

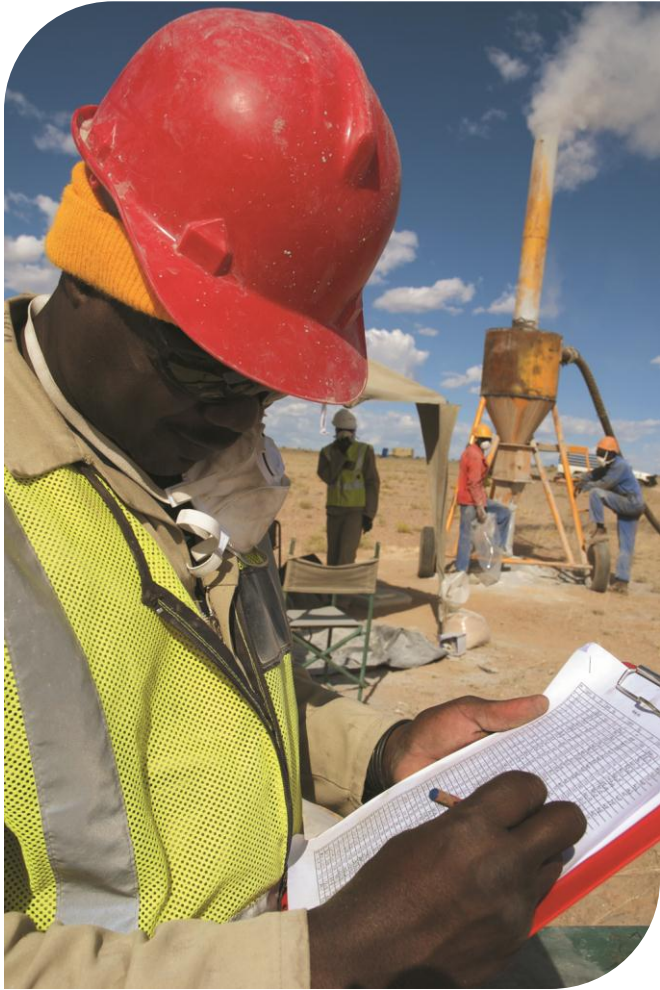

NAMIBIA'S NEW FRONTIERS

Transparency and Accountability in Extractive Industry Exploration

Presentation by Graham Hopwood
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Extractive Industry Governance



- Namibia's regulatory environment is generally well-regarded see the Fraser Institute and Dolbear rankings
- No room for complacency. Namibia's laws are out of date and are lagging behind global transparency and accountability standards
- A protracted reform process is underway with a new Minerals Act being formulated
- This provides an opportunity for reviewing such laws with a view to strengthening anti-corruption measures



Global Trends

Winds of change are starting to blow...

- New EU regulations on the way will oblige large extractive companies to declare payments made in resource-rich countries
- 2010 Dodd Frank Act in US places similar onus on companies listed in the US
- UK Bribery Act – makes it a criminal offence for British firms to pay bribes abroad



Opposition also building...

- Competitive disadvantage claims
- American Petroleum Institute



EITI and Namibia



PROS

- Reduces corruption risks
- Improves investment climate
- Reduces reputational risks for companies



CONS

- Western countries have been lukewarm about EITI (starting to change)
- Costs attached

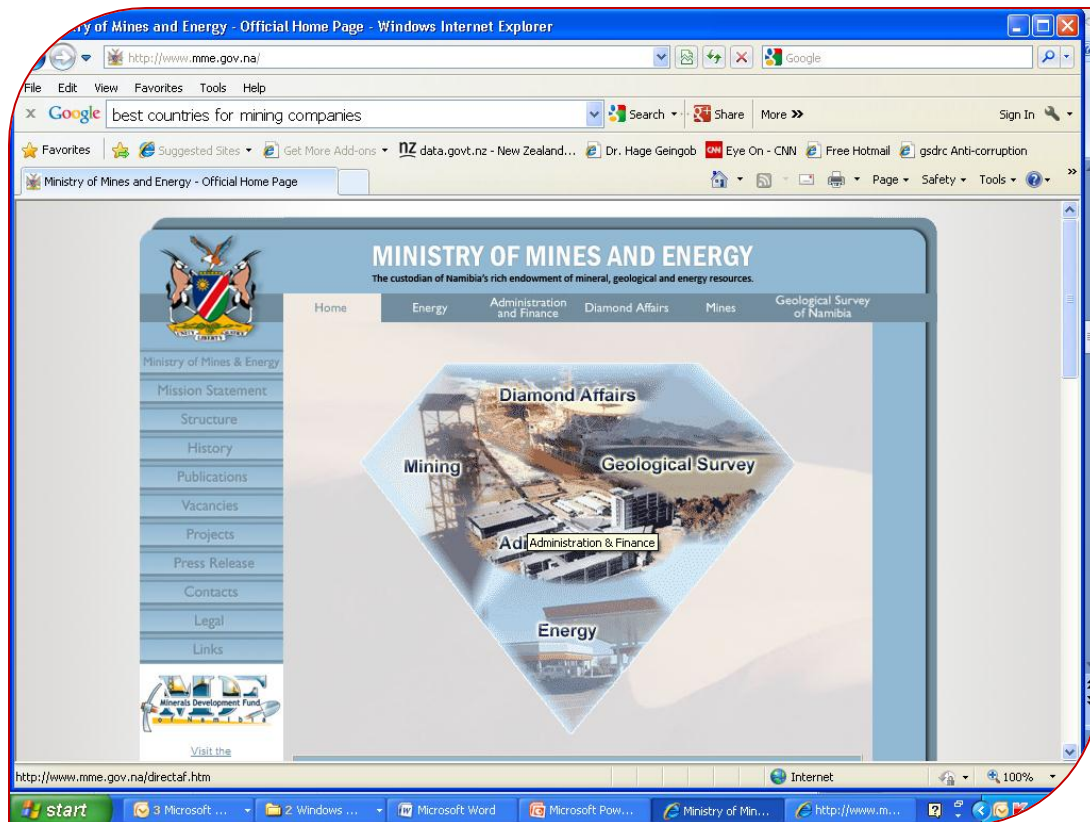
On balance Namibia should join the EITI



- The EITI is a global standard that promotes revenue transparency
- There are 39 member states of which 20 are compliant, 13 are implementing and six are suspended.
- Overseen by multi-stakeholder group of governments, companies and civil society
- Companies publish what they pay and governments publish what they receive in an EITI report.



How Transparent is Namibia?



Ministry of Mines & Energy website

- MME has a commendable amount of information on its website about licences
- Comprehensive list of Exclusive Prospecting Licences
- However, Petroleum Exploration Licences are less clear. Hydrocarbon Map struggling to keep up
- Hard to track ownership changes



Are Regulations Corruption Proof?

- Small number of officials have great deal of discretionary power
- Lack of checks and balances and oversight mechanism
- No Access to Information in Namibia
- Lack of codes of conduct for officials



Lack of info also a problem for government:

“EPLs are being abused. People buy them from the Ministry and then sell their rights on stock exchanges. We want to stop such practices.”

– Minister of Mines and Energy, Isak Katali, June 2010



BEE – Lack of Framework or Charter

- Namibia's confused approach to BEE means that BEE principles are informally applied (Namibianisation)
- Too much scope for favouritism, steering licences and licence benefits towards specific partners without due process
- Role of state companies should be clarified (Epangelo and Namcor)
- Companies also seek out those they perceive as having BEE credentials – often the politically connected



Environmental and Social Frontiers

- As more exploration and mine development takes place in Namibia's communal areas the potential for conflict and environmental damage grows
- The planned exploitation of iron ore deposits in Kunene is bringing this into focus
- Need for much greater community consultation and effective EIA regime



Industry Perceptions

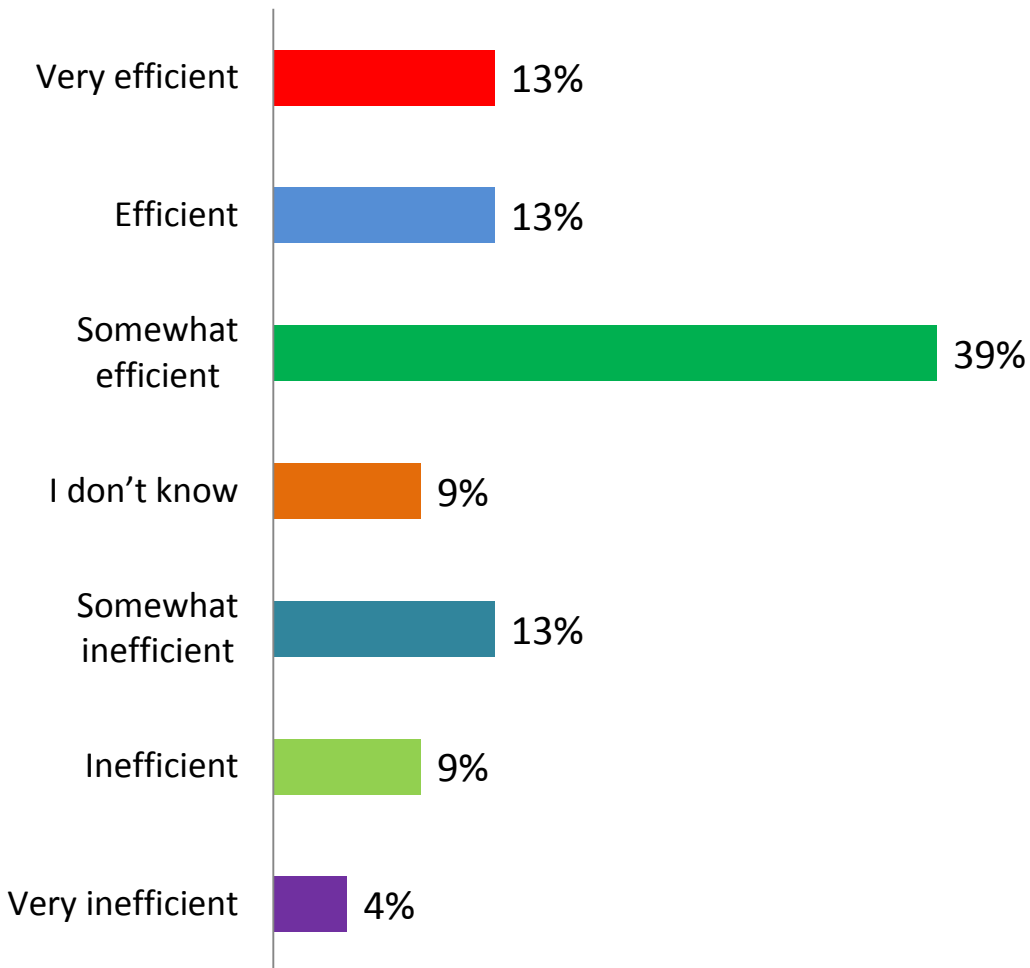


Top five concerns

- 1** Role of middlemen between companies and government
- 2** Pressure from officials to link with untested/inexperienced entities/individuals
- 3** Lack of clear policies/frameworks
- 4** Corrupt practice in private sector
- 5** Red tape/bureaucracy



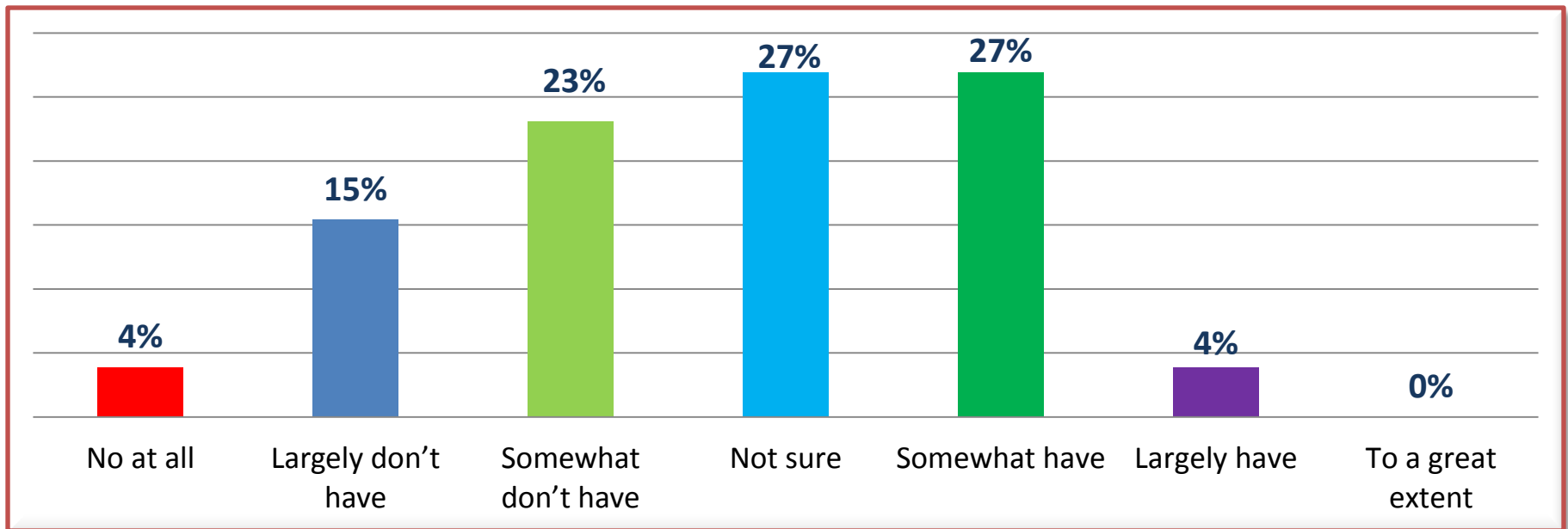
Efficiency of Licensing System



- Efficiency of exploration licensing system.
- Generally positive view of government efficiency in handling of licence issues.
- Fraser Institute rates Namibia as the second best jurisdiction in sub-Saharan Africa for mining companies to do business.
- Geological Survey and the availability of high quality data are major positives.



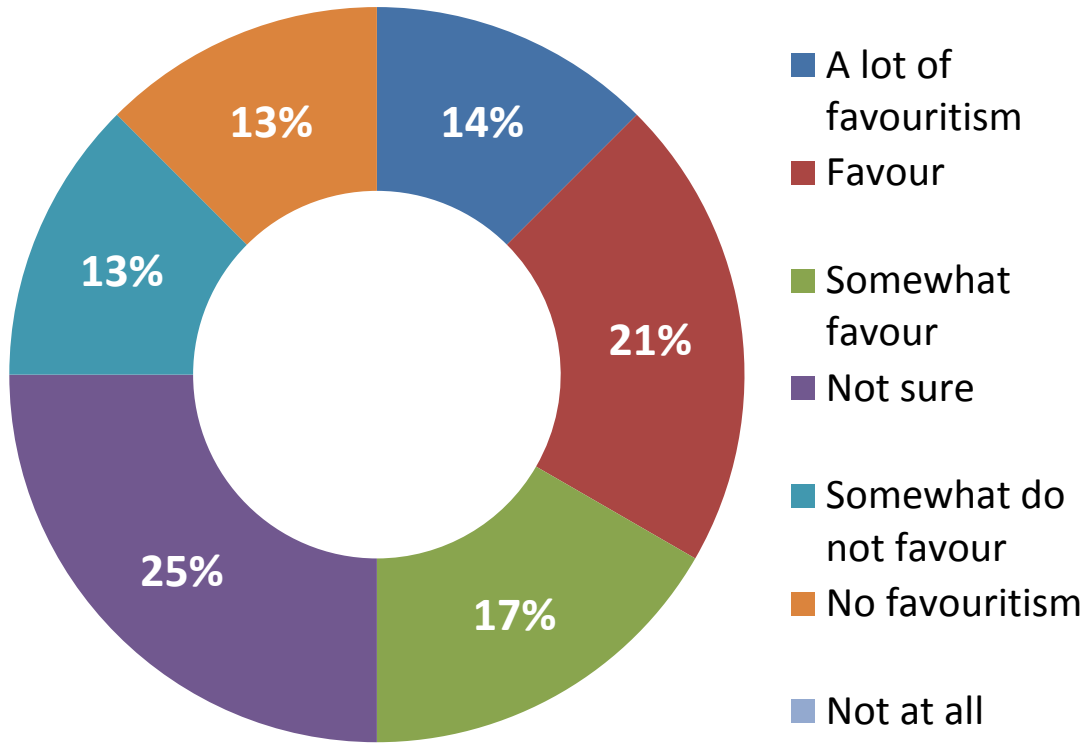
Dealing with Corrupt Practices?



- To what extent does government have systems in place to ensure any corrupt elements within government and government agencies are brought to book?
- Companies' confidence lacking.
- Perceptions that the ACC is only skimming the surface when it comes to tackling grand corruption in Namibia are widespread and also reflected in the views of key extractive industry players.



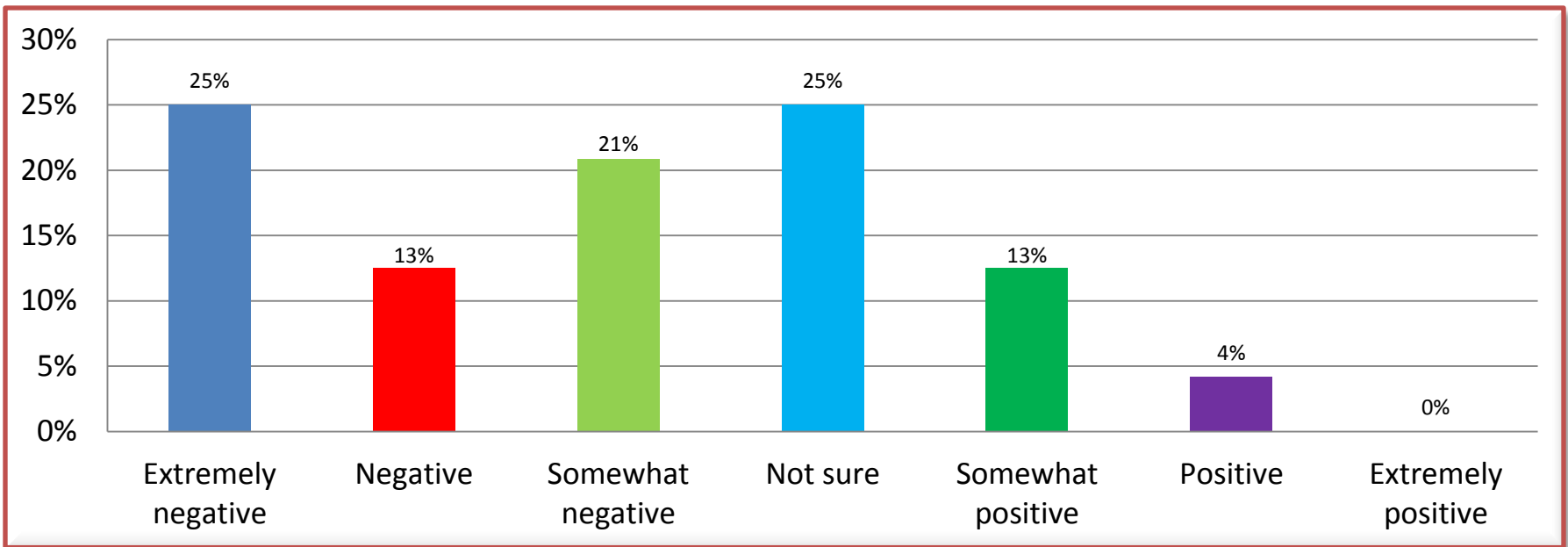
Favouritism for Politically Connected?



- To what extent do public officials show favouritism to politically well-connected companies/business people when making decisions about licence allocations?
- 50% think that public officials show favouritism towards politically well-connected companies and individuals when they implement the licensing process.



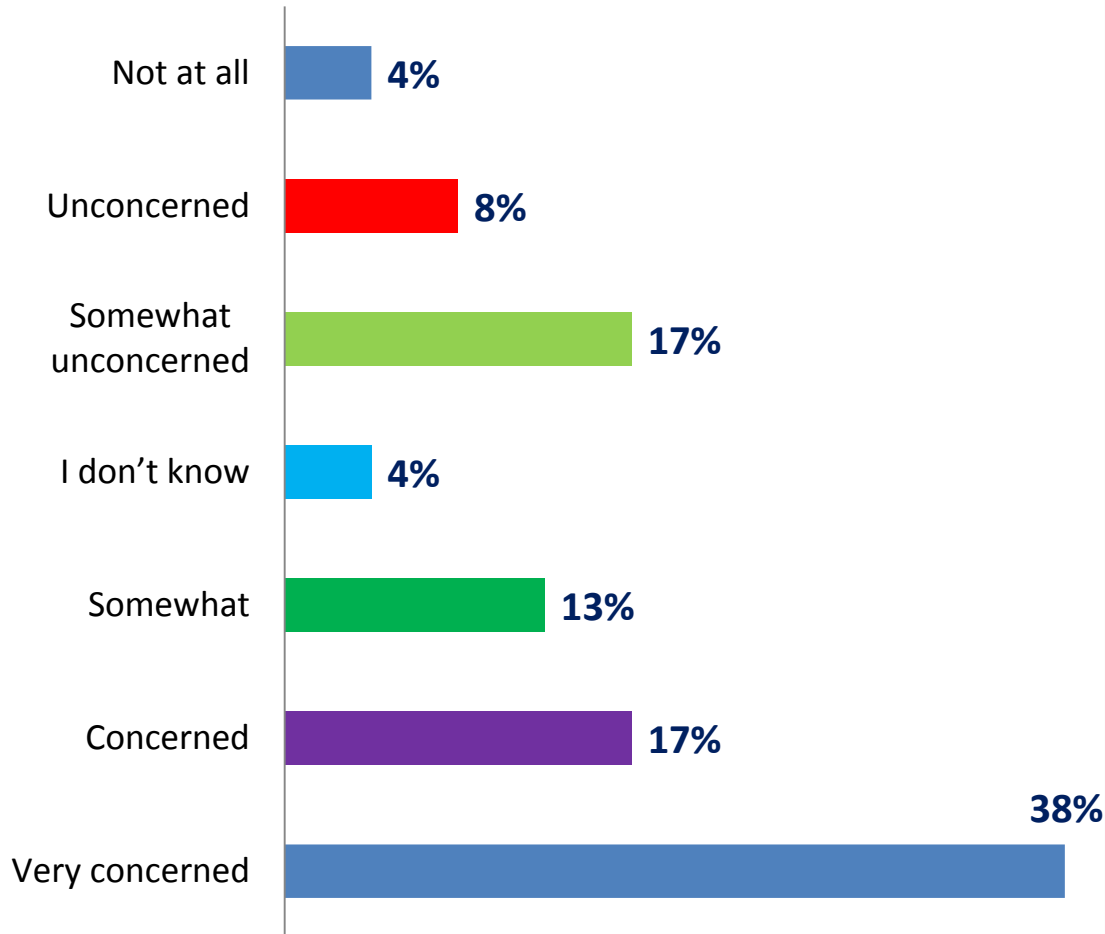
Impact of Middlemen?



- What is the impact of middlemen/brokers/third parties in terms of ensuring accountability and mitigating corruption risks in the licence allocation process?
- Existence of middlemen in the licencing process is generally viewed as having a negative impact. 59% responded that the middlemen generally have negative impact.



Should ACC be Concerned?



- To what extent should the ACC be concerned about the integrity of exploration licence allocation procedures?
- Respondents were largely of the opinion that the ACC should be concerned about the integrity of exploration licence allocation procedures
- 38% think the ACC should be **very** concerned.



What If We Find Oil?



Regulatory system is currently not fit for purpose

What is needed?

- Much greater transparency and ATI
- Multi-stakeholder oversight mechanism
- Namcor's role reviewed and redefined
- Sovereign Wealth Fund



Recommendations



- Align national laws with international standards
- Stress anti-corruption in licence allocation
- Clarify roles of state companies
- Introduce ATI law and components
- Develop civil society expertise
- Require companies to meet international standards



Recommendations

- Require companies to employ community relations personnel
- Apply E3 Plus Principles to exploration
- Join the Extractive Industries Transparency Initiative
- Build government employee capacity
- Chamber of Mines should directly join International Council for Mining and Minerals





THANK YOU!

