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Downsizing, Decommissioning, and Divestment

GOOD PRACTICE POINTERS

- Revisit stakeholder analysis in light of proposals for downsizing, decommissioning or divestment.
- Communicate with stakeholders early to allay fears and uncertainty.
- Provide regular updates and progress reports to stakeholders.
- Plan and execute stakeholder consultation as though it were at the project feasibility stage.
- Consult on transfer and management of assets and liabilities.
- Gear up to manage grievances.
- Review the capacity of future management systems to deliver stakeholder engagement on decommissioned or divested assets.



The range of stakeholders potentially affected by (or influential in) decisions taken to downsize operations, decommission facilities, or divest assets, and the ways in which they will be affected, will likely be different from those at earlier stages of a project. Impacts such as the loss of local employment, a general decline in regional economic activity (particularly for larger projects or projects in rural locations),

the cutting-back of community services previously provided by the company, and the disbandment of local community involvement in monitoring environmental and social impacts, can all introduce long-term financial and reputational liabilities for the project company.

Engaging with stakeholders well before these events take place can lower costs, reduce liabilities and strengthen the overall reputation of the company. For example, engagement can help guide work to rehabilitate any of the natural environment that has been damaged by the project, integrate operational infrastructure into existing public services, develop worker retrenchment programs, and establish funds and management structures for the long-term monitoring of assets.

Ideally, stakeholder concerns around future project closure, downsizing, or divestment should be considered during initial project planning and as **part of an ESIA process**, or at least sufficiently in advance of the events to allow stakeholders to inform the design of mitigation and risk management measures, and the realization of economic opportunities.

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ACTION	FURTHER GUIDANCE
<p>Revisit stakeholder analysis in light of proposals for downsizing, decommissioning, or divestment.</p>	<p>Because the processes of downsizing, decommissioning, or divestment present new sets of risks and opportunities, the range of potential stakeholders and their interests could be significantly different from those at earlier stages of a project. The scaling back of management presence and the transfer of assets and liabilities will require new forms of strategic collaboration with external stakeholders, including landowners and local communities, government utilities, and possibly other private sector entities. Stakeholder identification and analysis should be revisited as a first step toward engagement at this phase of the project cycle.</p>
<p>Communicate with stakeholders early to allay fears and uncertainty.</p>	<p>Effective management of stakeholder relations during a change process calls for early, clear, and consistent communications. To the degree possible, try to provide information on the purpose, timing, and nature of the changes proposed; the anticipated environmental and socioeconomic consequences of relevance to specific stakeholder groups; and the ways in which different stakeholder groups can participate in planning, implementation, and monitoring.</p>
<p>Provide regular updates and progress reports to stakeholders.</p>	<p>Commensurate with the scale of potential environmental or socioeconomic impacts and risks, your company might wish to consider producing regular reports targeted at the affected stakeholders that outline progress against agreed plans. Here, try to focus on issues of greatest concern to stakeholders including:</p> <ul style="list-style-type: none"> • compensation benefits, re-employment opportunities, and training and local enterprise support; community health, safety, hazards, and other risks • progress in the transfer of physical assets and land to other owners or users • environmental and ecological rehabilitation • future status of services and infrastructure
<p>Plan and execute stakeholder consultation as though it were at the project feasibility stage.</p>	<p>Like the project feasibility stage, downsizing, decommissioning, and divestment are about the company putting forward a new set of proposals that may affect people's lives and call for a new set of mitigation and compensation arrangements. As such, consultation with affected stakeholders at this stage should involve similar principles as those deployed at the time of ESIA studies. Ideally, good practice suggests addressing issues of project closure at the time of the ESIA, rather than leaving it to later.</p>

ACTION	FURTHER GUIDANCE
<p>Consult on transfer and management of assets and liabilities.</p>	<p>It is not uncommon for local communities, government authorities or private entities to want a company to hand over the productive assets from its operations, but not the liabilities. Because there are many different strategies and approaches for handling the transfer of physical assets and liabilities, affected stakeholders should be consulted on the various options and their implications. Their involvement in reaching agreement on such matters is important not only because they may have an integral role to play in future management or monitoring, but because they are the ones who will have to live with the consequences of these decisions. For a company, the stakes can be equally high in terms of the reputational risks of asset transfers to third parties if they are not managed responsibly.</p>
<p>Gear up to manage grievances.</p>	<p>Knowledge that facilities might be closing or operations winding down can act as a trigger for local stakeholders to raise a variety of grievances, which companies should be prepared to manage as part of the broader processes of downsizing, decommissioning, or divestment. These grievances might include concerns about inadequate retrenchment compensation, perceptions of unfulfilled commitments to provide development benefits to affected communities, questions about responsibilities for environmental liabilities, or fears over the way in which future asset owners may treat local stakeholders. Groups may also be concerned about poor current environmental and social performance that raises questions about the capacity of the company to manage impacts in future, when such impacts are less within the direct control of the company. As in previous phases, the same good practice principles for grievance management apply. (For further guidance on managing grievances, see pages 69-77.)</p>
<p>Review the capacity of future management systems to deliver stakeholder engagement on decommissioned or divested assets.</p>	<p>By definition, the process of decommissioning or divestment will lead to change in management or ownership structures and systems. In some cases, even after decommissioning and divestment is complete, the project company may still choose to retain management responsibility for certain risks and liabilities, for example continuing to monitor environmental hazards. For projects that have a range of environmental and social impacts and risks attached to the decommissioning or divestment process, it may be advisable to review the capacity of each of the principal management systems (internal and external to the project) to deliver on ongoing stakeholder engagement commitments and make adjustments where capacity is weak. If information is lacking about external parties' management structures, the project company might consider offering to conduct a joint analysis of their management systems to ensure effective ongoing stakeholder engagement.</p>

BOX 15: STAKEHOLDER GROUPS RELEVANT TO EFFECTIVE PLANNING AND MANAGEMENT OF DOWNSIZING, DECOMMISSIONING, AND DIVESTMENT

DOWNSIZING

- Persons who will lose income or employment opportunities
- Other potential employers in the area
- Government authorities, development assistance agencies, and non-governmental organizations with budgets and staff experienced in vocational training, livelihood restoration, and enterprise support or local financial markets

DECOMMISSIONING

- Persons living near to decommissioned assets that pose a physical obstruction, visual intrusion, acute or chronic health risk, or risk of causing accidents (e.g. young children playing on disused sites and equipment)
- Persons living near these assets who, because of certain vulnerabilities (location or health issues), are disproportionately at risk, e.g. those who have to walk to work or collect water across decommissioned sites
- Local organizations (government, academic, civil society) with expertise in environmental and socio-economic monitoring and environmental/ecological rehabilitation

DIVESTMENT

- The land-use and economic planning department of the local and provincial authorities
- Persons and groups who habitually use the assets to be disinvested, e.g. training centers, health facilities, housing etc.
- Persons whose livelihoods have become dependent on land tenure arrangements that may change as a result of divestment, e.g. farmers who lease land from the project sponsor, or families resettled by the project on land owned by the project
- Persons who have agreements with the project sponsor that will become null and void as a result of divestment, e.g. agreements with indigenous peoples over access to cultural lands or the sharing of benefits from commercialization of cultural resources
- Representatives of communities that might be attracted to settle in the project area once divestment or closure of the project is complete, e.g. prospective artisanal miners, landless agriculturalists

BOX 16: KELIAN EQUATORIAL MINING - AGREEMENTS REACHED WITH LOCAL STAKEHOLDERS ON THE MANAGEMENT OF MINE CLOSURE IN INDONESIA

- Agreement on international standards and procedures to guarantee dam safety and on the process for the formulation of a related Risk Management Plan
- Agreement on high water-quality standards for drainage from the post-closure mine site, including the identification of resulting implications for post-closure site uses, such as the need for wetlands
- Identification of a preferred "Integrated Site Use" – chosen from a range of options – that requires, inter alia, the demolition of all site buildings, the use of the building materials at a nearby village, and the establishment of wetlands for water-quality maintenance
- Implementation of a drilling and sampling program to ascertain the feasibility of mining alluvial gold deposits with benefit-sharing among the partners (as a prerequisite to establishing the wetlands)
- Agreement on suitable hand over arrangements (from the company to relevant government institutions) for maintenance and operation of community infrastructure established by the company (e.g., roads, schools, clinic, electricity supply)
- Agreement on statutory and contractual requirements for the company with respect to mine closure
- Construction of a school dormitory as a sustainable solution to the absence of a school bus
- Coordination of various community development projects, including support for agricultural projects, the establishment of self-help groups, and the identification of suitable trust fund options for sustainable community development after closure

"For KEM the MCSC [multi-partite Mine Closure Steering Committee] with its various representatives are the strategic decision-makers for the mine closure project. This is an enormous and frightening thing, especially for mining companies, who like to have complete control over all decisions."

Dr. Geraldine McGuire, MCSC Secretariat Manager

"We could have done it ourselves and we could have told people what we were doing, and we could have then tried to persuade them to buy in. The most important thing is the buy-in, and we would not have got it! So my conclusion would be that I don't think there was another way that would work."

Charles Lenegan, KEM Managing Director

RÖSSING, NAMIBIA: COMMUNICATION AND CONSULTATION IN THE CONTEXT OF MINE CLOSURE

The Rössing Uranium mine was first established in 1976. Rössing's production accounts for 10% of Namibia's exports and contributes nearly 2% to GDP. As one of the major investment projects in Namibia, the mine is historically, politically, and economically significant to the country. However, in 2005, Rössing was assessing two options – expansion (that would extend the mine life) or closure.

Rössing developed an **early communication program** to introduce the option of closure and establish a basis from which a longer-term consultation process could be built. An **"exhibition concept"** was created using a method of holding open house sessions in three towns where Rössing has a substantial presence. The company committed three days in each town, involving the participation of 30 Rössing senior employees with whom stakeholders could engage. The discussion revolved around the Environmental and Social Impact Assessment of the proposed expansion and closure alternatives.

Ultimately, Rössing decided on an expansion of the mine until 2016. However, one of the key lessons of the consultation process was that stakeholder engagement on closure issues has to start far in advance. Had the company decided upon closure rather than expansion, there would not have been sufficient time to create the stakeholder processes and capacity necessary to transition from a situation of high dependency on the mine to one of joint management with stakeholders that would ensure more sustainable outcomes. Consequently, the company set up a **Multi-Stakeholder Forum** that includes local, provincial, and central levels of government, as well as local communities, to begin a long-term, participatory planning process for eventual closure. The forum created a venue for the exchange of information and concerns among stakeholders and resulted in a framework to discuss transition planning and key decisions in areas such as environment, water, health, and local business. During a time of uncertainty, it served as a valuable vehicle to enable the company to move from a more paternalistic model to a participatory one.

RÖSSING, NAMIBIA: COMMUNICATION AND CONSULTATION IN THE CONTEXT OF MINE CLOSURE *continued*

Key features of the approach adopted by Rössing include:

- **Timing:** Rössing seized an opportunity where closure could be introduced as merely an option in the context of covering different aspects of the operation (expansion, environmental impact assessment). As a result discussions on closure were held in a relatively positive environment rather than one dominated by fear, insecurity, and anxiety.
- **Taking information to the stakeholders:** By holding open day forums involving over 30 Rössing employees in its three primary areas of impact, the company was seen to be proactive, transparent, and genuinely keen to engage with its stakeholders.
- **Involvement of Rössing employees:** By holding such forums not just with external stakeholders but also with its employees and union members, Rössing established both an internal and external communication process.
- **Providing opportunities for the less vocal:** By using an open house exhibition method, stakeholders were able to express their concerns and questions on a one-on-one basis with individual company personnel.
- **Openness and transparency:** While certain stakeholders were specifically targeted and invited to the open house sessions, the events were also advertised in the local newspapers for any interested parties to attend.

Source: *Community Development Toolkit (2005) ESMAP, the World Bank, ICMM; Rio Tinto staff*