PISG OF KOSOVO

Environmental and Social Safeguards Framework (ESSF)

Kosovo Lignite Power Technical Assistance Project (LPTAP)

MINISTRY OF ENERGY AND MINING

MINISTRY OF ENVIRONMENTAL AND SPATIAL PLANNING

February 24, 2006
INTRODUCTION

This Environmental and Social Framework (ESSF) has been prepared for the Lignite Power Technical Assistance Project (LPTAP) for Kosovo, a technical assistance project under consideration for funding by the International Development Association.

In compliance with World Bank Operational Policies on Environmental Assessment, the project is rated as a category B project. According to these Policies, category B projects require the preparation of an Environmental (Safeguard) Assessment and an associated Environmental Management Plan (EMP). Since locations, timing, technical features etc. of future follow-on investments are unknown at this stage, this Safeguards Framework (ESSF) has been prepared in place of this process. The intent of the ESSF is to summarize the approach to safeguards to be taken during the implementation of LPTAP’s technical assistance components, which would include: 1) support to the preparation of the Strategic Environmental and Social Assessment (SESA); 2) drafting of environmental legislation and site assessments for new lignite mining and power generation; and 3) preparation of terms of references for the environmental assessment (EA) of future sector investments. The Framework identifies the standards and other requirements for Environmental Assessment, Social Assessment and Resettlement Action Plan procedures. Disclosure to the public of assessment documents and public feedback is an integral part of the safeguard process, therefore the ESSF also provides a brief outline of the disclosure process and the safeguard documents.

The ESSF is in compliance with the existing laws, legislation and customs in Kosovo; EU Directives in the field of environmental regulations as well as the World Bank’s Operational Policies on Environmental Assessment (OP/BP/GP 4.01); Involuntary Resettlement (OP/BP/4.12) and Disclosure of Information (BP 17.50).

The Environmental and Social Safeguards Framework (ESSF) has been prepared by MEM in cooperation with MESP under terms of reference acceptable to the Bank, and was reviewed by the Bank during the course of appraisal. The Government is in the process of adopting the ESSF. The Bank will monitor adherence to the ESSF as part of its supervision activities.

The ESSF is the arrangement for the application of environmental and social standards; instruments; and procedures for assessment and consultations to ensure that in a staged decision-making process affected parties participate and environmental and social impacts are considered to meet these standard and to decide between relevant planning and project alternatives.

The ESSF closely follows the sector development process, planned in stages from strategy to policies and then from regional sector development plan to investments. The ESSF attributes safeguarding procedures for the stages of this process involving (strategic) decision-making. The PISG recently prepared and adopted the Kosovo Energy Strategy. On the basis of this strategy the Energy Sector Development Policies are expected to be adopted by UNMIK/PISG before project negotiations. The Energy Sector Development Policies (ESDP) outline the key policies and strategic short- to medium-term actions for development of the energy sector.
The ESSF has been subject of a consultation workshop organized by MEM on February 17, 2006; see minutes of meeting Annex X.

PROJECT COMPONENTS

The LPTAP will: (a) help PISG strengthen enabling policy, legal and regulatory frameworks conducive to new investments in the energy sector; and (b) assist PISG in attracting qualified private investors into building new capacity for lignite thermal power generation guided by high standards of environmental and social sustainability. The LPTAP objective will be attained through: (a) developing and strengthening the enabling policy, legal and regulatory frameworks in the energy sector, including mitigating environmental impacts and developing a framework for expropriation and resettlement; (b) developing an institutional structure and capacity for implementing the broader sector strategy, including mobilizing financing and dealing with FDI in the energy sector; and (c) technical consultancies for seeking qualified strategic investors in the proposed independent power plant (IPP) and mine.

The project consists of four components, which are summarized below:

**Component 1: Sector Policy, Legal, Regulatory and Safeguards Advice**
This component will comprise the following two subcomponents:

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**Subcomponent 1- Sector Policy, Legal and Regulatory Advice:** This TA would primarily build on the IPA-Norton Rose diagnostics report on policy, legal and regulatory frameworks and focus on preparing the key legislation, including any required amendments, that will facilitate the IPP transaction. In the first phase the consultants will identify the gaps and define the necessary actions to improve the investment environment. In the second phase the consultants will work closely with the transaction advisors (under component 4, below) and with relevant ministries to develop and help adopt the final legislative and regulatory framework that will serve as a practical guide for expropriation and involuntary resettlement activities in Kosovo, and drafting legislation and regulations needed to assure that future expropriation and resettlement programs meet international standards. This will include the preparation of a Resettlement Policy Framework consistent with World Bank OP/BP 4.12 on Involuntary Resettlement as well as draft legislation on land expropriation and resettlement.

**Subcomponent 2- Safeguards Framework:** This subcomponent would provide TA for the preparation of a Strategic Environmental and Social Assessment (SESA) specific to energy sector development. The SESA would identify environmental and social issues of projected developments in the power generation and related lignite mining sectors. The SESA would be the overarching environmental and social assessment of sector developments prior to the specific EIAs and other analyses that will be prepared for the decision making on individual investments. The SESA will be instrumental to outline the needs for institutional strengthening and capacity building to assess, monitor and regulate the environmental impacts of mining and power generation. This could include the preparation of legislation, regulations, monitoring systems and institutional changes that
are necessary to fill any gaps. The SESA will provide inputs to the development of the Resettlement Policy Framework under Subcomponent 1. This component will provide support for the development of the terms of reference for Environmental Impact Assessment, Social Assessment and the Resettlement Action Plan. The subcomponent would also prepare an environmental baseline monitoring toolkit and collect field data.

Component 2: Technical Studies
This component will comprise of the following three subcomponents:

- **Subcomponent 1- New Sibovc (North) Mine Site Assessment**: A mine site assessment to define a long term mining plan for the existing and the proposed new power plants.

- **Subcomponent 2- New Power Plant - Market, Siting and Transmission System Assessment Study** to examine the local (Kosovo) and regional electricity markets in South East Europe and will focus on the evaluation of potential offtake opportunities that may be available for the new power plant and the adequacy of the transmission system to transport the power generated by the plant to the identified potential local and regional demand centers. The Assessment will review power plant siting studies performed for the new mine and power plants evaluate necessary siting factors in order to determine the preferred site for the power plant. The Assessment will identify most appropriate unit and plant size based on power market requirements, transmission system constraints, stability of the power system, economy of scale of the power plant, and carbon market. In addition, the Market, Transmission System, and Plant Assessment will determine the requirements for interconnecting the new power plant to the transmission system and impact on the transmission system including the preparation of detailed conceptual designs and cost estimates for the plant’s interconnection and transmission system upgrades.

- **Subcomponent 3- Renewable Energy Options**: Technical assistance to help PISG develop policies and strategies to promote renewable energy and energy efficiency in Kosovo.

In addition to the above three subcomponents, EAR will finance a Power Plant Feasibility Study related to the design, configuration, development, cost estimates and the economic and financial feasibility of the new power plant of above three unit size options, including preparation of a work plan for the plant construction and identification of risks associated with its development (see Annex 4 for details on this component).

Component 3: Capacity Building
Sector administration is currently shared between (i) UNMIK, on behalf of Kosovo, as a signatory of the Athens Memorandum of December 2003 (which established ECSEE), and as a signatory to the ECSEE treaty of October 2005, and (ii) PISG, which passed the Law on Energy, the Law on Electricity and the Law on the Energy Regulator in mid-2004, and which has established the Ministry of Energy and Mining (MEM) for policy making. Many other ministries are also in their infancy, including the Ministry of Environment and Spatial Planning (MESP).
This TA component would support capacity-building for the key ministries and agencies (including MEM and MESP), for inter-ministerial coordination, and for the Projects Office, the implementing entity for the Project. The TA would also assist MEM, MESP and PISG to develop a communications and outreach strategy and improve public consultations. In addition to TA, office equipment and vehicles, incremental operating costs would be provided to the implementing entity.

**Component 4: Transaction Advisor**

Building on the previous components, this TA would support the PISG in carrying out the transaction process to the financial close of the proposed IPP. The transaction advisor would structure the procurement based on market soundings and would take into consideration, among other things, the requirements defined under the SESA. In the first phase, investors would be short-listed based on responses to a RFQ, and a detailed RFP would be prepared along with a bid evaluation methodology and a financial model. In the second phase the preferred bidder would be selected through a competitive bidding/evaluation process and, finally the transaction advisors would assist through to financial close of the proposed IPP.

**SAFEGUARDS FRAMEWORK STANDARDS AND LEGAL REQUIREMENTS**

All activities under the Project including preparation work for any follow-on investment projects will conform to Kosovo’s laws and regulations and the World Bank’s safeguard policies and procedures including policies on the disclosure of information. Specific relevant World Bank policy documents include the following:

- Environmental Assessment (OP/BP/GP 4.01)
- Natural Habitats (OP/BP 4.04)
- Pest Management (OP 4.09)
- Cultural Property (OPN 11.03, being revised as OP 4.11)
- Involuntary Resettlement (OP/BP/4.12)
- Indigenous Peoples (OP/ 4.20 being revised as OP 4.10)
- Forests (OP/BP 4.36)
- Safety of Dams (OP/BP 4.37)
- Projects in Disputed Areas (OP/BP/GP 7.60)
- Projects on International Waterways (OP/BP/GP 7.50)
- Disclosure of Information (BP 17.50)

A full listing of the Bank’s safeguards policies can be accessed on: http://lnweb18.worldbank.org/ESSD/sdext.nsf/52ByDocName/SafeguardPolicies

ENVIRONMENT SAFEGUARDS

Because the LPTAP is limited to the provision of technical assistance (TA) for the preparation of follow-on investment, no negative environmental impacts are expected from its implementation. The investments that could follow the Technical Assistance project may include components that would classify as Category A and B, and the following is a summary breakdown of the environmental safeguards for the LPTAP.

The Sobivc Development Plan (SDP) and Strategic Environmental and Social Assessment (SESA)
On the basis of the Energy Sector Development Policies, as part of the following planning stage together with the commencement of the LPTAP, MEM will prepare the Sibovc Development Plan (SDP). The SDP is a regional sector development plan that will include all existing and planned lignite mining and power generation activities in the Sibovc-Obiliq area. During the preparation of the plan relevant scenarios for continuation of existing activities in the sector and newly planned investments will be identified and investigated. For the relevant scenarios, the investigations will look for the short-, mid- and long-term into economic aspects, spatial planning issues, environmental and social impacts, legal issues and administrative and regulatory requirements. The plan should, among other issues, investigate and present conclusions concerning location of new investments (or identification of areas with presumptions for/against development), capacities, preferred phasing of mining development, technologies and mitigation measures and routing of power extension lines. In view of the planning stage, these investigations cannot be made with a high level of detail since investment decisions will follow at a later stage. The Sibovc Development Plan preparation will give the decision-makers insight and the public and other stakeholders the opportunity to participate in sector developments that can be expected in the region in a comprehensive, overarching manner and broadly assess the impacts that can be expected of these developments before decisions on individual investments are made. Once the plan is ratified, the Sibovc Development Plan will give conditions for initiating and operating individual investments. The results can also provide important inputs to local spatial planning, most likely municipal spatial plans and the spatial plan for the Sibovc zone of special interest. Coordination with the local municipalities and the Spatial Planning Department and the Institute of Spatial Planning of MESP will be sought for this purpose.

The Strategic Environmental and Social Assessment (SESA) will be prepared in parallel to the preparation of the Sibovc Development Plan. The draft Plan and the environmental and social report of the SESA will jointly be presented to stakeholders and the public to create an early and effective opportunity to express opinions before administrative adoption of the Plan. The SESA can be regarded as the first stage overarching environmental and social assessment of regional sector developments, prior to other analyses such as EA or EIA that will be prepared for the decision making on individual investments. For the scoping, reporting and consultation steps of the SESA, the EU SEA Directive (2001/42/EC) will serve as a reference. The SESA process will evolve and the SESA report will be prepared accordingly.
The SESA will be prepared to identify environmental and social issues of projected developments in the power generation and related lignite mining sectors that meets both World Bank and Kosovo requirements. The SESA will develop a framework for the assessment, consultation and regulation of follow-on investments to mitigate any potentially negative consequences of interventions proposed under the plan. Particular focus would be on social issues specific to the Sibovc mine field, related power generation developments and other developments that may result from exploration of this mine field, including the extent of reliance on small-scale mining activities and any anticipated impacts on ethnic minority communities.

Preparation of the SESA will occur concurrently with the mining site assessment and power plant technical studies to occur under component 3.

The preparation of the Sebovc Development Plan and the SESA are initiated by MEM who will coordinate with local and other national authorities to organize their involvement in the planning process. MESP will be strongly involved in the preparation of the SESA for which the LPTAP will support with a budget for consultants assistance.

Investment project related safeguard such as Environmental (Impact) Assessment, Social Assessment and Resettlement Action Plan are the responsibility of the investor and not part of the activities supported by the LPTAP; however, under LPTAP assistance, terms of reference for these three instruments will be prepared. Terms of Reference for carrying out site-specific Environmental Impact Assessments would conform to requirements of the Kosovan by-law on EIA and the European Union EA Directive in case the Kosovan legislation is less stringent (as an Annex I project; in consideration of World Bank Category A in the rare event that some aspects are stricter) and World Bank standards under OP/BP 4.01; including Annex B to OP 4.01 which refers to the content of an EA report for a Category A project. Development and implementation of EIA procedures including the preparation of a sector specific EIA handbook and a training program for the environmental assessment and monitoring of environmental assessment procedures will be carried out by the MESP and subordinate institutes such as KEPA and the Environmental Protection Inspectorate. The SESA would also detail facility-specific performance standards with respect to air and water emissions, solid waste management, and other media and cross-media impacts conforming to the relevant EU and/or World Bank recommended limits.

The Kosovan Government will adopt secondary legislation for the preparation of the SESA. This regulation is dedicated to the SESA for the regional sector Sibovc Development Plan.

Environmental draft legislation developed under the LPTAP will confirm with relevant EU Directives and not conflict with World Bank safeguard policies.

Acceptance and approval of draft SESA report and final SESA report and TORs for SESA, EA, SA and RAP are subject to World Bank no-objection statement.

SOCIAL SAFEGUARDS
The LPDP is not expected to have direct social impacts but it will support the government in managing the social impacts of power generation and mining activities, especially land acquisition, expropriation and any necessary resettlement. The following is a summary breakdown of the social safeguards under the LPDP:

**Policy Legislation and Regulations**

Policy legislation and regulations intended to bring Kosovo in line with international standards on resettlement will be drafted by consultants under component two of the LPDP. A gap analysis of the existing legislation and institutional framework relating to resettlement will be conducted and would include the preparation of legislation, regulations, monitoring systems and institutional changes necessary to fill any gaps. The analysis would complement technical assistance for institutional strengthening and development of legislation. Emphasis would be on providing permitting procedures, implementation of the IPPC Directive and environmental inspections. Draft legislation for sector specific regulations such as the implementation of the EU Directive for Large Combustion Plants and environmental regulations of the mining and energy sector will be prepared.

**Resettlement Policy Framework (RPF)**

The findings of the SESA will provide inputs into the development of the Resettlement Policy Framework and serve as a basis for identifying in more detail the focus of the terms of reference. The Resettlement Policy Framework will apply to new investments in lignite mining and power generation and that would meet both the Kosovo law and the requirements of the World Bank’s OP 4.12 on Involuntary Resettlement to deal with expropriations of land for infrastructure investments. This framework would outline the steps to be taken, procedures to be followed, and institutional responsibilities. In lieu of adequate legislation and by-laws, it is expected to guide private sector behavior regarding land acquisition and any resulting involuntary resettlement or loss of income. Government endorsement of this framework would be a prerequisite for proceeding with preparation of IPP transactions.

**Resettlement Action Plan (RAP)**

Terms of Reference for a site-specific Resettlement Action Plan intended to ensure no harm is done as a result of any investment projects containing matters of acquisition of private land and displacement of households would be a key part of the Resettlement Framework and would be prepared in line with OP/BP 4.12. The RAP is expected to addresses concerns for the most vulnerable and ensure that post-project livelihood would at least be equal to the situation before the project. This would include: (a) detailing negative impacts if any; and (b) providing specifics on compensation packaging and processes, including the right for redressing grievances. It would also need to outline the monitoring and evaluation mechanisms to be followed. The TOR will specify steps for public consultation.

**Social Assessment (SA)**

Site-specific Terms of Reference for a Social Assessment will be prepared under technical consultancies under Component 2. The SA would include collection of necessary
baseline information to ensure that negative social impacts will be adequately addressed and compensated as per Kosovo regulations and Bank OP/BP 4.12 and that the resettlement of project-affected people will be conducted appropriately. The SESA will provide the basis on which these Terms of References will be prepared. In addition, more site-specific data will be available after the completion of the mine site assessment and the power plant site study under Component 3 and the feasibility studies financed by EAR into mine development and power generation. The TOR for the SA will also specify steps for public consultation.

CONSULTATION AND DISCLOSURE PROCESS

Under the Bank’s Disclosure Policy, disclosure to the public of assessment documents and public feedback is an essential part of the safeguard process. The Kosovo authorities will ensure specific public consultations are conducted with project affected groups, and local non-governmental organizations (NGOs), and other identified stakeholders at the appropriate time and would include: (i) an initial consultation reviewing the safeguard approach and the planned work and then (ii) a second consultation to disclose the findings. The Government of Kosovo with technical assistance provided under the World Bank funded Energy Sector Technical Assistance Project III is currently developing an umbrella framework for consultation, participation, and community development plans in the energy and mining sector that would further specify all consultation steps to be taken.

Consultations will take place directly or through translations in Albanian, Serbian and English. Consultation presentation materials will be available as well in these three languages. All safeguard reports will be disclosed in Albanian, Serbian and English.
Annex 1 – Outline of Terms of Reference for the Strategic Environmental and Social Assessment

The Strategic Environmental and Social Assessment consultancy services include the following tasks:

1- Review legislation, regulations and administrative procedures in the domain of environmental regulation, expropriation and resettlement issues and spatial planning.

2- Review sector development strategies, policies, related studies and liaise with the team in MEM/MESP working on the Sibovc Development Plan.

3- Perform a scoping study for the SESA and present the draft report in a public hearing in the Obilqi area to be organized by the consultant and hosted by MEM. In the public hearing the proposed preparation procedure for Sibovc Development Plan and the SESA scoping report will be presented and the public and other stakeholders will be given the opportunity to make comments, ask questions and raise concerns. The scoping report for the SESA will be finalized taking into account the issues raised in the public hearing.

4- With input from the drafting of the Sibovc Development Plan (SDP) and related (feasibility) studies review development scenarios and options. Select together with the SDP team two or three main development scenarios. The SDP team will liaise with MESP and the Institute of Spatial Planning to incorporate spatial planning issues and streamline the SDP development with national spatial planning procedures. The SESA consultant will contribute to this work.

5- For the development scenarios perform a regional social assessment.

6- For the development scenarios perform a regional environmental impact assessment according to the SESA regulation adopted by the Government of Kosovo and the scoping report.

7- From the environmental and social assessment make recommendations for mitigating options to the development scenarios and the most preferred development scenario to be adopted by the SDP. Additionally, the SESA will make recommendations for SA, EA and RAP procedures for the development of investments in mining and power generation activities in the area.

8- The results of the assessments, the draft recommendations on development scenarios and safeguard procedures and the draft SDP will be subject of a second round of public hearing. The comments received will be assessed and incorporated in the final SPD and SESA report.

9- The SESA consultant will prepare TORs for investment SA, EA and RAP.

10- The SESA consultant will closely liaise with the consultant working on the Environmental Assessment Procedures & Training, consultant working on the
Environmental Baseline Monitoring and the consultant working on the Resettlement Framework component.
Annex 2 - Consultation Workshop on the Lignite Power Development Project and Safeguards Framework
Pristina, Kosovo- February 17, 2006

A consultation workshop was held to discuss the Safeguards Framework (SF) developed for the Lignite Power Development Project on February 17, 2006. The workshop had two objectives. The first objective was for the PISG to initiate the process of consultation that will continue over the project with a discussion on the approach to be taken to address environmental and social issues that arise in the project. This specific consultation focused on the approach to safeguards adopted by the project, the standards that would apply, and how these procedures will be followed over the course of the project. The second objective was to meet World Bank requirements to disclose to the public documents that pertain to environmental and social impacts and their mitigation and obtain public feedback as an integral part of the project preparation process.

Lorik Haxihu, Director of the Mining Department of the Ministry of Energy and Mining (MEM) presented: (1) the overall energy sector development process, (2) an introduction to the LPDP and how the project will contribute to sustainable development of the energy sector, and (3) the applicable environmental and social safeguards.

A main theme of the consultation was the need for co-ordination in developing energy. The Director of the Institute of Spatial Planning in the Ministry of Environment and Spatial Planning (MESP) stressed the need to have coordinated, intersectoral planning, particularly with respect to the zone of special economic interest and the spatial plan and gave examples of failures of the planning process in the past. A representative of Independent Commission for Mines and Minerals (ICMM) referred to issues with coordination in the sector as “teething problems” and noted that the spatial plan needed to take into account licenses for lignite. Other participants stressed that the development of lignite needed to be done in sustainable manner, taking into account environmental and community concerns in addition to technical and economic factors. The deputy mayor of Kastriot (Albanian name of Obiliq), referring to past development, said that there needs to be proper and realistic planning and benefits to the municipality. A representative of MESP stressed the importance of a strategic assessment to determine alternatives and what is sustainable.

Mr. Haxihu responded generally to these overall comments by clarifying that this was the beginning of the consultation process on development in the sector, that no decisions had been taken as yet and there was a need to see the results of further studies.

The experience with the Hade emergency resettlement was referred to by at least four speakers. The Director of the Institute of Spatial Planning at MESP acknowledged that although the Hade project was carried out by his ministry, it is an example of how not to do it. The Head of the Hade Working Group noted to the threat of endangerment to citizens due to the landslide meant that the government had to act urgently and compared the situation to one of rescue during a fire. He concluded that the next stages needed to be sustainable, with legislation and action plans. ICMM representative noted that lessons had been learned from the Hade experience. A representative of the Community Development Fund NGO emphasized that there needs to be involvement of NGOs in planning and not just environmental NGOs, and the deputy mayor of Kastriot stressed that the problem with Hade affects the municipality.

The team considers that the consensus of the workshop agreed with the approach adopted by the project, including capacity building for coordinated planning. There was no disagreement with the need to develop the lignite reserves, and widespread endorsement of the need for sustainable planning. There was
some initial confusion as to far any specific plans had progressed which was clarified over the course of the workshop.

The workshop was held at the Faculty of Electrical and Computer Engineering of the University of Pristina. Approximately 40-50 people attended. Powerpoint presentations were projected in Albanian and Serbian, handouts were available in Albanian and English, and simultaneous translation was available in Albanian, Serbian and English. Although the Ministry of Energy and Mining had indicated that media would attend only for the presentation, television and print reporters were present for the entire session, not just the initial presentation and, to some degree, impeded the flow of discussion. Some attendees were critical that materials had not been made available in advance of the workshop, and MEM apologized for that. It was also not clear what occurred with formal representation from MESP. A complete transcript of the consultation workshop was being prepared by the MEM, and materials will be available on their website.