



Netherlands Commission for
Environmental Assessment

Terms of Reference for SEA Instituto Nacional de Reforma Agraria

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BOLIVIA

LA TIERRA VUELVE A MANOS INDIGENAS Y CAMPESINAS



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1. Introduction

1.1 Background

INRA (National Institute of Agrarian Reform), created in 1996 by Law 1715, is a public decentralized technical institution, responsible for carrying out the agrarian/land reform process in Bolivia. INRA is an institution with good skills, organized in a national and nine regional offices. It has more than one thousand employees. In October 2006, the Law on the Renewal of the Agrarian Reform, nr.3545, changed its mission and objectives, and extended the term for the land reform processes until December 2013.

As part of its support to improvement of land rights and legal security on rural property in Bolivia, the Embassy of the Netherlands is funding the Three Year Adjustment Plan for the New Plurinational State 2010–2012 – Environmental Agrarian Process, for which INRA is responsible. Compliance with the Grant Agreement includes the development of a Strategic Environmental Assessment (SEA). INRA has requested technical assistance for that purpose.

1.2 SEA in Bolivia, involvement of NCEA and request of INRA

The Ministry of Environment and Water is the Competent Authority for Environment at the national level and has a formal role in terms of introduction and implementation of SEA in Bolivia. The SEA introduction efforts started in 2004, under the former Ministry of Sustainable Development. The Netherlands Commission for Environmental Assessment (NCEA) contributed to several SEA initiatives¹ upon request of the Ministry of Environment and Water, and later on also upon request of the Vice Ministry of Hydrocarbons and Energy.

In February 2012, the National Director of INRA approached the Netherlands Embassy and NCEA with a request to provide technical assistance with the development of the SEA (see appendix 1 for request letter). This was later further specified in a request to assist in defining and agreeing on the scope and approach to undertaking the SEA, resulting in an advice on a Terms of Reference (ToR) for the SEA.

¹ – Advice on Terms of Reference SEA Polo de Desarrollo (Puerto Busch), Bolivia, 30 September 2004
– Supplementary Advice on Terms of Reference for SEA Polo de Desarrollo (Puerto Busch), Bolivia, 4 February 2005
– Advice on Terms of Reference for SEA Gran Salar de Uyuni, Bolivia, 24 December 2004
– SEA capacity building workshop 28 February–5 March 2005
– Advice on Terms of Reference SEA for the Madera river basin, Bolivia, January 2008
– SEA capacity building workshops in La Paz and Cochabamba, May 2008
– Comments on an SEA capacity building manual and draft SEA regulations (2007–2008)
– Advice on Terms of Reference and review of SEA oil and gas exploration, Madidi/Aguaraguë (March 2009 and April 2012)
– Advice on Terms of Reference SEA Vivir con el Agua (November 2011)
– Mini workshop on SEA (November 2011)

1.3 Expert group and scoping mission

In order to provide this assistance, the NCEA invited 2 experts that contributed to the drafting of this ToR advice, Mr. Hans van Maanen and Mr. Arend Jan van Bodegom. The NCEA technical secretary is Ms. Ineke Steinhauer.

The NCEA expert team visited Bolivia, and worked closely with two resource persons during this visit. The first person was Mr. Miguel Morales, an independent consultant from Bolivia, who has relevant knowledge, experience and contacts in relation to INRA. He will likely get a role in the execution of the SEA itself.

The second resource person, Mr. Barry Dalal Clayton, is from the UK based International Institute for Environment and Development, and has been approached by the Netherlands Embassy to provide support to INRA in the execution and technical conduct of the SEA, e.g. through specifying any required future support such as coaching, training or capacity-building, monitoring and quality assessment. These two resource persons provided valuable information, but are not considered part of the NCEA expert group.

This advice is prepared by the NCEA expert group. The group represents the NCEA and comprises expertise in the following disciplines: natural resource management, socio-economic development, sustainable land use planning, 'competing claims', integrated water resource management, environment and EIA and SEA application. The composition of the group is listed in appendix 2.

For the preparation of this advice, the expert group visited La Paz from 27 – 30 of August 2012. The programme of the mission is outlined in appendix 3. During the visit, the NCEA expert group was able to meet and talk to a selection of stakeholders, from various sectors of government, NGOs, the academic/research institutes and donor community. Unfortunately, because of time constraints, meetings with private sector and social actors related to land (such as the small peasants unions and indigenous groups) could not be realized. The NCEA is aware that these are important groups, being the beneficiaries of the land reform process. Therefore, the NCEA recommends that these groups are included in the development of the SEA process and report.

The NCEA wants to emphasize that it has no opinion on the feasibility or acceptability of the INRA policies, plans and programs. The NCEA role is to make clear whether or not all essential environmental and socio-economic information has been provided for sound and well balanced planning and decision-making and through a transparent and inclusive process.

1.4 Approach taken by the NCEA

The NCEA expert team only advises on ToR for the SEA. The SEA itself will be led by INRA (or a consultants team on behalf of INRA) with advisory and technical support (still to be defined and agreed) from the Bolivian and UK international consultant.

The ToR for the SEA will take into account that a fast process is required: six weeks for the scoping (ToR) and three – four months for the SEA itself. The reasons for this are the 'exit strategy' of Dutch development cooperation in Bolivia, but also INRA's wish to have a strategic plan in place for its activities after 2013. INRA expects that the SEA will generate relevant

environmental information and may influence in a positive manner INRA's possibilities to attract new funding for its future activities.

Because of the limited time available for the development of the SEA the NCEA has chosen the following approach:

- The SEA will need to focus on those environmental, social and institutional constraints and opportunities that are relevant for the main future policies and tasks of INRA: finalization of land titling, (re)distribution of lands and enforcement
- but also taking into account the possibilities to use and influence the wider legal and policy framework related to sustainable land use.

The SEA will therefore on the one hand be able to come up with very concrete recommendations for environmental mainstreaming within the INRA domain itself, but can also deliver recommendations for a more long term process to improve coordination and coherence, thus creating a favorable enabling environment to achieve more sustainable land use.

A draft SEA regulation has been elaborated by the Ministry of Environment and Water, but this is not yet in force. Consequently, the NCEA has developed a tailor-made ToR for this particular SEA. For this, the NCEA made use of its own practical SEA experience, SEA experience in Bolivia and international good practice benchmarks such as the OECD/DAC SEA guidance².

The NCEA chose to structure this advisory report on the proposed SEA as follows:

- SEA preparatory (or screening) component in Chapter 2, providing an analysis of the INRA strategies, policies and plans, in order to define the role that SEA can play in the preparation, assessment and implementation of these. This chapter essentially reflects the discussion within the NCEA expert group on the key elements that determined the design of the SEA;
- a scoping component in Chapter 3, providing an overview of issues that need to be taken into account in the SEA. This Chapter builds on the outcomes of Chapter 2 and further details the scope and topics the SEA should address (contents), thus forming the advice for the ToR for the actual SEA.

² OECD DAC Guidelines and Reference Series Strategic Environmental Assessment: Applications in Development Co-operation, www.seataskteam.net.

2. PREPARATORY PHASE

SEA practice has shown SEA to be most effective if it is informing a plan-making process in a pro-active manner, by providing relevant information during plan formulation, before formal decision making takes place. To determine for which planning process and linked decision making the SEA will be designed, a number of critical questions (see box below) was discussed during NCEA's visit. These questions help to tailor the design the SEA to the future INRA strategies, policies, plans and programs. The results of the discussions that arose while finding answers to these questions are presented in paragraphs 2.1 to 2.6 below. To some questions, the discussion was not concluded with a definitive outcome. In those cases, the specific paragraph contains a recommendation on what still needs to be done.

Critical questions for good SEA design

- 1) Which plan is going to be subject to SEA and what is the stage of planning?
- 2) What are the key issues that need to be addressed by the plan?
- 3) Who is/are the responsible agency(ies) ('the owner/developer of the planning process')?
- 4) What are the decisions to be taken in the planning process and when will these be made?
- 5) Spatial and time horizon; what is the geographical definition of the plan and which implementation period will it consider?
- 6) What is the budget and time-line of the plan process? And how much time and money is available for the SEA? Who will undertake the SEA and who will pay for it? This includes planning and budgeting for public participation.

2.1 Which plan is going to be subject to SEA, and what is the stage of planning?

The State Constitution of 2009 sets out fundamental principles for the environmental and agrarian process. The specific rules for the agrarian land reform process were approved prior to the new Constitution: Law 1715 in 1996 and Law 3545 in October 2006. To achieve alignment with the New State Constitution, the Netherlands Embassy has financed INRA's Three Year Plan of Adjustment to the new Plurinational State Environmental Agrarian Process (2010-2012), which will be concluded by the end of 2012.

INRA now intends to develop a strategic plan for 2013 and beyond, consisting of the following ambitions:

- The land titling process ('saneamiento de tierras') has to be finalized in 2013. Currently (September 2012) around 70% of the 106 million ha. has been processed. This implies that 30% remains to be done.
- The current Law 3545 has led to a new land tenure structure which is more just, inclusive and equitable in practice, however its legal mandate ends by the end of 2013.

To guarantee the continuity of the agrarian reform process, INRA has identified that the following is needed:

- 1) Finalization of the process of 'saneamiento' until the end of 2013. It is to be noted that the remaining areas are mostly very small in size and sometimes subject to conflict, which makes the process much more costly and time consuming than the efforts undertaken so far.
- 2) Improve and/or complement the agrarian legal framework (Laws 1715 and 3545), possibly leading to a New Land Law (Ley de Tierras) with emphasis on:
 - a. Accelerating the process of redistribution of lands (eliminating 'minifundio' and 'latifundio')
 - b. Distribution of land ('asentamientos humanos')
 - c. Mechanisms to limit the amount of land in use by foreigners.
- 3) Review and improve the so-called FES (economic and social land use function) and FS regulation with the aim to, through incentives, promote the production of strategic crops to guarantee food security for Bolivia, but also to better incorporate environmental variables and improve on the process of auditing and verification of FES/FS compliance in the field, to ensure sustainable land use.
- 4) Develop additional initiatives to ensure a more effective co-ordination with public entities like ABT (Authority for Enforcement and Social Control of Forests and Lands) and SERNAP (National Service for Protected Areas).
- 5) Guarantee the completeness and consistency of agrarian information, legal security and land tenure, and sustainable land use through the definition of a rural cadastre (New Law on Cadastre).
- 6) Find additional budget for the above mentioned priorities, as State budget is not sufficient and most of the current donors are finalizing their ongoing support programmes.
- 7) Make use of experience gathered so far (lessons learnt).

The SEA can help to make sure that environmental and social issues are mainstreamed sufficiently in the new strategic plan that INRA intends to develop in 2013. This strategic plan will have implications for INRA's institutional and operative policies and activities, but may also influence a variety of other Law development processes (Ley de Tierras, Ley de Catastre Rural) by other entities, which in due course will require decision making at various levels of government. For these decisions the provision of environmental (and social) information will be relevant and SEA can provide such information.

The SEA process therefore should pro-actively and interactively assist in the development of a new strategic plan of INRA and flag relevant issues to be arranged in related laws, plans and programs in other sectors.

Conclusion: The development of INRA's new strategic plan from 2013 onwards, provides an ideal opportunity to use SEA as a pro-active instrument. This means that the SEA starts simultaneously with and operates parallel to the development of the new strategic plan, feeds information during the elaboration of the various plan components, evaluates the impact of measures and produces suggestions for optimization of the plan components and mitigation of negative impacts in an early stage when activities are not fully defined yet. The SEA process, with involvement of all relevant stakeholders, thus actively contributes to the development of a both a sustainable strategic plan for INRA and improved synergy with related laws, plans and/or programs.

2.2 What are the key land reform related environmental/social and institutional issues that need to be addressed by the strategic plan?

2.2.1 Environmental and related social issues

Unequal land ownership has led to cultivation of marginal lands as well as to unplanned colonization of tropical forest land. This contributes to deforestation and soil degradation. The agrarian reform process could potentially reduce this pressure by ensuring more equal land distribution and better planned new settlements. At the same time, the agrarian reform process also can lead to increased deforestation and land degradation as well as other negative impacts. Below the NCEA lists the key risks that should be addressed, but note that additional issues may be identified in the SEA process:

Unintended negative impact of verification of 'FES'

In order to avoid confiscation of idle land, a common way for land owners to prove that they are using their land for economic and social purposes (FES) has been to cut down forest ('desmonte ilegal') or burn grasslands ('quemada de pastizales').

Overlapping tenure rights for different natural resources

In some areas indigenous groups have received communal land titles (TCO) for large land areas through the land reform process. But on the same land areas forestry companies have been granted forestry concessions. For fear of losing their concessions, forestry companies might increase the intensity of their activities on the short term.

Farming activities and 'asentamientos humanos' in less suitable locations

As the government aims at (re)distributing land to indigenous groups and small farmers, a settlement program involves the creation of 'asentamientos humanos' (new villages). Since most of this land is in (tropical) forested areas, which may sometimes be less suitable for agriculture, and because traditional slash and burn practices are widespread among small farmers, there is a clear risk for accelerating deforestation or exhaustion of soil. Moreover, small farmers receive only limited guidance and training to adapt to new circumstances and on ways to ensure sustainable land use.

Information used to determine land suitability is not always available or of insufficient quality

In order to check land suitability, use is made of the Land Use Plans (PLUS). However, not all 9 departments in Bolivia have a PLUS. In those cases, use is made of the so-called CUMAT system (Capacidad de Uso Mayor de la Tierra). Alternatively, a land owner can present a POP (Plan de ordenamiento del Predio) to substantiate land suitability. However, in the majority of cases, the information in the PLUS or CUMAT is outdated (almost 20 years old), not of the right scale and contains insufficient environmental information (e.g. on ecosystem functions or services).

Environmental information is not available or not accessible

Related to the above, in the process of handing out the title to the owner, INRA should have an idea about the (environmental) status of the land at that moment, like forested, degraded or non degraded etc. This is also relevant for ABT, because they have to check the POP and

are responsible for monitoring forest use, regeneration and degradation. This check also requires information on which areas (or zones) are potentially heavily affected by climate change (e.g. the Northern part of the Department of Santa Cruz). At the moment it is not very clear to INRA which kind of environmental information is needed and where they can get the necessary environmental information (of sufficient quality and reliability).

Lack of clarity about status of Protected areas

One of the categories of unavailable state land is the “protected area” category (Tierras fiscales no disponibles). Such land cannot be utilised. However, apparently this only applies to National Protected Areas (22), which are managed by SERNAP and not to ‘Areas de Manejo Natural Integral’, in which land is being allocated under strict conditions. For the status of Departmental and municipal protected areas (over 200) the status is not clear and these areas consequently run the risk of being used for (re)distribution of land and agricultural practices.

Mechanism of Private Reserve for Natural Heritage (Reserva Privada de Patrimonio Natural) is not working according to its intended purpose

The RPPN is meant to offer a land owner the possibility to reserve (part of) the land for conservation of ecological values or beauty of landscape etc. It was reported that in some cases a land owner was not allowed to apply the RPPN, because that area also offered good economic possibilities (e.g. grazing). On the other hand, the RPPN was in some occasions ‘misused’ by land owners as a mechanism to just keep the land without using it conform FES criteria.

Risk of large amount of land owned by foreigners

Globally natural resources are becoming more scarce and the claims for natural resources are increasingly in competition. As a result, foreign investors are willing to make available substantial funds to obtain land rights in developing countries for the production of crops for the investor’s country market. This problem, is said to not to be very urgent in Bolivia yet. However, the full extent of the problem may not be clear. This phenomenon, if it is in fact taking place, could undermine the efforts of the government to reach more equity in property and use of land.

Risk of land handed out (or recognized) as communal lands (in the form of a TCO) being sold to private land owners

Although illegal, and although the ‘new’ title cannot be recognized officially, de facto the new land owner can use the land as (s)he wishes. It is unclear whether this phenomenon is occurring frequently and whether and how such illegal situations are dealt with.

2.2.2 Institutional issues

Poor environmental image of INRA

There is a strong perception amongst most of the stakeholders interviewed that INRA’s main objective in the process of ‘saneamiento’ is very much focused on agriculture and not on other potential land use like conservation. This is demonstrated e.g. through INRA’s tasks in the verification of the ‘FES’ and ‘FS’: although the forms and manuals contain environmental criteria, the perception of many other actors is that these are hardly applied in practice in the field.

Limited environmental knowledge and expertise within INRA staff

The staff on INRA mainly consists of agricultural engineers, geodesists, topographers, lawyers etc. Environmental expertise is lacking, but urgently needed to improve the environmental performance of INRA, both internally in relation to those working procedures which require environmental expertise, but also externally, e.g. in relation to providing (or coordinating) guidance and training on sustainable land use to (new) land owners.

Coordination between key stakeholders not optimal

Apart from INRA, a number of stakeholders has a role in the land reform process when it comes to managing environmental issues, like ABT, SERNAP, but also the Vice Ministry of Water and Environment, the Vice Ministry of Rural Development and Agriculture and the Vice Ministry of Lands. Currently there seems to be lack of clarity about who is responsible for what task, leading in some occasions to overlapping responsibilities and in others to gaps. Better cooperation on environmental issues could also lead to compensation of gaps in the environmental expertise of INRA.

Rapidly changing legal framework may lead to inconsistencies but may also create opportunities

There is a new law no.144 de la Revolución productiva comunitaria agropecuaria (2011). Also the Law on Mother Earth is currently in the process of being approved. These are just two examples of new legislation that discuss environmental and sustainability issues. It is not clear what these environmental and sustainability considerations concretely mean (in terms of providing restrictions or offering opportunities) for INRA practice. At the same time, other laws are currently being developed, like the Forest law, the Water law, the Environmental Law, the Land law etc., which could offer excellent opportunities to support and improve INRA's environmental performance.

Conclusion: The agrarian reform processes can lead to both positive and negative impacts for the living and social environment. The actors, that the NCEA expert team consulted, mainly stressed the predominantly negative impacts. Against this background there is a strong need to strengthen the integration of environmental considerations in the development of INRA's new strategic plan. The SEA can help to assess the severity of the key problems mentioned above and to develop means and options to reduce the above observed constraints and to enhance opportunities (see also 3.3 and 3.5)

2.3 Who are the responsible agencies?

INRA is responsible for the development and implementation of its new strategic plan. As part of good practice, the owner/developer of the planning process is also responsible for the SEA. The SEA process however operates in close interaction with, but independent of the development of the new strategic plan.

However, INRA depends on cooperation with other entities and on a certain acceptance by other stakeholder of its role and the way it performs that role. Therefore, the Vice Ministry of Lands, the Vice Ministry of Rural Development and Agriculture, the Vice Ministry of Environment, including SERNAP and ABT should be included in both processes as well.

Conclusion: The responsible agency for the formulation of the new strategic plan is INRA. Therefore, INRA is also responsible for the SEA, which is meant to improve the new plan. As INRA is a decentralized body, with offices in all 9 departments, it is important to closely involve these in the development of the plan and SEA. Likewise it is important to include visions and ideas of other key stakeholders mentioned above.

2.4 What are the decisions to be taken and when will these be made?

The purpose of SEA is to help (improve) plan design and decision making from an environmental perspective. Therefore it is helpful to discuss in an early stage of planning what kind of decisions will be taken. During NCEA's visit, there was no clear view yet on the nature and scope of decisions to be taken (see also 2.1).

Conclusion: Once the planning and decision making processes are more clearly identified, this issue will need further analysis (see 3.6).

2.5 Spatial and time horizon of the plan(s)

The new INRA strategic plan has national coverage, but its time horizon is not yet clear.

Conclusion: The SEA will have to clarify the implementation period of the strategic plan to be able to identify priorities (short, medium, long term). See also 3.6.

2.6 Budget and time-line of the plan process and the SEA

As the SEA should be developed in parallel with the finalization of the current Three Year Plan and will be leading to the development of a new strategic plan for 2013 onwards, the SEA will have to be developed in the coming 3–4 months (September–December 2012). The NCEA was informed that the budget allocation for the SEA is limited to around 50.000 euro.

Within the available budget and time-line for the SEA, decisions have to be taken on the composition of the SEA team and whether budget should be set aside for limited involvement of other supporting experts or some field research (e.g. case studies). Other budget-related issues to decide upon in an early state are:

- whether and when to insert review moments for quality assurance of both SEA contents and process
- planning and budgeting for stakeholder participation
- costs for reporting (e.g. SEA inputs for decision making as and when required, workshop reports, public consultation documented, copies to be deposited for public access)

Conclusion: Knowing the limited budget and timeline of the SEA, the NCEA has taken these as limitative conditions for its advisory ToR in Chapter 3.

3. Scoping and advisory ToR for the SEA

The purpose of scoping is to come to a conclusion on the tailoring of the process and focus of the SEA and the scope and topics to be assessed for the decision(s) in the planning process. The NCEA has done this based on its 'quick scan' of environmental, social and institutional constraints and opportunities in Chapter 2.

3.1 Description of current constraints and opportunities in relation to environment

To be able to assess the consequences of certain measures, to make a clear distinction between impacts of the new strategic plan and consequences of autonomous development processes, and to monitor progress of implementation, it is essential to have a baseline description of the current reality in relation to land reform at the onset of the new plan. A baseline description provides, preferably, quantified information on the situation at a given moment in relation to the issues addressed by the plan, and describes expected trends in these, as far as knowledge goes. Because of the limited time for the SEA, the baseline should be based on existing information as much as possible.

Elements that need to be available in a baseline include a further elaboration and completion of the issues identified in Chapter 2 and a description of the so-called autonomous development: environmental and social constraints in the land reform process when no new strategy will be developed.

The description can be done according to kind of land use differentiated into private owners (enterprises, medium and small) and communal owners. Land occupation can be distinguished according to agricultural encroachment, new settlements and small scale agriculture.

There are two special points of attention for the baseline, because the extent of the potential problem is not yet very clear:

- the occupation of lands by foreigners, directly or indirectly. If possible the SEA should include an analysis of this issue (based on a study of some cases in the field), the (hidden?) way it appears in the Bolivian reality, its social and environmental consequences (for different stakeholders) and the way current policies and practices of INRA interact with this problem (reinforcing or diminishing it).
- the question whether land recognized or given out as communal land, is effectively managed in a communal way and not sold to private parties.

Recommendation for the SEA:

Undertake a concise review of issues related to agrarian reform processes. An effective way (suggestion for methodological approach for the SEA) is to commission papers or written submissions to e.g. universities, scientists or research organizations on the environmental (and related social) issues related to land reform. This approach can be completed by organizing focus group meetings of different stakeholders in different regions to allow them to give their perception on environmental and social issues in relation to INRA activities. Pay

specific attention to how (groups of) citizens are affected by INRA's activities and what the social consequences are (positively or negatively, directly or indirectly, e.g. via degradation of the environment). The information collected will be important to inform INRA of the kinds of issues it needs to address and will provide input for a baseline description as part of the SEA.

3.2 Overview of existing and projected laws, strategies, policies and plans with relations to land reform process (consistency analysis)

The new strategic plan to be developed by INRA may be influenced in various ways by other plans or programs, or by environmental protection objectives such as those laid down in policies or legislation. Knowing these relationships makes it possible to take advantage of potential synergies and to deal with any inconsistencies and constraints. Consistency of government policies avoids future implementation problems. This requires an inventory at (inter)national, regional and local level.

At the international level, this includes, for example, the Convention on Biodiversity, ratified by Bolivia. At the national level, this implies taking into account the explicit and implicit social, economic and ecological criteria formulated in the National Development Plan (2006–2011), which are based on the concept of 'Vivir Bien'. Examples for the environmental sector are the Strategic Plan on Forests, the National Watershed Program, the Plan for Protected Areas and the National Wildlife Program.

As to laws, the Ley de la Madre Tierra (almost approved) creates a good momentum, as it raises attention and provides political support for environmental and sustainability issues. Therefore it has to be studied as to the extent it provides environmental guidelines or principles for the tasks of INRA. Also the new Agrarian Law no. 144 of 2011 discusses environmental and sustainability issues, e.g. in articles 13 (policy for enforcement of the productive base), 14 (Policy for conservation of the areas for production), 15 (policy for protection of natural genetic resources), and 16 (policy for information on production). Other laws, currently in the process of being drafted are the Ley Forestal, Ley de Tierras, Ley de Agua, and could also offer opportunity to include environmental issues relevant for INRA.

Recommendation for the SEA:

Make an inventory and analysis of which strategies/policies/plans or programs:

- generate opportunities when formulating the new strategic plan for INRA
- set environmental and socio-economic conditions (criteria) for the new plan
- have the potential to be in conflict with the new plan and explore how these conflicts could be solved.

The challenge for the SEA is to focus this inventory of laws and policies as much as possible to the work of INRA, to avoid the risk of ending up with too extensive and general inventory of laws and policies.

3.3 Institutional strengths and weaknesses, including assessment of environmental performance of INRA

A detailed analysis of institutional strengths and weaknesses of INRA has been carried out in Feb. 2012. However, this did not include INRA's role(s) and performance in terms of environmental matters and standards and/or conditions that are necessary for achieving the ob-

jectives for a new strategic plan. Additional capacity development actions particularly in the field of environment and sustainable land use, may be necessary.

Recommendations for the SEA:

- Assess the competence/capacity of INRA staff to address environmental matters. There is likely to be a need for INRA to recruit staff to address such issues in the future. One solution to consider is the option of setting up a small core team of environmental staff who could prepare environmental briefing notes, develop environmental codes, undertake in-house training, etc. An alternative would be to work in close and effective cooperation with staff from other agencies that have sufficient environmental capacities, such as ABT (see also 3.4).
- Consider the utility and possibilities of INRA establishing some form of outreach function or service to promote understanding of INRA's role and how to deal with titling issues and processes amongst different stakeholders: indigenous peoples communities, peasant communities, and other groups. Such a service could undertake training of local advisers (extension officers) who can in turn advise on issues such as how titling works, and what is understood as acceptable sustainable land management, etc.
- Examine how the titling process operates in practice and how (if) it addresses environmental concerns. For example, through participating in a number of processes in the field (sampled across the country in different areas and different kinds of communities) – but as 'silent observers', not directly participating in the procedure or influencing it. Examine the composition of the INRA field teams, and assess their environmental awareness and competence. Review all INRA documentation on the titling process (including its operational forms) to determine how these address the environment, and identify where improvements are needed.
- Recommend ideas on how to organize a series of seminars or workshops on key environmental issues within INRA to raise awareness and gather INRA perspectives.
- Explore options to improve INRA's perceived poor environmental image and performance through e.g. a communications strategy
- Establish the need and mechanisms to develop guidance and training to new settlers with respect to sustainable land use. The Vice Ministry of Lands has already started some activities related to this issue and INRA mentioned that there were plans to install a committee for this task. The SEA could further explore options to increase effectiveness of these activities.

3.4 Stakeholder mapping and involvement

More effective coordination is urgently needed with other bodies, such as ABT, SERNAP, the Vice Ministry of Environment but also with the Vice Ministries of Rural Development and Agriculture and the Vice Ministry of Lands. This coordination is needed to get a better insight in who is doing what in terms of environmental tasks related to land reform, but also to assess whether there is any overlap, or whether there are tasks, mandates or competences which currently lack a responsible authority.

Recommendations for the SEA:

- Consider what kind of consultative mechanisms/groups exist or could be created through which INRA can access environmental knowledge – particularly related to key en-

vironmental issues/challenges (the 'Observatorio' within the Vice Ministry of Rural Development and Agriculture could be used as an example). In particular examine what mechanisms exist or what efforts are made by INRA to consult and liaise with ABT, SERNAP and other key bodies that have an interest in land use and management. Mention was made of an agreement in the past between INRA and SERNAP to have workshops twice per year, but this did not materialize. The SEA could assess why this did not work and suggest other options.

- Identify who, apart from government authorities and agencies, have a legitimate interest in titling and should be consulted in the SEA process (organizations, institutions, representative groups, individuals, etc). For this, use can be made of the stakeholders interviewed during NCEA visit (see appendix 3), but others to consider are the National Federation of Municipalities, the Ministry of Productive and Economic Development, Museum Noel Kempf Mercado, and most importantly, CSUTCB, CIDOB and other beneficiaries). The next step would be development of a participation plan.
- Develop strategies for how local communities can be more involved in the land (re) distribution process. Questions to help design such a strategy are for example: What are the needs on information and knowledge concerning sustainable land use? What are the key factors for success or failure?

3.5 Impact assessment and alternatives

Paragraph 2.2.1 has provided an overview of key environmental problems which may lead to environmental impacts:

- Unintended negative environmental impact of the land titling process (incomplete interpretation of 'FES' criteria)
- Overlapping tenure rights for different natural resources
- Farming activities and 'asentamientos humanos' in less suitable areas
- Information needed to determine land suitability is lacking or of insufficient quality.
- Environmental information is not available or not accessible
- Lack of clarity about status of protected areas
- Mechanism of Private Property for Natural Heritage (Propiedad Privada de Patrimonio Natural) does not seem to work according to its intended purpose.

In the SEA each of these issues should be further assessed, including the development of different alternatives how to address these impacts. The SEA thus helps to 'steer' the development and implementation of INRA's new plan through:

- deciding which recommendations/measures can or will have to be taken anyway ('quick wins', 'no regret' options or measures that are absolutely necessary)
- providing alternative options for some measures in terms of (i) yes/no implementation, (ii) different locations, (iii) difference scales or sizes (iv) difference in ambitions or phasing or (v) difference in focus (technical measures versus institutional measures)

Below the NCEA provides some ideas for a number, but not all, of the above mentioned issues. The NCEA advises to address in the SEA at least the two issues mentioned below, where quick and significant environmental gains can be achieved.

Recommendations for the SEA:

- In relation to verification of FES: Various actors criticize INRA for only focusing on land that land is used for agriculture or cattle-breeding. However, the FES field form 'Verificación de FES de campo' recognizes many other land uses: Forestry, Ecotourism, Private Nature Reserves, Scientific investigation, Conservation and protection of nature, and biodiversity, use for non-timber forest products. Annex 1 of the Manual for verification of FES and FS (2011) also makes mention of so-called 'servidumbres ecológicas legales' which could provide ecosystem services. The SEA should clarify:
 - what the (enforceable) criteria are for accepting a certain piece of land under one of the above mentioned categories.
 - how field teams apply the criteria in the field
 - how many hectares of land (and its percentage of the total) have effectively been accepted under the categories Forestry, Ecotourism, Private Nature Reserves, Scientific investigation, Conservation and protection of nature, and biodiversity, and use for non-timber forest products. This would have to be done for titled land and new (collective) land titles (on 'tierras fiscales').
 - whether lands classified for agriculture and cattle breeding are really apt for these land uses, or can it be expected that these uses will not be sustainable? Are any criteria used to determine the answer to this question? Are there already examples of unsustainable land use and how can the social consequences of this land degradation be assessed?

The above can be done by case-studies or document studies of how land has been evaluated before, drawing out lessons (what works well, what goes wrong) to improve future land titling and land (re)distribution. If there are any deficiencies in determining and implementing criteria and the related procedures, the SEA should come up with recommendations. This may lead to additions to the Manual or to an improvement of the Field Forms.

- In relation to farming activities and 'asentamientos humanos' and land suitability:
 - assess how titling can better be linked to land use planning, land capability and available relevant land/environment information (what is available, who holds it, how accessible and understandable is such information?) to achieve a better match between land use and land suitability.
 - develop criteria to ensure that the size of the allocated land is big enough for sustainable practices (proper land maintenance, fertilizing and erosion prevention is feasible).
 - develop a mechanism for integral analysis of the suitability of areas for specific use, including soil characteristics, water management, erosion susceptibility, etc and elaborate, based on that, a classification (subdivision into vulnerability categories) including location of very fragile areas, and decide what can be allowed where? (Re)distribution of land could then be planned in the least vulnerable areas first and perhaps avoided in others (zoning).
 - Make use of success stories. Analyse examples where the process of land reform have been successful and what were the key success factors.
 - Suggest a monitoring system through which the results and impact of the land reform process can be recorded and if necessary can be adjusted.
 - Assess to what extent 'asentamientos humanos' may lead to additional migration flows with social and environmental consequences e.g. more pressure on scarce education and health services.

Based on the above, pilots can be set up to strictly develop/monitor best practice in cases when it cannot be avoided that forest areas will be issued for agriculture use.

3.6 Inventory of necessary steps in planning and decision making

The SEA report would greatly improve in quality and enhance effective planning and decision making if the numerous recommendations and alternative options could be presented according to urgency, scale and level of decision making and in easy accessible sets or packages of options for relevant decision makers. The SEA can thus help to provide input for decision making, through identifying the 'best strategies and measures' from an environmental and social point of view. These strategies and measures can be of technical, institutional or legal nature or aim at a change of behavior.

Recommendation for the SEA

What is still needed is an analysis of which strategies/policies/plans/programs provide the most suitable platform to follow-up on the recommendations as identified in the SEA report for strategic decision making and who is responsible for this. The information gathered in the SEA as part of 3.2. (consistency analysis), can help in this task. The recommendations will to a great extent help to develop the new strategic plan of INRA, and then specifically its future policies and tasks related to titling and verification of FES and FS, and the (re)distribution of land. The SEA would be most effective if a programme with the different steps for the formulation of the new strategic plan for INRA would be determined soon. In this way it can better be determined how the different outputs of the SEA can be used at what point in the INRA strategic planning process.

The NCEA expects that the new policy on cadastre and registration of land tenure offers less possibilities for environmental gain as this has more to do with administrative processes. But possibly the SEA recommendations could also lead to input for the new Land law or other relevant laws.

3.7 Monitoring and follow up

Monitoring on plan implementation

To assure adequate implementation of the new plan, the SEA should propose mechanisms (e.g. who would be responsible, required resources, supportive or remedial action when needed) to check whether the new plan is implemented according to decisions taken.

Monitoring of land use

Sustainable land use after land titling and/or 'saneamiento' is a key issue. If this is not properly handled, in the long term land may degrade with many social consequences for the new land owners and ecological consequences for the region and the country as a whole. The SEA should explore options as to which organization should get the mandate of (coordinating) active control and enforcement of sustainable land use (i.e. a monitoring system, including who is responsible for what, frequency of checks, budget etc.). The extent in which stakeholders can play a role in such a monitoring system should also be assessed.

APPENDICES

With the Terms of Reference for SEA
Instituto Nacional de Reforma Agraria
- Bolivia -

(appendices 1 to 3)

APPENDIX 1

Letter of INRA of 9 February 2012.



INSTITUTO NACIONAL DE REFORMA AGRARIA

RECIBIDO	10 FEB 2012
Doc. N°	21953
Car. (Acción)	
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La Paz, 09 de febrero de 2012
DN-C-EXT N° 0237/2012

Señora:
Maarit Ivalo
Primera Secretaria
EMBAJADA DEL REINO DE LOS PAÍSES BAJOS
Presente.-

De mi mayor consideración:

Ad. Nos. 15/02/12

Como es de su conocimiento, dentro de la Implementación de la actividad 21952 Plan Trienal de Ajuste al Nuevo Estado Plurinacional 2010-2012, se tiene contemplado diseñar e implementar una Evaluación Ambiental Estratégica (EAE), en el marco del proceso agrario que el INRA realiza.

Por otra parte, en fecha 29 de junio de 2011, el INRA le presentó un borrador para discusión de lo que podría ser un Plan de acción del componente de gestión ambiental. Posteriormente, la Embajada nos invitó el 10 de noviembre de 2011 a un Taller de Actualización de EAE, el cual estaba a cargo de la Comisión Holandesa para la Evaluación Ambiental.

Como resultado de estas interacciones, el INRA considera que contar con el instrumento EAE, permitiría cumplir los objetivos planteados en el Plan Trienal, que cuenta con el apoyo financiero de la Embajada.

Por otra parte, en el taller de noviembre, sostuvimos una charla con la representante de la Comisión para ver la posibilidad de contar con el apoyo de su Institución. En este sentido, nos informó que se requería una solicitud oficial de nuestra parte, vía la Embajada.

Por lo expuesto, queremos solicitar, a través de la Embajada y su persona, se pueda gestionar el apoyo de la Comisión Holandesa para la Evaluación Ambiental, para que nos brinden asistencia técnica especializada que conduzca el desarrollo del instrumento EAE.

Con este motivo, saludo a usted atentamente,

JFTG/10BF
Copia: Archivo

Abog. **Juán Félix Tapia García**
DIRECTOR NACIONAL S.R.L.
INSTITUTO NACIONAL DE REFORMA AGRARIA

APPENDIX 2

Project information and composition of NCEA's working group

Proposed activity: INRA (National Institute of Agrarian Reform), created in 1996 by Act 1715, is a public decentralized technical institution, responsible for carrying out the agrarian/land reform process in Bolivia. INRA is an institution with good skills, organized in a national and nine regional offices. It has more than one thousand employees. In October 2006, the Act on the Renewal of the Agrarian Reform, nr.3545, changed its mission and objectives, and extended the term for the land reform processes until December 2013.

As part of support to the land rights and legal security on rural property, the Embassy of the Netherlands is funding the Three Year Adjustment Plan for the New Plurinational State 2010–2012 – Environmental Agrarian Process, for which INRA is responsible. Compliance with the Grant Agreement includes the development of a Strategic Environmental Assessment (SEA). INRA has requested technical assistance for that purpose.

Categories: DAC/CRS: 31164 Agrarian reform

Project numbers: Netherlands Commission for EA (NCEA): B013

Procedural information:

Receipt request for Advice	: July 2012
Site visit to Bolivia by the Expert Group	: 27–30 August 2012
Submission of Final Draft Advisory ToR	: September 2012
Submission of Final Advisory ToR	: 1 October 2012

Composition of the expert group of the Commission for EA:

Arend Jan van Bodegom
Hans van Maanen
Barry Dalal–Clayton (UK, resource person)
Miguel Morales (Bolivia, resource person)

Technical secretary:

Ineke Steinhauer

APPENDIX 3

Working programme SEA INRA- BOLIVIA 27-30 August 2012

DATE	TIME	PLACE/ACTIVITY
Monday 27	10.00- 12.00	Netherlands Embassy Briefing with: Gary Montaña, Janette Trujillo, Netherlands Embassy, Miguel Montaña, consultant, Barry Dalal-Clayton, IIED and consultant for Netherlands Embassy
	14.30- 19.00	Ministry of Rural Development and Lands Meeting with the Minister, Ms. Nemecia Achacollo Tola Meeting with INRA team: Juanito Felix Tapia, general director (a.i) of INRA, Juan de Dios Fernandez, director of planning, Victor Espinal Villca, director of land administration
Tuesday 28	08.30- 09.30	Netherlands Embassy Skype conference with ABT , Authority for Enforcement and Social Control of Forests and Lands, José Luís Laguna, director of integrated management
	10.00- 11.00	Netherlands Embassy Skype conference with IBIF , Bolivian Institute for Forest Investigation, Ms. Natalia Ascarrunz
	14.30- 16.30	SERNAP (National Service for Protected Areas) Meeting with José Coello, director of Environmental monitoring and Carlos de Ugarte
	14.30- 16.30	WCS (Wildlife Conservation Society) Meeting with Lilian Painter
	17.00- 18.00	Netherlands Embassy Skype conference with FAN , Foundation Friends of Nature, with James Johnson (also representing University La Cordillera)
Wednes- day 29	08.00- 09.00	Netherlands Embassy Meeting with the Vice Presidency of Bolivia, Ms. Liliana Paz Arauco
	08.00- 09.00	Fundación Tierra (Foundation Land) Meeting with Miguel Urioste, researcher
	09.15- 10.30	Netherlands Embassy Meeting with Vice Ministry of Environment, Luís Fernando Terceros, SEA specialist
	11.00- 12.00	LIDEMA (League for the Defence of the Environment) Meeting with Jenny Gruenberger, director
	11.00- 12.00	European Union Meeting with Nicolaus Hansman
	14.30- 15.50	Vice Ministry of Lands Meeting with Jorge Barahona, Vice Minister and Ruben Gonzalez, responsible for policies and norms
	16.00- 17.30	Ministry of Rural Development and Lands Meeting with Miguel Morillo, Vice Ministry of Rural Development, director general of rural development
	18.30- 21.00	Hotel Ritz, expert group meeting Preparation of preliminary findings
Thursday 30	07.30- 10.30	Hotel Ritz , preparation of presentation and report writing
	11.00- 13.00	Netherlands Embassy Presentation of findings and debriefing INRA: Juan de Dios Fernandez Netherlands Embassy: Janette Trujillo, Marit Ivaloo and Anke van Dam