

TERMS OF REFERENCE

WATER SECTOR ADJUSTMENT LOAN (WATSAL) SECTORAL ENVIRONMENTAL ASSESSMENT

Background

The World Bank envisages assisting the Government with budget support which is linked to a policy reform in the water sector. This reform consists of changes in the legal and regulatory frameworks and in the institutional arrangements for developing and managing water resources, irrigation and related infrastructure. The water "sector" in this context thus would exclude most of the water management within the cities and industries, such as water distribution and drainage. The reform aims to enhance the effectiveness of the investments in the sector, by improving notably the transparency, the accountability, and the integration in the planning, and hence the sustainability and social welfare.

The proposed policy reforms pertain to the following key points:

- Establishment of a national water council or coordinating body;
- Formulation of a national water resources policy. Promulgation of the necessary legal, regulatory and administrative instruments needed for the implementation of the policy;
- Reform of the Government agency, and establishment of self-financing river basin management corporations, together with strengthening of overall stakeholder participation in basin and watershed management;
- Development of a framework to abate river and reservoir pollution by industrial and urban effluents;
- Development of a national water resources management information system and data base;
- Establishment of a national water use rights, and wastewater discharge rights system to facilitate efficient water allocation; and
- Establishment of an institutional and fiscal framework to enable operation and management of secondary and tertiary irrigation canals by independent water user associations

The SEA will assess the risk for possible environmental and social impacts in the situation with the Water Sector Adjustment Loan (WATSAL) and policy reform to be implemented, and propose alternatives and mitigation options in the case negative impacts are anticipated. It should be borne in mind, however, that most of the items of the sector reform under consideration are precisely intended to enhance national water

management with regard to environmental sustainability and social welfare. The "social" assessment covers notably resettlement and land acquisition, and the impacts of the policy reform on indigenous and vulnerable groups, such as the poor.

This SEA will provide a qualitative narrative of the risks expected to be associated with the reform. The SEA will comprise one paragraph per policy reform item (or per significant component thereof), provide examples of the situations this may create in practice in the field; assess the positive and negative impacts (risks); identify alternatives; and outline mitigation options in the case that negative impacts are anticipated. These possible mitigation options are likely to be of an institutional nature, such as legal and regulatory mechanisms, and administrative procedures. The SEA will compare the situations before and after the policy reform and loan ("with and "without it").

As an important part of the SEA process, the World Bank requires a public consultation, and wide dissemination of the SEA summary. The SEA consultation process comprises two steps: (i) at the beginning of the SEA preparation, consulted groups are informed of the purpose and process of the envisaged loan and policy reform; possible impacts are identified through a "scoping" exercise; and the groups' substantive inputs are solicited; and (ii) at the end of the SEA preparation, the SEA draft is shared with the same consulted groups, and reasonable consensus sought. Differences of opinion are recorded. The consultation process to be followed for WATSAL is summarized in Annex 1.

Because of the breadth of the water sector, it is envisaged to consult selected representative groups in the Government and in civil society that could be considered important stakeholders. To maximize the value and significance of the consultation and the SEA, the consultation process should have following characteristics:

- Maximize the representativeness of the groups and individuals selected for the consultation to ensure that the widest spectrum of experiences and insights is reflected. This implies that a regional spread is used to reflect as many different "typical" situations as possible. Consultations will take place at three levels: at local/field level, regional/provincial level, and central level;
- NGOs specialized in water and irrigation issues should be contracted to help the Government convene and facilitate the consultations with non-governmental organizations and groups, thus gaining access to their rich experience based on their intensive interaction with local communities; and
- Rather than discussing all items and all sub-sectoral implications that come with the new policy, these items will be "unbundled" and specific clusters of topics discussed with appropriate audiences (e.g., farmer groups are to be consulted primarily on the impacts of the irrigation transfer, and not on impacts on coastal zones and coral reefs); however, some items can be considered of generic relevance (e.g., the need for cross-sectoral and civil society representation at the national, provincial and river basin levels).

The SEA will propose institutional measures and procedures to 'further strengthen the Environmental Impact Assessment (EIA) process applied for water sector interventions.

This pertains both to EIA initiatives and responsibilities of the water agencies at the national level and, in accordance with the new national policy of far-going decentralization. Importantly, the SEA will propose improved arrangements to ensure more transparent, impartial and objective evaluation of the EIA reports. Similarly, the procedures should enable EIAs to be increasingly designed to prevent negative impacts by anticipatory and pro-active sector analysis, instead of only reacting to project proposals that are considered in isolation from the broader sector. EIA procedures should become as much as possible "mainstreamed" in the regular sectoral planning procedures.

The SEA will be conducted under the overall responsibility of the Government's development agency and a task force which is to be established to prepare the WATSAL reforms.

Outputs

The SEA comprises four main parts:

- An analysis of expected positive and negative impacts caused by, and risks associated with, each policy reform item under the WATSAL, and proposals for alternatives and/or mitigating initiatives in the case negative impacts are anticipated.
- A brief comparison of the situation and overall risk in the cases with, and without, the WATSAL and the policy reform.
- An assessment of the effectiveness of the current Indonesian EIA procedures for water sector investments, including proposals to render the EIA more preventive and oriented to the sector level (instead of the narrow project), and to make the proceedings, consultations, evaluation procedures, and disclosure more transparent.
- A well documented consultation process, with description of the representativeness of the consulted groups, and the way in which comments and queries collected during the consultations have been addressed in the SEA or in the policy reform preparation process itself. The consulted groups will be kept properly informed about the outcomes of the consultation and how their comments are being addressed.

Scope of work

A consultant team ("the consultant") will be assigned to conduct, document and synthesize the consultation process, and assist in the finalization of the SEA. The consultant will be able to demonstrate--through the curriculum vitae of its team --its experience with the professional preparation of EIAs in different sub-sectors of the water sector. Experience will be required notably with respect to water management, reservoirs and dams, irrigation, land and swamp development, pollution control, the organization of representative public consultations, and resettlement and land acquisition issues. The consultant will implement the assignment together with, and in cooperation with, experienced national NGOs.

The consultant will:

- a) (With Environmental Expert and NGOs) Prepare brief discussion documents (in the local language) that are to be used to introduce the policy reform program to the participants at the consultation meetings. These documents will be not longer than five pages, and explain in plain terms the implications of WATSAL reforms "on the ground." It is important that they can be understood by consultation participants who are not familiar with policy issues.
- b) (With Environmental Expert) Finalize the analysis of the expected positive and negative impacts caused by, and risks associated with, the items of the policy reform, and propose alternatives and/or mitigating initiatives. For this purpose, he will extensively consult with literature and with experienced organizations and individuals, and incorporate the results of the public consultations. The World Bank team will prepare the first draft and framework for this document.
- c) (With Environmental Expert) Based on the above, the consultant will finalize a brief comparative risk analysis of the introduction of the WATSAL with its concomitant policy reform. This will entail a comparison of the situation with and without the loan and reform. This analysis will be based on a first draft prepared by the World Bank team.
- d) (With NGOs) Develop and implement the process to consult stakeholders within national and local government, and with end users and civil society. The consultant will identify the relevant stakeholders among governmental and non-governmental agencies and outline a realistic work plan and schedule to consult different groups, at different aggregation levels (national, regional/provincial, local), in accordance with the requirement that each group should be heard twice. The consultant will take direct responsibility for the organization, the facilitation and the recording of the consultations. For the consultations at local levels the consultant will closely cooperate with local government agencies and with the national Inter-agency Task Force, and for those at national level it will coordinate with the Inter-Agency Task Force. For the implementation at the local level, the consultant will work closely with local NGOs and other stakeholders.
- e) (With NGOs) Propose criteria and mechanisms to select and involve the stakeholders and the local NGOs and other representatives of civil society at the local level. In addition, the consultant will ensure that other parties and stakeholders that could not be consulted in this process will have the opportunity to submit their contributions. The consultant will propose a mechanism to this end, and may consider organizing selected public hearings, or soliciting comments after dissemination and publication of the summary of the draft SEA. For public hearings, specific topics should be selected in order to keep the process manageable.
- f) (With NGOs) Organize the broader dissemination of the summary of the draft SEA in the local language.
- g) (With Environmental Expert and NGOs) Prepare an assessment of the effectiveness of the current EIA and resettlement and land acquisition procedures

for water sector investments, and make proposals to render them more pro-active, more transparent and impartial, and in line with World Bank guidelines. Also here, the consultant will extensively consult with literature and with experienced organizations and individuals. The World Bank team will prepare a draft assessment.

- h) The consultant will investigate the options to institutionalize an effective consultation process and to ensure an on-going dialogue with the stakeholders, i.a. to provide feed-back regarding the performance of the institutional arrangements put in place under the WATSAL.
- i) (With Environmental Expert) Assist in the finalization of the SEA report.

ANNEX 1: Schedule for Consultations

It is proposed to hold consultations at three levels in order to discuss the proposed policy reform items with different interested target groups. At the national level, all targeted stakeholders can be identified, and they can all be approached and invited for the consultation. For the regional (provincial) and local consultations, there will be numerous potential target groups which, however, cannot all be selected to participate in the process, and, hence, the organization of the process at these levels has to be carefully considered in order to make the overall process as representative as possible.

Below, suggestions are made regarding possible implementation schemes for the consultation meetings. This list assumes that adequate representativeness can be achieved when three province-level and field-level consultations are made, as well as one national consultation. NGOs will assist in the convening and facilitation of the consultation meetings, and, at the field level, in the selection of the participants, in close consultation with the Inter-agency task Force, and local government. By doing so, maximal "ownership" is created with the stakeholders, which will enhance the quality of the contributions from the consulted groups.

A. Central-Level Consultation

At the central level, the targeted group consists of other Ministries and agencies that have a direct or indirect interest in water management, such as the Ministries and related organizations in Agriculture, Environment, Economy, Home Affairs, and Industry. Other stakeholders comprise i.a. the Chamber of Commerce and industrial professional associations, the water supply companies and national chapters of environmental and social NGOs, academics and representatives of research institutions, as well as representatives of Provincial governments.

Key issues: national council, and policy and coordination mechanisms with procedures to strengthen environmental assessment; transparency and quality of EIA procedures; resettlement and issues of land acquisition; accountability; impact of water allocation on water quality and ecosystem integrity; impacts on coastal and estuarine zones; irrigation transfer; pollution control and enforcement of regulations; and embedding of environmental and social concerns into water policy and regulation.

B. Regional/Provincial-Level Consultations

As it is not feasible to visit all provinces in the country, it is proposed to organize consultations in the two provinces that have operational river basin agencies. The two existing agencies, however, are of a different nature. This selection will ensure that the consultation already reflects mature discussions on competition for water, water quality, devolution of decision-making power to water user associations, the introduction of water use rights and wastewater discharge licenses, etc. Importantly, this selection is expected to facilitate a discussion on the integration of the management of the lower and upper watersheds, of ground and surface water, etc.

Key issues: irrigation transfer, water pricing impact, resettlement, pollution, forestry and watershed (land/water use) management, competition, biodiversity and national nature parks.

C. Field-Level Consultations

The conditions for these consultations should be selected to reflect the opinions pertaining to different situations: for example, communities and agencies that are concerned with the irrigation system transfer; communities and agencies that have been affected by large water projects (reservoir construction, etc.); and communities and agencies that are affected by water management problems and pollution in an urban or industrial context. Again, it must be recognized that not all potentially relevant or interesting target groups can be visited, or given an appropriate channel to participate in the discussions.

Key issues: irrigation transfer; water pricing impact; water pollution; local watershed management; resettlement and land acquisition.

Each of these focal groups is to be consulted twice:

- i. to provide information, identify issues ("scoping") and solicit general direct contributions; and
- ii. to share the draft SEA, highlighting areas that demonstrate that the SEA has incorporated comments obtained during the consultations, and in general reflecting upon the queries and contributions collected during the consultations.

Reporting

The Consultant team will provide an adequate and complete report featuring, notably:

1. The consultation process;
2. Rationale of participants selection; and addresses and credentials of participants;
3. Summary of the discussions, and points raised;
4. Areas of agreement, and points of disagreements;
5. Recommendations for improved EIA procedures; and
6. Recommendations for mitigation of expected negative impacts.