

## CHAPTER 5 – [www.eisourcebook.org](http://www.eisourcebook.org)

# Policy, Legal, and Contractual Framework

### Knowledge Core

Before taking any decisions a government will have to establish principles and instruments for building and operating a framework for investment decisions. In shorthand, these will constitute a ‘policy, legal and contractual framework’. Specifically, this bundles together issues of EI sector policy, legislation, contracts, award of contracts and licences, and regulation of activities. Many of the principles and instruments comprising such frameworks are already in widespread use around the globe but the manner in which they are implemented varies greatly from one country to another and also over time, as insights and lessons are generated from experience. Most of them will carry a unique imprint from political bargaining in the country concerned. In this respect, every attempt to design or reform a framework has to consciously anticipate and prepare to resist destructive rent-seeking competition among interest groups<sup>1</sup>.

Much research and experience has already yielded insights into the policy priorities that a host state would typically expect resource-led development to achieve. Abundant discussion has already taken place about the pros and cons of designing the best and most effective arrangements, whether legislative, contractual and institutional. Together with a government’s decisions on EI sector organization and fiscal design (Chapters 6 and 7), its decisions on the framework will shape and constrain EI sector investments and operations, ensuring (ideally) that they proceed in an orderly fashion and in ways that protect the public interest.

The Source Book’s focus on the legal and policy framework is sharper because it is done in relative isolation from the wider international context in order to capture its

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<sup>1</sup> Rent seeking can take many forms: offers or solicitations of bribes and illicit payments to or by government officials; fraudulent declarations to the tax authorities; embezzlement of state funds; conflicts of interest of officials who have an ownership stake in companies doing business with the government; inappropriate use of position to influence government decisions, and others. A World Bank report on the Democratic Republic of Congo (DRC) noted how for historical reasons a culture of rent-seeking had developed in the DRC: Report No 43402-ZR: Growth with Governance in the Mining Sector, May 2008, p.2.

essential features. However, the elements of interaction with that wider and very important context are considered in Section 10.

*Differences between the oil, gas and mining sectors need to be noted since at times they are very significant.*

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