

TERMS OF REFERENCE

For Legal Consultant

“Nickel Supply Chain Mapping Study”

Consultancy for a study for understanding the supply chain of Indonesia’s resource nickel and the potential scope of German/European due diligence legal frameworks in this context.

1. Background and Rationale

Possessing the largest nickel reserves in the world, Indonesia has exported nickel value reaching \$33.81 billion in 2022, a staggering 745% increase from 2017. As an important component in powering electronic vehicles (EV), the need for battery-grade nickel is expected to rise due to the growing use of EVs. The European Union aims to reduce CO2 emissions by 55% by 2030 and needs around 30 million electric cars to achieve this goal.

Moreover, the Indonesian solar energy market is expected to grow, fundamentally, in future, due to the increasing demand for renewable energy and nickel plays an important role in the solar panel market, too.

The nickel industry has evolved from raw material export to domestic smelting and processing by opening up industrial zones, particularly in Morowali, Sulawesi and North Maluku Province in Indonesia. Chinese companies are predominantly operating in these industrial zones, some with European co-investors such as Eramet (France) and BASF (Germany).

Indonesia's affiliations with major electric vehicle manufacturers underscore its pivotal role in the global supply chain. However, the utilization of Indonesian nickel also raises pressing concerns, spotlighting the environmental and social consequences tied to mining and industrial activities. It has been widely known by civil society organizations and environmental activists, including the Indonesian NGO AEER (Action for Ecology and People's Emancipation), that this economic boom coming from the nickel industry comes at a significant environmental cost, including widespread deforestation, pollution of coastal areas, numerous fatal work accidents among miners and violation of labor rights. By publications titled “[Road to Ruin](#)” and “[Fast and Furious](#)”, AEER has analyzed these issues in detail by presenting cases of Indonesia’s nickel mining sector and effects for concerned communities and environment.

Thus, the advocacy to address the social and environmental impact of nickel mining to meet the growing demand of EVs, especially in Europe, should not only rely on national or regional regulation, but also on international mechanisms to regulate supply chains. One such mechanism is the German Supply Chain Due Diligence Act, which came into force on January 2023. The Act requires that German companies (subject to its provisions) comply with certain human rights and environmental due diligence obligations oriented towards the UN Guiding Principle on Business and Human Rights.

Moreover, in May 2024 the Council of the European Union approved the political agreement to implement the new Corporate sustainability due diligence directive, requiring firms and their upstream and downstream partners, including supply, production and distribution to prevent, end or mitigate their adverse impact on human rights and the environment.

This study project seeks to investigate and to present in detail the supply chain of the product nickel, from mining to processing the mineral and utilization in products for the German/European markets.

The study also aims to identify human rights violations and environmental degradation in the Indonesian Nickel mining sector that fall under the due diligence of German and European companies according to the German / European due diligence legislation.

The consultancy includes:

- Providing expert knowledge on the German/ European due diligence legislation to a study for understanding the supply chain of Indonesia’s resource nickel and the potential scope of German / European due diligence legal frameworks in this context. The study is conducted by an Indonesian consultant, who is contracted by AEER, which presents a partner organization of RLS Manila
- Supporting the consultant of AEER to assess which of the identified rights violations are covered by the German Supply Chain Due Diligence Act / European Due Diligence Directive
- Consulting RLS, AEER and other stakeholders on the procedure of filing potential complaints under the German Due Diligence Legislation with regard to the identified rights violations
- Assisting the AEER consultant in identifying and assessing the German/European stakeholders in the Nickel supply chain from Indonesia, potentially conducting interviews with them
- Providing feedback on the technical proposal / study design (in English) by the AEER consultant in regards to the German / European due diligence legal framework to RLS/AEER/consultant
- Providing feedback, if needed, during the field work period of the project to the AEER consultant
- Providing recommendations for improvements of the draft study to RLS/ AEER /consultant and providing feedback on the final study paper by AEER consultant, too
- Providing a recommendation paper based on the finding of the AEER/ RLS study regarding future project activities in the field

2. Objectives of the legal consultancy

The specific objectives of the consultancy are:

- To ensure that the study conducted by RLS and AEER is based on expert knowledge on rights violations, which are covered by the German Supply Chain Due Diligence Act / European Due Diligence Directive
- To make recommendations for accountability of German/European companies (within the scope of the supply chain legislations and beyond) considering the claims of Indonesian workers’ organisations, CSOs and political actors, to propose fair and sustainable ways for German/European involvement in Nickel supply chains in the future
- To identify violations of human rights and environmental degradation that occur in the Nickel sector due to the lacking due diligence of German/ European companies and that can be addressed under the framework of the German Due Diligence Supply Chain Act / European Due Diligence Directive

3. Activities and Scope of Work

The consultancy will consist of the following key tasks:

- From the perspective of the German/European due diligence legislation, supporting the AEER consultant, AEER and RLS in the planning and implementation and finalization of their Nickel due diligence study project by providing continuous feedback and recommendations
- Work closely in a team consisting of (a) the consultant contracted by AEER, who is responsible for the study paper (b) AEER and (C) RLS
- Prepare and submit brief reports (in English) with an assessment on the technical proposal and the draft and final study papers to the AEER consultant, AEER and RLS
- Prepare a brief recommendation paper in English regarding future project activities on the issue. Presentation of the report in a stakeholder workshop to get feedbacks and inputs for finalization
- Intellectual property rights of all data, information and report resulting from the consultancy are vested in RLS

4. Geographical Focus

The contract will be supported by the engagement of the concerned and relevant stakeholders in Indonesia.

5. Timelines and Deliverables

From 10. July to 31. August 2024:

Tender, application and selection of successful candidates.

This consultancy is expected to be completed within a period of 3 months from the date of the Service Contract signing. A tentative timeline is as follows:

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|---------------------------|---|
| 02. — 06. September 2024: | Providing consultancy, if needed to the AEER consultant developing the technical proposal / study design (in English). |
| 11. - 17. September: | Brief report on the technical proposal / design to RLS / AEER / consultant (in English). |
| 20. - 26. October: | Providing feedback, if needed, during the field work period of the project to the AEER consultant. |
| 05. - 13. November: | Brief report on the draft study paper to RLS / AEER / consultant (in English). |
| 25. - 26. November: | Providing feedback, if needed, to the AEER consultant to incorporate the findings of the brief report on the draft for finalization of the study. |
| 9. – 12. December: | Brief report on the final study paper and a brief recommendation paper for future activities to AEER and RLS (in English). |

The mentioned dates are subject to the provision of the proposal, field work and study paper by the AEER consultant and might be subject to changes.

6. Key skills, technical background, and experience required:

- Evidence of the consultancy knowledge of the German Due Diligence Supply Chain Act / European Due Diligence Directive;
- Proven track record on the assessment of needs to improve supply chains, economic and social status, etc.;
- Clarity of analysis and written expression;
- Fluency in English and German;
- Skills in conducting research/studies on legal / socio-economic assessments;
- Having good working experiences with German / European agencies and authorities, CSOs and other private institutions.

7. Collaboration

The consultant contracted by RLS will work in collaboration with a consultant contracted by the Indonesia based organization AEER. The AEER consultant has the responsibility for finalization of a study for understanding the supply chain of Indonesia's resource nickel and the potential scope of German/European due diligence legal frameworks in this context.

During the performance of this study, the legal expert / consultant contracted by RLS will provide the following support to the contracted consultant:

- Relevant documents related to the AEER consultant;
- Review and provide comments on methodology, work plan, sampling, study design, tools...;
- Review and provide brief reports on the draft and final report and a brief recommendation paper;
- Other support, if needed.

8. Budget and Payment Schedule

The payments will be made in European currency with the following mode of payment:

(i) First payment: Forty percent (40 %) will be transferred to the bank account of the contracted consultant/s upon completion of the first period the contract, including submission of **2 brief reports** on the technical proposal and on the draft study paper by AEER consultant;

(ii) Final payment: Sixty percent (60 %) will be transferred to the bank account of the contracted consultant/s after submission of the **brief report on the final study paper and the brief recommendation paper** for future activities to the satisfaction of RLS.

9. Submission of proposal

The interested contractors must submit their proposal not exceeding 3 pages (excluding resumes) to RLS with the following details:

- Narrative proposal
- CV
- Detailed budget estimates
- Demonstrated experience and capacity

- List of written/published evidence: similar consultancy work done and/or published.

All applications must be submitted to RLS through email at: ines.burmeister@rosalux.org by **15.08.2024**.

Later submission of proposals will not be accepted. Only short-listed candidates will be contacted.

10. Proposal Evaluation

The proposals will be evaluated in accordance with the RLS regulations and criteria. The proposals will be scored against the below criteria. The scoring will be tabulated and the proposals will be ranked based on the numerical scores received. Detailed screening results will not be released. Only shortlisted ones will be invited for interviews/ presentation of their proposal for final selection.

Value of criteria

1. Technical application: 60% (methodology: 30, research experience: 20, references: 10)

2. Cost proposal: 40%

TOTAL: 100%