities, however, several deposits of modest size (less than 10 tons) remain. Setting aside these considerations, a 2009 Ministry of Mines document ("Memorandum on the diversification of mining production") more or less summarizes the situation in stating that "Gold reserves were estimated at 800 tons, of which approximately 470 tons were extracted from 2004 to the present." A more recent DNGM document estimates reserves in existence at 2013 at 839 tons (excluding, inter alia, Yatela and Morila, but including various exploration projects). The mission's calculations (Table XX) based on several sources arrive at roughly 704 tons of reserves at this time.

Somilo and a spectacular increase in production of Wassoul'or to over 12 tons in 2014. This situation will call for close monitoring. In addition, the economic context does not help matters: mining exploration has in fact slowed following the drop in gold prices. The decline in exploration activities is part of a global trend and not limited to Mali; prospecting concessions remain, but activity is slowed if not suspended.

There is no petroleum production in Mali, and prospects in this area are virtually nil for the foreseeable future (at least 10 to 15 years). Five sedimentary basins were identified (Taoudéni, Tamesna, Illumeden, Nara, and Gao), on which there are 29 blocks, 13 of which had been awarded at one time or another. However, only four companies have made significant progress in executing their programs and only one (ENI-SONATRACH - Block 4, in the North close to Algeria) has reached the exploratory drilling phase (although no drilling program has begun). Unfortunately, it appears that serious disputes arose in the ENI-SONATRACH partnership and the permit was voluntarily abandoned by the partnership, even before the recent period of troubles. Another block close to Bamako (with gas and perhaps petroleum potential) is also reportedly at the drilling stage, but activities are suspended for the time being.[11] At this time, then, there is no petroleum prospecting activity in Mali, and no prospecting project has ever established the presence of petroleum (even though exploration has advanced sufficiently to identify basins with strong potential). Moreover, even if discovered, transporting petroleum or gas abroad poses numerous logistical[12] and financial problems and is greatly limited. Finally, the great majority of blocks are located in regions where the security situation is a major issue, and it is therefore unlikely that work will resume in the short or medium term. In short, economically viable petroleum production in Mali is no more than a possibility for the time being.

The Mining Code and implementing regulations

The Mining Code was recently amended in 2012 (2012 CM). The 2012 CM proposes a fairly standard mining system that departs slightly from the 1999 Mining Code (1999 CM), in particular with the creation of a new ad valorem royalty. The system is fully applicable to subcontractors, and the exploration and development periods are for the most part exempt. The principal tax measures are:

- ✓ Corporate tax at 25 percent (compared to the standard rate of 30 percent) and accelerated depreciation;
- ✓ Special tax on certain products (form of royalty on mining production based on after-tax turnover), established by administrative order (3 percent);

[11] Despite the presence of a driller, apparently. It should be noted that the mere potential presence of gas or petroleum in no way guarantees that it would be economical to extract it.

[12] The ENI-SONATRACH could have routed potential production via Algeria, which would not be the case for potential projects in southern Mali.

- ✓ Ad valorem royalty (form of royalty on mining production based on the quarry/mine value less "intermediary expenses," an undefined concept) at a rate established by the Council of Ministers (3 percent);
- ✓ Production exceeding the forecast amounts, as determined by all shareholders, by more than 10 percent is taxed under generally applicable provisions;
- ✓ Free, non-dilutible, priority share of 10 percent of [capital stock] (distributed only when book profits are generated, art. 65), and additional share of up to 10 percent may be acquired for consideration;
- ✓ "Option to acquire" a 5 percent income-producing stake for national business owners;
- ✓ Three-year prospecting permit, renewable twice for two years and for an additional year subject to permission (total of eight years);
- ✓ Contracts have 30-year terms, renewable for 10 years thereafter, with full stability of the tax base and rates (except for mining fees, taxes, and royalties) for the contract term, and the choice to opt as a block for the more favorable system.
- ✓ Surface royalties established by administrative order (CFAF 100,000/km^2 during the production phase – US$200);
- ✓ Capital gains on transactions in mining rights taxed at 10 percent;
- ✓ Employee-related taxes: Fixed employer contribution, youth and employment tax, professional training tax, housing tax, employer payroll contributions, tax on wages and salaries withheld on employees' behalf;
- ✓ Vehicle license plates, insurance contracts tax;
- ✓ Tax on income from securities (10 percent for dividends and 13 percent for interest);
- ✓ Business license tax, recording fees, stamp tax on export documents (Intention d'exportation);
- ✓ Contribution for import verification program, WAEMU tariff (Redevance Statistique);
- ✓ Three-year VAT exemption during the production phase;
- ✓ Exemption of fees and taxes on petroleum products utilized in mining activities (except for the WAEMU Community Levy and Community Solidarity Levy);
- ✓ Three-year exemption of customs duties on mining inputs (equipment, chemical products, reagents, etc.);
- ✓ Use of approved lists of materials and equipment (listes minières) for which import taxes are suspended during exploration and production phases.

However, the overwhelming majority of contracts are based on the 1991 CM, despite the amendment of the 1991 CM in 1999 (1999 CM). This is primarily due to the fact that the applicable tax system is established at the time the exploration contract is signed, and the exploration phase defined in the 1991 CM is quite long (nine years). As a result, the tax provisions applicable to nearly all projects implemented during the 2000s were determined

before the 1999 CM entered into force; so only in the next nine years – well after the effective date of the 2012 CM – will implementation of the 1999 CM begin.[13] For these reasons, a potential technical assistance mission in mining taxation will conduct a quantitative analysis of the 1991 CM and the 1999 CM, as well as the contracts signed pursuant to their provisions.

The Petroleum Code and implementing order

A draft Petroleum Code is currently at an advanced stage. An initial Petroleum Code entered into force in August 2004 but was substantially revised. The IMF and the World Bank commented briefly on the proposed new code (2012 CP), and it is nearly ready for submission to the Council of Ministers and thereafter to the National Assembly this fall.[14] The key aspects of the proposed law are the following:

- ✓ Concessions and shared production arrangements are both permitted, each for terms of 25 years;
- ✓ The government reserves the right to be the petroleum operator, either directly or indirectly;
- ✓ The rate of the hydrocarbon production royalty is determined by the Council of Ministers;
- ✓ The corporate tax rate is reduced to 25 percent, and losses may be carried over for three years;
- ✓ Most of the taxes generally provided by the CGI apply to petroleum operators, with the exception of VAT, which is not mentioned;
- ✓ The oil contract may provide a series of tax benefits and incentives for reinvestment in "other priority sectors of the national economy";
- ✓ The terms of the concession agreements or production-sharing agreement are fixed during the exploration phase (this is standard practice in the petroleum industry);
- ✓ The government may acquire an interest in the operation of deposits pursuant to terms and conditions to be negotiated in the oil contract;
- ✓ Customs duties (but not the Community Levy, the Community Solidarity Levy, or the Community Tariff) are exempted until the start of production.

[13] The case of SEMOS (Sadiola) provides a parallel in this regard. As the mine was to continue development through different processes after 2012 (gold is extracted from the same mine that requires a different chemical process), the necessary investments allow it to qualify as a new project under the original contract and under the same tax provisions as the 1991 CM. An amendment was negotiated to carry over the tax provisions of the 1991 CM to the contract extension (including the five-year exemption period). However, the authorities, uncomfortable with such an extension of an obsolete tax regime, renegotiated the term of the exemption (three years) in exchange for a lower corporate tax rate (30 percent instead of 35 percent). Accordingly, the new tax clauses represent a hybrid of the two codes.

[14] The mission and the Resident Representative asked the authorities to delay the adoption of the code pending a more complete evaluation (see below).

Observations concerning the extractive sector and taxation

Despite notable improvements over the 1991 CM and 1999 CM, the 2012 CM still contains certain weaknesses. It provides for numerous improvements, such as the establishment of a rehabilitation fund financed from the start of production, but does not correct a number of problems of the 1991 and 1999 codes. A thorough review of these issues will be part of the agenda of a potential technical assistance program. For the time being, several examples illustrating the need for amendment will suffice:

- ✓ *The tax system applicable to production contracts is still determined at the time the exploration contract is signed.*
- ✓ *The term of exploration contracts has been shortened but is still long.* The initial period of three years could be extended twice for two years plus an additional year, or a total of eight years.
- ✓ *There are no tax measures permitting surplus profits to be taxed.* The 2012 CM includes a measure to tax production in excess of forecasts at [the rate provided by the] CGI. First of all, such a provision is counterproductive because it is a disincentive to production, given that the tax rates provided by the CGI are potentially higher than those provided by the contracts. Secondly, it will create implementation problems because profits (and therefore costs) must be broken out between the forecast and surplus production. It appears that the concept of taxing extraordinary profit was confused with the concept of production in excess of forecasts (see Box 1).
- ✓ *The rate of the production-based royalties is not established by the Mining Code itself, but by orders adopted by the Council of Ministers, which do not offer the same degree of transparency, predictability, and stability as a provision of the Mining Code.*
- ✓ *The rules on taxation of capital gains are deficient.* Only gains on transactions in mining rights themselves are subject to capital gains tax, thereby excluding transactions among companies that directly or indirectly own the rights.
- ✓ *The rules concerning undercapitalization are still imprecise.* This is a gap in the CGI that extends to all the Mining Code (1991, 1999, and 2012) and facilitates the repatriation of profits through undercapitalization.
- ✓ *Certain contracts and the 2012 CM prohibit the payment of dividends under certain conditions*. The 2012 CM bars the payment of dividend in the absence of book profits, even if permitted by the cash flow position. The mission was informed, but was unable to verify, that provisions of this type already existed in the contracts.
- ✓ *There are no rules to prevent abusive transfer pricing practices.* No information reporting is required on transfer pricing practices or the use of derivative products.
- ✓ *There appears to be no ring fencing.* There is no formal prohibition on the possession of multiple mining rights by a single company,[15] and the number of tax records for

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[15] The 2012 CM provides that "The number of mining permits that can be held by a legal entity for substances of the same group is limited and fixed in the implementing Order" (article 16). However, the question does not

(continued)

such cases is not specified, suggesting that a company could hold multiple permits and file only one tax return. However, the problem does not appear to be prevalent and the issue should be discussed in further depth.

- ✓ *The stability period is quite long.* With contract terms of 30 years renewable thereafter for 10 years, and stability over the term of the contract, the stability period far exceeds the expected life of a typical gold mining operation (10 to 15 years).
- ✓ *The tax system continues to be centered around gold.* Royalties do not vary according to material, which raises problems for non-precious substances that are generally subject to royalty rates [word(s) omitted] than non-precious substances [sic].

Box 1 Principal aspects of a tax on mining income (TRM)

- The TRM is a tax on net cash flows, which are calculated as income less capital and operating expenditures (excluding interest).
- The accrual rate (composite interest rate or annual return) is applied to the balance of negative cash flows (outflows of funds), including all other taxes, and generally including project exploration expenses, each year from the start of the development phase.
- If the cumulative negative cash flows as calculated and adjusted above is fully offset by income, the positive balance becomes taxable at the TRM rate prescribed by law.
- When the tax for any year is paid, the balance of cumulative flows is reset to zero for the following years, so that the same flows are not taxed twice. Therefore, the net cash flows for the following year are also taxed at the TRM rate.
- The TRM base is reconciled with earnings by calculating profit less interest expense and depreciation, since the accrual rate (representing the project returns) covers interest on debt and return on own assets, the TRM is neutral vis-à-vis the financing method.

The procedure described above treats after-tax income as a deduction from TRM (which is added to the company's net income). It is also possible to calculate TRM before corporate tax and then apply the corporate tax, from which the TRM is deducted; the TRM then becomes analogous to a royalty on production. A simple formula for the TRM is:

$$\mathbf{TRM_t = T\ (PTNC_t)}$$

Where:

TRM_t = Amount of TRM payable in year (t)

T = TRM rate

$PTNC_t$ = Net cumulative cash position at year (t)

And

$$\mathbf{PTNC_t = (PTNC_{t-1}(1 + R)) + FTN_t}$$

Where:

$PTNC_{t-1}$ = Net cumulative cash position carried over from the previous year (zero if TRM was paid the previous year).

R = Accrual rate (for example, 15 percent, the rate demanded by the investor)

FTN_t = Net cash position at (t), calculated as described above.

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seem to be directly addressed in the implementing Order, and additional discussions with authorities will be needed to clarify the situation.

The 2012 Petroleum Code (CP) could be substantially improved. For example:[16]

- ✓ The 2012 CP provides for two types of contracts: concession agreements and production-sharing agreements. It would be preferable for the government to allow only one form of contract. Currently, most countries opt for production-sharing contracts, often in hybrid form, which also provide for the payment of royalties. Moreover, the fact that the 2012 CP attempts to cover two contractual forms makes it unnecessary complex and probably creates problems of interpretation and application of the tax framework.
- ✓ The 2012 CP could also be more explicit in terms of defining the institutional framework. It should define in detail the role and responsibilities of the Oil Exploration Promotion Authority, the responsible ministry, the Cabinet, and the Ministry of Finance. In most countries, once the legal, tax, and contractual framework are established, sector management is delegated to the institutions. This allows the process to be "depoliticized" and ensure that companies are treated fairly and equitably.
- ✓ The sector framework should therefore be aligned with the institutions concerned: the applicable tax provisions should be contained in the CGI, sector administration and management should be delegated to the Oil Exploration Promotion Authority. The general sector framework should be established by law, and only the most specific aspects should be addressed in a contract. Also, the government should develop a model contract and limit the terms and subject to negotiation to the extent possible.
- ✓ The 2012 CP should contain standards and rules for transparency, including a provision to the effect that contracts should be a matter of public policy. Moreover, the government could consider the inclusion of references to the EITI (Extractive Industries Transparency Initiative).
- ✓ Various sections of the 2012 CP, including provisions relating to termination, financing for the closing of an oilfield, arbitration, environmental considerations, and force majeure, should be substantially amended.
- ✓ Finally, the code contains provisions relating to petroleum transportation and refining. While it is often necessary to make reference to these two downstream sectors, they are distinct economic activities that should not be subject to the same terms and conditions as exploration and production.

The authorities are concerned by the increasing dispersion and rigidity of tax provisions applicable to mining contracts. The increasing dispersion of tax clauses among contracts complicates the task of auditing companies. Moreover, while the nature of certain projects may change (underground projects, deep sulfur projects, etc.), the authorities are surprised to see these extensions being renegotiated on the basis of old contracts (and

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[16] Comments of Mr. Daniel Dumas (FAD).

therefore old mining codes) rather than the measures provided in the recent code. The result is a feeling of powerlessness and lack of understanding, which could ultimately damage the business environment. The corrective measures contemplated by the 2012 CP solves few of the problems of the 2004 CP, which, like the 2012 CP: (1) also permitted both production-sharing agreements and concession agreements; (2) included few details on the mechanisms for awarding licenses; (3) established low surface royalties; (4) allowed production permits of up to 45 years; (5) included too few technical details (environment, site restoration, relations with local communities, etc.); (6) established tax clauses that should have been provided in the CGI; and (7) lacked the essential rules on taxing capital gains, abusive forms of transfer pricing, undercapitalization, etc. However, unlike the 2012 CP, the 2004 CP did not encourage effective exploration through rules governing the restitution of land (although the rules provided in the 2012 CP could be more precise).

Capacities for modeling and negotiating contracts is quite limited, reinforcing suspicions vis-à-vis the mining companies. The authorities expressed incomprehension at what they consider abusive tax and accounting practices, foremost among which is undercapitalization of investments. While dividends and corporate tax are paid in certain cases, the authorities remain highly skeptical of companies that do not pay dividends. However, they cannot effectively challenge the results because they control neither the structure nor the financial planning of projects.

This dispersion and suspicion prompts certain individuals to speak of renegotiating mining contracts. For several years, the authorities have attempted unsuccessfully to increase revenue to 17 percent of GDP (as prescribed by WAEMU convergence criteria) and, finding that certain companies pay lower taxes than anticipated, their attention has begun to turn to the stability clauses. The mission warned the authorities as to the consequences of unilaterally amending contracts, but understands that solutions must be found.

The capacities to audit mining companies are limited, and control of the tax base is weak. The inspectors in charge of tax records do not understand the information submitted to them (financial statements, production reports, etc.) or the mining companies' tax planning strategies as well as they would like to. Also, the authorities have been unable to develop sound expertise in cost management, for which they have also been unable to develop a database of comparable information. It goes without saying that because expenses during the exploration phase are almost never verified in many cases, there could be excessive expenses during the production period. [17]At the same time, the companies assert that the authorities' rejection of certain expenses often demonstrates a lack of understanding of the mining sector.

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[17] The management of exemptions for fuel, for example, elicit different judgments, with some feeling the exemptions are under control and others pointing to problems in the management of exemptions.

The authorities' management of the sector is confused and communication between the various government agencies is deficient. The DGI collects traditional tax revenue (corporate tax, etc.). The Directorate of Government Property and the Cadaster (DDC) is responsible for surface royalties, the ad valorem tax, and dividends. The National Directorate of Geology and Mines also aims to collect surface royalties, in addition to permit renewal fees, and intends to acquire cadastral software capable of managing certain payments by mining companies. Finally, the Directorate General of Government Property Administration is technically responsible for managing the government's investments in mining companies. One of the main consequences of this dispersion of responsibilities is the authorities' inability to provide an overview of the situation as a whole. This disorganization of information and offices also result in inadequate preparation of the government representatives on various corporate boards of directors, as the very process of appointing those representatives is flawed. Clearly, then, despite frustration at the lack of control over the taxing of companies, the authorities do not use the tools available to them and are not the active shareholders they should be.

The significant but ultimately limited size of the Malian extractive sector and slow growth over more than a decade have allowed mining receipts to be better channeled in the standard financial management system. While the tax, financial, and statistics administrations of many countries were subject to severe stress as large, unprecedented projects were put into production, the Malian authorities were able to gradually adapt to increasing flows of revenue at levels that remain comparable to non-extractive receipts. Moreover, given the population's needs and the modest level of receipts, the creation of a mining revenue fund was never an issue for Mali. Accordingly, there appears to be no financial management problem specific to the mining sector.

Obtaining reliable statistics on the size and contribution of the mining sector remains problematic. The Central Bank of West African States (BCEAO) has emphasized the importance of these figures to detail the balance of payments (imports of goods and services, financial flows, repatriation of funds for investment purposes, etc.) in the context of its exchange policy. Furthermore, no governmental body is able to account in detail for all government revenue generated by mining companies, tax receipts, dividends, surface royalties, etc., which are all collected by different agencies (the DGI, DDC, and DNGM, respectively). The situation is worse yet with respect to subcontractors. The situation also has political repercussions, as the lack of information suggests to many that the sector generates insufficient revenue, hence the often unfounded demands for more aggressive taxation or an increase in the share provided to the government at no cost. The national statistics agency also deplores the lack of figures, notably on the social impact of mining projects, and calls for the preparation of an additional form. It seems clear that better statistical monitoring of the sector is needed.

Discussion and recommendations for a TTF-MNRW

The recent reform of the petroleum and mining codes limits the potential impact of tax policy recommendations, but limited amendments are possible and necessary. Auantitative evaluations of the 2012 CM and 2012 PC are needed, and amendments could solve a good number of the problems described above. However, the authorities should give clear signals that they are ready to reopen the 2012 CM and delay the adoption of the 2012 CP, without which an analysis of the recommendations would be pointless.

The analysis of the 2012 CM should include recommendations for the stabilization policy. The growing dispersion of tax-related provisions is liable to complicate the sector, create very different effective tax rates for different projects, and make supervision by the tax offices increasingly difficult. It is essential that a technical assistance program address this issue.

The standardization of contracts desired by the authorities presents substantial risks. The contracts are far less diverse than in other countries, and the tax system appears on its face to be fairly standard and far from detrimental for the government. Furthermore, it appears that there were no irregularities in the award of contracts. It would be better to prevent divergent tax provisions in contracts than correct them. Moreover, a head-on approach to the problem of tax rigidity is liable to diminish the trust established through decades of discipline. It appears, then, that a potential technical assistance mission should avoid a "Guinean" approach, in which a technical committee becomes necessary to positively channel the enormous frustration at multiple contracts being awarded under terms completely at odds with the provisions of the Mining Code in force.

Capacities to analyze mining contracts and income should be strengthened. The mining and tax authorities' limited understanding of the tax and financial implications of contracts and what is probably too strong a tax stabilization policy undermine the authorities' trust vis-à-vis the sector and lends support for more radical options such as renegotiating existing contracts or significantly increasing the share of free dividends. The development of models capable of measuring the profitability of mining operations and providing a better view of the structure of each project could allow authorities to allocate their time and efforts to the most promising projects and enable them to better understand the effects of proposed policies.

Capacities in administrative control specific to the mining sector should be strengthened. Inspectors and auditors covering the mining sector have not received specific training, and human resource capacities are in need of strengthening. Better control of balance sheets, off-balance sheet items (derivative products, etc.) and relations with parent entities are important requirements, in addition to strengthening capacities to evaluate mining businesses' costs. A better understanding of the difficult physical conditions in which mining companies operate (distances, maintaining a sense of community, etc.) should also be taken into consideration in the evaluations.

The structure of the various government entities responsible for control of the sector should be revised. Given the mining sector's importance and the need to maintain different areas of expertise within different organizations (e.g., technical aspects at the DNGM and tax aspects at the DGI), the creation of a coordination structure appears to be an essential imperative. The creation of such a structure does not preclude redefining the rules of certain agencies. In any event, the coordination structure's role should include, at a minimum, circulate information and preparing the government directors who sit on mining company boards. Apart from a certain amount of confusion as to the general role of the Directorate General of Government Property Administration, as a government agency, it represents a real possibility for the development of a coordinating body for the entities involved in managing the mining sector and the government's investments in the sector. The technical assistance missions will give further consideration to this question and the specific conditions surrounding the creation of a coordinating agency.

In light of the preceding observations, the mission concludes that a TTF-MNRW in appropriate for Mali. It would include three modules with the following terms of reference:

- *Module 1 (Tax policy)*. An initial mission of three or four or persons could review the taxation of the mining and petroleum sectors and other tax-related rules (undercapitalization, transfer pricing, etc.). The mission should also provide comments on the stabilization rules. Commission would also reflect with the authorities on the potential risks and benefits of reopening existing contracts. A second mission (working primarily from Washington), would prepare models of all mining contracts, with particular attention to issues of financing, and prepare a mining module to be inserted in the IMF macro-fiscal framework (which would encourage the maintenance and update of files). That mission would be followed by two visits by a short-term expert (or IMF staff member) to ensure that local users are properly trained in the use of the modeling framework and able to incorporate additional companies.

- *Module 2 (Tax administration)*. An initial mission would review the entire institutional monitoring framework for the sector, as well as the structure and synchronization of revenue collection and information collection relating to the mining sector. The mission would also review the authorities' use of the tools available to it to manage and become involved in the sector, particularly the use of its presence on mining company boards. A second mission would review the techniques used to audit companies and the information used in this context. That mission would be followed by two visits by a short-term expert to continue training tax and customs administration managers in auditing and inspecting mining companies. Ideally, Module 2 should be conducted in parallel with the involvement of a major international accounting firm in the audit of mining companies. The firm would conduct an audit of a large Malian mining company,

in cooperation with the authorities, to illustrate practical methods of auditing the sector and indirectly train Malian managers. ***As discussed with the authorities, Module 2 could also be incorporated into a potential program on general taxation. In fact, similar needs arise in other sectors (finance, insurance, etc.) and it could be more efficient to address the mining sector in that context.***

- *Module 5 (Statistics)*. An IMF Statistics Department (STA) mission should evaluate the systems in place and their capacity to reflect the extractive sector contribution (mines and petroleum separately) in government receipts and in the national accounting system. Such a mission could be followed by one or two visits by a short term expert to facilitate the implementation of appropriate systems. Further discussion with STA will be needed to determine the resources for this module. In any event, such a module could move ahead as quickly as possible.

The TTF-MNRW should be strictly framed and conditioned on certain actions by the authorities with respect to Module 1, among others. The first mission is dependent on the authorities' willingness to reopen the tax provisions of the 2012 CM and proceed with the new Petroleum Code without delay.[18] The authorities should provide the minimum assurances (for example, in the Letter of Intent or Memorandum of Economic and Financial Policies for a potential program) to move ahead, without which the mission would be pointless. The second mission of the same module is, in turn, subject to the receipt, ***well ahead of the mission and therefore as soon as possible (before December 31, 2013)***, of all financial statements for all mining companies in operation, from at least the beginning of the development phase (and the exploration phase if possible), as well as all feasibility and/or pre-feasibility studies for recent and upcoming projects. The contracts (including all related amendments) should also be provided. ***In the absence of this essential information, the mission and the two subsequent visits, and all of the following modeling efforts, would be canceled, which would put an end to Module 1 .***

[18] According to the Oil Exploration Promotion Authority, this should not present a problem.