

PROJECT INFORMATION DOCUMENT (PID)
APPRAISAL STAGE

Report No.: 95777

Project Name	Legal and technical negotiation support
Region	AFRICA
Country	Republic of Niger
Sector(s)	Other Mining and Extractive Industries (100%)
Theme(s)	Other public sector governance (100%)
Lending Instrument	Investment Project Financing
Project ID	P150108
Borrower(s)	Republic of Niger
Implementing Agency	Ministère du Plan, de l'Aménagement du Territoire et du Développement Communautaire – cellule d'Exécution du PRACC
Environmental Category	C
Date PID Prepared	November 15, 2014
Estimated Date of Approval	December 23, 2014
Identification/Concept Review Decision	May 6, 2014
Other Decision(s) (as needed)	

I. Introduction and Context

Country Context

1. Niger is a large, landlocked, mostly desert country with a population of around 17 million over an area of 1.27 million square kilometers, which faces a set of fragility challenges including but far from being limited to armed conflict and violence. Although the country is at peace and enjoys relative stability, its situation remains fragile due to a number of mutually reinforcing factors: narrow economic base, food insecurity, high fertility rates coupled with slow economic growth, and recurrent rebel activity. For instance, extreme drought often leads to famine. From June to August 2010, crops failures caused by drought resulted in 350,000 people facing starvation and 1,200,000 at risk of famine. In 2011, poor harvest threatened Niger again with food insecurity. Moreover, although the country may not be fragile as a whole, it contains lots of pockets of fragility, especially in the North.

2. Niger's fragility has been exacerbated by its economy's heavy reliance on extractive industries. As in other Fragile State Countries (FCS) heavily dependent on mineral exports (Sudan, Guinea, Democratic Republic of Congo), Niger's economy has been weakened by commodity price instability. In order to improve the contribution of extractive industries to the economy, Niger is following the path of a number of mineral dependent FCSs (Sierra Leone, Liberia, and Guinea) by embarking in policy reforms and reviewing mineral agreements. In 2013, the country was ranked as the world's least developed country, with a human development index value of 0,304 (the lowest of any African country). Life expectancy at birth was at 55 years and over 60% of the population lived on less than a dollar a day.

Going forward the cycle of poverty and fragility in Niger will depend on the following factors:

- (a) **Social Conflicts:** at the current rates of population growth of 3.3 percent per annum, the Niger's population would reach about 54 million by year 2050. 80% of the population is made up of sedentary farmers (Hausa and Zerma-Songhai, and Gourmanche ethnic groups) concentrated in the southern tier of the country. The remainder comprises nomadic livestock herders (Fulani, Tuareg, Kanuri, Arabs, and Toubou ethnic groups) scattered in the North. With rapidly growing populations and limited supply of fertile land, agriculturalists and livestock herders have come increasingly into conflict in Niger. Moreover, the growing income disparities and marginalization of the poor have also fueled communal tensions. These tensions have been seized by the political elite to build opposition to the current government policies.
- (b) **Resource-driven conflicts:** Niger is the world's fourth largest uranium producer. Uranium production is the backbone of the economy, accounting for more than 40 percent of exports. Niger also has a long history of petroleum exploration, dating back to 1970's. However, it is only in 2011 that it became successful with the opening of the Agadem field and the Soraz refinery near Zinder. Oil reserves have been re-estimated: from 324 million barrel reserves in 2008, to 1 billion barrels in 2013. With the increase in reserves, Niger anticipates an increase in its production from 20,000 to 80,000 barrels per day by 2016. 75% of the crude production will be exported, while 25% will be converted in petroleum products in the Soraz refinery. As a result of sizeable investments in the mining and oil sector, growth was steady in 2011. Sharing revenues from the extractive industry is however a concern, which translated into conflict in the uranium sector. It is essential to build on the lessons learnt from this experience to properly develop the petroleum sector. Uranium operations were affected by recurring Tuareg rebellions over demands for more equitable share of Niger's mineral wealth and economic justice. Conflicts around resource revenue grievances have led to numerous attacks and kidnapping of foreign workers. On May 23 2013, suicide bombers attacked the uranium mine in Arlit and a military base in Agadez, resulting in a death toll of 23 people and a shutdown of uranium production for more than a month. The Tuareg's grievances about uranium revenues have not been fully resolved and still pose a threat to internal security. The fragmentation of centers of power and influence within Tuareg society make it difficult to find a comprehensive solution which satisfies everyone. Some educated elites have been incorporated in the civil service, but nomadic groups still feel that they are not getting their fair share and may resort to conflict.
- (c) **External security threats:** these are driven by crises in neighboring countries, including the 2011 Libyan civil war, the 2012 Mali crisis and the war on terror that the Nigerian government has launched against the terrorist group Boko Haram in northern Nigeria. Niger also offers fertile ground for the activities of terror groups, such as al-Qaeda in the Islamic Maghreb (AQIM) and the Movement for Oneness and Jihad in West Africa (MUJAO). As French forces moved into the north of Mali in January 2013, there was increased threat that terrorist groups would retreating into the expansive desert terrain in the north-eastern corner of Niger. In addition, the instability in Mali has significantly increased the potential for the conflict to spread in Niger, which has had its share of Tuareg separatist movements. These security threats have led the government to divert resources for basic services into military expenditures to improve security. Because of the fragile security environment, the government has made security into a development issues and was included in the European Union's Strategy for Security and Development in the Sahel,

in addition to benefiting from military cooperation with France and the United States.

Sectoral and Institutional Context

3. The extractive industries have been the biggest source of foreign direct investment (FDI) in Niger.

(a) **Mining.** Between 2010 and 2014, mining FDI is expected to reach unprecedented levels with the development of the Azelik deposit (about US\$30 million FDI) and the Imouraren mine (about US\$1.7 billion FDI, including 10% local procurement). The two mines are expected to bring about \$75 million per year in fiscal revenues, in addition to the revenues stemming from the marketing of the government's share of production (33.35% for Imouraren and 25.71% for Azelik). The current directory of exploration permits includes 121 targets for uranium, 14 for base metals, 3 for titanium/vanadium, and 2 for coal. Estimates of the untapped mineral potential include important resources of gold (about 65 metric tons), phosphate (over 1.2 billion metric tons), iron ore (about 1.2 billion metric tons), copper (875,000 metric tons), as well as nickel, molybdenum, salt, and vanadium.

(b) **Oil and Gas.** After four decades of unsuccessful exploration, China National Petroleum Corporation (CNPC) acquired the permit on the Agadem block in 2008. Between 2008 and 2012, 76 exploration wells were completed of which 62 have resulted in discoveries. Oil and Gas reserves estimates have then been revised from 324 million to 744 million barrels of oil and 3.5×10^{11} cubic feet to 5.7×10^{11} cubic feet of natural gas reserves. As a result of this success, in 2013, a second exploration permit was awarded to CNPC, and further exploration translated in an upward revision of oil reserves to 1 billion barrels. Since 2012, exploration has continued to intensify and production-sharing contracts were signed with international firms from Nigeria, Australia, UK and Bermuda. In addition to the Agadem block, the Tenere block, licensed to CNPC, has potential reserves near 1 to 3 billion barrels of resources. To date, the totality of the Oil, which is currently extracted from the Agadem field, is transported to the Zinder refinery through an underground 265.0 miles long pipeline. The refinery has a capacity of 20,000 barrel per day refinery. With the increased reserves estimates, it is anticipated that oil production will reach 80,000 barrels per day by 2016, of which 60,000 barrel per day will be exported via a 120 miles connection to the Chad-Cameroon pipeline by 2016. This will add to the FDI inflows associated with the development of the Agadem oil bloc which are estimated at US\$1.3 billion for Agadem fields, US\$350 million for the pipeline from Agadem field to Zinder refinery, and about US\$1.2 billion for the Zinder refinery.

4. Extractive Industries are also stimulating infrastructure development. In addition to the Zinder pipeline, the Trans-Saharan Gas Pipeline, of which Niger is expected to share 841 km (out of an estimated 4,128 km-long pipeline across Nigeria, Niger and Algeria) will bring additional FDI representing Niger's share of the estimated US\$13 billion for installing the pipeline and associated gathering centers. The railway connection project between Niger,

Burkina Faso, Benin, Togo and Cote d'Ivoire ("boucle ferroviaire") is also expected to move forward project under a PPP arrangement which has been partly justified by the mining and agriculture corridors.

5. In order to support the development of extractive industries, in June 2012, the World Bank approved a US\$50 million Competitiveness and Growth Support Project to improve selected aspects of Niger's business environment, to support the development of the meat industry, and to increase local business participation in the extractive industries sector. About 40% of the project funding support the extractive industries value chain with the objective to: (a) improve the policy and regulatory framework to support diversification of mineral production (mining and hydrocarbon sectors); (b) strengthen the institutional capacity for efficient management of the extractive industries and (c) integrate EI project into local and regional development and increase the industry's local supply base, spurring the growth of other services and industries and creating more employment in those sectors.

6. Niger joined the Extractive Industry Transparency Initiative (EITI) in 2005 and, as part of the EITI efforts, appointed in late 2006 a national consultative committee, which included representatives of the general public. The country has adopted a national good governance charter for the management of mineral resources and in 2012 Niger was the first French speaking country to become EITI compliant.

Relationship to CAS/CPS/CPF

7. The proposed grant is consistent with the objectives of the Country Partnership Strategy (CPS) approved by the Board on April 30, 2013, particularly the three areas concerning: (i) promoting competitive, diversified and inclusive growth; (ii) strengthening resilience and reducing vulnerability; and (iii) reinforcing credible and effective public institutions.

8. The activities supported by the proposed grant are also consistent with the twin pillars of the Bank's Africa Region Strategy, competitiveness and employment and vulnerability and resilience. Proper management of the sector (governance and better institutional capacity) will contribute to improving competitiveness and employment, while a better-managed sector could stimulate growth and economic diversification and reduce vulnerability due to heavy dependence on uranium exports. The government has launched reforms in the mining sector and is implementing an action plan for enhancing the efficiency of the petroleum sector.

9. Sector governance improvements have been achieved with the successful implementation of EITI and the commitment to implement the Charter of Good Governance on extractive industries and the recent inclusion of the oil sector in EITI reporting to the Extractive Industries Transparency Initiative. Monthly publication of information on the production and prices of crude oil and refinery products was launched in September 2013.

II. Proposed Development Objective(s)

Proposed Development Objective(s) (From CN)

10. **The development objectives** of this recipient-executed grant are to strengthen the institutional capacity of the government of Niger to negotiate mining and petroleum deals and monitor contractual and regulatory compliance in the extractive industries.

Key Results (From CN)

10. The PDO related outcomes and performance indicators are as follows:

(a) Improved capacity to negotiate and monitor extractive industries extractive industries, measured by the number of agreements incorporating new negotiation techniques and guidelines in the non-uranium extractive industry.

(b) Inclusion of social, and environmental aspects into sector monitoring, measured by the number of new agreements incorporating clauses on these aspects.

(c) Improved contractual terms for new agreements, measured by the number of contracts with improved economic, social, and environmental aspects

III. Preliminary Description

Concept Description

A. Project Components

11. The Grant has two components, which are consistent with AEITF objectives. The first component, entitled “legal and technical advisory support for licensing reviews and negotiations” fits in the “contract review and negotiations” category of activities in the AEITF classification, while the second component, entitled “institutional capacity building for negotiations” fits in the “contract review and negotiations”, “overarching institutional capacity” and “operations sustainability” categories of activities in the AEITF classification

12. Component A: Capacity building in operational and regulatory compliance verification: The objective of this component is to strengthen the beneficiary’s capacity to audit the technical and regulatory compliance of on-going operations through extensive training in processes and methodologies of operational audit, as well as in regulatory compliance inspections. The training will include theoretical and real cases studies. It will also be applied to existing mining and petroleum operations in Niger. Indeed, a pilot audit will be conducted as part of this training and it will provide legal and technical assessment of ongoing operations. The specific activities included under “Component A” are as follow:

13. For the mining sector:

(a) Build the technical expertise of the beneficiaries in the following areas: technical and operational inspections (principles of open pit and underground mining), policy (integrated natural resource policy development), legal framework (mining and petroleum legislation), sector regulations (operational regulations, environmental and social regulations), institutions (building knowledge on optimal institutional structure

for resource development, roles of mine inspection office, cadaster, geological survey), and fiscal arrangements;

(b) Strengthen the capacity of the beneficiaries to fulfill their regulatory functions and monitor compliance with sector policies and with contractual obligations, including development of tools and guidelines to enable contract enforcement and compliance and apply them to a real-life example by performing a technical and financial audit of selected mining operations.

(c) Provide training to the staff in charge of conducting technical legal, economic, financial and environmental/social due diligence;

(d) At least one actual audit utilizing toolkits and skills developed would be performed through a joint audit of selected operations, between a qualified team of consultants and staff of the beneficiary ministries.

14. For the petroleum sector:

(a) Build capacity to understand Oil and Gas Laws and Regulations based on international best practices;

(b) Develop beneficiary capacity to understand oil and gas contracts, including Drilling contracts, Joint Operative Agreements and Support Agreements, Production Sharing Contracts, Reconnaissance Contracts, Petroleum Data Contracts, petroleum and natural gas processing and storage contracts, Supply and Purchase Agreements; and Transportation contracts licensing.

(c) Training of staff in the review and assessment of (i) commercial terms, conditions and intends of oil and gas contracts; (ii) joint operating agreement and accounting agreement; (iii) audit of technical, financial, safety and environmental compliance of existing oil and gas contracts

(d) Assist the recipient in the development of tools and guidelines to enable contract enforcement and compliance, and use these tools in the context of a technical and financial audit of selected petroleum operations. The latter audit of an oil project utilizing tools and skills developed under the project would be performed through a joint audit of selected operations, between a qualified team of consultants and staff of the beneficiary ministries.

15. Component B: Institutional capacity building for negotiations: This component would provide basic training basic in policy, legal, technical, environmental, and financial aspects of mining and petroleum agreements to enhance negotiating capacity in oil and gas, and mining. The specific activities included under “Component B” are as follow:

(a) Develop the beneficiary capacity to review and assess investment proposals and feasibility studies, to provide technical support to the government during negotiations of extractive industries contracts/ concessions

(b) Capacity building and negotiations: Training of senior officials of relevant Ministries on negotiation strategies to improve the legal, technical and financial terms contracts existing or under negotiation.

(c) Training of key government operational staff, in transaction evaluation and negotiation, including: transaction due diligence requirements, mineral asset valuation and cash flow modeling, evaluation of risk/return considerations in investment proposals, alternative deal structuring to maximize the economic benefits to the country, contract negotiation techniques, and management of the concession process;

(d) Building the technical capacity of beneficiary ministries to assist the Government negotiating team to bridge the knowledge/information gap during contract negotiations, ensure that the deals conform to the spirit of the Policies and Laws governing the extractive industries in Niger, and integrate broader factors of economic development into the decision making process;

(e) Developing toolkits, standard procedures, templates and model agreements to be used in conjunction with the technical, financial, economic, legal, and environmental assessment of investment proposals for the development mineral deposits;

(f) Conduct awareness raising and information dissemination to sensitize stakeholders about the decision making framework during contract negotiation.

Implementation Arrangements

16. An established Project Implementation Unit (PIU) that exists within the Ministry of Planning will be responsible for, inter alia, project planning, carrying out and monitoring the project's procurement activities, contract management and financial management. The PIU has experience with World Bank operation since it handles the USD 50 million Competitiveness and Growth Support Project. Under that project, progress towards achievements of PDO, overall implementation Progress, financial management, project management procurement and monitoring and evaluation have been consistently rated satisfactory since the project launch in 2012. Addition of a grant to the PIU responsibilities is assessed as feasible and will not be overburden the existing unit. Incremental cost of running an additional grant is included under the proposed grant.

17. The project execution manual contains detailed arrangements and procedures for: (i) institutional coordination and day-to-day execution of the Project; (ii) Project budgeting, disbursement and financial management; (iii) procurement; (iv) monitoring, evaluation, reporting and communication; and (v) such other administrative, financial, technical and organizational arrangements and procedures as shall be required for purposes of Project implementation. It will be updated no later than two (2) months after Effective Date to reflect how the PIU will execute the new set of activities planned under this project.

IV. Safeguard Policies that Might Apply

Safeguard Policies Triggered by the Project	Yes	No	TBD
Environmental Assessment OP/BP 4.01	X		
Natural Habitats OP/BP 4.04		X	
Forests OP/BP 4.36		X	
Pest Management OP 4.09		X	
Physical Cultural Resources OP/BP 4.11		X	
Indigenous Peoples OP/BP 4.10		X	
Involuntary Resettlement OP/BP 4.12		X	
Safety of Dams OP/BP 4.37		X	
Projects on International Waterways OP/BP 7.50		X	
Projects in Disputed Areas OP/BP 7.60		X	

V. Financing (in USD Million)

Total Project Cost:	1.35	Total Bank Financing:	1.35
Total Co-financing:	0.0	Financing Gap:	0.0
Financing Source			Amount
BORROWER/RECIPIENT			
Total			1.35

VI. Contact point

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