



INVESTING IN POST-CONFLICT COUNTRIES

Brian D. Fix
Partner, Salans Law Firm




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Challenges faced and potential resolution:


- To state the obvious,
 - Pre-project risks, including long periods of prospection and negotiation,
 - Operational risks -- political, social, financial,
 - Need to cover risks through increased returns.


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- BUT, larger operational challenges:
 - Lack of capacity and regulatory framework,
 - Lack of familiarity with financial concepts (debt/equity ratios, ring-fencing, capital expenditures, evergreen provisions)
 - Vocal civil society, to whom elected leaders must listen.



Suggestion:

Given the challenging environment, seek a win-win situation, where both parties agree to hold each other's feet to the fire and encourage dialogue as issues arise.

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- Key performance issues:
 - Issue of legal competence – on both sides
 - Issue of corporate governance – concession model or JV model?
 - Issue of “free shares” (potentially non-dilutable)
 - Chinese model
 - Issue of transitional provisions
 - Issue of investments to date
 - Issue of proposed new investment and use of feasibility study commitments

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- Issue of change of control and taking over existing project
 - Issue of exclusivity in prospecting, exploration, and licensing
 - Issue of community relations/ training/ environmental protection
 - Issue of political uncertainty and guaranteeing investments
 - Issue of reporting, audit and oversight
 - In short, focus on respective performance obligations, before tackling money issues



- Money issues

- Fiscal regime – license fees and rents, royalties, profits tax, minimums, survey costs, and other up-front fees
- Issue of transfer pricing and dealing with affiliates
- Issue of representations and warranties – different models
- Issue of term and renewals
- Issue of stabilization clause and MFN treatment
- Issue of termination and force majeure



Role of private sector actors

- To recognize pressures on government,
- Concentrate on developing human resources,
- Focus on community relations,
- Be transparent

Thank you and good luck.