



**IGF**

INTERGOVERNMENTAL FORUM  
on Mining, Minerals, Metals and  
Sustainable Development

# LOCAL CONTENT POLICIES IN THE MINING SECTOR:

Scaling up local procurement

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Local Content Policies in the Mining Sector: Scaling up local procurement

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## ACRONYMS

<b>AMV</b>	Africa Mining Vision
<b>BBBEE</b>	Broad-Based Black Economic Empowerment
<b>CDA</b>	community development agreement
<b>EITI</b>	Extractive Industry Transparency Initiative
<b>EWB Canada</b>	Engineers Without Borders Canada
<b>IBA</b>	impact benefit agreement
<b>IFC</b>	International Finance Corporation
<b>IGF</b>	Intergovernmental Forum on Mining, Metals, Minerals and Sustainable Development
<b>ILUA</b>	Indigenous Land Use Agreement
<b>LCP</b>	local content policy
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>R&amp;D</b>	research and development
<b>SDG</b>	Sustainable Development Goal
<b>SDP</b>	supplier's development program
<b>SME</b>	small and medium-sized enterprise



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## 1.0 INTRODUCTION

In a large number of resource-rich countries, the mining sector is an important driver of growth, in particular during commodity boom periods. This is a result of large investment inflows and revenue generation essentially driven by exports. But in developing countries, the mining sector generally does not have a good track record when it comes to leveraging its potential for industrial development and economic transformation. Yet the potential is significant: if harnessed well, mining can unlock industrial activities through more value addition; create business opportunities for the domestic private sector from local procurement, in particular close to mine sites; generate indirect jobs along the supply chain; and provide wider opportunities for the economy, notably through the use of infrastructure and mining-related capabilities for other economic sectors.

To capture more benefits from mineral resources, governments are increasingly using local content policies (LCPs). As of 2013, it was estimated at 90 per cent of resource-rich countries (developed and developing alike) have some form of LCPs in place (Dobbs et al., 2013). Instruments used to implement LCPs vary significantly between countries, although historical evidence of their impacts has not always been conclusive.

At the request of its member governments, in 2018 the Intergovernmental Forum on Mining, Metals, Minerals and Sustainable Development (IGF) developed a [\*Guidance for Governance: Local Content Policies\*](#) (Cosbey & Ramdoo, 2018) aimed at policy-makers. The objective of this guidance is to support governments in making informed decisions, should the latter decide to design, implement and monitor LCPs to get more benefits from their mineral resources. To complement the guidance, IGF has commissioned [five expert papers](#), of which this is one, and [29 case studies](#) to provide more in-depth analysis and draw lessons from types of policy instruments commonly in place.

This paper focuses on local procurement policies designed to boost the amount of goods and services purchased by mining operations from local stakeholders. It unpacks various objectives that a local procurement policy can help respond to. It details various types of policy instruments that can be used in the design of local procurement policies and underlines the strengths and weaknesses of each type of measure.



## 2.0 RATIONALE FOR ADOPTING LOCAL PROCUREMENT POLICIES

Governments adopt local procurement policies essentially to foster greater participation of domestic industries in the mining supply chain. However, there are wider geopolitical, economic and social considerations that contribute to governments' decisions to adopt local procurement policies.

The main reasons that drive the current adoption of local procurement policies include:

### **(i) Responding to fiscal and political crises relating to mineral commodity downturns and the lack of structural transformation during boom periods**

Many mineral-rich countries have not been able to durably diversify their economies as a result of windfall gains during commodity boom periods. The last super-cycle in the 2000s once again laid bare the lack of structural transformation, as once roaring economies like Mongolia and Ghana reverted to fiscal crises as the commodity downturn set in, following the financial crisis that started in 2007. This has served as a severe reminder of the limits of depending mainly on short-term increases in tax revenue and the challenges of using those revenues to foster economic and social development. As a result, a number of governments rediscovered the importance of industrial policy and the need to deepen industrial linkages between the mining sector and local industries.

### **(ii) Advancing global and regional development outcomes and strategic visions including the Sustainable Development Goals (SDGs) and Africa Mining Vision (AMV)**

Facing significant pressure from citizens and recognizing the fact that development outcomes did not match wealth derived from resource extraction, African nations came together in 2009 to agree on a common agenda to combat the "resource curse." Nearing 10 years since the AMV was adopted by heads of state, many countries are facing increasing pressure to put mechanisms in place to realize this agenda. One of the key thrusts of the AMV is the importance of leveraging the potential linkages in the mining sector for industrial development. Similarly, with the global SDG agenda, which includes goals for decent work and inclusive growth, governments are looking to the private sector, including the extractive industries, to take significant actions to deliver, especially in resource-driven states. Again, industrial development is at the heart of the SDGs.



### **(iii) Responding to public unrest and social licence to operate**

At the local level, host communities are increasingly resisting project development because they feel the costs of mining activities on their livelihoods and environment are higher than the benefits they derive from those activities. In addition to receiving direct revenues and employment, there is increasing demand to access procurement opportunities. This has led a number of communities to incorporate local procurement opportunities into direct community negotiations with mining companies (e.g., Impact Benefit Agreements in Canada and mining cooperation agreements in Mongolia<sup>1</sup>). Increased pressure on governments from the population has similarly led to them including local procurement requirements in their mining regulations (e.g., local procurement requirements in South Africa<sup>2</sup> and Ghana<sup>3</sup>).

### **(iv) Increasing the number of success stories among communities**

There are growing stories of communities successfully leveraging local procurement opportunities with mining companies (e.g., the Newmont Ghana Afaho experience<sup>4</sup> and the Tahltan Nation Development Corporation in Canada), demonstrating the benefits of tailor-made and industry-led local procurement policies and how communities can successfully incorporate these benefits into mining agreements.

As these stories come to the forefront, there are more efforts to share these cases among communities (e.g., the Global Indigenous Development Trust's work to share the lessons learned as a result of the Tahltan experience), as well as among countries. Good practices encourage peer learning and similar policies to be implemented elsewhere.

### **(v) Increasing pressure from civil society organizations to push countries to go beyond revenue payments and consider other levers for economic development**

With established civil society and multistakeholder platforms, such as the Extractive Industries Transparency Initiative (EITI), there is increasing discussion and desire for actions that can improve economic development outcomes beyond revenue payments. Issues such as local procurement are becoming more prominent in discussions between governments and civil society organizations.

### **(vi) Insufficient voluntary/industry-led action**

In response to the perception of limited industry-led actions by mining companies to enter into voluntary agreements with their communities to access procurement markets, numerous governments have included local procurement provisions in policy amendments to force companies to do so.

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<sup>1</sup> See Natural Resource Governance Institute, 2017.

<sup>2</sup> See IGF, 2018d.

<sup>3</sup> See IGF, 2018b.

<sup>4</sup> See Canadian International Resources and Development Institute, 2018.



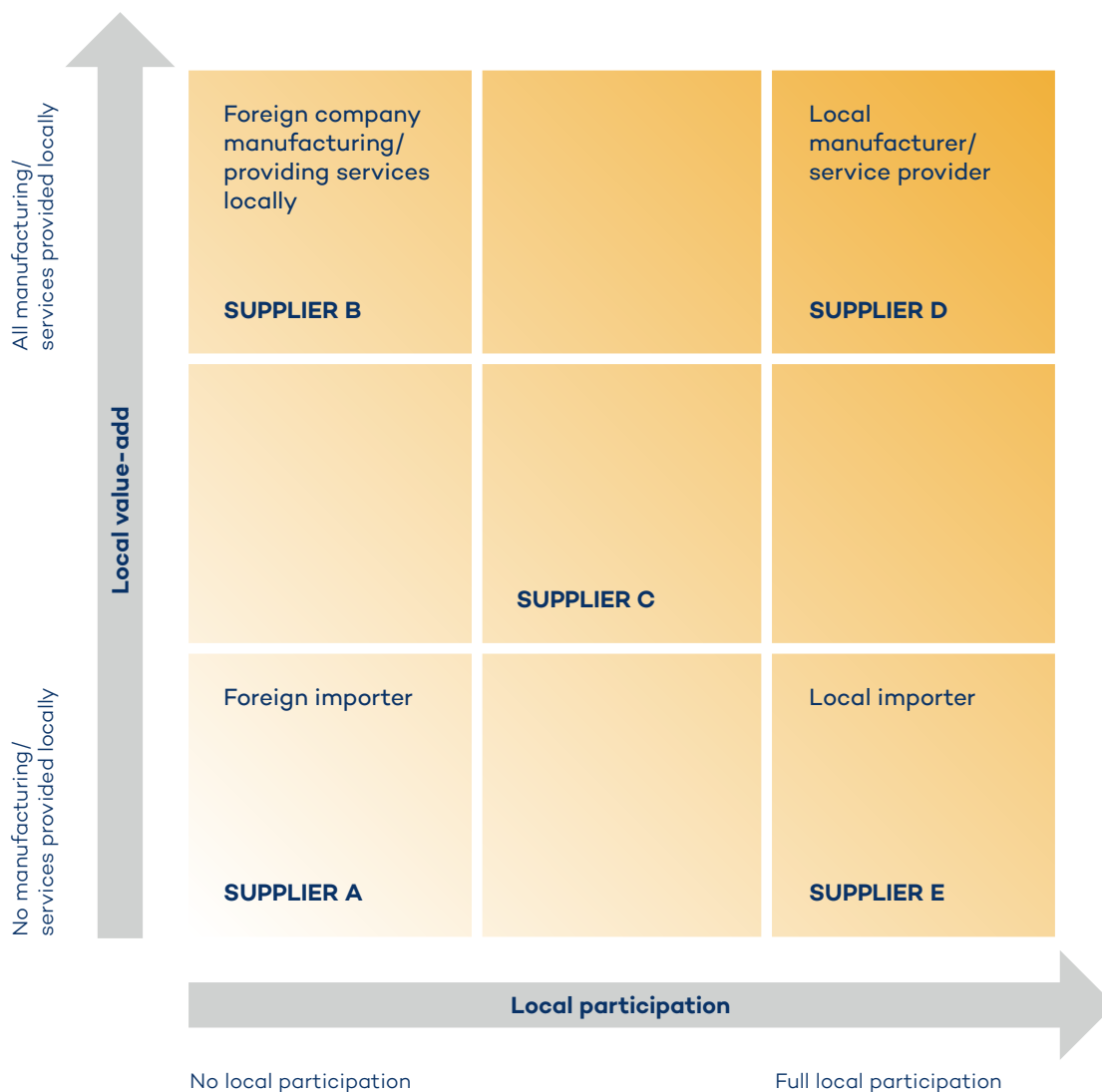
## 3.0 DEFINING LOCAL PROCUREMENT

Local procurement refers to the purchase of goods and services from domestic suppliers. If local businesses are able to access procurement markets of mining companies, this can provide significant business opportunities that can deliver sustainable mutual benefits, both to the local economy and to companies.

“Local” can be defined in a variety of ways. While there is no universal agreement of what “local” is or should be, in recent years, there seems to be some growing consensus on key factors that should be considered in an attempt to define it (International Finance Corporation [IFC], 2011; Organisation for Economic Co-operation and Development [OECD], 2017a, 2017b; World Bank & Kaiser EDP, 2015). For instance, World Bank and Kaiser EDP (2015) outlines three distinct criteria that should be considered when defining “local,” namely: (i) geography, (ii) value addition and (iii) ownership.

All three dimensions are important because the level of suppliers’ participation and the unfolding economic benefits vary according to which criteria are prioritized. Figure 1, drawn from Kaiser EDP and the World Bank’s work on local procurement in West Africa, illustrates different degrees of local participation and local value addition, which result from the way a government defines “local” suppliers. For example, “Supplier D” is representative of full local participation and local value addition, in terms of manufacturing or services provided locally and by suppliers with full citizen ownership, management and employment (World Bank & Kaiser EDP, 2015, p. 24).





**FIGURE 1. FRAMEWORK FOR CATEGORIZING SUPPLIERS BY LOCAL PARTICIPATION AND LOCAL VALUE ADDITION**

Source: World Bank & Kaiser EDP, 2015, p. 24.

### 3.1 DEFINING “LOCAL” BY GEOGRAPHIC LOCATION

“Local” can be defined by geography or according to the physical location of suppliers (World Bank & Kaiser EDP, 2015, p. 20). Practice differs across countries:

- (i) Some favour businesses originating from, registered, incorporated or conducting business in the vicinity of the mine site only to qualify as “local” suppliers.
- (ii) Others allow for businesses located in the province, state or region where mining activities take place to be considered as “local” suppliers.
- (iii) In other cases, the specific location of suppliers does not matter, provided they are registered in the country.

Legal frameworks do not always explicitly define what “local” procurement should be, even when countries have local content regulations in place. In the absence of clear rules, mining companies sometimes take the lead in favouring suppliers originating from the communities living around their



mines, as a way to support local economic development by providing business opportunities to members of the communities, to maintain their social licence to operate, and overall, because for some goods and services, sourcing from nearby makes good business sense. However, if “local” is not defined in regulations, it also can lead to a situation where mining companies will count purchases of goods and services as “local” that do not really create meaningful economic benefits—such as purchasing imported goods from domestic suppliers or using services carried out by expatriate employees of foreign companies that are simply registered in-country.

### BOX 1. EXAMPLES OF THE DEFINITION OF “LOCAL” BY GEOGRAPHIC LOCATION

Through the implementation of Impact Benefit Agreements in Canada, as well as community development agreements (CDAs) in Mongolia and Australia, procurement benefits are prioritized at *community and regional levels*.

Local procurement in Zambia has a *national focus*: “local” refers to Zambian citizens or citizen-owned companies.

In Ghana, some companies distinguish between “*local*” suppliers, meaning businesses registered in the country, and “*local-local*” businesses, meaning mining communities. Although the local content regulation does not make express reference to the obligation to procure from specific geographic locations, it is nonetheless good practice for some mining companies to give preference to suppliers originating from *their local communities* when goods and services are available.

*Sources: Canadian International Resources and Development Institute, 2018; IGF, 2018, 2018e; Natural Resource Governance Institute, 2017.*

When there is no clear legal definition in a particular jurisdiction, the scope of “local” procurement can vary significantly across mine sites; these are often tailored to the specific needs of a mine site’s stakeholders.

Multiple and diverse approaches can pose significant challenges for governments that are hoping to monitor efforts, based on companies’ public reporting on local procurement. This is further reinforced when mining companies report to international voluntary initiatives, such as the Global Reporting Initiative, which requires them to report their local procurement spend and provide the geographic definition that is being used (Figure 2).

#### Reporting requirements

Disclosure  
**204–1**

The reporting organization shall report the following information:

- a. Percentage of the procurement budget used for significant locations of operation that is spent on **suppliers local to that operation** (such as percentage of products and services purchased locally).
- b. The organization’s geographical definition of “local.”
- c. The definition used for “significant locations of operation.”

**FIGURE 2: GLOBAL REPORTING INITIATIVE LOCAL PROCUREMENT REQUIREMENTS**

*Source: Global Initiative, 2016.*



### 3.2 DEFINING “LOCAL” BASED ON THE VALUE ADDITION CRITERION

Value addition refers to a process by which the monetary worth of a good or service increases as it goes through different stages of processing. When using value addition as the criteria, goods and services are considered “local” when a certain proportion of value addition is performed in-country, as opposed to being performed outside the country. Countries consider that criterion as an important policy element when exploring the potential linkages and economic benefits that can be derived from local procurement. In particular, the policy is expected to promote the domestic manufacturing industry and support the growth of local suppliers to those firms.

For example, purchasing a good that is imported directly to the mine site would not qualify as “local” procurement, while a good that is manufactured in-country, in particular from inputs sourced locally, would be considered “local” as it would have a certain level of value addition.

The amount of domestic value added that is needed for procurement items to be considered “local” varies across countries. In some countries, rules of origin are well defined, and companies are required to produce certificates of origin for their inputs. In other cases, the value-added criteria are not specifically defined, but mining companies are required to buy their inputs from domestic firms with the risk that some may be mere packaging facilities or re-sellers of imported goods.

#### BOX 2. EXAMPLES OF LOCAL PROCUREMENT POLICIES BASED ON LOCAL SOURCING

In Kazakhstan, to qualify as a manufacturer of goods locally, a certificate of origin must be presented:

The Republic of Kazakhstan citizens and Kazakhstani legal entities which manufacture goods, for which a CT-KZ certificate is issued have a status of a national (Kazakhstani) manufacturer of goods. Such certificate is issued with regard to goods totally manufactured or which passed substantial processing on the Republic of Kazakhstan territory (i.e. which passed the last substantial processing of the goods sufficient for making the good have its characteristic features). (Grata International, 2015, p. 2)

The criterion of “substantial processing” is based on rules of origin defined by the authorities, so that progress can be measured over time.

Ghana has chosen to identify a targeted list of inputs that must be purchased in-country as a way to stimulate local procurement.<sup>5</sup> Twenty-nine products have thus been listed, to be phased in over time. In 2014 companies were required to source a first list of eight products from local industries. These products included lime, grinding media, high-density polyethylene (HDPE) and polyvinyl chloride (PVC) pipes, cement and cement products, tire retreading, general and special lubricants, explosives and caustic soda. In 2016 the list was extended to 19 products. While Ghana specifies which products must be sourced locally, it *does not specify how much value should be added* for those inputs to qualify as locally procured. It is therefore difficult to assess to what extent this policy has helped to deepen manufacturing processes in the country.

In Botswana, goods and services are to be procured to the “maximum extent possible consistent with safety, efficiency, and economy.”<sup>6</sup> Again, there is no set level regarding the value-added criteria and therefore the impact of the policy on industrial development is difficult to measure.

Sources: IGF, 2018b, 2018c; United Nations Economic Commission for Africa [UNECA], 2018.

<sup>5</sup> The following details the specific requirements: “(10) The Commission shall have a local procurement list and specify in the list the goods and services with Ghanaian content which shall be procured in Ghana by the holder of a mineral right, a licence to export or deal in minerals or a person registered to provide mine support services” (Ghana Minerals Commission, 2012, p. 5). No definition for Ghanaian content is provided in the regulations.

<sup>6</sup> Preferential procurement clause in Botswana (Government of Botswana, 1999).



### 3.3 DEFINING “LOCAL” BASED ON THE OWNERSHIP CRITERION

“Local” ownership focuses on the participation of nationals or citizens in the supply of goods and services. It can take many forms, including:

- (i) Capital or equity participation, that is, a minimum percentage of the capital or shares of the supplying firm must be held by nationals or citizens of a country.
- (ii) An obligation for a supplying firm to employ a maximum amount of local staff (e.g., local citizens).
- (iii) Management control by nationals, whereby procurement firms would qualify as local when citizens of the country have senior management positions.
- (iv) An obligation for a foreign supplier to enter into joint ventures or partnerships with local firms.
- (v) An obligation to list a minimum percentage of shares on the national stock exchange, to encourage nationals and citizens to acquire stakes in the foreign company.

While the main objective of this criterion is to increase the presence of domestic stakeholders, countries’ experiences in applying the ownership criteria vary significantly.

#### BOX 3. EXAMPLES OF LOCAL PROCUREMENT POLICIES USING THE OWNERSHIP CRITERIA

In Zambia, the criterion focuses both on equity owned by Zambian citizens and a proportion of local management. According to the law, “citizen-owned company means “a company where at least fifty point one per cent of its equity is owned by Zambian citizens and in which the Zambian citizens have significant control of the management of the company” (Law 7/08, Art. 2 (1)) (Columbia Center on Sustainable Development, 2014, p. 5).

In Kazakhstan, the focus is on local employment of citizens, specifying a percentage of local employees that need to be employed in a company so that it is considered a “national” supplier of services. Local businesses must have: “the Republic of Kazakhstan citizens and Kazakhstani legal entities which  $\geq 95$  % of employees are the Republic of Kazakhstan citizens have the status of a national (Kazakhstani) supplier of works, services” (Grata International, 2015, p. 2). “National” suppliers of goods must obtain a specific certificate to qualify as a supplier.

In South Africa, ownership criteria for local procurement are aimed at addressing historical inequalities. The 2018 Mining Charter requires a minimum of 70 per cent of total mining goods procurement spending on South African manufactured goods. The 70 per cent shall be allocated as follows: (i) 21 per cent spent on goods produced by companies owned and controlled by historically disadvantaged persons; (ii) 44 per cent spent on goods produced by Broad-Based Black Economic Empowerment<sup>7</sup> (BEE) compliant companies<sup>8</sup>; and (iii) 5 per cent spent on goods produced by women- or youth-owned companies. Similarly, the Charter requires that 80 per cent of the total spent on services be sourced from South African firms, with the following allocation: (i) 50 per cent spent on services provided by companies owned and controlled by historically disadvantaged persons; (ii) 10 per cent spent on services supplied by BBBEE-compliant companies; (iii) 15 per cent of services supplied by women-controlled companies; and (iv) 5 per cent of services supplied by youth-controlled companies (Department of Mineral Resources, Republic of South Africa, 2018, p. 16).

Sources: IGF, 2018d, 2018e, 2018f.

<sup>7</sup> Broad-Based Black Economic Empowerment refers to an economic empowerment program initiated by the South African government aimed at advancing economic transformation and enhancing the economic participation of historically disadvantaged people in the South African economy.

<sup>8</sup> A “BEE-compliant company” means a company with a minimum BBBEE level 4 status in terms of the Department of Trade and Industry’s Broad -Based Black Economic Empowerment Codes of Good Practice, and minimum 25% +1 vote ownership by Historically Disadvantaged Persons.



### **3.3.1 SUMMARY**

The criteria used in the definition of “local” are key parameters in the design of policy options to increase local procurement. The choice of the criteria is driven by the policy goals governments want to achieve. For example, if the objective of the government, when requiring mining companies to increase spending on local procurement, is job creation and the promotion of domestic industries, then defining “local” using value addition and in-country manufacturing criteria is important. By contrast, if the goal is to increase the level of participation of citizens of the country in the mining value chain, then a definition that is based on ownership of capital or management control will be more appropriate.



## 4.0 PRE-CONDITIONS NECESSARY FOR THE IMPLEMENTATION OF LOCAL PROCUREMENT POLICIES

In addition to having clear objectives, the success or failure of local procurement policies is conditional upon a number of pre-requisites, which must be in place in a country. This section highlights those necessary for the successful implementation of local procurement policies.

- (i) Before designing a mandatory requirement (in the form of a percentage; a list of goods or services to be sourced locally; a procurement plan), **governments must undertake a detailed analysis of the capacity of local suppliers** and get a good understanding of the needs of the mining industry, to assess what gaps need to be addressed and what potential can be scaled up
- (ii) **Governments must address business climate constraints.** This implies ensuring that the business climate is conducive to investments and private sector development and is competitive; basic soft and hard infrastructure are available, reliable and competitive; the country has the necessary legal frameworks in place to guarantee intellectual property rights and innovation; and local businesses have access to finance.
- (iii) **Measures must be combined with investments in local business capacity.** Building capabilities of local businesses and suppliers is necessary to ensure they are able to take up opportunities unlocked through local procurement regulations and that mining companies have viable local suppliers from whom they can buy, in compliance with regulations. These can include training, skills development, access to innovation centres, technical support to improve product quality, among others.
- (iv) **Measures should preferably be time bound:** If governments decide to design *mandatory targets*, it is important to set a time frame within which this type of measure will be in place and when they will be phased out. The purpose is to provide local firms with dedicated market access and sufficient time so they can develop and become competitive. Norway, arguably the most successful country in the use of local content requirements for an extractive industry (oil and gas), mandated that international companies give preference to local suppliers, but these preferences were time-bound and so suppliers had to improve their capacities (Ramdoo, 2015). Similarly, when *incentives* are given to support local suppliers or to encourage mining industries to buy from local sources, these must be designed within a set time frame so that they provide sufficient time and resources for local industries to take

off and sustain over time, while at the same time ensuring they avoid breeding inefficient industries or creating dependency on preferences (OECD, 2017b, p. 16).

- (v) **Monitoring and evaluation:** It is necessary to have a monitoring mechanism that not only evaluates the specific provisions, but also monitors whether the overall goals are being achieved. There needs to be clear and specific outputs that can be monitored and assessed to ensure that local procurement requirements can be adjusted as needed and that demand or supply-side barriers inhibiting transactions between industry and local actors are effectively addressed. In addition to having sophisticated measurements to track desired increases in local procurement of particular goods or services, it is critical that relevant stakeholders meet regularly to analyze, discuss and plan how to continue to support local supply chains.
- (vi) **Enforcement:** Beyond monitoring the implementation of local content regulation, it is necessary to establish clear enforcement mechanisms. This is necessary to ensure results are measured, lessons are learned and challenges are addressed when policies are not implemented. Some countries, like Ghana, have opted for strict penalties for mining companies that do not meet local content requirements (UNECA, 2018).
- (vii) **Establishing partnerships based on trust between mining industries and local communities.**<sup>9</sup> When local procurement requirements are included in CDAs, a key condition is the establishment of a strong partnership, based on trust, between the parties (Canadian Council for Aboriginal Business, Mining Shared Value [MSV], & Engineers Without Borders [EWB] Canada, 2016, p. 20). Partnerships should be based on a shared vision of sustainable economic development, rooted in sustainability and based on jointly designed and agreed targets.
- (viii) **Good governance practice and legal systems to prevent corruption.** Local procurement policies may be prone to corruption risks, such as: (i) the misuse of local procurement requirements to favour politically connected suppliers to mining, often creating monopolies for suppliers who are providing goods that were already being successfully procured locally, and (ii) mining companies using shell companies to circumvent the intention of local procurement requirements, such as purchasing from a shell company that is registered in-country, but is in effect neither creating any benefits for the local economy nor improving the capacity of domestic suppliers (OECD, 2016). It is therefore important to have strong governance systems, such as functioning court systems, clear and specific requirements for anti-corruption policies for investing mining companies, and strong whistle-blower protections to avoid and punish such practices.
- (ix) **Sophisticated reporting and data collection systems on local procurement.** There are various options for governments to collect data, but it would be desirable to have companies report only once to a single agency and for all stakeholders to be able to find the data in a centralized place that is accessible. Governments can request the information from companies in yearly reports and/or in regular public reporting online, and this may be combined with the creation of local procurement plans as described above. In terms of format, the Mining Local Procurement Reporting Mechanism provides a common framework to collect information on local procurement and encourages companies to gradually increase the level of detail they use in reporting, eventually breaking down spending into general categories of goods and services (MSV & EWB Canada, 2017).<sup>10</sup> Data on local procurement could also be collected as part of the EITI if this standard is in use. As of March 2018, 24 EITI countries were already collecting some information on local content as part of reporting (EITI, 2018).

<sup>9</sup> These prerequisites for successful use were taken from Ramdoe, 2016.

<sup>10</sup> A less sophisticated reporting framework already commonly in use is the Global Reporting Initiative, which has a Disclosure 204 that requests a "proportion of spending on local suppliers" (Global Reporting Initiative, 2016).



## 5.0 POLICY OPTIONS FOR LOCAL PROCUREMENT

To encourage or compel mining companies to use local procurement, governments can design demand- and supply-side policies, which may be comprised of mandatory quantitative or qualitative requirements or incentives or a mix of both. *Demand-side policies* refer to instruments aimed at encouraging mining companies to procure goods and services from local suppliers. *Supply-side policies* refer to measures aimed at supporting local suppliers, so they are able to access mining procurement markets and compete with global standards on the basis of price, quality, volume and reliability.

The choice of policy options varies according to the priorities and orientations governments want to achieve, such as revenue generation, business development, employment and global positioning (Ramdoe, 2016). It is important to note that, while these policy options focus on mining local procurement, they must be assessed in the context of the broader policy and economic environment (MSV, EWB Canada, & Canadian International Resources and Development Institute, 2017, p. 5). For example, persistent lack of access to electricity will have a detrimental effect on domestic businesses' attempts to competitively provide goods and services, regardless of what policies governments put in place to foster local procurement. Table 1 summarizes various types of policy instruments to encourage local procurement.

**TABLE 1. SUMMARY OF POLICY OPTIONS**

GOVERNMENT-LED INITIATIVES	DEMAND- OR SUPPLY-SIDE POLICY OPTION	POLICY OPTION(S)
<b>Regulatory requirements</b>		
Mandatory quantitative requirements	Demand-side	Mandated percentage of local sourcing of goods and services from domestic businesses
		Targeted list of types of goods and services that should be locally sourced ("set asides")
		Community development agreements with obligations on local procurement (with specified targets)
		Certain lines of businesses reserved exclusively for nationals
	Supply sides	Preference premium price exclusively for local firms





GOVERNMENT-LED INITIATIVES	DEMAND- OR SUPPLY-SIDE POLICY OPTION	POLICY OPTION(S)
Mandatory qualitative requirements	Demand-side	Community development agreements with provisions on local procurement (without targets)
	Supply-side	Technology transfer requirements (without specified targets)
		Requirements for local research and development spending (without specified targets)
		Supplier development programs
		Supplier portals
Best efforts that require “preference” without specific targets or timelines	Demand-side	Provision that local goods and services will be given preferential treatment or purchased “to the extent feasible”
Monitoring mechanisms that are more or less stringent and compulsory	Demand-side	Submission of procurement plans detailing how plans will be implemented
		Reporting requirements: companies to report annually on progress made
<b>Incentives</b>		
Financial support	Demand-side	Loans or lending on favourable terms are provided if companies meet certain local procurement objectives
Tax rebates	Demand-side	Tax incentives are provided if companies meet certain local procurement objectives

Source: Ramdoo, 2016.

Local procurement policies are essentially used to encourage the development of national industries. However, their scope can be extended beyond national borders, to encourage the use of regionally sourced inputs. This is relevant to promoting the development of regional supply chains and to providing opportunities for local suppliers to have access to wider regional markets.

Regional economic communities provide the framework for such initiatives, notably through more efficient use of rules of origin and “cumulation” provisions contained in free trade agreements, which are aimed at deepening regional integration and facilitating cross-border movements of goods and services.

In that context, the inclusion of “regional content” rules in local procurement policies could be used to foster the use of inputs from neighbouring industries. In Liberia, in 2014, the bid round provided that bidding groups that included a significant West African company or a company operating in the Economic Community of West African States, along with a Liberian partner, would have their bids evaluated with a 20 per cent uplift in their signature bonus proposal.

## 5.1 DEMAND-SIDE POLICY OPTIONS

This section details the various types of demand-side policy options governments may consider when designing local procurement policies. It also highlights the key strengths and weaknesses of each type of policy option.

### 5.1.1 MANDATED PERCENTAGE

A specific percentage for local procurement of goods and services is included in policies, for example as part of mining policies or economic empowerment laws such as in South Africa.



### 5.1.1.1 KEY STRENGTHS AND WEAKNESSES

- (i) Setting a target can create an opportunity to create a shared vision between the mining industry, suppliers and government to advance local economic development outcomes by increasing local procurement. This can act as a target-setting exercise between governments and companies and allow stakeholders to align their agendas.
- (ii) Data on current procurement needs and forecasts for future needs are not always available.
- (iii) Difficult to select the “right” percentage: Arbitrary target setting poses serious threats to both governments and companies. If targets are too low, there will be no meaningful changes. On the other hand, if the targets are too high, they may affect the competitiveness of the mining sector and ultimately impact foreign direct investment within the country.
- (iv) Mandatory quantitative targets may introduce distortions and inefficiencies and thereby invite cheating the system if they are not matched by the capacity of local suppliers to deliver (OECD, 2017b, p. 18). Additionally, if mandatory requirements lead to reduced profits for mining companies, this reduces the amount of taxes governments will collect (OECD, 2017b, p. 16; Kolstad & Kinyondo, 2015, p. 1).
- (v) As a stand-alone policy option, a mandatory target is insufficient: to be effective, suppliers of goods and services may require dedicated support and interventions, such as research and development (R&D), the availability of a conducive business environment, access to finance, loans at competitive rates or access to reliable infrastructure.
- (vi) Quantitative local procurement requirements are not compatible with international trade rules and may not be compatible with commitments taken by countries under their bilateral investment treaties.

### 5.1.2 TARGETED LISTS OF GOODS AND SERVICES THAT SHOULD BE LOCALLY SOURCED

This policy option is meant to stimulate local production of specific types of goods and services produced or available locally. Ghana, for example, has chosen this policy instrument to promote local procurement. Following the enactment of the local content regulation LI 2173 in 2012, Ghana published a first list of eight goods and services categories in 2014, to be sourced through local suppliers (UNECA, 2018). The list was subsequently increased in 2016 to include 19 goods and services categories and is expected to further increase to 29 (OECD, 2017a, p. 64). Other countries reserve certain lines of business exclusively for locals. For instance, although Argentina does not have a specific local content regulation for mining in place, it does require that all transport services must be sourced locally (OECD, 2017a, p. 17).

#### 5.1.2.1 KEY STRENGTHS AND WEAKNESSES

- Potential to boost local production of selected goods and services: The measure can be taken for strategic reasons. It can provide guaranteed procurement opportunities for existing industries or build the capacity of new industries in specific sectors. To succeed, it is necessary to: (i) align government’s strategic priorities with private sector objectives, both from the mining sector and from suppliers, and (ii) ensure suppliers have sufficient capacity when they also serve other economic sectors. In Argentina, for example, following the requirement that all transport services used by mining firms should be sourced locally, it was noted that there was a substitution of transportation services toward the mining industry and away from other sectors, due to insufficient local capacity, resulting in a sudden increase in the price of transportation and the import of services from other industries that were previously procured locally (OECD, 2017a, p. 17).
- Difficulty in choosing the “right” targeted goods and services. Limited or lack of data on the mining sector’s existing and future needs can pose a challenge for choosing the “right” list



of goods and services for local sourcing. To be effective, the current and future demand for selected products must be sufficient and guaranteed, both from the mining sector and from other industries. The products must be available in quality and quantity and must be competitive. When targeting a nascent industry, it is desirable to adopt a phased approach, as was the case in Ghana, to allow time to build industrial capacity. Governments must be mindful of potential pitfalls of such measures to avoid production inefficiencies and competitiveness risks of the mining industry (OECD, 2017a, p. 16).

- If plans are not part of broader national development plans, they can be a mere box-ticking exercise with no real impact on the economy overall.

### 5.1.3 REQUIREMENTS TO PROVIDE A LOCAL PROCUREMENT PLAN

This policy option required mining companies to submit a plan for local procurement. Some requirements go further in requesting companies to provide details regarding the implementation of the plan and the measures they intend to take to support suppliers in that regard. These plans are expected to be submitted as part of yearly reporting requirements. The plans vary in detail and are monitored differently across countries.

#### BOX 4. LOCAL PROCUREMENT PLAN REQUIREMENTS

Local procurement plan requirements vary in detail and in the aspects that need to be included.

In Australia, an Australia Industry Participation plan is required for projects with an expenditure of AUS 500 million or more. Reporting on implementation of the plan is also required. Key components of the plan include (i) “expected opportunities to supply goods and/or services to the project; (ii) how opportunities will be communicated to potential suppliers; and (iii) how Australian businesses will be assisted in longer-term participation, including encouraging capability development and integration into global supply chains” (Department of Industry, Innovation and Science, Australian Government, 2018). Templates for the local procurement plan and compliance reporting are provided by the Australian Government.<sup>11</sup>

In South Africa, a Social and Labour Plan must be submitted with an application for a mining or production right together with an annual compliance report. The plan must include commitments for local procurement from local communities (Department of Mineral Resources, Republic of South Africa, 2010).<sup>12</sup>

In Ghana, a five-year local procurement plan is mandatory. The plan includes commitments for companies for local procurement covering at least the items specified in the local procurement list; and “specific support to providers or suppliers as well as other measures to develop the supply of local goods and services, including broadening access to opportunities and technical and financial assistance” (Ghana Minerals Commission, 2012, p. 4).<sup>13</sup>

Sources: IGF, 2018a, 2018c; UNECA, 2018.

<sup>11</sup> Templates are provided on the Australian Government’s website here: <https://industry.gov.au/industry/IndustryInitiatives/AustralianIndustryParticipation/Pages/AIP-plans-required-Jobs-Act-2013.aspx>

<sup>12</sup> Full details and guidance can be downloaded on the South African government’s website here: <http://www.dmr.gov.za/guidelines-revised-social-and-labour-plans/summary/119-how-to/221-guidelines-revised-social-and-labour-plans.html>

<sup>13</sup> Note that sub-regulation 10 focuses on the required targeted list of goods and is as follows: “(10) The Commission shall have a local procurement list and specify in the list the goods and services with Ghanaian content which shall be procured in Ghana by the holder of a mineral right, a licence to export or deal in minerals or a person registered to provide mine support services” (Ghana Minerals Commission, 2012, p. 5).



### 5.1.3.1 KEY STRENGTHS AND WEAKNESSES

- Opportunity to align strategic interests: Requirements to create a local procurement plan can present industry with a structured opportunity to engage governments, suppliers and local communities to develop an industry-wide approach, using mining as a springboard for broader industrial development.
- Plans can provide a wealth of information to governments regarding the breadth and depth of local procurement opportunities.
- Plans in themselves rarely engage shared responsibilities between governments and companies. For example, there is no obligation for governments to address supply-side constraints, which leaves the burden of results mostly on companies.
- A strong monitoring and enforcement mechanism is necessary: It is important to monitor and measure progress against set commitments and ambitions. However, if penalties for non-compliance are too severe, there is a risk that companies may not provide realistic targets so they do not deter investments.

### 5.1.4 TAX PREFERENCES TO ACHIEVE A PRESCRIBED LOCAL PROCUREMENT GOAL

This policy option provides:

- (i) Tax incentives to *mining companies* to encourage them to procure from local suppliers. In Senegal, exploration permit holders are exempted from value-added tax on locally purchased goods and services within the first three years (Norton Rose Fulbright, n.d., p. 7).
- (ii) Tax incentives (e.g., value-added tax rebates or refunds for sales to mining companies; duty exemptions on imports of machinery for domestic production) *specifically for investors* (domestic or foreign) engaged in local supply chains.

#### 5.1.4.1 KEY STRENGTHS AND WEAKNESSES

- Provides targeted support for weaker suppliers or nascent industries without raising costs for mining companies: Tax incentives can provide financial benefits for mining companies as well as suppliers to offset any potential costs procurement requirements may otherwise entail. They also help to provide some space for local suppliers to build their competitiveness by giving them an edge over international competitors.
- Without adequate accompanying measures to address supply-side constraints and in the absence of clearly defined sunset clauses, tax incentives can breed inefficiencies.
- Potential lost tax revenue: Tax exemptions may have a negative impact on government revenues for host country governments, in particular if local businesses cannot sustain without such incentives.

### 5.1.5 PROVISION THAT LOCAL GOODS AND SERVICES WILL BE GIVEN PREFERENTIAL TREATMENT OR WILL BE PURCHASED, "TO THE EXTENT FEASIBLE"

This policy option requires "best efforts" on the part of mining companies, putting the burden of proof of competence/capacity on local suppliers. With such requirements, mining companies are the ones to "assess" whether suppliers are able to supply them. Despite being less constraining, regulations often set certain parameters for mining companies to assess "the extent feasible." This includes competitiveness with foreign suppliers on the basis of economic and technical efficiency and safety requirements.



## BOX 5. EXAMPLES OF REQUIREMENTS FOR “PREFERENTIAL TREATMENT, TO THE EXTENT FEASIBLE”

In Botswana, the Mines and Minerals Act of 1999 mandates that Botswana goods and services shall be procured to the “maximum extent possible consistent with safety, efficiency, and economy” (Government of Botswana, 1999).

In Namibia, according to the Minerals Act of 1992, any mineral licence holder shall “with due regard to the need to ensure technical and economic efficiency, make use of products or equipment manufactured or produced, and services available, within Namibia” (Republic of Namibia, 1992, p. 74).

In Indonesia, Article 106 of Law No. 4/2009 on Minerals and Coal Mining stipulates that “holders of IUP (mining business licence) and IUPK (special mining business licence) shall give a priority to the use of local workers, goods and services in accordance with the legislation” (Republic of Indonesia, 2009, p. 20).

### 5.1.5.1 KEY STRENGTHS AND WEAKNESSES

- Mining companies often prefer these types of measures because there is no obligation to meet a set target. They only set out expectations.
- Such measures can be used as a first step in assessing the extent to which companies are willing or able to engage in local sourcing. If efforts are seen as insufficient, they can also be used as a justification for stronger prescriptive measures.
- The challenge of monitoring and enforcement: Unless clear definitions are provided for “preferential treatment” and “local,” it becomes challenging to monitor and enforce efforts that implement this policy option.
- Success or failure is difficult to assess because there are no benchmarks against which to measure progress or implementation.

### 5.1.6 COMMUNITY DEVELOPMENT AGREEMENTS WITH PROVISIONS ON LOCAL PROCUREMENT

This type of policy measure includes a requirement for a mining company to negotiate an agreement with host communities, with specific provisions on local procurement. Such types of agreements can range from statements of general principles in a Memorandum of Understanding to legally binding agreements that include grievance mechanisms.

Such CDAs are regular practice in countries such as Canada, Australia, Mongolia and Brazil. They require mining companies to consult with host communities as a means to negotiate their social licence to operate.



## BOX 6. EXAMPLES OF LOCAL PROCUREMENT REQUIREMENTS IN CDAS

In Canada, impact and benefit agreements (IBAs) are concluded between mining companies and Indigenous communities. Although there is no legal requirement to sign an IBA, in practice, no new mining project is likely to be approved by regulators in the absence of such an agreement. Although there is no legislation requiring mining companies to buy local goods and services from Indigenous communities, most IBAs with Indigenous stakeholders include local procurement provisions. The majority of IBAs in Canada are confidential, only available to the mining company and signing community. Experience has shown that IBAs can lower risks of community opposition and protest, therefore expediting the permitting process. For host communities, these agreements have secured specific benefits, including on local procurement (Bradshaw & Wright, 2013).

In Australia, the Native Title Act 1996 asserts that Traditional Owners have the right to negotiate over land (IGF, 2018a; El Source Book, 2011). An Indigenous Land Use Agreement (ILUA) is a “voluntary agreement between a native title group and others about the use of land and waters”; “when registered, ILUAs bind all parties and all native title holders to the terms of the agreement” (National Native Title Tribunal, n.d.). These agreements can cover economic opportunities for native title groups, among other issues such as compensation, cultural heritage and access to an area.

### 5.1.6.1 KEY STRENGTHS AND WEAKNESSES

- Tailoring local procurement targets to community needs and expectations: CDAs are negotiated between mining companies and local communities and therefore tend to reflect the interests of stakeholders who are party to the agreement.
- CDAs can be a particularly strong vehicle for integrating and mandating gender-equity considerations.
- The ability to negotiate and enforce these agreements hinges on the community and its networks (O’Faircheallaigh, 2013a, 2013b). This can leave many communities vulnerable, where they lack the critical insights and data required to formulate and successfully negotiate the provisions included in such negotiations.
- These agreements are beneficial to the local community and ensure mining companies have a social licence to operate. However, they may not be sufficient to respond to the wider macroeconomic aspiration of diversification. For example, domestic suppliers living outside the host community are excluded from procurement market access.
- In many cases, such as the majority of IBAs in Canada, CDAs are confidential. This leaves little room for external oversight and monitoring of results and restricts sharing of best practices.

## 5.2 SUPPLY-SIDE POLICY OPTIONS

### 5.2.1 TECHNOLOGY TRANSFER REQUIREMENTS

This policy option requires foreign investors to transfer technology to local stakeholders in the host country as part of the conditions of investment.

Such measures are more common in the petroleum sector, where companies may be requested to submit technology transfer plans, in accordance with the national plan on transfer of technology (e.g., in Nigeria and Ghana).



### 5.2.1.1 KEY STRENGTHS AND WEAKNESSES

- Increasing technological capabilities of suppliers can be an effective way to help businesses supply goods and services competitively, provided local suppliers have the capacity to absorb and use these technologies efficiently.
- In the absence of strong intellectual property right regulations or national innovation systems, companies may be hesitant to invest in countries with technology transfer requirements.
- Monitoring the impacts of such policies is difficult.

### 5.2.2 REQUIREMENTS FOR R&D SPENDING

This policy option is meant to improve the competencies of domestic firms through innovation and R&D. Governments may:

- (i) Require foreign investors to conduct R&D activities or submit plans to do so in the host country. In the petroleum sector in Norway, foreign operators have an obligation to enter into R&D agreements with government, with at least 50 per cent of R&D activities to be conducted in-country. Similarly, in Ghana, petroleum companies must submit a plan of R&D initiatives to be undertaken in-country.
- (ii) Provide incentives for companies willing to invest and conduct R&D activities in the host country.
- (iii) Provide incentives for research institutions who partner with suppliers: In Sweden, the government provides significant financial support to its world-class research institutions specializing in mining-related activities and who have developed strong partnerships to connect businesses with R&D. Similarly, Finland provides loans and grants to its public institutions to support domestic companies in becoming global leaders in specific sections of the mineral value chain.
- (iv) Require mining companies to contribute to a national R&D fund aimed at supporting the development of mining technology. In many cases, a dedicated share of mining companies' operating costs is specified in the regulation.

#### 5.2.2.1 KEY STRENGTHS AND WEAKNESSES

- Stimulating R&D in host countries could be an effective way to strengthen the capacity of domestic suppliers, research institutions and government agencies.
- R&D may lead to new innovations with spillover effects on the economy as a whole; active R&D in-country strengthens the national system of innovation, allowing new technologies—both in the mining sector and more broadly—to be developed or adapted more easily.
- Direct and immediate impacts on the level of procurement are difficult to measure.
- Investments in R&D depend on the regulatory and policy environments and on institutional capabilities and skills available in host countries.



### 5.2.3 SUPPLIER DEVELOPMENT PROGRAMS

Supplier development programs (SDPs) are meant to develop the capacity of local suppliers, primarily through skills development,<sup>14</sup> mentorship, training, access to finance and access to mining procurement markets (IFC, 2011, pp. 36–37). In many countries, such as Chile and Peru, SDPs are often driven by mining companies and sometimes in partnership with international organizations like the IFC, which supported mining companies in Ghana to put in place their suppliers' development program (IGF, 2018c; Korinek, 2013).

When SDPs are initiated by governments, companies can be required to submit local procurement plans and implementation plans detailing how they will train and support local suppliers in meeting the requirements. In South Africa, companies must describe income-generating projects that the mine would undertake (Department of Mineral Resources, Republic of South Africa, 2010, pp. 18–22).<sup>15</sup>

SDPs are sometimes developed by governments in partnership with international organizations. In Botswana, UN Development helped the government launch the Business Suppliers Development Program to support the Botswana private sector (IGF, 2018b). The program is expected to support small and medium-sized enterprises (SMEs) in different value chains to become efficient and competitive suppliers. Mining is one of the sectors supported by the SDP.<sup>16</sup>

#### 5.2.3.1 KEY STRENGTHS AND WEAKNESSES

- SDPs can help to respond to the concern of suppliers, who encounter difficulties in meeting with mining companies on a regular basis and accessing information about potential opportunities for new products and services.
- In some countries, SDPs provide a platform for suppliers to test their innovations with mining companies.
- As capacity development tools, SDPs can help to identify and address skills gaps among suppliers (including those owned by women or that provide significant employment to women) and hence help to support business management and technical skills.
- SDPs can facilitate suppliers' access to finance for working capital and investments (IFC, 2011, pp. 36–37).
- They can also help suppliers to access certifications of conformity in processes or health and safety requirements, to increase the likelihood of successfully supplying the mining company in the future and potentially also to expand their client base beyond the mining sector.
- One of the key, but non-obvious, outcomes to successful industry-led supplier development programs is simply increased “proximity,” that is, bringing the companies and suppliers together.

### 5.2.4 PROVIDING ACCESS TO FINANCE

Suppliers, particularly in developing countries, are often faced with difficulties in upgrading their operations to meet the quality and reliability standards of international mining clients, due to the difficulty in accessing finance at reasonable interest rates.

This policy option is aimed at supporting local businesses in getting access to finance. Measures can take the following forms:

<sup>14</sup> Examples of skills include: management (strategy, annual planning, investment plan, etc.); marketing planning, including costing and tendering; finance (financial management, cash flow statement, accounting structure, etc.); human resources, such as compliance with labour law; production (planning, logistics, production capacity, maintenance, safety, etc.); and quality assurance (both of product and service delivery to customer).

<sup>15</sup> Full details and guidance can be downloaded on the South African Government's website here: <http://www.dmr.gov.za/guidelines-revised-social-and-labour-plans/summary/119-how-to/221-guidelines-revised-social-and-labour-plans-.html>

<sup>16</sup> Review full details of the program and results here: <https://www.slideshare.net/ThapeloLippe/psdp-ii-v4>





- (i) Measures administered by governments directly to support lending to local firms. In 2015 the provincial government of Ontario, Canada, invested CAD 15 million in six Indigenous financial institutions that provided lending to Indigenous-owned businesses (Government of Ontario, 2015). This investment program provided “financing and loan guarantees to companies to encourage supplier development” (Ramdoo, 2016).
- (ii) Governments setting up special guarantee schemes for micro and small enterprises to reduce risks for financial institutions.
- (iii) Concessionary interest rates for smaller local suppliers provided by financial institutions.
- (iv) Requirements for mining firms to provide expedited payment procedures that take into account the tight cash flow situation of SME suppliers, including provisions for upfront payments.
- (v) Encouraging banks to extend credit to suppliers when they have been awarded contracts by mining companies.
- (vi) Provision of training programs in bookkeeping and accounting for SMEs and in the development of solid and fundable business plans (these can also be a training requirement for mining companies).

#### **5.2.4.1 KEY STRENGTHS AND WEAKNESSES**

- Critical to addressing significant finance barriers that small businesses face.
- Can address gender discrimination on credit markets, which often inhibit women from equitable access to the financing they require to upgrade their businesses.
- Can address the imbalance between local suppliers and foreign companies in their capacity to access finance.
- Insufficient coordination with procurement departments may lead to misallocation of resources to sectors that are not important as suppliers to mining companies.
- Access to finance on its own may not be sufficient to ensure suppliers are competitive and sustainable. Other policies are needed to support small firms to overcome supply-side constraints.

#### **5.2.5 SUPPLIER PORTALS AND NETWORKS**

Mining companies may face challenges in purchasing local goods and services due to a lack of knowledge about local suppliers, and suppliers for their part often face difficulties getting information about opportunities for tendering. Suppliers’ portals are mechanisms to connect mining companies and local suppliers while addressing information and knowledge gaps about business opportunities. They can be government initiatives or led by the Chamber of Mines as a service to members. Suppliers’ portals can also involve pre-qualification systems that collect key information on suppliers. Pre-qualification systems can declare suppliers compliant with such relevant standards as occupational health and safety requirements and other technical specifications.

This policy option is aimed at connecting procurement demands and suppliers. Measures to that effect can include:

- (i) Requirements to create online databases for contracts and tenders.
- (ii) Some governments may require companies to unbundle contracts so that smaller suppliers can bid on portions of larger contracts, grant longer time frames for SME bidding or give scoring preferences to local suppliers in the bidding process.
- (iii) Mandatory requirements to post-procurement opportunities on suppliers’ portals.



- (iv) Requirements that mining companies provide training for suppliers to use such portals. If suppliers cannot meet pre-qualification standards, LCPs can also require companies to provide training to upgrade suppliers' capabilities.

#### **5.2.5.1 KEY STRENGTHS AND WEAKNESSES**

- Suppliers' portals can be a useful tool to overcome challenges in purchasing local goods and services due to a lack of knowledge of relevant suppliers. They can also be used to advertise for contracts, providing information to suppliers about procurement opportunities with mining companies and providing the right platform to submit expressions of interests on time.
- Portals can be organized in such a way that they classify suppliers by geographical location, ethnic groups and gender, to allow mining companies to meet their obligations under CDAs or corporate social responsibility and to provide opportunities for specific groups, such as women- and minority-owned businesses.
- Pre-qualification systems built into portals are a good way to identify specific technical challenges faced by local suppliers and plan training programs accordingly.
- Along the whole process, from a mining company's open contract to a supplier's expression of interest to awarding of the contract, supplier portals can be a useful vehicle to improve transparency.<sup>17</sup>
- When supplier portals are open to other sectors beyond mining, it helps registered businesses diversify their customer base and decrease their dependency on mine site buyers, facilitating increased potential for horizontal linkages.
- Setting up such platforms is costly and cannot be financed by government or companies alone. They need to be developed based on strong partnerships. Furthermore, the model needs to be sustainable in the long term.
- Given the number of stakeholders involved, it may be difficult to clearly define responsibilities when there are challenges.

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<sup>17</sup> As an example, see how Open Contracting Partnership is applying this vehicle for public sector contracts: <https://www.open-contracting.org>.



## 6.0 CONCLUSIONS

As this paper highlighted, the design and implementation of local procurement policies is a complex exercise. Numerous policy options are available, but their success is not always guaranteed. The following issues need to be carefully considered when designing local procurement policies.

**The definition of “local” must be clearly articulated, based on objectives defined in national development programs and aligned with the priorities of all relevant stakeholders.** Ambiguity in this regard will not only inhibit successful implementation, it will breed the frustration of not being able to leverage locally available opportunities, in order to share the value of mineral resources more equitably at the national level.

**Policy design must be informed by reliable data and evidence.** This is critical to ensuring that policies reflect business realities and do not affect the competitiveness of local businesses and mining companies. Data is also key to ensuring proper monitoring, evaluation, enforcement and review. Lessons drawn from international experience has shown that success rates in the implementation of policies that were not informed by a thorough understanding of mining economics were very low.

**Supply-side and demand-side policy options need to be complementary and mutually reinforcing.** It has been observed in many cases that low capabilities in domestic suppliers were often a main reason why mining companies would source the majority of their inputs from abroad. Capability challenges can be a result of: structural challenges; a poor business and investment climate, preventing local firms from developing competitively; or the difficulty of local firms in meeting technical requirements of the industry, among others. It is therefore necessary to understand these gaps and challenges and address them, before or while putting in place constraining demand-side policies. Failure to adopt a comprehensive approach will necessarily lead to sub-optimal results.

**Policies to advance local procurement needs to be adaptable and flexible.** Regulations that do not match reality can lead to unintended consequences, such as increased potential for corruption and fronting.<sup>18</sup> Similarly, changing socioeconomic circumstances—as a result of domestic factors or external shocks—may require a more flexible approach. Those changes may result in increased

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<sup>18</sup> Fronting can be defined as a transaction, arrangement or conduct that undermines or frustrates the achievement of the objectives of a procurement plan or a local content regulation, with the result that economic benefits do not flow to the local population. It happens when regulations are not clearly defined on how companies should report on targets. An example of fronting in the context of local procurement is when companies purchase goods and services from locally owned or registered firms, which in turn import those products, without any local value addition. This practice results in an inaccurate estimate of the actual capacity of local suppliers.



requirements to favour more local procurement in order to allow local actors to take up new business opportunities, or they may require governments to temporarily lower regulatory pressures if measures threaten the competitiveness of the mining industry. For that reason, policies adopted should be regularly monitored and must include in-built review clauses to allow for adjustments.



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# ANNEX

**TABLE A.1. POLICY OBJECTIVES THAT MOTIVATE THE USE OF LOCAL CONTENT AND CAPACITY-BUILDING MEASURES**

WHAT POLICY OBJECTIVES?	MARKET OR POLICY FAILURES TO BE ADDRESSED	TYPES OF MEASURES TAKEN BY SOME COUNTRIES TO ACHIEVE THE STATED OBJECTIVE
Workforce development	Lack of opportunities for local workforce	Extractive firms are required or encouraged to: <ul style="list-style-type: none"> <li>• Meet numerical targets for local employment per type of jobs and level of competencies, or report on measures taken to hire locally</li> <li>• Publish job vacancies</li> <li>• Recruit local staff provided requisite skills and competencies are met</li> <li>• Oblige firms to maintain certain employment or production levels</li> </ul>
	Inadequate or insufficient skills and capabilities	Extractive firms are required or encouraged to: <ul style="list-style-type: none"> <li>• Provide training to employees</li> <li>• Fund capacity development programmes</li> <li>• Engage with public sector or academic institutions to ensure appropriate skills development</li> </ul> Governments and academic institutions: <ul style="list-style-type: none"> <li>• Create engineering and technical curricula in conjunction with extractive firms' stated and future needs</li> <li>• Engage participation of extractive firms' seasoned employees in academic institutions</li> </ul>



WHAT POLICY OBJECTIVES?	MARKET OR POLICY FAILURES TO BE ADDRESSED	TYPES OF MEASURES TAKEN BY SOME COUNTRIES TO ACHIEVE THE STATED OBJECTIVE
Suppliers development	Reduce information gaps between buyers and suppliers	<p>Extractive firms are required or encouraged to:</p> <ul style="list-style-type: none"> <li>• Publish tenders on given websites and in media</li> <li>• Set up or use existing networks of suppliers</li> <li>• Conduct training programmes for employees of procurement entities to understand needs and required standards of extractive firms</li> <li>• Conduct awareness campaigns about key procurement opportunities</li> </ul> <p>Governments or regulators:</p> <ul style="list-style-type: none"> <li>• Set up networks of suppliers and extractive firms</li> <li>• Provide forums for match-making between local suppliers and extractive firms to engage</li> </ul>
	Prepare suppliers to respond to industry's demand	<p>Extractive firms are required or encouraged to:</p> <ul style="list-style-type: none"> <li>• Provide training and capacity support to suppliers</li> <li>• Aid suppliers to obtain certifications</li> <li>• Source a share of procurement locally, or report on measures taken to procure locally</li> <li>• Give preference to local suppliers in tenders</li> <li>• Unbundle procurement contracts to allow local SMEs to respond successfully to tenders</li> <li>• Provide letters of intent to supplier firms to assist in financing, or engage with mining firms' banks to facilitate financing for suppliers</li> <li>• Engage closely with local SMEs to encourage innovation in responding to firm's needs</li> <li>• Pay for supplies from local firms more expediently</li> </ul> <p>Governments and regulators:</p> <ul style="list-style-type: none"> <li>• Provide incentives to create suppliers development programmes</li> <li>• Give incentives to local SMEs and extractive firms to link up, in the form of loans, setting up of special economic zones and clusters, tariff concessions, subsidies, etc.</li> <li>• Provide technical assistance and business training at a needed step in the procurement process, e.g., bidding for tender</li> </ul>
	Sub-optimal access to and transfer of technology R&D and innovation	<p>Extractive firms are required or encouraged to:</p> <ul style="list-style-type: none"> <li>• Invest in or finance R&amp;D and innovation</li> <li>• Work with local research and academic institutions</li> </ul> <p>Governments:</p> <ul style="list-style-type: none"> <li>• Provide financial incentives to mining firms that undertake R&amp;D with local institutions</li> <li>• Create technology centres to support local industries</li> <li>• Encourage suppliers' development programmes which provide financial incentives to SMEs adapting technologies to local conditions or demands</li> </ul>



WHAT POLICY OBJECTIVES?	MARKET OR POLICY FAILURES TO BE ADDRESSED	TYPES OF MEASURES TAKEN BY SOME COUNTRIES TO ACHIEVE THE STATED OBJECTIVE
Maintain competitive edge of suppliers and local mining operations	Need to improve climate for innovation	<p>Governments:</p> <ul style="list-style-type: none"> <li>• Funds are made available to promote R&amp;D and innovation</li> <li>• Duty and/or tax concessions for suppliers who invest in innovation and latest technologies</li> <li>• Facilitate access to global supply chains through open trade policies and trade facilitation reforms</li> <li>• Identify regulations that are unnecessarily or overly burdensome</li> </ul>
Increase transfer of technology and research undertaken locally	Difficulty moving into higher value-added products and processes	<p>Firms encouraged or required to:</p> <ul style="list-style-type: none"> <li>• Fund local research centres</li> <li>• Train local hires in technologies used by the firm</li> <li>• Use cutting edge technologies in their operations</li> <li>• Firms asked to allow up to two professionals (geologists, engineers, surveyors, etc.) to participate in technical operations, one of whom is locally hired</li> </ul> <p>Governments:</p> <ul style="list-style-type: none"> <li>• Offer tax incentives to firms that relocate or open research facilities in the mining region</li> <li>• Ensure that public and private R&amp;D expenditure is complementary</li> </ul>
Increase local ownership	Insufficient financial participation of local actors	<p>Firms required or encouraged to:</p> <ul style="list-style-type: none"> <li>• Provide equity participation to local partner</li> <li>• Create joint venture with local partner</li> </ul> <p>Governments:</p> <ul style="list-style-type: none"> <li>• Provide incentives to domestically registered firms to access financial benefits such as access to credit at reduced rates</li> </ul>

Source: OECD, 2017b.



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