



International
Institute for
Sustainable
Development

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durable



Sustainable Development
Strategies Group



TRAINING SEMINAR ON THE NEGOTIATION OF MINE DEVELOPMENT AGREEMENTS ARUSHA, TANZANIA May 26 – 30, 2014

Sustainable Development Strategies Group (SDSG) and the International Institute for Sustainable Development (IISD), in partnership with the Trade Policy Training Centre in Africa (TRAPCA) and the World Bank, will conduct a five-day training seminar on the negotiation of mine development agreements entitled *Mining Contracts: Understanding and Improving The Negotiation Process and Results*. The workshop, designed for senior government officials who are involved in mining contract negotiations, will take place May 26 – 30, 2014 in Arusha, Tanzania. A general description of the subject matter is provided below.

The seminar aims at enhancing technical knowledge and skills of relevant government representatives in Africa on the effective negotiation of mine development agreements with foreign investors. By the end of the course, participants will have had an opportunity to identify some of the most significant issues in mine contract negotiations and possible alternative solutions, and to share their own experience and concerns.

Upon completion of the training course, participants will have a better understanding of what is required to negotiate agreements that:

- i) are aligned with the goals and objectives of the African Mining Vision;
- ii) facilitate sustainable development in the host state;
- iii) recognize and integrate relevant international norms and standards;
- iv) help attract investment from serious investors who are willing to work in partnership with the host state; and
- v) contribute to the long term stability of mining investments.

This workshop is designed for senior government officials in Anglophone-speaking Africa. The course format will include lectures by international and regional experts in technical fields related to contract negotiations, as well as extensive group activities and discussions. Class size will be relatively small to enable open dialogue and knowledge exchange between participants.

For more information regarding this training seminar, please contact us at contracts@sdsd.org.

TRAINING COURSE FOR SENIOR GOVERNMENT OFFICIALS

UNDERSTANDING AND IMPROVING THE CONTRACT NEGOTIATION PROCESS AND RESULTS

May 26 – 30, 2014

Arusha, Tanzania

Extractive industries are key components of many developing countries' economies. Well-managed solid mineral and hydrocarbon resources offer a real opportunity for such countries to achieve sustainable economic growth and reduce poverty.

However, all too often, in resource-rich developing countries, these expectations have not been realized and mineral investment has failed to yield results. While the causes seem to be several and complex, it is now widely recognized that one major issue is inadequacies in the fundamental agreements through which the investor–host state relationship is defined. Contracts to develop natural resources are often highly complex, and some governments may be less informed about technical details and geological endowments than the oil, gas, or mining companies which come to negotiations with highly-paid lawyers and technical staff.

This five-day course will address the fundamental issues in negotiation of mine development agreements, providing an overview of the process of negotiating mine development agreements, the kinds of provisions that have led to disputes and problems, and alternative approaches and language for addressing specific issues in contract drafting.

The course will be offered by a group of distinguished experts from African and international institutions, and will deal with the organization of negotiation teams, strategies of negotiation, and specific contractual issues, utilizing example clauses from existing and model agreements to illustrate options.

The key objective of the course is to serve as an important step toward better negotiating processes that lead to improved agreements, with enhanced development results for governments, stronger contributions to sustainable development at all levels in the host state, and long term stability of mining investments.

The course will cover topics such as the following, with each session discussing alternative contract clauses. The course will include interactive exercises and simulated negotiations.

- **Context: The African Mining Vision: Mineral resources and sustainable development, and the role of contracts**
- **Identifying the Problems**
 - Experience of participants: what are the concerns and issues we face?
 - What are the key obstacles to better agreements?
- **Getting the social and legal context right**
 - Understanding negotiations as both a business process and a policy process
 - Negotiations as a business model
 - Contract negotiations: from win-lose to win-win-win negotiations
 - Harmonizing three key relationships
 - The Social License to Operate
 - Contract negotiations: The legal environment
 - Basic Introduction to "International Standards"

- Forms of legal relationships between host state and investors
- Transparency
- **Preparing to Negotiate: Building a Strong Foundation**
 - The importance of preparation
 - Knowing what we have and its value
 - Finding independent and knowledgeable advice
 - Managing the negotiating process
- **Pre-Construction Issues for Negotiation**
 - Negotiating the mine start-up phase issues
 - Resettlement
- **Fiscal Issues: Getting the Business End Right**
 - Confronting the problem of revenue lag and instability
 - Free carry shares, joint venture with government, production sharing
 - Subsidies
 - Projections of future cash flow from royalties
 - Windfall profits
 - A brief review of income tax issues
 - Tax havens and transfer pricing considerations
 - Import duties on mining and processing equipment
 - Holding charges in exploration and mining
 - To be or not to be: A debate on fiscal and non-fiscal stabilization clauses
- **Negotiating Benefits and Company Obligations**
 - Sources of community conflict and project failure
 - Local v. national sharing of revenues
 - Employment and training
 - Local content: local purchasing of goods and services (backward linkages)
 - Infrastructure: what are the possibilities
 - Local aspirations and managing local impacts
 - Downstream benefits (forward linkages) and beneficiation
 - A local/NGO role in the negotiations?
- **Managing the Long-Term Issues**
 - Environmental protection and management
 - Mine closure and community development
 - Dispute settlement and grievances
 - International dispute settlement issues
 - Contract review and renegotiation issues in the contract

With funding provided by the Extractive Industries Technical Advisory Facility (EITAF), this course will be facilitated by Sustainable Development Strategies Group (SDSG) and the International Institute for Sustainable Development (IISD), in collaboration with the Trade Policy Training Centre in Africa (TRAPCA).

EITAF is a multi-donor trust fund (MDTF), managed by the Sustainable Energy – Oil Gas, and Mining unit of the World Bank. Its objective is to assist resource-rich, developing countries to correctly structure extractive industry transactions and related sector policies from the outset, thus reducing the risk of costly or politically difficult remediation at a later stage. The EI-TAF facilitates rapid-response advisory services and capacity building for extractive industry resource policy frameworks and transactions. EI-TAF also supports the production and dissemination of global knowledge

products on extractive industry sector issues to help address the lack of an integrated body of good practice for sound extractive industry sector governance and management around proposed developments. <http://www.worldbank.org/en/topic/extractiveindustries>

TRAPCA was established in 2006 as a joint initiative of the Eastern and Southern Africa Management Institute (ESAMI) and Lund University of Sweden, with funding from the Swedish International Development Cooperation Agency (SIDA). The Centre is hosted at the ESAMI headquarters in Arusha, Tanzania. The mandate of TRAPCA is to build and enhance capacity in trade policy matters in least-developed and other developing countries in Sub-Saharan Africa. <http://trapca.org/>

SDSG is a non-profit organization based in the United States, with an international network of experts which manages and implements projects worldwide. SDSG focuses on the contribution of natural resources to sustainable development by working with governments, communities, industry, international organizations, and other stakeholders to support improved governance, legal and policy reform, stable and equitable agreements, relevant education and research. www.sdsq.org.

IISD is a non-profit organization that contributes to sustainable development by advancing policy and legal recommendations on international trade and investment, economic policy, security, climate change and energy, measurement and assessment and sustainable natural resource management. IISD was formally established in 1990, with its headquarters in Winnipeg, Canada; the Institute subsequently expanded to include offices in New York (1993), Ottawa (1995), Geneva (2000) and Beijing (2013). IISD has more than 150 staff and associates located in over 30 countries. www.iisd.org

For more information regarding this training seminar, please contact us at contracts@sdsq.org