

# Terms of Reference EIA financing assignment

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Terms of Reference for consultant assignment on: Funding mechanisms for EIA, environmental licensing and license enforcement

## 1. INTRODUCTION

Environmental Impact Assessment (EIA) ensures that environmental, and where required, social and economic information is incorporated into decision making. EIA is designed to support decisions on project approval, and is often tied into environmental licensing decision-making. In many countries, EIA also forms the basis for an Environmental (and Social) Management Plan (EMP) and licensing conditions. In combination, EIA, environmental licensing, and enforcement of the EMP and licensing conditions ensure timely identification of environmental risks, and their continual management. This way the EIA/licensing system helps to ensure that economic growth is achieved in an environmental, social, and economically responsible way.

For this EIA and licensing system to make a difference on the ground, sufficient resources need to be available. The costs associated with this system are typically partly covered by the proponent of the activity and partly by the licensing and license enforcing governmental agencies. The resources required by the government agencies are related to their role in:

- Ensuring that the EIA report and EMP are accurate, complete and appropriate, and ensuring well-informed and accountable project approval decisions, including suitable monitoring arrangements and mitigation measures;
- Ensuring that the licensed activity is implemented as has been approved.

The tasks related to fulfillment of these roles include:

- Ensuring good quality guidelines for the EIA and EMP;
- Ensuring robust (independent) review for EIA reports and EMPs;
- Ensuring sound decisions on environmental licensing and license conditions (in cases in which a license is given);
- Regular monitoring to determine whether the activity is executed according to the license conditions;
- Enforcing that the activity is executed in compliance with licensing conditions;



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- As a check on the effectiveness of EIA, monitoring of the state of the environment in area influenced by the project.

According to the regulatory framework in most countries worldwide, people have the basic right to live in a healthy environment. Law attributes the task of guaranteeing this healthy environment to government. Having the above tasks properly executed is in general the responsibility of government.

Executing the above tasks involves costs, and executing these tasks properly requires non-negligible costs. In many developing countries government budgets are meager. Moreover, setting environmental and social requirements as conditions for approving investments is not always popular, since doing so may be perceived as creating hurdles to economic development.

As a result, financing for the execution of the above mentioned tasks is commonly limited and the capacity, the institutional framework and the will to execute the tasks weak, often resulting in minimalistic execution. This seriously affects the effectiveness of EIA and environmental licensing, hampering its potential contribution to environmental and social impact management and causing loss of capital invested in EIA.

Other governments have a vision that stretches over a longer time period, leading to willingness to apply responsible environmental and social governance. Some of them have found means to overcome budget constraints to properly execute the above tasks.

The present assignment addresses government tasks in EIA, environmental licensing and license enforcement and the ways in which these tasks are funded or can be funded.

## 2. OBJECTIVE AND ACTIVITIES OF THE ASSIGNMENT

The main objective of the assignment is to inventory, analyze and present the options for financing the government tasks in EIA and licensing, as well as the pros and cons of these different options, and the key criteria and conditions to consider in comparing the suitability of these options in different contexts. The outcome of the assignment should be a valuable information resource (in the form of a compendium or toolkit) that will inform improvement of EIA systems, especially in developing countries.

The Netherlands Commission for Environmental Assessment (NCEA) intends to make this resource widely available, and will apply the resource directly in the NCEA capacity development work in EIA. In the short term, this overview of funding options is needed in the ongoing co-operation under the PAANEEAC program. The countries in this program are currently strengthening their EIA systems. Consequently, five country surveys as well as tailored dis-



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Discussion documents of EIA/Licensing funding of selected countries have been included in the assignment.

Key activities in the assignment are:

1. Collecting and inventorying worldwide experiences in funding existing EIA (including EMP), licensing and enforcement systems, from existing published material;
2. Analyzing and then summarizing the findings resulting from activity 1 on the effectiveness of the various funding mechanisms for government tasks in EIA (including EMP), environmental licensing and license enforcement, and highlighting good practice examples;
3. Composing a options document on funding mechanisms for EIA/EMP/licensing, setting out the possible mechanisms and the key principles, criteria and conditions to consider in comparing the suitability of these options, in different contexts;
4. Undertaking an inventory of how government tasks in EIA, environmental licensing and license enforcement are implemented and funded in the member countries of the Central African Economic Community (CEEAC) that participate in the PAANEEAC program. These are Cameroon, Central African Republic, Rwanda, Burundi and Congo Brazzaville; and
5. Proposing suitable funding solutions for these countries.

### 3. THE ASSIGNMENT

#### 3.1 Components of the assignment

1. On the EIA/EMP/licensing tasks:
  - a. Describe in detail the government tasks in EIA (including EMP implementation), Environmental Licensing, monitoring, inspection and enforcement (in an ideal, comprehensive situation);
2. On devolution of tasks:
  - a. Consider and describe which elements of each of the government tasks could potentially be imposed on the proponent and how the incurring the risk of loss of quality and/or objectivity can be managed (for example
  - b. If loss of quality and/or objectivity cannot to be excluded, describe how government can eliminate these risks and what additional tasks elimination of the risks imposes on government;
  - c. Document:
    - i. how these elements of the government tasks can and have been imposed on proponents (case examples)
    - ii. how risk of loss of quality and objectivity can and have been avoided or minimized (case examples)
  - d. Assess experiences with devolution of tasks.



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3. On required institutional capacity:

For government tasks, assess required resources needs in terms of operational costs (including human capacity, equipment and consumables) and capital costs. Differentiate between the resources needs for complex, for average and for more simple projects. Describe the difference in resources needs if:

  - a. no tasks were devolved;
  - b. maximum devolution of tasks occurs.

Give case examples of budget estimates to illustrate.
4. On funding mechanisms
  - a. Present a typology based on an inventory of existing funding mechanisms for EIA, EMP development and implementation, Environmental Licensing and license enforcement. Differentiate between developing countries, rising economies and developed countries. Describe advantages and disadvantages of each type of mechanism.
  - b. Set out the key principles (for example: polluter pays, cost recovery), criteria (for example: administrative burden, autonomy of agency, sensitivity to corruption) en conditions (for example: transparency, flexible budget management) to consider when selecting and designing funding mechanisms in a given context.
  - c. Identify and present funding mechanisms applied for other government tasks that might be applied for EIA, environmental licensing and license enforcement;
  - d. Present a typology and inventory of funding mechanisms and an inventory of available funds per year (for the period 2008–2011) for government tasks in EIA, Environmental Licensing and follow through in the selected Economic Community of Central African States (ECCAS) countries.
5. On proposals for each ECCAS country
  - a. a system for EIA based environmental management that
    - i. guarantees a high quality of task fulfillment, and
    - ii. devolves as many task elements as possible directly to the proponent.
  - b. Some feasible funding mechanisms that guarantee adequate and structural funding under proposed system.

### 3.2 Methodology

For executing assignment components 1 – 4c, the consultant makes use of internet queries, literature study, EIA –mapping results (provided by the NCEA) and interviews and any other useful means at his/her discretion, within the budgetary limits.

For component 4d, the consultant works directly with the Secretariat for Environmental Assessment in Central Africa (SEACA) and the National Associations for EIA practitioners in the



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respective ECCAS country. To get the right information the consultant develops a ToR for the national studies and reserves and distributes a budget per association.

### 3.3 Management and communication

The NCEA will contract the consultant under a service delivery contract stipulation the financial and other conditions. The NCEA will provide guidance where needed in assignment execution, review the draft documents, and approve the deliverables. The consultant will inform the NCEA on progress monthly. Written progress reports are not foreseen, but may be requested if needed. The consultant is in charge of communication with the SEACA and the National Associations, and will manage the surveys to be undertaken in the countries.

## 4. DELIVERABLES

The assignment results in the following deliverables, to be produced by the consultant:

1. Inception report (detailed description of how consultant is going to undertake the assignment, including the list of countries whose funding systems will be studied for the typology and lists of proposed interview questions);
2. A ToR for SEEAC / the national associations inventory (in the 5 countries mentioned before, SEEAC is the regional association that functions as an umbrella for the national EIA associations);
3. An overview of EIA/EMP/licensing related government tasks and the associated resource needs (including case examples);
4. A typology of existing funding mechanism for government tasks in EIA, EMP development and implementation, Environmental Licensing and license enforcement, including advantages and disadvantages of various mechanisms, as well and examples to illustrate;
5. An overview of the key principles, criteria and conditions for choosing and implementing financing mechanisms for EIA, EMP development and implementation, Environmental Licensing and license enforcement, including case examples;
6. Recommendations for new or improved funding mechanisms that could structurally secure adequate funding of government tasks in EIA, EMP development and implementation, and Environmental Licensing and license enforcement;
7. An assessment of the funding mechanisms for government tasks in EIA, Environmental Licensing and license enforcement in ECCAS countries (members of SEACA) (This deliverable needs to be prepared In French.)
8. Individual proposals for devolution and funding of government tasks in EIA, EMP development and implementation, Environmental Licensing and follow through for each of the countries mentioned under the previous point. (This deliverable needs to be prepared In French.)
9. A final report bringing together 3–8.



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**4.1 Consultant’s profile**

- Developing country public administration expert with a expertise in public finance
- Relevant experience in Africa
- Proven understanding of EIA, EMP, environmental licensing and enforcement
- Proficient in both English and French
- Good communication skills

**4.2 Time line**

	Time indication in weeks																													
Inception report	█	█																												
Inception report reviewed by NCEA, revised as needed by consultant, approved by NCEA			█	█																										
Draft ToR for SEEAC/national associations			█	█																										
ToR for SEEAC/national associations reviewed by NCEA, revised as needed by consultant, approved by NCEA					█	█																								
Deliverables prepared																														
Deliverable 3-6 reviewed by NCEA, revised as needed by consultant, approved by NCEA																														
Deliverable 7-8 reviewed by NCEA and SEACA, revised as needed by consultant, approved by NCEA																														
Conclusion of assignment																														

**5. RELEVANT REFERENCES**

Below some relevant references are included:

- EIA mapping reports (for more information on EIA mapping, see [www.eia.nl](http://www.eia.nl)) to be provided by the NCEA
- African Experts Workshop on Effectiveness of Environmental Impact Assessment Systems, 2007, <http://www.uneca.org/sdd/documents/Report-AfricanExpertsWorkshop-on-Effectiveness-of-EIA.pdf>
- Funding Environmental Compliance Assurance, OECD, 2005
- Financing Environmental Compliance and Enforcement Programs, INECE, 1996.