**High Level Audit Considerations**

**STAGE 1: Policies and Legal Framework**

|  | **The SAI needs to do a thorough mapping of the legal framework to establish the following:** |
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| **1** | What are the legal requirements of the government's management of the extractive sector? A mapping of the legal framework is a prerequisite for developing an audit programme. |
| **2** | How is the role of the SAI spelled out in the legislation? The SAI may be given a direct role in e.g. verifying the recoverable costs and receiving declarations of assets from officials. |
| **3** | Is the legal framework effective and appropriate for ensuring management of the EI sector in line with the decisions and intentions of Parliament? Are the government’s policies and policy instruments effective and appropriate for following up on the EI related decisions and intentions of Parliament? |
| **4** | The legal framework constitutes the bulk of policy that is approved by Parliament. The implementation of those policies presents many possibilities for performance/value-for-money audits. The SAI can review the framework and attempt to identify performance audit themes, based on Parliament's intentions when improving the legal framework. |
| **5** | Auditors may also consider contracts that influence government reporting, e.g. an agreement with EITI as a member country. |
| **6** | The auditors may also consider chapter 5 of EI sourcebook on Policies, Legal and Contractual Framework as the information might be useful for gaining more knowledge about the topic and could be helpful in auditing. |

**STAGE 3: Award of Contracts and Licences**

|  | **The SAI should assess whether:** |
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| **1** | The chosen licensee/contractor fulfils all the qualification criteria set in the legislation. It is of vital importance that the operator possesses the correct qualifications and the appropriate competence. |
| **2** | The contents of the minerals/petroleum agreements are in accordance with the provisions in the legislation. |
| **3** | If required, the licensee/contractor(s) has set up a separate company in the country responsible for the operations. |
| **4** | The contractor, when ending the exploration phase and moving into the development/production phase, has fulfilled all the obligations in the current commitment period as provided in the contract/licences and submitted a work programme to the government on the obligations for the next commitment period. |
| **5** | The government takes action if the contractor does not comply with the time frames in the contract agreement. |
| **6** | The contractor reports to government within the stipulated time frame after minerals/petroleum have been discovered. |
| **7** | The appraisal programme has been developed in accordance with international best practices and standards. |
| **8** | The government has received a report on the activities in the appraisal period and a written declaration of commerciality. |
| **9** | The contractor has developed environmental and sustainability impact assessments in accordance with the requirements and these are approved by the government. |
| **10** | The government has received a plan for development and production from the contractor and it has been thoroughly evaluated. The government should approve the plan before contracts for development and production are entered into and before construction commences. |
| **11** | The production permit issued by the government is in line with the production plan developed by the contractor. |
| **12** | The government has done everything in its power to ensure that the contractor maximises the production volume from the minerals/petroleum deposits. |
| **13** | The licensee/contractor is not granted tax holiday, incentives or other exemptions. If so, the SAI should obtain assuarance for the warranty/authority. |

**STAGE 4: Monitoring of Operations**

|  | **The SAI should assess:** |
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| **1** | Whether the government has:   * Ensured that appropriate institutional capacity is available at each stage in the EI Value Chain. * Ensured that capabilities are available, in the sense of specialist skills, training and adequate resources. * Put in place non-overlapping mandates so that each ministry or agency has a mandate with clearly defined competencies and responsibilities and the resources and staff to fulfil the mandate. * Ensured consistency of approach, so that all government bodies are working to achieve extractives development in a sustainable manner. |
| **2** | What are the systems of accountability and verification in place to monitor company performance, such as accounting procedures and regular independent audits? |
| **3** | How do government agencies monitor production volume measurements?   * Is the government examining and testing the volume measuring equipment at regular intervals and in accordance with the regulations? * Are the government cross-checking company reports and documents against supporting information or other sources? |
| **4** | How do government agencies monitor environmental and social impacts?   * Is the government monitoring progress against the company’s environmental and social impact assessments and associated management plans? * Whether the government is assessing penalties or taking other measures to hold companies accountable for negative social and environmental impacts? |

**STAGE 5: Revenue Assessment and Collection**

|  | **The SAI should assess whether:** |
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| **1** | Reported volumes and quality of produced minerals and petroleum are correct. |
| **2** | The tax is calculated based on the rate specified in the relevant law, act or contract. |
| **3** | The deduction of costs for a specific year of income only relate to the relevant contract area (ring fencing). |
| **4** | Deductions of funds going to a decommissioning fund reserve are relevant. |
| **5** | The recoverable costs are in line with the eligible deductible expenditures defined in the PSA/PSC, or in the taxation act (necessary, appropriate, economical and connected to the mineral/petroleum operations). |
| **6** | The prices in transactions between related companies is assessed and tested for transfer mispricing. |
| **7** | The value of petroleum/minerals etc, of which tax revenues are derived, is calculated and measured in accordance with legislation/contracts. |
| **8** | The revenue authority ensures that tax returns are submitted timely and complete for correct calculation/assessment for revenue. |
| **9** | The revenue authority ensures timely payments and reconciliation of accounts in accordance with the legislation/contracts (as specified in the taxation act/PSA/PSC). |
| **10** | The revenue authority ensures that all licences/contractors are captured in the relevant revenue systems. |

**STAGE 6: Revenue Management and Allocation**

|  | **The SAI should assess whether:** |
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| **1** | There are measures in place that are being implemented to ensure resource funds are judiciously allocated and managed in the country’s budget. |
| **2** | The decisions on revenue allocation are transparent. |
| **3** | Expenditure decisions are nested within a sound macro-fiscal framework and are in line with the country’s development strategy. |
| **4** | There are policy measures to address the risk of Dutch disease. |
| **5** | There is a credible mechanism to deal with excess revenue in a sustainable manner, such as setting it aside in a transparent savings and stabilisation fund. |
| **6** | Revenue from EI is being paid on time into the designated account in the central bank. |
| **7** | There is a management agreement between the Ministry of Finance and the central bank which also covers investment policies. |
| **8** | The cap set to be allocated to the various avenues defined by the governing legislation are adhered to. |
| **9** | The cap set on the amount of revenue from EI to be transferred to the annual budget is adhered to. Normally, the transfer of the revenue should not exceed what is needed to fund next year's national budget. |
| **10** | Amounts transferred to the annual budget are used to fund activities and projects defined by the governing legislation: |
| **11** | Projects to be funded from allocations to the annual budget are executed at the local and national level. |
| **12** | Transfers from the central bank are processed only with the appropriate signatures. |
| **13** | Any reserve funds established are managed in a proper way and they are spent for the intended purpose. Withdrawals should only be made for the intended purpose. |
| **14** | Transfers are made to the local communities defined in the legislation as eligible recipients. |

**STAGE 7: Implementation of Sustainable Policies: Economic, Environmental and Social Concerns**

|  | **The SAI should assess the following aspects:** |
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| **1** | **Environmental and social concerns**   * 1. Government commitments to meeting agreements made in treaties, laws, policies and programmes such as: * The existence of local policies, plans and legislation aligned to the treaties and to national development plans to govern the EI sector. * Mainstreaming of major development goals (SDGs) into EI legislation, plans and policies. * Mechanisms to monitor, follow up, review and report on the progress in implementing SDGs. * Resources and capacities (means of implementation) needed to implement SDGs.   Government efforts to ensure EI companies comply with environmental and social laws and regulations including:   * The process of assessing and approving Environmental Impact Assessments, Environmental Management Plans and Environmental Social Impact Assessments. * Whether regulatory agencies enforce the submission of Environmental Impact Assessments, Environmental Management Plan and Social Impact Assessments by EI companies. * The technical capacity of regulators to regularly monitor, report and follow-up on environmental and social issues. * The effectiveness and adequacy of the system for regular monitoring, reporting and follow-up on environmental and social issues. * Adequate supervision of EI activities. * Efficient and effective management of funds (if any) for environmental and social monitoring. |
| **2** | **Decommissioning, rehabilitation and closure**  Governments efforts to ensure compliance such as:   * Technical capacity of Government agencies processing and reviewing closure plans. * Whether the processes followed by the regulator ensure timely and cost-effective identification and rehabilitation of EI facilities to minimise adverse social and environmental impacts. * Whether the regulator implement strategies that ensures that companies provide guarantee in the form of bonds or cash as security for the likelihood of failure of companies to rehabilitate or properly rehabilitate drilled or mined areas. * The adequacy of associated cost estimates and the management of financial assurance. * Assurance of adequacy of rehabilitation works by the EI company/player. * Availability of bonds and guarantees against failure to rehabilitate destroyed environment/communities/livelihoods.   The regulatory framework’s completeness in assigning roles and responsibilities in decommissioning and closure, including liability in the event of non-compliance by contract/license holders. |
| **3** | **Community development**   * Availability of community development schemes/agreements/plans’ and funds’ aimed at ensuring that EI activities benefit the local communities. * Alignment of such plans to specific SDGs, targets and indicators as well as to regional and national plans and policies. * Availability of monitoring indicators for the schemes. |
| **4** | **Local content**   * Whether the legal framework in their country has provided for local content requirements, and establish the comprehensiveness through benchmarking with countries that have a robust framework on local content. * Assessing the effectiveness of the legal framework through auditing whether or to what extent the relevant government ministries, departments or agencies are monitoring the implementation of local content requirements. |