Malawi: Mining Governance and Growth Support Project  
Terms of Reference for Strategic Environment and Social Assessment

Cover Note

Project Summary:

The objective of the Mining Governance and Growth Support Project is to improve governance and the enabling environment for mining by supporting efficient, transparent and sustainable sector management.

The project has three components and a fourth component of project management:

A. Managing Mineral Rights and Operations to support the Government to build an efficient, transparent and environmentally and socially sustainable framework for managing mineral rights and operations, including minerals legislation, licensing, supervision, environment and social management, and stakeholder dialogue.

B. Generating and Managing Mineral Revenues to develop transparent arrangements for optimal generation and use of mineral revenues, including reforming the fiscal regime, and revenue collection and management.

C. Promoting the Mineral Sector by supporting the Government to improve the enabling environment for mining sector development by acquiring and disseminating geo-data, foster more sustainable artisanal and small scale mining, increase the supply of Malawians trained at tertiary level in minerals and improve the policy environment for mining-related infrastructure development.

Project Setting:

The project involves country-wide technical assistance to a specific sector. As such, the scale and scope of the project will cover all of Malawi. Malawi has one of the highest population densities in southern and eastern Africa and a predominantly rural population, resulting in high pressure on arable land, and widespread degradation to the natural environment and natural resources. It remains, however, a country of considerable natural beauty, with a number of significant biodiversity conservation areas and a nationally significant tourism industry based on the country’s natural assets. Of outstanding international importance is the unique biodiversity of Lake Malawi’s fish fauna, which also supports the lion’s share of the country’s fisheries. Almost all of the territory of the country fall within either the immediate catchment of Lake Malawi, or the catchment of its outflow, the Shire River, which is a vital source of drinking water, power generation, irrigation, fisheries, and wildlife habitat. Initiatives are under development to strengthen river basin planning and management in the catchments of both Lake Malawi and the Shire River. Malawi’s terrestrial biodiversity generally exhibits lower endemism than its aquatic fauna, being largely representative of wider southeast African ecosystems. Nevertheless, there are localized areas of terrestrial endemism sometimes overlapping with mineral concentrations, most notably in the case of the Mount Mulanje massif.
High population densities have also resulted in disputes over land rights in some areas, and efforts are underway to reform the land tenure system to facilitate a clearer delineation between customary, state and private land.

**Safeguard Policy Issues:**

As a technical assistance project, most of the activities have virtually no direct environmental or social impact, and the project is not anticipated to have any large scale, significant adverse or irreversible impacts. Rather, the aim to promote sustainable management in the mining sector, including environmental and social management, is intended to yield positive environmental and social impacts. The project will not finance civil works, land use planning or zoning. Neither will it provide specific recommendations on any particular area of investment, being limited to developing appropriate legal, regulatory and institutional frameworks at the national level, as well as strengthening government's capacity to manage mining sector investments and operations in the future in a sustainable manner.

The project is expected to strengthen Malawi's capacity to address environmental and social impacts of mining through improving the policy/regulatory framework and enhancement of institutional and human resource capacity to implement the policies and regulations. Nevertheless it would help to create a more favorable enabling environment for the expansion of large-scale mining as well as artisanal and small-scale mining (ASM) in Malawi, therefore leading to activities that may engender a range of social and environmental impacts that are well-studied and understood at the global level. The exact location, timing and technical features of follow-on mineral investments by mining companies are not known at this time, but the risks posed by such activities could include:

(i) pollution and sedimentation of waterways, potentially including the Shire River and Lake Malawi;
(ii) loss or degradation of forests and other natural habitats, potentially including protected areas and other sites of high conservation value;
(iii) land tenure conflicts;
(iv) loss of livelihoods and involuntary resettlement to make way for mining facilities;
(v) in-migration and mining "boom towns" that strain local public services; and
(vi) the spread of HIV/AIDS and other communicable diseases.

The project will draw on the extensive body of international experience and best practice to identify ways to manage and mitigate such downstream risks, so that they can be incorporated in the national environmental and social management frameworks.

Key to the management of potential downstream impacts will be appropriate sequencing of project activities, such that the identification of risks and establishment of mitigation systems do not lag behind the promotion of additional investments in the sector.
Safeguard Measures:

As no direct adverse environmental or social impacts will result from this project’s interventions, the project will not develop an Environmental and Social Impact Assessment (ESIA). Given the potential for the project to facilitate downstream investments which will involve potential impacts, however, a form of environmental assessment is still needed, and for such sector reforms the appropriate instrument is a Strategic Environmental and Social Assessment (SESA). SESA is a consultative and iterative process, which itself provides considerable opportunity for capacity building, and is best completed as part of project implementation. In 2009, a rapid strategic environmental analysis was carried out as part of the preparation of the Mineral Sector Review1.

MNREE already has guidelines for ESIA and environmental management specifically in the mining sector, but implementation capacity for general environmental management is weak in the country, and mining faces the additional challenge of being a relatively under-developed sector. The only large mining operation to date in Malawi is owned and operated by an Australian company subject to considerable international scrutiny and used to following international environmental management standards. Broader development of the sector will bring the possibility of investments by less experienced or proactive companies, increasing the oversight burden on government. Given the relative inexperience in major mining investments, national technical capacity in the sector is limited, and the project will need to engage international consultants to assist in the preparation of the SESA.

The SESA would be prepared mostly during the first year of project implementation, while the remaining years of the project would be devoted to implementation of its main recommendations. Comprehensive Terms of Reference for the SESA, are provided below. Note that this TOR describes the work involved in production of the SESA, but the consultant contract under which this is carried out may involve additional tasks, to be determined based on ongoing design of environment and social components of the project.

A summary of consultations on the design of the project and TOR, and associated changes made, has been annexed below. In addition, the TOR will be disclosed in-country and via the Bank Infoshop, and further comments received and considered up until the start of the procurement process for the studies (after which the consultation procedures of the SESA itself will take over).

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Strategic Environmental and Social Assessment (SESA) of Mining in Malawi

Terms of Reference

Background:

1. **Mining Potential in Malawi.** Mining development in Malawi has the potential to contribute to economic diversification, increased Government revenues, and the associated development of complementary transport and energy infrastructure. Current Government policy strongly supports the expansion of mining activity as a priority among priorities. Although large-scale mining as well as artisanal and small-scale mining (ASM) are still at a relatively modest scale in Malawi, they are poised for potentially rapid growth in the short- and medium-term future.

2. **Environmental and Social Risks.** As in many other countries, the potentially rapid future expansion of mining in Malawi poses substantial environmental and social risks that could undermine both the benefits provided by the sector and national support for its development. Moreover, the broader economic benefits of mining cannot be fully achieved without good governance of the sector.

3. **Mining Governance and Growth Support Project.** The Government of Malawi, with World Bank support, is preparing the Mining Governance and Growth Support (MGGS) Project. This technical assistance project intends to improve governance and the enabling environment of the mining sector. While it would help to create a more favorable enabling environment for the expansion of large-scale mining as well as ASM in Malawi, the project would also seek to ensure that the accompanying environmental and social challenges are adequately addressed. For this reason, the project is supporting the preparation of a Strategic Environmental and Social Assessment (SESA) of the mining sector in Malawi. The SESA would be prepared during the first year of project implementation, while the remaining years of the project would be devoted to implementation of the SESA’s main recommendations.

Objectives:

4. The SESA is expected to combine aspects of both institutions- and impact-focused strategic environmental assessment. The **primary objective** of the SESA is to identify the priority actions that Government can take to foster the environmentally sustainable and socially equitable development of Malawi’s mining sector. The **specific objectives** of the SESA are to:

   a. Diagnose the key environmental and social problems and opportunities associated with the anticipated growth of Malawi’s mining sector;
b. Identify the policy, legal, regulatory, and institutional adjustments and capacity-building actions needed to minimize the adverse environmental and social impacts of mining operations and associated infrastructure development, while enhancing the positive impacts;

c. Propose specific measures that Government can implement in the near future to improve the environmental and social sustainability of mining in Malawi, particularly through the MGGS Project.

Scope of Work and Main Tasks:

5. Mining and Ancillary Infrastructure Development. The geographic scope of the SESA will be the entire country of Malawi (land and water areas). The SESA will address the environmental and social issues associated with different types of mining and mineral processing operations, large-scale as well as ASM. The SESA will also examine the environmental and social implications of the ancillary infrastructure that is constructed as part of larger-scale mining projects (such as mine-specific access roads, slurry pipelines, or dedicated shipping terminals). The development of regional infrastructure that is constructed for multiple purposes (such as power transmission grids, long-range highways, or multi-purpose river ports) is generally outside the scope of this SESA, but the SESA will take into account similar strategic environmental reviews and regional planning exercises, such as the SESA carried out under the Shire Basin and Regional Lake projects, to ensure harmony with approaches being followed under other significant and relevant government initiatives.

6. Describe Existing Situation and Likely Growth Scenarios (based on policy choices and external factors). The SESA will describe the existing situation in Malawi, in terms of the locations of major mines and important areas of ASM, types of minerals, a description of the current licensing system, the existing mining companies and the principal mining technologies used, as well as a summary of the nature and level of current environmental and social impacts. The SESA will also identify the geographic areas and types of minerals where new mining development seems reasonably likely in the foreseeable future. In developing a limited number of illustrative Growth Scenarios for the sector, the consultant should consider a range of plausible external factors (e.g. changes in global mineral prices), as well as key government policies, including those within the mining sector (e.g. reform of licensing systems) and without (e.g. improvements in transport infrastructure).

7. Identify Major Environmental and Social Risks and Opportunities. Taking into account stakeholder input, the SESA will identify the significant environmental and social risks associated with ongoing and projected future mining development in Malawi. Examples of such risks are likely to include (i) pollution and sedimentation of waterways, potentially including the Shire River (a vital source of drinking water, power generation, irrigation, fisheries, and wildlife habitat) and Lake Malawi (with its exceptionally varied and unique fish biodiversity); (ii) loss or degradation of forests and other natural habitats, potentially including protected areas and other sites of high conservation value; (iii) land tenure conflicts; (iv) loss of livelihoods and involuntary resettlement to make way for mining
facilities; (v) induced human migration and mining \textit{boom towns} that strain local public services; (vi) the spread of HIV-AIDS and other communicable diseases; (vii) problems associated with decommissioning of mining establishments including specific examples of abandoned mining infrastructure and the associated environmental and social risks; and (viii) other problems emphasized during the stakeholder consultations. Conversely, the SESA will also identify the opportunities for social gains from mining development, such as (i) net employment generation; (ii) new or improved local infrastructure or services; and (iii) potential sharing of mining-generated revenues with local communities.

8. \textbf{Identify Geographic Hotspots of High Environmental and Social Sensitivity.} The SESA will indicate on a map those areas within Malawi that merit special attention because of apparent overlap between high potential for mining development and sites of high environmental or social sensitivity, particularly areas of critical natural habitats. Developing such a map could be through the use of a geographic information system (GIS) mapping process involving (i) the construction of a base map, using information on geological provinces, known mineral deposits, operating mines, potential new mining projects, and areas of concentrated ASM, accompanied by (ii) the mapping of existing and planned infrastructure (roads, railways, energy), environmentally sensitive areas (existing and proposed protected areas, critical sites for conserving biodiversity or physical cultural resources, forests and woodlands, wetlands and waterways), and social features (mining-oriented communities and districts, poverty or income distribution, population density, education or health indicators, etc.).

9. \textbf{Assess Proposed Solutions and Good Practices.} Taking into account stakeholder input and best practice examples, the SESA will identify and evaluate the feasible actions and good practices that the mining industry (broadly defined) and/or government (at all levels) could use to prevent, minimize, mitigate, or compensate for the adverse environmental and social impacts, as well as to enhance the positive impacts. Examples of such actions and good practices might include (i) designating specific areas of high environmental sensitivity (including protected areas) where mining concessions and permits are not allowed, or where only certain low-impact mining techniques can be used; (ii) establishing and enforcing specific environmental standards for different types of mineral extraction and processing; (iii) environmental performance bonds and other legal tools to promote good practices by mining firms; (iv) investing in conservation offsets to compensate for mining-related damage to natural habitats, through helping to improve the management of particular protected areas or payment into a dedicated conservation fund (such as the proposed National Forests Fund); (v) clarifying the \textit{rules of the game} for mining companies to obtain access to rural lands under customary use and other tenure regimes, in terms of negotiating procedures, decision authority, minimum required payments to the community, recommended or allowable types of social investments, etc.; (vi) criteria and procedures for physical resettlement (when required), livelihoods restoration, and land tenure regularization; (vii) strengthening the system of public health monitoring, preventative measures to control the spread of HIV-AIDS and other diseases, and clinical treatment in mining settlements and adjacent communities; and (viii) improved registration, licensing, regulation, and monitoring of ASM. The good practice examples provided should generally be based on comparable, successful examples from Malawi or elsewhere in the world.
10. **Assess Legal, Regulatory, and Policy Framework.** Benefiting from consultation workshops to share local as well as international experience as the SESA is developed, the SESA Consultant will review the laws, regulations, and official policies—that relate to the environmental and social aspects of mining sector development. In particular, the SESA will assess the current framework (including any forthcoming or officially proposed changes) in terms of its suitability to address the priority environmental and social challenges identified by the SESA. It should also assess the current procedures and adequacy of environmental monitoring systems and make appropriate recommendations to improve compliance with the requirements to conduct ESIAs and to implement environmental management plans in the mining sector. The SESA should identify any major remaining gaps in the Malawian legal, regulatory, and policy framework that might constrain the ability of Government to manage, regulate, monitor, and enforce mining-related activities from an environmental and social standpoint. In particular, the SESA should review, update and make recommendations for harmonizing the mineral licensing procedures and develop a model process for screening mining projects for the ESIA requirements.

11. **Describe Institutional Framework.** The SESA will describe and analyze the roles of Malawian government entities (at the national and local level) with respect to the environmental and social management of mining-related activities, reviewing both legal mandates and the systems in place to fulfill them. This includes the agencies (within and outside MNREE) responsible for granting mining concessions, issuing permits, environmental impact review, field supervision, protected areas, and physical cultural resources. The SESA should indicate which of these entities are required, authorized, or allowed to intervene at each stage of prospecting, exploration, development, and eventual closure of any particular mining project.

12. **Assess Capacity-Building Needs.** The SESA will assess the needs for strengthening the capacity—that financial, technical, and human resources—of relevant Malawian agencies (at the national and local level) to manage adequately the priority environmental and social issues associated with mining development. This assessment should ideally also cover the capacity of the Parliamentary Committee, National Council on Environment, Technical Committee on the Environment, non-governmental organizations (NGOs) including civil society organizations (CSOs) and local community groups—that are constructively engaged with the mining sector as local service providers, facilitators, stakeholder representatives, or watchdogs.

13. **Describe Recommended Solutions for Malawi.** By analyzing the feasible actions, good practices, legal and institutional frameworks, and capacity-building needs, the SESA will describe realistic measures that could readily be implemented in Malawi for improving the environmental and social management of mining-related activities. Recommendations for policy actions should consider appropriate entry points via stand-alone environmental
legislation and/or mainstreaming in other sector legislation, and for policy issues with complex social consequences (e.g. any reform of the ASM sector), include a concise political economy analysis (i.e. assessment of principal winners and losers) based on findings of the stakeholder analysis below.

14. **Action Plan for Implementation during MGGS Project.** The most important part of the SESA will be an Action Plan for recommended measures to be implemented during the remaining years of the MGGS Project. The Action Plan will specify measures for improving the environmental and social management of the mining sector that could readily be implemented within each relevant MGGS Project component, including (i) under Component A, developing mining-related regulations, policies, and model agreements; (ii) under Component B, mineral revenue-sharing arrangements; and (iii) under Component C, including environmental and social information within mining promotion activities and supporting improved ASM practices. It will include: (i) in respect of Components A, B and C, appropriate institutional strengthening and capacity building measures; and (ii) an appropriate program of activities for stakeholder engagement throughout the life of the project. All of the Action Plan's recommended measures should include (i) an implementation schedule during the remainder of the MGGS Project; (ii) the lead organization responsible for implementing each measure; and (iii) estimated one-time investment costs (which could be paid out of the MGGS Project) and recurrent costs (which should have likely funding identified for after the MGGS Project closes). Of particular importance is to specify critical sequencing issues for the delivery of outputs and institutional strengthening in relation to sector promotion activities, to ensure that the project does not induce increased sector activity without appropriate strengthening of management systems in place.

15. **Stakeholder Participation.** The SESA will be prepared with robust participation by the full range of stakeholders interested in mining in Malawi. This is expected to include:

   a. **Stakeholder Analysis.** Early during SESA preparation, the Consultant should undertake a stakeholder analysis to identify and describe all key stakeholder groups that have an environmental or social interest in the development of the mining sector. This analysis should provide a mapping of stakeholder interests in the mining sector, and should indicate the relative strengths and interests of various stakeholders. The stakeholder analysis should also indicate where stakeholders have complementary or competing interests. Stakeholders considered should include key socio-economic strata, as well as community organizations, formal organizations (NGOs, CSOs, media, academia) and various private sector interest groups. It should analyze vulnerable stakeholders such as women, youth, and the poor whose voices are sometimes not heard in the policy process, and indicate how SESA preparation will engage them in a manner that is culturally and politically appropriate. The development and results of the stakeholder analysis should link into the institutional analysis discussed above, through identifying the roles and forms of interaction of these stakeholders with respect to the formal sector management institutions, including e.g. oversight functions, availability of grievance mechanisms, etc.
b. **Stakeholder Input to SESA Content.** The Consultant should ensure that the full range of interested stakeholders have ample opportunity to provide information and opinions to the SESA process, including the identification of priority environmental and social problems, the range of possible solutions, and the specific measures recommended for implementation under the MGGS Project. In particular, the Inception Report should identify what methods will be used to collect stakeholder input (including socio-economic surveys, focus groups and in-depth interviews);

c. **Documenting Stakeholder Consultations.** The SESA report should include an annex which documents the stakeholder consultations that were carried out as part of the SESA process. This annex should specify (i) which stakeholder organizations or informal groups (names of individuals optional) were consulted during which parts of the SESA process; (ii) the forms of consultation and discussion carried out (meetings, interviews, surveys, e-mails, web page comments, etc.), when and where; and (iii) the main concerns and recommendations of the different stakeholder groups.

16. **Information References.** In preparing the SESA, the Consultant should make use of a wide range of information sources from Malawi and internationally. These include stakeholder inputs, consultations with experts, a wide variety of published and other technical material, and data obtained from field work. Among the written references which the Consultant would likely find useful are the *Malawi Mineral Sector Review* (World Bank 2009); World Bank’s environmental and social Safeguard Policies and IFC Performance Standards; *Environmental, Health, and Safety Guidelines for Mining* (World Bank Group 2007); *Policy SEA: Conceptual Model and Operational Guidance for Applying SEA in Sector Reform* (World Bank 2010); *Good Practice Guidance for Mining and Biodiversity* (ICMM 2006); and *Mining and Critical Ecosystems: Mapping the Risks* (World Resources Institute 2003). *Management Study Report of the Department of Environmental Affairs in Ministry of Lands and Natural Resources* (Malawi Government, Management Services Division, Department of Human Resources Management and Development, August 2009).

**Outputs:**

17. **Inception Report.** The Consultant will prepare an Inception Report that should (i) describe the work plan for SESA preparation, including the main activities for data collection and analysis; (ii) include a Public Participation Plan that would raise awareness of the SESA, help identify environmental and social priorities, and discuss and receive feedback on capacity-building and other SESA recommendations; and (iii) update the schedule of SESA deliverables, consistent with the priorities and schedule of the MGGS Project.

18. **Progress Reports.** The Consultant will prepare three Progress Reports on the SESA. The first Progress Report will discuss, *inter alia,* the stakeholder analysis and the identification of priority environmental and social issues. The second Progress Report will summarize the good practices identified for the environmental and social management of mining-related activities. The final Progress Report will discuss capacity-building and other priority actions that could feasibly be implemented during the remaining time of the MGGS Project.
19. **Draft and Final Reports.** The Draft SESA Report, will be discussed and validated by representatives of all key stakeholders in a national workshop. The SESA Advisory Committee (see below) is expected to provide feedback on the Draft Report and participate in the validation workshop. Based on the feedback received from the SESA's validation workshop and from other sources, the Consultant will elaborate the Final SESA Report. The Final Report will include an Executive Summary, all the text and annexes, and a revised Action Plan to be implemented under the MGGS Project.

20. **Dissemination and Communications Strategy.** The Consultant will design and assist Government in implementing a communications strategy of the findings and recommendations of SESA. The full Final SESA Report, along with tailored and user-friendly summary documents focused towards particular stakeholder groups, would be widely disseminated.

**Duration and Timing:**

21. The assignment is presently planned to extend from October 2011 to September 2012, with the following milestones:

- Inception Report  
  November 2011
- Progress Report No. 1  
  February 2011
- Progress Report No. 2  
  March 2011
- Progress Report No. 3  
  May 2011
- Draft Report  
  July 2012
- Final Report  
  September 2012

**Client:**

22. The Client for this assignment is the Government of Malawi, even though non-governmental stakeholders are expected to provide significant input during SESA preparation. More specifically, the Consultant will report to the Project Coordinator within the Ministry of Natural Resources, Energy, and Environment (MNREE).

23. **Advisory Committee.** SESA preparation and subsequent implementation of the SESA-produced Action Plan will be guided by an Advisory Committee. The composition of the Advisory Committee might include the Environmental Affairs Department (suggested Chair); representatives of other key Government agencies such as Public Works or Infrastructure, Local Development, Lands, Water, Forests, and Tourism (representing Protected Areas); representatives of selected non-governmental stakeholders such as the Chamber of Mines, ASM miners, and environmental and other NGOs or CSOs involved with mining. The Advisory Committee will guide the SESA's analytical component, and inform the approach to the policy dialogue, discussions, and consultations with stakeholders. The Consultant will assign a member of its team to liaise closely with the Advisory Committee.
Consultant Qualifications:

24. The SESA will be undertaken by a consortium comprising an international consulting company or non-governmental organization and a local NGO or consulting company based in Malawi (defined as the Consultant). The Consultant team should comprise at least the following specialists:

   a. A Team Leader who is skilled at leading and managing inter-disciplinary teams, can produce well-written reports on time, and is knowledgeable about strategic environmental assessment and extractive industries;

   b. An environmental or mining Engineer who is knowledgeable about different mining technologies and practices, including those with relatively low adverse environmental impacts;

   c. An Ecologist who is knowledgeable about Malawian terrestrial and aquatic ecosystems and the impacts of mining-related activities on forests, aquatic life, and other biodiversity;

   d. A Social Scientist who is knowledgeable about the direct and indirect social impacts (positive and negative) of mining-related activities; and

   e. A Stakeholder Engagement Specialist who can effectively manage stakeholder engagement throughout the SESA preparation process, including the facilitation of public consultation events and other large meetings.
Appendix:

MINUTES OF THE 1ST STAKEHOLDER MEETING FOR THE MINING GOVERNANCE AND GROWTH SUPPORT PROJECT HELD AT PACIFIC HOTEL, LILONGWE ON 20TH JANUARY 2011

1.0 OPENING REMARKS

The meeting was officially opened at 9am and was chaired by Mr. Benson W. Chisamile, Director of Finance and Administration in the Ministry of Natural Resources, Energy and Environment. The Chairperson started by welcoming all participants and thanked them for coming to attend the Workshop despite having other equally important assignments to attend to.

The Chairperson informed the participants that the main objective of the meeting was to officially inform participants of the upcoming project in the mining sector and sensitise them of the upcoming disclosure notice for the Strategic Environmental and Social Assessment (SESA) Terms of Reference.

2.0 BACKGROUND TO THE PROJECT

Participants were informed that the project was conceived after conducting a Minerals Sector Review in the year 2009 which was supported by the World Bank. The draft Mines and Minerals Policy also identified issues which will be addressed by the Project.

The Project is designed to improve governance and the enabling environment for mining by supporting efficient, transparent and sustainable sector management. To achieve this, the Project will be implemented under four sub components within a period of five years. Participants were informed of the four components (as in Annex 1) which are;

- Managing mineral rights and operations
- Generating and managing mineral revenue
- Promoting the mineral sector
- Project management

Participants were also informed that the Project is being funded by an IDA credit of US$25 million from the World Bank, and a co-financing grant of Euro 4.1 million (approximately US$6 million) from the European Union as part of its 10th EDF allocation. However, to allow for successful implementation of project preparation activities, the World Bank provided a Project Preparation Advance (PPA) to the Government of Malawi amounting to US$500,000.
The donor community like France and JICA were concerned that their support to the mining sector was not highlighted in the Project description. Participants agreed that donor coordination should be regularised to iron out potential overlaps in the areas of support.

3.0 REVIEW OF STRATEGIC ENVIRONMENTAL AND SOCIAL ASSESSMENT (SESA) TERMS OF REFERENCE

Participants were informed that one of the activities under sub component A-5 of the Project is to conduct a SESA. The SESA will be launched during the first year of project implementation and will involve a consultative process to help Government to;

- diagnose the key environmental and social problems and opportunities associated with the anticipated growth of Malawi’s mining sector
- identify the policy, legal, regulatory, and institutional adjustments and capacity-building actions needed to minimize the adverse environmental and social impacts of mining operations and associated infrastructure development, while enhancing the positive impacts
- propose specific measures that Government can implement in the near future to improve the environmental and social sustainability of mining in Malawi, particularly through the project

To avoid delaying project implementation, Government of Malawi recruited an Environmental Specialist to develop terms of reference for the SESA using resources from the Project Preparation Advance. A detailed presentation on the content of the SESA Terms of Reference was provided to participants to facilitate discussion around each of the areas of focus.

Participants commended Government for the efforts being undertaken to ensure that environmental issues are adequately addressed in the mining sector.

4.0 GENERAL OBSERVATIONS

Participants made the following observations;
- The current Policy Document which is undergoing the approval process was not adequately publicized for stakeholder input. However, the Chairperson reminded the participants that the Draft Policy had undergone a comprehensive consultative process as its formulation started in 2002. The Draft Policy is not yet approved because of other logistical changes within Government Machinery but Government is
aware of the importance of the Policy and doing anything possible to get it approved.

- The Development Partners represented by French Embassy and Japanese International Cooperation Agency (JICA) noted that although they are also supporting the mining sector, their efforts were not acknowledged in the Mining Governance and Growth Support Project. Participants agreed that a separate session be held by the development partners and Government to iron out such issues.

- Participants also recommended that the Project should not only support officers by training them academically, but focus should also be on hands on training which can be acquired from developed mining countries within the region and abroad. Participants also recommended that the civil society and Parliamentarians should be incorporated in capacity building as they reach out to a wider community and already have establishments at local level.

- Participants also emphasized the importance of having a working Public Private Partnership while ensuring that the code of conduct is adhered to. An example was given of a Mining Operation whose Environmental Impact Assessment was done by a Government Official who is an interested party.

- Apart from capacity building, participants also emphasized the importance of consistent communication and interaction among all stakeholders involved in export and import of mineral related items and equipment. Due to lack of communication and little knowledge in the mining sector by personnel at border posts, some private companies are currently having problems to export or import such materials although they have corresponding proper documentation.

- On SESA Terms of Reference, participants commended Government and the World Bank for moving into the right direction by taking into account issues of environment in the mining sector. Participants recommended that the Terms of Reference should include documentation of regional best practices and case studies, assessment and strengthening the role of the civil society and cover all key areas and minerals for baseline information. Specific edits to the TOR resulting from the consultation event feedback were as follows:
  1. Sector background should include a description of the current licensing system and active mining companies.
2. Specific examples should be included of issues related to decommissioning of mining infrastructure.
3. Both international best practice and local experience should be analyzed through the study and consultation processes.
5. Capacity assessment should take into account the needs of the Parliamentary Committee, National Council on Environment, and Technical Committee on the Environment.

5.0 WAY FORWARD

The following were agreed as a way forward;
• Organise a donor coordination meeting to iron out potential overlaps
• Facilitate formulation of a Donor Coordination Committee
• SESA Terms of Reference disclosure – The World Bank to disclose the Terms of Reference through the InfoShop while Government will prepare a disclosure notice and place it in the local print media.
• Project Information Document will be disclosed in February
• Bank Board is expected to approve the Project in March
• Malawi Parliament is expected to approve the Project in June
• Project implementation is expected to start as soon as the Project is approved. However, preparatory activities are already underway

6.0 CLOSING REMARKS

The meeting was officially closed at 5pm with the Chairperson thanking all participants present for their commitment and dedication to the activities of the Project.
ANNEX 1: PROJECT COMPONENT DESCRIPTION

Component A: Managing Mineral Rights and Operations

A.1 Public Communications, Outreach and Stakeholder Dialogue by setting up the structure and support arrangements for continuous and formalized dialogue among stakeholders on mining policy issues and oversight of policy implementation, as well as design of MNREE’s communications and outreach functions.

A.2 Reforming Minerals Legislation by finalizing the new mining law and developing a body of regulations to give effect to it, covering mineral licensing, monitoring and inspection functions, health, safety and environmental standards, and a model Mining Development Agreement.

A.3 Modernizing Minerals Licensing by establishing a modern computer-based cadastral system and administrative arrangements for the efficient and transparent allocation and management of mineral exploration and mining rights by MNREE.

A.4 Strengthening Mineral Operations Supervision by building capacity of MNREE for regular monitoring and inspections of exploration, mining and mineral processing operations using appropriate equipment.

A.5 Strengthening Environmental and Social Management of Mining by establishing a comprehensive environmental and social management framework and robust monitoring systems at central, district and community levels.

Component B: Generating and Managing Mineral Revenue

B.1: Reforming the Mineral Royalty and Tax Regime by completing the establishment of a coherent, standardized and globally competitive fiscal regime for mining through design and implementation of suitable royalty and tax regulations.

B.2: Maximizing Mineral Revenue Collection by building capacity in royalty and tax administration.

B.3: Building Mineral Revenue Transparency so that revenue collection arrangements can be subjected to scrutiny and assurances given to the public that revenues are being properly accounted for.

B.4: Developing Mineral Revenue Forecasting as part of the Government’s annual budget preparation cycle and medium-term macro-economic planning.

B.5: Developing Mineral Revenue Management Policies to deal with potentially large and volatile mineral revenue flows and determine allocations made from funds collected.
Component C: Promoting the Mineral Sector

Â **C-1 Program of Geo-data Acquisition, Interpretation and Promotion**, including a comprehensive country-wide airborne geo-physical survey to acquire new data, interpretation studies and resource assessments to identify promising mineral opportunities and activities to promote investor interest.

Â **C-2 Establishing a Geo-Data Management Center** to digitize, store and increase on-line access to geo-data.

Â **C-3 Program of Training and Awareness Raising for Artisanal Mining** to gradually improve ASM practices and institutional support to the ASM sub-sector.

Â **C-4 Building Capacity for Tertiary Education in Mining** to increase the supply of Malawians qualified at tertiary level in mining-related disciplines in order to help build the regulatory capacity of government institutions and to alleviate the chronic skills shortage faced by a fast growing mineral sector.

Â **C-5 PPP Framework for Mining-related Infrastructure** to assist the Government to roll-out the Public Private Partnership (PPP) framework to the mining sector, through support to MNREE in tailoring the framework to mining-related infrastructure development and building requisite expertise.
## ANNEX 2: LIST OF PARTICIPANTS

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<tr>
<th>NAME</th>
<th>INSTITUTION</th>
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<tr>
<td>Jacques Gascuel</td>
<td>French Embassy</td>
<td>Acting Ambassador</td>
</tr>
<tr>
<td>Hidiki Ito</td>
<td>JICA</td>
<td>Assistant Resident Representative</td>
</tr>
<tr>
<td>Akihira Sano</td>
<td>JICA</td>
<td>Project Formulation Advisor</td>
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<tr>
<td>Emma Eunice Adam</td>
<td>Malawi Women in Mining Association, MAWIMA</td>
<td>President</td>
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<tr>
<td>Rafiq Hajat</td>
<td>Institute for Policy Interaction / NGO coalition on Mining</td>
<td>Executive Director / Chair</td>
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<tr>
<td>Ronald Mtonga</td>
<td>Council for NGOs, CONGOMA</td>
<td>Acting Executive Director</td>
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<tr>
<td>Crosby M. Phiri</td>
<td>Malawi Revenue Authority</td>
<td>Head of Technical Domestic Taxes</td>
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<td>William Chagona</td>
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<td>Loveness Mangánya</td>
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<td>John Nkhoma</td>
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<tr>
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<td>Mateso Kazembe</td>
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<tr>
<td>Rex Kanjedza</td>
<td>MoIWD</td>
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</tr>
<tr>
<td>Chris M. Chiumia</td>
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<td>Leonard Kalindekafe</td>
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<tr>
<td>Ackim Wona</td>
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<tr>
<td>Peter M. C Chilumanga</td>
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<tr>
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<td>Omba Lwanda</td>
<td>MNREE</td>
<td>Principal Nutrition, HIV and AIDS Officer</td>
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<td>Mphatso Dickson Maseya</td>
<td>MNREE</td>
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<td>James Namalima</td>
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<td>Temwani W. K. Gunda</td>
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<td>Yona Chawanje</td>
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<tr>
<td>S. V. K. Shumba</td>
<td>MNREE</td>
<td>Systems Analyst/Programmer</td>
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<td>N. Kumwenda</td>
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<td>Thenford Mchenga</td>
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<td>Dikani Chibwe</td>
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<td>Assistant Statistician</td>
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<tr>
<td>Andrew C. K. Mughogho</td>
<td>MNREE</td>
<td>Senior Statistician Clerk</td>
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<tr>
<td>Bryan C. Land</td>
<td>World Bank</td>
<td>Senior Mining Specialist/Project Team Leader</td>
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<tr>
<td>Remi Pelon</td>
<td>World Bank</td>
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<tr>
<td>Kent Kafatia</td>
<td>Consultant</td>
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<tr>
<td>Caleb C. Zambezi</td>
<td>Consultant</td>
<td>Procurement Specialist</td>
</tr>
</tbody>
</table>

The following organizations were invited but did not attend:
Department of National Parks and Wildlife, Private Bag 30131, Lilongwe
University of Malawi, P.O. Box 278, Zomba
Mzuzu University, Private Bag 201, Mzuzu
Paladin Malawi Ltd, P.O. Box 47, Karonga
European Union, Lilongwe