

# European SLO Guidelines

D4.3 Deliverable - **DRAFT**

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| Description of the related task and the deliverable.<br>Extract from DoA | <b>Task 4.4 SLO Guidelines (M18 - M34)</b><br><p>Within the MIREU regions, a survey of existing SLO-related guidelines addressing the raw materials value chain will be undertaken to identify the current status regarding good and not so good practices. As this type of work is new to regional authorities, coaching within the region will be undertaken in close collaboration with Task 2.1 of WP2. Using the information compiled in Tasks 4.1 to 4.3, in combination with the survey, EU SLO Guidelines will be produced that fully incorporate SLO into the extractives value chain. A special focus of the Guidelines will be the inclusion of SLO into the mining and metallurgy related permitting and environmental review processes. The draft EU SLO Guidelines will subsequently be benchmarked against national practices and policies in mining countries outside the EU, such as those from Canada, Australia, USA, and Chile as well as against international guidance identified in Task 4.1. The final version of the Guidelines will be available both as web pages and in hard copy.</p> |                    |  |
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## About MIREU

The project MIREU aims to establish a network of mining and metallurgy regions across Europe with a view to ensure the sustained and sustainable supply of mineral raw materials to the EU. The network will help the regions to share knowledge and experiences when facing the challenge to establish and maintain an extractive industry. MIREU will facilitate an exchange between all interested stakeholders in the regions, namely regulatory authorities, political and administrative bodies, development agencies, mining companies, non-government organisations, as well as the general public. The project will develop a shared knowledge base, taking into account the region-specific geographic and economic features, cultural, societal and language diversity, and their historical developments. The network will also learn from experience in other regions of the World. This knowledge base will allow us to understand what has been conducive and what is hampering to the development of extractive and metallurgical industries. It will also provide the context for a bottom-up integration of these activities into their respective socio-economic and socio-cultural context. Development is about people and, therefore, bringing people into the decision-finding procedure in order to achieve a 'social license to operate' will be a key aspect of the project. Guidelines and recommendations for actions to be taken to foster a sustained and sustainable development of the extractive industries will be developed in close co-operation with a range of selected regions from the European Union. These regions will form a nucleus and multipliers for a more extensive network beyond the life-time of the project.

## Partners



European  
Commission

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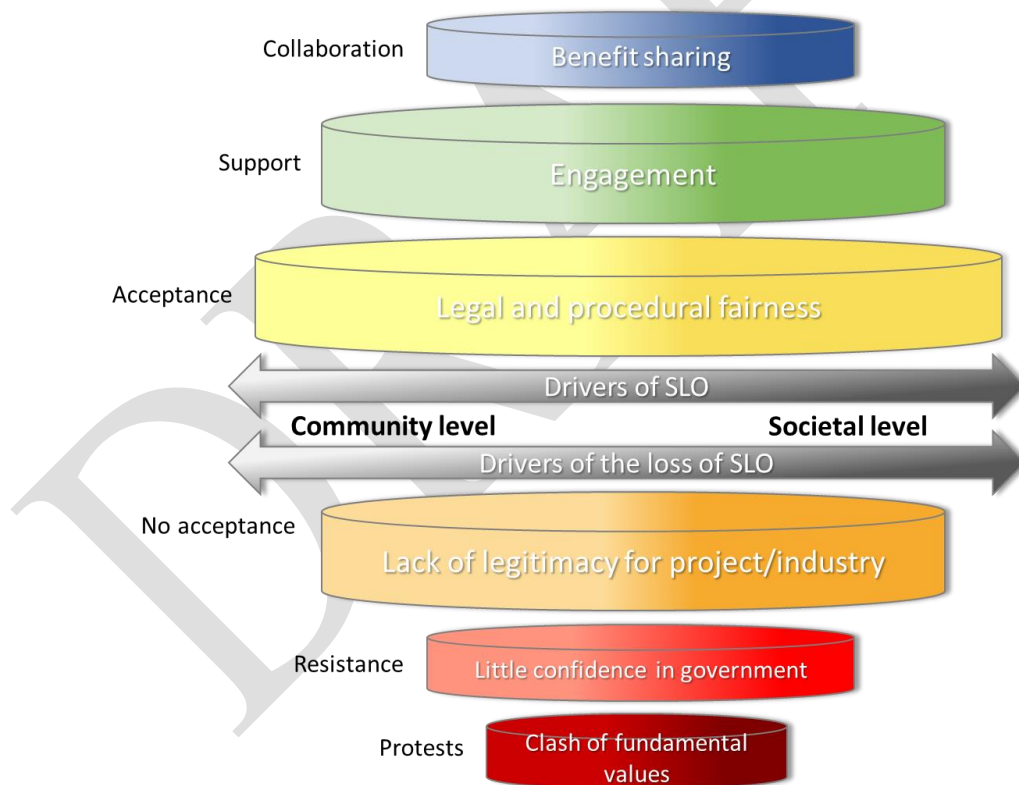
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# 1. EXECUTIVE SUMMARY

Accepting that Europe is an advanced, raw material importing economy, Social License to Operate (SLO) initially only played a minor role, due to strong institutions and governance mechanisms that were conditioning (i) the mining sector itself, but (ii) also environmental and social aspects of mining. Citizens generally had high confidence in government and for a long time believed legislation was the equivalent of best practice.

This situation changed only about 15 years ago, with an increasing number of mining projects throughout Europe due to higher global demand. In parallel, there have also been accidents, trust in governmental institutions has declined, growing awareness of communities elsewhere monetarily benefiting from mining projects, foreign companies coming in with international standards, etc. - all of which changed the expectations of industry and the role of communities.

In these Guidelines, published as part of the EU Project MIREU, a description and principles, as well as a model for SLO in Europe is suggested, which include the local perspective of community acceptance of a mining project, but also an additional dimension concerning the awareness of broader society for raw materials and mining, i.e. re-connecting European society with raw materials and making it aware of their role (e.g. regarding sustainability and the energy transition) and importance to modern life (e.g. regarding availability and security of supply).



Additionally, they include sections on stakeholders, suggesting a new way on how to define and describe them, and on dispute management and resolution. The Guidelines refer to and build on existing international guidelines and standards, especially when managing the impact of resource projects, as much as possible. Hence, they have a strong focus on building trust and relationships between stakeholders in order to achieve and maintain a social license for mining and metallurgy projects in Europe.

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## 2. INTRODUCTION

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In March 1997, as part of the mining industry's broader 'coming to understand' what sustainable development means for the industry, Canadian mining company executive Jim Cooney used the term "social license" in a presentation at a World Bank conference to describe the challenge that mining companies face in building relationships with local communities around their projects. Cooney argued that especially in developing countries the legal license ('government permit') for operating a mine, must be complemented with a 'social license', responding to the need to *'to engage with local communities that were directly affected, as well with their institutional supporters around the world, to seek their approval for the establishment of a mine in their vicinity'*. The quick uptake, adoption and popularity of the term and concept has resulted in a broad range of definitions, narratives and practises and is often a container term: from *'when a mining project is seen as having the broad, ongoing approval and acceptance of society to conduct its activities'* (Thomson & Boutilier, 2011) to *'it is more about reducing overt opposition to industry than it is about engagement for long-term development'* (Owen & Kemp, 2012).

The Horizon 2020 project MIREU looks at what the concept of social license to operate (SLO) should mean in Europe and how it can be improved, with these guidelines and the related toolkit at the core.

Accepting that Europe is an advanced, raw material importing economy, the SLO narrative described above initially only played a minor role, due to strong institutions and governance mechanisms that were conditioning (i) the mining sector itself, but (ii) also environmental and social aspects of mining. Citizens generally had high confidence in government and for a long time believed legislation was the equivalent of best practice. Consequently, SLO narratives developed for developing countries or such with weak institutional frameworks were less fitting for Europe and there was no urgency to question government about doing more. This situation changed only about 15 years ago, with an increasing number of mining projects throughout Europe due to higher global demand. In parallel, there have also been accidents, trust in governmental institutions has declined, growing awareness of communities elsewhere monetarily benefiting from mining projects, foreign companies coming in with international standards, etc. - all of which changed the expectations of industry and the role of communities.

In 2008, the European Commission (EC) adopted the Raw Materials Initiative (RMI) which set out a strategy for tackling the issue of access to raw materials in the EU and made raw materials a political priority. This strategy has three pillars which aim to ensure:

- Fair and sustainable supply of raw materials from global markets
- Sustainable supply of raw materials within the EU
- Resource efficiency and supply of "secondary raw materials" through recycling (European Commission, 2008)

Aligned with this strategy a narrative for social license in Europe is suggested, which includes the local perspective of community acceptance of a mining project, but also an additional dimension concerning the awareness of broader society for raw materials and mining, i.e. re-connecting European society with raw materials and making it aware of their role (e.g. regarding sustainability and the energy transition) and importance to modern life (e.g. regarding availability and security of supply).

Creating the SLO Guidelines has been a continuous work in progress over three years. From the beginning of the project in late 2016 there have been monthly calls involving not only the

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partners in the project but also a wider network of stakeholders and experts that were interested in the topic. This network included partners in other H2020 projects that also were looking at the subject of public acceptance, members of the SLO International Stakeholder Panel (SLO ISP) created within the MIREU project, NGOs and others in various research organisations interested in the work.

While producing guidance and tools for SLO in the European context has always been the main aim, it was clear early on that advice from experts in other countries where SLO is well integrated into the mining culture, lexicon and most importantly practices, was essential in order not to "re-invent the wheel". A combination of these international experts with other stakeholders not already represented in MIREU became the SLO ISP.

Crucial to the work was the organisation of the three SLO Workshops held over an 18-month period in 2018-2019 in Rovaniemi (FIN), Leoben (AUT) and Brussels (BEL). Each workshop focused on a different theme with the first looking at the link between sustainability and SLO; the second discussing the role of SLO in regional development; and the third taking a more future-oriented approach with the topic 'ensuring SLO is adaptive and resilient'.

The first deliverable of this work package entitled the 'Regional cultural identity and stakeholder mapping report' ([link](#)) served as the foundation for understanding what SLO is in the European context, what it should be and also for the MIREU SLO Model subsequently developed.

There have also been three SLO SWOTs conducted on government initiatives to further SLO:

- The Finnish Network for Sustainable Mining
- The education program to promote raw materials awareness as part of the Saxon Raw Materials Strategy
- The Communities of Interest Protocol from Canada's Toward Sustainable Mining program adopted by the Spanish national standards organisation (UNE)

The summary results of these analyses are shown in Figure 1 below. [Link to full description](#)

In conclusion, the key takeaway of the SLO SWOTs is that to promote a national-level initiative of SLO, the government needs to be visibly supportive. Regional-level initiatives have the potential of being more visible to the public and more concrete but they have to be sustained and continually updated.



Figure 1: Results of the MIREU SLO SWOT analyses for Finish, Saxon and Spanish government initiatives concerning SLO

61 case studies that are included as part of the SLO Toolkit have also helped inform the Guidelines as the goal was to cover as many projects across the MIREU partner regions as possible to understand where SLO is present, where it is not and why. The cases look at projects that enjoy different levels of SLO as well as cases where there are disputes and even conflicts present, and how SLO has changed over time and what drove these changes. Several of the case studies focus on the role of environmental NGOs in mining disputes. In conjunction with the case studies are maps that show where the disputes/conflicts are in the country as a whole. [Link to case studies](#)



The last important piece of input for these Guidelines is the 'Perceptions of Mining in Europe' online survey, which was translated into seven languages and distributed across Europe via the MIREU partner regions. There were 278 responses and the information has been used extensively to help inform section 3.5 of the Guidelines focusing on stakeholders. Key conclusions from the survey include:

If the EU is interested in re-starting mining, a two-pronged approach is suggested: (re-) establishing trust in the governance system and facilitating better company outreach and collaboration with communities. Our survey results indicate that respondents believe the current "mining system" is flawed and that it needs to be fixed. It also shows that Europeans defer to legislation and governance and believe this is the foundation for responsible mining. They respect the law and want the security of knowing there are processes in place to guarantee good outcomes. The public also wants government to step in as mediator between communities and companies if necessary. Europeans are less keen on voluntary approaches from industry or approaches that are unknown or will result in outcomes that are uncertain. They do not want companies to do what legislation is supposed to do. This is very different to other countries where people expect companies to fill legislative and governance gaps. In Europe, if companies tried to fill these gaps, there could be massive protests. However, it is also important that companies become much more transparent and improve significantly when it comes to engagement and collaboration with communities. Finally, the outcomes of the SLO process and mining itself must guarantee those values that mean the most to Europeans, as indicated by our survey – security, fairness, justness, a social purpose.

In terms of governance, there must be strong mining and environmental legislation, and of equal importance, the associated procedural process must be seen as non-political, fair and just. Bureaucrats overseeing the procedural process must be deemed competent and there must also be capacity. The permitting authorities must take a more active role not just in the permitting activities, but in the relationship-building activities as well – with the affected community, other stakeholders, and the company as well. Europeans want government to step in and be able to negotiate disputes between communities and companies. To do this effectively, government should be more transparent in terms of their goals and strategy for mediating conflicts.

What is crucial to understand about the role of industry, is that in areas where mining is not wanted or it is unclear if local communities are in favor of it, the legislation and procedural mechanisms in place must be seen as strong and government must be trusted or the efforts of a company will have little effect. In places where the value of mining is debated, companies cannot gain and maintain SLO all by themselves. Government must play an active role as well. This does not negate the importance of the company role in terms of contact quality as this is crucial. If companies do not acknowledge that society has evolved and that their expectations must be clearly and transparently addressed, and that the resolution of problems must occur in a more collaborative way, companies will never be able to gain and maintain SLO.

There has been close collaboration with other H2020 and EU funded projects over the three years. As mentioned previously, many organisations involved in various raw materials H2020 projects participated regularly on the calls; and each of the three SLO Stakeholder Workshops also had either designated clustering sessions or else integrated clustering projects throughout the workshop sessions.

At the first SLO Workshop, the clustering session had the theme – SLO as a driver of innovation – and consisted of REMIX, MinGuide, SCRREEN and SCALE. The clustering session at the second workshop also had a theme – international projects – and included the following: SLIM,

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INTERMIN, FAME, REMOVAL and INFAC. The third workshop differed from the previous two in that there was not a separate clustering session but the projects were integrated throughout the workshop. The theme was ‘policy, R&D, socio-economic projects’ and included SOCRATES and SCALE as well as an afternoon session organised by the NEMO, CROCODILE and TARANTULA projects.

Given the setup of the MIREU project to analyse and link up mining and metallurgy regions in Europe, we looked at both as part of this work package. However the survey mentioned earlier showed that people believe metallurgy is the same as or better than mining (e.g. lower footprint, more regulated). It also showed that people do not commonly link mining and metallurgy. Hence the focus of these guidelines is on mining. We do however think, that they can in principle be equally applicable for metallurgical projects.

### 3. SLO GUIDELINES

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#### 3.1 Shared European values and a common approach to SLO

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Given Europe’s diversity, can SLO be standardized? Yes, it can as there are enough commonalities institutionally and culturally to create a pan-European framework for SLO. This said, Europe is not homogeneous and the different SLO debates which are currently taking place across the continent must be understood as a manifestation of their specific local contexts.

##### SLO debates across Europe

Given Europe’s heterogeneity, it is not surprising there are different SLO debates. This is the essence of those debates categorized regionally:

- **Nordics** – This is the only region in Europe where SLO as a term and concept are familiar. Here the debate revolves around 1) post-materialism i.e. should we be consuming so much as a society 2) how to value the protection of nature 3) indigenous rights.
- **Eastern Europe** – At least in part a result of the Soviet legacy, the SLO debate revolves around jobs and employment, regional development and distrust in government and institutions.
- **Central Europe** – As there is little new mining but a desire on the part of government to potentially restart mining to produce materials for the energy transition, the debate largely centers on legislation and land use planning.
- **Western Europe** – Cultural differences manifest clearly here, especially on the Iberian Peninsula where there are more anti-mining demonstrations than generally seen in the other parts of Europe. In this region, the debate is around power over self-determination and the involvement of NGOs as the peoples’ voice.
- **Anglo countries** - In the UK and Ireland, where mining activity sharply declined in the 1980s, debates revolve around reclamation and job security. What is of concern today is the politicization of decision-making by government.

## Institutional commonalities

Membership in the European Union requires adherence to a multitude of policy requirements all intended to enhance harmonization. Various EU Directives frame environmental legislation and regulatory processes related to mining and metallurgy, although mining itself is not an EU competence. All EU Member States have mining and environmental legislation, including the requirement to prepare Environmental Impact Assessments (EIA), which ensures a minimum level of public participation in environmental policy integration.

## Cultural commonalities

Survey work conducted for the project used a widely accepted and well tested social science method – the Schwartz Scale of Basic Values (Schwartz S. H., 2012), (Schwartz S. , 2017) – to understand if there are shared personal values across Europe. Across all 7 surveys, the value of most importance is ‘family security (security for the people I hold dear)’ and the value most contrary is ‘social power (to be in control of others, to dominate)’.

A principal components analysis was conducted on the Schwartz values to determine if the groupings of European values aligned with those in the Schwartz scale, and they did. The exception is that what are considered ‘traditional values’ ran throughout every single grouping. **In Europe, traditional values such as the fulfillment of duties, family security, a feeling of togetherness, preventing pollution, etc. are of utmost importance and widely shared. Values around self-enhancement, such as authority, wealth, ambition and influence are consistently viewed as contrary to core values.**

This is consistent with other academic literature that emphasizes the importance of egalitarianism and horizontal societies as a basic European value. Even with the secularizing trend and growth of material values that has transformed Europe in the second half of the 20<sup>th</sup> century, the broader discourse has remained surprisingly similar across the EU as one of universal values, human rights and civic solidarity.

From the beginning of the European project post-WWII to the present day, there have always been shared values and a shared identity, differences notwithstanding. In the European context, the success or not of the ‘social license to operate’ concept depends on how closely it aligns, and even more importantly reaffirms, these common values.

## Commonalities emerging from MIREU

Mid-way through the MIREU project, a consensus was achieved on how to describe SLO and what its principles should be in the European context.

### Description of European SLO

- SLO is both a process and an outcome. It is a dynamic and continuous process, in that it is based on perceptions which change over time, but it is also an outcome, as it is synonymous with community and societal acceptance.

- SLO is context specific, hence process and outcome will vary, but it is based on common attitudes and values shared across Europe.

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- SLO is a description of present-day practices and future ideals that are embedded within the broader concept of sustainability.

- SLO operates simultaneously on the community and societal levels as European values on good governance, fairness of process, perceived benefits and burdens, representation, and distribution of power affect local behaviours, attitudes and perceptions.

- Having a social purpose is essential to gain and maintain SLO in European mining and metallurgy projects.

- At the minimum, affected stakeholders must believe that a mining or metallurgy project confers an actual benefit, whether that benefit is cultural, physical or monetary.

### **European Principles of SLO**

- At the community level, those who are most interested in and affected by a project must be able to effectively influence it throughout the entire lifecycle, from pre-exploration to closure, restoration and beyond.

- At the societal level, the public, government and industry must all work together to make certain, through regulation and good practices, that the mining industry operates sustainably and is accountable to society.

- At both community and societal levels, SLO in Europe should focus on building long-term relationships between the public, government and industry based on trust and acceptance, throughout all phases of mining and metallurgy projects.

- Trust that governance institutions will actively and responsibly regulate Europe's mining and metallurgy industry is the bridge between SLO at the community level and SLO at the societal level. How this trust manifests across Europe will vary, but at its centre are values synonymous with the European identity – an informed citizenry, fairness, cultural respect, good governance and accountability.

### **Why are there challenges to mining?**

As Europeans defer to legislation and not industry voluntary measures, there is a tension between Europeans wanting a better legal system, wanting to have more trust in their governments, not favoring industry voluntary approaches and good practices, and generally having less trust in industry than government. The SLO approaches emphasized now in Europe are those from other countries which emphasize improving industry behavior and company voluntary outreach measures. In those regions of Europe where mining is not overwhelmingly welcomed, companies can do everything right from their perspective and it still might not be enough to achieve SLO.

## 3.2 Main drivers of SLO

SLO is a flexible process that is building on long-term relationships. This long-term process is covering all stages of the mining life cycle, starting from the pre-exploration to post mining phase in which the local community and society more broadly can grant but also revoke the particular SLO since it's a dynamic and continuous process that can change throughout the mining lifecycle. SLO is a permanent process of (re-)acceptance, which is responding to (changed) internal and external conditions and drivers, practises, socio-cultural values or local needs that have changed over time.

SLO is a coordination mechanism, that is linking mining and metallurgy companies to communities and society, building and nourishing long-term relationships and partnerships between companies and communities, to achieve outcomes including improving environmental and social impacts.

Traditionally, SLO has mostly been located and confined to the community/ local level, managing relationships on micro-scale. The actual situation of mineral extraction in Europe are cross-scale (from local to global) and touching different policy and societal tiers (mining, environment, land use, etc). Hence, there is the need to take a multi- and cross scalar perspective and acknowledging that SLO on the community level is complemented by a societal level SLO. We see the trust in government to regulate the industry as a common ground between the two. To give an example: A project might be granted SLO because a community perceives its environmental impact on a river to be acceptable (community level) or because its contribution to climate change mitigation is accepted by NGOs (societal level).

The MIREU SLO model, adopted from Moffat & Zhang (2014), is proposing a nested model of *Community SLO* and *Societal SLO*. The Community SLO is driven by three different aspects: (i) Contact quality, (ii) perceived procedural fairness, (iii) social benefits. Community SLO is linked to Societal SLO which is driven by (iv) legal and procedural fairness, (v) confidence in the government and (vi) distributional fairness (see Figure x).

**(i) Contact Quality:** is described as the most important aspect of SLO on community level. It describes the relationship between the company and community; government facilitating if necessary

**(ii) Perceived Procedural and Distributional Fairness:** Community believes, the company is following the laws and treating them respectfully

**(iii) Social Benefits:** Beyond jobs and municipal revenue, this means the community believes the company respects its values and will help realize its future vision

**(iv) Legal and procedural fairness:** Government and regulatory frameworks have legitimacy and industry adheres to the laws and behaves respectfully

**(v) Confidence in Government:** Society feels entire governmental system (judiciary included) protects their interests and will hold industry accountable

**(vi) Distributional fairness:** Government shares mining revenues in a way that balances affected communities and the common societal good



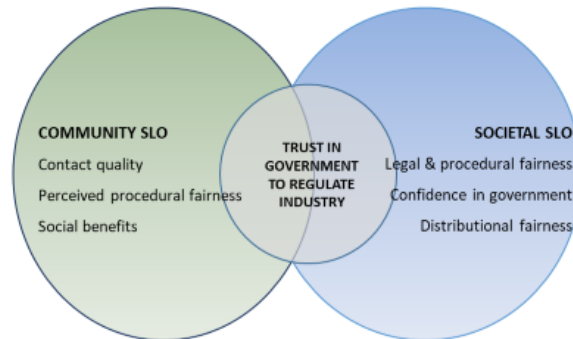
#### Community Level SLO

- **Contact Quality** = Most important determinant of community SLO. Relationship primarily between company and community with government facilitating if necessary.
- **Perceived Procedural Fairness** = Community believes company is following the laws and willing to go beyond them to ensure communities are being treated respectfully.
- **Social Benefits** = Beyond jobs and municipal revenue, social benefits occur when a community believes the company respects its values and will help realise its future vision.

#### Societal Level SLO

- **Legal & Procedural Fairness** = Government and regulatory frameworks have legitimacy and industry adheres to the laws and behaves respectfully.
- **Confidence in Government** = Society feels entire governmental system (judiciary included) protects their interests and will hold industry accountable.
- **Distributional Fairness** = Mining revenues are distributed and shared equitably with affected communities and also used for the common societal good.

#### DRIVERS OF TRUST & ACCEPTANCE



Adapted from Moffat and Zhang's model in Resources Policy 2014 and Mariana Lyra's 'Trust & Influence' Diagram

Figure x: Drivers of trust and acceptance for community level and societal SLO in Europe (REF)

### 3.3 Levels of SLO in European Mining

The values described above helped to adopt the conceptual model of SLO in European Mining from Thomson & Boutilier (2011). It is considering Society and Community and is featuring six different levels: (1) Benefit sharing, (2) Engagement, (3) Legal & procedural fairness, (4) Lack of legitimacy for project/industry (5) Little confidence in government and (6) Clash of fundamental values. The relationship types range from conflictual relationship types ("loss of trust & acceptance") in the lower three categories which either hampers (lack of legitimacy, little confidence) mineral extraction or makes it impossible (clash of fundamental values). Transactional relationships are characterising the middle part of the model, describing the relationships in the SLO types of 'Legal & procedural fairness' and 'Engagement', while the highest SLO level of 'Benefit sharing' is imprinted by a collaborative relationship (see Figure x).

It is important to note, that the levels build on each other (e.g. the requirements of 'Legal & procedural fairness' and 'Engagement' are also relevant for 'Benefit sharing') and that SLO on the societal and community level are not necessarily always at the same level, as described in more detail in section 3.6.

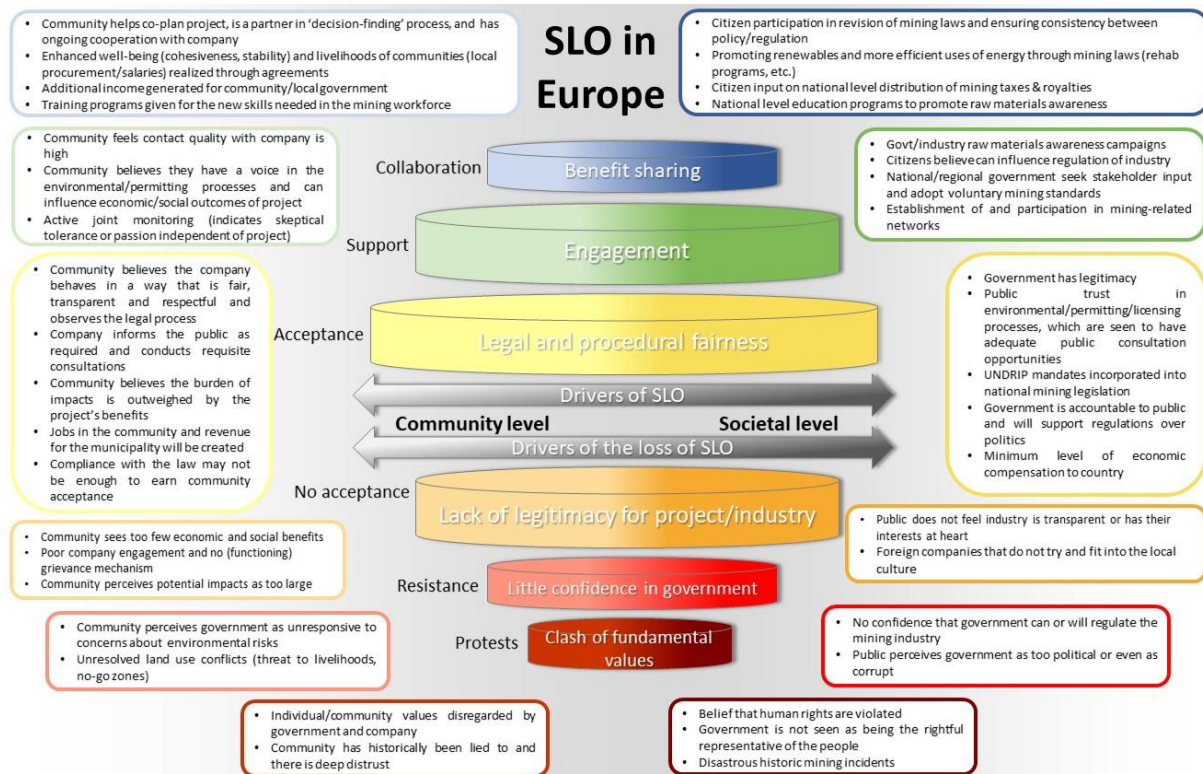


Figure x: European model of SLO (REF)

## Benefit Sharing

On the 'Community Level' the type can be described by strong interaction and identification of the involved parties with the project, illustrated by processes of co-planning of the project and strong partnership and interaction in the decision-making process. Enhanced wellbeing and stable livelihoods of local communities are focal points of the co-planning and shared decision-making processes. Economic incentives, such as local procurement and the generation of additional income for local communities and government are realised through stable partnerships and institutionalised via formal agreements. Joint monitoring and capacity building processes are incorporating notions of learning and training particular skills of all involved parties.

The 'Societal Level' is characterised by interest and participation of citizens in the revision and consultation processes of mining related policies, ensuring consistency between policy and regulation and consideration of societal goals, e.g. concerning climate change or rehabilitation) in mining laws. Consultation processes would also include involvement regarding the distribution of mining taxes and royalties. There would also be more of a collaborative effort by all stakeholders to design education programs that build raw materials awareness.

## Engagement

On Community Level 'Engagement' is identified by high contact quality between local communities and the company. The local communities have a voice in the environmental and permitting processes and can have impact on the economic and social outcomes of the project. Active joint monitoring processes are established to ensure that the communities are included in monitoring and evaluation of a project.

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On the Societal Level citizens believe they can influence the regulation of industry, while national and regional government actively engages in participatory processes, involving stakeholder in the development and implementation of mining standards. Government and industry initiate and establish learning and capacity building processes, such as awareness campaigns or the establishment of mining-related networks, facilitating participation, capacity building and knowledge exchange.

### Legal and Procedural Fairness

At the community level, this means that communities believe the company complies to minimum standards and behaves in a way that is fair, transparent and respectful, observes the legal process, that it informs the public as required and conducts requisite consultations. The community believes the burden of impacts is outweighed by the project's benefits, e.g. that jobs in the community and revenue for the municipality will be created. Compliance with current law may not be enough to earn community acceptance.

The Societal Level is described by the existence of legitimate governments, that are accountable to the public and will ensure the compliance with regulations. The public trusts the regulatory processes related to environmental permitting as well as licensing/permitting processes. Those processes have adequate public consultation procedures as required by legal regulations or EU directives, as well as international standards and guidelines (see section 3.6 below). Economically, minimal compensation on national level is foreseen.

### Text box

#### Enabling Fairness & Transparency (and examples of such practices)

The MIREU report “**Review of the applicable regulatory and policy conditions in the MIREU regions**” ([link](#)) has been developed with the objective of providing an insight into the existing regulatory and policy conditions in the MIREU regions relevant to the mining and metallurgy sector and focused on understanding the role and involvement of the community in the permitting process of mining and metallurgy operations.

Legally, community involvement and social acceptance are present in the mining activities as part of the exploration and extraction permitting procedures. The tools for enabling public participation include provisions for public survey or public hearings which are mostly organized by the administration and in few cases is the responsibility of the applicant itself. **It is also notable that such community driven tools are often indirect or supplementary provisions within the permit legislations and applied as part of the mandatory Environmental Impact Assessment (EIA) approval process.** Additionally, during the extraction permits, community driven tools are part of scrutiny and approval of mine operation design plans. **Presently, EIA provisions can be considered as the most utilised legally available tool to integrate community participation in mining activities. At the same time, Social Impact Assessment (SIA) as a separate independent pre-requisite for the permitting and approval process is rarely observed across the MIREU Regions.**

Overall the scope of these tools in terms of extensively engaging with the community as a stakeholder in planning and mitigating the impacts from mining is quite limited. **Although EIA is a mandatory process, in many cases the community participation provisions within the EIA are voluntary in nature or can be easily overridden.** For instance, in some member states where there is a centralised permitting regime, it is fairly common to have situations

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where the relevant legislation allows for applicants to get permits from the concerned ministry despite rejection from landowners or local authorities. **It is also important to highlight that expanding the scope and role of community stakeholders in legal provisions can have an overall positive impact on the business – community relations and ensure a smoother permitting process.** This has been observed in Italian region of Emilia Romagna where an application for an extraction permit can be made only at the end of a consultation procedure with stakeholders and relevant institutions, leading to a very high permitting success rate (of nearly 100 %).

- **Clear defined role of both the National Government and the State/Local Authorities in granting approvals in their respective areas and complementary and co-operative functioning.** Such provisions act as a deterrent to possibilities where role and opinion of local community and authorities being easily undermined by the mining companies by approaching the National Government.
- **Strengthening existing EIA provisions relevant to community participation.** In most of the surveyed regions, they have existing participation right mechanism for local communities as part of the EIA approval process. Additionally, in the Public consultation phase of EIA, there is a defined process for integration or consideration of public feedback in the decision-making process of granting permits followed in most of the surveyed regions. Such provisions make a strong case for strengthening EIA itself as a community involvement tool. E.g. In case of Ireland, application by a company for a mining permit to the local authorities is made public. Any third-party individual or group can make a submission on the application, including the EIA. All submissions must be considered by the local authorities.
- **Strengthening provisions for appellate measures against the decisions of the authorities.** This provides the community stakeholders an important additional opportunity to ensure fairness and transparency in the mining process. Challenging or Appealing against EIA reports or permits for mining projects in the surveyed countries is a fairly common phenomenon. For most of the other countries like Austria, Finland, Sweden, Germany it is fairly common to challenge the permits by various stakeholders and there is an identified legal mechanism available for it as well.
- **Strengthening transparency when it comes to companies making it public how the opinion and feedback of the community during the consultation process is incorporated in the mine project design.** Such practice is largely missing and not followed by most of mining businesses across MIREU regions.
- **Promoting Social Impact Assessment (SIA) as an important legal requirement and an integral part of the permit application and scrutiny process.** As of now, the influence of SIA in the permitting process is observable but highly restricted. In many countries like Austria, Finland, Slovakia, Portugal SIA is included as a part of EIA process and local communities/other relevant third-party stakeholders are given the right to appeal
- **Integrating the term ‘Social License to Operate’ or an equivalent concept within the Permitting process.** Inclusion of such a concept/terminology could make the community involvement process clearly a more direct and mandatory aspect of mining legal procedure. E.g. In case of Spain, SLO as a concept is now being brought in discussions, up till now the main focus has been on Corporate Social Responsibility

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(CSR). In case of Portugal, Finland, Sweden SLO is included in the application process. In Czech Republic it is a part of the EIA process itself.

➤ **FPIC in Finland and Sweden**

Finland: For an extraction permit, if the project is being conducted in the territory of indigenous people, they are considered as co-authorities in the permit process and so their consent is necessary for the permit grant. But in case of exploration permits their opinions are not legally binding.<sup>1</sup>

Sweden: For exploration permits, the Sámi Parliament is involved in the process and are entitled to comment on the application. Broader recognition of FPIC has permeated the Swedish context where LKAB references the application of the principles of FPIC in their cooperation with Sami reindeer herding communities.

**Lack of legitimacy for project/industry**

At this level, communities see too few economic and/or social benefits and/or perceives that the potential negative impacts from the projects are too large. This might also be driven by poor company engagement and lack of a (functioning) grievance mechanism.

At the societal level the public does not feel that the mining industry is transparent or has their interest at heart. There might also be a feeling that foreign companies do not try and fit into the local culture.

**Little confidence in government**

At this level, communities are concerned about a project and perceives that the government is unresponsive to these concerns, e.g. regarding the environmental risks of the project. There might also be (perceived) unresolved land use conflicts concerning no-go zones or that might represent a threat to other livelihoods such as farming or reindeer herding.

There is little confidence from the public that government can or will regulate the mining industry accordingly and/or the public perceives government as too political (too driven by certain interest groups) or even as corrupt.

**Clash of fundamental values.**

This level is identified by substantial infringement of individual and communities' values by the government and company. The relationship between local communities and the government or local communities and the company is disrupted by repeated deliberate misinformation and is imprinted by deep distrust.

On Societal Level the government is not seen as being the rightful representative of the people. Human rights are violated. Disastrous mining accidents, in which the people responsible might not have been brought to justice, have happened.

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<sup>1</sup> Additionally, (Acc. To Section 165 of Mining Act, 2011) any decision on exploration or extraction permits can be challenged in administrative court by the Sami Parliament on the grounds that the activity referred to in the permit undermines the rights of the Sami as an indigenous people to maintain and develop their own language and culture.

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### 3.4 Dispute Management and Resolution

Disputes in the mining sector take many forms; company to community, communities to state and within communities. In each of these cases, however, the company interested in extracting mineral resources looks to methods to manage disputes to minimize potential delays in development and operations. But the path to solving problems is multi-faceted. A combination of strong engagement and communication, the active presence of government, and the capacity to find solutions are needed to effectively manage disputes and reach resolution.

To prevent the development of a new project (or existing operations) from turning into a conflict, communication between the company and stakeholders is a prerequisite. In order to facilitate discussions around difficult issues, the relationships between a company and affected stakeholders must benefit from some degree of confidence to navigate problems as they arise. Thus, strategies on dispute management require a combination of trust building and participatory mechanisms.

When mining companies look at establishing new operations, the work on following the regulatory requirements goes in parallel, or even after, the work on building strong relationships in the community. Early participation should be foundational to corporate engagement protocol and practices. In many cases, this requires some groundwork by the companies involved in exploration to establish these lines of communication and relationships before any work is conducted in the field. And, once these relationships are developed, methods are needed to ensure they are maintained as transitions occur between personnel and companies. When these early engagement practices fulfill their purpose, they can prove instrumental in building the trust in the community – necessary to handle potential disputes.

The recommendations around early engagement revolve around the ability of the company to understand the importance of company-community relations but this leaves both the type of engagement and the willingness to live up to discussions in the hands of companies. With government absent, a potential gap is the non-enforceability of these voluntary corporate practices. Governments need to play an active role in tri-partite dialogues. Government can provide support in prospective and on-going mining projects in several ways: producing good mining legislation as a solid foundation for any mineral-related activity, facilitating discussions between the company and community (including providing the necessary resources, such as meeting space and compensation for time), carrying out regulatory activities in a responsive and transparent manner, and acting as a mediator in dispute when necessary. However, trust remains inherent in good relationships, and voluntary overtures from the company must continue in parallel with activity demanded by government. The final piece to managing disputes is the ability to reach resolution.

To ensure that communicative processes, once in place, proceed as effortlessly as possible, companies and community representatives must be educated in negotiation and mediation – they require the tools and resources needed to conduct a successful negotiation. When conducted in a productive and fair manner, communication between mining companies and other stakeholders can generate many positive outcomes. Mining companies can, for example, reap economic benefits. Revenue generation requires operations that enjoy community support but to be able to enjoy these positive effects, it is imperative that communication is commenced directly at the start of a new project, otherwise they might be perceived as means to gloss over negative impacts already inflicted. Minimizing delays related to disputes reduces costs. Government benefits both economically and politically. Taxes and royalties generated from resource development enable governments to function and increasing public trust in the capacity for government act as a fair legislator and regulator improves prospects for re-election.

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From the community perspective, the benefits are economic and social. Job creation related to mining and other sectors along with direct infrastructure and social investment are common outcomes from mine development. In productive relationships, decisions on investment are done in close collaboration with community representatives to serve the future of the community. This can be accomplished both informally and formally.

Arranging regular meetings, an on-going series of informal negotiations with different community groups to solve both current and future problems, is one method to produce and find resolutions. Another method in which local communities have been able to secure benefits is through negotiated agreements directly with mining companies.

These types of agreements include: commitments regarding preferential employment opportunities for local communities; procurement from local companies; support to education and training schemes; provisions regarding monitoring and protection of the environment; direct financial support and the establishment of funds for long-term investments and economic diversification.

### **3.5 Defining and describing stakeholders**

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Comprehensive stakeholder mapping is widely acknowledged as being an essential early step for a company to take in order to begin building relationships with communities. Mapping practices have existed for a long time, including for example the OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector (OECD, 2017), the ICMM Stakeholder Research Toolkit (ICMM, 2015) or the IFC's Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets (IFC, 2007).

#### **Why should we think about stakeholders in a different way?**

The ability of companies to accurately map and understand the attitudes of their stakeholders appears still elusive as contention across Europe grows over new and even existing mines proposed for expansion. Even in projects where the mapping has been done well, there are still difficulties in obtaining SLO at the local level.

The early work in MIREU showed the difficulties inherent in traditional categories. For example, in many smaller villages, the same person may be a government authority, a homeowner and enjoy fishing in the nearby river. Which role is dominant when it comes to attitudes toward mining? How do you reconcile one role with the others? In addition, Europe is far from being a homogeneous entity. How do we account for factors that affect an individual's perception of a specific situation and context?

The need to rethink traditional stakeholder categories in a world beset by globalization, constantly changing technology, a greater number of voices in the mix, etc. is crucial if we are to understand people's perspectives on the mining industry and their evaluation of a potential mining project that could affect them personally.

In MIREU, we have developed 'stakeholder frames' based on survey answers to questions looking at values and preferred approaches to SLO. There is solid data that validates SLO is based on perceptions and values, so understanding what people believe will ensure responsible mining, is key to addressing their expectations and building better relationships based on trust.

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## Stakeholder frames

The current approach to SLO, putting the onus on companies to ‘behave’ better through more active engagement with communities, developing and using environmentally friendly technologies, and creating sustainable business practices are, for Europeans, not enough to achieve responsible mining. In the European context, there are five different categories of preferred approaches to SLO. As noted previously, these preferred approaches have been transformed into ‘stakeholder frames’ that can be used to understand the different categories of values critical to obtaining SLO in Europe. It is important to note that individual stakeholders can fall into more than one frame – which should push discussions in Europe around SLO into findings solutions based on shared stakeholder values rather than appeasing sectoral interests.

### Stakeholder Frame 1: The Company as a Good Local Citizen

The first frame places emphasis on the relationship between the company and the community. In large part, this exemplifies the ‘traditional’ perspective of SLO where the company holds the responsibility to become partners with the local community – aligning interests around economic, environmental, and social outcomes. Local residents and the company work together to define the future of the community.

This first frame believes companies should distribute revenue and social benefits at the local level. As part of this, good communication between communities and companies to negotiate this distribution is essential.

### Stakeholder Frame 2: Societal SLO

The second frame broadens the focus of SLO to the acceptability of the mining industry across the nation. Therefore, mining companies must adhere to the legislative framework in place and go beyond. Government also has a role in this frame to both produce legislation viewed as legitimate and hold companies accountable that deviate from the law.

In short, this frame believes that legislation and accountability are the foundations of societal SLO and that companies should go beyond existing legislation and be more communicative with the public at large.

### Stakeholder Frame 3: Procedural Fairness

The third frame shifts the responsibility of SLO to government. In order for mining operations to enjoy acceptance, the processes that govern the development, operation, and closure of the mine must be executed fairly. This requires government to implement the proper administrative personnel and instruments.

In short, this frame values processes and capable bureaucrats. People want the mining process to be de-politicised, implemented in a fair and consistent way, and to have assurances that companies will do what they are supposed to and be held accountable for following the regulations.

### Stakeholder Frame 4: Local self-determination

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The fourth frame emphasizes the importance of far-reaching input mechanisms into mining-related questions. This input should also give greater weight to those most affected, including requiring action, from the responsible party.

Unlike Stakeholder Frame 1 who focuses on benefit distribution, Stakeholder Frame 4 wants local empowerment and communities to have more influence.

#### Stakeholder Frame 5: Self-Governing industry

The fifth frame views the industry as capable of regulating itself. Maintaining the status quo and focusing on economic growth serve as the basis for an effective and responsible mining industry – the market will sort itself.

This Stakeholder Frame values the status-quo and believes that mining results in regional development and economic growth and therefore is beneficial for all. They do not see the need for more regulation or oversight.

### **What do stakeholders want in a properly functioning mining industry**

In the European context, if there is to be SLO on a societal level for the mining industry and SLO on the community level for a particular mining project, the following must occur:

- An acknowledgement that the current mining ‘system’, the current combination of legislation, procedural process and industry behaviour, might not be enough to achieve SLO. Continuing with the same approaches, the same attitudes and the same legislative system will neither ensure responsible mining nor will it help achieve SLO.
- Companies and government must literally work together in order for the mining ‘system’ to function well, where each has their individual role and neither can hide behind one another.
- Neither companies nor government individually can ensure responsible mining.
- Government (permitting authorities?) cannot be passive in any part of the process. It must consistently be an active participant not just in the permitting and licensing processes, but in the relationship building processes as well. This means relationships with communities, relationships with industries and relationships with governmental authorities at all scales.
- Europeans do not want to only interact with companies. The foundation for a sound mining industry is legislation coupled with a well-implemented procedural mechanism and having the government act as a mediator between communities and companies when necessary.
- The procedural mechanism consists of a de-politicised process for implementing legislation, a well-functioning grievance mechanism, and government capacity meaning bureaucrats who have both practical knowledge of mining and institutional knowledge of government.

## **3.6 Impacts, stakeholder relationships and MIREU SLO tools**

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In order for a mining project to achieve and maintain SLO, social and environmental impacts, as well as moral and ethical implications, must be understood, acknowledged and appropriately managed along the full life cycle of a mining project, since they change with time and the

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progression of a project. This needs to be done including stakeholder engagement processes that build trust and relationships.

As stated earlier, SLO in the European context should not only consider the community level but also the societal level, hence projects also need to consider relationships and implications at higher – regional, national all the way to global - levels, i.e. climate change, taxes and royalties and their distribution within a country, mining policy and broader economic policies, etc.

In this context, it could be that for certain commodities (e.g. lignite in Saxony or Poland) projects are at the level “engagement” for community level SLO, but at “conflict” for societal SLO or vice versa (e.g. uranium in Salamanca) – which could be, as is the case in these examples, driven by the commodity mined rather than by the project itself, or by both. In such cases, projects should consider to have the lower level of SLO overall.

### Assessing and managing impacts

The current European legislation for assessing and managing social and environmental impacts, as well as the requirements for stakeholder engagement, as described below, are not adequate. For a project or for the mining industry in general to have SLO, there must first and foremost be robust mining legislation; seen as having legitimacy by the people. In addition, there must be a competent bureaucracy to carry out the legislation in a depoliticized and efficient way that recognises the important role of communities and values building relationships with those communities. People also want government to assume the role of a mediator in case of disputes.

Internationally, a number of standards, guidelines and tools for assessing and managing impacts, some specific to certain stages of the mining life cycle, have been developed and we refer to the ones we consider as most relevant for Europe below.

It is in this context, that the MIREU project developed a SLO Protocol and additional tools that are more about relationship-building and ensuring that commitments are carried out in order to foster SLO in the European context.

In Europe, the legal requirements for Social Impact Assessments (SIA) are very weak (see box in section 3.3), and especially stakeholder participation and civic involvement in project developments are driven by the legal requirements of the Aarhus Convention and the EU directive for Environmental Impact Assessment (EIA). The EU project MINLAND describes the requirement as follows:

*The MINLAND cases show that in both, land- use planning and EIA processes, the public participation is embedded on a middle to lower level of the participatory typology, mainly covering stages of information, consultation and involvement and decision making is carried out by the elected representatives or competent authorities. (MINLAND D4.4)*

In addition, the EC study MINLEX identifies the Extractive Waste Directive (EWD) as of importance for public consultation for permitting in all phases of mining, including the post-closure phase. However, this consultation is rather weak, as provisions of the directive only call for the dissemination of information about the project to the public prior to the authorisation. A more detailed summary of the MINLEX study results concerning public consultation can be found [here \(LINK to portal\)](#).



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Internationally, SIA, EIA and related impact management have over recent decades developed as key processes/ tools for projects to assess and manage impacts and various literature and guidelines are available (Franks, 2011), (IAIA, 2015), (NSW DPE, 2017), (Anglo American, 2020).

## **International guidelines and standards**

Beyond compliance with applicable European legislation, a number of international guidelines and performance standards have emerged in recent years that are considered as relevant for gaining SLO for extractive projects in Europe:

- **Sustainable Development Goals (SDGs):** To gain SLO a project might need to make a positive contribution to local communities and to society above and beyond any taxes and royalties they might be required to pay. Whilst this contribution will vary with the particular context of application, identifying it should be a participatory process led by the community. The United Nations SDGs are worthwhile goals to consider in this process (IAIA, 2015), (United Nations, 2020)
- **Free, prior and informed consent (FPIC):** FPIC is premised on the principles that Indigenous People have the right to self-determination and, central to that, the opportunity to be consulted and have influence over future resource development. The concept began to gain traction with its inclusion in the International Labour Organization (ILO) Convention 169 on Indigenous and Tribal Peoples (1989) and, later, the United Nations Declaration on the Rights of Indigenous Peoples (2007). In the minerals sector, the 2013 ICMM position statement (2013) recognized FPIC as a fundamental piece of Indigenous engagement
- **Human rights:** The ‘Guiding Principles on Business and Human Rights’ (UN, 2011), the ‘Voluntary Principles on Security and Human Rights’ (Voluntary Principles Initiative, 2000) and the revised IFC Performance Standards (2012) address the responsibility of the private sector to respect human rights. The IFC has sponsored an online guide for human rights impact assessments (IBLF and IFC, 2010)
- **OECD Guidelines on Multinational Enterprises** (2011) including the **OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector** (2017)
- **Equator Principles (EP):** The EP are a corporate social responsibility and sustainability framework for the global finance industry (Equator Principles Association, 2020). For operational guidelines, the EP requires compliance with the
- **IFC Environmental and Social Performance Standards:** They define IFC clients' responsibilities for managing their environmental and social risks (IFC, 2012)
- **ISO 26000 Guidance on Social Responsibility** (ISO, 2010) and other multi-stakeholder initiative standards, mostly developed by civil society and business actors.
- **Industry codes:** These can be generic, such as the Initiative for Responsible Mining Assurance (IRMA) (2020) or the Mining Association of Canada’s (MAC) ‘Towards sustainable mining’ (MAC, 2004) guidelines, which have been adopted in Finland and Spain, or dealing with specific issues such as ICMMs ‘Integrated mine closure’ good practise guide (2019) or specific stages of the mining life cycle such as SveMin’s ‘Guidance on Exploration’ (SveMin, 2019)

## **The mining life cycle**

The requirements for assessing and managing the social and environmental impacts of mining projects vary across the life cycle of a mine. It should begin as early as possible in the project

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development and continue until post-closure and include all activities, i.e. waste management and transport.

Certain stages of the mining life cycle, as well as certain activities, stand out as they could have an even bigger social and environmental impacts, i.e. higher risks, than others and thus require special attention. These are exploration, mine development and (post-) closure, as well as waste and tailings management, and specific guidelines are available for these stages, e.g (ICMM, 2019), (SveMin, 2019), (MAC, 2004).

Stakeholders should also put a special focus on technological innovation, as technologies such as driverless trucks or continuous mining systems can have a significant impact on the community level SLO (e.g. local communities not understanding the technology, reduction in local jobs or procurement) (Anglo American, 2020, p. 67) as well as on societal SLO, as the Edelman Trust Barometer 2020 (Edelman, 2020) showed a significant loss of trust in technology by the public.

Our survey showed little differentiation when it came to people's beliefs in the importance of different phases of the mining lifecycle in Europe, which might be based on the fact that there are actually very few new metal mines (these tend to be the most contentious) being developed, so we have little experience working with stakeholders throughout a mining project. This also means people have little knowledge of the different stages in the mine lifecycle and the detailed requirements described in the references above might be too detailed for Europe.

However, what should be the immediate focus are 1) people seem to think exploration automatically leads to exploitation and this raises undue fears, 2) the necessity for early and good communication between communities, companies and government, and 3) that Europeans are more concerned about current operations and closure/post-closure and therefore more emphasis on engaging on what is currently going on and collaboratively working on closure/post-closure plans. Emphasizing the current concerns in Europe is crucial not just to calm people now, but for SLO for new mining projects.

## **Stakeholder relationships**

The objective should be to achieve and maintain SLO. Collaborative relationships produce the strongest likelihood to do so, and that problems along the way can be worked out.

However, based on our survey, we don't think that currently the ultimate goal for all projects in Europe is 'Benefit sharing'. It probably is in Sweden and Finland but probably not for the rest of Europe, where it should more likely be 'Engagement'.

In order to achieve this objective, stakeholders (see chapter 5) need to consult and engage in a meaningful way and beyond what might be legally required as part of permitting or EIA processes. There need to be processes for ongoing public participation (e.g. community groups, environmental monitoring, economic development programs) and information disclosure (e.g. regular meetings with stakeholders, annual sustainability reports), and the mechanisms for handling grievances and feedback (Franks, 2011). Such processes must be transparent, inclusive, culturally appropriate and publicly defensible (e.g. (OECD, 2017), (Anglo American, 2020)).

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Among the groups that should be given special consideration are indigenous people, which in Europe is relevant for the Nordic countries. International guidelines and standards listed above, but also national (reindeer herding rights, land use rights) and local factors (community identify) should be considered in relation to indigenous rights and SLO.

### **MIREU SLO tools**

Whilst SIA is not a legal requirement in Europe, the assessment and management of impacts is well developed internationally, as we describe above. Hence, the MIREU project makes references to guidelines and standards that should be useful for European mining and metallurgy projects. In addition, we found that there is a need to ensure there is good mining legislation and it is implemented well, encourage meaningful engagement and finally foster collaboration. In the absence of this, the MIREU project developed a SLO Protocol and additional tools:

**SLO Protocol:** Describes SLO in the European context and describes the relationship and links with the other tools

**Community-Company Vision Statement:** Includes 2 parts which provide guidance for 1) how to initially approach stakeholders as well as a template for stakeholder mapping and 2) for companies and communities to sit down together and discuss their different expectations and begin to share what a possible future vision for the area would look like

**SLO Roadmap:** Intended to further collaboration between communities and companies in particular, but also to begin including the permitting authorities into the relationship-building process. It also lays the foundation for what would be included in the Community Agreement

**Community Agreement:** the light version of an Impact and Benefit Agreement between company and community. [LINKS to all tools](#)

## **3.7 SLO: Summary of key points**

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- SLO in Europe considers both the community and the societal level:** The actual situation of mineral extraction in Europe are cross-scale (from local to global) and touching different policy and societal tiers (mining, environment, land use, etc). Hence, you need to take a multi- and cross scalar perspective and acknowledging that SLO on the community level is complemented by a societal level SLO. The two levels are not necessary always aligned in which case you should consider to have the lower level of SLO overall.
  - SLO is a process and an outcome:** It is a dynamic and continuous process, in that it is based on perceptions which change over time, but it is also an outcome, as it is synonymous with community and societal acceptance.
  - Engage with stakeholders in an open way to build trust:** Establish meaningful and timely avenues for two-way dialogue. Understand stakeholder histories, relationships, and networks, as well as the values that shape attitudes and behaviours. A useful way to do this are the stakeholder frames described in this guideline. Be open and straightforward about potential risks. Listen to and design the project or activity considering stakeholder input. Be responsive and adaptive; respect customs and political and authority structures; and, where appropriate, gain FPIC (adopted from (Franks, 2011)).
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- 4 **Aim for higher levels of SLO to reduce risks:** A SLO level of “benefit sharing” or “engagement” means a lower risk of your project or activity to lose trust or acceptance. This means however, that you will have to go beyond legal compliance.
- 5 **Use applicable international guidelines and MIREU tools:** Section 3.6 lists of this guideline lists a number of international standards which should also be considered for projects in Europe. In addition, the MIREU project developed a SLO protocol and related tools that should be useful for your project to achieve and maintain SLO.

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