

STRATEGIC ENVIRONMENTAL AND SOCIAL ASSESSMENT (SESA)



**STRATEGIC ENVIRONMENTAL AND
SOCIAL ASSESSMENT (SESA)**

FOR

**MINERAL SECTOR SUPPORT FOR
ECONOMIC DIVERSIFICATION PROJECT
(MinDiver)**

FINAL REPORT

2019

EXECUTIVE SUMMARY

ES 1.1: Background

The Strategic Environmental and Social Assessment (SESA) prepared by the Ministry of Mines and Steel Development (MMSD) aims to guide the overall implementation of Environmental and Social Assessment and Management of the activities of the Mineral Sector Support for Economic Diversification (MinDiver) Project. The project aims to leverage on Nigeria's vast natural resources to diversify the economy from the oil and gas sector in order to achieve sustainable economic growth and development. The specific objectives of the MinDiver Project are twofold: (1) to improve the attractiveness of Nigerian Mining sector, as a driver for economic diversification for long-term private sector investment in the exploration and production of minerals, and (2) to create a globally competitive sector capable of contributing to wealth creation, providing jobs and advancing the country's social and human security. In view of these objectives, SESA is conceptualized to primarily identify the priority actions that Government can take in order to foster the environmentally sustainable, socially equitable and inclusive development of Nigeria's mining sector.

ES 1.2: Structure of the Report

This SESA report is structured into eight (8) chapters as follows: Chapter One (1) is the Introduction and it sets out the project description and justification for preparing SESA. Chapter Two (2) discusses the methodology employed in carrying out the SESA. Chapter Three (3) presents the overview of past, present and future mining in Nigeria. Chapter Four (4) outlines the mining activities and mineral production statistics, summary of environmental and social conditions of the mine sites visited including biophysical condition, cultural, religion and gender issues, occupational health and challenges that miners encounter. Legal, regulatory and institutional framework including mandates, institutional capacity, coordination and issues of overlap and suggestion for improvements. Chapter Five (5) presents international standards on mining and experiences of some developing countries in managing their mining sector including their approach to institutional and governance weaknesses in the sector which Nigeria can learn from. Chapter Six is a presentation on potential adverse environmental and social issues related to mining including climate change issues and mitigation measures. Public consultation which elucidates stakeholder's social, environmental and economic interest and concerns with respect to mining were presented in Chapter Seven while Chapter Eight concludes with recommendations and action plan including schedules for implementation.

ES 1.3: Methodology

The methodology involved a range of activities. First, a scoping study was conducted entailing a review of critical documents related to the SESA and stakeholder analysis and include the 2005 SESA prepared for the Sustainable Management of Mineral Resources (SMMRP) Project, Environmental Study Report 2014 (Technical assistance project) for mining sector development in Nigeria through an externally funded output (EFO), the Project Appraisal Document (PAD), the Environment and Social Management Framework (ESMF), Resettlement Policy Framework (RPF) of the MinDiver Project, Nigeria Minerals and Mining Act 2007, Nigeria Minerals and Mining Regulations 2011 and SESA report of some countries including Sierra Leone, Mozambique, among others. A detailed stakeholder analysis was undertaken (see section 7.2) to identify different stakeholders and mapped according to their degree of

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involvement in the sector. The field data collection involved extensive stakeholder consultation, survey and analysis of the social environment; physical and biological environment at selected mining sites. Six zonal stakeholder consultations were conducted in six geopolitical zones of Nigeria – Bauchi for North East, Kaduna for North West, Abuja for North Central, Abeokuta for South West, Calabar for South South and Enugu for South East zone. The survey involved using questionnaires to collect and collate data from miners and host communities in the field locations visited and also from the staff of Ministries Department and Agencies (MDAs) of Federal and State governments. A total of 34 mine sites were visited across twelve States and the Federal Capital Territory. There was analysis of environmental and social impacts, issues, description and analysis of the existing policies; regulations, institutional framework and assessment of capacity.

ES 1.4: Baseline Information

Nigeria is blessed with abundant solid mineral resources. The country has diverse mineral deposits across the 36 States of the Federation that can be mined in commercial quantities. At the time of the solid mineral boom (i.e. export of coal, tin and columbite in the 1960s and the 1970s), the mining sector contributed 4-5 percent to Gross Domestic Product (GDP). However, the decline in the performance of the sector led to the drop in its contribution from 5.6 percent in 1980 to 0.38 in 2012. Currently, the contribution of the sector to the GDP is among the lowest, although the sector is picking up as a result of the several reforms in the sector. The data on mining and quarrying output for 2018 shows that Nigeria produced a total of 55,810,964.53 tonnes of solid minerals (Mining Inspectorate, MMSD). Mining is mainly carried out by artisanal and small-scale miners (ASM) that rely on manual labour and simple tools; with few companies having heavy mining equipment. Sources show that granite and limestone are the most mined minerals in Nigeria as at 2018 by construction and cement manufacturing companies (Africa Check¹).

ES 1.5: Main Findings from Reviews and Field Study and Policy Recommendations

ES 1.5.1: Findings

Nigeria has institutions, environmental laws and regulations which govern mining. Some of these include the Ministry of Mines and Steel Development (MMSD), Federal Ministry of Environment (FMEnv), States Ministries of Environment (SMEnv), National Environmental Standard and Regulations Enforcement Agency (NESREA), Mines Environmental Compliance Department (MEC), Mineral Resources and Environmental Management Committee (MIREMCO), Nigeria Minerals and Mining Act 2007, Nigeria Mineral Regulations 2011, Roadmap for the Growth and Development of the Nigerian Mining Industry, among others. It was discovered that MDAs at the Federal and State levels of government have limited funding, inadequate staff capacity and operational logistics to perform their mandates. This is further exacerbated by limited coordination and synergy among these institutions which is reflected in the overlapping functions among MDAs, FMEnv, NESREA, MEC, SMEnv and State Ministries of Solid Mineral/Natural Resources.

¹Africa check is a non-profit fact checking independent organization set up in 2012 to promote accuracy in public debate and the media in Africa

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In addition, the laws, regulations and guidelines for dealing with environmental issues in Nigeria are short of meeting international standards in terms of social inclusiveness. For example, the existing laws made no provisions for gender protection (gender-based violence, discrimination against women), protection of the rights of the vulnerable, labour influx-based issues, grievance redress mechanism, etc. Also, at the sector level, the existing laws and regulations for the Mineral Sector (Mineral Act, 2007 and the Nigeria Minerals and Mining Regulation 2011) are silent on the social issues mentioned including child labour protection, age limit for employment in mining, right of host communities and Occupational Health and Safety (OHS) guidelines. Overall, there is conflict between the Federal and State governments regarding the control of mineral resources which is as a result of the gaps in the Land Use Act, Nigeria Minerals and Mining Act 2007 and the Constitution of the Federal Republic of Nigeria 1999 (as amended). Although the 1999 Constitution as amended and the Mining Act of 2007 confers the ownership and control including legislating on issues regarding solid mineral to the Federal Government, the State governments believe that they have control over land following the right granted to the State Governor by the Land Use Act. The States and its citizens are of the opinion that they directly bears the brunt of degradation, social and health impacts caused by mining, and therefore, becomes necessary for the State Government to be involved in the governance and monitoring of mining activities in the State. This condition has resulted to multiplicity of taxes imposed on miners and thus has reduced investment in mining. Furthermore, issues of illegal mining and environmental consequences of open pit mining practiced in Nigeria significantly expose miners and inhabitants living around mining sites.

Recommendations: Key recommendations are presented below while the action plan for implementation of policy, institutional and governance recommendations are documented in Table 8.1 in the document.

ES1.6 Recommendation for Strategic Environmental and Social Issues for the Mining Sector in Nigeria

ES.1.6.1 Strengthening Legal and Regulatory Regime and Environmental Governance

Although the legal and institutional framework for mining in Nigeria is robust, there are areas that need to be fine-tuned and improved upon following concerns raised by stakeholders during the stakeholder workshop. The exclusion of State governments in mining administration in Nigeria although enshrined in the constitution of Federal Republic of Nigeria, 1999 (as amended) and the Mining Act, has some limitations as observed by stakeholders.

Recommendation I: There is need to provide some role for the state government regarding the monitoring of compliance to environmental and social commitments of the miners. Therefore, it is recommended that the Nigeria Minerals and Mining Act be updated to assign roles to the State governments especially regarding the development and implementation of community development agreements and monitoring of environmental and social compliance.

Recommendation II: To facilitate compliance with the EIA process of the Federal Ministry of Environment (FMEnv) and to encourage investments in the sector. MMSD in collaboration with the FMEnv should enhance the coverage of social and health issues in EIAs, to ensure that

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communities where mineral exploitation takes place have access to the EIA report during disclosure and establish a standardized EIA fee for consultant to charge prospective clients.

Recommendation III: The MMSD should propose appropriate amendments in the Mining Act to include priority issues already identified in this SESA, for example, the prohibition of mining within forest reserves and other ecologically sensitive areas or critical ecosystems under the control and management of the state government; and the inclusion of representatives of miners in Mineral Resources and Environmental Management Committee, (MIREMCO) among others.

Recommendation IV: To facilitate compliance with environmental standards by miners, government through the MMSD should enhance the capacity of the Mines Environmental Compliance Department (MEC) through adequate staffing and provision of monitoring equipment to ensure environmental compliance.

Recommendation V: The MMSD should develop an action plan to recover all abandoned mine sites. Also, the ministry should ensure that the licenses of miners that fail to recover the sites where they mined are not renewed. The Federal Government should specify a timeframe for non-compliance, after which the licences of miners of abandoned sites are revoked. At the industry level, non-compliance clauses or penalties should be included in the contract documents for all contractors/investors in the mining sector, which should include the reclamation of abandoned mine sites as captured or required in the EIA reports.

Recommendation VI: MMSD in coordination with FMEnv should mainstream climate change adaptation requirements or co -benefits in the sector operation. This is presently not emphasized in the Nigerian EIA guideline for mining. There is the need for proponents to develop climate change adaptation plan during the preparation of ESIA. Similarly, the mine operators/investors should obtain climate data annually to help in infrastructure design during planning, construction, and implementation phases of mining operations.

Recommendation VII: The Nigerian EIA process under review is addressing the issue of inclusions of both social and health impact assessment and institutional responsibilities. There is need for MMSD to ensure that the review is reflected in the revised Mineral Act for the sector.

ES 1.6.2 Removing Bottlenecks Regarding the Operation of Licensed and Artisanal Miners

Recommendation I: The MMSD should embark on geological surveys of mineral deposits in Nigeria to produce a large scale and high-resolution maps to guide local and foreign investors in the mineral sector in Nigeria. It will also facilitate the issues of loans to investors by deposit money banks and other international financing institutions.

Recommendation II: Given the requirement that artisanal miners form cooperatives to enable them access credit facilities from the Bank of Industry, the ASM Department should coordinate a program in conjunction with local government councils where mining is ongoing and CSOs to mobilize, organize and assist interest groups (such as women, illegal miners, marginalized groups) register into mining cooperatives.

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Recommendation III: To facilitate the expansion of mining industry in Nigeria, the Central Bank of Nigeria (CBN) working with commercial banks should provide a credit product specifically for miners with low interest rate and flexible collateral.

Recommendation IV: To eliminate the problem of multiplicity of taxes, MMSD should collaborate with State and local governments through MIREMCO to agree on specific tax base and environmental default penalties. MMSD should also encourage the Federal Government to withhold derivation payments to any solid mineral producing state that refuses to cooperate with it in removing this scourge of multiplicity of taxes.

Recommendation V: Government should discourage illegal mining via enlightenment and creating opportunity for those presently involved in illegal mining to be mainstreamed into formal ASM, by assisting them to register voluntarily and supporting them with some incentives such as easy access to credit and market opportunities.

Recommendation VI: MMSD should champion a sector guideline in consultation with FMEnv to allow mining companies in common clusters to be covered by a common EIA. This will help to eliminate illegal mining, create enabling environment for formal participation in mining, including reduction in the cost of carrying out EIA which is cost intensive for individual small miners.

ES 1.6.3 Limiting Gender Based Violence and Enhancing Women Participation in Mining in Nigeria

Recommendation I: The MMSD should in collaboration with relevant ministries and NGOs, mount a sensitization program at mine sites to discourage discrimination against women. The Bank of Industry (BOI) should institute a credit instrument targeted on Nigerian women with interest to invest in solid mineral exploitation and processing.

ES 1.6.4 Occupational Health and Safety

Recommendation I: MinDiver should develop a robust OHS standard and train the staff of Mines Environmental Compliance (MEC) department on OHS operations including monitoring and enforcement of OHS compliance.

Recommendation II: Government should discourage the prevalence of under age workers in mines environment. Also, as an immediate measure, government should institute a policy to penalise or stop operations of a mine site where children work as labourers.

ES 1.6.5 Capacity Building to Enhance the Knowledge of Legal and Regulatory Requirements of Operators in the Industry

Recommendation I: The MMSD should develop and implement a sensitization plan to effectively sensitize the different stakeholders in the sector on the Minerals and Mining Act, 2007 and the regulations especially on the environmental requirements. Mining and prospective mining communities should be sensitized on community development agreement in order to ensure that the community is well protected. The MMSD should collaborate with National Orientation Agency (NOA) to mount a sensitization program around the mining sites and mining communities in Nigeria.

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Recommendation 2: MinDiver should facilitate the training and scaling up the skills of staff of MinDiver PIU, MEC and FMEnv and the partners involved in environmental and social monitoring of project on management of GBV/SEA, labour influx, child labour, grievance redress and other social safeguards concerns that might be associated with the MinDiver Project and mining in general.

ES 1.6.6 Reducing the Effect of Mining on the Environment

Recommendation I: The MMSD through the MEC Department should ensure that mine waste water from licensed and ASM operators is treated before discharge into the surface water and the environment within the mining sites in line with the EIA regulation. Although this solution, may not provide complete panacea to the effect of water pollution and the environment due to the largely unregulated nature of the sector. However, it will be a good starting point and will go a long way in pollution abatement in the short and medium term.

Recommendation II: As part of compliance, MMSD through MEC should ensure that mining companies and ASM operators provide alternative source of water to discourage the use of run-off mines for domestic purpose to prevent exposure to heavy metals (lead, mercury and chromium) contaminations as witnessed in Ebonyi, Edo, and Plateau etc. Contaminated soils should undergo remediation to reduce or eliminate the contamination levels of these heavy metals.