

## **Environmental and Social Review Summary**

### **Congo Equipment - Expansion**

*This Environmental and Social Review Summary (ESRS) is prepared by MIGA staff and disclosed prior to the date on which MIGA's Board of Directors considers the proposed issuance of a Contract of Guarantee. Its purpose is to enhance the transparency of MIGA's activities. This document should not be construed as presuming the outcome of the decision by MIGA's Board of Directors. Board dates are estimates only.*

*Any documentation that is attached to this ESRS has been prepared by the Project sponsor, and authorization has been given for public release. MIGA has reviewed the attached documentation as provided by the applicant, and considers it of adequate quality to be released to the public, but does not endorse the content.*

Country:	Democratic Republic of Congo
Sector:	Agriculture and Manufacturing Services
Project Enterprise:	Congo Equipment SARL
Environmental Category:	B
Date ESRS Disclosed:	November 13, 2015
Status:	Due Diligence

#### **A. Project Description**

Bartrac Equipment GBL ('BE' or the 'Guarantee Holder') of Mauritius currently holds MIGA guarantees for investments in Congo Equipment SARL ('CE') in the Democratic Republic of Congo (DRC). MIGA executed two Contracts of Guarantee for a period of 10 years ending on March 31, 2017. MIGA has been approached by BE requesting an increase in its existing guarantee coverage in CE resulting from recent growth in CE business activities. Coverage has been requested for equity investments and shareholder loans against the risks of Transfer Restriction, Expropriation, and War and Civil Disturbance for a period of 10 years.

MIGA's guarantee will cover CE's existing operations at Lubumbashi and Kolwezi as well as its operations in client mine sites: Tenke Fungurume Mining (TFM) in Fungurume, Kamoto Copper Company (KCC) in Kolwezi, and Mutanda Mining (Mumi) and Eurasian Resources Group (ERG) in Sakania. The guarantee will also include the construction of the new administrative headquarters premises in Lubumbashi with a facility to rebuild and repair Caterpillar mining equipment (CRC); a spare parts warehouse; a service workshop; and a training center (altogether referred to as the 'Project').

The Project will comprise the construction of approximately 10 small-sized buildings covering a total surface area of 55,296 square meters (m<sup>2</sup>) in an 89,856 m<sup>2</sup> land plot. The land is currently vacant and situated in the intersection of Kinsevere Road and Avenue Kyamakose, Lubumbashi, Katanga Province, in the Democratic Republic of Congo (DRC). The Project site is situated in an area zoned as industrial-commercial and it is neighbored by two companies. It is expected that once the proposed Project is operational, CE equipment will move its Headquarters from its currently rented space to a proposed Project in Luano.

## **B. Environmental and Social Categorization**

The Project is a Category B under MIGA's Policy on Environmental and Social Sustainability (2013) because the potential environmental and social impacts are limited, site-specific, largely reversible, and can be readily addressed through mitigation measures. Key environmental and social issues during construction include effects on air and water quality, soil and vegetation removal, increased noise levels and vibration, solid and liquid domestic and hazardous waste management and incidents related to occupational and community health and safety. During operation, key environmental and social impacts include generation of general solid and liquid waste, generation of hazardous waste, air emissions, and occupational and community health, safety and security.

## **C. Applicable Standards**

While all Performance Standards are applicable to this investment, our current information indicates that the investment will have impacts which must be managed in a manner consistent with the following Performance Standards:

- PS1: Social and Environmental Assessment and Management Systems
- PS2: Labor and Working Conditions
- PS3: Pollution Prevention and Abatement
- PS4: Community Health, Safety & Security

PS5 (Land acquisition and Involuntary Resettlement) does not apply to this investment. The Project site is owned by CE. As the site is vacant, no physical or economic resettlement is required. The land plot was previously owned in its totality by a transportation services company and the transaction, which occurred on January 24<sup>th</sup>, 2014, was voluntary.

The development of the Project is not expected to have adverse impacts on biodiversity therefore PS 6 (Biodiversity Conservation and Sustainable Management of Living Natural Resources) is not applicable. PS7 (Indigenous Peoples) is not relevant to this Project since indigenous communities are not present in the area. As impacts on cultural heritage are not anticipated due to the official land use designation of the Project site as commercial-industrial, PS8 (Cultural Heritage) does not apply to this investment.

In addition, the following World Bank Group General Environmental, Health, and Safety (EHS) Guidelines are applicable to the Project.

## **D. Key Documents and Scope of MIGA Review**

MIGA's review consisted of appraising environmental and social information submitted by CE (CE). The following documents have been reviewed by MIGA:

- Environmental and Social Impact Assessment (ESIA) of the Congo Equipment Facilities Construction Project at the Luano / Katanga Province Site, Final Report by ASC-BETIMEXE - October 2014
- Environmental and Social Compliance Reports for Lubumbashi and Kolwezi client sites by ASC-BETIMEXE – July 2014
- Congo Equipment Environmental Policy – January 2015
- Congo Equipment Employment Policy and Recruitment Procedure – October 4, 2014
- Congo Equipment Control of Contractors Standard SHE-001-2014
- Congo Equipment Waste Management Plan (2 procedures) – January 30, 2012
- Congo Equipment Emergency Response Plan – October 2, 2015
- Congo Equipment Contractor Health and Safety Requirements – January 2015
- Multiple Congo Equipment Human Resources procedures – various dates
- Congo Equipment Safety Rules – January 2015
- Congo Equipment Safety Rules Handbook - undated
- Various Health and Safety procedures – various dates

In addition to reviewing the above documents, a MIGA Risk Management Officer visited the Project site in September 2015. The visit included a walk-over of the Project site and meetings with representatives of the Project sponsors. No material changes have been identified between the site visit outcomes and the relevant documentation reviewed.

## **E. Key Issues and Mitigation**

### PS1: Social and Environmental Assessment and Management Systems

#### *Social and Environmental Assessment:*

An Environmental and Social Impact Assessment (ESIA) and a framework Environmental and Social Management Plan (ESMP) were completed in October 2014 for the proposed Project. The ESMP includes a description of the mitigation measures during the construction and operation phases of the Project. According to the Democratic Republic of Congo's law, an Environmental Impact Assessment is required by the Regional Coordinator of Environmental and Sustainable Development in order to obtain an operation permit. The operation permit for the existing headquarters facility in Lubumbashi will be transferred once the onsite construction is finalized at the Luano site and will cover aspects related to wastewater discharge, air emissions, noise, and the temporary waste storage. A construction permit was obtained on March 28<sup>th</sup>, 2015.

Key risks and impacts identified during the construction phase of the Project include health and safety risks intrinsic to construction activities such as physical hazards related to the use of machinery and vehicles, management of hazardous substances, increase of dust emissions from excavation and noise emissions from vehicular traffic and machinery operation, removal of

vegetation, and community health and safety risks induced by the influx of workers to the area. During operations of the CE at the Luano site potential environmental, social, health and safety (ESHS) risks include those related to occupational health and safety accidents, inadequate solid and liquid waste management, hazardous waste management, and risks associated with inadequate discharge of contaminated wastewater. The risk of fire is also possible due to the storage, handling, and presence of chemicals, pressurized gases, and other flammable substances. It is expected that proper implementation of an Environmental and Social Management System (ESMS) during the construction and operation of the Project will avoid and/or minimize risks and impacts to the extent possible ensuring safe working conditions for the workers and neighboring community.

*Management Program and Monitoring:*

CE already has in place comprehensive Environmental, Health and Safety (EHS) Plans consisting of several procedures for the management of environmental aspects of its operations such as solid and hazardous waste management, as well as various occupational health and safety (OHS) procedures covering aspects ranging from heavy equipment driver safety to fire and emergency response. The EHS operational plans generally meet MIGA's requirements.

CE will be required to update and administer its operational EHS procedures and develop an Environmental and Social Action Plan (ESMP) following the requirements outlined in PS1, the ESMP for the proposed project, and those outlined in the Environmental and Social Action Plan (ESAP) to be developed by MIGA. CE will also be required to develop and implement environmental, social, health and safety (ESHS) procedures during the Project construction phase.

On March 10 – 12, 2014, MIGA (via a consultant) conducted a routine E&S monitoring visit to the all of CE's operational sites in the DRC. The visit assessed CE's compliance with MIGA's Performance Standards (2013). The consultant's report detailed various areas of improvement specific to, driver's safety risks, absence of worker's grievance mechanisms and two outstanding labor-related court cases at the time. MIGA has followed up with CE and in September 2015 obtained written confirmation that all issues noted in the consultant's report, had been adequately addressed via development of EHS management plans, training programs, and meetings with the clients EHS Management their mine sites. CE also provided written confirmation to MIGA regarding the two labor cases explaining that the first court case was concluded in favor of Congo Equipment and the second court case is still running.

*Organizational Capacity and Training:*

CE has an EHS department at the corporate level with responsibility and authority for all EHS matters. The corporate EHS department will be provided with sufficient authority and resources to achieve effective and continuous E&S performance.

CE has a training program in place at his operating sites. CE staff receives a series of induction trainings comprising a wide range of topics on human resources and health and safety matters. Staff also receives periodic training on specific safety topics such as driver's safety and company safety rules. CE staff at client sites also receives regular training including induction, a 9-day safety course, and an annual refresher. CE Senior Management attends a safety forum annually. External audits on training and other EHS matters are conducted on a yearly basis. Therefore, it is expected

that EHS orientation and training will be conducted during construction and operational phases of the Project as necessary. MIGA will require that CE develops and implements a training program during the construction phase.

#### *Emergency Preparedness and Response:*

As part of the existing suite of ESHS plans, CE has an Emergency Response Plan (ERP). The plan details procedures for issues related to occupational accidents, fire, fuel and chemical spills as well as relevant points of contact, roles and responsibilities.

#### PS2: Labor and Working Conditions

CE has a staff of 1,041 employees across all of their existing operations. It is anticipated that the Project will create employment opportunities during the construction and operation phases and that the construction phase will require approximately an average of 100 workers, but could peak at a maximum of 400. Once construction is finalized it is expected that the current workforce at the existing Lubumbashi offices, consisting of approximately 225 employees, will move to the new Luano site. Once the proposed Luano site is operational, approximately 75 additional staff are expected to be hired.

First priority will be given to a local workforce while providing equal employment opportunities to women. Benefits to the local economy are expected due to the potential influx of workers to the area. Because recruitment of construction workers is expected to be mainly local, it is not expected that workers accommodations will be necessary. Limited non-local workforce will be lodged in existing housing within the confines of the greater Lubumbashi area. Nonetheless, community health and safety risks, such as the transmission of diseases, associated with the cohabitation between workers and the local population have been identified in the ESIA. Construction workers will be required to attend occupational health and safety trainings per local law and will be provided competency-specific technical, conduct, safety, and awareness training related to their responsibilities on site. During operations, staff will continue to be trained as applicable on existing and newly developed ESHS management procedures.

#### *Human Resources (HR) Policies and Procedures*

Labor practices in DRC are regulated by Labor Law (Loi) No 015/2002 dated October 16, 2002 and the Labor Code (Code du Travail) and its application measures (included in the official text dated May 1999). All labor contracts are governed by the Labor Law which standardize employees' minimum working age, work-related rights, working conditions including safety and hygiene, and stipulate obligations of employers and employees.

CE has an existing Human Resources (HR) Policy and a comprehensive HR Management Plan in place. The HR Policy is designed to ensure that hiring processes are objective and in line with the local Labor Law. The HR Management Plan contains various procedures and guidelines to guide the recruitment process such as overtime work, work visa and permits for expatriates, and employee performance evaluation. Grievances are processed per CE's collective bargain agreement applicable to all CE direct employees. Contractor management is done via specific provisions in

contracts with CE. Contractors are expected to respect CE HR Policies and procedures; however there is no specific HR controls over contractor hiring actions.

CE has an OHS Management Plan in place and a Project safety and accident prevention program in place for all of its employees, including contractors. The Project safety program is administered in accordance with local accident prevention standards, policies and procedures. The OHS Plan stipulates that appointed Safety Managers, including contractors, have overall responsibility for safety at each individual work site, must regularly monitor all safety activities at their respective job sites, and report findings to management through the appointed Site Manager.

Construction works will be conducted by CE and thus, construction contractors are not expected on site. CE will be responsible for implementing the OHS Management Plan for the construction phase of the Project and for providing adequate training for designated staff performing risk assessments, implementing safe operating procedures, following reporting requirements for accidents, incidents, and safety non-compliances. A Training Plan for the construction phase will be developed as part of the ESMS.

For contractors in general, CE will be required to assess contractor compliance in accordance with relevant items delineated in the ESMP and MIGA's PS. CE will also develop procedures to manage contractors as part of the ESMS to ensure that they are aware of and abide by environmental and social, OHS, and labor policies in accordance with DRC local laws and regulations and MIGA's PS.

#### *Supply Chain:*

CE will undertake a review of the supply chain to identify potential risks and then integrate in its OHS Management Plan procedures and mitigation measures to address the identified risks. Contracts with sub-contractors will include EHS requirements and provisions consistent with PS2 to address labor issues including child and forced labor in its supply chain.

### PS3: Pollution Prevention and Abatement

#### *Waste Management and Disposal*

The production of solid, liquid, and hazardous wastes is expected throughout different phases of the Project. Hazardous waste generation is expected to include wood, soil, or cloth waste materials contaminated with hydrocarbons and petroleum-based products, vehicle maintenance fluids such as antifreeze (ethylene or propylene glycol), fluorescent tubes and electrical bulbs, etc. The generation of old tires and decommissioning of equipment are also expected during operation.

A Waste Management Plan (WMP) is in place for existing CE operations. The plan identifies all waste streams, describes transportation and disposal requirements, and outlines waste management responsibilities. All waste is deposited in adequately labeled waste containers in each work area. All waste streams are being managed and removed for either recycling or disposal in accordance with applicable DRC regulations. Removal and disposal is done by a certified third party company and records are retained by CE for every removal. Appropriate containers used to store fuels, lubricants, oils and other chemicals and once used are destroyed on site and placed in the hazardous

waste containers for adequate disposal by the third party company. Disposal of old tires is the responsibility of the customer buying or renting the equipment from CE. Currently CE disposes of damaged parts in decommissioned equipment and sells the remaining parts as scrap metal. CE will be required to update its WMP to incorporate additional waste management needs brought by the proposed Project in line with the PS.

CE will be required to develop a WMP for the construction phase of the Project to ensure that all waste generated will be collected, segregated, stored, and transported adequately. The plan will be developed in line with DRC regulations, PS, and WBG General EHS Guidelines.

A septic tank will be installed on site to manage wastewater during the construction phase. A wastewater treatment system will be put in place for the operation phase. Treated wastewater effluent will be released to the environment in accordance with local regulations and provisions in the WBG General EHS guidelines.

#### *Air Emissions*

The main sources of air pollution during the construction phase include excavation works and movement of heavy vehicles, engine emissions from exhaust gas from construction equipment, and emissions from the operation of generators for electricity generation. Principal pollutants resulting from these sources are dust and particulate matter (PM) from soil excavation and removal; and nitrogen oxides (NOX), sulphur dioxide (SO<sub>2</sub>) and carbon monoxide (CO) from exhaust of vehicles. Impacts on the air quality during the operation phase will be mainly related to the emissions from the movement and idling of vehicles during CE vehicle maintenance activities.

Per the ESMP, the Project will implement monitoring and mitigation measures to ensure the control of air pollution sources identified. CE will be required to formalize recommended measures and develop a pollution prevention procedure for the construction phase. The procedure will be aligned with MIGA's PS and WBG General EHS Guidelines.

#### *Noise and vibration*

Impacts from noise and vibration are expected to be moderate during the construction and operation of CE equipment maintenance facilities. Impacts during construction will be temporary and will result from the operation of construction equipment and operation of generators. Impacts during operation will be caused by the moving heavy equipment and vehicle testing. Per the ESAP, a noise and vibration management procedure containing adequate monitoring procedures and mitigation measures per the ESMP and PS3 will be required for the Project as part of the ESMS.

#### *Water and energy use*

During the construction phase of the Project, CE will utilize commercial bottled water as their main drinking water source until a proposed onsite groundwater well becomes operational. Groundwater is expected to be used to address all onsite water requirements during all phases of the project including: water required for other construction-related activities such as dust suppression, spraying concrete, site clean-up, etc; uses related to general domestic and sanitary use, and drinking water needs.

A local power grid connection is not possible for the proposed Project at the Luano site. A 5 kilovolts-ampere (kVA) diesel fueled generator will be used to provide 100% of the power supply needed during the construction phase. Each generator will be equipped with a day fuel tank that will be sized according to the needs of the Project. A 150 kVA diesel fueled generator will be installed on site to provide all energy needs during the operational phase of the project. Thus, a procedure will be developed to safely contain, handle, and store diesel fuel on site following the provisions contained in the WBG General EHS Guidelines.

Energy efficiency will be considered in the design and operation of the Project. Energy and water resources management plans have been recommended as part of the ESMS, in conformance with PS3, to optimize resources use.

#### PS4: Community Health, Safety & Security

The Project site is currently vacant and the area is located between two commercial-industrial operating sites in Lubumbashi. The site is zoned as an industrial-commercial area and main business around it include retail traders, commercial agricultural vendors, and other businesses. There are no formal communities in reasonably close proximity to the site. However, there are various people individually living and/or working in close proximity to the site. There is a privately owned access road to the site owned by and currently occupied by a few small vendors / occupants.

The risks and impacts of the Project, in the context of health and safety of off-site communities, have been identified in the ESIA as those typically induced by construction activities such as increased noise, increased air pollution, and increased vehicle traffic. The ESMP outlines mitigation measures to reduce potential impacts from construction activities and increased vehicular traffic. E&S risks and impacts will be managed through the implementation of measures recommended in the ESMP and a Stakeholder and Community Engagement Plan to be developed and implemented by CE.

#### *Security Arrangements:*

Security for the proposed Project site will consist of an access control system including fenced perimeter and third party armed guards. At CE client mine sites, security is the responsibility of the Mining Companies and typically consists of fenced perimeters and unarmed security officers. As part of the ESMS, CE will be required to develop a security plan, containing a security risk assessment and adequate training, in compliance with PS4.

## **F. Environmental Permitting Process and Community Engagement**

The law governing environmental protection in DRC requires a public consultation on the activities of the company to be carried out during the preparation of the environmental impact assessment. A public consultation and a series of meetings were conducted accordingly on May 24 - 28, 2014 and consisted of interviews with local authorities, the company's officials and the surrounding community in the district of Upper Katanga living along Kinsevere Road.

Construction and operational permits are also required per local law. The Regional Environmental and Sustainable Development Department is in charge of reviewing permit applications, including

the ESIA, and issuing the permit. CE has obtained the construction permit as of March 28, 2015. The operation permit for the existing headquarters facility in Lubumbashi will be transferred at the Luano site once the onsite construction is finalized, after approval of the Regional Environmental and Sustainable Development Department. This approval for transfer will be subject to a satisfactory ESIA.

#### **G. Availability of Documentation**

- [Environmental and Social Impact Assessment \(ESIA\) of the CE Facilities Construction Project](#) at the Luano / Katanga Province Site, Final Report by ASC-BETIMEXE - October 2014
- [Congo Equipment Environmental & Social Action Plan](#)

The above listed documentation is available electronically as PDF attachments to this ESRS at [www.miga.org](http://www.miga.org). It is also available for viewing at the following locations:

- 675 Avenue de la Métallurgie, Lubumbashi, DRC.