

What incentivises foreign direct investment in resource-industries to protect the natural environment?

Selection of ideas, work in progress, comments welcome
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1 Motivation of the research

Most resource industries in less developed countries have very high shares of foreign invested firms, because of their advantages in access to capital and technology. Past experience however is also abound with examples of foreign investors saving on costs of preserving a healthy natural environment in their host regions. Often foreign investors used opportunities of not sufficiently or consistently defined norms of environmental protection or of gaps in the enforcement of those norms. At the Paris Agreement in 2015, the UN has identified foreign investors as potentially the most effective players in fulfilling sustainability development goals (SDG). In parallel, some host countries have become stricter towards their inward foreign direct investments (FDI), some home countries enacted laws requiring their outward investors to conform to minimum standards, some global value chains are enforcing such measures amongst their suppliers (often voluntary and decentralised, private commitments to good practice, *Freiwillige Selbstverpflichtungen der Industrie*), and some non-governmental organisations defined requirements of environmental preservation (e.g. ISO). Indeed, most states seek international cooperation to solve environmental problems whose solutions cannot be found domestically (see “International Environmental Protection”, e.g. Keohane et al., 1993). In the field of

international environmental law, developing countries are often offered differential treatment with a view on gradually developing substantive equity and equality in competitive playing fields (Halvorsen, 1999; Cullet, 2003).

2 Overarching research questions

Amongst the many instruments and initiatives that had been invented, are propagated, and some of which also enacted in some countries, which ones are preferable solutions? A solution is preferable, if it answers to conditions such effectiveness of environmental preservation; ease of developing a clear definition; high acceptance towards compliance; ability of effective enforcement; etc. What balance of such conditions has proved to be effective in particular cases in the past, and what could be improved in each of these cases?

3 A taxonomy of norms and standards

The many norms and standards, private and public, towards environmental protection in the natural resource industry present a very complex pattern. Yet, we stand to learn a lot from reviewing experiences (e.g. Sauvant and Sachs, 2009; Johnson and Sachs, 2015). In order to analyse which regulation has what effect in what circumstances, it is necessary to describe and structure them in taxonomies. This provides the analytical framework for contributing towards answering the overarching research question as to their effectiveness as instruments to effectively incentivise foreign investors.

In this project, the legal side of the research question may be important: how to devised legal frameworks (licensing, contracts, regulatory regimes of monitoring and enforcement) so that they incentivise the foreign investor to contribute towards sustainable development (see CCSI on 'extractive industries', here in particular 'legal framework' and 'Sustainable Resource Based Development Strategy', as well as additionally on 'SDG-Aligned Business & Finance').

4 Case studies on effectiveness and potential improvements

A case study method, structured in above taxonomies and according to criteria of preferability of solutions, allows us to learn from the past as to what instruments have been successful under what framework conditions (what country, what period of time, what resource, what national regulations, what bi- and multilateral agreements).

As criteria of success, the analysis has to assess the damage to the environment caused and put this into perspective to the kind of natural resource, the activity of the natural resource industry (shares of mining and refining and processing), to the size, the length of period of activity of the natural resource industry, and can use indicators of frictions to business, like litigations against foreign investors, investor dispute settlements, trade disputes, etc.).

Finally, having learned through analysis of real cases, the analysis can suggest for each case, what improvements can be predicted to bear fruits towards incentivising foreign direct investment projects to excel in their activities of natural resource protection in their host region.

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