

MITI MINGI MAISHA BORA – SUPPORT TO FOREST SECTOR REFORM IN KENYA

ANALYSIS OF POLICY, REGULATORY AND FISCAL SUPPORT FRAMEWORK FOR SME DEVELOPMENT IN SAWMILLING IN KENYA

TERMS OF REFERENCE FOR NATIONAL CONSULTANT

1. Back ground

The “Miti Mingi Maisha Bora – Support to Forest Sector Reform in Kenya is a programme within the development cooperation between Kenya and Finland. The inception phase of the programme started in beginning of July 2007 and will end at the end of December 2008. The objective of the Miti Mingi Maisha Bora programme is to facilitate an increased contribution of forests and improved forest management to economic recovery and poverty alleviation on an economically and socially sustainable basis, and to improve the quality of life of the Kenyan rural population.

Development of industrial planted forests remains a core activity of the Kenya Forest Service (KFS), given their potential to support viable economic enterprises if managed sustainably. By 1994, planted forests covered 160 000 ha but excisions in the late nineties reduced cover to 120 000 ha. These plantations are the main supply of industrial round wood to the forest industry in Kenya.

A key influence in the timber supply and the structure of the forest industry in Kenya was the Presidential partial logging ban in state forest plantations introduced in year 1999 due to lack of control and irregularities in the state forest sector. Subsequently, most of the 38, 000 hectares of over-mature and mature industrial plantations in state gazetted forests are deteriorating. In addition, about 18,000 hectares of forest plantations between ages 10 and 22 years are due for commercial thinning – an exercise that would take 6 years or so to complete if the ban was removed.

This ban is still partial in force. However, an exception to the logging ban was made for the supply of logs to a few larger industries. During the logging ban these companies have had permission to harvest wood due to an alleged importance for the national economy of the forest industry. The supply of round wood to some of these industries has been subsidised, i.e. allocated below stumpage price that could have been obtained with a competitive market. This allocation is regarded by other stakeholders in the sector as being unfair allocation of resources and grossly discriminative.

The ban resulted in the closure of more than 300 sawmills and was responsible for the loss of 30,000 direct and 100,000 indirect jobs. When tertiary services associated with the industry are considered, the impact on livelihoods and the economy is far greater. Most sawmills closed and others reduced their capacity and operational costs. The average number of staff on small sawmills dropped from 50 in 1999 to 5 in 2005.

A prominent feature of the Kenyan sawmilling sector is a vertical connection in the timber value chain with small to medium enterprises (SME's). The same entrepreneurs with sawmills commonly carry out the logging.

Through the KFS Board, government is now considering a full lifting the ban on logging. The new Forest Act 2005 and the subsidiary regulation developed under the Act, "The Forest (Participation in Sustainable Forest Management) rules" outlines the procedure for obtaining the raw-material from state plantations through bidding for either timber licence or concession arrangements. To be able to participate in the bidding process the entrepreneurs have to go through a pre-qualification process where their technical and financial capacity is assessed.

The divestment of Forest Department into KFS implies changes in the management of plantations both in terms of operational principles, pricing and allocation of concessions, fees and taxes. However, the logging ban has significantly weakened the SME sector in sawmilling in Kenya. There is a need to look at the role of the GoK in regulating and facilitating the development of this sector.

2. Objective of the consultancy

The objectives of the consultancy are to:

1. Identify, analyze and provide the KFS with an overview of the policy, regulatory and fiscal framework which impacts on the SME development in sawmilling in Kenya.
2. Recommend possible changes in the policy, regulatory and fiscal framework to reduce the barriers for SME development in sawmilling in Kenya (e.g., fiscal incentive packages).
3. Provide information on the general status of SME sawmills, need for actions for prequalification for bidding process.
4. Recommend options for support mechanisms to enable sawmill entrepreneurs to fulfil prequalification criteria to be eligible to participate in the raw material bidding process.
5. Recommend implications for merges and vertical integration (logging and sawmilling).

3. Specific tasks and mode of work

3.1 Specific tasks:

1. Identify and analyse the policy, regulatory and fiscal framework with impact on SME development in sawmilling both within the forest sector as well as other sectors including SME policies as such. The fiscal framework is to include; i) taxation, ii) import regulation and duties and iii) access to banking.

2. Identify and analyze options for support mechanisms and/or incentives (e.g. grants, subsidies or other fiscal incentives). The analysis should include possible negative impacts of such incentives in form of e.g. skewed investment decisions and unsustainable practises.
3. Look into experiences on SME development in neighbouring countries to be utilized in Kenya.
4. Assess a representative number of SME sawmills against prequalification criteria for information on general level of SME sawmills and actions required to be able to pre-qualify for the bidding process.

3.2 Mode of work

The consultant is to work closely with relevant staff within the KFS for forestry technical back up. The work is to start with review of present literature, regulatory and fiscal framework of the subject area. The consultancy is to include indepth interviews with representatives for SME entrepreneurs within the sawmilling sector.

In the beginning of the second half of the consultancy period the consultant is to arrange a work shop for KFS, sawmill entrepreneurs (present and potential) and other relevant stakeholders (including Ministry of Trade and Ministry of Finance) for presentation and discussion on the findings during the consultancy.

The consultant is to present the result of the analysis to the KFS Board at the end of the consultancy.

4. Expected outputs

The following are the expected outputs:

- A broad description on the general barriers for the development of the SME in sawmilling in Kenya in the case of a lift of the logging ban.
- A detailed examination of the regulatory and fiscal framework, and outline of impacts on SME development in sawmilling in Kenya.
- Recommendations for changes in the regulatory and fiscal framework to achieve an enabling framework for SME development in sawmilling including risk analysis of alternative GoK interventions.
- Information on the general status of SME sawmills, need for actions for prequalification for bidding process.
- Recommendations on support mechanisms to enable sawmill entrepreneurs to fulfil prequalification criteria to be eligible to participate in the raw material bidding process.
- Estimate of impact of SME sawmills on employment in rural areas.

5. Reporting

By the end of the first week the consultant will deliver a detailed plan for carrying out the assignment and provide the plan to the Chief Technical Advisor (CTA) of MMMB and the Chairman of the Forest Reform Secretariat in the KFS.

Before the work shop the consultant is to provide and present the first draft of the analysis to the CTA of the MMMB and the Chairman of the Forest Reform Secretariat in the KFS.

At the end of the consultancy the report of the consultancy including the outputs described in the previous chapter will be handed over in electronic format to the MMMB CTA, the Chairman of the Forest Reform Secretariat in the KFS, KFS Director and the KFS Board.

6. Time table

The consultancy is for one person month (21 working days) and is expected to be implemented before the end of December 2007.

7. Qualifications

The consultant should have the following qualifications

- University degree in relevant field related to the assignment; law, business & administration, economics, forestry or other related field.
- Minimum of 10 years work experience in above mentioned fields.
- Solid knowledge and experience on SME development, with special focus on the impact of policies and regulatory and fiscal framework on SME development.
- Proven experience in analysis of policies, legal and fiscal issues as they relate to SME's.
- Thorough knowledge and understanding of technologies related to sawmilling and logging.
- Sound knowledge and understanding of forestry issues in general.