

The extractives industry and natural World Heritage sites: a review of the issues

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Background

UNESCO natural World Heritage sites (WHSs)¹ are recognised as being of Outstanding Universal Value (OUV) to humanity and are the flagships of the global network of protected areas. However, despite covering less than 1% of the globe's surface, they are increasingly under threat from myriad industrial-scale activities, in particular extractive (mining, oil and gas) activities. We summarise here the key findings and recommendations from a detailed investigation into the reasons for these increasing threats, carried out by the Zoological Society of London (ZSL) in collaboration with Estelle Levin Ltd and Legal Atlas Inc.²

The study included a review of regulatory frameworks, a survey of extractives and finance sector company policies and perspectives, and evaluation of spatial monitoring and environmental risks at international and site level, focusing on three marine and terrestrial case study WHSs: the Great Barrier Reef (Australia), Virunga National Park (Democratic Republic of Congo) and Dja Faunal Reserve (Cameroon). This summary outlines the key messages and recommendations for multiple stakeholders, including States Parties to the World Heritage (WH) Convention, the WH Committee, the finance and extractives sectors, standards-setting bodies and civil society.

Results

Firstly, State Party signatories to the WH Convention often allocate concessions and/or allow extractives activities within natural WHSs despite the WH Committee's long-held position that they are incompatible with WH status. As a consequence, these sites are under increasing threat from the direct, indirect and cumulative environmental impacts of extractives activities, which have the capacity to affect their OUV.

Secondly, the domestic adoption of the WH Convention legal framework by States Parties—necessary where the treaty is not directly enforceable or requires clarification—is often weakly or opaquely worded, and is far from uniform across States Parties, which creates opportunities for extractives companies to access properties that the spirit of the relevant law/s arguably intends them not to. The efficacy of such laws is also often further undermined by the inability of some States Parties to adequately monitor extractives activities, both industrial and artisanal and small-scale (ASM), and implement relevant legislative requirements. These failings are further compounded by the inability of the WH Committee to enforce adherence to the Convention; compliance with the Convention is effectively voluntary, and the delisting process—the only real recourse available to the Committee to promote compliance—is seldom used, indeed, only once in the 43-year history of the Convention, as it carries considerable reputational risk to both the State Party and

¹ This includes 'mixed' WHSs, which are listed for both natural and cultural values.

² Kyngdon-McKay et al. in prep. The extractives industry and natural World Heritage sites: a review of the issues. Zoological Society of London (ZSL), London, UK.

company/ies involved.

Thirdly, although there has been progress in the private sector in relation to the adoption of public ‘no-go’³ (and ‘no-impact’⁴) commitments for WHSs, little momentum has been gained in their uptake since their emergence in 2003. Furthermore, the wording of many protected area policies in the extractives and finance sectors is highly variable (and not always public), and approval for projects can sometimes rely on subjective assessments of ‘tolerable’ harm levels to WHSs—features that neither promote consistency in the conservation of these sites nor recognise their inherent biodiversity value. The lack of specific no-go wording for natural WHSs in accepted international frameworks, standards and guidelines, such as those developed by the International Finance Corporation (IFC), development banks or commodity-based standards, further disincentivises such private sector initiatives.

Fourthly, inadequate cooperation and communication between stakeholders has led to a situation of ‘passing the buck’, whereby companies cite governance or regulatory issues as a barrier to private sector-specific initiatives, or civil society lays the blame for encroachment on WHSs with the private sector alone. Without universal acceptance of no-go frameworks, companies lacking stringent environmental policies are more likely to enter natural WHSs in place of those with more environmentally responsible policies in place.

Finally, data on the scale and incidence of extractives activities within and in close proximity to natural WHSs are incomplete and difficult to access. Similarly, relevant biodiversity data is not always easy for the private sector to find or access. This undermines efforts to accurately monitor and manage these activities and assess their environmental impacts, which in turn challenges the development of appropriate institutional, policy and private sector responses.

Recommendations

In light of these findings, we make several key recommendations (summarised by stakeholder group in the table below):

- 1. Strong, consistent and operational national legal frameworks.** States Parties to the WH Convention are encouraged to respect current and future WHS boundaries and cancel all existing mining, oil and gas concessions that overlap natural WHSs and to not allocate such concessions in future. Additionally, they are encouraged to include in national legislation (1) an ‘off-limits’⁵ provision for industrial-scale extractives activities (including associated infrastructure) within all natural WHSs and (2) a stipulation that appropriate and rigorous pre-emptive appraisal processes, such as international best practice environmental and social impact assessments (ESIAs), must be undertaken for extractives activities that may affect natural WHSs. The WH Committee is encouraged to consider including clear guidance on these provisions, as already outlined in previous Decisions, in the new Policy Guidelines to the WH Convention currently under development. Legal experts could provide relevant reviews, tools and advice to support these activities.

³ A ‘no-go’ policy refers here to the commitment by a company to not carry out or support extractives activities in a particular site.

⁴ A ‘no-impact’ policy refers here to the commitment by a company to not carry out or support extractives activities that may have adverse impacts on a particular site, regardless of the location of the activity.

⁵ An ‘off-limits’ provision refers to a government restriction on development in a particular site, rather than corporate policy.

2. **Standardised private sector policies.** The finance and extractives sectors, and those involved in the trade and purchase of extractives resources, are encouraged to develop standardised, industry-wide ‘no-go’ and ‘no-impact’ principles for industrial-scale extractives activities (including associated infrastructure) for all natural WHSs, and collaborate to develop an improved regulatory framework to oblige universal adherence. In the meantime, the extractives sector could improve site selection methodologies to promote the avoidance of natural WHSs (the Energy Biodiversity Initiative’s (EBI) standards could be used as a basis for these guidelines).
3. **Integration into international standards.** The IFC is encouraged to modify or provide sector-specific guidance for Performance Standard 6 (PS6), and development banks such as the World Bank are urged to develop appropriate safeguards, to require their clients to avoid natural WHSs. Voluntary certification schemes should include similar standards. This would help to standardise this practice globally in both public and private sectors.
4. **Multi-stakeholder cooperation and support.** UNESCO and the WH Committee are encouraged to support the efforts of WH civil society networks to assist States Parties (and the Advisory Bodies) with the monitoring, management and reporting of their natural WHSs. The extractives, procurement and finance sectors are encouraged to work with the conservation sector to engage with the WH Convention to improve the regulatory framework and thus support private sector initiatives.
5. **Data sharing and transparency.** Industry and governments are urged to share policies and laws on WHSs and non-commercially sensitive data collected during strategic planning and environmental risk assessment stages of project development, to enable better spatial mapping of extractives activities and to support efforts to improve transparency on threats to and impacts on WHSs. Donors such as the development banks should fund improved efforts to make biodiversity data, such as that collated for National Biodiversity Strategies and Action Plans and National Red Lists, publicly available and relevant to WHSs, to facilitate the execution of appropriate ESIA.

Recommendations for different stakeholders to safeguard natural and mixed WHSs from industrial-scale extractives activities

| Stakeholder | Recommendation |
|-------------------------------------|--|
| States Parties to the WH Convention | <ul style="list-style-type: none"> • Respect the boundaries of World Heritage sites as designated • Cancel all existing mining, oil and gas concessions that overlap natural WHSs and do not allocate such concessions in future • Include in national legislation (1) an ‘off-limits’ provision for industrial-scale extractives activities (including associated infrastructure) within all natural WHSs and (2) a stipulation that appropriate and rigorous pre-emptive appraisal processes, such as international best practice ESIA, must be undertaken for extractives activities that may affect natural WHSs • Encourage the WH Committee to detail the WH Convention’s position on extractives and natural WHSs in its new Policy Guidelines • Share non-commercially sensitive data collected during strategic planning and environmental risk assessment stages of project development to support transparency and best practice • Support improved efforts to make biodiversity data, such as that |

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| | collated for National Biodiversity Strategies and Action Plans and National Red Lists, publicly available |
| WH Committee | <ul style="list-style-type: none"> • Consider including in the WH Convention's Policy Guidelines clear guidance on the above provisions for State Party national legislation • Support the efforts of WH civil society networks to assist States Parties (and the Advisory Bodies) with the monitoring, management and reporting of their natural WHSs |
| IFC, development banks, certification and other standards-setting bodies | <ul style="list-style-type: none"> • Develop appropriate safeguards and standards to require their clients to avoid natural WHSs and ensure no negative impacts from activities outside them • Fund improved efforts to make biodiversity data, such as that collated for National Biodiversity Strategies and Action Plans and National Red Lists, publicly available |
| Extractives sector | <ul style="list-style-type: none"> • Develop standardised, industry-wide 'no-go' and 'no-impact' principles for industrial-scale extractives activities (including associated infrastructure) for all natural WHSs (existing and future) • Improve site selection methodologies to promote the avoidance of WHSs • Work with the conservation sector to engage with the WH Convention to improve the regulatory framework on extractives and natural WHSs |
| Procurement and finance sectors | <ul style="list-style-type: none"> • Develop standardised, industry-wide 'no-go' and 'no-impact' principles for industrial-scale extractives activities (including associated infrastructure) for all natural WHSs (existing and future) • Work with the conservation sector to engage with the WH Convention to improve the regulatory framework on extractives and natural WHSs • Support efforts to improve transparency on threats to and impacts on natural WHSs |
| Conservation sector and civil society | <ul style="list-style-type: none"> • Work through WH civil society networks to assist States Parties (and the Advisory Bodies) with the monitoring, management and reporting of their natural WHSs and to raise issues regarding their protection • Conduct a full review of national/local interpretation and implementation of WH-related legal frameworks for all WHSs and States Parties to the WH Convention and make publicly available, to help guide legislative revision • Work with industry and other civil society groups to engage with the WH Convention to improve the regulatory framework on extractives and natural WHSs • Provide technical support for IUCN's World Heritage Outlook system to improve monitoring and management of natural WHSs |

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