

International governance options for environmentally sound mineral extraction

Laws, standards and co-operation

Dr. Ralph Bodle



Overview

- ▶ The “InGoRo” research project
- ▶ Stocktake of existing governance
- ▶ Policy options and recommendations

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The “InGoRo” research project: Objectives

- ▶ Assess and further develop governance-instruments which can facilitate, establish and implement global standards for environmentally sound mineral extraction

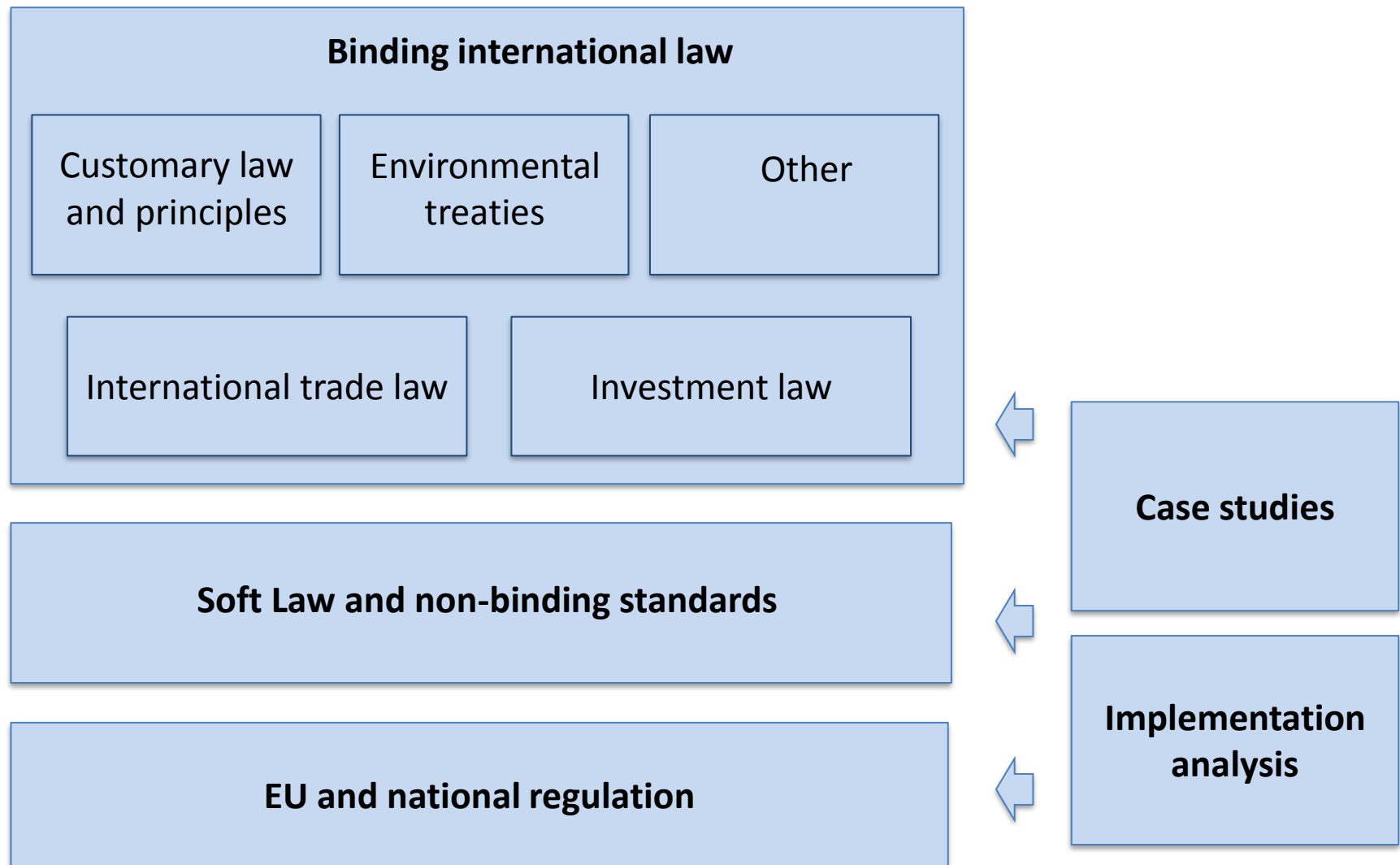
The “InGoRo” research project: Scope

- ▶ Abiotic raw materials, minerals
- ▶ Focus on local impacts: extraction up to processing and smelting
- ▶ Typical negative environmental impacts of mining
- ▶ Social impacts linked to environment

- ▶ The research project
- ▶ **Stocktake of existing governance**
- ▶ Policy options and recommendations

The stocktake

- ▶ Several international legal principles and environmental, trade and human rights treaties
- ▶ EU/national legislation with extraterritorial effect
 - EU CSR-Directive, EU Conflict Minerals Regulation, French Law on Due Diligence, EU Procurement Directive, Renewable Energy Directive; EU Timber Regulation; US Alien Tort Statute
- ▶ Non-binding standards
 - OECD Due Diligence Guidance, World Bank's Environmental and Social Framework (ESF), Towards Sustainable Mining (TSM), Aluminium Stewardship Initiative (ASI), FairMined and FairTrade



The stocktake: selected key findings

- ▶ Very few binding international instruments specifically address mining
- ▶ Almost no specific obligations - restricted to certain areas or resources
 - E.g. seabed mining; mercury
- ▶ General environmental obligations apply to mining and limit sovereignty
- ▶ Trade and investment law is a potential impediment to environmental and social standards, but there are entry points
- ▶ No clear link or deliberate division of labour between binding and non-binding standards

- ▶ The “InGoRo” research project
- ▶ Stocktake of existing governance
- ▶ Policy options and recommendations

Policy options and recommendations

Governance options

International
legally binding
instruments

International
non-binding
standards

Bilateral and
international
cooperation

EU or national
instruments
with extra-
territorial
effect

Recommendations – international, binding instruments

- ▶ Little chance to realise a new stand-alone international mining treaty
- ▶ Strengthen environmental impact assessment
- ▶ Push at European level for environmental standards in Free Trade Agreements
- ▶ Integrate into existing international treaties
- ▶ Engage in ongoing activities under UNCLOS
- ▶ Promote ratification of ILO Conventions

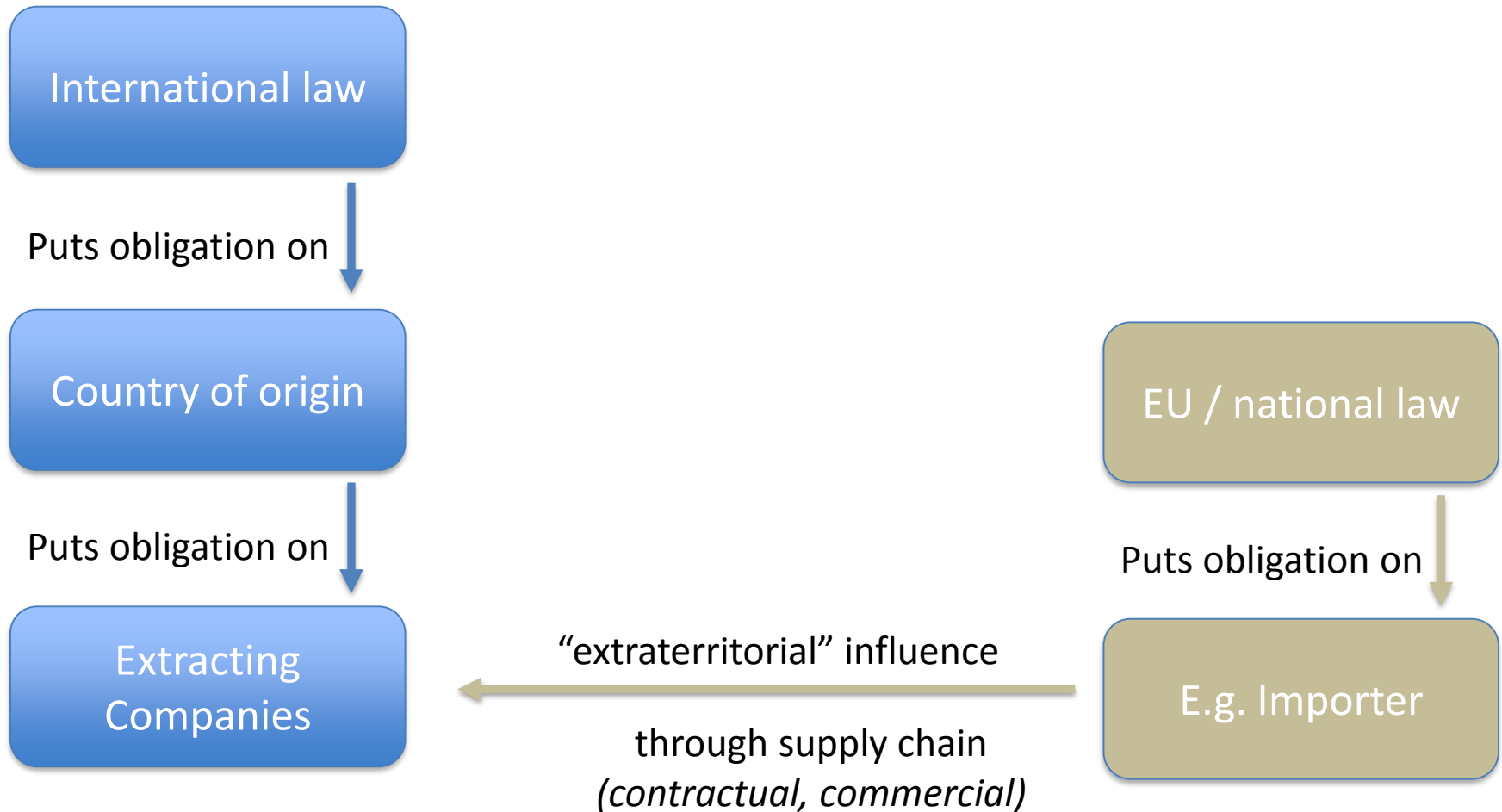
Recommendations - International non-binding standards

- ▶ New world-wide non-binding mining standard
- ▶ Integrate environmental reporting into EITI
- ▶ ISO Norm for sustainable products containing mineral raw materials

Recommendations – co-operation

- ▶ Use bilateral instruments for foreign trade and investment promotion
- ▶ Strengthen bilateral and multilateral development cooperation in the mining sector
- ▶ Support innovative supply chain initiatives
- ▶ Promote international platform addressing legacy mine rehabilitation

International law vs “Extraterritorial effect”



Recommendations – extraterritorial effect

- ▶ Approach: EU/national obligations on actors „downstream“ with intended effects „upstream“
- ▶ => Potential to address challenges with regard to international binding and non-binding standards
- ▶ Options:
 - ▶ Add environmental standards to existing instruments
 - ▶ Develop new instruments for mining
- ▶ Key questions:
 - ▶ „due diligence“ obligations at the core?
 - ▶ General or sector-specific obligations?
 - ▶ Link in legislation to non-binding standards?

Thank you

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