Open Contracting

World Bank Institute

Overview

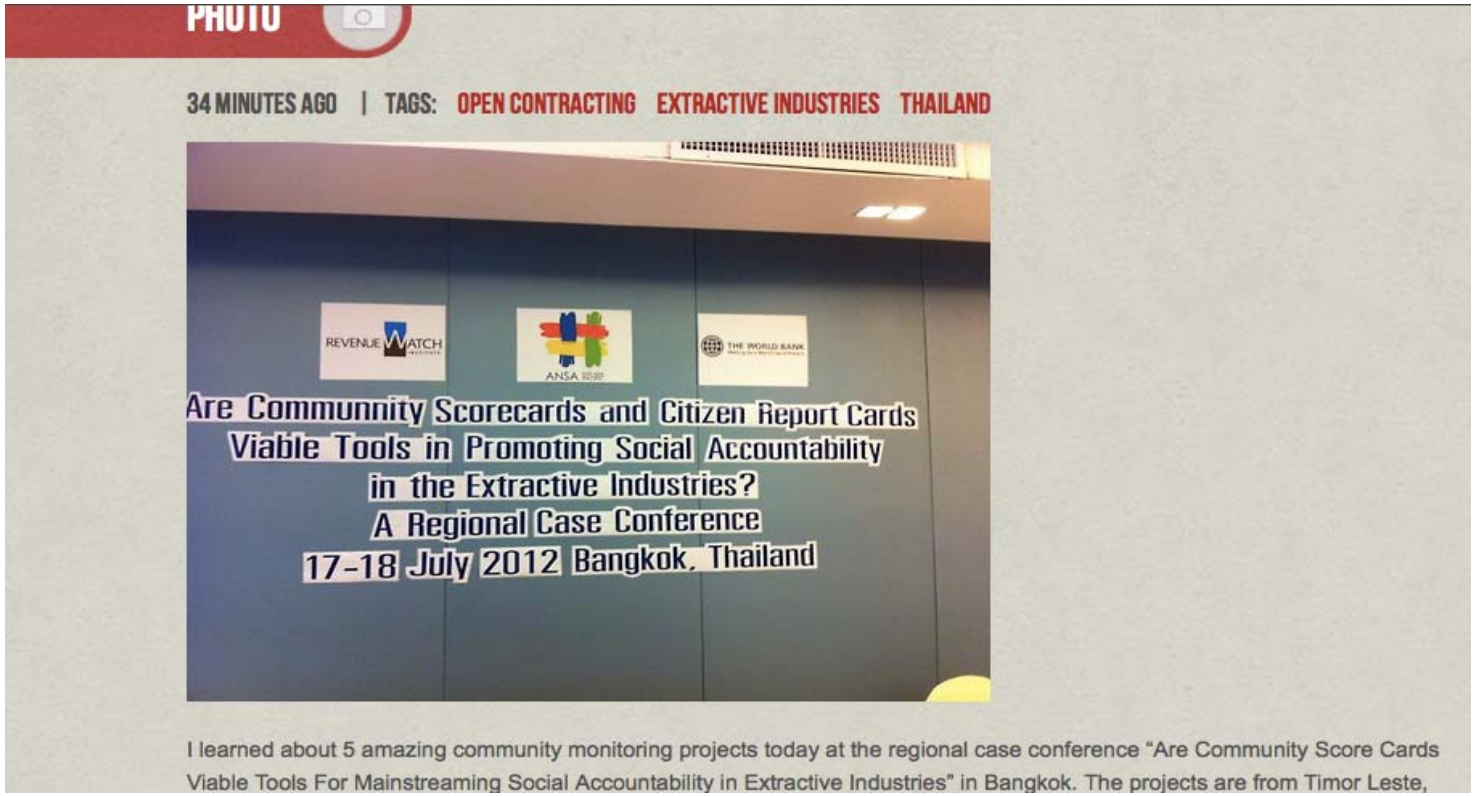
- Background
- Contract Monitoring Roadmap
  - Introduction
  - Methodology
  - Roadmap
  - Next Steps
- More tools and resources
  - Goxi and ProAct
  - Database

Background

Background

- **World Bank Institute:** Capacity development arm of the World Bank.
- **Open Contracting:** Contract transparency and monitoring in extractive industries, infrastructure, service delivery. Focus on Africa and Asia.
- **Services:** Coalition and network building; coaching on open contracting; knowledge exchanges; tools.

Working with partners around the world

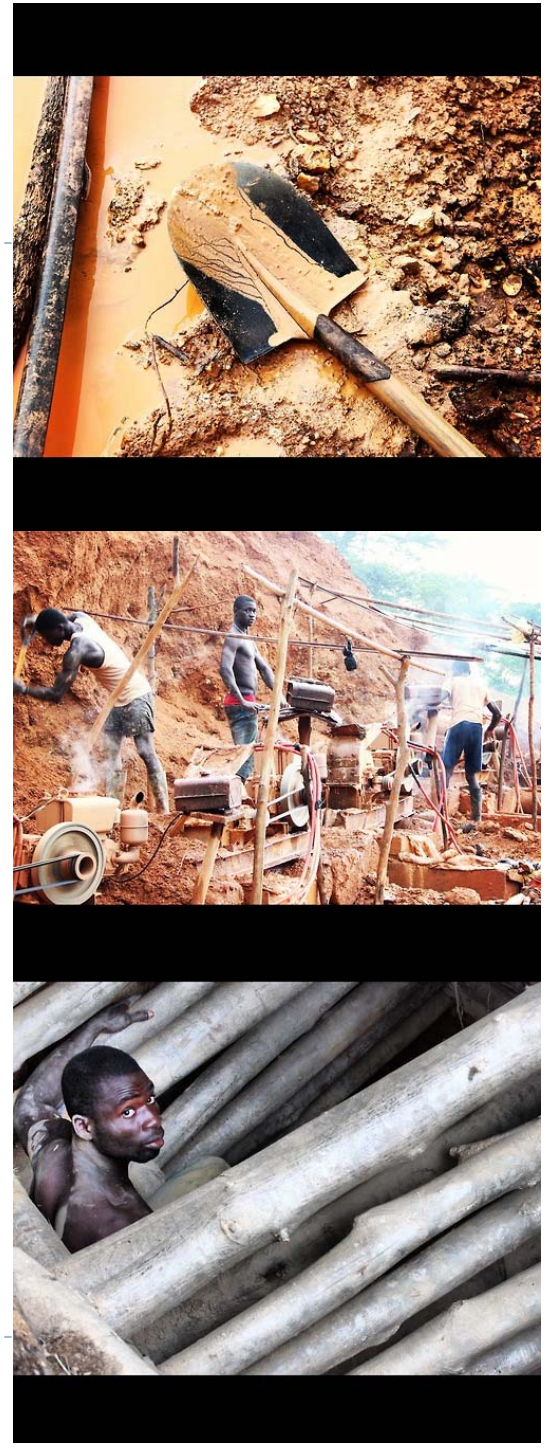


Tumblr: http://futureisopen.tumblr.com/

Stories, insights and pictures from our partners around the world – including some of yours.

Our partners in UGANDA

- Multi-stakeholder coalition with six industry specific clusters: health, education, EI, etc.
- Monitoring focused on pharma, construction of schools and EI.
- EI: production sharing agreements of Tullow; local content and social obligations.
- Advocacy to improve access to information.
- WBI's role: incubated coalition; supported tool development; exchanges with other countries; links for financing and TA to local WB offices and other donors.
- More stories from Uganda on tumblr.



Roadmap

Introduction

- **Why this roadmap?** Goxi network prioritized contracting. Aim: Facilitate better monitoring and build understanding between players.

- **What do we mean by 'contract' monitoring?** Broad definition but not about fairness of contracts or procurement process.

- **Who should use the roadmap?** Mainly CSOs, media, parliamentarians.

Methodology

- Developed by a group of practitioners: PWYP, RWI, Oxfam, Global Witness, IFC, Cordaid, Wageningen University, Columbia University.
- No need to re-invent the wheel: collection of existing material on contract monitoring.
- Examples, references to tools and templates.
- End-product is online version: http://worldbank.inprogress.co.za

Contract Monitoring
Roadmap

Getting Started:
Introduction *Click*

SECTION 1
Deciding what to monitor

SECTION 3
Getting access to a contract and other documents needed to monitor

SECTION 5
Who monitors?

SECTION 7
Generating you own data –participatory monitoring systems

SECTION 9
Taking action in case of noncompliance

SECTION 2
Relevant documents for contract monitoring

SECTION 4
Understanding what is in a contract?

SECTION 6
Monitoring obligations, how it can be done?

SECTION 8
Analyzing the collected data

Content: 9 steps

1. Deciding what to monitor
2. Defining obligations: relevant documents
3. Getting access to contracts/documents
4. Understanding what's in a contract
5. Who monitors?
6. How to monitor compliance with obligations
7. Generating your own data: participatory monitoring systems
8. Analyzing the collected data
9. Taking action

Practical tools and resources

- For each step in the contract monitoring process direct the reader to:
- What you need to know.
- Additional resources/examples/case studies/templates/tools.
- Icons for each topic.

SECTION 2: INDEX

CLOSE ▼

2.1 **The Petroleum Sector**
Petroleum Agreements
Concessions and Leases
Production sharing agreements
Joint Venture Agreements

2.2 **The Mining Sector**
Mineral Development Agreements:
Model Agreements
National and international legal and regulatory frameworks

2.3 What is the role of national law?

2.4 What is the role of international law?

2.5 What is the role of social and environmental impact assessment?

2.6 The role of Human Rights

2.7 Security arrangements and dealing with armed groups:
The UN Voluntary Principals on security and human rights

2.8 What is the role of contracts between the investor and communities?

2.9 Work Plans. Post-closure Plan

2.10 Issues of alignment

Monitoring Issues

Environmental Issues

Project-affected Communities

Health and Safety Issues

Human Rights

Local Content

Financial Obligations

More Information *Case Studies*

1. Deciding what to monitor?

- Situation-specific
- What is the goal of monitoring?
- What is feasible?
- What is urgent/priority?
- What information is available?
- Capacity

2. Defining obligations: relevant documents

- The types of contracts to be monitored? (Concessions and leases, production sharing agreements)
- Model Agreements
- The role of national law?
- The role of international law? (Investment protection)
- The role of contracts between the investor and communities?
- The role of social and environmental documents? (ESIAs)
- The role of international standards? (IFC, OECD, ISO, ILO, UN)
- What is the role of human rights? (Voluntary Principles, UN)

➔ Contracts are not (always) the holy grail. A lot of information is in legislation

3. Getting access to contracts/documents to establish obligations

ACCESSING DOCUMENTS

- How can I find out what data or information ought to be available?
- How can I access the legal framework for a contract?
- How can I access contracts?
- How can I access SIAs, EIAs and other environmental and social documents?
- How can I get access to community development agreements?

USING LAWS AND PROCEDURES TO GET ACCESS

- How can I use Freedom of Information laws?
- How can I use EITI laws?
- Use of the Environmental Acts or other sector legislation
- How can I use administrative procedures?
- How can I use stock exchange disclosure?

COPING WITH A LACK OF ACCESS

- What if there are no contracts (available)?
- How can I advocate for transparency?

4. Understanding what's in a contract/document

- Main structure and most important technical terms of documents
- Mineral Development Agreements
- Hydrocarbon contracts
- Social and environmental impact assessments

5. Who monitors?

- Shows who needs to collect information by law/agreement, and who could collect information
- Provisions for monitoring in documents
- The role of expert panels, supreme audit institutions, the legislature, national human rights institutions, and civil society

6. How to monitor compliance with obligations?

- Discusses info needed for each issue, and where to find that info
- Secondary data
  - Someone else has collected data already
  - Relevant for all issues
  - Common data sources
- Primary data
  - Collecting your own data through fieldwork
  - Especially relevant for social and environmental impacts, human rights, health & safety
  - In partnership: participatory monitoring systems

7. Generating your own data: participatory monitoring systems

- How and when to start a participatory monitoring system
- Ways of conducting participatory monitoring program
- Tools for participatory monitoring
  - Community forums
  - Community suggestion boxes
  - Participatory budgeting
  - Citizen Report Cards
  - Community Scorecards
  - Customer satisfaction surveys

8. Analyzing collected data

- How will the data be interpreted and how will conclusions be drawn?
- How will results be presented to stakeholders?
- How will differences among stakeholders be resolved?

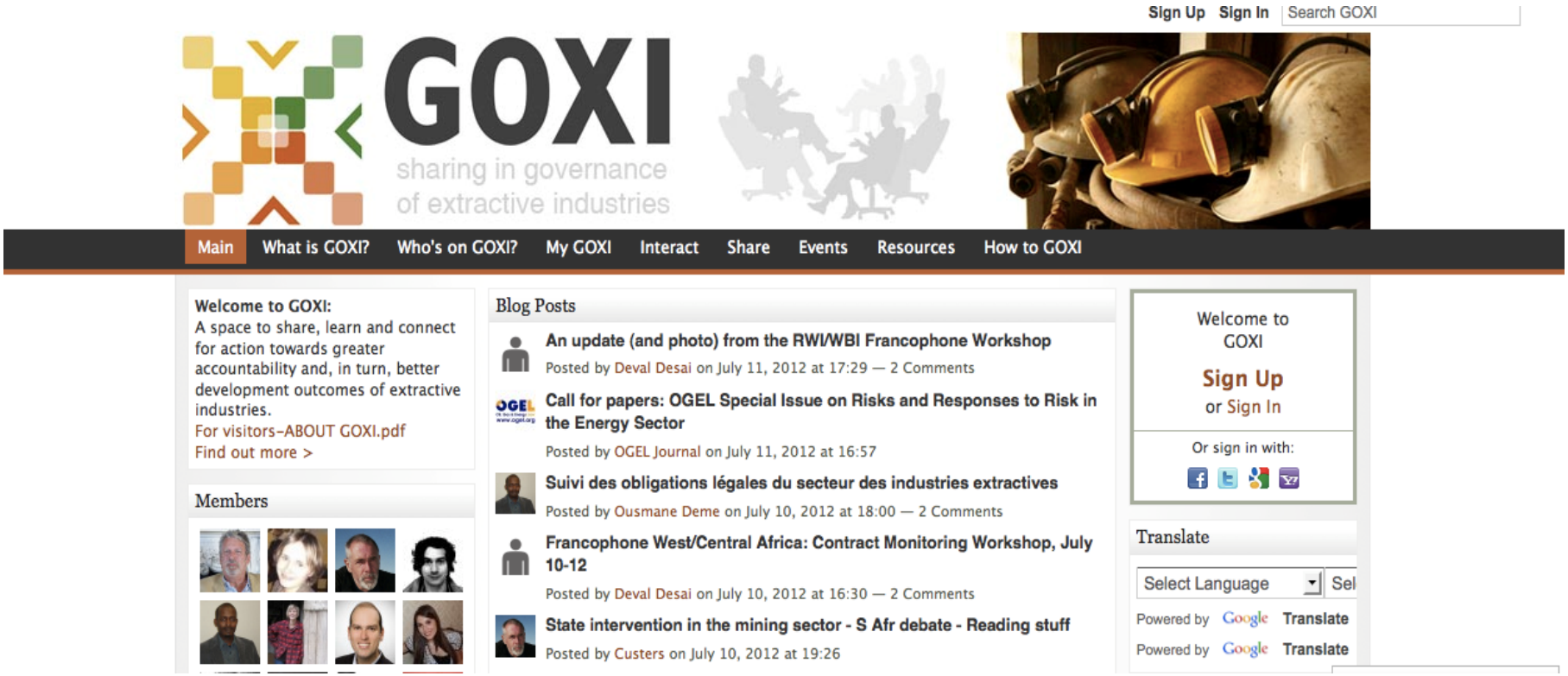
9. Taking action

- Resolving grievances through dialogue
- Company Grievance Mechanisms
- Government enforcement mechanisms: closure, fines
- Legal remedies: national courts, international arbitration, third-party suit
- Public hearings
- Media coverage
- Complaints to home governments

Next Steps

- Online English version available July 2012.
- French version available August 2012.
- Looking into CDs for low bandwidth areas.
- Keeping it up to date.
- Focus countries – help use the roadmap.
- Your feedback on usefulness.

Other resources and tools



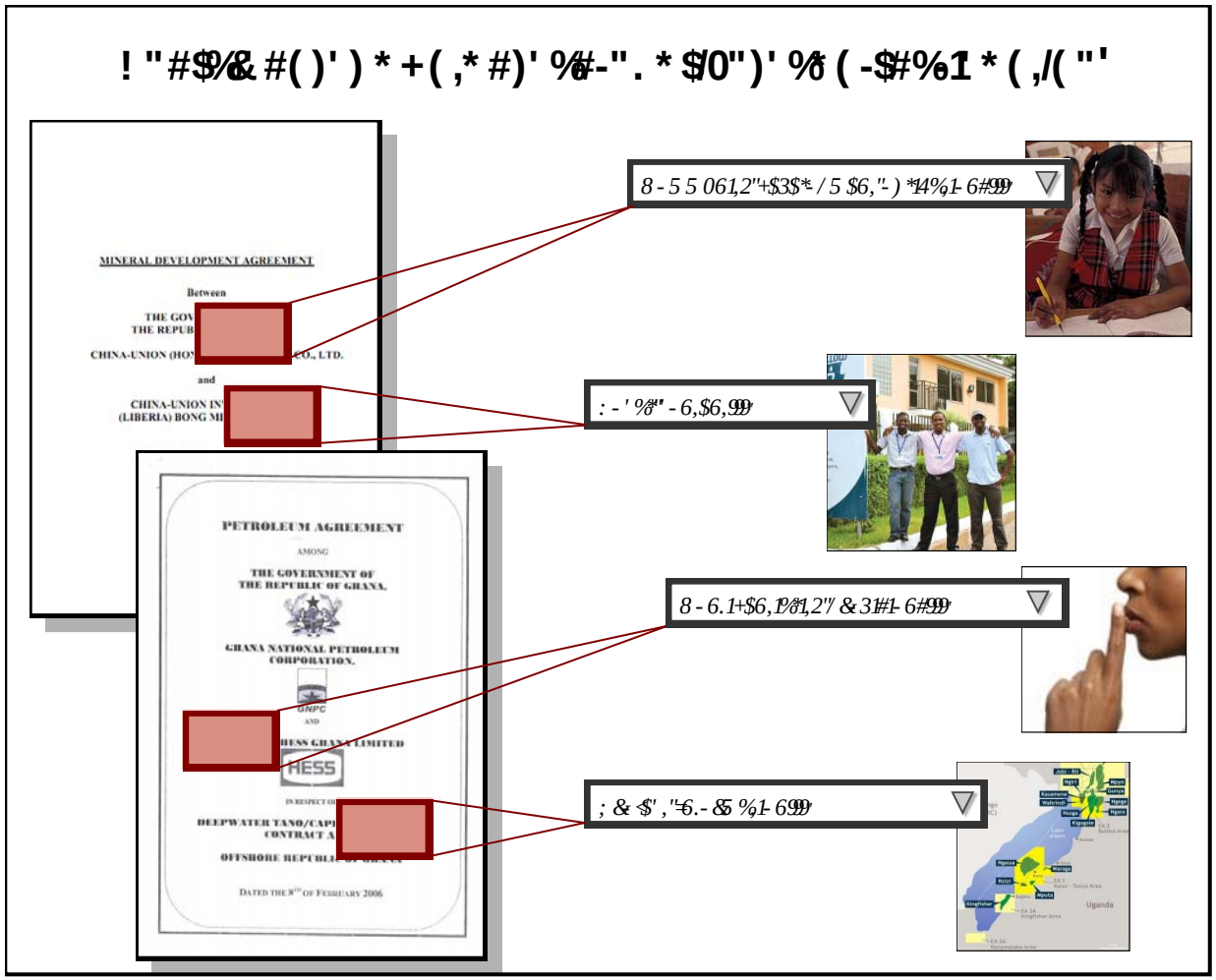
www.goxi.org

- Over 1000 EI practitioners
- Discussions, blogs, jobs, resources: blog on this meeting!
- Section on contract monitoring
- French and English

proact
promoting innovation in procurement

- Over 300 procurement practitioners
- Blogs and discussion groups, including on contract monitoring
- Best practice examples and tools
- Global calendar of events
- Job opportunities

Contract Database



- online repository of oil, gas and mining contracts in Africa
- categorization of the contracts and expert annotation
- process for the collection, upload and annotation of the contract repository
- plan to go beyond Africa

THANK YOU!

Kathrin Frauscher

kfrauscher@worldbank.org