



Mining Foundations, Trusts and Funds



A Sourcebook
Executive Summary

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Executive Summary

Mining operations increasingly exist in remote parts of developing countries, and with the combined challenges in public services delivery and development assistance, this is drawing the mining sector further into catalysing development at local, regional and national levels. Responding to this multifaceted trend, the mining sector has increasingly turned to foundations, trusts and funds as vehicles to share the benefits derived from mineral production with communities.

This Sourcebook reviews the developing country experience of mining sector foundations, trusts and funds to date, identifies aspects of leading practice in this field and provides detailed examinations of fourteen case studies from Peru, Southern Africa and Papua New Guinea. It approaches this analysis from the perspectives of the three sets of key stakeholders: communities, companies and governments.

Foundations, trusts and funds (FTFs) have different structures and vary considerably in different legal jurisdictions. Recognizing these differences, this study refers to FTFs as a group representing independent entities with options for governance to be shared amongst a number of stakeholders.

The question of whether to use an FTF structure, as compared to other models for benefit sharing, is outside the scope of this study. The Sourcebook assumes readers are interested in FTF structures and highlights the key attributes associated with these structures and the benefits and traps mining sector experience has identified. This study does not advocate the use of FTFs, but rather provides a review of experience from the mining sector to better inform decisions in the future.

There are three main purposes for which the mining sector uses FTF structures:

- community investment – voluntary actions or contributions by companies beyond the scope of their normal business operations;
- compensation – payments made by mining companies to mitigate the impacts generated by projects; and
- government payments – taxes and royalties as well as other payment schemes, including voluntary contributions, which exist between mining companies and various levels of government which are intended for redistribution to communities through some form of benefit sharing mechanism.

The reasons for undertaking these three activities are well covered in other texts and this study is concerned with how FTF structures can be and have been used by different stakeholders to achieve these ends.

The adoption of an FTF structure is not always within the control of the implementing party, with some cases now being seen where the establishment of an independent entity to deliver funding is a legal requirement (the Peruvian

Aporte Voluntario scheme is based on this approach). Over and above legal requirements, FTF structures can present a number of advantages, such as an increased sense of independence; a clearer path towards sustainability through the endowing of funds and potentially through sourcing alternative financing; and opportunities for community participation through representative governance structures, co-financing and project generation.

To allow comparison of mining sector FTF experiences, seven key parameters were identified: programmatic approach; financing; geographic reach; participation; governance and influence; programmatic focus and timing. There is no “one size fits all” approach to FTFs for the mining sector, and different applications of these parameters are to be expected and are seen depending on the purpose of the FTF, the geographic and political economy context and the implementing party.

The review of developing country experience conducted as part of this study identified the use of the following options within these parameters:

- Programmatic Approach – There are two broad programmatic approaches used by FTFs: grant-making and operational implementation. Grant-making FTFs tend to have smaller staff complements, as seen with the Impala Bafokeng Trust which currently has two employees. The Palabora Foundation, by comparison, uses a predominantly operational approach, and has a staff of 100 people. Both approaches are used within the mining sector, with many FTFs using both in the one entity.
- Financing – FTFs vary according to three main financing aspects: funding structure, sourcing and management. FTF funding structures use either endowed funds or annual/periodic budget allocations. This financing can be sourced from companies, communities, governments or a combination of sources. Funding derived from companies is often based upon an annual calculation, such as: percentage of revenue (seen in the Freeport Partnership Fund for Community Development (LPMAC)); percentage before profit (BHP Billiton use this approach in the Minera Escondida Foundation); percentage of capital or operating expenditures; or through an annual negotiation. Community funding often varies significantly and depends upon the community’s capacity and willingness to contribute as seen with the Greater Rustenburg Community Foundation. Governments can draw upon payments made by the mining sector as part of either a) payments for concessions, licences or land access (as seen in the Las Bambas and La Granja Social Funds) or b) government accessed royalties, taxes or fees (as explored in Madagascar). Mixed funding approaches can see multiple companies donating to the same FTF, or collaboration between tri-partite stakeholders. The desk based review of mining FTFs indicated that the majority are initiated and funded by companies.
- Geographic Reach – While the purpose of the FTF is clearly critical in defining the geographic reach of its programmes, the ownership or influence exerted upon the FTF may also influence these decisions. Five levels of geographic focus were identified: mine’s area of influence; special focus groups; regional; national and international. Where FTFs are responsible for delivering community development programmes for a

company, their geographic reach is closely linked to the mine's area of influence. Approximately half of the FTFs reviewed through the desk based assessment (33) are directly related to individual mine sites. Government involvement in an FTF, either through regulation or influence, tends to increase the geographic scope of the entity to a regional basis, as has been seen in the Peruvian *aporte voluntario* FTFs. Corporate philanthropy FTFs can be seen to operate at a broader geographic level, such as the nationally focussed Anglo American Chairman's Fund.

- Participation – Community and stakeholder participation within an FTF can be achieved through a number of avenues. An extensive stakeholder engagement process has been used to develop both the Asociación Los Andes de Cajamarca (Peru) and the Newmont Ghana Development Trust. Participation can also be achieved through participation in governance structures (such as IDAP in Mali), including the appointment of a chairperson from a beneficiary group. Integration of community beneficiaries into the process of project generation provides another avenue for participation, as does co-financing.
- Governance and Influence – While the governance structure is often seen as the primary control over an FTF, external influences, unrepresented in the governance structure (such as Government) can hold the greatest “influence” over the FTF's activities.
- Programming Focus – FTF structures are being used to implement any number of different projects, with the basis for programme choices grounded in the needs of the beneficiaries.
- Timing – The establishment of FTF structures to manage benefit sharing from mineral projects is normally linked to the project development cycle. Examples are now emerging where FTFs are being developed earlier as part of the license approval process (Las Bambas Social Fund and La Granja Social Fund in Peru) and later as part of mine closure planning (Anum Lio Foundation at Kelian, Indonesia).

To better convey the experiences with FTFs in the mining sector, fourteen case studies were undertaken in Peru, Southern Africa and Papua New Guinea (PNG). In each of these areas, mineral production accounts for a considerable proportion of the national Gross Domestic Product (GDP) and pressure has been exerted on both governments and companies to generate more than economic growth alone and to achieve poverty reduction through this sector. The case studies, while dominated by company foundation models, also include a community foundation. They cover the different purposes for which FTFs are typically used, with community investment, compensation and government payments all being channelled through various cases. The importance of context cannot be overstated when considering these case studies and for this reason, a summary of the national setting is provided for each study. The case studies are highlighted below:

- Peru:
 - Fondo Social La Granja – Developed as a Government condition of the license purchase process for the La Granja copper project, this

- Foundation was established during the exploration period for the project;
- Asociación Los Andes de Cajamarca (ALAC) – Established, after a two-year consultation process, as part of Minera Yanacocha’s social responsibility programme to promote sustainable human development for the Cajamarca region. Predominantly using a grant-making approach, the Asociación has developed sophisticated methods to monitor and evaluate the development impacts of its projects and has had considerable success in seeking external financing;
 - Fondo Solidaridad Cajamarca (FSC) – The FSC was developed by Minera Yanacocha to meet the Peruvian *Aporte Voluntario* commitment. Using ALAC as its administration agent, the FSC has brought significant amounts of additional financing into the Cajamarca region and has facilitated an increase in Government spending of *canon minero* payments;
 - Asociación Ancash – Established shortly after commencement of mining operations, the Asociación was developed to maximise the sustainable development contribution of the Antamina mine. With the development of the Fondo Minero Antamina (FMA) to meet Antamina’s *Aporte Voluntario* commitment in 2007, the Asociación was forced to change its role significantly. Following extensive strategic visioning exercises, the Asociación has developed an operational niche in tourism, conservation and preservation of local culture and heritage;
 - Fondo Minero Antamina (FMA) – Holding resources of over USD160 million (as at January 2010), the FMA is channelling significant funding into the Ancash Department. The FMA has a large team (over 90 staff) most of whom were recruited from non-government organisations;
 - South Africa, Mozambique and Namibia:
 - Anglo American Chairman’s Fund – A corporate philanthropic grant-making trust, the Chairman’s Fund has been in existence since the 1970’s and operates at a national level (which makes it significantly different from others more directly related to a mine site or area). The Chairman’s Fund is managed by a not for profit company (Tshikululu Social Investment), originally established by Anglo American;
 - Impala Bafokeng Trust (IBT)–Developed following a significant black economic empowerment transaction between Impala Platinum and the Royal Bafokeng Nation, the IBT was established in part to ensure that non-Bafokeng historically disadvantaged South Africans (HDSA) also received development benefits from this transaction;
 - Greater Rustenburg Community Foundation (GRCF) – After ten years of operation, the GRCF is now the oldest community foundation in Africa. Operating within a region dominated by platinum mines, it is a grant-making organisation which is using “asset based community development” techniques in its projects;

- Palabora Foundation – This operational foundation has been implementing projects in the Ba-Phalaborwa communities for over 23 years. It's focus has shifted considerably over this timeframe reflecting the changing needs of beneficiary communities, a dynamic socio-political context and variations in the profitability of the Palabora mine;
- Mozal Community Development Trust (MCDT) – Established as the community development arm of the Mozal smelter in Mozambique, the MCDT is an operational FTF which undertakes all aspects of community engagement and development for the company. Ownership and governance of the MCDT remain within the control of the company;
- Rössing Foundation – Structured as a Trust, the Rössing Foundation was established in 1978 to provide greater education opportunities for Namibians. The history of the Foundation is closely linked to Namibia's evolving political independence. This operational Foundation develops programmes all over the country and more recently has placed significant focus on the mine town of Arandis;
- Papua New Guinea
 - Ok Tedi Fly River Development Programme (OTFRDP) – While the development of OTFRDP has been ongoing for a period of over ten years, its independent structure was launched in 2010. It is an operational not for profit company committed to managing and implementing compensation payments on behalf of the 152 recipient villages, as agreed as part of the Community Mine Continuation Agreement for the Ok Tedi mine;
 - Papua New Guinea Sustainable Development Program Ltd (PNGSDP) – Created as part of the exit agreement between BHP Billiton and the Government of PNG, PNGSDP is a not for profit limited liability company mandated to minimise the impacts of the Ok Tedi mine closure, which receives 52% of the dividends of the continued operation of the Ok Tedi mine. High mineral prices in recent years have generated an endowed fund of over USD1billion within PNGSDP; and
 - Lihir Sustainable Development Plan Trust – The Trust is intended to deliver the integrated benefit package (IBP) agreed between Lihirian landowners and Lihir Gold Limited in 1995. The IBP includes compensation payments, royalties and community investment projects.

There is no ideal structure for an FTF within the mining industry as each FTF must respond to the context in which it is established, its purpose and the interests of its stakeholders. Acknowledging this, ten areas of leading practice for FTFs have been identified:

- A clearly defined strategic vision, outlining its role as a development actor in the local environment;
- A single purpose, ie, either community investment, compensation or government payments, but not a combination;

- A representative multi-stakeholder governing body;
- An endowed fund to enable sustainability;
- High levels of co-financing and collaboration;
- Transparent practices and associated accountability;
- Efficient administration structures to maximise development delivery;
- Flexibility to adapt to changing development practices and operating conditions;
- Incentive schemes to retain high calibre staff; and
- Impact based monitoring and evaluation.

Foundations, trusts and funds can be used as mechanisms for the distribution of social and economic contributions and payments from companies and governments to communities. They are highly flexible instruments and can be adapted to suit a variety of situations. Establishment of an FTF can facilitate co-financing and act as a strong development commitment to beneficiary communities. Use of an FTF can provide opportunities for representative governance structures which may not be possible under different conditions. They also provide opportunities to develop sustainable community development programmes from the mining sector. When they are applied with a clear vision and clarity of purpose, with transparency and accountability, and are managed by highly skilled staff, they can become the success story of a mining operation.

While FTFs are not appropriate in all situations, this Sourcebook provides examples from a vast variety of experience to assist communities, governments and companies to consider the role of FTFs within their mining benefit sharing approaches.

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Photos on the back cover were taken by Elizabeth Wall and are of (clockwise): Tabubil from the air, PNG; Community Vegetable Garden Project run by IDAP, Mali; and Nutrition Programme Poster in Shiqui, Peru.



Pachacoto

Visión

Somos una comunidad que participa en su desarrollo. Nuestras autoridades son organizadas y comunicativas. Nuestros niños gozan de buena salud porque son atendidos por nuestra Promotora de Salud, reciben una educación adecuada con valores morales, tenemos transporte público y contamos con todos los servicios básicos. Tenemos ganados y pastos mejorados y nuestra agricultura crece porque usamos el riego tecnificado.

Autoridades