



**IGF**

INTERGOVERNMENTAL FORUM  
on Mining, Minerals, Metals and  
Sustainable Development

# GUIDANCE FOR GOVERNMENTS

**FIRST DRAFT FOR  
CONSULTATION  
FOR IGF MEMBERS**

Executive Summary

Improving Frameworks for  
Environmental and Social  
Impact Assessment and  
Management

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# **EXECUTIVE SUMMARY**

# Executive Summary

This document provides IGF member states with a summary of good international practice in legal frameworks for Environmental and Social Impact Assessment (ESIA) and related management plans for large-scale mines. While professional organizations have published technical guides on ESIA, guidance on law and policy frameworks for ESIA and related management plans is largely lacking in the literature. This guide aims to fill this gap for governments and other stakeholders who would like to improve their legal frameworks for and management of environmental and social impacts in the mining sector.

The IGF Secretariat's survey of legislative frameworks for and research on ESIA and related management plans identified the following key components of a good legal framework:

1. Well-defined objectives incorporating principles of sustainable development.
2. The legal framework for ESIA and related management plans is regularly reviewed to ensure that it remains relevant given changes in technologies, international good practice, scientific knowledge and other circumstances faced by the jurisdiction.
3. Domestic legislation governing ESIA and related processes is streamlined, clear and free of conflicting requirements.
4. A single authority leading the ESIA process and coordinating all relevant government ministries and stakeholders involved, as well as the final decision at the end of the assessment.
5. Approval of the ESIA report before allowing exploitation activities to begin.
6. Processes established to coordinate expert input from relevant ministries.
7. Cooperative agreements with other jurisdictions if necessary.
8. Early and meaningful engagement and consultation with stakeholders.
9. Special consideration for the involvement of Indigenous Peoples, where applicable.
10. Timelines that are certain, predictable and reasonable given available human resources.
11. Decisions based upon science as well as traditional and local knowledge.
12. Transparent directions on how to navigate the ESIA stages.
13. Clear criteria set out for evaluation of ESIA reports.
14. Clear criteria for decisions, both those within the ESIA process and at the end when a decision to proceed or not must be taken.
15. Legal and/or procedural means for appeal of a decision on a project's approval or rejection.
16. Requirements for financial assurance for closure and reclamation costs.
17. Requirements for monitoring and management plans including a mine closure plan.
18. Linkage between conditions of the ESIA approval and post-decision permits.
19. Established grievance mechanisms.
20. A transparent and easily accessible public registry where all project-related information is stored.
21. Regularly updated guidelines that support the legislation, for example, details on what elements need to be included in ESIA documents.
22. Reasonable, legislated sanctions or penalties for noncompliance, along with administrative remedies.

The guide provides an overview of the phases of the life of the mine and suggests key government actions for each phase. This guidance is summarized in the two tables below. Not every step proposed in this guide will be appropriate for every jurisdiction but each should be considered carefully by the government and its advisors, taking unique national and subnational circumstances into consideration.

**Table 1: The mine life cycle: Definitions and key opportunities for responsible environmental and social management**



<p><b>Prospecting:</b> The process of searching for economically exploitable mineral deposits.</p> <p><b>Exploration:</b> Field work for rock and soil sampling, and use of small to heavy machinery to identify and quantify mineral resources.</p>	<p><b>Mine Planning:</b> Evaluation of the potential for mineral development through further studies and assessments.</p>	<p><b>Construction:</b> This phase involves building all the roads and infrastructure needed for the mine, including infrastructure needed for environmental management and to house employees.</p> <p><b>Operation:</b> This phase involves extracting ore from the deposit and processing it to obtain mineral products of value to society, such as metals.</p>	<p><b>Mine Closure &amp; Post-Mining Transition:</b> The process that begins at an early stage of mine development to manage environmental and socio-economic impacts and benefits of mine closure, and the impacts that will remain after the mine has closed.</p>
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KEY OPPORTUNITIES TO PROMOTE RESPONSIBLE ENVIRONMENTAL AND SOCIAL MANAGEMENT			
<p><b>Prospecting and Exploration:</b> This phase offers opportunities to make a good “first impression” of the minerals sector and the mining company by demonstrating respect and engaging with local communities, managing any advanced exploration techniques or other exploration techniques that pose a high level of social and/or environmental risk, and conducting remediation of exploration activities commensurate with level of environmental impact.</p>	<p><b>Mine Planning:</b> This phase offers the optimal opportunities to comprehensively assess and develop plans and adequate funds to manage environmental and socio-economic impacts from construction through mine closure. This process, backed by the country’s legal framework and informed by public engagement and input from local communities, helps parties avoid social conflict and legal disputes, while optimizing environmental management and socio-economic development opportunities.</p>	<p><b>Construction:</b> This phase offers opportunities to continuously implement and improve environmental and social management plans, including participatory monitoring mechanisms, to enhance environmental management and socio-economic benefits of the mine project.</p> <p><b>Operation:</b> Participatory monitoring programs will last throughout operations and offer the opportunity for direct communication with the community about mine performance and for improvement of environmental and socio-economic conditions.</p>	<p><b>Mine Closure &amp; Post-Mining Transition:</b> While action on mine closure and the post-mining transition begins with planning in the Mine Planning Phase, and implementation and modification of plans in the Construction and Operations Phases, the closure phase offers a final opportunity to promote a positive legacy of the mine project, particularly for local communities and to ensure that the project supports local, regional, and national sustainable development objectives through the post-mining transition.</p>

**Table 2: Key government ESIA actions by phase of mine life cycle**

KEY GOVERNMENT ACTIONS BY PHASE			
<ol style="list-style-type: none"> <li>1. Distinguish between prospecting and exploration</li> <li>2. Define social and environmental requirements for exploration</li> <li>3. Ensure that exploration permits and approvals are subject to terms and conditions</li> <li>4. Require environmental and social obligations to be met for permit renewal</li> </ol>	<ol style="list-style-type: none"> <li>1. Promote meaningful engagement and consultation, including building stakeholder capacity for participation</li> <li>2. Avoid environmental and social stabilization provisions in laws and contracts</li> <li>3. Establish a reasonable timeline for the ESIA process</li> <li>4. Require environmental and social management plans in the mine planning phase</li> <li>5. Require a mine closure and post-mining transition plan</li> <li>6. Require and set guidance for acceptable financial assurance for remediation and mine closure</li> <li>7. Provide clear guidelines for environmental and social reporting</li> <li>8. Approve or deny the ESIA report and related management plans</li> <li>9. Support development of grievance mechanisms</li> <li>10. Support negotiation of company–community agreements, if used</li> <li>11. Participate in multistakeholder mechanisms</li> </ol>	<p><b>Construction and Operation Phases:</b></p> <ol style="list-style-type: none"> <li>1. Ensure ongoing community engagement and capacity building</li> <li>2. Provide clear inspection requirements and adequate human resources for compliance checks and enforcement</li> <li>3. Issue guidelines for use of participatory environmental and social monitoring mechanisms</li> <li>4. Communicate results of compliance and enforcement to communities and the public</li> </ol> <p><b>Construction Phase</b></p> <ol style="list-style-type: none"> <li>5. Collaborate with local governments to manage the impacts and benefits of the construction work force</li> <li>6. Require management of impacts of construction</li> </ol> <p><b>Operations Phase</b></p> <ol style="list-style-type: none"> <li>7. Provide guidelines for management of acid rock drainage</li> <li>8. Conduct regular review of progress reports, conduct site inspections, and monitor implementation of management plans</li> <li>9. Amend and renew permits; Require updated assessments and amended plans and permit conditions where there are material changes to mine plans or impacts</li> <li>10. Require progressive rehabilitation and ongoing preparation for environmental and social aspects of the post-mining transition</li> </ol>	<ol style="list-style-type: none"> <li>1. Require ongoing action to implement Mine Closure Plan and prepare for (temporary and permanent) mine closure</li> <li>2. Address both social and environmental aspects of mine closure in closure guidelines</li> <li>3. Monitor progress on Mine Closure Plan, including review of reports; require updates to the mine closure plan as needed</li> <li>4. Monitor adequacy of financial assurance and update as needed</li> <li>5. Provide clear conditions for “exit tickets,” relinquishment, and management of residual risks</li> <li>6. Inspect and monitor implementation of the Mine Closure Plan and complete final inspection prior to relinquishment</li> </ol>

# Consultation questions

The IGF Secretariat would like to hear from all delegates about the following questions in order to better address your country needs and priorities in this final stage of the development of the guidance document. The ESIA session on Monday October 7 will launch the consultation process on the draft guidance document that will continue online throughout October 2019.

1. How does your legal framework ensure that social impacts are monitored and managed across the life of the mine?
2. What level(s) of environmental and social impact assessment do you require for mining exploration? How do you ensure that the level of requirements is commensurate to the level of risk at the exploration and advanced exploration phases?
3. How do you ensure that communities around mines have access to and opportunities to contribute to information about the environmental and social impacts of a mine, and how these impacts are being managed?
4. Does your legal framework for ESIA and related management plans take into consideration climate change impacts and opportunities for climate change adaptation? How?
5. How does your legal framework identify and respond to material changes in the mining project, including significant changes in mining technologies, to ensure that environmental and social impacts are adequately assessed and managed?
6. The ESIA Guidance Document lists several “Key Issues” for environmental and social impact assessment and management, including:
  - a. Land Rights
  - b. Water
  - c. Management of Acid Rock Drainage
  - d. Tailings Management
  - e. Climate Change
  - f. Emerging Technology
  - g. Renewed Approaches to Gender in Mining
  - h. Indigenous Rights and Consultation
  - i. Biodiversity

Are there any topics you would add to this list? Do you have any success stories or lessons learned related to managing any of these issues that you can share?

7. Land rights and water rights are often key social and environmental issues in the mine permitting process. What effective strategies have you identified to address these issues and avoid related conflicts?
8. What legal frameworks or strategies has your government found useful to protect water quality throughout the life of the mine?
9. How does your government monitor tailings dams and protect against the risk of tailings dam failure?
10. Does your legal framework integrate socioeconomic factors into mine closure planning? If yes, what factors and what lessons have you learned in this process?
11. What environmental and social criteria does your legal framework provide for mine relinquishment?
12. Are there any environmental and social impacts of mining that are unique to your country or region? If regional, have you identified opportunities to collaborate with other governments to learn from experience and address the issue?
13. Where would your government most like to allocate additional funding and/or human resources to better manage environmental and social impacts of mining? What strategies has your government found effective to fill human and financial resource gaps?
14. What resources would be most useful to your government to build capacity to better manage environmental and social impacts of mining?