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1 – Nature of Action

Name of Beneficiary: NGO La Lumiere (“Light”)

Title of Action: Advocacy Initiative for the Reform of Mining Legislation in favour of the Human Rights of Mining Communities and Just and Equitable Access of Local Authorities to Spin-Offs from Gold Mining in Senegal

Location: Kédougou Tambacounda Senegal

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Context

The restimulation of the mining sector at the international level has had a significant influence on the mining policy of poor countries. Animated by a concern to position themselves among the new development mining countries, most of the African governments have initiated changes to their mining legislation to make them more competitive: simple, clear and reassuring.

At the dawn of this mining development in our sub-region, there is an easing of the administrative and financial procedures aimed at “attracting investors” as did the announcement of the preamble of Act no 2003-36 of 24 November 2003 on the Mining Code of Senegal.

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Picture of African Heads of State at the Launch of the Advocacy Initiative for the Reform of Mining Legislation in favour of the Human Rights of Mining Communities and the Just and Equitable Access of Local Authorities to Spin-Offs from Gold Mining in Senegal Saturday 08 December 2007 at the Hotel Niji.

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Multinational companies are taking advantage of the weakness of our legislation and the lack of experience of our States to engage in degrading practices which affect:

- the environment,
 - natural resources
 - the rights of mining communities
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These result in:

- The sometimes one-sided nature (lion’s share) of the Mining Securities and Agreements granted to multinational companies
- The violation of laws and regulations in force on the subject matter

- The violation of the socio-economic rights of riparian communities (the right to economic opportunities, the right to participation, the right to a healthy environment and living conditions, the right to information)

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Slide illustrative of the negative effects of Gold Mining (polluted water, dumping, dead fish)
“Neither For, nor against Gold Mining (Doctor Robert Moran, PHD)

Don't Swim
Don't Fish
Don't Drink

No Dirty Gold

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- On 17 February 2005, the government of Senegal signed an exploration agreement with OROMIN for an area covering 230 km² for a period of 22 months.
- Through decree no 2005-520 of 09 June 2005, the State of Senegal has just granted a mining licence to the company MDL (Mineral Deposits Limited) over an area of 20 km² at Sabodala in which it has unrestricted mining rights over all the resources of gold, silver and related substances.

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This decree was signed in violation of the provisions of both the Mining Code (article 83) and the Environmental Code (articles 48 and 49) which requires an environmental and social impact study [prior to mining]

Moreover, the approach taken at the time by certain mining companies was clearly out of synch

- with the provisions of Articles 82 and 84 of the Mining Code relative to the preservation of the environment,
- with Article 55 of the same code relative to the establishment of a balancing Fund destined for the local communities
- the provisions of the Plan for environmental and Social management
- the objectives of the Social Mining Fund

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More or less throughout the world, experience has shown that mining operations have always been synonymous amongst others with:

- threats to traditional subsistence farming activities
- degradation of the environment and living conditions
- degradation of ecosystems combined with pollution (of water aquifers and surface water, soil and air etc)
- the emergence of new pandemics (HIV, malaria etc)

- the competition for resources (water, land, precious metals) resulting in disputes and sometimes armed conflict

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- lack of understanding and changes of mood with regard to the recruitment of local manpower
- lack of information on mining activities; a source of frustration
- quick and lawless installation of operations and people without the necessary accompanying measures in terms of infrastructure and safety
- taboo subject effectively excluding debate ricochets into the exclusion of participation of the most important people in making political decisions that will affect them

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Photographs of the effects of mining

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It is in this context and with a measure of anticipation that this project was initiated to address the issue from the perspective of the reform of mining legislation.

In short, this project seeks the legal and policy reforms that would promote a real consideration of the scale of mining operations relative to:

- the preservation of the environment and quality of life
- respect for human rights
- the requirements for sustainable development

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Main stakeholders/roles

Stakeholders concerned	Role of stakeholders	Justification
The State (decentralised services)	<ul style="list-style-type: none"> • Decision maker • Control and Surveillance 	The public authority defines, executes and controls policies
Deputies and senators	<ul style="list-style-type: none"> • Law makers • Control and surveillance 	Can bring about proposed reforms within the framework of the project implementation
Local communities	<ul style="list-style-type: none"> • Decision makers • Control and surveillance • Planning of local development 	<ul style="list-style-type: none"> • Local authorities legally taking charge in their own areas • Often held responsible for the problems experienced by the people

Mining communities	<ul style="list-style-type: none"> • Main strength of popular mobilisation 	<ul style="list-style-type: none"> • Victims of negative impacts
Mining companies	<ul style="list-style-type: none"> • Principal authors of impacts and changes 	<ul style="list-style-type: none"> • Miners and producers • Investors • Polluters
Press	<ul style="list-style-type: none"> • Carrier of information 	Allows the general public to be reached and in particular the decision-makers
Civil society	<ul style="list-style-type: none"> • Facilitators • Support – advice 	Must simply be a catalyst for social dialogue Vigil and alert

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Strategy/approach

The project methodology has been based on

The law, advocacy, research/action, the strengthening of capacities and the organization of communities at the grass roots.

The training component on the legal instruments was dispensed with thanks to a collection of the laws on the Mining Codes, as well as the Codes of the Environment and Communities (book translated into three languages; Fulani, Malinke and Mandinka)

The establishment of a solid foundation for the project facilitated ownership by the main beneficiaries. It was articulated on other levels (departmental, regional and national levels) and with the effective involvement of all actors listed above, the project took shape very quickly.

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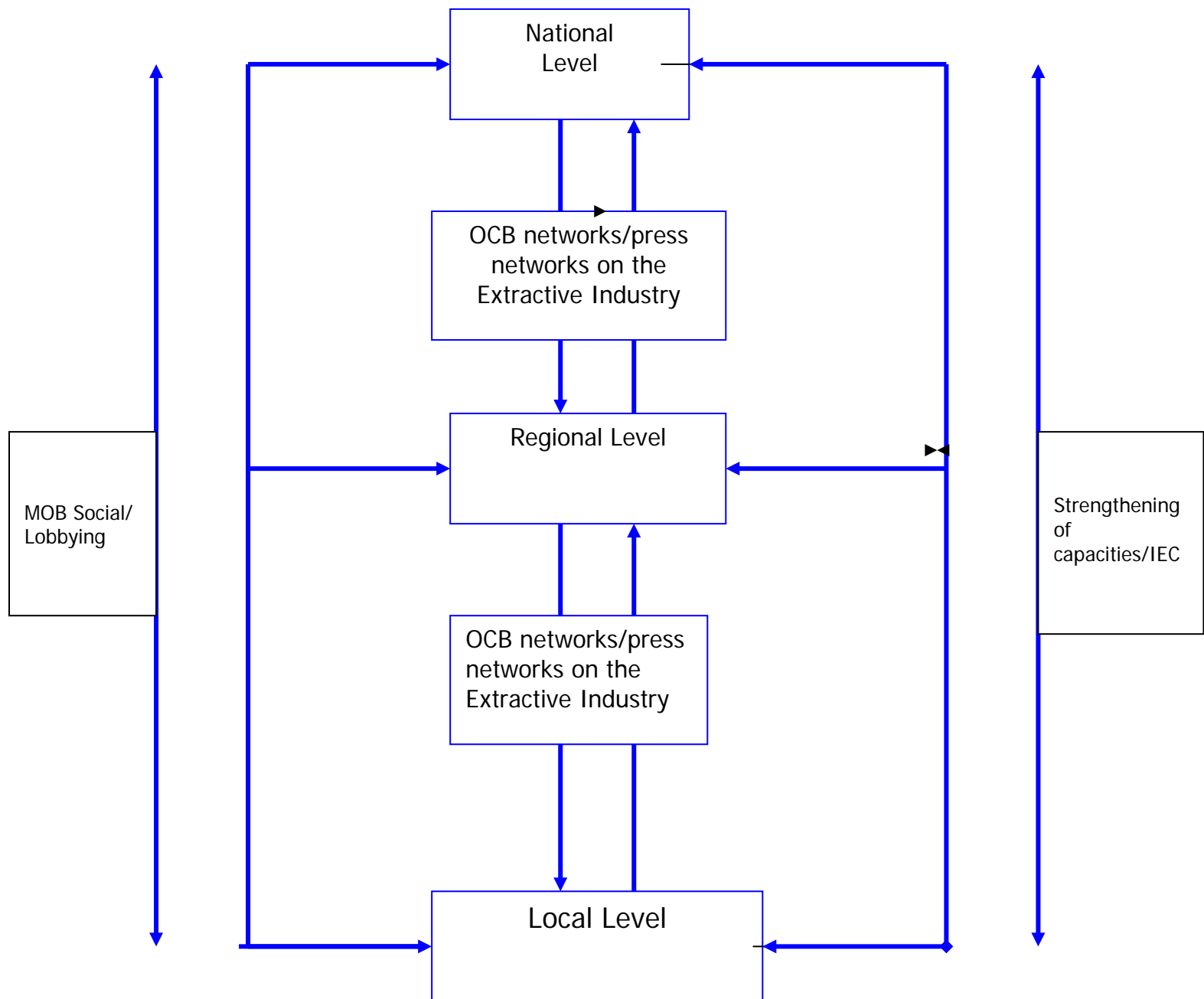
The combination of these actions has significantly influenced the decision-makers and mining companies by providing among other outcomes:

- a good start to the implementation of the Social Mining Programme
- remarkable compensation for the ground lost since 2005
- the development of cultural spaces in “compensation” for some expropriated fields
- draconian measures for the transport of cyanide

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- the insistence on a social and environmental impact study before the signing of mining agreements
 - the acceleration of the approval process for bills relative to equalizing funds destined for local communities
 - the development and adoption of the CDEAO directive on the environment and human rights in the mining areas (Civil society and the government of Senegal played a leading role)
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OUTLINE OF GLOBAL METHODOLOGY



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Description of effects and Impacts

AUTHORITIES AND DECENTRALISED SERVICES

Massive participation of State representatives from the launch date

- the interest shown by the latter in the Action resulting in it being financed by the European Union in partnership with the State of Senegal.

And for the first time since 2003, a Minister of Mines has made firm commitments to work with our organization.

- On the one hand this resulted in gaining the ear of the authorities and a readiness to share any information deemed useful

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- and on the other the common declaration of ANE and the local authorities resulting in an in-depth investigation with significant support for the majority of the recommendations

It is also worth noting:

- government's media campaign in the guise of giving information and the report addressed to citizens.

In this way, we believe that we have contributed to kindling behaviours that tend towards the best practices of participatory and transparent management of the mining issue, which up until now was treated as taboo.

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THE MINING COMMUNITIES

At this level we can consider that the actions of advocacy/lobbying have made a significant contribution towards the improvement of the living conditions of the people and to their involvement with regard to:

- The establishment of a local recruitment committee involving the youth of the area
- The recruitment of practically all the non skilled labour at the local level
- The start of compensation in cash or in kind for the expropriation of the means of livelihood
- The start of the implementation of a Social Mining Programme with some basic social infrastructures at its core

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Organisational strengthening through the creation of village committees to monitor impacts has promoted in the communities and/or local authorities:

- The familiarity with some of the legal instruments governing mining operations to help them assert their rights peacefully and more effectively
- The mastery of the methods of recourse open to them to stifle any propensity to violence

- The improvement of their analytical capabilities on the mining issues of the region
 - The improvement of their bargaining capabilities
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LOCAL REPRESENTATIVES

Their commitment to the campaign is anomalous even although they are the direct beneficiaries of the economic benefits of this mining.

This can be explained by the fact that the majority of them were elected on the list of the party in power and they fear future election stakes.

The coming years will enlighten us on the degree of their involvement in the campaign the more so because they have been adequately equipped to defend their own interests.

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THE MEDIA

Its role has been a determining factor thanks to the diversity of support from newspapers, radio programmes, television and the Internet in the form of coverage or reports.

It should be noted that the foreign press has also started to become interested in the matter:

Network programme on CNN, American Press Agency

Programme of the communication head of the Swiss Jardin de Cocagne

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LA LUMIERE

The project has made it possible to strengthen the institutional capacity and the management of our organization.

It has allowed us to have a manual of procedures in addition to an accounting procedure making a significant improvement to our practices in this accurate domain.

Furthermore, the outlook on the reforms and the maintenance of peace and stability are well discernible with the acquisition of legal expertise through the framework of this project.

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Global achievements and constraints

The achievements of the project have been numerous; it has contributed:

- To lifting the strict confidentiality which reigned in the relationships between the State and mining companies; expanded to local administrations, local representatives and the people
- To breaking the paternalistic practices of mining companies in their social activities; to bringing their social activities in line with a global development perspective: the schools and clinics built here and there by the mining companies, we have succeeded in mobilizing important resources in the form of the Social Mining Fund (3.5 billion CFA) to carry out local development projects conceived by and for the people

- To bring the role players in the area out of their isolation through the broader framework of dialogue (people, government and local elected officials) t
- To strengthen the actual awareness of the mining communities on their rights; a fairer compensation for their expropriated land and the defence of the rights of first refusal in the hiring of unskilled staff in accordance with the Labour Code in force in Senegal
- To promote social dialogue
- To make the NSA (?) platform and even the PNABG (?) visible given the sensitivity of the subject

Slide 27**Outlook for a lasting consolidation of the outcomes**

- The maintenance and strengthening of the CVS statute
- The strengthening of mechanisms to promote compensation for expropriations and fairer and more equitable spin-offs from mining operations
- The systematisation of environmental and social impact studies as a prerequisite to the installation of any first class establishment in accordance with the provisions of the Mining and Environmental Codes;
- The establishment of frameworks for consultation extending the CVS to national level
- Strengthening the mechanisms of consultation to establish and maintain peace.

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Thank you for your kind attention
