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Sector Organization and Regulatory Institutions

Knowledge Core

The second chevron in the EI Value Chain, *Sector Organization and Regulatory Institutions,* embraces diverse institutional structures and instruments that make possible the transformation of natural resources into wealth. This can be distinguished into two parts: administrative and contractual. The administrative part comprises the organization of *government* so that the necessary institutions are in place to promote extractives development in the public interest. The contractual part requires both the host state and the emerging extractives sector to develop a governance structure that allows for diverse forms of cooperation between relatively distinct entities with different objectives and strengths.

Sector Organization and Regulatory Institutions involves choices about

(1) Assignment and clarification of the roles and responsibilities of various government agencies in policy, legislation and practice; and
(2) Appropriate governance by contract involving private and state-owned entities.

These choices will be determined by the host country's priorities and the level of investor interest, and will have a decisive impact on the performance of the petroleum and minerals sectors.

Organisation of government Here the EI sector management challenges are considerable and often highly complex, with the state acting as regulator, participant and enforcer. *To those 'classic' roles may be added a new role for the state as facilitator of wider, more sustainable development beyond the extractive sector.* The resulting choices are central if effective EI sector management and oversight is to be achieved. The fact that there is so much discussion about institutional structures, both in countries with mature extractive sectors such as the UK, Norway and

Australia, and in countries new to the sector suggests that any structure is likely to require a periodic review in the light of experience gained and changing circumstances. Yesterday's success can become tomorrow's failure.

Indeed, reality complicates policy design because only a very few countries will ever be starting from a blank slate. Most will in practice inherit structures developed at an earlier period designed with different priorities in mind. As a result, institutional redundancy, overlapping institutional mandates and poor coordination are challenges that will tend to figure largely. At a minimum, some reform, reorganization or restructuring will almost always be required, as well as a build-up of personnel with specialist skills. Sometimes this can lead to dramatic plans to modify the existing structures of governance as in Mexico or Brazil; sometimes it can involve a more modest and focused program of reform aimed at adapting existing institutions to a more mature stage of resource development (as in the UK and Norway) or to new knowledge and practices, such as those concerning transparency, environment or safety.

Governance by contract Sector organization includes the extensive activities carried out by the industry itself on the basis of its contracts with the host state and the regulatory principles laid down by domestic law. The state will have an important monitoring role and may also be involved as participant. Indeed, in the oil sector this is so common that it is almost the norm. In its interaction with foreign and domestic investors, a government will typically encounter forms of industry governance, such as the operating agreements for joint ventures, which are largely driven by industry practices. *Effective* management and oversight depends critically on understanding how these forms of governance by contract are organized, as well as the adaptations and choices that will inevitably be made in a particular country setting. *Increasingly, the focus of governments on securing wider benefits from extractives development makes this area of investor-led governance one that needs to be better understood.*