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Action Research Report

SUMMARY

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Research aims:

This research identifies improvements for parliamentary-approved agreements in two broad areas:

- In the negotiation and establishment of a new parliamentary-approved agreement
- In the operation of an existing parliamentary-approved agreement

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Parliaments and Mining Agreements: Reviving the Numbed Arm of Government

A parliamentary-approved agreement is legislative endorsement of a contract between the executive government and a company to develop/operate a mine and associated facilities. These agreements have been useful in mining regulation in providing a structure by which governments can regulate large mining projects. However, the establishment and use of parliamentary agreements should be improved to better enable this form of regulation to contribute to sustainable development. Where a miner and government have agreed on proposed terms to regulate a long-term mining operation, parliamentary consideration of that proposal presents an opportunity for transparency and broader acceptance. However, if parliamentary approval is achieved simply through the government's weight of numbers or manipulation of procedures, that will preclude the benefits that could otherwise be obtained. Companies, government officials and those advising them should allow parliament's decisions to be made through its normal procedures.

Countries aiming to attract large mining operations may consider parliamentary-approved agreements to assist in regulation, and these agreements continue to be used in other countries with existing large operations. This paper identifies improvements for parliamentary-approved agreements in two broad areas:

1. In the negotiation and establishment of a new parliamentary-approved agreement:
 - a. the executive should assess the four areas of regulatory impact assessment (i.e. examine the context, examine the proposal, conduct cost-benefit analysis, and describe public consultations) as part of its negotiations and formulation of any agreement terms, and then report this work and results to parliament
 - b. international standards of social and environmental protection should be non-negotiable, so any proposal that parliament endorse a variance from these standards, through approving an agreement, should be specifically identified for parliamentary consideration
 - c. parliament should be provided with adequate time and resources to be able to consider whether to approve any agreement, and that process may be assisted by committee deliberations

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2. In the operation of an existing parliamentary-approved agreement: regular reports should be provided to parliament about the agreement's implementation