



AUDA-NEPAD REGIONAL DIALOGUE AND TRAINING

on

**Contract Negotiation, Fiscal Policies and Financial
Integrity**

in the Extractive Industries

July 2021

Concept Note

Summary

This concept note outlines ideas and the content for the sixth edition of the AUDA-NEPAD Regional Dialogue and training on tax policies, contract negotiation and Financial Integrity in the extractives industries.

The project will offer:

- i. an opportunity of stimulating the dialogue between stakeholders in the Extractive Industries (EI) at the regional level;*
- ii. an opportunity of training for Senior Government officials on contract negotiation, extractives fiscal policies and Financial Integrity at the regional level;*

This edition will take place virtually on July 13, 14 & 15, 2021 and will gather over 10 countries from North Africa and around. Further to representatives from AUDA-NEPAD, partners will participate in the meeting namely: UNECA (TBC), CONNEX Support Unit, ISLP. In addition, the 3 days meeting will allow the various stakeholders to identify demands from countries in mining contract negotiation, tax administration and Financial Integrity in the extractives sector.

The AUDA-NEPAD Regional Dialogue will address the following core questions:

- 1. Contract (re)negotiation and fiscal modeling*
- 2. What is the “best” fiscal regime for Extractive Industries*
- 3. Link between EI and Financial Integrity (IFFs)*

This regional dialogue is an AUDA-NEPAD initiative organized with the support of the CONNEX Support Unit and ISLP.



1. Background

In the context of harnessing African Mineral Resource for inclusive and sustainable development and in line with the African Mining Vision, the 25th African Union General Assembly requested the AUDA-NEPAD Agency to support building the technical capacity of Member States to design, negotiate and implement tax policies and complex contracts negotiation in the extractives industries.

The ultimate aim being to maximize the benefits to African Countries and local communities. AUDA-NEPAD is also requested to follow up, as an African Union body, on G7 commitments on the CONNEX initiative which aims to provide developing countries with advice and technical assistance for Complex Contract Negotiations in the extractive industries.

Pursuant to the AU request, under its Extractive Industry Governance Project, the AUDA-NEPAD Agency undertook a series of regional dialogues and capacity development exercises for the mining and fiscal government officials. The first dialogue and training session was organized in Dakar, from 9 to 11 September 2015, for the ECOWAS and ECCAS regions; the second dialogue was organized in Johannesburg, from 14 to 16 June 2016 for the Southern regions; the third dialogue was held in Cameroon from 26 to 29 May 2017 for the Central Africa Region; the fourth dialogue was organized in Nairobi from 5 to 7 November 2018 for the Eastern Region and the Fifth Dialogue was held in Lusaka from 18 to 20 September 2021 for the COMESA countries.

The results of these dialogues fed into global discussions, especially in the framework of the policy dialogue on resources-based development initiated by the OECD in 2012. The AUDA-NEPAD Agency is an active member of the CONNEX negotiation support forum and seeks to represent the interests of the African continent at the International level.

This document describes the rationale for and objectives of a new edition of the Regional Dialogue and Training scheduled to take place “virtually” in June 2021.

2. Introduction

Natural Resources are extremely valuable to Africa’s countries, and they can be leveraged to fuel sustainable and inclusive economic growth. They offer the potential to generate significant financial benefits and help countries fuel their economic growth and development through direct and indirect job creation, business opportunities, technologies and knowledge transfer and income generation. Taking



into account these opportunities lead ultimately to a better life for the citizens of those countries by a sustained poverty reduction and an inclusive growth.

In developing countries, taxes on extractive industries often do not contribute as much as they could to public revenues. To address this issue, countries should develop national and regional strategies that set up the terms under which their natural resources will be developed, particularly in regard to fiscal policies, contractual arrangements, tax regimes and accountability and Transparency on Financial aspects.

Government's goal should be to tax rents arising from the extraction of natural resources, that is the excess of revenues over the costs of production (including a compensatory return on capital). In reality, potential taxes on rents and other profits are often dissipated through subsidies or appropriated by private interests. Meanwhile, investors have to be provided with adequate incentives to explore, develop and ultimately extract natural resources. A country's domestic tax system is as important as international tax issues to strike the balance of attracting investment while ensuring domestic resources.

The Mbeki report on Illicit Financial flows estimates that total losses from "illicit" flows exceeded \$50 billion annually, due to tax avoidance, poorly designed or lax tax regimes and weak tax administration. In that context, designing a "right" and appropriate fiscal regime for the Extractive sector appears critical. It is also one of the major condition to improve Government capacities to negotiate "good deals" with their partners. Among other conditions, such as access to information, sufficient human capacities...etc, the issues of stabilization clauses, tax regime design and competition among states are critical to negotiate better contracts and to realize good fiscal regimes.

Furthermore, the Report of the High-Level Panel on International Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda, emphasized the importance of accountability, transparency, legitimacy and Fairness in managing the financial benefits from the exploitation of Natural Resources.

The AUDA-NEPAD Agency as the technical development agency of the African Union intends to support African Countries with Capacity building and Technical Assistance in getting better deals, efficiency in revenue management and allocation and setting better fiscal regimes within the extractives sector.

3. Objective

The proposed regional dialogue aims to offer:

- (i) An opportunity to stimulate the dialogue on contract negotiation, fiscal regime design and IFFs within and between stakeholders in the Extractive Industries (EI) in Africa, by providing

- access to international, regional, and national knowledge and expertise relating to taxation issues and fiscal regime on EI sector at the Regional level, by involving representatives from various countries in the North Africa Region;
- (ii) An opportunity of training for the Senior Government officials from the Ministry of Mines/Natural resources and the Ministry of Finance on contract negotiation strategy, fiscal regime building and fighting IFFs at the National and the Regional level.

4. Contents of the Dialogue

Given the context with the covid19 world pandemic, the regional dialogue will be held virtually in 3 days from 8am to 2pm.

Stakeholders will participate in dialogues and training courses on the following issues: (i) contract negotiation and fiscal modeling; (ii) designing/revising fiscal regimes; and (iii) how to identify and avoid IFFs by including more transparency, accountability and fairness in management revenues from extractives at the Regional level.

The dialogue will also focus on presentations of best practices in different participants' countries, and discussions around issues that African Countries face when designing and administering an extractive industry fiscal regime with a view to ensuring that the partners work can further support developing countries in this important area of development.

During the dialogue, discussants from national tax and mining authorities, international organizations and the private sector will consider question of taxation in the extractive industries sector, including institutional arrangements to reform fiscal regimes.

The experts will provide trainings and capacity building on (i) contract negotiation and renegotiation; (ii) designing the right fiscal regime; and (iii) identifying and fighting IFFs.

5. Design

The dialogue will bring together international, regional and national practitioners (public and private) and EI and fiscal sector experts to share experiences and views on contract negotiation; taxation issues in EI sector in Africa and develop Transparency and accountability in managing Financial Flows. Experts from different parts of the world will be sought.

A minimum of three international EI/fiscal sector experts and practitioners will be mobilized and deliver the training and animate the dialogue. These experts/practitioners will share their experiences around



the various issues described above, serve as resources persons, and facilitate the debate and discussion around the issues on the agenda. Practitioners from Government and civil society from different Member States with significant EI history will be invited to share their experience of EI sector management and development, in a way to ensure peer-learning.

The dialogue will be prepared and developed in partnership between the CONNEX support Unit, ISLP, and AUDA-NEPAD. The workshop is designed as follows for the 4 days of dialogue:

- Presentations and discussions, where national and international EI experts and stakeholders will discuss and debate. Debates will be followed by a question and answer session, where participants are invited to take part. The targeted participants are primarily Member States' government officials.
- Training and other capacity building activities for the senior officials of governments, delivered by international EI/fiscal sector experts and practitioners.

6. Participants

The proposed dialogue will bring together senior officials from national Finances and Mining Ministries at the technical level.

Proposed list of Countries: North Africa Region

7. Logistics – Timing and Costs

The proposed dialogue and national training is planned to take place in July 13, 14 and 15, 2021, and will last for 3 days in total.

The AUDA-NEPAD Agency will take the lead in the preparation of the event but will seek input and support from partners and from representatives of the region.