Environment Impact Assessment in the Mining Sector

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Purpose

- To informs the discussion on specific aspects concerning implementation of the provisions of new EIA Law
- To highlight certain implementation challenges concerning the provisions of the Mining Code and the EIA process

Environment Impact Assessment

- **Purpose**: to inform decision-makers and public of the environmental consequences of implementing a proposed project
- **EIA document**: technical tool that identifies, predicts, analyses impacts on physical environment including social, cultural and health impacts

Who is involved in the EIA

- Government agency or a Ministry
- Project proponent
- Consultant who prepares the EIA document
- Public

There is an inherent conflict of interest when the project proponent hires a consultant to prepare an EIA.
This could be effectively mitigated if the responsible government authority has the necessary expertise and capacity to assess the EIA technical documents and make an informed decision.

EIA Stages

- Identifying/Definition of project activity
- Screening
- Scoping
- Preparing of Terms of Reference
- Preparing a draft EIA
- Public participation
- Preparing final EIA
- Decision
- Administrative/Judicial Review
- Implementation
- Monitoring

Public Participation

Why? People living near the site know best about possible impacts of a project on local environment and may introduce ideas of impacts that may otherwise have not been considered

Pursuant to:

-The constitution of the Republic of Armenia

- The Convention on Access to Information, Public Participation in Decision making and Environmental Justice (The Aarhus Convention)

-The EIA Law

EIA Law - Chapter 3, Article 14

Category A: Mining sector:

a. Geological surveys:

For mines with over 1000 linear meter close pits; or

For more than 1000 linear meter surface pits or drilling wells, exceeding 1000 m depth;

b. Extraction of metal, including radiological minerals, mining or processing of either mineral or ore;

c. Extraction of raw materials for fuel and energy (coal, oil and gas) or processing of ore;

d. Tailing dumps and tailings or structures or pipelines associated with them;

e. Creation of underground structures for storage of oil, gas, or production waste, poisonous, or radiological substances;

f. Extraction of minerals, exploitation of mines of non-metallic minerals or processing of ore;

g. Exploitation of mineral or underground water deposits;

h. Use of fresh groundwater deposits;

i- Creating underground transportation lines or structures;

j. Restoration (re-cultivation) of metallic and non-metallic mines.

EIA Law - Article 15

Item 3: The expert examination shall be implemented in two phases:

1) **Preliminary phase**, during which the preliminary assessment proposal is being reviewed;

2) **Main phase**, during which the main assessment report is being examined by experts.

EIA Law - Article 16

Article 16. Preliminary Examination Phase

Item 1:The preliminary examination phase is carried out in **30 working days** after the **developer submits** the preliminary assessment application to the Competent Authority

EIA Law -Article 16

Item 5. Based on the review of the application, the Competent Authority shall take one of the following decisions:

1) About impermissibility of a provision of concept document or implementation of proposed activity , which is made based on the environmental restrictions laid down in the laws and other legal acts of the Republic of Armenia;

2) Returning the application to the developer to complete it, where requirements of paragraph 3 of this article are not fulfilled or are incorrect;

3) The concept document or the proposed activity shall be subject to impact assessment in the transboundary context;

Article 16, contd.

4) **The concept document or the proposed activity shall be subject to impact assessment pursuant to the Terms of Reference**.

Item 6. The **Terms of References** are prepared in conformity with the provisions of this Law.

Terms of Reference

- Project description
- Institutional framework listing the agencies responsible for overseeing the EIA process and making decisions
- Applicable laws and regulations (EIA and other)
- Impacts and Issues to be studied
- Mitigation and monitoring systems to be designed
- Provisions for public involvement
- Key stakeholders
- Timeframe for completing the EIA
- Expected products and deliverables
- Budget for the EIA

Main phase of EIA

Article 19. Main Phase of Expert Examination

- Main phase of expert examination shall commence **from the moment of submission of the report** prepared in compliance with the terms of reference as established in this Law **by the developer** to the Competent Authority.
- The Competent Authority shall involve the stakeholders in the main phase of expert examination.

Article 19, Item 4

The **deadlines for the main phase** of the expert examination **should not exceed**:

1) For concept documents- up to 60 working days,

2) For Category A proposed activity - up to 60 working days;

3) For Category B proposed activity - up to 40 working days.

EIA Law - Public Information

Article 26. Public Notifications and Hearings

- The public shall be notified by:
- 1) The Competent Authority - about the application, reports provided by the developer, and the draft of the expert conclusion **at least 7** working days prior to consultations;
- 2) The developer - on the concept document, the proposed activity and the implementation of their impact assessment process **at least 7** working days prior to consultations

Mining Code- EIA Law: Common Features

Mining Code

- Article 1 acknowledges the requirement for mining to protect nature and environment from deleterious effects, ensure security of works during mining as well as protection of rights and legitimate interests of state and individuals

EIA Law

- Article 6 aims at projecting, preventing, reducing or excluding any potential harmful effect on the environment and human health caused by the enactment of concept documents and proposed activities.

Mining Code – E&S provisions

Mining Code defines four documents to environmental matters:

- Environmental impact assessment
- Environmental management/monitoring plan: activities aimed at reducing the environmental losses caused by mining, planned measures preventing the irrevocable impact and indicators for monitoring of their implementation which are clear and measurable to be applied over certain time (as defined in Code)
- Preliminary impact assessment on the environment and nature
- Mine closure plan

Mining Code - Permits

Mining Code cites two types of mining permits:

- Geological **exploration permit**
- Mineral **extraction permit**
- The geological exploration permit and mineral extraction permit processes have separate E&S document requirements

Mining Code -Geological Exploration Permits

- An applicant's Business Plan is to include preliminary impact assessment (**Article 39**).
- Within 15 days of receipt of an application for a geological exploration permit the ROA authorized body to render conclusion on the preliminary impact assessment (**Article 40**).
- Within 10 days of receipt of an application the ROA authorized body to indicate any incomplete aspects of the preliminary assessment, applicant has 10 days to remedy to satisfaction of ROA authorized body or application rejected (**Article 40**).

Geological Exploration permits(contd.)

- The geological exploration permit includes nature protection measures that are applicant's obligations (**Article 41**).
- An application for an extension to the normal 3 year permit to include applicable environmental protection measures (**Article 42).**
- Any requested amendment to the geological exploration program requires appropriate revisions to the environmental management/monitoring plan (**Article 44**).
- The geological exploration permit holder is to conduct environmental monitoring (**Article 46**).

Mining Code - E&S Assessment provisions

- The **preliminary environmental assessment** provides an early indication of the potential significance of impacts/risks/benefits, in accordance with the EIA law.
- **Environmental and Social Impact Assessment**: The purpose is to identify and assess the significance of potential impacts/risks/benefits

Mining Code – Envionment Assessment

Objective:

- identify and assess environmental and social impacts/risks/benefits;
- avoid, or where avoidance is not possible, minimize, mitigate or compensate for adverse impacts on the environment, employees and affected communities;
- ensure that communities are appropriately engaged on issues that could potentially affect them.

Mining Code –Management of E&S Impacts

E&S Management and Monitoring Plan:

- is a time bound set of mitigation and management measures to be taken during project implementation to avoid/minimize/mitigate/compensate for adverse impacts and risks and monitor implementation.
- includes, where appropriate, a benefit sharing mechanism to support local community development.
- details the scope of a management/monitoring plan.

Mining Code –Mine Closure Plan

- Differs from the EMP which deals primarily with project construction and operations;
- Mine closure plan establishes E&S conditions for closure of the mine and related infrastructure and establishes an agreed post-closure land use(s) for the project area.
- Includes: physical closure; environmental reclamation; workforce mitigation and financial surety.

Discussion issues

Article 36: The Program of Geological Exploration:

- Attached to the application seeking the right for geological exploration, the work plan for the geological exploration shall be submitted to the **Authorized Entity** for approval;
- The work plan for geological exploration shall include …**Preliminary assessment of nature and environmental impact, including the environmental plan.**

Discussion issues

- ARTICLE 39: Work Plan of Geological Exploration for the Purpose of Mining

…Work plan of geological exploration of subsoil shall include… 4) preliminary assessment of nature and environmental impact, including also the environmental program (**harmonization with EIA law**).

Discussion issues

- ARTICLE 40: Decision on Application on Geological Exploration Right for the Purpose of Mining – **harmonize timing** of processing application with EIA law
- ARTICLE 50: **Mining Plan** shall contain ……4) assessment of nature and environmental impacts, including a plan for environment management and monitoring; 8) reclamation of the affected lands.
- ARTICLE 51: Taking Decision on Application for Obtaining the Mining Right – **harmonize timing** with EIA law

Discussion Issues

- ARTICLE 51: Taking Decision on Application for Obtaining the Mining Right

2) Within 10 days after the day of registration of application submitted for the purpose of obtaining mining right, the **authorized body shall review and submit copies of attached plans to expertise established by present Code**. If the authorized body receives positive conclusion on the results of expertise within 12 months after receiving the application , it shall make decision regarding application within 10 days and advise the applicant about it

Thank you!