

Final Report

NEAT Working Group Meeting on the Governance of Extractive Industries in East Asia

Depok, Indonesia, 19 August 2014

Hosted by NEAT Indonesia

I Preamble

1. The future of the East Asian Community is shaped by collective action to respond and manage common challenges, including the need for sustainable management of mineral and energy resources. The high growth in East Asian countries consumes a lot of mineral and energy. Since petroleum and mineral resources is non-renewable, the economic development can only be maintained by putting in a balance between the pressure for natural resources extraction and the need for their sustainability.
2. For some countries in East Asia, natural resources have become the main pillar of economic development. However, economic problems in the extractive industries are also varied, ranging from unequal distribution to black market. In addition, extractive industries can create severe social and environmental problems. Therefore, countries with abundant natural resources are not always benefited from the sectors. All these problems need to be addressed in national as well as regional level.
3. East Asian countries can work together to address the extractive industry problems based on the spirit of equality and mutual benefit as stated in the Treaty of Amity and Cooperation (TAC, Article 5). The APT Cooperation Work Plan 2013-2017 has included the enhancing of energy cooperation (2.7) and mineral cooperation (2.8). In addition, under the cooperation to deepen political and security cooperation, APT leaders have agreed to promote good governance (1.1.5). The promotion of good

governance can also be included in the cooperation on extractive industries.

4. In line with this thrust, the NEAT Working Group Meeting on Governance of Extractive Industries in East Asia was held in the J.W. Marriot Hotel, Jakarta, 19 August 2014. The objectives of the meeting is to share individual country experiences on the governance of extractive industries including the problems and success stories, and then to discuss ideas of regional framework to govern mining sectors in order to promote regional economic cooperation. A set of recommendation to promote such cooperation can be found in the final section of this report. The WG comprised representatives from the APT countries plus the ASEAN Secretariat. A list of the representatives is at **Annex**.

II. Governance of Extractive Industries: Experiences of ASEAN plus Three Countries

5. For APT countries, extractive industry is an important segment of their economy. Most APT countries are producers or exporters of oil and gas and economically important minerals, such as tin, copper, gold, and other precious stones and metals. Some others are advanced industrial countries with limited possessions of energy and mineral resources and thus depend on imports of such resources to sustain their industries. In this context, all APT countries share a common interest to embrace good governance of extractive industries.
6. Poised to be the center of global growth, the region's demand for energy and minerals is increasing rapidly. The process of regional integration ("common market and single production base" as in the ASEAN Economic Community) and the trend of liberalization (the establishment of various free trade agreements in the region) have eased the movement of commodities and capital, including in the sectors of extractive industries.
7. Because of the importance of the extractive industries to their economy, most countries have already established domestic regulations related to the oil and gas and mining sectors. It is also important to note that the different levels of economic development and economic structures, as

well as different political systems, have created different systems of governance. For example, some countries put the authority to govern the license to local authorities while some others prefer centralized governance.

8. Understanding the importance of promoting transparency in managing the extractive industries, some of the APT countries, such as Philippines, Indonesia and Myanmar, complement their domestic initiatives with involvement in EITI (Extractive Industries Transparency Initiative). EITI is a voluntary based standard to promote transparency in extractive sector which has been acknowledged internationally as a tool to improve good governance and manage the extractive sector in many countries. The EITI requires its implementing countries to publicly open his information on the revenue derived from the extractive companies to the public, and requires the company to report his payment to the government.
9. Recent global and regional developments lead to the increasing importance of good governance in extractive industries in APT Countries. The push for good governance in extractive industries are not only coming from global and regional development. Stronger voices from the people are also demanding for a more accountable governance of the sectors.
10. Environmental and social impacts of the extractive industries in APT Countries also lead to stronger demands for more responsible business practices, as illustrated in the case of lead contamination in Thailand which has led to several governance reforms. Environmental problems are acknowledged as one of the major critical issues in governing the extractive industries. Vietnam, for instance, has suffered significant revenue losses because the management of mineral resource and as well as of the extractive industry has been poor throughout the years. Illegal exploitation, mineral smuggling, and tax evasion also commonly occur in many areas. On the other hand, the management and use of revenues has many constraints and lacks transparency. Some APT countries such as Indonesia and Philippines face the commonality in dealing with indigenous protection issue.

11. Despite general recognition of the importance of the governance of the extractive industries, APT Countries face various problems and challenges.
12. List of key challenges at domestic level includes:
 - **Complexity of the issue.** The management of extractive industries is strongly connected to various important and pressing issues, including relations between different ethnic groups, welfare distribution between various groups in the country, land use policies, and environmental sustainability. It is also connected to external factors such as demand from global market or diplomatic relationship between different countries. Thus, the success of reform in the governance of extractive industries is also depends on the progress in various other related aspects.
 - **Administrative problems.** Different administrative problems persist, such as overlapping authorities and the push and pull between local and central governments.
 - **Problem of data availability and reliability.** Data issues for instance are common challenge in most Southeast Asian countries. Many delegate acknowledge that information regarding some critical information in mining industries remains missing due to lack of publicly available data and report. The Department of Finance of Philippines noted that both the regional and local governments impose fees that are not reflected in the national data maintained by the regulating bodies.
 - **Lack of transparency and the pervasiveness of corruption.** It is generally acknowledged that lack of transparency and the pervasiveness of corruption in the governance are common problems in many APT countries. Not only hindering good governance in extractive industries, these problems have lead to various other problems such as illegal mining, environmental degradation, and social impacts.
13. To tackle the problems, APT countries, mainly the producing countries, initiated various initiatives for governance reform, such as by developing new revenue sharing scheme, creating more public participation, creating

more transparency for revenue reporting and revenue sharing, as well as legal reforms.

14. Most of the initiatives for governance reform are established within the domestic system. In this light, a regional cooperation in the governance of extractive industries will create opportunities for APT countries to strengthen their national efforts in reforming the governance of extractive industries in their respective countries.

III. Regional Framework in Extractive Industries to Help Governance Reform in APT Countries: Challenges and Opportunities

15. At ASEAN, currently there is no specific regional framework in the cooperation on the governance of extractive industries in the region. However, various aspects related to the governance of extractive industries could be found in different ASEAN mechanisms.
16. In this context, there are important opportunities for establishing extractive industries at regional level in East Asia:
 - Most developing APT countries will continue to depend on resources to develop their economy. New sectors are just started to be explored in many ASEAN countries and will be growing in importance.
 - Energy is an important part in the establishment of ASEAN Economic Community. The existing ASEAN energy cooperation is aimed at increasing production and exports of energy resources. To ensure that the increasing production and exports will optimally benefit the people, good governance in extractive industries is an indispensable requirement.
 - APT countries are having different levels of development and roles in extractive industries (producers, brokers, governments) and thus having different perspectives on the governance of extractive industries. However, despite different roles, all of them share common interest to embrace good governance in these sectors. A regional framework will help align different interests of APT countries and consolidate their common interests.

17. List of key challenges to develop a regional cooperation on the governance of extractive industries includes:
- Willingness of the governments to take the issue of the governance of extractive industries to regional level. This is challenging because most APT countries (mainly the producing countries) consider extractive industries as an important part of their economy and even their sovereignty.
 - To convince the governments that all countries, including the producers, brokers and consumers, will benefit from a regional cooperation on the governance of extractive industries.
 - Willingness of foreign or global companies to participate and comply to the regional governance.
 - To solve the problem of capacity and resource availability to conduct the initiatives to establish good governance in extractive industries, both at national and regional levels.
18. The discussions highlight the ‘unique’ role of more developed countries in APT, namely Singapore, Republic of Korea, Japan and China. There has been a discussion to seek a bigger role of those countries in promoting governance improvement agenda at the regional level.

IV Recommendations

19. Global, regional and domestic developments have lead to the increasing importance of the good governance in extractive industries in APT countries. Currently, most APT countries are resource dependent. Since oil and gas and minerals are non-renewables, it is important to make sure that the management of the extraction of such resources are conducted in sustainable manner. Without good governance in extractive industries in APT countries, the future of economic growth in the region is severely threatened. The management of extractive industries in the region has to balance the need for today’s development and the need of future generations.
20. Currently, APT countries have pushed various initiatives at domestic level to establish good governance in extractive industries. Some

initiatives successfully gain achievements, but some others are hindered by various problems. To push the progress forward, we need to further support these initiatives.

21. The Working Group agrees that actions need to be taken at national and regional level for establishing good governance in extractive industries in the region. Below are key recommendations to promote cooperation on extractive among the APT Countries:

- Create more opportunities and initiate efforts at regional level to facilitate exchanges of information, capacities, technology, experiences and resources in order to develop better governance in extractive industries. APT Countries should also leverage on the work of other successful countries and international bodies by tapping the knowledge, experiences, and best practices of various countries as well as regional and international bodies in the area of extractive industries.
- Develop a more consolidated information based on the governance and on the situation of the extractive industries in APT countries.
- Facilitate more quality and balanced investments that take into account social and environmental considerations.
- Implement more corporate social responsibility projects. It is important to promote CSR projects on a regular basis that can help the development of local communities.
- Consider the international standard of EIA and incorporate it to their domestic governance on extractive industries.
- Promote a new perspective in natural resource management to the multi-national companies operated in the region. It should cover the enormous challenges in natural resource extraction both in national and regional level.
- Enhance the oversight and monitoring activity about the financial disclosure of the company and considering enforcement as criterion to evaluate the efficiency of the company.
- Promote more bilateral and multilateral cooperation among APT countries on the governance of extractive industries.
- Support legal reforms on the governance of extractive industries in APT countries.

22. To ensure the optimum result of abovementioned initiatives, it is important to develop a regional framework for cooperation in the governance of extractive industries.

Annex

PARTICIPANTS

JW Marriot, Jakarta, Indonesia, 19 August 2014
Hosted by NEAT Indonesia

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Head of International Relations Department, FISIP, University of Indonesia

NEAT Country Representatives

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1	Prof. Dr. Takeishi Reiji	Japan	Tokyo International University
2	Prof. Guo Yanjun	China	China Foreign Affairs University
3	Prof. U Than Thun	Myanmar	Myanmar Institute for Strategic and International Studies
4	Dr. Hezri Adnan	Malaysia	Technology, Information, Environment, and Sustainability (TIES) Institute of Strategic and International Studies Malaysia
5	Prof. Sutthirat Chakkapan	Thailand	Environmental Institute Chulalongkorn University
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10	Mr. Chea Vatana	Cambodia	Ministry of Mines and Energy Cambodia
11	Mr. Fabby Tumiwa	Indonesia	Institute for Essential Services Reform

Other Participants

ASEAN Secretariat: none

Key note Speaker : Ambassador Darmansyah Djumala
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Opening Remarks : Dr. Arie Setiabudi Soesilo
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