

Bank Guarantee and Mining Operations

a credit tool protecting tax payers

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WHY DO WE NEED TO BE GUARANTEED



Thousands of tonnes of dangerous mining waste dumped in wrong place

Wed 20 Dec 2017
17.00 GMT

An Australian mine owned by the global trading firm [Glencore](#) mistakenly dumped 63 truckloads of dangerous waste material in the wrong place, where it combusted and sent sulphur dioxide into the atmosphere.



Cyanide spill floods into Danube

Mon 14 Feb 2000
01.04 GMT

The spill, which originated in northern Romania, where a dam at the Baia Mare gold mine overflowed last month and caused cyanide to flow into streams, has not been diluted to a safe level despite winter rains.

"If I am pessimistic, I would say that life in the River Tisza will never recover from this," said Elemer Szalma, a hydro-biologist from Szeged in southern Hungary. "If I am optimistic, I would say it will take 10 to 12 years to recover."

EUROPEAN UNION DIRECTIVES

Premise

- The European Union produces legislative acts, known as Directives, which require member states to achieve a particular result without dictating the means of achieving that result;
- the most specific directive applicable to mining operation is the EU Directive 2006/21/EC;
- Article 5 of this Directive requires that an operator draws up a waste management plan which should contain the proposed plan for closure, including rehabilitation, after-closure procedures and monitoring;
- Article 14 establishes the need for a financial surety, known as a financial guarantee, to cover the accumulation or deposit of waste;
- EU Directive 2006/21/EC amends EU Directive 2004/35/EC on environmental liability with regard to the Prevention and Remedying of Environmental Damage. The latter requires that a financial surety be used to cover the responsibilities under this Directive.

EU DIRECTIVE 2006/21/EC

AIM

- Set minimum requirements to prevent or reduce adverse effects on Environment and Human health caused by waste from the extractive industry

OBJECTIVES

- Minimising waste production with an appropriate strategic plan
- Encourage waste recovery

REQUIREMENTS FOR LICENCE GRANTS AND PERMITS

- The competent authority must be fully satisfied if the new facility is:
- designed to prevent pollution, well positioned, well built and managed, monitored, provided with suitable arrangements for the rehabilitation of the land and the closure of the waste facilities

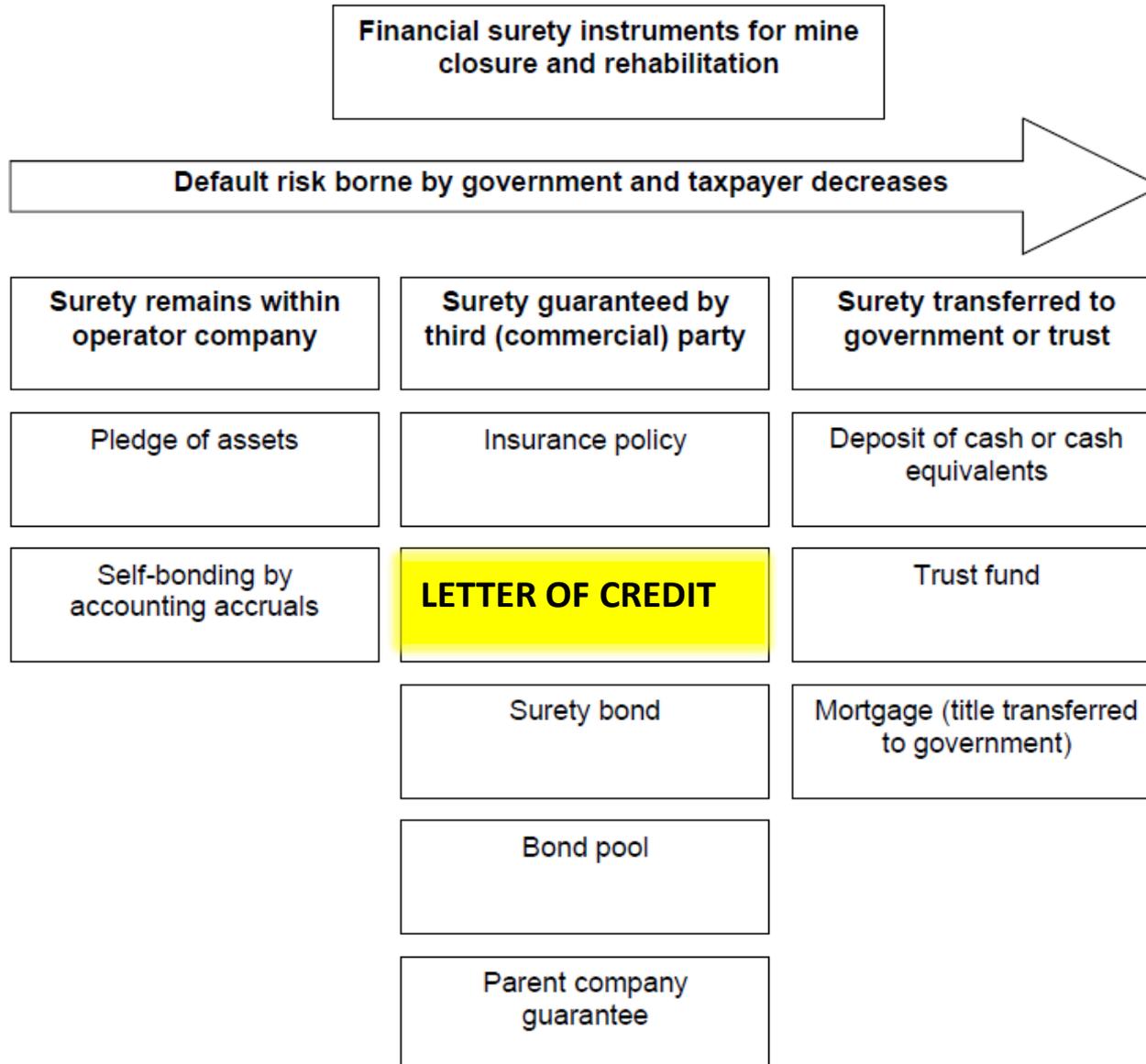
FINANCIAL GUARANTEES

- Must be in place before waste disposal starts;
- Member states have wide discretion as to mechanisms and procedures;
- Adequate to meet all obligations under permits;
- Available to ensure rehabilitation at any time;
- Must take in account the environmental impacts;
- Be periodically adjusted to take account of changing requirements.

FINANCIAL GUARANTEES - purpose scope and assessment

- Waste facilities
- Mine sponsors should prepare a mine reclamation and closure plan (MRCP) which incorporates both physical rehabilitation and socioeconomic considerations, so that:
- Future public health and safety are not compromised
- Regulatory agencies + local communities + traditional land users + adjacent leaseholders + civil societies + other stakeholders
- The finalization of the MRCP is site specific
- The calculation of the guarantee shall be made by an independent and suitably qualified third party which will assess and perform the rehabilitation work needed

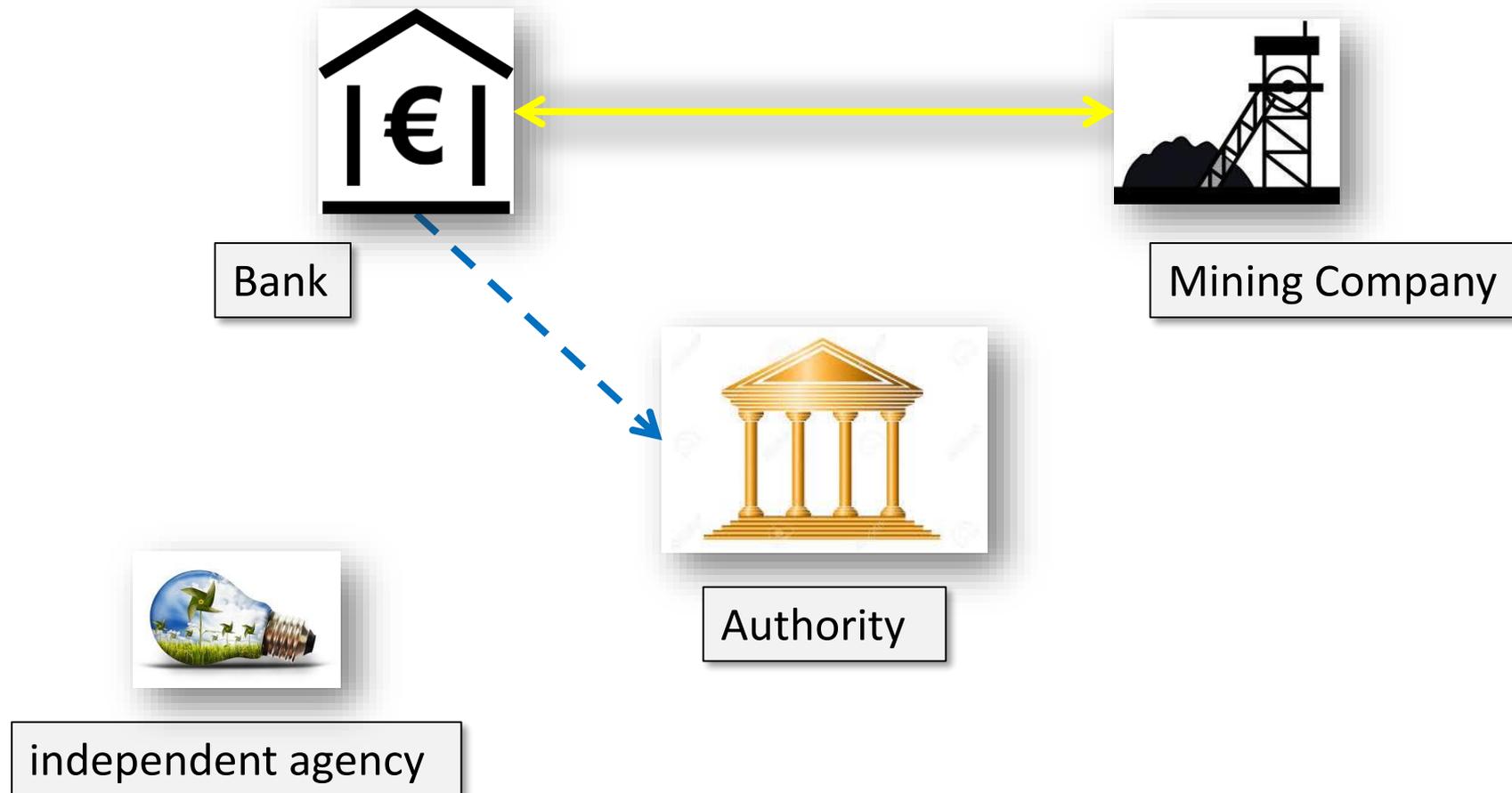
FINANCIAL GUARANTEES



LETTER OF CREDIT (STAND BY LC or SLOC)

An irrevocable letter of credit, also known as a bank guarantee, is an unconditional agreement between a bank and a proponent to provide funds to a third party on demand.

In this case, the third party is the relevant government department



LETTER OF CREDIT (STAND BY LC or SLOC)

- It includes the terms and conditions of the agreement between the proponent and the government, with reference to the rehabilitation program and the agreed-upon costs;
- Any changes to the Letter of Credit requires the consent of all the parties involved;
- To obtain a Letter of Credit, the proponent has to demonstrate to the bank that provisions have been made for the rehabilitation of the site and that it has sufficient funds or liquidity to cover the costs;
- If the bank decides not to renew a Letter of Credit and the proponent fails to provide an acceptable alternative form of surety, then the government can request payment for the full outstanding amount of the Letter of Credit;
- The annual cost of a Letter of Credit ranges from 0.5 percent to 9 percent of the guaranteed amount depending on the proponent's credit rating;

LETTER OF CREDIT

ADVANTAGES

- Cheap to set up (provided that company meets the bank's requirements);
- Modest cash outflow from mine operator;
- Less administrative requirements;
- The government can reserve the right to approve banks from which they accept an Letter of Credit, thereby minimizing the risk of failure of weak banks.

DISADVANTAGES

- Surety provider (bank, surety company) itself may fail;
- Obtaining an Letter of Credit may reduce the borrowing power of the mining company;
- Availability of bonds depend on the state of the surety industry and may be negatively affected by market forces outside the mining industry.

THE NEXT FRONTIER

Ecological impacts of large-scale disposal of mining waste in the deep sea.

Deep-Sea Tailings Placement (DSTP) from terrestrial mines is one of several large-scale industrial activities now taking place in the deep sea. The scale and persistence of its impacts on seabed biota are unknown.

Thank you

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