1   2   3   4   5   6   7

Inception CDA and risk assessment

Formal mapping

Agency staff survey

Target group survey

Data analysis, triangulation and report-writing

Presentation and dissemination of results

Follow-up actions

Step 1

Inception

The objective of this step is to make the **initial preparations for the self-assessment**. This includes **identifying the target agency, agencies or units within agencies that should take part in the self-assessment**.

Target groups within the selected agency—that is, the managers, supervisors, front-line staff (if applicable) and other relevant positions—should also be identified.

It is important that staff members at the agency actively participate in the overall process of assessment and feel comfortable with the objectives of the assessment and with the survey questionnaires.

This phase also includes defining and identifying the affected communities in an area where there is apparent or potential environmental and social degradation as a result of mining. Affected communities can include groups such as artisanal miners, smallholders, communities that depend on the land for agriculture, and pastoralists.

Identify an agency coordinator and an independent expert

A designated agency coordinator should be appointed to liaise with the independent expert. The agency coordinator should take part in all relevant meetings and receive regular updates from the independent expert.

An independent expert, or team, should be identified and contracted as soon as possible to facilitate the assessment process (see Appendix 7 for sample terms of reference). The independent expert could be a university, a non-governmental organization with research capacity, an individual contractor or a mix thereof.

Conduct a Conflict and Development Analysis[7]

The independent expert should use the CDA criteria for ensuring that the assessment does not negatively affect or influence conflict dynamics in the assessment area. There is always potential for conflict between companies and communities, with data showing a direct correlation between the frequency of conflict incidents and the rise and fall of global mining activity. Yet, even if the conflict is generally played out at the community—company interface, it is often the result of an interplay between a range of actors, including various government agencies, civil society, companies and others. In Colombia, for example, it has been documented that a significant number of social conflicts in the mining sector can be traced back to grievances from flawed or absent administrative decisions.[8]

Typically, conflict determinants are highly interrelated in mining and need to be taken into account before embarking on an assessment. Social conflicts are often prevalent as a result of perceived grievances and social inequalities associated with governance of the mining sector. Events that could potentially trigger outbreaks of conflict could be the forced displacement of artisanal and small-scale miners from mining concessions and/or unilateral decisions by government to change policies and rules of procedures without consultation. Examples of indicators include land and resources ownership, compensation and livelihood issues, dependency of local communities on mining companies, distribution of benefits from the large-scale mining sector, environmental degradation and threats to biodiversity or water quality and supply, as well as a real or perceived lack of transparency and accountability in central and local government.

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7. See http://bit.do/ePd8z.
8. See http://bit.do/ePd87.

As a guide to obtain a solid evidence base, the CDA should take into account two normative characteristics specific to the mining sector when identifying conflict drivers and triggers: a) the extent to which the communities believe that their interests are respected or protected (i.e. the extent to which they feel that they have what they need or deserve from the mining operation); and b) the degree to which communities believe that they can influence outcomes through conflict in the context of their relations with the company and/ or government authorities (i.e. the extent to which communities believe that they can gain what they want or need from the presence of a mining operation through the use of conflict).[9]

Establish an advisory committee

During the inception stage, the option of setting up an advisory committee should be considered (see Appendix 7 for sample terms of reference). The advisory committee is an informal grouping of prominent stakeholders that can be convened to advise on the implementation of the ROLPA assessment. It may be particularly relevant if there are low levels of trust between government agencies and affected communities (identified in the CDA during the inception). Although not a decision-making body, it can be a useful instrument to allow for greater transparency and increased target group participation in the implementation of the assessment, even if the independent expert and the participating government agency are the main drivers of the process. In certain cases, the role of advisory committees in the assessments can be increased further, with expanded mandates to facilitate the implementation of recommendations (perhaps as the process moves on to action plans), and the independent expert and the agency may even consider developing the capacity of the advisory committee through training in how the ROLPAM Users' Guide is implemented. The advisory committee can benefit from piggybacking on existing advisory groups, multi-stakeholder forums, round tables etc.

Where possible, civil society organizations should be consulted in the assessment process

Box 3.2
Lessons learned regarding advisory committees: the case of Mongolia

In Mongolia, only two agencies were included in the working group at government level or in the advisory committee. This is too few if: a) the implementation of the assessment is to be conducted transparently by emphasizing buy-in at an early stage; b) it reduces local ownership and limits future coordination on results; and c) it risks the effective and sustainable design and integration of action plans. No working groups or similar bodies were created in any other country during the pilot phase. Without these, or enough political will, action plans or measures to integrate the results into national development strategies—although designed in good faith and representing the right type of recommendations emanating from the assessments—will invariably face challenges in their implementation. Additionally, there was an absence of CSOs in the working group, reflecting a more general view that the main focus of the assessment concentrated more on the agency survey than on the target group survey. Although the latter was conducted, there was an overly weighted focus on the principle of legality and the decision-making powers of government institutions with mining sector mandates, at the expense of an equally relevant assessment of participation, fair treatment and access to redress among communities at the local level.

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9. See http://bit.do/ePegi.

Civil society organizations (CSOs) often have broad informal networks among communities. In some cases, where government agencies have limited presence, this can often result in the right type of feedback on survey questionnaires. It also enhances transparency, accountability and impartiality and allows a participatory approach to be adopted from the start of the assessment. In Mozambique, CSOs took part in the focus group discussions. However, it is important to ensure that CSOs that do participate are independent and not only appointed by the local authorities.

Inception do's and don'ts

- **Select a research team that has the requisite multidisciplinary competencies to conduct the assessment.** The team should have a thorough understanding of the strategic goals and the workings of the mining sector and its related environmental challenges as well as expertise on the workings of the public administration and its legal environment, and developmental issues at both national and local level.

- **Seek a formal directive from the responsible ministries and/or other agencies (e.g. mayor's office or city council), and keep them informed throughout the process.** In certain cases, this may even be mandatory to ensure the legitimacy of the assessment results and subsequent action plans.

- Ensure that the diagnostic is clear before moving on to Step 2. If this is not clear following the inception, there is a risk that the assessment either a) does not result in any concrete recommendations and becomes a validation exercise or b) will be met by apathy among affected communities and potentially lower levels of trust in the government agency, if the right type and scope of questions are not addressed from the start.

- **Conduct a profiling of respondents.** Respondents' profiles will help to contextualize their responses. The data will also help explain the level of respondents' understanding of the principles of the rule of law and their relevance to service provision. Crucially, profiling should only take place once the independent expert and participating agency have agreed on the definition and identification of the affected communities directly impacted by a rule of law deficit in how the mining sector is governed.

- **Ensure the '3 Ps' have been carefully considered in light of the CDA and other scoping activities and before embarking on the next step.** These are: a) identify the Problem: a thorough analysis has taken place that results can satisfactorily validate at a later stage; b) plan the Process: the scope and roll-out of the assessment and identification of implementation risks; and c) identify the People impacted: ensure that there are no deviations from the categories of affected communities most impacted, which are based on the initial problem analysis.

- When identifying people impacted by the activities, it is important to collect sex-disaggregated data for men, women, boys and girls, to strengthen the overall analysis that can be undertaken. Additionally, being able to demonstrate a gender-balanced process also strengthens the legitimacy of the process and its outcomes. One way of ensuring that a gender perspective is integrated could be by considering the role of civil society in the assessment process and, more specifically, including a representative of a local women's rights group in the advisory committee.

Box 3.3
Securing the right competencies and managing process

In Mongolia, affected communities—i.e. mining companies, citizens, environmental assessment companies—all have different perspectives, interests and incentives in the mining sector. In the pilot assessment, all of these actors were put in one group, making it difficult to accurately collect statistical data and differentiate between them. This even concerns municipalities and local government authorities, as these often have different levels and mandates for establishing viable assessment entry points. To facilitate the work of the research team, obtaining an organigram early on would enable the team to gain a more simplified and relevant picture of a potentially complex survey sample—i.e. job descriptions, scheme of delegation, leadership structure and delegated decision-making powers.

In certain cases, the research team may also face challenges within its own confines and distribution of roles. Although expertise and experience in the research team was of a high quality in the case of Mongolia (including a public administration expert, mining expert, research coordinator, legal expert, administrative lawyer and a sociological organization), the team members did not interact satisfactorily, operating mainly in silos and pursuing separate threads. The research team leader should ensure that there is good coherence between the experts, with milestones established and space and time for consultation—particularly during the inception, analysis and report-writing stages.

Further, in the case of Mozambique, subcontracting the enumerators was not properly managed, as those teams of four that went into the field were not experts in either human rights or mining, only general sociologists. Hence, no follow-up questions were asked, even though they were crucial for interpretation. In addition, focus groups, which could have been useful for interpreting results, were not used, resulting in little or no elaboration of key outputs.

Inception outcomes

At the end of Step 1, the following outcomes will have been achieved:

- The agency or agencies participating in the self-assessment are identified. The areas of service delivery included in the self-assessment, and the relevant target group of staff, are specified in as much detail as possible.

- Purpose and scope are determined, and a general time-frame established.

- An agency coordinator is appointed to liaise with the independent expert and the advisory committee and report back to the managerial level of the selected agency.

- An independent expert, or team, is identified and—if necessary—contracted to facilitate the self-assessment.

- An advisory committee has been formed and has held its first meeting

- A brief progress report on the inception step has been written by the independent expert and submitted to the advisory committee.