



Briefing Memo - 3rd SLO Stakeholder Workshop

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1. BRIEFING MEMO – MIREU 3RD SLO STAKEHOLDER WORKSHOP

The **third MIREU Social License to Operate (SLO) Stakeholder workshop**, taking place on the 5th and 6th of June, 2019 in Brussels, focused on change, specifically how to ensure that SLO is **adaptive and resilient**. Whether it is demographics, social values, political leadership, legislation, commodity prices, or technology, the future is ever changing and the interpretation of SLO is very much diverse in Europe. These global, national, regional and local changes and different recognition of SLO affect the dynamics between companies, communities and other stakeholders. Understanding how the combination of regulatory measures and voluntary practices required for a common SLO interpretation can be adjusted is crucial for attracting foreign investors and ensuring a robust mining industry and the future sustainability of Europe's mining regions embedded in a global competition.

1.1 Meaning of the workshop: Resilient and adaptive SLO

Keeping the focus, ensuring SLO is adaptive and resilient, in mind, the agenda of the third SLO Stakeholder workshop was oriented to question the different interpretations of SLO across Europe in all sectors (industry, public, and government) and whether some of these diverging views may hinder the application of SLO as defined in MIREU. Opinions vary widely across Europe as to what SLO means, its importance in the European context, and its benefit (or not) to Europe's mining industry. The discussions in the workshop will help clarify in what way and to what extent SLO is needed aside already existing legal measures, and if SLO is needed, what the minimum standards and possible limits are for its adoption. To accomplish this, and given the workshop's location in Brussels, participants invited included primarily experts from industry, NGOs, administration, research and the Commission. It should be noted that it would clearly have been beneficial had local community members and the policy making arm of the European Commission been present as well; however, the Executive Agency for Small and Medium Enterprises (EASME) did send two representatives who attended both days of the workshop. While local communities were not at the workshop, there are direct connections to these communities across Europe's mining regions through the partners and experts who have those personal connections.

The topics for discussion in the main event included (1) the different views of stakeholders and the applicability of SLO at the regional level; (2) whether people can indeed be 'over-empowered', and if so, how that could affect the administrative and political decision processes, including the development of legislation, in the future; (3) the general negative perception of mining across Europe and how the mining industry could potentially borrow experiences from other industries, for instance, forestry, which also is often mistrusted by society, (4) examples of current attempts in different European regions at encouraging SLO behaviours through non-binding approaches; (5) how SLO is viewed in countries where it has not yet taken root and what does it mean for the competitiveness of European mining, which is increasingly operated by global industrial players, and (6) what should be taken into consideration when aiming to develop a voluntary SLO guiding framework tailored for Europe and finally whether this cross-European measure will be accepted and be applicable?

It is also important to consider why there is increasing attention in Europe on public participation and what mechanisms underlie SLO in the extractives sector, so that these

mechanisms might be extrapolated to other industries in the form of voluntary guidance and tools.

1.2 Status quo

In the MIREU project, we have defined European SLO as the following

European social acceptance at the national-level is the responsibility of government, the public and industry all working together to make certain, through regulation and good practices, that the mining industry operates sustainably and is accountable to society.

At the local-level, social acceptance must ensure that those who are most interested and affected by a project have actual decision-making power throughout the life of a project.

Public awareness of the importance of raw materials, coupled with an understanding of mining's potential impacts and benefits, forms the bridge between national- and local-level SLO.

Taking the diverse understandings of SLO into account, the SLO team in MIREU found it essential to determine what the core drivers and barriers of SLO are and how they fit into the European context in order to improve SLO's resilience and adaptiveness. Although the importance of each core drivers may differ from region to region, the same core drivers should be applicable for all regions. In other words, the SLO measures should be flexible and correspond to the needs of the respective region while the core drivers for SLO in Europe remain constant in order to set a common standard e.g. investors are familiar about. Currently, the identified non-binding and ex-legislative core SLO drivers from lowest to highest level that coincide with many participation processes in EU28 are dispute resolution processes, legal and procedural fairness, engagement and benefit sharing.

What is the present understanding of SLO across Europe

From the third SLO Stakeholder Workshop, it is clear that many different understandings of SLO exist across Europe and there is no unified definition agreed by all. More often than not, SLO is not even the term used when addressing acceptance issues at the regional level. The approach to develop, in Europe, a standardized process using the SLO term (coined by a Placer Dome mining executive in 1997) is viewed by some as being synonymous with the already required public consultations during the permitting process, while others may see SLO as the voluntary measures taken by different stakeholders for cultivating the relationships between companies, communities and governments. Yet another extant view is that SLO is a potential political tool which could interfere with the administrative decision-making process and reduce its stability and reliability. Furthermore, in some regions, the concept of a company going beyond what is required is not known. The word 'social' is often questioned for being too vague and the word 'license' is criticised for being misleading as people think it means an actual paper license must be obtained.

Different understandings of SLO at the third SLO Stakeholder Workshop at a glance

For example, Wolfgang Reimer, the director of GKZ Freiberg, believes that due to the cultural and historical diversity as well as different legislation in the member states, it is unlikely to develop a SLO model satisfying everyone. However, this ambitious task was taken by the EU to be an international role model and achieve sustainable development by implementing new standards that may help to better attract investors to unlock the European mineral wealth.

Bernhard Cramer, the head of the Saxon Mining Office highlighted the present situation with national/regional member state mining legislation in the context of mine developments backed by international investors. He understands SLO as the level of acceptance or approval by local communities and stakeholders of mining operations. From his daily work, Bernhard Cramer perceives that a negative attitude towards new mining is the rule, and in most cases, a SLO by local communities cannot be expected. However, he does not fully agree that if there is no SLO, there is no new mining. He pointed out that while public participation in procedures for mining approval is a must (i.e. EIA), public participation does not imply the need for agreement. From the perspective of the German State Mining Authority of Saxony, the responsible decision should be made by the Mining Authority based on the modern mining legislation and a strong administration.

José Palma-Oliveira stressed the need to ‘do’ science with a particular community instead of trying to explain the conclusions of science. Typically when we involve stakeholders and say we give them the possibility to evaluate research, in reality it is only the conclusions of the analysis that are discussed. Process is what matters; not output. But the imbalance of power also matters in these dynamics. In a recent paper he found that smaller neighbourhoods report higher identification and satisfaction with the place of residence as well as higher discrimination of other neighbourhoods. The larger the ‘in-group’ the more they discriminated by increasing differences between the in-and out-groups, whereas members of smaller groups increased the value of the in-group. (see article: Community-driven hypothesis testing: a solution for the tragedy of the anticommons.)

SLO in Cornwall is largely based on the role of the regulator (Cornwall Council), yet the role is conflicting: where there have been downfalls and regulations were not followed, there is an overwhelming lack of trust. Where the regulations were followed but consultation of the public was deemed insufficient, there is trust in Cornwall Council but distrust in the operator. The other important pre-condition of SLO is that the method of consultation is dependent on the location of project - more built up areas have more formal approaches. In more rural villages, an early and informal approach is preferred.

In Saxony, SLO does not only target the community level but the regional level as well. Here, SLO equates to raw material awareness through education, which states this awareness must be built by society as whole. It emphasizes the need to move toward a knowledge-based community awareness built on facts and science. It also specifically states the need to continue rehabilitating post-mining landscapes. Specifically, text books and school curricula were redesigned to highlight environmental concerns while also acknowledging there are major regional differences in the perception of raw materials as a basis for life and work and the location of the school decides the approach.

The eastern part of Europe, specifically Bulgaria, has a very different perspective on SLO – what it is and how it should be achieved. Bulgaria has no Geological Survey or good data bases and maps, nor are people educated as to how to read them and hence are inclined to believe fairy-tales, i.e. there are rivers of gold underneath their lands. There are no incentives (or demands) for authorities are to provide more transparency and educate ‘regular’ people.

On the environmental NGO front, one organization in Belgium, CATAPA, sees SLO as something that occurs on the community level as it is local communities who see lots of risks in mining because of a long history of mining disasters. This is the main reason for the lack of trust and NIMBYism. SLO is often the only tool available to these communities as they are not on speaking terms with either industry or government. To further SLO, everyone has a responsibility – the EU, Member States, industry as well as local communities. SLO is therefore characterized by transparency, local consultation, special emphasis on local groups, the rights of local communities to organize consultation rounds, veto, be fully informed, etc.

What are the current European approaches that are trying to ensure SLO is resilient and adaptive?

Depending on who the initiator is, SLO approaches vary. The approach taken by a mine wastes valorisation project in Greece is to provide public demonstration of the innovative methods, offer teachers and students information sessions regularly to show openness, and ensure transparency by online live monitoring data.

From an industry standpoint, Almina Mine in Portugal established an Environmental Stakeholder’s Committee to give full access to all relevant documents and environmental reports; allow all Committee members to have full access to the facilities; provide the possibility of hiring experts to help the Committee have an independent view of the plant proposals and reports; and to give full liberty in the composition of the Committee.

In Cornwall, the Redmoor Project held a total of 14 community meetings during their 2017 drilling program that were additionally supplemented by informal consultation. They have an appointed community officer and both the community officer and exploration geologist on site have significant knowledge of SLO, its importance and drivers. For the South Crofty project, an outside consultant is responsible for conducting all public hearings and these appear to occur on an irregular basis.

In Saxony, there is a strong trust in the current Federal Mining Law since it is developed from a distinct historical process in line with the establishment of modern societies. It ensures the supply of raw materials by overriding conflicting interests from the point of view of securing common goods. At the same time, it provides a clear and transparent roadmap of participation for affected individuals. While there is no interest in formalising SLO, Saxony furthers SLO through measures from one out of eight guidelines of the present Saxon Raw Materials Strategy with a strong focus on education in the following ways: first by analysing school curricula and textbooks in Saxony (2015); establishing a working group of teachers, scientists, authorities, officials in the ministry and entrepreneurs, who met 3 to 4 times yearly and produced numerous education materials and lectures adapted to the time frame and the main topics of the particular

schools; and, importantly, by providing financial support for larger educational initiatives. Other measures that have come to fruition include an online platform entitled ‘Fascinating Raw Materials’ and the exhibition ‘Salt of Life’; Saxon School Geography Day for teachers, on the topic of raw materials; and teachers pairing with TU Dresden to enhance Raw Materials education. Finally, there are numerous education sites (200-250 in total) including visitor mines; mining museums; museums designed along raw material topics such as industry, history, geoscientific and mineral collections; student labs; activities of different interest groups; nature trails e.g. mining history; geoparks; content related excursions to universities; and research institutions and companies.

What are the concerns expressed at the workshop?

A fundamental concern raised at the opening conversation, especially from the industry, is the potential for the public to become ‘over-empowered’, i.e. people being able to veto a project using ‘soft’ approaches such as SLO even in cases where these people are not directly affected. The questions arose “does civil society need to be accountable to anyone” and “can or should legislation that already gives substantial participation to the public be changed”? It became clear that legislating SLO is not an approach favoured by anyone - companies, local communities, the general public, governments, and the nation or Europe as a whole – as building acceptance based on trusting relationships requires flexibility hence coming back to the theme of SLO being adaptive and resilient. How individual and group actions could be foreseen and balanced with the present legislation were unfortunately not properly addressed; therefore, some concerns remain. A broader issue that also sparked conversation is people’s awareness of what is necessary, i.e. the reindustrialisation of Europe to stimulate jobs and growth (European Parliament Briefing, 11/2017), and how to balance the interests.

Turning to specific examples, in Greece, when a waste valorisation project takes place at the mine site, the main concerns of the local community are the reliability of the innovative metallurgy technology, too many operations carried out at different sites at the same time to be comfortable, and the problem with waste storage (i.e. NIMBY). While people appreciate the concept of circular economy (CE), they expect waste valorisation processes to be clean, dust and chemical free and the idea of processing sludge and acid waste streams is seen as inherently negative. It was found that for CE operations requiring SLO similar to those in the primary sector, more efforts are needed for communication and reassuring the public.

Distilling the multitude of concerns down to two in Alentejo, they focus on procedural fairness and health and these have been addressed through the previously mentioned establishment of the Environmental Committee and various studies that have been conducted. Additional concerns centre on fairness and equity of outcomes, trust, access and power-sharing, the often limited duration of engagement, potential risk and consequences of hazardous exposure.

Concerns in Cornwall are different and centre mainly on the problem of skirting the rules as well as trust in the regional government (Cornwall Council). Environment and visual damage also are of concern, though to a lesser degree, as is limited and too formal stakeholder consultation. People identify with mining heritage and want to be at the forefront of modern mining. For the Redmoor mine, concerns that combined mining traffic and a new housing development will impact traffic flows, interestingly has led to the favouring of the mining project over residential. In the South Crofty project, there is an overall concern for the

environmental integrity of the project and a clear lack of trust in the operator and current studies done for the mine. There is a desire for more effective community consultation, for stringent constraints to be in place regarding screening, and an established grievance mechanism and monitoring by Cornwall Council.

In Saxony, the concerns of the Mining Authority are that, based on past experience, local attitudes towards mining projects and the needs of society for new mineral resources, i.e. new technologies for the energy transition, are contradictory. While the educational programme to further raw materials awareness has produced positive responses, no metrics have been developed to determine ‘effectiveness’. The location of the school determines the knowledge frame in which people view mining and metallurgy so curricula on furthering awareness must be flexible. It would also be beneficial if this program was at the national level, but at least it is on the local and regional levels. Finally, it would be beneficial if there was a higher level of networking between educational sites, scientists, government ministries, etc.

Lessons learned from industries also requiring SLO

Similar to mining, forestry and aquaculture are all geographically constrained and likely to be “misunderstood” by the public. For forestry, SLO is a topic that has some history while it is a relatively new concept for aquaculture. Nonetheless, in both cases, the form of relationships, the scale of operations and the ownership affect the earning and the maintenance of SLO. The form of relationship matters as those build more relational and collaborative relationships are more likely to create social capital and then earn and maintain a SLO. The scale matters because large operations have more resources to build social capital. The ownership matters since locally owned operations, which are already part of the social network and aligned with community values, are likely to earn the SLO faster and maintain it with less efforts.

Considering the global sphere

Following the line of thought introduced in the Section: **What are the concerns?** by the Saxon Mining Authority that local attitudes towards mining projects and the needs of the society for new mineral resources are often in contradiction, a presentation by Simon Michaux, a senior researcher at GTK, illustrated mining in the EU in the current international environment.

In order to reach the vision of energy transition, a historically unprecedented quantity demand for minerals of all kinds in a short time frame should be expected. At the same time, the multi-factor productivity of mining has reduced due to the decreasing ore grades. Due to the lower ore grades, mining operations will have to be at a larger scale to achieve the same output. The EU has had a history of outsourcing its hard rock mining activities in the 18th century to its respective colonies, and once the colonies were discontinued, raw materials now have to be economically purchased. However, as the recent global trade news shows, trade may not always be fair (e.g. increasing duty, threatening embargo and issuing economic sanctions). Many new mining operations are now considered national strategic assets and are developed as a result of geopolitical lobbying. Therefore, if the EU intends to maintain its development when global trade is no longer viable, then the EU is required to source its own raw materials by developing its own mining operations. The assumption is that European style exploration, sustainable mining, and mineral concentrate refining and smelting, etc. will take place once raw materials

supply from outside the EU is impractical or too expensive, combining with the understanding of European citizens that the EU needs to source its own minerals. It also implies a fundamental change in the business model behind mining and industrialisation of the technology that supports the EU.

Regarding the major player in the global mining industry, China, as its government continues securing the raw materials resources through domestic exploration, extraction and oversea investments (e.g. National Mineral Resource Plan, Going Out Policy, and Belt and Road Initiative), its operations also started to encounter resistance from local communities and noticed the needs of obtaining “SLO”. In China, the protests mostly focus on environmental issues, a political neutral ground, and do not only target the mining industry but are against large industrial operations in general. Several operations were suspended due to large-scale protests. The root of it is the strong distrust of people towards certain regional governments and enterprises. In order to improve the acceptance and continue development, China’s central government has employed several measures, such as stricter environment protection laws and regulations, ensuring information transparency, promoting environmental public proceedings and mandatory public participation in the permitting process. Several social responsibility guidelines were also published for the Chinese investments overseas. However, guidelines cannot be enforced and unfortunately most of the Chinese companies might not have the capability to implement the guidelines yet.

1.3 Agree to disagree

As mentioned in the Chapter: **Status quo**, there is no uniform understanding of SLO. However, certain characteristics appear to have been agreed on by the majority of participants in the workshop and are listed below in bullet points. The main disagreements are also introduced in the following section. All in all, the intent of this section is to express the thoughts, beliefs and opinions from all sides in a balanced manner.

People agree that

- It is important to improve the public acceptance of the mining and metallurgy industries.
 - SLO is not a term commonly used at the European local or regional level when addressing acceptance issues.
 - Canadian and Australian SLO rules do not 100% match the situation in Europe.
 - Each European region has its unique “SLO” understanding and needs.
 - SLO as a subject of tolerance and commitment should be flexible.
 - SLO should be voluntary and provide supportive measures to legislation.
 - SLO should not be legislated.
 - SLO practices can and should be initiated by all sides (e.g. companies, administrative, civil society and local communities, all of whom are part of those immediately affected by mining) but require comparability and reliability in order to integrate them into the decision-making process.
 - MIREU Work Package 4 findings
 - The core drivers of SLO in the EU are the same but the level of importance differs from region to region.
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- The role of governance plays a more important role in furthering SLO in Europe than in other benchmarking countries (Canada, Australia, Chile, etc.).
- The SLO Guidelines can provide general guidance and practices, but for implementation, the SLO Toolkit must consider particular regional needs.
- In order to encourage regional development and attract international investors, SLO should be considered as a non-legislative measure with a common standard.
- The European conversation around SLO now focuses more on resolving mining-related disputes than building relationships based on trust.

People disagree on

As has been said many times, there is no globally, or even at a country level, agreed upon definition of ‘social license to operate’. While some say it is about obtaining and maintaining community acceptance at the local level, others criticize SLO for legitimizing the most vocal voices or empowering communities in a way and to a degree that is detrimental for industry. There is also a disagreement about SLO being applicable at the societal level as much of the existing literature and discussion only talks about SLO in relation to local communities.

Given the fact the concept is just emerging in Europe, it is not surprising that the meaning of SLO seems to vary with the person being asked to define it. From the Workshop specifically, SLO has taken on numerous meanings ranging from SLO being used as a tool to resolve conflicts and failures, to SLO being a means toward community empowerment, to SLO being the equivalence of public acceptance, to SLO hindering European mining. There also seems to be disagreement in the area of tying SLO to legislation. For example, should the public participation component of the EIA and permitting processes be used as a measure of SLO? Should SLO, however we define it, somehow be incorporated into existing legislation? Perhaps, most basically, at the heart of the disagreements is the fundamental question of what does SLO need to solve and what should its scope be?

In addition, for the more philosophical role of SLO, there are also concrete differences as to what causes resistance, and therefore, the strategies used to address that resistance. It is not, however, truly a disagreement but rather an acknowledgement that differences across Europe do exist and there will not be a one-size fits all European solution.

Issues not adequately addressed and discussed in the workshop

Staying within the scope of the agenda for the third SLO Stakeholder Workshop, issues that were not adequately addressed include the following:

- The different understandings that still exist among MIREU partners and participants regarding the meaning, goals and approaches to SLO. It became clear that having a conversation focused only on SLO being adaptive and resilient would be more fruitful after defining SLO in the European context and better understanding its different manifestations.
- The clear differences across Europe regarding public empowerment in general. There is a perception that some of the mining establishment in Europe has the same perspective

toward citizen engagement as was prevalent decades ago, while society itself has moved on. In either way, the relationship between SLO and (over-)empowerment of people was not adequately addressed in the workshop.

- If requiring SLO hampers the development of entrepreneurship in mining and metallurgy sectors in Europe. In other words, how to balance the local interests and the interests of the society. Is SLO the key towards a balance of interests or can it lead to an imbalance outcome?
- The need to move the concept of SLO forward even if there is no consensus.

1.4 Key findings and future steps

As mentioned in the aforementioned Chapters, as an emerging concept in Europe, there is no universal understanding of SLO. The differences are not only due to regional or local culture and customs but also depend on perspectives (e.g. Mining Authority, environmental NGO, industry etc.). For instance, the Saxon Mining Authority understands SLO as an indispensable approval from stakeholders for mining operations, but at the same time, finds it hard to reconcile this idea with his role as a Mining Authority in charge of issuing official permits based on formal procedures. An example from industry is that there are industry associations viewing SLO as preventive measures leading to lower investment risks in the future and thus seeing no reason not to encourage its development. Many large mining companies see SLO as a community right in that it is the company's duty to create actual benefits for those who are most affected by their projects. At the same time, there is an SME network worrying the ever changing understanding of SLO may scare away potential investors who instead prefer a reliable framework and thus SLO could negatively impact on regional business development. Different from the previous examples, environmental NGOs believe SLO is often the only tool available for local communities to make sure that their needs are heard.

Although the understanding of SLO differs, there are certain aspects of SLO that people agree on, such as, it is important to continue improving acceptance, SLO should be flexible and voluntary, SLO can be initiated by all parties, government should have a larger role in encouraging SLO 'behaviors' and each region has its unique needs. Based on this consensus, we could say despite the different understandings and terms used to describe the situations, people are aware that something needs to be done. On the other hand, what is in it for me, who is responsible for what, what could be done, how should it be done and is there a limit remain questions to be answered. It is important to note that it was never the intention of the workshop to try and reach consensus on what SLO in Europe is or how we can ensure SLO is adaptive and resilient. The point of the 3rd SLO Stakeholder Workshop, and indeed all three SLO Workshops, is to cast as broad as net as possible across Europe in order to hear as many opinions as possible from as many different stakeholders as possible. The Workshops are just the start of a pan-European SLO dialogue, not the conclusion. This said, the information provided in the workshops will become more concretised as it will form the basis of the next tasks: EU level Social License to Operate Guidelines and a Toolkit. While it is unlikely a consensus will be reached at least throughout the life of MIREU, we can identify common themes, concerns, desires, problems, good practices and solutions. Hence, future steps building on the last workshop, and while always keeping in mind the grant agreement are shown as follows.

Future steps:

- Building trust in SLO itself by taking the concerns of different parties into consideration
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- Continue to cultivate a consensus on the meaning, goals and approaches of SLO across Europe.
- Identify the pre-conditions for SLO across the MIREU partner regions.
- Identify the different manifestations of SLO across the regions.
- Explain the reasons for and roles of the mining-related environmental NGOs as well as role of legislation in the future in order to generate a reliable investment environment
- Establish the rights, roles and responsibilities of all actors throughout the mining process.
- Prepare EU level SLO Guidelines and an accompanying Toolkit.