



SWEDISH ENVIRONMENTAL
PROTECTION AGENCY



CONCEPT NOTE FOR THE ANNUAL MINING POLICY BRIEF AND STAKEHOLDERS' FORUM 2026

1 Background

The mining sector in Kenya is rapidly expanding, with growing exploration and exploitation of diverse mineral resources across the country. While mining offers opportunities for economic growth, employment creation, and industrial development, it also presents significant environmental and social risks if not properly managed. Artisanal and Small-Scale Mining (ASM) remains a significant source of livelihood for hundreds of thousands of Kenyans, particularly in rural counties, while also presenting persistent environmental, occupational health, and governance challenges. Issues such as unregulated use of mining chemicals such as mercury and cyanide, occupational safety and health (OSH) standards, gender-based vulnerabilities, human rights concerns, and gaps in the rule of law continue to undermine the sector's contribution to sustainable development.

The Environmental Governance Programme (EGP) is a global programme funded by the Swedish International Development Cooperation Agency (SIDA) and implemented in Argentina, Colombia, the Democratic Republic of Congo, Kenya and Zambia, under the leadership of the Swedish Environmental Protection Agency (SwEPA) in partnership with the United Nations Development Programme (UNDP). Its current phase (Phase III, 2025–2028) is themed “Responsible Mining for a Green and Just Transition,” with the objective of strengthening the capacity of public institutions to enhance environmental governance and sustainable natural resource management in the mining sector, while embedding human rights, mine health and safety, rule of law, and gender considerations, with the ultimate aim of making mining operations safe, compliant and sustainable. In Kenya, EGP is implemented in 5 counties¹, through a Project Technical Committee (PTC) under the coordination of National Environment Management Authority (NEMA).

Over the past years, the Programme has advanced environmental governance in the mining sector through trainings on mine closure and environmental management, Participatory Environmental Monitoring approaches, the development of National guidelines and Manuals², equipping of County Artisanal Mining Committee (AMC) offices, onsite compliance assistance programme and occupational health and hygiene evaluations of ASM workers (covering mercury exposure and related health effects) among other interventions.

1.1 Learnings

This body of work has, in turn, identified a number of policy and regulatory issues requiring strategic deliberation. These regulatory learnings, along with the corresponding interventions proposed, are outlined below:

¹ Kakamega, Homabay, Migori, Taita-Taveta and Turkana

² Environmental Deposit Bonds, Designation of Areas for ASM, Participatory Environmental Monitoring, AMC Manual, ESIA, and Mine Decommissioning and Rehabilitation Guidelines.

- a. **Financial Assurance:** Duplicated requirements for Environmental Deposit Bonds across the Environmental Management and Coordination Act, Cap 387 (Section 28), Mining Act, Cap 306 (Section 181), Wildlife Conservation and Management Act, 2013 (Section 45 (2) (f)) and Forest Conservation and Management Act, Cap 385 (Section 7-9). The existence of multiple deposit bonds requirements across concerned agencies and laws presents challenges on favourable business environment and ease of doing business.

Intervention: The Government of Kenya embraces a one government approach, ease of doing business and with the formulation of the Environmental Management and Coordination (Deposit Bonds) Regulations, 2025, the administration and management of the environmental bond is vested in the National Environment Management Authority.

Actors: NEMA in collaboration with the SDM and in consultation with KFS and KWS (as applicable).

- b. **Mining Licensing Fees, Charges, Rents and Levies:** There is a need to review and harmonise mining licensing fees, charges, rents and levies imposed by various government institutions to eliminate duplication, reduce the cost of doing business and enhance the competitiveness of Kenya's mining sector.

Mineral resources are vested in the National Government under Article 62(1)(f) of the Constitution of Kenya, 2010. The Constitution, including Articles 60, 66, 69 and 71, together with the Mining Act, Cap. 306, provides the legal framework for the governance, regulation and sustainable management of mineral resources. The State Department for Mining is mandated to administer and regulate the mining sector in accordance with the applicable legal and regulatory framework.

Currently, the imposition of overlapping fees, charges and levies by different government institutions increases the cost of compliance for mining operators, creates regulatory uncertainty and undermines the ease of doing business. These challenges may discourage investment, constrain the formalisation of mining activities and incentivise some operators to engage in unlicensed mining or evade statutory payments, thereby undermining government revenue collection.

Intervention

Implementation of the court **Case Number: HCCHRPET/E011/2021** ruling prohibiting the levying/charging of cess on mineral by the County Government of Kilifi.

In line with the Government's commitment to improving the ease of doing business, there is need for coordination of mining-sector licensing and regulatory compliance within SDMs statutory mandate, while other relevant government agencies exercise their respective lawful mandates in a complementary and coordinated manner. This approach would reduce the regulatory and financial burden on operators, encourage formalization and investment, improve compliance and strengthen government revenue mobilization. **Actors:** SDM, CoG

- c. **Mine Closure Committees (MCC):** As a best practise, the MCC should be established prior to the commencement of mining operations and shall remain operational throughout the active life of the mine and during the post closure monitoring period to oversee the implementation of the mine closure plan, verify rehabilitation outcomes, facilitate stakeholder engagement and promote coordinated decision making on post mining land use.

Intervention: Institutionalize establishment of MCC for Large Scale Mining operations in the mining rights license conditions.

Actors: SDM

- d. **Land Consent:** Pursuant to Part VI section 38 of the Mining Act, Cap 306, for a registered community land, the trustee (Community land management committee) of that land will sign the consent. If the land is unregistered, the consent should be signed as provided for in the Mining Act, Cap 306 as read together with the Community Land Act, 2016. Section 38 of the Mining Act, Cap 306 gives powers to the National Land Commission (NLC) to sign consent for the unregistered land while Section 10 (3) of the Community Land Act places the unregistered land to be held in trust by the County Government. However, the County Government being trustees of the unregistered community land do not have the mandate to sign the land consent form as per Mining Act, Cap 306.

Intervention: Implementation of the *Jukwaa la Usalama* Initiative. An initiative launched by Ministry of Interior to address grassroot safety, administrative challenges and resource-based conflicts. Through this initiative, SDM developed a mechanism for obtaining land consents which requires the SDM and the mining companies to conduct public participation prior to issuance of the land consent. Additionally, SDM also developed a consent form where the County Mining Officer, Commissioner for Oaths and the Area chief are required to sign. This reduces land related conflicts and disputes between the community and the mining operators.

Actors: SDM in collaboration with National Lands Commission, Council of Governors & National Government Administrative Officers

- e. **Cluster Permitting:** Consideration of a ASM Exclusive Zones as one mining site/regulated entity and hence the adoption of Cluster permitting & licensing to standardize & streamline operations, ease administrative burden, cost implication and therefore enhanced compliance among the ASMs.

Actors: SDM (Mining permits & artisanal mining permits), NEMA (ESIA licenses and audits)

- f. **Participatory Environmental Monitoring (PEM):** The adoption of the PEM as a co-management framework in the Mining sector. SDM has initiated the institutionalization of Participatory Environmental Monitoring (PEM) framework as a

best practice, co-management model in the mining sector that inculcates self-regulation, builds trust and enhances collaboration between government agencies, private sector (duty bearers) and the affected communities (rights holders). To date, the PEM Committees have been established and trained in the target sites; and legal recognition of PEM initiated under the Mine Health, Safety & Environment Regulation currently under formulation.

Building synergy between Functions of Community Development Agreement Committee³ (CDAC) and the Participatory Environmental Monitoring Committee (PEMC). A coordination mechanism will be developed to build synergy and clarify complementary roles between the two committees.

Actors: SDM

- g. **On-Site Compliance Assistance Programme (OCAP):** The desire to move beyond compliance - enforcement driven models to trust based governance approaches will make formalization attractive, practical and will facilitate the delivery of lasting benefit to the country. On this basis, periodic OCAP should be adopted as a continuous GOK inter-agency extension services undertaken through the established County Inter-Agency Inspection Teams (CIAITs) for enhanced compliance and to address vulnerabilities in ASMs operations.

Actors: CIAITs (SDM, NEMA, DOSH, County Government, Cooperatives, Social Protection & NGAO)

- h. **Access Rights to facilitate continued Rehabilitation:** Curing period is the cornerstone of post-mining transition during which Rehabilitation, restoration, treatment, stabilization, biological recovery and monitoring of degraded land is undertaken after mining operations ceases. It is therefore recommended that mining companies are granted a curing period (as will be determined by the respective MCC) and access rights to facilitate curing after the expiry of the Special Mining Lease (SML) and to safeguard the residual liability.

Actors: SDM

- i. **Opportunities for EGP Scale-Up:** EGP implementation served as a proof of concept for the piloted interventions, which are conducted at selected sites within the target counties. These developments represent significant progress toward the formalisation of ASM currently underway in Kenya. Since the project interventions were implemented on a relatively small scale, they have not yet generated the level of impact required for sustainable change. Consequently, the Government of Kenya—through the beneficiary institutions—has expressed strong interest in expanding these interventions to additional sites and mining counties beyond the initial pilot areas. This expansion aims to build a critical mass of well-structured ASM operations, which is essential for achieving the desired transformation in the sector.

Actors: NEMA in collaboration with SDM, DOSH and other regulatory agencies

³ Regulation 8(3) (h–j) of the Community Development Agreement Regulations, 2017

This Annual Policy Brief provides a strategic platform to consolidate this learning and evidence, formally launch and endorse key sectoral guidelines, and convene a multi-stakeholder plenary dialogue on the outstanding structural, institutional and policy challenges facing the sector.

1.2 Objective of the meeting

The meeting will aim to:

- Present the annual learnings and policy recommendations.
- Secure endorsement and formally launch the developed regulatory frameworks.
- Discuss persistent and emerging issues affecting the ASM sector to build stronger strategies and roadmaps towards mitigation.
- Strengthen collaboration between the various stakeholders in ASM governance.

2 Organization and participants

The meeting is organised by the State Department for Mining in collaboration with EGP and UNDP. The briefing session invites key stakeholders in the mining sector, including National and County government institutions, Miners, Professional Bodies, Public Benefits Organizations, Private sector, Academia, Media, Financial Institutions and Development partners.

3 Expected Outcomes

- Enhanced stakeholder awareness of the policy learning/gaps and recommendations.
- Institutional endorsement secured for the regulatory frameworks
- Consensus recommendations on formalization, OSH, gender, human rights, and business environment challenges in the mining sector.
- Strengthened collaboration between national and county governments on mining governance.

4 Dates and Venue

The Annual Mining Policy Brief and stakeholders' forum is scheduled for **29th October 2026 at Radisson Blu Hotel and Residence, Nairobi Arboretum, Along Arboretum Drive, Off State House Road, Nairobi County.**

5 Key note speakers

- Hon. Hassan Ali Joho, EGH, Cabinet Secretary Ministry of Mining, Blue Economy and Maritime Affairs
- Mr. Harry Kimtai, CBS, Principal Secretary, State Department for Mining
- Dr. Eng. Festus K. Ng'eno, CBS, Principal Secretary, State department for Environment and Climate Change,

- Dr. Mamo B. Mamo, PHD, EBS, Director General, National Environment Management Authority
- Mr. Jean-Luc Stalon, Resident Representative, UNDP Kenya
- Ms. Malin Eriksson, Programme Manager, Environmental Governance Programme

6 Sponsors

- Swedish International Development Cooperation Agency (SIDA) through the Environmental Governance Programme (EGP), Swedish Environmental Protection Agency (SwEPA) & United Nations Development Programme (UNDP)
- World Wide Fund for Nature (WWF-Kenya).

7 Proposed Program

EGP ANNUAL MINING POLICY BRIEF AND STAKEHOLDERS' FORUM 2026 (A PRECURSOR ACTIVITY TO THE MINING SUMMIT) MC David Onyancha, OGW (Secretary Administration SDM)		
TIME	ACTIVITY	ACTOR(S)
29th OCTOBER 2026		
8:00AM-8:30AM	Arrival and Registration of participants	PTC Secretariat
8:30AM-9:30AM	A walk through at the exhibition booths with the dignitaries	Secretary of Mines, Director of licensing and compliance SDM, EGP Chair, UNDP, MC
9:30AM-10:00AM	Welcome and Opening Remarks	SDM- Secretary Mines NEMA – Director General EGP Global Programme Manager
	Institutional Remarks	MECCF COG WWF-Kenya UNDP

	Presentation on the EGP Learning and Policy recommendations	EGP-PTC Chairman
10:00AM-10:20AM	Pre-Keynote address	Principal Secretary-SDM
10:20AM-11:00AM	Key Note address by the Chief Guest	Cabinet Secretary-MIBEMA
	Launching of the AMC Manual and the ESIA Guidelines. Photo Session	
11:00AM-11:30AM	HEALTH BREAK	ALL
Institutional and targeted panel discussions on the EGP presentations - Moderator Michelle Mwambela (CEO - AWEIK)		
11:30AM-12:00PM	Formalization of ASMs & Role of County Government in Mining	CoG, SDM - D. Mwangi, ASMAK- Dan Odida, Ministry for Cooperatives
12:00PM-12:30PM	Partnership & investment opportunities in the Mining Sector	INVESTKENYA- Dr. Laban Mburu, KCM- Brian Simiyu, KCB- Timothy Kuria, UNEP- Federico Rossi, UNDP- Evelyn Koech
12:30-12:50PM	Plenary	ALL
Institutional and targeted panel discussions on the EGP presentations cont. - Moderator Dr. Julia Muriuki (MESK)		
12:50PM-1:20PM	Chemicals use, Occupational Safety and Health in the mining sector	DOSHS-John Waweru, CEJAD-Griffins Ochieng, SDM - J. Boiwo, NEMA- Dr. Leonard Tampush
1:20PM-1:50PM	Gender, Human Rights challenges and rule of law	KNCHR-James Mwenda, AWEIK-, Haki Madini- Gladys Mongare, UNODC- Giovanni Broussard, Office of the Attorney General
1:50PM-2:10PM	Plenary	ALL

2:10PM - 2:30PM	Way forward & Closing Ceremony	Secretary of mines
2:30PM	Lunch	ALL