

Belo Sun Mining Corp., a Case Study of Environmental Impact Assessment in Brazil

Environmental Impact Assessment (EIA) is a process that evaluates positive and negative effects of proposed projects, programs or policies. The EIA procedure should guarantee that, prior to approval, decision-makers: 1) have fully considered the social and environmental impacts in their decision; 2) affected communities participated in the process acknowledging the risks and impacts, and were heard by governments.

This paper will analyze EIA procedure in Brazil considering a case study: Belo Sun Mining Corp, a company owned by the Canadian group Forbes & Manhattan, which proposed the largest gold project in the country, to be located in the Amazon Rainforest.

Belo Sun's EIA was challenged in court by the Public Attorney, in November 2013. It was alleged that, among other problems, the EIA lacked a study on cumulative impacts of the mining activity with another massive project in the region: Belo Monte Dam. Also, it did not consider the impacts on indigenous communities, who live 5 miles away from the project. Furthermore, these communities were not properly consulted or informed about the proposed activity.

The paper will propose amendments to Brazilian EIA procedure, considering its steps and mentioning Belo Sun in each step. The goal is to demonstrate, in practice, that this case could have had a different outcome considering the suggested proposals.

Preliminary findings demonstrate that:

- Planning the Project: Brazilian Environmental Agencies should require feasibility studies prior to EIAs, which would be attached to it, once an EIA was prepared. Carrying out feasibility studies would assist companies to plan the project and point sensitive areas, social demands and legal implications. Belo Sun should have had carried out a feasibility study to foresee what would be necessary to contemplate in the EIA;
- Scoping: Brazil should adopt a scoping procedure similar to the United States National Environmental Policy Act 1969, in which scoping is an early and open process. If scoping of Belo Sun's EIA was open to the public, the agency responsible for indigenous affairs would participate in the draft of the Term of Reference, identifying the necessity of carrying out studies on the impacts of the project on indigenous communities;

- Public participation: Brazilian EIA regulation should contemplate realization of several meetings prior to the public hearing. Some companies carry out these meetings. However, there is no supervision of the environmental agency. Therefore, there is no standard. Belo Sun affirmed that previous meetings were carried out. Yet communities complained that they were not informed about the project. Thus, a definition on the regulation would result in meaningful participation.

In sum, this paper will analyze EIA procedure in an important developing country, considering an actual case study, which reveals a classic problem in many other emerging economies: integration of development with social and environmental protection. Also, it will consider the role of law, in regulating such a delicate balance.