

TERMS OF REFERENCE

STRATEGIC ENVIRONMENTAL AND SOCIAL ASSESSMENT OF THE MINERAL SECTOR

Analytical Component

A. Objective.

This strategic environmental and social assessment (SESA) responds to the Government request for assistance in developing its mineral policy. The proposed SESA will help meet long-term country development outcomes by integrating environmental and social considerations in mining policy and sector growth. While principally focused on environmental aspects, the review will pay sufficient attention to the transmission mechanisms whereby mining activities and mining-induced changes in income and poverty levels affect environmental outcomes.

On the whole, considering the ongoing and proposed development and capacity building initiatives for the mining sector, the SESA aims at providing a strategic framework for strengthening environmental and social sustainability of minerals sector in the country.

The specific objectives of the SESA are to:

- identify environmental and social priorities and key intersectoral environmental and social linkages associated to mining activities in the country;
- assess transmission mechanisms from existing mining related policies and mining policy proposals to environmental and social priorities and key linkages;
- assess in-country institutional and governance weaknesses to address these effects;
- provide international comparisons, case studies, examples and best practices on how other developing countries have addressed similar institutional and governance weaknesses for promoting environmentally and socially responsible mining development to those identified for mining in the country;
- formulate mining related policy recommendations for their inclusion in a comprehensive minerals policy to address institutional and governance weaknesses ensuring consideration of perceptions and concerns of main stakeholders and, especially, vulnerable groups; and,
- recommend systems that will enable future adjustments of mining related policies in response to experience, new information or changes in stakeholder preferences.

B. Background

Mining plays a vital role in the growth and poverty reduction strategy. The country's economy is highly dependent on mining, and the sector has been growing for last several years. While growth in the sector is needed to generate much-needed foreign exchange and government revenues and contribute to the country's economic development, weak planning and regulatory capacity and institutional and governance constraints in the government would undermine sustainable development. Environmental impacts of mining worldwide, under poor regulatory enforcement and weak sector governance, have included deforestation, land degradation, and water and air pollution from waste dumps and tailings disposal. Artisanal and small-scale mining (ASM) activity, an important source of livelihood for a significant number of local miners, is characterized by poor technological practices, with adverse environmental and social impacts. In particular, a sudden influx of thousands of ASM miners attracted by new discoveries of mineral deposits has devastating effects.

Mining development, on the other hand, offers opportunities for economic growth and poverty reduction if conducted in an environmentally and socially responsible manner. The Government has initiated a number of reforms aimed at promoting good governance, pro-poor growth and human development.

C. Organization and Scope of Work.

The SESA will be supervised by the Bank and undertaken by a team comprising of a local mining consulting company, responsible for the SESA's analytical component; a local NGO or consulting company with extensive experience on public participation and consultation, responsible for the SESA's participatory component; and a team of two international consultants with experience on social, policy and environmental issues in minerals development, which will provide overall coordination and advisory services to the local consultants. Under these Terms of Reference, the local consultant firm commissioned to carry out the SESA's analytical component (the Consultant) will undertake the following activities:

1. SESA Inception Report

Along with the other local firm/entity hired to carry out the SESA, the Consultant will participate in the preparation of an Inception Report to be coordinated by the international consultant company. The Inception Report should describe (i) the institutional arrangements and timing agreed with key government counterparts to carry out the SESA; (ii) the SESA work plan describing the main activities for data collection and analysis, including consultation/validation with stakeholders and differentiating responsibilities of the firms/entities undertaken the SESA according to their respective ToRs; and, (iii) the expected products and reports schedule to be submitted to the World Bank.

2. Stakeholders Analysis and Political Economy of the Mining Sector

The Consultant will identify the key stakeholders in the mining sector and analyze the interests and incentives underlying their behavior. The analysis should clarify the key interactions between miners, local communities and the government identifying winners and losers and tensions or conflicts between them. Also, the Consultant will describe the main differences within each group of stakeholders. Miners, for example, can be divided in large and medium scale mechanized mining (LSM) and artisan and small scale mining (ASM). In turn ASM are likely to be further differentiated between those that hold some kind of mining rights from those that are only laborers, workers receiving wages or partaking in the product in exchange for their labor force. Communities can also be very heterogeneous and power, interests and needs are likely to differ due to gender, age, socioeconomic and political conditions. The aim of the stakeholder analysis is to identify the main interest groups that prevail in the mining sector and key distributional trends of benefits from mining production as well as costs in terms of environmental degradation, social deprivation and cultural marginalization.

The international consultant will assist the Consultant on the preparation of a work plan for stakeholder analysis and discussion of the political economy of the mining sector, including relevant information on methodologies and techniques best fitted to the local context.

3. Assessment of Transmission Mechanisms of Existing and Proposed Mining Related Policies on Key Environmental and Social Priorities

The Consultant will assess the transmission mechanisms from existing and proposed mining related policies to key environmental and social issues associated with mining activities in the country. This will entail a two-stage analytical process. The first stage is the identification of environmental and social priorities and key intersectoral environmental and social linkages associated with the mining sector. This requires that the Consultant develops criteria to prioritize environmental and social issues in the context of the country where, for example, environmental health issues are likely to be more important than environmental quality issues. To the extent possible, the criteria used must allow for quantification to objectively compare and categorize competing issues. Environmental and social priorities will be identified based on secondary data, case studies, expert judgment, and priority environmental concerns of stakeholders. For the identification of key environmental and social issues, the Consultant will have the assistance of the international consultant.

The Consultant will coordinate with the local consultant responsible for the SESA's participatory component the first round of the SESA consultations through regional workshops. These workshops must serve to capture the perceptions of relevant stakeholders on environmental and social priorities related to mining and the corresponding proposed government interventions or policies needed to address them. The Consultant must ensure that the perceptions of weaker and vulnerable stakeholders are taken into account and incorporated into the analysis.

The second stage is to assess the effects that existing and proposed mining related policies may have on key environmental and social priorities associated with mining in the country. This requires, on the one hand, surveying the mining related policy proposals under discussion, and, on the other hand, understanding of the transmission mechanisms from policy to environmental and social priorities related to the mining sector in place. The results of this assessment will be validated through focus groups and a second round of regional workshops with the assistance of the local consultant responsible for the SESA's participatory component. The Consultant must ensure that the perceptions of weaker and vulnerable stakeholders are taken into account in validating the results of this assessment.

In the analysis of the transmission mechanisms from policy to environmental and social priorities, the Consultant will consider at least the following factors: (i) institutional capacity for environmental and social management in the mining sector; (ii) effectiveness of mechanisms for incorporating environmental and social considerations in artisan and small scale mining such as environmental regulations or technical assistance provided by development partners and NGOs; and, (iii) existing or lack of benefit sharing arrangements to promote regional and local development from mining activities and to avoid natural resource curse and rent-seeking behavior.

To identify key environmental and social priorities and assess the effects of mining related policies on them, a multiple case study will be carried out to distinguish between large/medium scale (LMS) from artisan/small scale operations (ASM), comprising at least two case studies. Case studies will be selected from regions where each type of mining activities prevails. The analysis will also be undertaken using data on environmental and poverty indicators, previous state of environment and cost of environmental degradation studies, if available, and other analytical and advisory work in the mining sector conducted by the Bank and other institutions. Methodological support to carry out this activity will be provided to the Consultant by the international consultant.

4. Assessment of Institutional and Governance Weaknesses

The Consultant will assess the capacity of public agencies at national, sub-national and local levels, the mining industry distinguishing between LMS and AMS, and local communities' organizations to address the potential effects of mining related policies and policy proposals on key environmental and social issues associated with mining activities. The assessment will be carried out at two levels. At the national level, it will focus on relevant mining and environmental sector institutions within the government. For public agencies at sub-national and local levels, the mining industry and local communities, the assessment will be mainly based on the aforementioned case studies and complemented by in-depth interviews with key informants and, if needed, with focus groups discussions with vulnerable stakeholders. The international institutional consultant will provide technical advice to the Consultant for this assessment and coordinate the expenditure review of sector and environmental institutions mentioned below.

Keeping the focus of the assessment on the effects of mining related policies and policy proposals on key environmental and social issues, the following institutional and governance issues will be covered by the consultant:

- Gap analysis of mandate and capacity, and incentives for and transparency in permitting, monitoring and enforcing environmental regulations in the mining sector.
- Expenditure review of sector and environmental institutions for environmental and social regulation and enforcement in the mining sector.
- Transparency and accountability in revenue use as recommended by the Extractive Industry Transparency Initiative and specifically for diamond mining, the Kimberley Process.
- Capacity and transparency of institutions at the central and local level (Chiefdom) for mining rights holders to access to land, forests and water and to resolve controversies between mining right holders and landowners and water users.
- Coordination between mining and environment and natural resource management institutions.
- Accountability of decision makers and authorities with competence for granting environmental permits to mining activities.
- Organizational and institutional capacity of stakeholders affected by or vulnerable to mining activities.

Based on the results of this assessment and the review of international experience in the local context¹, the Consultant with the assistance of the international institutional consultant will prepare policy recommendations. In undertaking this activity, the Consultant should consider the ongoing and proposed initiatives to enhance policies, institutions and governance for sector and environmental management in mining in the country such as EITI, Corporate Social Responsibility in the Mining Sector and Cadastre System.

5. Informing Policy Dialogue

In carrying out the SESA, the Consultant needs to be responsive to the requirements of the policy making process. The Consultant will provide inputs for policy formulation and implementation as key SESA results are produced. It will also be flexible to accommodate to their work program environmental and social government priorities for mining policy that may arise during the implementation of the SESA. To link the SESA implementation to the policy process, the Consultant will work closely with the key counterparts. It is likely that an intersectoral committee, coordinated by one agency, will lead the SESA. This will allow for consideration of linkages between mining and other environmental sensitive sectors such as the oil sector², and a broader government support to SESA recommendations.

¹ This review will be undertaken by the international consultant and used as an input by the Consultant.

² A few mining companies are diversifying their activities into the oil sector and have obtained exploration licenses.

6. Draft Report

The Consultant will prepare the SESA draft report with a structure and content agreed with the international consultant. Prior to the national workshop, the Consultant will incorporate the recommendations and consider the comments to the draft report received from the international consultant and the Bank. This revised version of the SESA draft report will be validated in a national workshop to be held in the capital where the Consultant will participate in making presentations and supporting group discussions. The Consultant will assist the international consultant in the formulation of a policy matrix comprising concrete policy, institutional and governance recommendations and an action plan for its implementation and monitoring. The policy matrix, implementation and monitoring plan will be also validated in the national workshop.

7. Final Report and Dissemination

The Consultant will assist the international consultant in the preparation of the final version of the SESA report, policy matrix, and implementation and monitoring plan. Also, the Consultant will participate in key follow-up discussions that may be necessary to further disseminate and explain the findings and policy options of the SESA, particularly to the government and donor community.

D. Qualification of Consultant

The team will comprise at least the following specialists:

- Mining specialist with at least ten years of relevant experience in mining policy and public administration of the mining sector;
- Environmental specialist with at least ten years of professional experience and at least five years of them in the mining sector;
- ASM specialist with at least five years of experience working with organizational and technical issues related to ASM in the country or other countries in the region;
- Social assessment specialist (sociologist, anthropologist or natural resources economist) with at least ten years of professional experience and at least five years of them in the mining sector;
- Natural resources economist with at least ten years of experience in quantitative and qualitative analysis, preferably including case studies, and at least five years of experience in the mining sector.
- Land use specialist with at least ten years of experience with understanding of competing land uses for areas mined and capable of analyzing land use options in the poverty analyses.

The consultant will report to the Task Team Leader of the project.