

EXTRACTIVE SECTOR AND CIVIL SOCIETY:

WHEN THE WORK OF COMMUNITIES, GOVERNMENTS AND INDUSTRIES LEADS TO DEVELOPMENT



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Abbreviations and acronyms

ACM	Asociación Colombiana de Minería
ACP	Asociación Colombiana de Petróleo
AIDSEP	Asociación Interétnica de Desarrollo de la Selva Peruana
AMEXHI	Asociación Mexicana de Empresas de Hidrocarburos
AMSA	Antofagasta Minerals
AMUCEP	Asociación de Municipalidades de Centros Poblados de Huari
ANDI	Asociación de Industriales de Colombia
ANLA	Autoridad Nacional de Licencias Ambientales
ASF	Auditoría Superior de la Federación
IDB	Inter-American Development Bank
CAEM	Cámara Argentina de Empresarios Mineros
CAMIPE	Cámara Minera Petrolera de la República Dominicana, Inc.
CAR	Autonomous Regional Corporations
CEAS	Comisión Episcopal de Acción Social
CEMDA	Centro Mexicano en Derecho Ambiental
CEFOMOMALI	Centro de Formación para Mujeres Organizadas María Liberadora, Inc.
CFE	Consejo Federal de Energía
CIDE	Centro de Investigación y Docencia Económica
CINEP	Centro de Investigación y Educación Popular
CITT	Centro de Innovación y Transferencia Tecnológica
CMAP	Comité de Monitoreo Ambiental Participativo
CODELCO	Corporación Nacional del Cobre
COFEMA	Consejo Federal del Ambiente
COFEMIN	Consejo Federal de Minería
CONADI	Corporación Nacional de Desarrollo Indígena
CONALEP	National College of Technical-Professional Education
CONAP	Confederación de Nacionalidades Amazónicas del Perú
CORMIDOM	Corporación Minera Dominicana
CSO	Civil Society Organization
CVSA	Cerro Vanguardia, S.A.
DGM	Dirección General de Minería
EIA	Environmental Impact Assessment
EITI	Extractive Industries Transparency Initiative
ENTRE	Espacio Nacional por la Transparencia de la Industria Extractiva
FALCONDO	Falconbridge Dominicana
FARN	Fundación Ambiente y Recursos Naturales
FFLA	Fundación Futuro Latinoamericano
FOMISAR	Fondos Mineros de la Provincia Sánchez Ramírez
GDL	Grupo de Diálogo Latinoamericano Minería, Democracia y Desarrollo Sostenible
GDMDs	Grupo de Diálogo, Minería y Desarrollo Sostenible
GDP	Gross Domestic Product
ICMM	International Council on Mining and Metals
FDI	Foreign Direct Investment
ILO	International Labour Organization
IMCO	Instituto Mexicano para la Competitividad
INFOTEP	Instituto Nacional de Formación Técnico Profesional
LWR	Lutheran World Relief
MAC	Canadian Mining Association
MBV	Mesa de Buenos Vecinos
MEM	Ministerio de Energía y Minas
MIMARENA	Ministerio de Medio Ambiente y Recursos Naturales

MSG	Multi-Stakeholder Group
MSX	Minera San Xavier
ONIC	Organización Nacional Indígena de Colombia
UN	United Nations
PACMA	Programa de Apoyo a la Comunidad y Medio Ambiente
PAE	Pan-American Energy
PEMEX	Petróleos Mexicanos
PUCP	Universidad Católica del Perú
PVDC	Pueblo Viejo Dominicana Corporation / Barrick Pueblo Viejo
CSR	Corporate Social Responsibility
SEMARNAT	Secretaría del Medio Ambiente y Recursos Naturales
SENER	Secretaría de Energía
SIA	Social Impact Assessment
SMCV	Sociedad Minera Cerro Verde, SAA
SME	Small and Medium-Sized Enterprises
SMP	Social Management Plan
SNMPE	Sociedad Nacional de Minería, Petróleo y Energía
SODOGEO	Sociedad Dominicana de Geología
SPH	Sociedad Peruana de Hidrocarburos
TSM	"Towards Sustainable Mining" initiative
UAGRO	Universidad Autónoma de Guerrero
UASD	Universidad Autónoma de Santo Domingo
UBA	Universidad de Buenos Aires
UNMSM	Universidad Nacional Mayor de San Marcos
UNSAM	Universidad Nacional de San Martín
UTECO	Universidad Tecnológica del Cibao Oriental
YPF	Yacimientos Petrolíferos Fiscales

1. INTRODUCTION

Countries that are rich in natural resources and the consequent extractive activity around those non-renewable resources –minerals, oil and gas– present several possible analytic perspectives or approaches. An economic analysis allows us to estimate investment costs, corporate profitability and the contributions of the extractive sector to the national or regional economy. From the perspective of technological advances, extractive industries require the use of sophisticated, cutting-edge technologies with the potential to help reduce negative impacts. From an environmental perspective, due to the scale of these types of projects, there is an emphasis on the impacts of extractive activities on nature and biodiversity, the competition for the use of water resources, the consequences for crops and the possible contamination of rivers and aquifers, where the aforementioned technologies can play a decisive role in prevention and mitigation measures.

From the social perspective, a similar sophistication is required to analyze the range of opportunities and challenges for stakeholders when dealing with the various phases of large projects, such as exploration, exploitation and closure, particularly considering the neighboring communities, which are generally rural.¹

The following diagnosis analyzes the extractive sector from the perspective of the engagement between the main stakeholders: the Government, the Company and the Communities directly or indirectly affected by extractive activities. This diagnosis differs from the classic approach towards extractive activities as “a catastrophe for natural resources,” preferring to study and highlight those findings where effective stakeholder engagement represented an opportunity for development and contributed to the success of an operation.

As a baseline, the diagnosis used information obtained through previous studies and field experiences, reviewing the fact that extractive activity implies the participation of these three stakeholders in different capacities and spheres of action: (i) the **government** and its role at the national, provincial and/or municipal levels regarding the steps of extractive activity, such as the design and allocation of bidding documents, authorizations, monitoring of implementation, with a shorter period of influence on political decisions (in the absence of institutions that support such decisions) compared to the other two stakeholders, among others; (ii) the **company** that, due to the nature of long-term extractive activity, remains in the field for periods generally spanning decades. After obtaining authorizations and licenses (including social ones), it is situated geographically and becomes



How can governments, communities and industries use their diverse interests and needs to generate mutual benefits for all stakeholders, while respecting the environment and striving for sustainability?





part of the life of communities near the extraction zone. This important characteristic defines extractive activity and helps shape the social fabric and the local economy, impacting the composition of traditional groups; (iii) the **communities**, in addition to being responsible for providing information and understanding the scope of the project before granting the social license to operate, remain on the land for generations and are engaged during each phase of the activity (in the case of “onshore” extraction, from the opening to the closure of activities).

Extractive activity can provide opportunities for communities and can also lead to new tensions within the population itself. These opportunities and tensions include the employability of workers from the communities. Due to their specific requirements and technical profiles, this employability tends to be low, which leads to greater competition for jobs. Sometimes a gap can arise between workers from the communities and other members of the same community without jobs in the company. The communities are susceptible to internal divisions where no previous conflicts existed. This factor is also observed when workers arrive from outside the community and generate significant growth in the local population, with new inhabitants in the area who are foreign to rural traditions and rhythm. This situation also exerts pressure on the same territory with the same limited resources. Other potential conflicts include new infrastructure projects and the time it takes to complete these works, affecting traffic patterns in the communities; a possible increase in alcohol consumption; a disproportionate number of men compared to women; potential increases in gender crimes; start or increase of prostitution activities.

Particularly noteworthy is the company's ability to influence the value chain with different undertakings and service organizations that can gain new development opportunities due to the arrival of the company, often leaving the extractive company at the mercy of a monopolistic fixing of prices for these services.

How can the parties involved use their diverse interests and needs to generate mutual benefits for all stakeholders, while respecting the environment and striving for sustainability?

To answer that question, this diagnosis focused on studying best engagement practices, which have achieved both measurable and comparable results that can be replicated, such as new productive undertakings or significant advances in the education and health sectors, as well as intangible impacts, such as building trust and developing collaborative processes. This approach seeks to discover what works in an activity that, for some countries rich in natural resources, represents more than 50% of tax revenues.² The best practices highlighted in this publication provide guidelines and orientations for consolidating and improving the engagement between these three stakeholders and show ways in which the extractive sector can contribute to national and local development in the countries of Latin America and the Caribbean.

Best practices have shown that good engagement builds trust, leads to agreements on disputed issues, strengthens the local economy, generates environmentally sustainable practices and improves the quality of life of the population. These same best practices also indicate that stakeholder engagement is the result of processes that require a medium- and long-term vision that considers the allocation and investment of human and financial resources.

For this diagnosis, countries within the region that are rich in natural resources but have different profiles and experiences in extractive issues were selected. These countries are: Argentina, Chile, Colombia, Mexico, Peru, and the Dominican Republic.



**For some countries
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In order to develop this study, each country's experience was validated, and these experiences were corroborated with representatives of industry/business, communities/civil society and governments, to ensure that they all agreed that the experience was considered best practice according to previously defined criteria.³ Subsequently, a second validation was carried out using different sources of information, including written materials, interviews, field visits and working groups.

With the purpose of organizing all the experiences, these findings were grouped methodologically into five engagement levels.⁴



Information:

This level includes the provision of data and background information about the extractive project by the company and the government. It also includes the provision of information by civil society organizations and other interested parties within the territory.



Dialogue:

Dialogue refers to the active, continuous and informal exchange that, through various degrees of contact between stakeholders regarding the extractive sector, seeks to create or strengthen constructive relationships between the parties. These processes can be temporary or permanent over time, and also have the potential to generate positive changes in the relationships.



Public consultation:⁵

Consultation is considered a formal, public and organized process, with stages that respond to legal or regulatory obligations, as well as principles of universal best practices, with the goal of gathering inputs regarding an extractive project.



Collaboration:

These are the actions in which the communities, the extractive company or the government develops knowledge products or in which the community itself participates in training initiatives to add skilled human capital that may benefit local economic growth.



Partnership

These are the actions in which communities are included and financed so that they become responsible for implementing a project or project component related to the extractive project.

1.1. The three stakeholders in extractive activities

All extractive enterprises (mining or hydrocarbons) have three stakeholders that are constantly interacting: the extractive industries, the government and civil society.

1.1.1. Extractive companies

The term “extractive industry” refers to all companies—public or private—that aim to extract natural resources.⁶ It also includes companies that provide services directly related to the extraction process (for example, companies that supply drilling rigs). At the same time, it excludes all companies involved in commercialization, such as pipeline managers, ships, gas stations, etc. In the context of this technical publication, artisanal and small-scale mining is not included.

Extractive companies operate in the peripheral regions of the world, trade in international securities markets, employ state-of-the-art technology, and interact locally with governments and communities. Across the world, extractive companies belonging mostly to global trade associations have been promoting a series of initiatives to strengthen their engagement with local communities. The mining industry has the International Council on Mining and Metals (ICMM), which is a leader in the field of social responsibility within the sector.⁷ This organization is led by industry CEOs and dedicated to sustainable development. Founded in 2001, ICMM brings together 23 of the leading mining and metals companies in the world, as well as 34 regional, national and commodities associations. These companies and associations are committed to improving their performance in sustainable development and the responsible production of the mineral and metal resources that are required on a social level.⁸

Similarly, the hydrocarbon industry has the International Association of Oil & Gas Producers, founded in 1999 as the leading global voice of the industry.⁹ Members of the association produce more than a third of the oil and gas consumed worldwide. The association operates by supporting industry regulators to improve safety and environmental and social performance. It is also a unique space where members of the association exchange knowledge and best practices to improve health, safety, the environment and social responsibility.¹⁰



For industries, the presence of governments with clear regulations and engagement with the local population are key elements for including all interested parties and achieve the greatest success of operations. Experience has shown that companies strive for continuous engagement with local communities, in order to build trust and generate support for the extractive project by a majority of the population. There is a growing trend in which companies consider the population as a potential ally for the project's implementation, with whom it is necessary to build trust, develop effective communication channels and agree on rules for an engagement that may produce positive results and impacts for all stakeholders.¹¹

Thanks to the results of this diagnosis, it was found that most companies promote exchanges with communities that go beyond sharing information or maintaining informal dialogues, promoting and developing engagement plans that may help minimize negative impacts and increase the social and economic opportunities provided by the extractive project. In this sense, civil society has reached a critical mass and—together with responsible companies—has promoted and adhered to voluntary principles on human rights and business practices,¹² while also respecting and advancing other social and economic rights.¹³

It has also been pointed out that there is an interest in promoting local businesses by connecting them to the extractive industry as suppliers of goods and services. This has helped strengthen the local economy, driven by the extractive sector and leading to a shared interest with the government.¹⁴



In the same line, the diagnosis has provided evidence of how the industries manage community engagement and assign human and technical resources.¹⁵ On the other hand, companies dedicated to exploration activities in the first phase of an extractive project usually do not have the financial resources to develop partnerships and collaborative processes, since these require planning and investment of significant human and financial resources, and therefore informative activities and initial dialogues are critical. On another note, some projects in the exploitation phase do not have enough pre-assigned human and financial resources for effective company-community engagement. Since some companies do not have engagement plans, they may fail to communicate the opportunities and limits of their actions¹⁶

During the implementation of a project, the government—both national and local—and the company are in a situation that requires collaboration, and they both have complementary roles in their engagement with the community. However, their respective roles are not always clear, and they do not always possess the skills required to fulfill these roles.¹⁷

This diagnosis has revealed that engagement in the extractive sector has been driven by important progress in the design and implementation of Corporate Social Responsibility (CSR) principles. According to the ICCM, companies have improved their practices in areas such as transparency, human rights and the environment and are looking for ways to contribute to sustainable development at the national level in the territories where they operate.¹⁸ Many extractive companies have CSR policies that include programs which promote productive capacities, as well as health programs, improvement of local infrastructure and formal education.¹⁹

1.1.2. Government

The national governments of the region,²⁰ regardless of their political party orientation, have implemented policies to attract foreign direct investments for projects that include extractive industries.²¹ The high prices of raw materials have increased the tax revenues of the countries of Latin America and the Caribbean and have increased investment and economic activity. Some governments in the region saved a portion of the revenues and others used that income to increase fiscal spending. This is why the price reduction in early 2008 and more strongly between 2012 and 2013 has had different impacts on the development of these countries.²²

The boom in raw material prices has had an impact on poverty reduction and the growth of the middle class in the region.²³ The extractive sector has also had positive effects on employment; however, its contributions have been relatively modest compared to the total Economically Active Population (EAP). In the countries selected for the diagnosis, the percentage of employment in the extractive sector compared to the PEA is around 1%, with the exception of Chile where it exceeds 2%.²⁴

Governments seek to adapt their institutional and legal frameworks to continue capturing revenues through the extractive sector. The price reduction for mining and oil resources since 2013 has led national governments to create attractive regulatory frameworks that ensure the economic and legal stability of investments in the sector, which frequently raises dilemmas in terms of how to balance this situation with its role as a regulator of extractive activities and a guarantor of human rights and natural resources.²⁵



In recent decades, Latin American governments have strengthened their democratic and institutional systems, efficiently managed their macroeconomics and implemented inclusive social policies in order to reduce poverty and inequality. Even so, the end of the boom in raw materials has revealed structural problems in several countries of the region, related to fiscal and institutional matters, as well as other social, political and economic issues.²⁶

National governments create the regulatory and institutional frameworks in which companies and local populations can engage. In terms of safeguarding the rights of the communities that surround the extraction zone, as well as other interested groups, this study shows that some engagement levels are clearer than others. Particularly noteworthy is the consultation with Indigenous Peoples, which has been included in their legal frameworks through the ratification of Convention 169 of the International Labour Organization.²⁷ Peru is the only country in the study in which such consultations are governed by a law, whereas Chile, Colombia and Mexico have regulations at the decree level for this purpose.²⁸

Meanwhile, it was also found that the level of access to information is strongly regulated through legal frameworks. Every country has legal regulations that facilitate general access to information, and environmental laws specifically provide for access to information on the condition of nature. The development and approval of Environmental Impact Assessments often includes significant rights for the local population, such as access to information, consultations and other forms of stakeholder engagement.²⁹

Regarding the institutional framework for the extractive sector, the national government is made up of different ministries that do not necessarily share the same priorities, although their operations are governed by general public policy guidelines. In all the countries in the diagnosis, it is the ministries of Mining and Energy that design the policies for the extractive sector and control their compliance.³⁰ On the other hand, there are ministries that aim to protect the environment and are in charge of approving environmental licenses. Depending on the country, other ministries may also engage with the local population. For example, in Chile the Ministry of Social Development, through the National Indigenous Development Corporation (CONADI), coordinates the action of the State in favor of the integral development of indigenous communities.³¹ In contrast, the Ministry of the Interior leads the dialogue with local communities in Colombia. In Peru, the National Office for Dialogue and Sustainability is the coordinating entity for the rapprochement between the different stakeholders, and is very focused on extractive industries, although its role has diminished in recent years.³²

Besides the executive branch, the countries analyzed in this diagnosis have other government stakeholders at the national level that engage with businesses, communities and the State in the extractive sector. The Ombudsman's Office (Defensoría del Pueblo) acts as guarantor of Human Rights and in some countries, such as Peru, it is also an important promoter of dialogues at the local level. In Mexico, the state-run company

PEMEX designs the engagement policies for the oil sector. The Constitutional Court of Colombia, in the absence of a law regulating prior consultation, has helped provide substance for this international standard.³³ In short, a series of national government stakeholders participate in the engagement between businesses, the State and civil society. Although this activity may cover potential regulatory gaps, it also increases the risk of a lack of coordination between the different spaces, on the one hand, and between these and other stakeholders such as companies and communities, on the other.³⁴

The diagnosis also found that the engagement between the national government and local governments would benefit from a higher level of coordination and communication, which is necessary to reach agreements on standards and conditions for the implementation of extractive projects.³⁵ While the powers over the extractive sector are centralized and concentrated in the national government, local governments play a crucial role as representatives and counterparts for the local population. They are key stakeholders in achieving agreements that include benefits for all the stakeholders.

The diagnosis shows that the relationship between national and local governments would benefit from a higher level of coordination and communication, which is necessary to reach agreements on standards and conditions for the implementation of extractive projects.

The possibilities for engagement with local governments depend on their perspectives and policies regarding the extractive sector. The diagnosis shows that, for example, Argentina has provincial governments with regulations that are favorable to the development of a responsible extractive sector, while seven other provincial governments within the country have passed laws prohibiting open-pit mining projects or those that use chemical substances such as cyanide in their processes.³⁶ In Colombia, until mid-2017 the Municipal Councils of five Colombian municipalities have approved popular consultations on extractive projects, and the population has voted against these projects in every single consultation.³⁷

Local governments are not only important counterparts in dialogues and collaborative processes, but also play a central role in ensuring that the resources from the extractive sector are effectively invested in works that benefit the communities surrounding the project. Depending on the country, up to 50% of tax revenues are distributed to local



governments, with Chile being the country in which revenues are most centralized and Colombia and Peru being the countries with the highest proportion of decentralized resources.³⁸ An important condition for resources to contribute to local development is the ability of subnational governments to coordinate investments and carry them out efficiently. Resources are an opportunity for development and for transforming local dynamics and economies, as long as the territories possess the capacities necessary to take advantage of this opportunity.³⁹

The diagnosis shows that coordination between different levels of government, extractive industries and civil society increases the opportunities for resources from the extractive sector to contribute to local development.⁴⁰ For example, in Argentina, the three sectors established a local development agency that helped the local economy—which was based on wool production and was going through a severe crisis—recover and generate productive alternatives. The mining company that operated in the area encouraged the creation of this agency, participated actively in it, and financed some of the projects it prioritized. Another example is the Good Neighbor Roundtable (MBV), which brings together all three stakeholders in a Chilean municipality and directs the investment of the extractive sector towards new possibilities for economic development.⁴¹

For local governments, it is very important that the investment of resources is oriented to a territorial development plan and a territorial planning process, thus enabling resources to be allocated to the works most relevant for local stakeholders, while respecting local government plans in regard to its environmental, economic and social potential; and it is even better if these processes are developed in a comprehensive, participatory manner. According to this perspective, the extractive sector should be “a guest in this process,”⁴² which contributes and adds value to the consensual development plan agreed between the different populations and based on the reality of the territory.

At all levels of government, especially in countries with little extractive tradition, there is a demand for more training and education on issues related to the extractive sector. At the level of local governments, it is necessary to hire more specialized technicians in these areas. A greater knowledge of the extractive sector will facilitate a more equitable negotiation between local governments and extractive companies, and will help consolidate and improve their engagement practices, which in turn will result in more benefits for the local population.⁴³





Civil society has diverse positions and roles regarding the extractive sector, which cannot be reduced to a simple “yes or no” to extractive activity.

1.1.3. Civil society

Civil society is made up of a wide range of non-profit organizations and human groups that represent social, cultural and ethnic sectors and interests. Its scope of action can be both rural and urban, as well as local, regional or international. At the national level, there are foundations, professional associations, non-governmental organizations (NGOs), academia, social movements, confederations of indigenous peoples, churches, or foundations of the extractive companies that finance development projects, and trade unions. At the local level, there are communities, community organizations, associations, indigenous groups and afro-descendant groups. Civil society organizations (CSOs) can be formal (legally registered in their respective countries) or informal (groups not officially registered).

The diversity of civil society is also reflected in the different roles assumed by its organizations in their engagement with the private and public sectors in relation to extractive activities. The diagnoses of all the selected countries show a polarization of society between opponents and supporters of the extractive sector. But they also reveal a diversity of positions and roles of civil society regarding the extractive sector, which cannot be reduced to a simple “yes or no” to extractive activity.

On the one hand, the countries analyzed have CSOs that create and strengthen spaces for engagement between companies, the State and the communities themselves and facilitate communication between the three stakeholders at the national and local levels. On the other hand, there are CSOs that implement a critical perspective, seeking to influence public policies and generate information that may help extractive activities respect both community rights and environmental and social standards. Finally, there are several CSOs that unconditionally oppose extractive activity and promote and accompany actions of resistance by the local population .

The diagnosis revealed that universities in Argentina, Chile and Mexico play an important role, not only in the areas of academic training, research and knowledge transfer around extractive activities, but also in building bridges between stakeholders with conflicting interests. Generally, universities have legitimacy, since they are considered institutions

with a high degree of technical knowledge, and are therefore guided by this knowledge and perceived in a more neutral role. One example is the Negotiation, Mediation and Dialogue Program (Prodiálogo) of the Center for Research and Teaching in Economics (CIDE), one of the most prestigious universities in Mexico that organizes multi-sector forums and workshops to promote dialogue on the extractive sector.⁴⁴



Universities play an important role, not only in the areas of academic training, research and knowledge transfer around extractive activities, but also in building bridges between stakeholders with conflicting interests.

Other key stakeholders are the communities near extractive projects, who are stakeholders with a decision-making role regarding extractive projects. Companies must obtain a social license, which implies a certain degree of consent among the communities in order to develop their project.

This diagnosis includes cases in which the communities near extractive projects consider the projects to be development opportunities and are willing to engage with the company to achieve concrete and tangible results. In these processes, communities have committed to respecting their own visions of development and engaging with companies based on the fulfillment of that vision. They also assume commitments with the national government must establish in order to ensure its institutional presence in the territory and guarantees for the protection of their rights. Access to information, trust, equity in collaborative processes, participation in decision-making and transparency are additional interests that guide the actions of communities in engagement processes.

The diagnosis shows the evolution of engagement with respect to the investment of resources in indigenous territories. Many of the best practices report the strengthening of community assemblies and other traditional decision-making mechanisms through the presence of the company in these spaces in order to share information and seek the consent of indigenous organizations. In Colombia, the intercultural approach towards the Cerrejón company's engagement, with safeguards for the Wayuú people, included respect for their worldview, the use of the Wayuú language and the inclusion of traditional indigenous authorities in the negotiating committee. Thus, the company responded to the indigenous peoples' demand for participation and self-determination, understood as the right to own, control, manage and develop the territory.⁴⁵

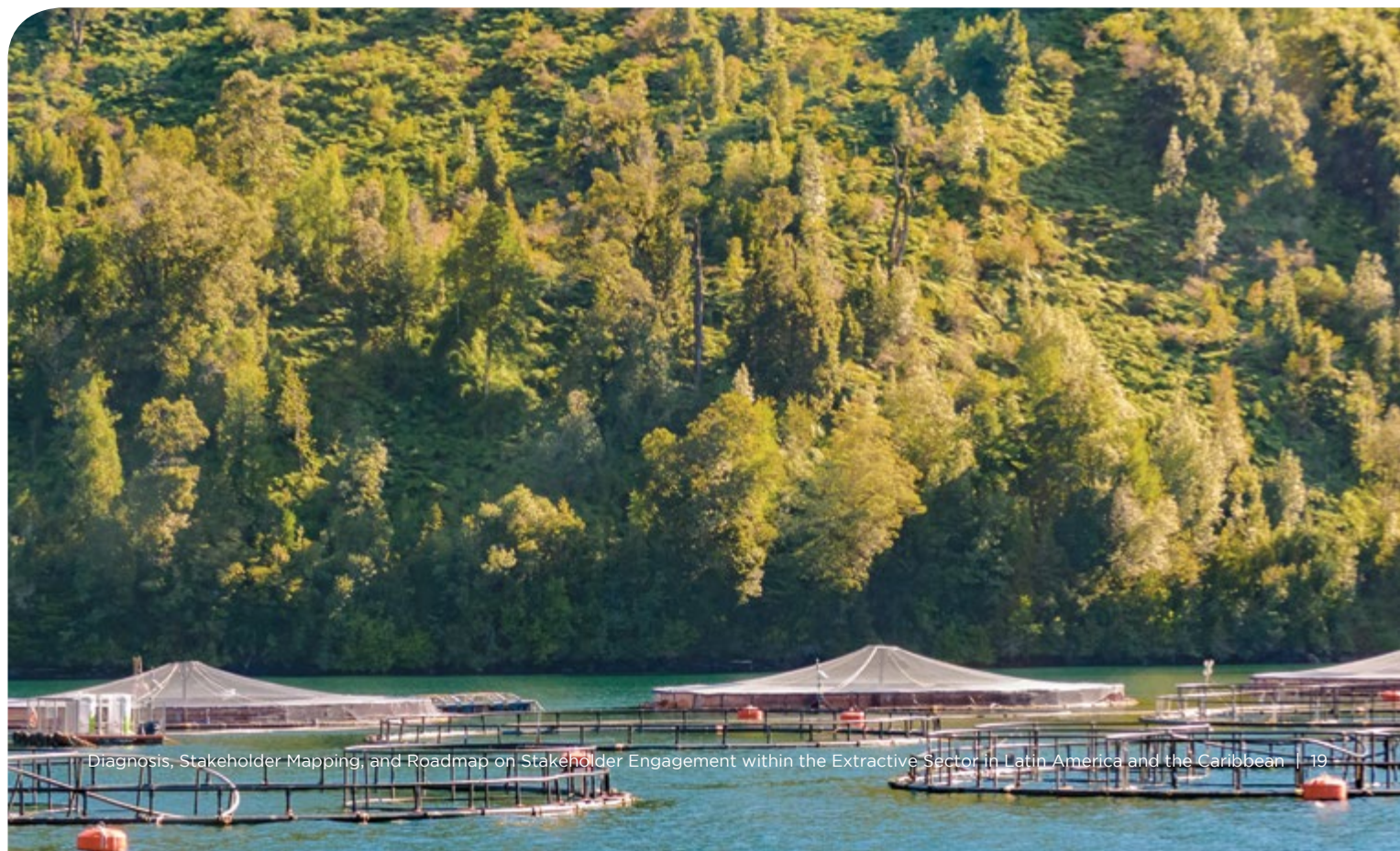
1.2. The costs of conflicts

A poor engagement process in which community complaints and concerns add up and go unresolved for long periods of time causes and intensifies conflicts, which in turn has consequences for the company, the State and the community.

At the community level, conflicts generate very high costs. A study that analyzed the costs for the communities of six large-scale investment projects (two agro-industrial, two energy, and two mining projects) discovered the following types of costs generated by conflicts at the community level:⁴⁶

1. Financing the opposition movement (payments for leaders, media and advertising campaigns against the project, social networks).
2. Financing legal counsel in order to present lawsuits against the project.
3. Financing technical studies to contrast with company reports.
4. Financing transportation for mobilizations, informative meetings and visits to political authorities.
5. Depreciation of housing and economic activities that are near the project and assuming environmental impacts.
6. Tearing of the social fabric, since conflicts cause psychological and emotional effects, mistrust, competition and insults between the inhabitants themselves.

For the State, this same study indicates, above all, the expenses related to the increasingly expensive environmental licensing process and to possible lawsuits and expert studies. In addition, the State faces costs for personnel to deal with conflicts, potential police and military expenses, and must also assume political costs. The country as a whole can lose productivity and income, general competitiveness and foreign investment.⁴⁷





The calculation of the costs of conflicts for companies results from the difference between the cost of preventing and addressing conflicts (related to security, recruitment of specialized personnel, training of personnel, among others) and costs arising from the outcomes of the conflict (project modifications, material damages, loss of productivity, reputation, among others).⁴⁸ In addition, the delay in the start-up of the project represents the highest cost mentioned. Particularly noteworthy are the costs derived from the bad reputation generated by a poor engagement, which hinders the search for new capital and the prospects for starting an operation in a new country.⁴⁹

In a consultation conducted by the Fraser Institute, 36% of the mining companies surveyed stated that public opposition to mining has negatively affected the government authorization process, resulting in delays or rejections of permits. The majority said that the arguments made by the opposition to the extractive sector were environmental or pertaining to the rights of indigenous peoples.⁵⁰ Another study indicates that of a total of 200 infrastructure projects that faced some type of conflict, 36 were suspended due to conflicts, 162 faced delays and 116 had cost overruns.⁵¹



According to a study by the international network BDO International, the biggest concern for international mining executives are the existing and potential delays of mining projects. In a survey, high-level financial executives from the United States, South Africa, the United Kingdom, Australia and Canada expressed their concerns about access to capital and loans during 2013, mainly due to the interruptions observed in various mining projects. The main concerns of these executives were related to environmental and regulatory issues, high infrastructure costs and geopolitical conflicts that led to project disruptions.⁵²

In 2008, an analysis of 190 projects by largest companies in the oil sector showed that the time period until the start of operations had almost doubled over the previous decade. The reason was the increase in costs. A more detailed analysis showed that non-technical risks made up 50% of the total risks and that, within this 50%, the most significant risk was engagement with other stakeholders.⁵³ Another study of 19 gold mining companies found that two-thirds of their market valuation was the result of their engagement practices with key stakeholders and only one-third was based on the value of gold in the territory.⁵⁴

The above imply a risk perspective, where the costs of conflicts also indicate the need for timely planning of the engagement between the company, the State and civil society. This engagement must address and balance the diverse needs and interests of all stakeholders and thus allow for a better investment climate and the achievement of common benefits for all parties involved.

2. BEST ENGAGEMENT PRACTICES BETWEEN COMPANIES, GOVERNMENTS AND CIVIL SOCIETY



The following section presents detailed findings on the best engagement practices identified and validated in Argentina, Chile, Colombia, Mexico, Peru and the Dominican Republic. The analysis of each country begins with a summary of the context, best practices, stakeholder mapping and legal framework. Subsequently, best practices, the parties involved and the legal framework in which said best practices are implemented are described in further detail. The main conclusions and recommendations are presented at the end of the document.





2.1. ARGENTINA

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2.1.1. Summary

Context



Economic: in 2016, the extractive sector contributed 3.8% to the GDP.⁵⁵ The most important metallic minerals were gold and copper. The gold and copper complex as a whole contributed 4.6% of the country's total exports, while the oil and gas complex participated with 3.3%.⁵⁶ Most of the tax collection was made through national taxes (profits, bank credits and debits, added value). Through the federal co-participation system, in 2017, the Nation retained 37.89% of the total national co-participation taxes, 3.75% of the City of Buenos Aires, and 1% of the National Treasury Fund Contributions to the Provinces, and provincial states received approximately 57.36%.⁵⁷ In terms of employment, in 2016 there were 80,867 jobs in the extractive industry.⁵⁸ That represents 0.5% of the Economically Active Population of Argentina in 2016.⁵⁹

Social: Argentina is known for having a civil society that is organized, increasingly informed and environmentally aware. The "Self-Convened Neighbors Saying No to the Mine"⁶⁰ movement opposes mining activity and has a territorial presence and an influence on public opinion. The Argentine Platform for Dialogue on the Sustainable Use of Natural Resources, which includes different sectors, is a point of reference for discussions on extractive activities.⁶¹ The Environmental Justice Atlas shows 26 conflicts in Argentina, 23 of which correspond to the mining sector.⁶²

Best practices



Ties to the community, identified in social basins, through the association of companies (1994-2017, Information/Dialogue/Collaboration). Mining companies located in the same impact area coordinate ways to inform the communities and reach agreements on viewpoints and work areas on social issues, with the multi-sector roundtable as the space where the interests of civil society and the local government converge. The provincial government plays a role of coordination and oversight.

Signing of easement agreements in the mining sector (2012-2017, Dialogue/Collaboration/Partnership). In community assemblies, the company presented detailed information and reached agreements that have authorized the exploitation of the deposit and established "easement" payments, as well as training, basic infrastructure, health and education projects, among others. The company has developed protocols for communication and exchanges that have facilitated a permanent, direct and fluid dialogue.

Creation of Development Agency (2006-2017, Collaboration). The agency brings together representatives from the public, private and academic sectors whose first step was to prepare the Participatory Sustainable Development Plan, which receives financial contributions from the mining company.

Stakeholder map



Open program for strengthening Small and Medium Enterprises in a town (2005-2017, Partnership). Together with public stakeholders, civil society and representatives of the academy, it coordinates a program for strengthening small and medium enterprises, whether they are company suppliers or not, so that they may professionalize their management, certify their processes and develop their products and services through training, access to loans and technological-industrial, commercial and financial consultancy.

The private sector includes companies, mainly of foreign capital, associated through chambers of commerce and companies providing services and products. One exception is YPF (Yacimientos Petrolíferos Fiscales), the Argentine energy company, which has public capital (complemented by private capital) and a long history as the “Argentine flagship.”

In the public sector, the Ministry of Energy and Mining is the national entity responsible for designing the country’s mining and energy policy, while the Ministry of the Environment and Sustainable Development is responsible for protecting the environment. At the provincial level, but also of national impact, these areas are represented by the Federal Mining Council (COFEMIN), the Federal Energy Council (CFE) and the Federal Environmental Council (COFEMA).

Within the framework of extractive industries, there is an organized sector of civil society composed of CSOs with different positions on extractive activity, as well as technical and academic organizations with a very significant role and presence in all provinces with extractive activity. Many provincial states have indigenous communities with varying levels of organization and recognition, although these have not yet formed an association to represents them nationally.

Legal and regulatory framework



In terms of community engagement regulations, Convention 169 of the International Labour Organization (ILO) on the rights of indigenous peoples was approved and ratified in 2000. The General Environmental Law (25,675) enacted in 2002 determines the responsibility for sharing information, establishes an integrated national environmental information system (articles 16-18) and establishes the right to consultation (Article 19-21). The Law on Access to Public Information (27,275) is a key tool for promoting citizen participation in transparency and oversight of the public administration. It was enacted in 2016 and has been in effect since September 2017. The Argentine Chamber of Mining Entrepreneurs (CAEM) has announced the inclusion of the “Towards Sustainable Mining” (TSM) initiative.



2.1.2. Introduction

The federal character of Argentina established in the 1994 Constitution determines that “the provinces have the original control of the natural resources present in their territories.” In this context, the relationship between the provincial states and the national state is decisive for the existence of a national policy for the mining and hydrocarbon industries. At present, the Nation-Province relationship, as well as the levels of engagement between society, the State and the company in each of the provinces, is very unequal from an institutional and even from a regulatory perspective. This disparity is illustrated in the fact that there are provinces with laws that authorize open-pit mining, while it is banned in other provinces.

Similarly, at the provincial and municipal government levels, the public sector has issues that are also present in various degrees, depending on the jurisdiction, in the areas of institutional capacity, short-, medium- and long-term planning, transparency in information on the management of public resources, availability of economic and human resources, installed capacities of the personnel, credibility in its comptrollership role, and participation in the company/society/State triangle.⁶³

In Argentina, socioenvironmental conflicts have arisen since the beginning of the 2000s, mainly related to prospecting and metal mining activities, especially due to water use and its possible contamination. As a result of these conflicts, seven provinces (Chubut, Tucumán, Mendoza, La Pampa, Córdoba, San Luis, Tierra del Fuego)⁶⁴ have enacted laws that prohibit open-pit metal mining projects and/or those that use chemical substances such as cyanide in their processes. There are at least two exploration mining projects that have been unable to advance towards implementation due to the opposition of local organizations to open-pit mining with the use of hazardous substances: Famatina in the La Rioja Province and Esquel in the Chubut Province, a conflict that ended in the passing of a provincial law that prohibits this type of mining.⁶⁵ In the fields of oil and gas,

in recent years movements have appeared in opposition to the use of fracking in mining operations. This is mainly observed in the Vaca Muerta field, in the Neuquén Province.⁶⁶

The field investigation for the diagnosis found that the civil society was divided into two positions regarding extractive industries. One segment of society, consisting mostly of environmental organizations and inhabitants of nearby towns that believe extractive projects do not improve their living conditions and that suffer the consequences of high levels of immigration, with the subsequent collapse of infrastructure, the appearance of new social problems, and the fear of negative environmental impacts that may be caused by the activity; and another segment, which highlights the extractive industry as a generator or engine of growth with a strong multiplier effect on the economy in areas with little or no possibilities of developing productive alternatives.

2.1.3. Best practices

Argentina has produced different experiences of engagement between the government, the productive sector of extractive industries and the communities. These are mostly developed on the local level, that is, in towns that are being impacted by mining or hydrocarbon enterprises. However, there are some examples where they were implemented nationally, such as the case of YPF with its energy education program at the information level.

The stakeholders include the companies, the government through its various provincial or municipal institutions and agencies, and civil society, which includes urban and rural populations, as well as minorities (native peoples such as the Kollas, the Huarpes, the Mapuches) or vulnerable groups (such as at-risk youth).

The actions include every engagement level considered in this study (information, dialogue, collaboration and partnership) except for public consultation. There have been no cases of public consultations either within or outside the framework of the ILO regulations on metal mining projects as part of the process of communication between the private sector and the community. Other types of consultation have been carried out, such as public hearings. At the information level, companies are usually the main promoters of actions and activities, while, in cases of dialogue and collaboration, the private sector works together with the rest of the stakeholders, and in the case of partnerships it becomes the source of funding for projects executed mainly by civil society organizations.

In Argentina, the following best practices have been identified and validated⁶⁷:

2.1.3.1. Social Basins as an area of intervention

2.1.3.2. Signing of easement agreements

2.1.3.3. Creation of Development Agency

2.1.3.4. SME Program

2.1.3.1. Social Basins as an area of intervention

ENGAGEMENT LEVEL



Information



Dialogue



Collaboration



DURATION

1994 – 2017⁶⁸



MAIN STAKEHOLDERS

Mansfield Argentina, Salta Chamber of Mining, Secretariat of Mines of the Salta Province, Municipality of Tolar Grande, Kolla community.



DESCRIPTION

Gold discovery: in 2000, Mansfield Argentina discovered gold in the Lindero project, near Tolar Grande. The project is currently in the construction phase.

Partnerships with local mining structures: the Mansfield company joined the dynamic of the Salta Chamber of Mining, which, in turn, developed a process of coordination between members under the “Social Basins” identity, incorporating towns that were impacted by several mining companies simultaneously (still in different stages of the process).

The Chamber of Mining brings together different companies to coordinate community engagement work. These companies meet and reach agreements on next steps and actions, and each decides what it wishes to contribute (generally in relation to the status and size of their project or undertaking).

Mansfield Argentina shares the “Cuenca Social” with Corriente Argentina S.A. (copper, economic study stage), Litio Minera Argentina (lithium, economic study stage), Regulus Resources Inc. (copper, economic study stage) and POSCO (lithium), among others. Mansfield is currently the only company initiating the construction phase for future exploitation.

Coordination: the companies coordinate lectures to provide information. These lectures are always overseen by the provincial government, which writes an agenda that includes community needs, concerns and interests, as well as commitments made by the companies.

Oversight: the Provincial Secretariat of Mining acts as the coordinator and supervising entity of the “Social Basins,” inviting the companies and communities, drafting the minutes, and then distributing it among the parties involved.

Multi-Sector Roundtable: also, as part of this process, a multi-sector roundtable has been established in Tolar Grande (communities, intendancy, police, school, church, among others) that receives and requests information on issues of concern or interest to the community. This roundtable represents the interested party in the community and attends the events.



MAIN IMPACT/OUTCOME

Previously, the presence of several companies in the Salta Province contributed to spreading confusing, contradictory and deficient information to the communities, and to pursuing individual actions. With the introduction of the concept of Social Basins, the communities now have a space to raise their concerns and obtain a unique and consensual response from the business sector regarding a process being monitored by the State. In its first phase, it focuses mainly on sharing information about the projects.⁶⁹



INNOVATION⁷⁰

In a highly competitive sector, companies usually work individually. This best practice changed this way of working. The innovative factor is “teamwork” between the companies and with the communities and the provincial and municipal government, in such a way that the information **mechanisms** (demand and supply) are shared in a fluid and enriching manner by all the sectors involved, avoiding speculation and opportunism.



PARTICIPATION, RELEVANCE, SUSTAINABILITY⁷¹

- Institutional participation: This practice integrates unilateral and bilateral mechanisms to inform and receive information through meetings held by the company with the multi-sector roundtable.
- Methodological relevance: The grouping of companies was highly positive, setting priorities and ensuring continuity of the policies implemented (timely and quality information).
- Institutional sustainability: The engagement process is developed through institutionalized communication channels. The Provincial Secretariat of Mining has personnel dedicated to the issue of community engagement.



APPROACHES⁷²

Diversity Approach: from an intercultural perspective, the company connects with indigenous and peasant communities located near the project.

Conflict Transformation Approach: those who lead this project have a vision of conflict as a natural part of human relationships and as a driver of change.



LESSONS LEARNED

Working agreements between peers are enriched by the experiences and knowledge shared by all. The social license, understood as the community's approval of the activities undertaken by the company, implies constantly working with civil society, since new questions or concerns may arise. Thus, in the Chamber of the Salta Province, each company makes its contribution both in financial resources and in knowledge and expertise, according to their abilities to develop community engagement.



VALIDATION

The practice was validated through a field visit which included interviews held with representatives of the municipal government, the deliberative council (legislative power), the school and the Kolla community. Several interviews were also held with the CEO of the company.



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2.1.3.2. *Signing of easement agreements*

ENGAGEMENT LEVEL



Dialogue



Collaboration



Partnership



DURATION

2012 – 2017



MAIN STAKEHOLDERS

Minera Exar. Indigenous communities of the Atacama group.



DESCRIPTION

Lithium extraction and indigenous peoples: the Cauchari-Olaroz project for the exploitation of lithium is located on indigenous lands belonging to the communities of Puesto Sey, Pastos Chicos, Huancar, Olaroz Chico and Susques, located in the Department of Susques, Jujuy Province.

Land use permit: these particular communities must explicitly grant permission for the development of the activity on their land, since they are the owners. Without it, the courts would have to resolve the conflict.

First rapprochement: in 2008, Minera Exar began its exploratory activities and made contact with the villagers living near the deposit. In this context, it participated in two community assemblies where it explained the project and requested the signing of an agreement to begin exploration.

Presentation of reports: its participation in these assemblies gradually increased as the project moved forward. More than three environmental impact reports, plus a baseline report, were presented before submitting the Exploration Environmental Impact Report.

Signing of agreements: in 2011 and 2012, after exchanging many ideas, positions and interests, the company and the indigenous communities reached agreements that resulted in the signing of contracts that authorized:

The exploitation of the deposit in exchange for “easement” payments.

This included an additional contribution in the form of training, basic infrastructure, health and education projects, support for municipal, sports and religious institutions, in other words, a kind of “development plan” established in agreement with the community based on the needs it expressed.

The communities individually hired a lawyer chosen by them and paid for by Exar. The agreements were certified by a notary public and attached to the legal proceedings in mining, which is unprecedented of because it is not required.



New commitments: these actions were carried out and the agreements were renewed with new commitments. The easement agreements are updated every 5 years. The signing of six agreements responded to the fact that six communities of the Atacama People were involved in the project's impact area. It was a process in which the communities received advice from independent professionals.

Protocols for communication and exchanges: "the communication channels between the company and the community were institutionalized using patterns and processes that generated predictability. The company participates in the community assembly every month and whenever it is convened for a specific topic."⁷³

Institutionalization of engagement: from the beginning, the company has featured a community engagement unit that is in permanent contact with the community and is responsible for developing programs to meet community needs: employment, training and economic aid for festivities, repairs to community buildings and schools, among others.



MAIN IMPACT/OUTCOME

The result is the scope and signing of agreements that, on the one hand, allowed the company to carry out its activities with the approval of the community and, on the other, the community gained benefits for its local development through the implementation of the programs mentioned above in a participatory process.



INNOVATION

The case of Exar was pioneering and became well-known in Argentina because it involved a company that worked with the community from the beginning of the exploration stage, and developed a relationship with indigenous communities that went beyond an exchange of information in search of a commitment to its own development, through agreements established through dialogue and consensus, in some ways voluntarily substituting the consultation that has not yet been approved in Argentina.



PARTICIPATION, RELEVANCE, SUSTAINABILITY

- Institutionalized participation: there are spaces for dialogue between the interested stakeholders in which they present their needs or concerns. These spaces are provided in the monthly community assemblies in which the company is present.⁷⁴
- Methodological relevance: the community actively participates in the design and implementation of the "development plans" that are of interest to it.
- Institutional sustainability: formal agreements are reached as a result of the dialogue processes that are reflected in the framework of easement agreements that are renewed every 5 years.



APPROACHES

Diversity Approach: this practice required the company to include an intercultural approach, since the practice involves populations belonging to indigenous peoples.

Conflict Transformation Approach: the leaders who negotiated the agreements considered the conflict natural and constructive as they sought to find common ground between their positions.



LESSONS LEARNED

This practice has contributed to building certain affirmations:

- Flexibility to receive contributions and shape proposals in the exchange with other stakeholders.
- Selection and training of the company's personnel in order to lead community exchanges.
- Planning of the community engagement policy and a corporate responsibility plan from the beginning of the project.



VALIDATION

The practice was validated through interviews with independent professionals who participated in the negotiation of the agreements, as well as representatives of the indigenous community of the Atacama Group and the company's social responsibility department. The best practice was mentioned in the Multi-Sector Working Group held on June 28, 2017.



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2.1.3.3. Creation of Development Agency

ENGAGEMENT LEVEL



Collaboration



DURATION

2006 – 2017



MAIN STAKEHOLDERS

Cerro Vanguardia S.A., Chamber of Commerce. Representatives of the provincial government of the Santa Cruz Province, the Municipality and the Deliberative Council of Puerto San Julián (with representatives of the parliamentary majority and minority). Rural society of Puerto San Julián and the Universidad de Patagonia Austral.



DESCRIPTION

Gold and silver extraction: 1997 marked the beginning of the construction phase of the Cerro Vanguardia Project (gold and silver) in the Santa Cruz Province. The primary impact area, that is, the territory where the impact will be felt due to its proximity to the project, is Puerto San Julián, located about 150 km from the deposit.

Context: the main productive activity of the town and its surroundings has been sheep farming, but the countryside was suffering a process of desertification, as well as a drop in international wool prices. In addition, the Hudson volcano erupted in 1991, covering the province's central plateau with ashes. In this context, mining activity began to develop and has continued to expand to this day.

Creation of the Development Agency: in 2004, Cerro Vanguardia proposed the creation, management and implementation of a development agency to enhance the sources of socio-economic development for the community of Puerto San Julián. The agency includes representatives of the three sectors (provincial and municipal levels of government, business and civil society), which gives it legitimacy.

Deed of Agreement: in 2004, a deed of agreement was signed for the creation of the development agency, which has a board of directors composed of public sector, private sector and civil society representatives and to which the company contributes technical and professional resources.

First consensus: between 2004 and 2006, there was a consensus-building stage and a period of discussions and agreements for the creation of the agency, in order to establish its mission and vision, as well as its legal constitution and organizational structure.

Development Plan: the agency's immediate and specific goal was to prepare a Participatory Sustainable Development Plan for Puerto San Julián. The sectoral meetings and workshops began in December 2006 and the Plan was presented to the authorities and civil society in June 2008, comprising a wide range of elements and a 2007-2020 projection.

Project execution:

In 2010, a framework agreement was signed between the development agency, the Municipality and Cerro Vanguardia S.A., with the goal of establishing a local support structure to facilitate the execution of the agency's projects through a financial contribution by the company, which is updated annually based on the company's profits.

Validation of the practice:

after several years of operation, the development agency has been able to increase the social capital of the community. When validating the practice with representatives of the public sector (Deliberative Council) and civil society (Universidad de la Patagonia Austral), in addition to those who led

the practice for the company, observations were made to improve some aspects: rates of return on productive loans; efficiency of internal administrative processes; levels of contribution of the projects presented in the Participatory Plan; diversification between productive projects and others related to other facets of the sustainable development of a community.



MAIN IMPACT/OUTCOME

Improvements and equipment for the local airport that will allow it to accommodate commercial flights, the cleaning of the municipal landfill through the program for Integrated Management of Municipal Solid Waste, and contributions to productive projects approved by the agency, among others, were developed during 2017, along with contributions to the cultural heritage of the territory. Before the company arrived, the local economy based on wool production was going through a crisis. With the arrival of mining, the region not only gained new investments, but also created a participatory space where the main stakeholders of civil society, the State and the company are represented in order to seek actions, projects and alternatives for a sustainable development of the town.



INNOVATION

The use of a tool such as the “agency,” a non-profit institution that makes plans and decisions in a coordinated, multi-sector process, with municipal management and company resources, is an innovative mechanism. The agency makes a difference in terms of setting strategic priorities for the town’s development.



PARTICIPATION, RELEVANCE, SUSTAINABILITY

- Inclusive participation: A multi-stakeholder space was created with the participation of representatives from different sectors (public sector, private sector, civil society) to perform a collaborative analysis of the best proposals for development in the town of Puerto San Julián.
- Relevance by demand: With the creation of the agency, the stakeholders have a long-term sustainable development plan for the town.
- Sustainability by consensus: given the participation of representatives from different parts of the community.



APPROACHES

Sustainable development approach: this practice conceives of development as an integral and integrating model capable of coordinating the dimensions of reality (economic, social, cultural, and environmental) in a balanced manner.

Conflict Transformation Approach: the creation of a tool such as the agency implies a vision of conflict as an engine for transformation.

Diversity Approach: this practice involves urban and rural communities.



LESSONS LEARNED

The search for agreements entails efforts to enable dialogue and seek a consensus that is compensated with the legitimacy of its actions. In this type of collaborative organizations, transparency is essential in order to maintain its credibility.



VALIDATION

The practice was validated through interviews with representatives of the public and academic sectors that work at the agency, as well as company representatives. The best practice was mentioned in the Multi-Sector Working Group held on June 28, 2017.



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2.1.3.4. Small and Medium-Sized Enterprise (SME) Program

ENGAGEMENT LEVEL



Partnership



DURATION

2005 – 2017



MAIN STAKEHOLDERS

Pan American Energy (PAE) company, Chamber of Industry, Commerce and Production of Comodoro Rivadavia, Industrial Chamber of Puerto Madryn, Patagonia Region, private sector consultants.

Autarchic Entity of Comodoro Conocimiento (dependent on the Municipality of Comodoro Rivadavia).

Universidad de Patagonia San Juan Bosco in Chubut, Universidad de la Patagonia Austral in Santa Cruz, institutes and associations such as Israeli-Argentine Mutual Associations, Garantizar Mutual Guarantee Society (Sociedad de Garantías Recíprocas Garantizar), National Institute of Industrial Technology, and Argentine Institute of Oil and Gas, Technological Institute of Buenos Aires, Contributing to Local Development Foundation (Fundación Contribuir al Desarrollo Local).



DESCRIPTION

The company: in 1997, Pan American Energy was created as a result of the merger between Bidas and Amoco Corp (now BP). It is one of the main oil and gas producers in Argentina. This company operates in four of the country's main basins: San Jorge Gulf, Northwest, Neuquina and Marina Austral.

Information gathering: in 2005, PAE discovered that the regional socioeconomic context in the San Jorge Gulf region offered possibilities for strengthening the development of local Small and Medium Enterprises (SMEs) that were facing international competitors with highly competitive standards. This is why the SME Program was created to promote regional development by supporting local companies, with the unique aspect that it was open to all enterprises, regardless of whether or not they were suppliers of PAE and whether or not they belonged to the hydrocarbon industry.

Program support: the program helps professionalize the management of SMEs, certify their processes and develop their products and services through training and technological-industrial, commercial and financial consultancy. As part of its Corporate Social Responsibility (CSR) policy, PAE has focused its efforts on helping raise the level of professionalism and competitiveness of companies and entrepreneurs, as well as supporting them in securing loans. It also stimulates new developments by accompanying companies from the project-idea to the business plan.

Spaces: to carry out its activities, the program used the facilities of Comodoro Conocimiento (Comodoro Rivadavia Development Agency) and other spaces offered by institutions that interact with the PAE-SME Program in the region.

Geographic expansion: in 2005, the Program initiated and centered its activities in the towns of the San Jorge Gulf (GSJ) region: south of Chubut (Comodoro Rivadavia, Rada Tilly and Sarmiento) and north of Santa Cruz (Pico Truncado and Caleta Olivia). Towards the end of 2013, the Program also began to develop activities in the provinces of Neuquén and Salta (in the town of Tartagal), accompanying businesses and entrepreneurs from these regions. Thus, the program expanded to all the areas operated by PAE and was replicated according to the reality and needs of local communities.

Beneficiaries: this best practice was designed for the urban and rural populations. It was shaped by the company's needs and the community's potential.

Coordination: communication with the SME sector improved as people began to perceive that the company was relating to the community and that this would continue for a medium- to long-term period. PAE is seen as the coordinator of a partnership between SMEs and the State at all levels and as the entity with the technical knowledge to carry out the activities.



MAIN IMPACT/OUTCOME

Through the program, the company created a space for interaction between companies of all different sizes, professionals and technicians, academia, and the public sector through the development agency

Actions were implemented to contribute to the development of projects and productive alternatives that could help bring economic growth to the community. The following impacts/coverages were observed: a) 33% of the SMEs in the program increased their turnover over the last two years; b) 262 open trainings were offered in administrative, financial and commercial management, communications, leadership and information technology, among others; c) in 2016, 34 “in-company” consultancies were provided; d) 70% of the companies that participated in the activities were PAE suppliers; e) 23 projects related to innovation, improvement and product substitution were submitted in 2016; and f) more than 3,400 SMEs and entrepreneurs participated in the program's activities since its inception.⁷⁵



INNOVATION

The program seeks to help develop the region where the company operates by supporting the growth of SMEs. The innovative aspect is that the company supports both suppliers and non-suppliers of the company, and that these can operate in the hydrocarbon sector or any other type of economic activity. Entrepreneurship is encouraged through contests and prizes for creating new businesses. The company acts as a coordinator between the different stakeholders mentioned above for the implementation of this program, and also finances it.



PARTICIPATION, RELEVANCE, SUSTAINABILITY

- Institutionalized participation: SMEs request participation in “in-company” and open trainings, as well as consultancies offered by PAE.
- Relevance by demand: This practice addresses a specific problem (shortage of competitive suppliers) and solutions are proposed by local stakeholders.
- Sustainability by consensus: For 11 years, the company has financed this program through its partnerships with public and private entities, as well as independent professionals.



APPROACHES

Sustainable development approach: This practice has a sustainable development approach, as it seeks to create and expand a diversified productive network.



LESSONS LEARNED

The role of the three stakeholders is essential to advance towards common goals through the linkages between the State, CSOs (including universities) and the company.

The participation of a community with an entrepreneurial attitude has made possible the good results obtained by this type of program. The role of the company in building bridges with other sectors has also been vital to the program's success.



VALIDATION

The practice was validated in a field visit through interviews with companies and entrepreneurs that participated in the Program, as well as representatives of the institutions it partners with, such as the Comodoro Conocimiento Development Agency and professionals and technicians. Representatives of Pan American Energy were also interviewed.



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2.1.4. Stakeholder analysis

The following are key stakeholders for engagement within Argentina's extractive sector:

Companies

Mining, oil and gas companies seek to reach agreements with governments and communities that may allow them to develop their projects in exchange for their tax revenue and the contributions they make to community development through their Corporate Social Responsibility policies. To do business, they need to obtain social and legal licenses. They establish ties to civil society, academia and government and to their parent companies in order to determine their engagement strategies towards the community. Generally, these companies have human and material resources.

Through their corporate policies, they abide by various international protocols and initiatives in order to improve their practices in different areas (social, environmental, labor). For example, the Argentine Chamber of Mining Entrepreneurs (CAEM) announced the implementation of the "Towards Sustainable Mining" initiative, which seeks to improve the social and environmental practices of the mining industry. This is the second time that the TSM program has been adopted by a mining association outside of Canada, and the first time in Latin America.

The Mining Association of Canada (MAC) shares the program with other countries that are looking for tools to improve the environmental and social performance of their mining industries, including commitments with civil society and improvements in transparency and accountability.⁷⁶

Meanwhile, some companies have suffered a significant loss of prestige and skepticism among the general public, particularly those that have had environmental incidents. On the other hand, the mining issue has become a topic on the agenda of politicians in their campaigns, where they position themselves in favor or against the activity.⁷⁷

In the case of oil, an activity which has a long history in Argentina, and where YPF is the main hydrocarbon company with public capital, the conflict levels are lower. However, fracking extraction has generated an increase in these levels.

Government

The ministries or directorates of Mining and Energy in the provinces are the authorities that apply the Mining Code and the provincial mining and energy laws, as a result of the federalization of natural resources found in the provincial subsoil. Their position is to promote and control the development of extractive activities in their jurisdictions, in compliance with national and provincial laws. Their interest is to ensure that companies fulfill all their requirements (e.g., submitting environmental impact assessments) and to act as a comptroller. Their need is to contribute to provincial productive development and maintain lowest possible levels of social conflict that the extractive activity could generate within the social dynamics.

The National Ministry of Energy and Mining promotes a responsible extractive activity that generates sustainable development in compliance with current national regulations and international protocols. Its interests include the creation of public policies at the national level that are accepted and implemented by the provincial states that own the natural resources. Its needs are to achieve a coherent, uniform mining and energy policy within the framework of federalism that helps attract investments for the development of

the industry. It has a territorial presence through the Federal Mining Council (COFEMIN) and the Federal Energy Council (CFE).

The Ministry of the Environment and Sustainable Development is the institution that safeguards the protection of the environment at the national level. The Ministry's efforts seek to ensure legal compliance and impose demands and sanctions on any groups that may affect the environment. Like the Ministry of Energy and Mining, it has a territorial presence through the Federal Environment Council (COFEMA).

Civil society

Civil society organizations (CSOs) can be classified according to how they deal with the issue of extractive industries

CSOs that create multi-stakeholder spaces

These organizations are characterized by maintaining a position of dialogue regarding extractive activities, as their objective is to create spaces for dialogue and to seek to generate ties between the State, civil society and companies. Their interest is to bring the parties closer together, enriching the debate and seeking out agreements that may work through and transform conflicts into solutions that incorporate the interests of the various stakeholders.

ARGENTINE PLATFORM FOR DIALOGUE

One example of how some non-governmental organizations promote dialogue is the Argentine Platform for Dialogue on the Sustainable Use of Natural Resources. The Platform is a point of reference for advancing discussions on extractive activities, and consists of civil society organizations and universities. The Democratic Change Foundation (Fundación Cambio Democrático) advocated for the creation of the Argentine Platform for Dialogue on Mining, Democracy and Sustainable Development (now the Argentine Platform for Dialogue on the Sustainable Use of Natural Resources). Currently, it includes the Democratic Change Foundation, the Legislative Directory Foundation (*Fundación Directorio Legislativo*), Universidad Nacional de San Martín, Universidad de Buenos Aires, the Latin American School of Social Sciences (FLACSO), and Universidad Católica Argentina. The Platform enjoys legitimacy and has the capacity to build horizontal networks and bridges with the government sector and the private sector. However, it is missing a presence in the federal territory.

These organizations engage with other national and international CSOs, academia, the government, embassies of other countries, international organizations and the private sector.

Its main strengths are knowledge and expertise in mediation and conflict resolution; experience in mapping stakeholders and conflicts; ability to weave horizontal networks with civil society and build bridges with other sectors; capacity to propose solutions to the real needs of the stakeholders. Some of its weaknesses are the lack of a presence in the federal territory and insufficient material resources.

CSOs that are critical towards extractive activities

These are mainly environmentalist NGOs that are generally critical of extractive activities.⁷⁸ Their interest focuses on establishing a strict control of these activities and restricting them to certain areas within the territory, to certain forms of exploitation of the deposits, or to certain forms of processing minerals.

In most cases, their strengths are their human and material resources, their influence on public opinion and their legitimacy. Their main weakness is their weak capacity for building bridges with other sectors.

CSOs that oppose extractive activities

These are NGOs that are clearly opposed to mining activity. Their interest is to stop extractive activities, especially mining, which they believe may cause environmental disasters.⁷⁹ They do not seek to reach agreements or engage in dialogue and they represent more uncompromising, confrontational positions.

They have human and material resources, may influence public opinion, enjoy legitimacy, know how to reach the media, and have a territorial presence. Their lack of capacities for dialogue and consensual solutions is considered a weakness.

The academic sector

In this sector, the work of national universities that have areas of academic training, research and transfer related to extractive activities must be highlighted. Although the universities have different positions regarding these activities, they are interested in disseminating technical and academic knowledge about these industries for a better understanding of society. They need to help understand how extractive activities operate and the essentials of their existence for daily life. Some promote the training of professionals in these areas and contribute to reducing the levels of social conflict so that the industry may thrive and professionals may enjoy job opportunities in Argentina. Universities play an essential role in the Argentine social fabric.

One of the most active academic centers is the Universidad Nacional de San Martín (UNSAM).⁸⁰ UNSAM fostered a partnership with other public universities, joining forces with some private higher learning institutions to form a network of professionals that constitute the “Network of Academics for Sustainable Development,” which offers consultancies and assistance to decision-makers in the area of mining policy. UNSAM also participates in the Platform for Dialogue on the Sustainable Use of Natural Resources.

The strengths of the universities are technical knowledge, legitimacy and territorial presence, since there are universities in all provinces with mining and hydrocarbon interests. They work with the civil society and with companies.⁸¹ One weakness is the lack of consensus among the academic units that make up these institutions.

The trade union sector

Trade unions seek to obtain benefits for their members (improvements in salaries and working conditions). Their need is the development and growth of extractive activity so that mining, oil and gas employees may have jobs. In the case of mining activities, there is a single union at the national level, the Argentine Mine Workers Association, with local representation in the main mining areas. In the hydrocarbon industry, although there is a union at the national level, the federalization of natural resources has led to the development of regional or provincial unions which have become more prominent, such as the Private Oil and Gas Unions of Chubut, Río Negro Neuquén and La Pampa, among others.

Indigenous peoples

In Argentina, many communities and indigenous peoples have requested the restitution of their ancestral lands.⁸² In many cases, their complaints have been recognized by the State. Each indigenous people, meanwhile, is also divided into numerous groups. There are different positions regarding extractive activities between communities and within them. They have different types of relationships with the industry: from obtaining jobs in their projects, to submitting requests for information about the projects and their impact, to requesting their contributions for the development of the impacted locations, to demonstrations that oppose the activity. Each community has its own idiosyncrasy, and hence a greater or lesser involvement for or against the activity.

2.1.5. Legal framework

Extractive activities are regulated through a series of rules. Only national standards are mentioned in this part. The provincial legislation is extensive and varies according to the jurisdiction where the extractive project is located.⁸³ Argentine laws on the engagement levels focus mainly on the levels of information and consultation. There is no legislation that deals with the other engagement levels..



Information

Articles 16, 17 and 18 of the General Environmental Law passed in 2002 provide for an informative space that, among other things, includes the preparation of an Annual Environmental Report. This stopped being published a few years ago, but was resumed in 2016. The 2016 Report mentions some impacts of the extractive sector on water resources and biodiversity and mentions remediation activities at the closure of some mines.⁸⁴

In addition, the General Environmental Law envisages the development of an integrated national environmental information system. This system would allow for the effects of the extractive sector on the main environmental parameters to be monitored. However, an information system that complies with this law has not yet been implemented.

In 2016, the Law on Access to Public Information (Law 27,275) was enacted, and it became effective as of September 29, 2017. Any citizen may request public information in the hands of the Executive, Legislative or Judicial Powers, and the State is also obliged to publish information in a format that is accessible, free, up-to-date and processable. Transparency in information plays a fundamental role in the relationship between the extractive industry and communities, particularly regarding taxes and royalties and the destination of these revenues.



Consultation

In terms of public consultations, the Environmental Law establishes a space for citizen participation in articles 19 and 20 (right to be consulted, institutionalized public hearings or consultations). It also states that citizen participation must be ensured, mainly, in the environmental impact assessment procedures and the plans and programs for environmental organization of the territory.

“The Mining Code does not provide, among other things, for citizen participation in the environmental impact assessment process, which the General Environmental Law does establish. In designing their legislation, the provinces should apply the principle of congruence, but each province regulates things differently.”⁸⁵

Public hearings are mandatory spaces for authorizing any activity that generates significant negative effects on the environment. The opinion of the participants is not binding for the convening authorities, but in the event that these authorities submit an opinion contrary to the conclusions of the public hearing or consultation, they must publicly present their grounds for doing so.

In the case of mining, there is a National Environmental Protection Law for Mining Activities (Law 24,585), which establishes the obligation to submit an environmental impact report to those responsible for carrying out mining operations but does not provide for a public consultation or hearing. However, some projects have carried out public hearing processes (e.g., Minera Triton Argentina).

ILO Convention 169 was ratified by the National Congress through Law 24,071 in 2000 but has not yet been incorporated into the regulations.



2.2. CHILE

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Context



2.2.1. Summary

Economic: in 2017, the mining sector⁸⁶ contributed 9% to the GDP.⁸⁷ In 2015, Chile was the largest copper producer (30.5% of the world total),⁸⁸ and it had the largest copper reserves in the world (29.2%). In 2017, mining exports represented 54% of the country's total exports.⁸⁹

In absolute terms, and including the state-run companies (Codelco and Enami), the mining sector contributed 96 billion dollars to the Treasury during the 2004-2014 period, of which the mining royalty contributed 4.64 billion dollars.⁹⁰

According to the National Institute of Statistics (INE),⁹¹ the mining sector created around 193,000 jobs in 2017, equal to 2.3% of the country's current employment. The participation rate of women in mining was 8% in 2016, which represents 17,482 women workers.⁹²

Social: Over the last decade, demonstrations, protests and lawsuits against mining projects (mainly from civil society) have been increasing.⁹³ There are various reasons, from the weaknesses of the political system, to the lack of a territorial planning policy, to claims affirming people's rights. Considering all these elements, mining and the communities impacted by it have had conflicts. Some of these conflicts have risen to international prominence, increasing their visibility and the number of stakeholders involved, but driven mainly by civil society (Urkidi, 2009).

The mining and energy industries concentrate Chile's emblematic conflicts. The Institute of Human Rights highlights the existence of 102 socio-environmental conflicts from 1990 to 2015 (last count), including both active and terminated conflicts, with 19 cases of active conflicts related to mining activity from 1990 to 2013.⁹⁴

Best practices



Good Neighbor Roundtable of Sierra Gorda (2006-2017, Information). The Good Neighbor Roundtable of Sierra Gorda was established in 2006 and is a forum that has remained active for many years. Its primary function is to keep the entire Sierra Gorda community informed regarding the engagement activities, employment and social development projects of each mining company. The community heads this forum (two neighborhood associations, social organizations and neighbors), which includes the participation of the Municipality of Sierra Gorda and the mining companies Antofagasta Minerals, BHP Billiton, KGHM and National Copper Corporation (Codelco).

Caimanes Dialogue, Consultation and Participation Process (2015-2017, Dialogue/ Consultation). This is a dialogue initiative promoted by the Los Pelambres mining company after 10 years of conflict with the community of Caimanes. The company changed its understanding of the conflict, acknowledging its mistakes and seeking

to find solutions with the community. This led to a rapprochement between the company and the leaders and community of Caimanes, in order to jointly design a dialogue process and find a third party to safeguard the process and monitor compliance with the agreements.

Citizen participation in the development stage of the Environmental Impact Assessment for the Nueva Unión Mining Project (2016-2017, Consultation). The Nueva Unión mining project is a joint venture between the Goldcorp and Teck companies. In August 2016, an early citizen participation process was initiated, with the purpose of informing and including local communities at an early stage in the development of the project's Environmental Impact Assessment (EIA), and finding a consensus on the mechanisms for dialogue that could help discover the topics of interest and concern, while including them in the progress and outcomes. The community participated in this experience by using a series of tools such as "Open Houses" and meetings with local organizations and communities in several cities and towns near the project areas. In addition, a process of early citizen participation was designed with indigenous cultural relevance and in good faith, in coordination with the representative institutions themselves (communities and associations).

Stakeholder map



The main stakeholders related to extractive activity in Chile are: from the private sector, mining, oil and gas companies and their respective associations. From the State, the Ministry of Mining, the Ministry of Energy, the Ministry of the Environment (the entity responsible for the environmental assessment of all extractive projects), and the Ministry of Social Development (the entity that oversees the National Indigenous Development Corporation).

Civil society includes non-governmental organizations, urban and rural communities, indigenous organizations, fishermen's unions and universities and research centers.

Legal and regulatory framework



Indigenous Law No. 19,253 (1993) establishes participatory processes for situations related to indigenous matters (Article 34) and stipulates that indigenous peoples must participate in the body responsible for the executive management of the National Indigenous Development Corporation (CONADI) (Article 42), which is the competent body for promoting and safeguarding the integral development of urban and migrant indigenous populations.

Chile has ratified ILO Convention 169, which entered into force in 2009. Decree 66 of 2013 of the Ministry of Social Development regulates the Indigenous Consultation process. The entity responsible for consultation processes is identified as the government agency that must adopt the measure subject to consultation; this agency is then responsible for coordinating and executing the consultation process.

In 1994, Chile passed an Environmental Law, and the regulations that establish the citizen and community participation forums entered into force in 1997.

2.2.2. Introduction

Mining has historically been an important motor of development for Chile. Today it faces the challenge of keeping mining investment attractive, sustaining continued growth and thus maintaining a leading position in the world production of copper and other minerals. The magnitude and complexity of these challenges makes it necessary to address them in collaboration with all relevant stakeholders for the mining industry, and with broad political and social support.⁹⁵

The growth of mining activity is also associated with social, environmental and economic impacts such as exclusion, inequality in income distribution, territorial segregation or low participation. The symptoms of these impacts are more visible in regions with a greater concentration of mining works, which for years have established their connection with the community from a “transactional” perspective, generating social benefits and works and in many cases understanding environmental mitigation as a social investment strategy.⁹⁶ Companies still lack methodologies for addressing the broader conflict that are adapted to the local reality. The main characteristic of the State is its absence in these processes, and the companies replace the role of the State in local development.

Chile is not a country rich in conventional hydrocarbons. It imports 96% of its crude oil, which is refined internally, and 80% of the natural gas that it consumes. Chile's oil and gas exploration and production activities are concentrated in the Magallanes Basin, both in the continental territory and on the island of Tierra del Fuego and in the waters of the Strait of Magellan.

It is necessary to establish a strong engagement strategy based on a regional and territorial perspective, generating a dialogue among all those stakeholders that are part of this development, which are not only the State and the company, but also communities and organizations, considering the components of the territory.

The mining sector will face significant challenges in the coming years, especially in terms of the creation of value, productivity, participation and the development of an institutional framework that favors change. In this sense, the climate of multi-sector dialogue and contact that has been taking place allows us to imagine a favorable scenario that may encourage other sectors of the Chilean economy to move in the same direction.⁹⁷

Chile faces a major challenge in the coming years, as it is estimated that half of Chile's copper reserves are in the central zone (regions of Coquimbo, Valparaíso, Libertador Bernardo O'Higgins and the Metropolitan Region), and therefore there is an increasing potential for conflicts, since these regions have the greatest population density. The competition between different economic activities



for territory (and for other elements such as water) will be essential for future mining activity, and therefore the relationships between mining companies and communities shall become even more strategically important for the development of any mining project. Good relationships between companies and communities lead to a greater legitimacy of operations and potentially fewer conflicts.

2.2.3. Best practices

A total of three best practices were identified and validated at each engagement level. Meanwhile, other engagement practices have been identified that were not considered in this study because they did not satisfy any of the criteria specified in the methodology, and also because they lacked timely information from stakeholders. However, it can be noted that there have been efforts to move forward in improving the community relations surrounding mining activity in Chile.

Best practices are in the following order:

2.2.3.1. Good Neighbor Roundtable of Sierra Gorda (MBV)

2.2.3.2. Caimanes Dialogue, Consultation and Participation Process.

2.2.3.3. Citizen Participation in the development stage of the Nueva Unión Mining Project EIA

2.2.3.1. Good Neighbor Roundtable of Sierra Gorda (MBV)

ENGAGEMENT LEVEL



DURATION

2006 – 2017

MAIN STAKEHOLDERS

Minera Centinela of the AMSA group, Minera Sierra Gorda, Minera Spence of BHP Billiton. Mayor and municipal officials of the Municipality of Sierra Gorda. Social organizations (Neighborhood Councils No. 1 and No. 2).

DESCRIPTION

Start of mining operations: the Sierra Gorda district, which according to 2013 data has a population of 1,848 inhabitants, had undergone the constant migration of its inhabitants. Mining activity, however, breathed new life into the region in the late 1990s with the arrival of the big mining companies. During the 2000s, the first mining activities began, determining the local economy to this day, especially in terms of job openings for the local population and the activities that indirectly benefit from it, such as commerce and other services offered to mining companies and contractors.⁹⁸ There are currently four mining companies operating in the district: Antofagasta Minerals, BHP, KGHM and Codelco.

Current exploitation: in 2001, with an investment of over 300 million dollars, the El Tesoro mining project was launched. This represented a milestone for this so-called mining district in terms of large-scale mining. BHP Billiton started operations in 2008. Two years later, the Esperanza project was inaugurated, the first large-scale operation worldwide to use 100% desalinated seawater in its processes. A few months later, Codelco (Gabriela Mistral project) began operations. Later, in 2014, KGHM inaugurated the Sierra Gorda project, whose main pit is only 4.5 km outside of the city. The map of operations for the district was completed with the merger of El Tesoro and Esperanza to form Centinela, controlled by the Chilean group Antofagasta Minerals.⁹⁹ In 2016, total production amounted to 623 TMT of copper and 213,000 ounces of gold. Over the last 12 years, the companies as a whole have invested approximately 9 billion dollars in their mining projects. Meanwhile, it is estimated that they could invest another 9 billion dollars in expansion projects over the next 10 years.



Good Neighbor Roundtable: the Good Neighbor Roundtable (MBV) of Sierra Gorda was established in 2006 as a community initiative representing a unique experience in Chile in the area of community engagement, associativity and targeting of social investments. Since its creation, it has been considered a forum for meetings and dialogue between the organizations of Sierra Gorda and the mining companies that operate in the district. Its first goal was to build bridges between the leaders of social organizations and the mining companies in order to develop a community support program in environmental matters that aims to improve the quality of life of its neighbors.

Roundtable as a community instrument: after 11 years of operation, this space has become a community instrument for decision-making, managing expectations and preventing conflicts. In turn, from the companies' perspective, the MBV has helped organize the flow of information to and from the community and develop high-impact collaborative projects for the population of Sierra Gorda. One of the greatest achievements has been to create a structure for channeling a percentage of the contributions of mining companies by developing close to 20 community collaboration projects and initiatives (related to support for the management and supply of materials for infrastructure projects).

New stakeholders join: with each passing year, neighbors who did not feel represented by the social organizations have joined the MBV, along with municipal officials and new mining companies that began operations in the sector. The roundtable is currently a space that represents the social organizations of the Sierra Gorda district, neighbors who are not represented by these organizations, the municipality and the mining companies operating in the area.

Roundtable Functions: the Good Neighbor Roundtable meets once a month. Four mining operations currently participate (Centinela, Spence, Sierra Gorda SCM and



Codelco-Gabriela Mistral Division), along with the inhabitants of the town of Sierra Gorda (without representation and with the right to speak and vote), one coordinator and the municipality. Its main goals include: channeling the concerns of the community and social organizations regarding mining activity, and organizing the mining companies' work with the community to avoid redundant efforts and maximize social investments.¹⁰⁰ In addition, the dialogue serves as a mechanism for building trust and involving community organizations in the process, promoting and designing community projects related to employment issues and local suppliers, training and education, and the environment that respond to the problems of Sierra Gorda and generate development opportunities for the district and its inhabitants.



MAIN IMPACT/OUTCOME

One important result is that the mining companies recognize the community as a relevant and necessary counterpart for correctly managing the social investment budget. This recognition is helpful for obtaining the social license to operate. For the community, the most valuable result is to be able to influence the projects that each mining company finances in order to improve the quality of life of the district's inhabitants. In terms of impact, this practice is currently being considered as a pilot program for territorial dialogue by the Institutional Dialogue Project of the Mining Value Alliance (Alianza Valor Minero).¹⁰¹



INNOVATION

To this day, it is a unique example in the country, in which four companies that operate in the same territory come together to coordinate their contributions to community development and welfare. In other regions, companies insist on acting individually. In addition, the installation of a tripartite working group between the municipality, these four companies and the organized community is an example of best practice, since companies generally do not seek coordination with local authorities.



PARTICIPATION, RELEVANCE, SUSTAINABILITY

- Regular participation: this practice considers the participation of all stakeholders involved through monthly meetings and an annual calendar of meetings.
- Relevance by need: it includes communities, local authorities and companies, in response to its own specific form of organization.
- Institutional sustainability: the agreements reached as an institutionalized mechanism of the MBV entail benefits for all parties.



APPROACHES

Conflict Transformation Approach: the way stakeholders are engaged, the dialogue space, the direct contact with each mining company and the joint process for selecting the works and social projects that will be implemented all contribute to building trust and managing the conflicts.



LESSONS LEARNED

Fluid, permanent and honest communication is an effective conflict resolution mechanism that helps stakeholders find common ground and generate collaborative work spaces that benefit each and every one.

Based on this best practice, Sierra Gorda became a pilot district for the territorial dialogue project promoted by Alianza Valor Minero.



VALIDATION

An interview was conducted with community leaders, and conversations were held with the CSR area of one of the companies. A field visit was conducted to attend a meeting of the Good Neighbor Roundtable. In addition, the best practice was presented and discussed by representatives of the private sector, the public sector and civil society at the working group held in the framework of the preparation of this diagnosis, on August 16, 2017 in Santiago, Chile.





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2.2.3.2. Caimanes Dialogue, Consultation and Participation Process

ENGAGEMENT LEVEL



Consultation



Dialogue



DURATION

2015 – 2017



MAIN STAKEHOLDERS

Los Pelambres mining company. Representatives of the Caimanes, Rincón and Pupío communities (Coquimbo Region), NGO Chile Transparente.



DESCRIPTION

Start of mining operations: since 1999, Los Pelambres, part of the Antofagasta Minerals Group, has been mining copper in the Salamanca district of the Choapa Valley. Antofagasta Minerals (AMSA) is the largest private mining group in Chile. The group operates the mining companies controlled by Antofagasta PLC and carries out exploration and project development activities. The mining operations of Antofagasta Minerals are dedicated to the production of copper concentrates and cathodes and some by-products such as molybdenum and gold.

The conflict: the conflict began when Los Pelambres arrived in the IV Region of Chile and announced its development plan. Three milestones can be observed in the history of this conflict: the installation of the sea terminal (1996), the construction of the El Manque tailings dam (2001), and the actions carried out for the construction of the El Mauro tailings dam (2004). These conflicts between the company and the community went on for 10 years, with several negotiation processes in between.

Rapprochement strategy: AMSA's corporate team began designing a strategy for getting closer to the community. This led to a dialogue with the community following the company's change in how it understood the conflict, realizing that it was of a social nature. It sought a rapprochement with the leaders of Caimanes and all the inhabitants of the valley.

Dialogue process: the dialogue process between the company and the community took place between September 2015 and March 2016 and sought to end the legal and social conflicts that affected them. The initiative included participatory processes and the creation of a binding agreement that was legitimized by the affected community. The process began with the communities of Caimanes, Rincón and Pupío (Municipality of Illapel, Coquimbo Region). This process included 12 participation spaces (meetings, assemblies, forums, etc.) that laid the groundwork to reach an agreement that would benefit the communities and, at the same time, comply with the court ruling against the company (tear down the dam).

Chile Transparente: the process included the participation of the NGO Chile Transparente, which worked to guarantee transparency and probity for both parties to the process.¹⁰²

Agreement proposal: between March and May 2016, the agreement proposal was drafted, validated with the community, ratified by the community and signed by 80% of the inhabitants of Caimanes. It is important to emphasize that, throughout the dialogue process, the community participated actively through commissions.

Content of agreement: the Caimanes agreement is based on three main lines: a) water (the company will take measures to ensure the supply of water, its continuity and quality for human consumption and other purposes); b) security (the company will develop plans and works in response to community needs, fears and concerns regarding the safety of the dam); and c) development fund (the company will create a fund to finance initiatives that contribute to improving the quality of life of each family in the community and create a community fund to finance community projects aimed at improving employability and entrepreneurship in the Pupío Valley).



MAIN IMPACT/OUTCOME

The Caimanes Agreement, which considers the creation of a Community Development Fund designed to develop community infrastructure projects and a Family Development Fund that consists in making a one-time monetary payment to the families that signed the agreement.



INNOVATION

This process was the first of its kind in the country that sought to respond to the problems of the community in such a way that the company's operations could be carried out without significant delays. The organization of assemblies with tools that were relevant for the entire audience was very innovative. Taking the time that was necessary, attracting the interest and participation of a large percentage of the community, obtaining the support of Chile Transparente, and the fact that the agreements reached were legally enforceable are all innovative actions that promote trust and transparency. Everything was recorded on video and in minutes that were publicly available.



PARTICIPATION, RELEVANCE, SUSTAINABILITY

- Institutionalized participation: mechanisms of participation such as meetings, assemblies and open forums were used.
- Institutional sustainability: the agreement was approved by 84% of the community and will be in effect as long as the mining company is operating in the area.



APPROACHES

Conflict Transformation Approach: the company indicates that it began to see the community and citizens' organizations as allies and, therefore, was able to establish a new form of engagement and generate a deeper knowledge of the community in which the mining company was operating. From the perspective of the community, this process signified a new configuration of the power of social organizations. New leaders emerged to represent points of view not considered by the main leaders of the community.



LESSONS LEARNED

Both parties, with the support of a third party (Chile Transparente), managed to sit at the same table and see themselves as allies. Although the so-called Caimanes Agreement was approved by just over 80% of the community, there is a minority (about 12 families) that continues to oppose the mining project. In early 2017, they filed a lawsuit for malfeasance against the lawyers who represented the mining company in the dialogue process.



VALIDATION

Interviews were conducted with company executives, and a roundtable was organized with Chile Transparente. In addition, a field visit was conducted in to visit the built-up dam and listen to the community concerns.



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2.2.3.3. Citizen Participation in the development stage of the Nueva Unión Mining Project EIA

ENGAGEMENT LEVEL



Consultation



DURATION

2016 – 2017



MAIN STAKEHOLDERS

Nueva Unión company (Teck-Goldcorp joint venture). Municipalities of Vallenar, Huasco, Freirina and Alto del Carmen, Atacama Region. Diaguitas indigenous communities, civil society organizations.



DESCRIPTION

Background: the Nueva Unión project is located in the Huasco Valley, Atacama Region. The El Morro project was a copper and gold project that was shut down by a Supreme Court order in October 2014, after a long, complicated lawsuit filed due to problems with its implementation, in accordance with the justice system in the context of an indigenous consultation. For this reason, the company decided to withdraw its environmental impact assessment and start exploring opportunities for a new project.

Characteristics of the mining project: Nueva Unión SpA is a corporation made up of the Teck and Goldcorp companies, which seeks to generate synergies for developing the Relincho and La Fortuna deposits for the production of copper, gold and molybdenum, reducing its environmental footprint by sharing the infrastructure used to operate both deposits. In addition, it will use desalinated water for its processes over a 36-year projected lifespan.

Pre-feasibility study: the main characteristics of this mining project are its participatory approach, its reduced environmental footprint and its sustainable use of water. The project has now concluded its pre-feasibility phase and will begin its feasibility study in July 2018. At the same time, the environmental impact assessment is being developed and will be presented during the feasibility stage (between July 2018 and June 2019).



Early citizen participation: in August 2016, Nueva Unión began a process of early citizen participation, that is, before the Environmental Impact Assessment (EIA) is submitted for environmental evaluation, with the purpose of informing and including early observations by the local communities in the development of the EIA, and thus reaching a consensus through mechanisms for dialogue that may help discover topics of interest and account for the progress and outcomes.

Open Houses: the early participation process has been channeled through open houses and meetings with local organizations and communities in several cities and towns near the project areas, mainly in the Huasco Province. The open house is a community physical space (similar to an information office) where the company presents the project to the community using videos, info panels, models, etc., and responds to community inquiries.

Culturally relevant: the dissemination of project information was designed with the traditional inhabitants who live in the project's impact area, in coordination with the institutions that represent the communities, such as the indigenous communities of the Diaguita ethnic group, which have a territorial role, and Diaguitas indigenous associations, which have a functional role, from the topics they address, to the way they address them and how they respond to real concerns.

National and international standards: this early participation process is based on national and international norms and standards and seeks to contribute to the sustainability of the Nueva Unión project and its commitment to the Atacama Region. According to the policy of the indigenous peoples of Nueva Unión, the relationship between the company and indigenous peoples is based on the United Nations Declaration on the Rights of Indigenous Peoples, ILO Convention 169, and the Indigenous Peoples and Mining Position Statement of the International Council on Mining and Metals (ICMM). All these instruments inform the company's standards in terms of health, safety, environment and communities.





MAIN OUTCOME

The process has not yet finished, and therefore clear results cannot truly be established. The fourth phase of open houses is currently being held (November 2017). The main topics of interest and concern are: the relocation of the tailings dam from the headwaters of the Huasco River (4,000 masl) to the Relincho area (2,000 masl); the inclusion of a mixed conveyor belt (land and air) to minimize the impact in the plains and sensitive areas; the hiring of local workers; the development of the local economy; investment in education and training for communities. The company managed to overcome the distrust towards this type of processes and attracted the participation of a large share of its target groups.



INNOVATION

Early citizen participation is a voluntary process that is suggested by the environmental authority. Nueva Unión began this process in August of 2016 and it continues to this day (2017). It has featured the participation of organizations that have expressed their expectations and concerns regarding mining projects.¹⁰³ The dissemination of project information is done early and with coverage in all places of interest. It can also be noted that the process has had legitimacy and participation, in a territory that has experienced conflicts with two mining, energy and agro-industrial projects.¹⁰⁴



PARTICIPATION, RELEVANCE, SUSTAINABILITY

- Institutionalized participation: Mechanisms for participation include open houses, community meetings, implementation of website for receiving questions, and transparency in the dissemination of information.
- Since it is not yet finished, it is not possible to determine its sustainability.



APPROACHES

Diversity Approach: Nueva Unión's policy on indigenous peoples considers the respect for the rights, cultures, interests and aspirations of indigenous peoples and is committed to building solid, long-lasting relationships that may help them understand their shared perspectives and priorities.¹⁰⁵

Conflict Transformation Approach: This practice is part of the history of two Pascua Lama mining conflicts and the El Morro project, in a context of court proceedings and opposition that makes it necessary to implement new forms of engagement and collaborative work.



LESSONS LEARNED

During the process, "the communities never wanted to participate all together, the Diaguita council, the provincial council and the *Huascoaltinos* all vetoed each other, so this project, in a way, has inherited previous processes." However, the participation of these stakeholders began to develop (interview with the NGO that facilitated the process).



VALIDATION

This experience was mentioned at the working group and then confirmed through interviews with community advisors and Peace House Foundation (Fundación Casa de La Paz).



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2.2.4. Stakeholder Analysis

Engagement in the context of extractive development and sustainability in Chile occurs in a scenario of widespread distrust among all stakeholders, both public and private and civil society. This distrust stems from communities that question everything from the State's decision-making processes and criteria to the legitimacy of the information provided by companies. Thus, the positions that stakeholders assume on the actual impacts generated by projects in different industries also cause increasing levels of uncertainty for those who wish to develop investment projects.¹⁰⁶

Company

Companies seek to develop profitable projects with the least environmental and social impact, obtain environmental and social licenses, contribute to local, regional and national development with tax revenue and community development projects through their Corporate Social Responsibility policies. They have two very important associations. The Mining Council, created in 1998, is an association of 18 large copper, gold, silver, molybdenum and iron production companies operating in Chile, which are either publicly or privately owned and which represent both national and foreign investments. The National Mining Society was created in 1883 and is a trade association that includes 76 medium and large mining companies and suppliers, as well as 38 regional mining associations representing more than 3,000 small mining entrepreneurs.

Mining companies are connected to civil society, academia and government through various governmental and private initiatives such as Alianza Valor Minero.¹⁰⁷ In January 2015, Alianza Valor Minero was created for the purpose of coordinating and encouraging the different stakeholders to carry out the initiatives of the strategic agenda called "Mining: a platform for Chile's future"; and of creating a platform for promoting encounters and dialogues between the different stakeholders. This partnership includes representatives from all sectors, and its main achievements have been: a) the creation of regional dialogues with various stakeholders in order to build a shared consensual vision on mining as a development platform, from a regional perspective, b) the proposed

design of a System and Institutional Framework for Permanent Dialogue on Large Investment Projects, and c) the creation of the Central Zone Dialogue platform, which brings together representatives from various productive sectors, trade associations, NGOs, communities, academics, experts and local authorities.¹⁰⁸

Many corporate policies follow various protocols and international initiatives designed to improve their practices in different areas, such as those of the International Council on Mining and Metals, the Sustainable Development Goals, and the Organization for Economic Cooperation and Development. In Chile, mining is a mandatory part of the political agenda for all candidates during their electoral campaigns. During 2017, a platform for public-private dialogue began to take shape around the development of mining activity in the Central Zone.¹⁰⁹ This territory has 10% of the world's copper resources.

State

The Ministry of Mining is responsible for leading the development of public mining policies that aim to expand the contributions of mining activities to national development, diversifying its operations in order to take advantage of available resources in sustainable ways that are valued by citizens.¹¹⁰ This Ministry supervises two important agencies. One is the Chilean Copper Commission (Cochilco), a highly specialized technical agency created in 1976, which acts as a governmental advisory council in matters related to the production of copper and its by-products, in addition to all metallic and non-metallic mineral substances, except coal and hydrocarbons. The other is the National Geology and Mining Service (Sernageomin), which is the technical body responsible for generating, keeping and disseminating information on basic geology and resources and geological hazards within the country, regulating and monitoring compliance with mining regulations on security, property and closure plans in order to contribute to the development of national mining.

The Ministry of the Environment is responsible for collaborating with the President of the Republic in the design and implementation of policies, plans, programs and regulations on all environmental matters. The Environmental Assessment Service (SEA), which is part of the Ministry, is responsible for overseeing the environmental assessment of projects and ensuring their compliance with current regulations, and thus seeks to encourage and facilitate citizen participation in these assessments.

The Ministry of Social Development is the responsible for the design and implementation of policies, plans and programs in the area of social development, especially those aimed at eradicating poverty and providing social protection to vulnerable individuals or groups, such as indigenous communities, at the national and regional level. The National Indigenous Development Corporation, created in 1993 by Indigenous Law 19,253, is part of this ministry and aims to promote, coordinate and execute governmental actions and development plans for those who belong to any of the indigenous peoples of Chile.

Civil society

In Chile, civil society organizations are relatively recent. More than 88% of civil society organizations were registered after 1990, that is, they have existed for less than 25 years. This phenomenon of young organizations is not only due to the legislative change that facilitated the process for registering CSOs (Law 20,500 of 2011), but also responds to a push by modern civil society to organize.¹¹¹ In terms of their relationships with the extractive industry, civil society organizations can be classified as follows:



CSOs that favor dialogue. These organizations are characterized by institutional goals that include actively seeking agreements, rapprochement and spaces for dialogue between the various stakeholders related to the extractive industry. They seek to bring companies closer to the communities, mainly, and secondly to the State. Most of these organizations are interested in influencing Chilean public policies, reaching agreements between the parties, and resolving controversies for the common good. In Chile, CSOs act in isolation despite several initiatives that have been created to reach agreements. Their main strengths are: knowledge of the territory (field experience); knowledge of the realities of communities and stakeholders; professional teams with experience in scenario diagnosis; ability to weave horizontal networks with civil society and to build bridges with other sectors; legitimacy and recognition by the State and companies. On the other hand, some identifiable weaknesses include: lack of presence in other regions (since most are from Santiago); lack of permanent resources and funding.

CSOs that are critical of the development of large-scale mining projects. Environmental NGOs have generally maintained a critical position towards the development of mining projects.¹¹² They are interested in ensuring strict compliance with environmental regulations. They have sometimes used their influence to counter mining projects through fines, stoppages and unfavorable environmental impact assessments. One of their strengths is that they have professional teams with technical environmental qualifications, as well as a high degree of legitimacy, influence on public opinion and the support of international consultants. One of their main weaknesses is that they do not engage in dialogue with the extractive industry.

CSOs that oppose mining activity. These are CSOs whose discourse and actions oppose the development of mining activities and projects. They do not seek to find common ground or maintain dialogue and represent a more intransigent and confrontational position. Most of these organizations act as “advisers” to the communities. Their strengths are: having human and material resources, being able to influence public opinion and reach the media, and having a territorial presence through grassroots social organizations. One weakness that can be identified is that they do not wish to generate spaces for dialogue and consensual solutions.



In the Academy, a difference can be established between universities at the central level, regional universities and research centers. These three stakeholders have areas of academic training, research and transfer related to mining activities. The universities (Universidad Católica-Center for Public Policies, Universidad Alberto Hurtado, Universidad de Chile, Universidad Adolfo Ibañez, to name a few) have shown a great deal of interest in creating diploma courses on topics of corporate social responsibility, community engagement, socio-environmental conflicts, research on these topics, seminars, and facilitation courses, among others.

Private research centers are independent think-tanks at universities that produce knowledge, create public policy proposals and also act as lobbyists. Some of them have connections to a specific political party. The main ones are: Center for Public Studies (Centro de Estudios

Público), Public Space (Espacio Público), Liberty and Development Institute (Instituto Libertad y Desarrollo), Institute for the Study of Society (Instituto para el Estudio de la Sociedad), Center for Development Studies (Centro de Estudios del Desarrollo), Corporation Foundation of Studies for Latin America (Fundación Corporación de Estudios para Latinoamérica), Fundación Chile 21, to name a few. Most of these centers have expressed their inclination in favor of the development of extractive industries, with the exception of the National Center for Alternative Development Studies (Centro de Estudios Nacionales de Desarrollo Alternativo), which has a more critical position towards the industry.

In Chile, trade union organizations have bilateral relationships with mining companies. There are two groups that include the main unions of mining company workers: the Mining Federation of Chile, which includes 18 unions of large private mining, and the Confederation of Copper Workers, which includes the unions of the state-run company. At some public appearances—seminars, mining events—they have expressed interest in understanding the relationships and economic contributions that companies establish with communities.

In Chile there are 9 recognized ethnic groups (Mapuche, Aymara, Rapa Nui or “Pascuense,” Atacameños, Quechua, Colla, Diaguita, Alacalufe or “Kawashkar”, and Yagán or “Yámana”). Each ethnic group is divided into several organizations called indigenous communities. According to information from the National Indigenous Development Corporation (CONADI), there are 3,213 indigenous communities between these 9 ethnic groups.¹¹³ The State has been returning lands to these groups since 1994, and the communities continue to request the restitution of their ancestors’ lands. In many cases, these claims have been recognized by the State, while in others they are competing with the locations of mining projects. There are many positions on mining activities, depending on location, distribution, impacts, project time frames, and other factors.¹¹⁴ One example, according to Matias Abogabir,¹¹⁵ is the case of the El Morro

project, where the Court of Appeals of Copiapó has rejected three appeals filed by indigenous communities and farmers against the El Morro gold and copper mining project, which is linked to Goldcorp (70%) and New Gold (30%) (2014).

2.2.5. Legal framework

The entry into force of the Law on Transparency and Access to Public Information in 2009 created among different political and social sectors the expectation that it would permit greater citizen control and interest in the actions of the State, and the approval of Law 20,500 on Citizen Association and Participation, together with the Presidential Instruction signed in August 2014—which contains complementary indications for “Citizen Participation in Public Management” —demonstrate the State’s effort to strengthen Citizen Participation.

In spite of the above, the meaning of Citizen Participation in Chile has remained ambiguous and its implementation has been limited, mainly due to the lack of standardized channels for participation, the insufficient information available to citizens on mechanisms of participation, and in some cases the capacity of the public sector to commit to new approaches towards citizen participation.¹¹⁶

In July 2015, through Exempt Resolution No. 601, the Ministry of the Environment approved the General Regulation on Citizen Participation of the Ministry of the Environment, which establishes formal and specific modes within the framework of Law No. 20,500. Article 2 indicates that citizen participation mechanisms are based on 5 foundations: participation as a right; civic responsibility; citizens’ right to public information; strengthening of civil society; and inclusion.

Section III of this same Regulation establishes the Early Citizen Participation Program, which is a series of citizen participation mechanisms or initiatives promoted by the Ministry voluntarily in the earliest stages of the design of plans, policies, programs, regulations or actions that aim to communicate information on the instrument that has begun its development process and to include citizens’ proposals or contributions. In 2013, the Guide to Early Community Participation in Projects was published, which consists of guideline for companies, since it is a voluntary process for informing and connecting with the surrounding communities in a timely manner, in order to learn in advance about the concerns and interests of the communities close to the project. This guide proposes that early participation is an opportunity to connect with citizens in the early stages of a project’s life cycle.

Indigenous consultations

Indigenous Law No. 19,253 does not specifically address consultations, but rather establishes procedures for participation regarding indigenous issues (Article 34); it also establishes that indigenous peoples should participate in the body in charge of the high management of the National Indigenous Development Corporation (CONADI) (Article 42), which is responsible for promoting and ensuring the comprehensive development of urban and migrant indigenous peoples.

Chile ratified ILO Convention 169 on September 15, 2008. Since 2009, ILO Convention No. 169 has been law in the Republic in Chile, and therefore, it establishes the obligation of the State to consult indigenous peoples whenever administrative or legislative measures are being considered that are likely to affect them directly. Thus, as acknowledged in the current provisions of DS No. 66 that regulates indigenous consultations,¹¹⁷ all consultations

carried out within the Environmental Impact Assessment System must seek to produce an agreement between the public agency implementing the measure and the indigenous people that may eventually be affected. Notwithstanding the above, all consultations on administrative measures that qualify a project environmental assessment presented to the SEIA must consider not only the legitimate interests of the indigenous peoples and the State, but also the technical aspects submitted by the company proposing the project. In Chile, companies are involved in the consultation processes carried out by the State, in accordance with the obligations imposed by the regulations on the information that they must provide in their respective studies.¹¹⁸

Decree 66 of 2013 of the Ministry of Social Development, the regulation that governs this Indigenous Consultation process, aims to ensure indigenous peoples' right to consultation. The agency responsible for indigenous consultation processes is the state administration that must adopt the measure for which the consultation is carried out, and it is therefore responsible for coordinating and executing the consultation process.

Environmental regulations

Chile has an Environmental Law, known as Law 19,300 on General Bases of the Environment, which was enacted in 1994. Decree No. 40 of 2012, of the Ministry of the Environment, indicates that citizen participation includes the rights to access and examine the physical or electronic assessment file, to make comments and to receive a legitimate response to these comments. In terms of indigenous communities, the Service will design and develop a consultation process that includes appropriate mechanisms for them to participate in an informed manner and have the opportunity to help shape the environmental assessment process. Similarly, the Service will establish the mechanisms for them to participate during the assessment process in any clarifications, corrections or expansions that the Environmental Impact Assessment could undergo.

In the case of Environmental Impact Assessments, the project developer (mining company) must publish in the Official Journal and in a newspaper of national or regional circulation, an extract of the Environmental Impact Assessment (EIA), so that the entire community may be informed. Once this extract is published in the newspaper, citizens shall have 60 working days to participate and present their observations to the SEA, either in writing or through the service's website. During the period of formal citizen participation, the SEA is the agency responsible for establishing mechanisms to ensure the participation of the entire community located mainly in the area impact of the Environmental Impact Assessment. Meanwhile, the authorities must consider the observations made by the community. The Environmental Qualification Resolution (EQR) will be notified to all those who made observations. There is a space for complaints, where any person who has made an observation and believes they did not receive an appropriate response may file a Claim Appeal within 15 days.



2.3. COLOMBIA

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2.3.1. Summary

Context



Economic: the extractive sector (mining and hydrocarbons) contributed 7.1% to the GDP in 2016, 5% of which corresponds to hydrocarbon activities and 2.1% to mining.¹¹⁹ The figure for 2010 was 7%. In 2016, the extractive sector as a whole represented 49.01% of the country's total exports.¹²⁰ In mining production, coal and ferronickel were the most important products among traditional exports and represented 15.81% of total exports, while oil and its derivatives represented 33.20%. Between direct royalties (territorial entities as beneficiaries) and indirect royalties, the sector contributed 2.3 billion dollars to the national economy in 2015.¹²¹ 80% of this was generated by the hydrocarbon sector and the remaining 20% by mining. The extractive sector created around 178,000 direct jobs in 2016, corresponding to 0.78% of the total employed population nationwide.¹²²

Social: To transform and influence the territories, the government requires engagement with the various stakeholders: citizens (whether organized or not), the private sector, cooperation agencies and other stakeholders that help them advance towards consolidating their policies. These organizations have different interests, visions, resources (technical, information, economic) that tend to become obstacles to inclusion in decision-making scenarios.¹²³ The Environmental Justice Atlas counted 69 conflicts in the extractive sector, with 49 of these in the mining sector.¹²⁴ There is no official record of socio-environmental conflicts. In some cases, illegal armed groups intervene in conflicts.¹²⁵

Best practices



Participation of peasant families in forest compensation program (2010-2014, Collaboration). Various coal mining companies reached an agreement with the environmental authorities to implement a program to promote sustainable productive projects, signing more than 100 agreements with agricultural landowners regarding their types of production, conditions for collaboration, the creation of permanent training programs.

Intercultural dialogue with indigenous people (2006-2013, Dialogue). A dialogue process was developed between the different groups that represent the community, including the traditional authorities and the Cerrejón company, which featured the participation of an advisor on cultural issues and used one of the company's interdisciplinary teams. Fulfillment of the agreements was validated by the regular community assemblies.

Stakeholder map



As for the companies and associations, it is important to highlight the Colombian Petroleum Association (ACP). This association brings together private companies in Colombia that develop oil exploration, exploitation, transportation and distribution activities, the distribution of liquid fuels and lubricants, and natural gas. The Colombian Mining Association (ACM) is a business association that emerged from the merger of Asomineros of the Colombian Industrialists Association (ANDI), the Colombian

Legal and regulatory framework



Chamber of Mining and the Large-Scale Mining Sector, which helps project it as an association that coordinates the entire industry, representing explorers, producers and suppliers of goods and services for the country's mining sector.

At the national institutional level, the Ministry of Mines and Energy is the governing body responsible for generating policies to guarantee the development and efficient use of mining, hydrocarbon and energy resources. The Ministry of the Interior is the entity responsible for the policy of territorial decentralization, human rights and citizen security. Meanwhile, the Ministry of the Environment and Sustainable Development is responsible for defining the National Environmental Policy and the National Authority of Environmental Licenses (ANLA) is the entity responsible for ensuring that all projects, works or activities subject to environmental licensing, permits or processing comply with environmental regulations. At the regional and local level, governors and mayors, among others, are the territorial administrative authorities responsible for orienting investments for territorial development. Meanwhile, the Regional Autonomous Corporations and Sustainable Development Corporations are responsible for managing the environment and renewable natural resources within their jurisdictions.

There are many social organizations—including foundations, non-governmental organizations, associations, academia, among others—that influence the engagement dynamics within the extractive sector. Through different participation channels, they monitor primarily how companies fulfill their obligations in the management of the environmental, social and economic impacts of their operations. These organizations have different levels of influence; some work on a more national scale, others at the local level.

The Colombian regulatory framework is large, since it contains general provisions for participation issues, as well as sectorial legal instruments (laws, decrees and resolutions).

With regard to the laws on citizen participation, it is impossible to deny the recognition and importance this gained with the entry into effect of the 1991 Constitution and its subsequent legislative developments. Law 134 of 1994 established the regulations on citizen participation mechanisms in Colombia. There are also other regulations that allow citizens to participate individually or collectively in the control of public management, such as Law 152 of 1994 (which established the Organic Law of the Development Plan). Law 21 of 1991 approved Convention 169 on Indigenous and Tribal Peoples in Independent Countries, and Decree 2613 of 2013 regulated this right. Law 850 of 2003 regulates citizen oversight.



2.3.2. Introduction

At the beginning of the last decade, the Colombian government decided to promote in-depth exploitation of non-renewable natural resources, in order to take advantage of the rising prices of raw materials in the international market. This decision was based on two situations: on the one hand, the opportunity to use the country's existing geological potential, part of which was already being exploited by large national companies (Ecopetrol) and, on the other hand, the opportunity to appropriate a large share of the income from extractive activities.¹²⁶

In Colombia, mining activity is stigmatized, since there is not a complete understanding of what a mining project means, in terms of the different types of mining present in the country,¹²⁷ which use different technologies, create different obligations and produce different impacts. The diverse types of mining, minerals and production volumes makes it difficult to establish a mining narrative that may truly help explain the sector's dynamics, the State's need to value and concession non-renewable natural resources, and the environmental and social impacts generated by this industry. In this context, and especially during electoral periods, the discourse has become polarized to the point where it is seen as a choice between water and gold.¹²⁸

Civil society organizations have started to use the mechanisms of participation that have existed in the Colombian legal framework for more than 25 years¹²⁹ as a tool for safeguarding and protecting the rights of the communities that exist in territories with mining potential.

The Colombian armed conflict has been a determinant factor in the ways in which the territory is understood. With a weak State in conflict zones, occupations often occurred spontaneously and without planning. The displacement of the population through the armed conflict has put pressure on the agricultural frontier and has been a vector of

expansion for armed groups that built their power on the basis of territorial and social control. This dynamic has operated in a kind of vicious circle: territorial control by armed groups impeded an effective presence of the State and the provision of basic services. This absence was also a fertile ground for the consolidation of the authority of armed groups and prosperous illegal economies.¹³⁰

In November 2016, Colombia signed a peace agreement with the Revolutionary Armed Forces of Colombia (FARC), the largest and oldest guerrilla on the continent. The agreement proposes a profound transformation of the political and social organization, with the ultimate purpose of integrating all the territories under a single national project.¹³¹

The implementation of the peace agreement includes: i) profound rural reforms; ii) the struggle against illegal economies, in particular drug trafficking; and iii) a democratic opening that provides broad political participation to marginalized sectors of peasant, black and indigenous communities, as well as the economic reintegration of ex-combatants.¹³²

2.3.3. Best practices

During the study, a total of two best practices were identified, documented and validated at the Dialogue and Collaboration levels. Similarly, other engagement experiences have been identified which, although documented, were not acknowledged in the engagement levels because they did not meet any of the criteria defined in the methodology. However, these experiences reveal efforts that may perhaps be considered for future systematization and dissemination. These practices can be found in Appendix 3. The validation process was carried out based on the official information provided by the companies. Some details of the negotiation and conciliation process are not available or authorized to be published in this report.

Best practices are identified in the following order:

2.3.3.1. Participation of farming families in forest compensation program

2.3.3.2. Intercultural dialogue with indigenous people



2.3.3.1. Participation of farming families in forest compensation program

ENGAGEMENT LEVEL



Collaboration



DURATION

2010 – 2014



MAIN STAKEHOLDERS

Carbones de la Jagua, Consorcio Minero Unido, Carbones El Tesoro, Norcarbón S.A., Drummond Ltd., Colombia Natural Resources.

Ministry of the Environment, Housing and Territorial Development; Municipality of La Jagua de Ibirico; Regional Autonomous Corporation of Cesar-Corpocesar; Fundación Pro-Sierra Nevada; peasant families living in the Los Mutilones National Forest Reserve.



DESCRIPTION

Mining: the Department of Cesar (La Jagua de Ibirico, El Paso, Chiriguaná, and Becerril) is one of the country's main coal mining areas. The mines are exploited by the aforementioned companies. In 2016, more than 48 million tons of coal were extracted throughout the department, equivalent to 44% of the country's total production¹³³

Motilones Forest Reserve: this zone contains the Motilones Forest Reserve, which extends along the Serranía del Perijá. The Ministry of the Environment authorized the annexation of areas from the Forest Reserve, so that the aforementioned companies may continue the coal mining activities conceded to them in those areas. Once the annexation was authorized, the companies were obliged to fulfill the corresponding forest compensation obligations established for each of them.

Joint Compensation Plan: in 2007, the companies established a Letter of Intent to develop a Joint Compensation Plan, which, besides fulfilling the compensation obligations, decreased the productive area of the properties that benefited from the program and increased their conservation areas by implementing a plan that established a conservation corridor and productive projects that generated additional income for families. This plan was accepted by the Ministry of the Environment and the Regional Corporation-Corpocesar.¹³⁴ The proposed Unified Compensation Plan responded to each of the compensation obligations established for each company and is financed entirely by them.

Conservation and production: the plan featured two main components: on the one hand, a conservation strategy for the areas, and on the other, productive projects for the improvement and diversification of the income of the inhabitants of the companies' impact areas.

Socialization: the plan's development began with a public presentation and a pre-diagnosis of the estates interested in participating. Three meetings were scheduled with communities in the Sororia River Basin and three in the Tucuy River Basin, which were attended by representatives of the Ministry of the Environment, Corpocesar and the Mayor of La Jagua de Ibirico.

Monitoring and implementation: in order to implement their plan, the companies had the support of the Fundación Pro-Sierra Nevada de Santa Marta, which acted as a local partner and facilitated the interaction with the communities. It also led the workshops and meetings organized to reach agreements surrounding the productive projects.

Participatory project selection: field surveys were prepared and several discussions were organized to jointly select the productive projects, based on the technical expertise of the Regional Corporation and the knowledge of the region's inhabitants and thermal floors. These meetings were attended by company representatives, property owners and Corpocesar Corporation technicians.

Conservation Agreement: each of the participating families signed a conservation agreement that included the payment of a financial incentive for the conservation of the areas, in the form of a semi-annual payment for four years and the creation of a package of productive projects (sowing of permanent and transitory crops such as tomato, cocoa, coffee, and other subsistence crops), determined according to the area and location of the properties.

Working groups: through working groups and community meetings, the interests of the rural communities were recorded and prioritized, and among these the need for specialized technical assistance for the crops was identified.

Education and training: within the framework of the program, spaces for ongoing education and training were created, with schools serving as training centers. Trainings were offered, with technical personnel provided by the companies, for the participants of the Unified Plan to create technical brigades, fire brigades and environmental protectors as guardians of the territory. These activities were part of the agreements established with the families belonging to the plan and with whom the letters of intent were signed. Although they were not compulsory activities, all the families participating in the Unified Plan attended the trainings.



MAIN IMPACT/OUTCOME

To date, more than 4.3 million dollars have been invested by the companies and a corridor of about 7,000 hectares has been maintained, producing environmental benefits for the region.

During the process, agreements were signed with 195 estates, where a variety of productive projects (363.5 hectares) were implemented, such as planting cocoa, avocado, *lulo* (*naranjilla*) and tree tomato, among others. These projects have generated additional income for the families participating in the program and have managed to diversify the region's productive activity. This has reduced the dependence on jobs in the mining industry among the region's inhabitants, as well as the pressure on the forest corridors established for conservation.



INNOVATION

In the Colombian extractive sector, it is not common for companies operating in the same region to formulate joint programs in response to environmental and social obligations. Normally, each company presents a program separately, and they are all executed in scattered areas. In this case, four mining companies in the Department of Cesar signed letters of intent with joint and several liability, coordinating their obligations to execute a joint project that has helped protect the region, restored degraded areas, established and maintained productive systems (crops) for peasant families, recognized environmental incentives for the rural population and strengthened community organizations.



PARTICIPATION, RELEVANCE, SUSTAINABILITY

- Inclusive participation: the topics were proposed and prioritized by the region's inhabitants in working groups with regional authorities and company representatives.
- Relevance by need: through letters of intent signed between large mining companies and authorities, a Unified Plan was achieved that recognizes the needs of the region and its inhabitants.
- Sustainability by consensus: the companies' commitments, the monitoring of national and regional authorities and the appropriation of the community produced a recognized institutional program that is being replicated in the impact areas of other extractive projects..



APPROACHES

Sustainable Development Approach: The practice seeks to achieve sustainable development, understanding this as an integral and integrating model capable of balancing the economic, social, environmental and cultural dimensions.¹³⁵ This practice proposes other forms of integration between companies and peasant communities, seeking not only environmental benefits, but also long-term social and economic benefits.



LESSONS LEARNED

Greater benefits are achieved for communities when letters of intent are created between the extractive companies in the same region, the national and regional authorities, and the communities directly affected.

The creation and implementation of these programs is more effective when there is a local partner that is validated and recognized by the communities. In the case of the Unified Plan, this was the Fundación Pro-Sierra Nevada.

It is important to continuously accompany the communities in order to generate further appropriation of the issues and programs established. The companies are designing a follow-up and sustainability phase for the actions taken that includes monitoring and follow-up within the established conservation corridor and support for the productive systems through a product marketing chain.



VALIDATION

The practice was validated with the sustainability directors of the companies, the inhabitants of the region, and members of the Fundación Pro-Sierra Nevada who supported the implementation process of the agreements. It was also validated during the working group held in Colombia on July 11, 2017.



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2.3.3.2. Intercultural dialogue with indigenous people

ENGAGEMENT LEVEL



Dialogue



DURATION

2006 – 2013



MAIN STAKEHOLDERS

Cerrejón company. Indigenous (Wayuú) Provincial Reservation (Municipality of Barrancas), José Alvear Restrepo Lawyers Collective.



DESCRIPTION

Cerrejón Mine: Cerrejón is a mining and integrated transportation complex in La Guajira, a department in the far northern region of Colombia. The mine, located in the middle of Guajira, is connected by a 150 km railway with the shipping port of Cerrejón.

Provincial Reservation: among the communities in the impact area of the mine is the Provincial Reservation, which is located within the jurisdiction of the Municipality of Barrancas. It consists of 447 hectares, 553 inhabitants and 142 families. The Association of Traditional Authorities of Provincial is composed of the traditional authorities (*apushii*). The territorial jurisdiction includes 6 sectors or communities: Provincial, Cerrito I and Cerrito II, Cardonalito, Tinajita and Atapchon. Provincial is part of the Association of Wayuú Authorities and Indigenous Councils of Southern La Guajira (AACIWASUG), which are affiliated to the National Indigenous Organization of Colombia (ONIC).

Initial situation: the conflicts between the community and the company revolved around the environmental impacts perceived by members of the reservation (air: gases and odors, particle emissions; water: dumping of sterile materials and coal into the Ranchería River, main water source of the community; noise and vibrations from blasting) and the difficulties in accessing and purchasing land, which has limited their agricultural activities. The participation of community members in the informative events organized by the company was low, given their negative perception of the company, since they did not feel they were being heard and did not see an opportunity for dialogue.

Division of the reservation: there was an internal power struggle that had divided the reservation's leaders, which slowed the flow of information within the territory. This situation, along with the Governing Council's recommendation that the community not participate in the informative spaces provided by the company, generated disinterest and disinformation in the community.

First rapprochement: in 2005, the company facilitated some meetings which sought to inform the community about the impacts of its activities. However, these meetings did not clearly recognize the needs and interests of the communities.

Preliminary ruling process: given the divisions within the reservation, the reservation authorities authorized the José Alvear Retrepo Lawyers Collective to accompany them in the dialogue process with the company. The collective recommended initiating a preliminary ruling process to pressure for dialogue spaces and encourage agreements on relevant environmental, social and productive issues.

José Alvear Retrepo Lawyers Collective: this is a non-governmental, non-profit organization for the defense of human rights in Colombia. It acquired its legal status in 1980, becoming one of the first human rights defense organizations Colombia whose membership were lawyers.

Reconstruction of relationships: In light of the preliminary ruling process, the company promoted a space with the community and company representatives that was sustained over a 6-month period and convened approximately every 15 days.

Negotiating commission: the community selected its negotiating commission, consisting of the Governing Council, two traditional authorities, a professor, a health promoter and a community leader. Occasionally other community members were authorized to participate in these spaces.

Wayuú Analyst: the company participated in the negotiations with an interdisciplinary group and established the need to have an analyst of the Wayuú ethnic group who would be responsible for engaging this interest group while considering at all times their traditions, customs and language during the talks.

Importance of community assemblies: the spaces generated by the company helped strengthen the Reservation Assemblies as an existing space which was recognized and helped validate the agreements with the company, even despite its internal divisions. During the assemblies, consensual decisions were made and the community in general and particularly its authorities were informed about the progress of the agreements.

Working and coordination group: the company and the reservation council formed a working and coordination group where decisions were made primarily on the following topics: land, environment, education and work on productive projects.

Agreements: the members of the reservation and the company established common objectives that were mutually reconciled and strengthened their capacity to reach agreements that could generate mutual benefits for the community and the company.

Binding agreement: community and company created a mutually binding agreement in which they recognized the issues of interest to the community relating to land, creation of productive capacities, strengthening of the agricultural vocation, incentives for responsible agricultural and livestock practices, promotion of food security and promotion of the community's internal harmony.



MAIN IMPACT/OUTCOME

With the support of a Wayuú analyst, the company promoted dialogue spaces in order to recognize the issues that affected and interested the community, and managed to overcome a preliminary ruling process and strengthen the community's decision-making spaces, such as the reservation assemblies. Working and coordination groups were established that reached agreements which were consulted, validated and approved autonomously with the consent of the community.



INNOVATION

To rebuild the engagement process and establish a relationship of trust, the company decided to include an analyst from the Wayuú ethnic group in its negotiating committee, who was charged with engaging with this interest group and ensuring at all times the consideration of its traditions, customs and language during the engagement process. Having such an analyst, an unusual practice in community engagement processes, guaranteed a different approach and the inclusion of the Wayuú worldview, thus facilitating the creation of an agreement that reflects their needs, interests and vision as a community.



PARTICIPATION, RELEVANCE, SUSTAINABILITY

- Inclusive participation: This best practice recognizes the culture, language and idiosyncrasy of the communities. Both formal and informal community leaders participated in the negotiating commission, including the Governing Council.
- Methodological relevance: The community selected its negotiating commission, which consulted autonomously with the community on the agreements of each meeting. Nothing was approved without the consent of the community.
- Institutional sustainability: Long-term agreements were achieved, institutionalizing processes and generating mutually binding agreements on key issues for the stakeholders.



APPROACHES

Diversity Approach: The engagement between the Cerrejón company and the Provincial Reservation recognized cultural differences, which was evident in the respect for the ethnic identity of the community.



LESSONS LEARNED

It is necessary to identify the key stakeholders in order to improve engagement. Mutual recognition helps strengthen credibility. In the specific case of Provincial, it was important for the community to select a negotiating commission that they felt represented them and that facilitated agreements in the context of an existing power struggle within the reservation.

It is considered essential to visit stakeholders personally in order to maintain a transparent dialogue where the important thing is to listen to the topics of interest to the community.

Even after starting out with a preliminary ruling process, this process was capitalized and transformed into an open dialogue that strengthened the agreements with the communities.

Beyond just listening to isolated requests from the reservation or fulfilling legal obligations, a mutually binding agreement was created that included the issues most relevant to the community.

It would have been important to include partnerships with private entities and the State in this process, who could have acted as guarantors of the agreements and processes. Also, it would have been useful to establish mechanisms for monitoring and evaluating the progress of programs and projects, as well as spaces for accountability of representatives towards their community.



VALIDATION

The practice was validated directly with the company (Division of Standards and Corporate Responsibility Strategy). In addition, interviews were conducted and documents were gathered from civil society organizations that participated as observers of the dialogue process, such as the Center for Popular Research and Education (CINEP), Crudo Transparente and Fundación Ideas para la Paz, and these were validated by the working group developed in the framework of this study.



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2.3.4. Stakeholder analysis

Extractive industries are economic activities that generate dynamics of change in their territories. In particular, they are characterized by their social and environmental impact, transforming territorial dynamics especially in economic, political and demographic matters. Since certain segments of the population also receive benefits due to investment and possible productive linkages, the result is that the arrival of extractive



industries to a territory can divide the population according to their interests and possible opportunities.

At the institutional level, there are problems of inter-sector integration and coordination of different entities, especially at the central and territorial levels. This reflects a low institutional presence at the regional level, along with an insufficient technical capacity for addressing engagement problems in the regions, which ends up being assumed by the projects at a high cost.¹³⁶

Extractive industries in Colombia have a history of bad practices when they work individually in different territories, mainly because they shield themselves from the possible consequences of their actions, which is interpreted locally as a lack of transparency. Furthermore, in a context where a weak State has often coexisted at the subnational level with the presence of various illegal armed groups, there has been an absence of clear guidelines and rules in this sector, with low levels of governance.¹³⁷ This situation has generated a climate of distrust at the local level between public institutions, local communities and extractive companies that has resulted in social, environmental and economic conflicts between the parties, where there have evidently been no winners.

Company

As for the companies and associations, it is important to highlight that the Colombian Petroleum Association (ACP) brings together private companies in Colombia that develop the following activities: exploration, exploitation, transportation and distribution of oil, distribution of liquid fuels and lubricants, and natural gas. The Colombian Mining Association (ACM) was created by the merger of Asomineros of ANDI, the Colombian Chamber of Mining and the Large-Scale Mining Sector, which projects it as a business association capable of coordinating the entire industry and representing explorers, producers and providers of goods and services related to the mining sector within the country.

Government

At the national institutional level, the Ministry of Mines and Energy is the governing body in charge of establishing policies that guarantee the development and efficient use of mining, hydrocarbon and energy resources. To address territorial engagement, the Ministry of Mines and Energy has created the project called “Strengthening institutional management in the territory and contributing to the governance of the national mining-energy sector,”¹³⁸ which aims to improve engagement in the territory and reduce the socio-environmental conflicts generated by the sector.





The Ministry of the Interior supervises the territorial decentralization, human rights and citizen security policies, and is a relevant stakeholder and a leader in the fulfillment of agreements and dialogue with local communities.¹³⁹

The Ministry of the Environment and Sustainable Development is responsible for defining the national environmental policy and the National Authority of Environmental Licenses (ANLA)¹⁴⁰ is responsible for ensuring that all projects, works or activities subject to environmental licensing, permits or processing comply with environmental regulations. At the regional and local levels, the governors and mayors are the territorial administrative authorities, among others, responsible for guiding investments for territorial development and guaranteeing the population's access to networks of public goods and services that adequately satisfy their basic needs.

At the local level, the Autonomous Regional and Sustainable Development Corporations are responsible for managing the environment and renewable natural resources within their areas of jurisdiction. The Regional Autonomous Corporations (CARs) have become the main environmental authority at the regional level. They are public entities consisting of territorial organizations that, due to their characteristics, geographically constitute a single ecosystem or form a geopolitical, biogeographic or hydrogeographic unit. They are also responsible for managing the environment and renewable natural resources within their areas of jurisdiction and promoting their sustainable development, and are thus key players in engaging with the communities and their surroundings. As far as the resources and conditions that each entity possesses to face various challenges and perform its functions as the authority in environmental matters, the greatest strengths of these corporations are managing human talents, executing investments and providing organizational support, while their main weaknesses are territorial planning, environmental authority, and physical, technological and financial capacities¹⁴¹

Civil society

Colombian civil society is made up of a variety of formal and non-formal associations capable of building bridges between stakeholders with conflicting interests and providing information on the extractive industry. The Transparency for Colombia Corporation is currently the technical secretary of the Civil Society Roundtable for Extractive Industries and has a great capacity for fostering processes of dialogue and creating networks among the diverse stakeholders. Crudo Transparente is another organization that works with extractive industries—specifically hydrocarbons—in order to promote best practices and generate spaces for agreements between companies and local communities. These dialogue initiatives are also supported by foreign organizations working in Colombia, such as the Ford Foundation, Fundación AVINA or the Regional Center for Responsible Enterprises and Entrepreneurship.

Other organizations prefer to seek to promote informed discussions and public policy advocacy. The National Forum for Colombia publishes newsletters and articles on extractive industries and civil society in order to help strengthen democracy in Colombia and promote coexistence among Colombian men and women. Corporación Ocasá promotes access to public information on the extractive industry, working mainly with and for young people. Meanwhile, Censat Agua Viva is an organization that is more opposed to extractive activities and seeks to work with communities in order to resist, mobilize and transform. The mission of the National Indigenous Organization of Colombia (ONIC) and the Process of Black Communities (PCN) is to defend their territories, which often leads to situations of conflict with extractive sector companies.

2.3.5. Legal framework

The Colombian regulatory framework is extensive and prolific, since it contains general provisions, for example, on issues of citizen participation, as well as legal instruments (laws, decrees and resolutions) that must be taken into account when defining forms of engagement with the extractive sector. In legal instruments, the only formal opportunity to engage with the State, business and civil society sectors is through prior consultations (Law 21 of 1991), which only applies in the case of indigenous and black communities with a presence in the project's impact areas, thus leaving out a large number of communities that do not have this level of recognition and status.



Information

The Law on Transparency and Access to Information was enacted in 2014. This law sought to ensure that the State must provide Colombians with any public information they request, so that both public and private entities, in addition to responding to explicit requests for information from citizens, are also obliged to disclose it “proactively, responding to requirements in a routine, practical, updated, accessible and comprehensible manner.”

This law constitutes a new tool for citizens to gain access to public information in an effective and transparent manner. It means that not only public entities, but any person, movement, group, party or company with public functions must provide access to such information, which must be delivered in equal conditions in a dynamic way and through various physical or digital formats, so that it may be easily accessible to the petitioners.



Consultation

For the mining sector, the main legal guideline is the Mining Code established in 2001, which aims “to promote the technical exploration and exploitation of public and private mining resources; to encourage these activities in order to satisfy both internal and external demand, and so that they are used in harmony with the principles and rules of a rational exploitation of non-renewable natural resources and the environment, within a comprehensive concept of sustainable development and national economic and social development.” The procedural aspects of this provision include a participation space called Third-Party Hearings and Participation (Article 259), which refers to the stage prior to the signing of the mining concession contract, in which interested third parties external to the project, such as communities or social groups, may participate through representatives as intervening third parties.

Meanwhile, the Mining Code establishes the mining zones that belong to indigenous and black communities, acknowledging the mining potential that exists in areas owned by these communities, as well as their priority rights in any interest for exploration or exploitation of these minerals. In addition, they have the option of associating with any individual or legal entity that has a mining interest; the rule does not make any distinctions in this sense.

On the subject of prior consultation, an institutional coordination protocol¹⁴² was established with the goal of facilitating: i) the internal coordination of the public entities involved, ii) the integration of skills, iii) the effective distribution of resources, iv) the circulation of relevant information; v) safeguarding the transparency of all processes; vi) providing follow-up on compliance with the duties of the employees of the responsible entities.

In the hydrocarbon sector, the Petroleum Code is the standard par excellence that governs the sector; despite dating back to 1953, the vast majority of its provisions are currently in effect. In the event that prior consultation is required, it must follow the same rules as the mining sector, which were set forth above in this same section.

Popular Consultation

The communities of Colombia are calling for, attending and using popular consultations as mechanisms of direct participation and as tools for defending their economic, social and cultural rights, as stipulated in Law 134 of 1994. The Colombian State does not yet recognize the will expressed by the communities and the results of popular consultations when they oppose the development of projects in their territories; although these consultations are carried out democratically and follow the laws and regulations of the Colombian Constitution. While the Constitutional Court reviews the decision of the Council of State to decide what will actually happen following the mechanism of participation, what is really important is to understand why these popular consultation initiatives are becoming increasingly common and what their real effect on the country's economy, employment and investments may be.

One of the main problems is the growing concentration of decision-making power regarding extractive industries and large projects in the central government, with no participation by territorial or citizens' groups. This is compounded by the fact the different municipalities in the country are promoting different development models, taking into account aspects such as new agricultural projects in their communities. Communities are seeing that extractive activities are not translating into better conditions, in terms of basic needs, nor with development opportunities, and they are therefore demanding other types of initiatives in their territories.¹⁴³



2.4. Mexico

Hydrocarbons

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2.4.1. Summary

Context



Economic: the hydrocarbon sector contributed 10.2% to Mexico's GDP in 2016, up from 6.9% in 2010.¹⁴⁴ The states that benefit the most from oil revenues are Campeche, Tabasco, Veracruz, Tamaulipas and Chiapas. According to statistics from PEMEX, an autonomous state-run company, hydrocarbons accounted for 4.6% of all exports in 2016.

In terms of employment, 397,240 people were dedicated specifically to the extractive industry and energy in 2017, over 86.9% of which were men and 13.1% were women.¹⁴⁵ This represents at least 1% of the total economically active population.

Social: Mexico is characterized by a nascent civil society, with around 35,000 civil society organizations dedicated to addressing different problems.¹⁴⁶ With the intensification of foreign and national investment in extractive projects, some organizations develop collaborative processes, while others have formed resistance movements. Many of these social movements have requested legal protection¹⁴⁷ and some have managed to stop the construction of projects. The Environmental Justice Atlas has only identified 8 conflicts in the hydrocarbon sector.¹⁴⁸ Other figures estimate a total of 80 social conflicts in the energy field.¹⁴⁹

Best practices



Community and Environmental Support Program (PACMA) (2016-2017, Dialogue/ Partnership). PACMA is a program of PEMEX (Petróleos Mexicanos) that promotes social investment through the creation of strategic partnerships with state and municipal governments, which convene the key stakeholders in coordination with PACMA; as well as through private initiatives and civil society organizations. The organization Transparencia Mexicana has collaborated with PACMA in designing the operating rules, which have streamlined and institutionalized the process. Investments are approved in a participatory process where the social stakeholders choose the project they want financed by the company, which provides funding and training for the project.

Coahuila Energy Cluster (2016-2017, Dialogue). The GS Oil & Gas company has hired the Coahuila Energy Cluster, a multi-sector stakeholder in northern Mexico, to facilitate community engagement. The dialogues maintained have contributed to a management plan that includes the needs of the community. The dialogue covers the planning of projects and a community council has been established to ensure follow-up. This has managed to establish relationships of trust.

Stakeholder map



The state-run company PEMEX is in the process of opening up to transparent engagement with the communities. With the energy reform in 2014, new national and transnational private companies have entered the oil sector, such as Shell, BP and others. Some government agencies, such as the National Hydrocarbons Commission, have transparency policies and practices and have won awards for their innovation. The Ministry of Energy provides essential regulations for the sector and is responsible for reviewing the social impact assessments and indigenous consultations that pertain to hydrocarbon projects, as well as all the bodies included in the Energy Reform, such as the National Center for Energy Control, which specifically regulates the Mexican energy sector.

Mexico has a number of civil society organizations (CSOs) with the capacity to build bridges between stakeholders with conflicting interests in the hydrocarbon industry. Some important academic stakeholders are, for example, the Latin American School of Social Sciences (FLACSO) with its tripartite training programs, and the Negotiation, Mediation and Dialogue program (Prodiálogo) of the Center for Research and Teaching in Economics (CIDE), which organizes multi-sector debates on the subject. Some CSOs such as the Civic Collaboration Center promote collaborative processes, and others, such as the Mexican Center for Environmental Law (CEMDA), litigate in defense of communities that request their support, and do so without closing the doors to dialogue.

Legal and regulatory framework



In 2011, Mexico approved a constitutional reform that incorporates international treaties on Human Rights into the Political Constitution of the United Mexican States. In 1990, Mexico ratified Convention 169 of the International Labour Organization. The Hydrocarbons Law (December 2014) provides for a social impact assessment with respect to areas subject to allocations or contracts (Chapter V, Article 119), which must include mitigation measures and the mandatory implementation of an indigenous consultation (Article 120).

Meanwhile, Article 2 of the Mexican Constitution establishes that the rights of self-determination and autonomy of indigenous peoples must be respected to determine their forms of government, culture and organization, as well as preserve their lands, among other issues related to respect for indigenous peoples. In terms of access to public information, Mexico has the Law on Transparency and Access to Public Information, which after the 2017 reform guarantees access to information on the public funds received by legal entities, trade unions, autonomous institutions and the legislative branch, as well as public administration entities.



2.4.2. Introduction

The engagement diagnosis must consider two key references: the history of PEMEX (Petróleos Mexicanos) and its forms of engagement with social and political stakeholders; and the recent energy reform that came into effect at the end of 2014 and that has allowed the private sector to participate in the sector. PEMEX's historical engagement policy has created a context that presently affects the possibilities for engagement between the private sector, local governments and communities.

For this report, it is essential to know the history of what is now the Social Responsibility Area of PEMEX. The Mexican energy reform is very recent and the history of PEMEX—in states where it operated for decades—still determines to a large extent the engagement between companies and communities, and between companies and subnational governments. In the 1970s, PEMEX generated a type of relationship, which over time resulted in some failures with municipal presidents and community leaders, when what is now known as the “Gifts and Donations” program began. In one interview, two academics who are experts on PEMEX¹⁵⁰ explained its engagement with some communities: donations were made to social movements that, while defending their territory, did not allow PEMEX to operate unless it provided compensation for the damage it caused. Meanwhile, gifts were handed out to municipalities for public works. Both started to become mandatory quotas that allowed PEMEX to function without problems, in a context of institutional rules with huge gaps or with zero compliance. Currently, PEMEX's

“Gifts and Donations” program still exists, but it is channeled institutionally, which implies more restrictive operating rules and also changes to the institutional culture of the company, to the communities and to the municipal governments.¹⁵¹

International and national companies that arrive to develop exploration, exploitation or distribution projects find a paternalistic culture in the communities that is very difficult to approach, or face anger and resistance from these communities due to the social and environmental liabilities passed on by PEMEX.¹⁵² It is important to note that PEMEX is undergoing a profound change in its institutional culture. It is no longer a state enterprise, but rather an autonomous state enterprise, and is implementing structural and internal culture changes. Today, as with all private companies, there are certain criteria required to obtain a social license from communities, and social impact assessments and consultations must be implemented for indigenous peoples.¹⁵³

The energy reform and the participation of the private sector have forced PEMEX to implement institutional engagement policies. This has generated unrest in some communities and leaders who have become accustomed to more clientelistic policies.¹⁵⁴ The changes to the Hydrocarbons Law have made it compulsory to carry out social impact assessments and consultation processes for indigenous communities. These two elements can be tools for creating closer ties to social stakeholders. However, in practice, some social movements have rejected them because they are perceived as a mere administrative process and not as instruments that may ensure respect for the rights of the country’s indigenous peoples.¹⁵⁵

In this context, during 2014 the Secretariat of Energy held consultation processes with the Zapotec indigenous community of El Espinal, Oaxaca, with communities of the Rarámuri people of Chihuahua, with the Yaqui tribe of Sonora and with the Zapotec indigenous community of Juchitán de Zaragoza; as well as in the Isthmus of Tehuantepec, in Oaxaca.¹⁵⁶ Not all consultations have resulted in processes of acceptance. For example, a Consent Framework Act was signed with the Yaqui ethnic group after having carried out a prior consultation process on the construction of the Guaymas-El Oro gas pipeline, which crosses a stretch of 100 kilometers through their territory.¹⁵⁷ The process has been complex, as the leaders of the Yaqui community initially approved of the prior, free and informed consultation and also accepted the right-of-way.¹⁵⁸ After the prior, free and informed consultation was held, there were conflicts between the Yaqui tribal authorities themselves, resulting in a controversial process; to date, the project is frozen and the community has been involved in confrontation.

In 2017 in Yucatan, in the context of the construction of the Tizimin Wind Farm, consultations were held in the communities of Santa Clara Dzibalkú, Xkalax Dzibalkú, San Francisco Yohactún and Yohactún de Hidalgo. As of July 2017, there are ongoing indigenous consultations being held in Muna and Sacalum regarding the construction of a solar power plant. This process has been denounced as being neither prior, nor free, nor informed. The construction of the solar power plant has not yet begun, as the consultation process is not finalized.¹⁵⁹

The consultation process in Mexico has been a controversial process and some projects are being closed down, as is the case of the Aguaprieta gas pipeline in Lomas de Bacum, Sonora,¹⁶⁰ because the communities have argued that the consultations do not meet the requirements of being “prior, free and informed” or do not respect the peoples’ decisions, in response to which the Secretariat of Energy has submitted documents that prove that the processes have been conducted in accordance with the law. The right to

prior consultation is of fundamental importance, insofar as it is interconnected with the protection of other collective rights. In this sense, in the Round of Bids for Hydrocarbons 2.2 exploration projects, SENER excluded two blocks because the process had been rejected by Zoque communities.

Mexico has regions in which the relationship with the private hydrocarbon industry and with PEMEX is very different. This depends on their history and culture, but also on the type of engagement between governments and the private sector by the civil society and indigenous communities. On the one hand, there are states such as Veracruz, Tabasco and Campeche where cultural and territorial characteristics have, in some cases, created a specific form of engagement between the communities and PEMEX, that is different from the engagement in northern Mexican states such as Coahuila, Nuevo León or Tamaulipas, and also very different from the engagement with some communities in states such as Oaxaca and Guerrero, where community resistance movements have been observed against the construction of dams, the installation of mines and wind farms.¹⁶¹

It is a tremendous challenge to generate processes capable of strengthening the trust between all parties and complying with regulations in a comprehensive manner, in order to start building a good environment for all stakeholders, regardless of their local cultures and their past relationships with other stakeholders.

2.4.3. Best practices

The opening of the hydrocarbon sector following the energy reform of 2014 authorized the entry of national and transnational private companies. The reform established and facilitated new forms of engagement, for example, with the mandatory nature of prior consultations.¹⁶² Therefore, PEMEX's previous model is currently being reviewed and adjusted, either by the company itself or by companies that operate in areas where PEMEX had previously been present. It is worth mentioning that Mexico's inclusion in the Extractive Industry Transparency Initiative, approved in 2017, has prompted new debates on issues of access to information and the participation of civil society in the sector.

The two best practices identified as of 2017 illustrate this transformation. PEMEX's Community and Environmental Support Program (PACMA) has undergone changes in recent years towards in order to achieve greater transparency, participation, dialogue and sustainability. Meanwhile, the example of GS Oil & Gas demonstrates forms of dialogue in which new intermediary organizations are playing an important role in engagement.

The two best practices that follow are:

2.4.3.1. Support Program for the Community and the Environment (PACMA)

2.4.3.2. Coahuila Energy Cluster



2.4.3.1. Support Program for the Community and the Environment (PACMA)

ENGAGEMENT LEVEL



Partnership



Dialogue



DURATION

2016 – 2017



MAIN STAKEHOLDERS

PEMEX (Petróleos Mexicanos), CGG geo-services company, Nitrógeno Cantarell S.A.¹⁶³

Municipality of Carmen.

CSO Transparencia Mexicana, communities (Nuevo Campechito village and Nuevo Progreso village, both in the Municipality of Carmen, State of Campeche).



DESCRIPTION

National company: PEMEX is the national oil company that, until the energy reform in 2013, was the only company allowed to extract hydrocarbons from the subsoil.

Community and Environmental Support Program: to achieve its social license, PEMEX launched the Community and Environmental Support Program (PACMA), which seeks to promote social development based on shared responsibility between the public and private sectors in communities where PEMEX operates.

PACMA funding: PACMA operates through the contribution (following specific criteria) of around 2% of the value of the contracts signed between PEMEX and its suppliers or subsidiaries.

New operating rules: Transparencia Mexicana has collaborated with the program to create operating rules that contribute with clear goals, targets and indicators that must be met for projects to remain sustainable. Streamlining procedures, as well as having specific and institutionalized formats, was another contribution made by this organization. The operating rules provide for community participation in decisions on the project, its technical inspection and its feasibility.

Coordination with local governments: in order to determine the project to which the PEMEX subsidiary will contribute, PACMA works closely with local governments to get to know the key local stakeholders that it will be working with. Potential impacts and populations that could be affected directly or indirectly are reviewed.

Community dialogue: once the target group has been established, the official registers of fishermen or cooperatives or key sectors of the population are reviewed and the representatives of the groups identified are all invited to come together: PACMA, local government and subsidiary. Meetings are held as necessary to share the required information, listen to the representatives of local stakeholders and civil society organizations that are involved. Depending on the project and the level of knowledge and trust among the stakeholders, this process can last anywhere from three to six months. Once a consensus is reached with stakeholders in all aspects, the project begins. If all parties are not in agreement, the project cannot begin. Depending on the nature of the project, they must decide who will build the project: if it is infrastructure, a company is hired to build it. In the case of the ice factory, it is operated by the fishermen's cooperative itself, with technical support. The same applies to the hydroponic booths, where the women in charge were trained in its operation.

Definitions and agreements: it is said that it is difficult to reach agreements between the different visions within the community about what they need, since in many cases conflicts arise when communities cannot agree on what they need, on the one hand, and what the company believes is needed and can provide, on the other. Also, the decisions made by leaders are often not shared by the entire community. This is why several meetings are held to go over alternative proposals and the feasibility of all possibilities, and this can take a long time before a final decision is made.

Local participation: there is a Technical Committee composed of the PACMA promoter in the region, a representative of the local group that proposes the project, and a representative of the subsidiary company that evaluates each project using a matrix generated with goals, targets and indicators. The promoters work very closely with the inhabitants or project leaders, who are the project operators. This implies that community members or all project beneficiaries constantly express their needs and opinions, which are integrated into the forms and later evaluated by technical personnel according to their technical capacity and feasibility.



MAIN OUTCOME

Two beneficiary communities of PACMA have been visited. The Nuevo Campechito community, which has 1,200 inhabitants, has set up an ice factory for a group of fishermen, which saves them significant expenses. They produce one ton of ice per day, which also allows them to sell ice to other fishing communities. The beneficiary group consists

of 457 individuals. The capital was set by the CGG de México company. In the Nuevo Progreso community, 10 fishing families were benefited. In this community, hydroponic fodder production booths have been installed. At the time of this investigation, they had been working for two months and were beginning to see profits. They produce around 450 kilos of fodder every day, which is sold for approximate 10 cents per kilo. In this case, the women of the families contribute the money. The women receive technical training and the fodder is sold for animal and human consumption.



INNOVATION

The innovative aspect is the program's systematization through institutional operating rules, formats and guidelines, which includes the participation of all local stakeholders and takes into account the demands and needs of the communities or stakeholders directly or indirectly affected. At this moment in Mexico, companies in the hydrocarbon sector either do not have established, systematic procedures to encourage the active participation of local stakeholders or, as in the case of Shell and BP, they have systematized them in a general manner, but have only recently found ways to apply these instruments to local cultures in Mexico. The PACMA is a program that has been proven over many years, and its systematization has involved continuous reviews with communities, companies and other civil society stakeholders.



PARTICIPATION, RELEVANCE, SUSTAINABILITY

- Institutionalized participation: The practice integrates unilateral and bilateral participatory mechanisms for sharing and gathering information through meetings attended by PEMEX and the community. The operating rules of PACMA include community participation mechanisms.
- Relevance by need: PEMEX and the company it finances conducted a market study among the fishermen's groups to analyze their needs, and therefore the project was presented as a response to the needs and demands of the fishing community.
- Sustainability by consensus and institutional sustainability: The three sectors of society (community, business and government) recognize this engagement process and use the institutional communication channels established by PACMA. PEMEX has provided support for technical training and is committed to accompanying the ice-making process. These standards were defined in PACMA's Operating Rules.



APPROACHES

Diversity Approach: The fishing community of Campeche is diverse: though they are all native to the community, they belong to different indigenous groups from the region. In this sense, the Social Responsibility Area of PEMEX makes no differences when supporting the projects that they agree on and propose for financing according to their customs and practices.

Conflict Transformation Approach: The practice also contributes by transforming conflicts through collaboration and consensus among fishermen, as well as other stakeholders, PEMEX and the companies. The fishing community explained in an interview that, in order to select a project, they held several meetings in which some of the fishermen wanted to confront PEMEX and did not accept the project. This required a process of peacefully handling these differences, and ultimately some of the members of the Cooperative quit, but many others decided to stay and continue on with the project.

Gender Approach: The hydroponic booth project took into account the capacity of women in the community in terms of time and transportation



LESSONS LEARNED

The success of projects depends to a large extent on the attitude of the local stakeholders and those who implement them. Attitude refers to an attitude that is not confrontational, but rather favors collaboration, dialogue and listening. PEMEX has historical social liabilities, and still must work hard to generate trust in the population, so in many cases, the leaders of groups or key stakeholders express their distrust or demand handouts without wanting to carry out the institutional processes now required by PACMA.

In this context, a partnership has better substantive and engagement results if it begins with dialogue and collaborative processes prior to creating the conditions for a relationship that seeks sustainable development.



VALIDATION

Interviews were conducted with the Deputy Manager of Planning and Liaison of the Department of Social Responsibility and Development of PEMEX, and with the Operating Coordinator of PACMA, who was responsible for implementing PACMA's operating rules at Transparencia Mexicana. Interviews were conducted with members of the fishing groups and with the families in charge of the fodder booths, as well as with the engineer who provided technical support for the booths. Visits were made to the ice factory and the hydroponic fodder booth projects, among others. This best practice was mentioned at the working group held on July 14, 2017.



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2.4.3.2. Coahuila Energy Cluster

ENGAGEMENT LEVEL



Dialogue

DURATION

2016 – 2017

MAIN STAKEHOLDERS

GS Oil & Gas company; Coahuila Energy Cluster; inhabitants of Ejido Buena Vista in Río Bravo, Tamaulipas.

DESCRIPTION

Start of operations: GS Oil & Gas S.A. de C.V. operates in Río Bravo, State of Tamaulipas. It is a medium-sized company with national capital that submitted a bid for the first time in 2016 and was awarded the operation and maintenance of several PEMEX gas pipelines. They began operating in the region on November 23, 2016.

Form of engagement: for community engagement, GS Oil & Gas hired the Coahuila Energy Cluster. This organization is dedicated to generating dialogue between companies and communities in energy projects in the region. The Cluster's Council includes companies, local governments and academics. They have recently started integrating community representatives on their Council.

Mediation process: the Coahuila Energy Cluster mediates based on participatory project planning processes. They build participation plans in 4 stages:

1. Informative and awareness-raising stage. A workshop for the company employees is designed to raise awareness on issues of social impact, social risk, community engagement and social license to operate.
2. Documentary and field research. The consulting team conducts a documentary study about the communities, providing it with prior knowledge of the site where the study will be conducted and an initial rapprochement with key stakeholders.



3. Community immersion and agreements. A community immersion is carried out, where community participation is the basic foundation. Field visits, specific questionnaires and participatory workshops are developed in the communities; all activities are adapted to the social dynamics of the specific community.
4. Creation of management and social participation plans. The company gives recommendations for communicating and connecting with the community through a Social Management Plan,¹⁶⁴ which also includes measures to deal with social impacts, a social investment plan and a strategy for monitoring the Social Management Plan. In addition, audits are proposed to follow up on the Plan.

Mediation with Ejido Buena Vista: in the case of the GS Oil & Gas company, the Coahuila Energy Cluster promoted community engagement and mediated with Ejido Buena Vista. The mediation has involved providing information to the community on the company's impacts and timeline, as well as its security measures. The Cluster held talks with the community to hear their concerns about the project and they were made aware of legislation they could appeal to if the company fails to comply with any regulations. This has helped overcome a situation of distrust that the inhabitants of the *ejido* had towards the company, due to previous interactions with PEMEX.

Building trust: the company is currently in dialogue with the community to review which types of projects might generate shared benefits. The relationship between the company and the community goes through some of the landowners and *ejido* leaders, taking into account their questions, needs and proposals. It is assumed as a neighborly relationship in which the parties must be mutually respectful. The landowners have changed their initial attitude of annoyance with PEMEX and now trust the GS Oil & Gas company and the Coahuila Energy Cluster.

Management Plan: an *ejido* council has been proposed to participate in the preparation and follow-up of the Management Plan.¹⁶⁵ The *ejido* commissary will be charged with providing follow-up for the community. The Management Plan includes the productive projects that the company will finance for the community: roads and infrastructure projects, scholarships, as well as environmental compensation projects that must be established, with their corresponding timelines and follow-up procedures.



MAIN OUTCOME

The engagement between these three stakeholders is still relatively new, but dialogue and information meetings, scholarships, contributions to the baseball team, work with girls, boys and young people, as well as the construction of the entrance road to the *ejido*, have been part of the effort to build a relationship of trust. These projects and contributions are part of the Social Management Plan (SMP).

The programs and strategies of the SMP reflect the region's sociodemographic, economic and community organization reality, as well as the social commitment that the company will honor for the duration of the project. It should be noted that even though the SMP has yet to be approved by the Secretariat of Energy, there are several actions in the SMP that have already been carried out by the company.



INNOVATION

The Coahuila Energy Cluster recently began incorporating community representatives, companies, civil society organizations and local governments to its Board of Directors in order to resolve the differences between stakeholders, specifically in energy projects in the northern region of Mexico. Having institutionalized the dialogue between different stakeholders is innovative, because up to now there have only been a few spaces that seek to build dialogue at the federal level, along with a few experiences at the local level which have not been institutionalized.



PARTICIPATION, RELEVANCE, SUSTAINABILITY

- Institutionalized participation: the practice integrates mechanisms for sharing and receiving information through meetings between the Coahuila Energy Cluster and the Ejido Buena Vista community. The mechanisms of participation are part of the strategy that the Coahuila Energy Cluster presents to the company for its community engagement.
- Methodological relevance and relevance according to demand: the Coahuila Energy Cluster designs engagement based on the voices of all parties. This organization has standardized ways of establishing relationships with communities and companies in the region. As of this diagnosis, most of the agreements reached for the Management Plan have been proposed by the community.
- Institutional sustainability and sustainability by consensus: a Social Management Plan was created jointly by the company and the community, which is in the process of being approved by SENER and is projected with a five-year commitment to monitoring and evaluation by the community, the company and the Coahuila Energy Cluster.



APPROACHES

Gender Approach: It is important to mention that the leader of the community—the *ejido* commissary, who is a woman—is representing the community with the company, and the latter recognizes the community's female leadership. Scholarships granted to children who live far away from their schools must reserve a percentage of these for girls, in order to promote their education.

Sustainable Development Approach: the employee that represents the company strives for sustainability in the distribution of benefits. One example is that the actions include repairing a main road with materials that do not damage the environment and are extremely durable.



LESSONS LEARNED

The practice takes place in northern Mexico, where the culture is different from that of the South and Southeast of the country. Conflicts in the North have historically been different—people in this region accept economic investment and have an attitude of dialogue. One of the challenges of this practice is for dialogue to generate practices that allow investments to truly benefit the communities and not be lost on actions that are ineffective or merely simulate dialogue and inclusion. Another challenge is to encourage

the practices to be maintained throughout the project's lifespan and to strengthen the gender perspective, since the gender-focused practices currently implemented have not been the result of planning from a gender perspective, but rather have emerged as an observable need.

Legislation and regulations have been crucial for organizing engagement levels and demands.



VALIDATION

Interviews were conducted with the president of the Coahuila Energy Cluster, as well as the director of the organization and the director of the Committee on Social Impact and Land Use of the same organization; with the company's director of safety, health and environmental protection and two community members.



BIBLIOGRAPHY/LINKS

<http://www.clustercoahuila.org>

2.4.4. Stakeholder analysis

For the purposes of this report, the key stakeholders are characterized either by their ability to promote dialogue and communication between different stakeholders, or by their social legitimacy, the seriousness of their work and their ability to generate broad public opinion.

Company

PEMEX has developed a historical culture in the country, leaving social and environmental liabilities in the communities in which it has operated. Within the framework of the energy reform, PEMEX is now obliged to comply with impact assessments and consultations with affected indigenous populations. This is not an overnight process, because it involves changing an institutional culture and the clientelistic practices that it generated in different communities, problems faced by national and international private companies that began working in Mexico after the energy reform of 2014.

The Mexican Association of Hydrocarbon Companies (AMEXHI) brings together large and small companies, both national and international, and is a key player in the dialogue with governments and communities. Within the framework of the AMEXHI, protocols of ethical operations and commitment to human rights have been established. AMEXHI includes, among other companies: Shell, British Petroleum, Chevron, Exxon Mobil, Statoil.

Government

In the public space, the institutions that stand out are the ones with the capacity to regulate and propose public policies in this field. All of them—SENER, the Ministry of the Environment and Natural Resources (SEMARNAT), National Hydrocarbons Commission (CNH), as well as some of those created through the reform—are capable of generating spaces for dialogue between different stakeholders, and in fact they do participate in multi-stakeholder dialogue spaces.¹⁶⁶ In the case of the federal agencies, the Ministry of Energy (SENER) is one of the most relevant institutions, particularly the General



Directorate of Social Impact and Land Use, which, together with the Directorate of Civil Society Outreach of the Subsecretariat of Electricity, carry out indigenous consultation processes on matters of hydrocarbons and electricity at the national level; and the National Hydrocarbons Commission, which strategically safeguards transparent practices in public tenders for hydrocarbon companies. Both the bids and the contracts for exploration and extraction are online, thus ensuring public access to both the allocation criteria and the funds involved.

Civil society

Three research centers have played fundamental roles. The first is the Latin American School of Social Sciences (FLACSO) in Mexico, which, through a master's degree in environment and energy

and a diploma course in social impact assessment and indigenous consultation, promotes dialogue between business executives, community leaders, academics and civil society leaders. Its goal is to produce specialists on social impact and indigenous consultation issues. Its seriousness and rigor have given it credibility among different stakeholders in Mexico.

The Center for Research and Teaching in Economics (CIDE), through the Prodiálogo program, has created spaces for discussion between communities, academics, graduate students and company executives, in such a way that it has become a key player in this matter. It is also the first center in Mexico to offer an advanced workshop in company-community conflict mediation with international experts. The Instituto Tecnológico de Monterrey, through the EGADE Business School, is building spaces for professional studies in the management of energy companies, particularly in technological knowledge and the new energy legislation.

There are important civil society organizations with work at the national level that facilitate the dialogue processes between different stakeholders and seek to strengthen the capacities of community stakeholders, as well as influencing governmental spaces and policies in order to strengthen areas where it is required. The role of the Mexican Center for Environmental Law (CEMDA) is very significant. On the one hand, it provides strategic litigation in defense of environmental rights, but also has the capacity to build spaces for dialogue between communities and companies. In the same sense, the FUNDAR Center for Research and Analysis, which mainly accompanies processes of resistance but which, based on critical research reports, also generates public opinion and influences public policies and programs. In this same area, the Project PODER organization seeks to influence the business agenda, so that companies respect the human rights of the communities in which they develop projects.

In contrast, Transparencia Mexicana and the Mexican Institute for Competitiveness (IMCO) are considered think tanks. Transparencia Mexicana is part of the EITI initiative and is also part of the PEMEX Citizens' Council. It contributes with technical consultancy for state-run companies and public spaces. Based on technical information, IMCO also contributes to the EITI by generating technical proposals. The Community Cohesion

and Social Innovation organization is recognized for its contribution to strengthening the social fabric in communities affected by development projects. Fundamentally, it has contributed to the creation of shared benefits protocols for development projects. The Civic Collaboration Center, in addition to generating spaces for capacity-building, creates spaces for conflict mediation and transformation.

There are two forums for dialogue. One is the United Nations Forum on Human Rights and Business, which is a global platform for examining and exchanging experiences on the implementation of United Nations principles on business and human rights, which includes the participation of civil society organizations, companies and governmental entities from Mexico.

The other is the Business and Human Rights Working Group, established in 2015 by the Ministry of the Interior, the Ministry of Foreign Affairs and the Ministry of Economy, with the main goal of implementing Strategy 4.4 of the National Human Rights Program, which is used by the Mexican Government to promote a human rights and gender perspective in the private sector by implementing a National Program on Business and Human Rights. It was created as a diverse and participatory space, consisting of representatives from the business sector, state-run productive enterprises, academia, government, experts, international organizations, trade unions, the judiciary, the legislative branch, the National Human Rights Commission and civil society organizations. This space is considered a key player, due to its convergence of stakeholders and its influence on companies and governments. The strength of these spaces lies in the capacity to bring together many stakeholders with different interests and positions, aiming to help companies and communities find common ground in their positions, based on a framework of rights.

2.4.5. Legal framework

Mexico signed ILO Convention 169 on August 3, 1990. The right to prior consultation extends in various modes to any legislative or administrative provision that may affect the rights of indigenous or tribal peoples and communities.

At the national level, in 2011 Mexico passed a constitutional reform that incorporates the international treaties on Human Rights into the Political Constitution of the United Mexican States,¹⁶⁷ and includes the engagement levels of information and consultation in the new legislation and its regulations. Articles 1 and 2 recognize that the Mexican State is multicultural and guarantee that all persons will enjoy the human rights recognized in the Constitution and in the international treaties to which the Mexican State is a party, “as well as the guarantees for their protection, whose exercise may not be restricted or suspended, except in the cases and under the conditions foreseen by this Constitution.” The right of indigenous populations to self-determination is also recognized and must be established in the national and local legislation.

Hydrocarbons Law

Article 118 of the Hydrocarbons Law states that the development of the energy sector will be carried out in accordance with principles of sustainability and respect for human rights. To implement this approach, it has three main instruments: a mechanism for the terms and conditions of surface land use; social impact studies and assessments; and prior, free and informed consultations with indigenous peoples and communities.¹⁶⁸

The main goal of the study and social impact assessment (SIA) is to identify and analyze the potential impacts on human rights and social dynamics of the communities located in the impact areas of works and activities related to energy projects, in such a way that appropriate mitigation and social management solutions can be designed. The SIA will authorize energy projects to be developed successfully by ensuring a harmonious and productive relationship between the company, the project and the communities impacted by the project. The legal regulations describe the minimum requirements that an SIA must fulfill, and also indicate that it must publish the corresponding general administrative provisions. The provisions, which will serve as a guide for preparing the SIA, are in the process of receiving comments by the Federal Commission for Regulatory Improvement (COFEMER).

This same law establishes, in Article 119, Chapter 5 (“On the Social Impact”), that, before granting an allocation or publishing a call for bids for an exploration and extraction contract, the Secretariat of Energy will conduct a social impact assessment for the areas subject to allocation or contract, in order to anticipate the presence of vulnerable populations and the need to take measures to safeguard their rights.

In addition, Article 121 states that those interested in developing projects in the hydrocarbon sector must submit a social impact assessment to the Ministry of Energy, which must contain the identification, characterization, prediction and valuation of the social impacts that could rise from the intended activities, as well as the corresponding mitigation measures, in the terms that are specified in the regulations of the corresponding law.

Finally, and with the intention of safeguarding the interests and rights of the communities in which hydrocarbon sector projects are developed, Article 120 establishes that the State must carry out processes of prior, free and informed consultation, in the which state-run productive enterprises and their affiliates and subsidiaries may participate, as well as individuals, in accordance with the applicable regulations.

Electrical Industry Law¹⁶⁹

Article 119 establishes that in order to take into account the interests and rights of the communities and indigenous peoples affected by the development of electrical industry projects, the Secretariat shall carry out the necessary consultation processes and any other activities necessary to safeguard them, in coordination with the Ministry of the Interior and the corresponding entities.

- The Energy Regulatory Commission, state-run productive enterprises and their subsidiaries and affiliates, as well as individuals, may participate in these consultation processes.
- There are several projects for a General Law on Consultations, as well as an “Indigenous Consultation Law for the State and Municipalities of San Luis Potosi” at the state level.



2.5. MEXICO

(Mining)

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2.5.1. Summary

Context



Economic: in 2016, the mining industry (metal and non-metal) contributed 2.78%¹⁷⁰ to the GDP,¹⁷¹ compared to 1.03% of the total GDP contributed by the mining industry in 2010. The Fund for the Sustainable Regional Development of Mining States and Municipalities (known as the Mining Fund) was created with 75.5% of the revenues collected by special and extraordinary rights, which in 2016 received 116.5 million dollars, which were transferred to 199 Municipalities in 25 mining states throughout the country.¹⁷² 62.5% of the total was transferred to municipalities where minerals are extracted, and 37.5% to the corresponding federal entity for developing environmental, social and educational infrastructure works. Finally, in 2016, metal mining generated 354,702 total direct jobs in the metal mining industry, equivalent to 0.67% of the total number of employees in Mexico. Of all employees hired in metal mining, 92% were men and 8% were women.¹⁷³

Social: the current perception of mining in Mexico has a range of opposing positions. On the one hand, there are those who reject it because mining activity has not translated into better living conditions for some affected communities, displacing existing economic activities and generating unemployment when mines close, together with growing concerns regarding the environmental impacts and health costs of this activity. This situation has contributed to the appearance of socio-environmental conflicts.¹⁷⁴ The Environmental Justice Atlas has identified 21 cases of socio-environmental conflicts related to mining activity.¹⁷⁵ A hemerographic review revealed that the conflicts registered in the Environmental Justice Atlas have been underestimated; there is no official source that records these conflicts and their characteristics.

On the other hand, there are also opinions in favor of attracting more investments in mining projects, which are considered an economic development strategy. In this sense, mining is considered a strategic sector according to the National Development Plan 2013-2018, whose strategies (Strategy 4.8.2) include promoting investment and competitiveness in the mining sector, improving its funding, value chain, capabilities of small and medium enterprises, in addition to modernizing institutional regulations.¹⁷⁶

Best practices



Comprehensive Closure Plan (2014-2017, Dialogue/Collaboration/Partnership). In its Minera San Xavier project, the Canadian company New Gold began a comprehensive closure plan in a communicative and participatory manner, starting two years in advance of the closure. It was the first participatory closure plan in Mexico, and is considered an innovative practice that highlights the importance of planning the closure of operations in advance, not only from an economic but also from a social and environmental perspective. The plan was created through dialogue roundtables with the community and employees, which were facilitated by Civic Collaboration Center.¹⁷⁷

Stakeholder map



Participatory Resettlement Plan by Torex Gold, Minera Media Luna (2013-2016, Dialogue/Collaboration/Partnerships). Two years before the start of mining activities, the Canadian company Torex Gold initiated a participatory resettlement process for two communities (La Fundición and Real del Limón, which had 102 homes and 500 inhabitants) in order to authorize the start of the gold mining phase by Minera Media Luna. A social and environmental baseline study, as well as an extensive engagement with families, informed this resettlement plan.

Casa Grande: Grupo México (2008-2017, Partnership). Grupo México is the largest producer of metallic minerals in Mexico and is the fourth largest producer of copper in the world. In its areas of operation, this company implements a community development program called Casa Grande. This program conducts participatory diagnoses of the current situation and aspirations of the community. To this end, a Community Committee was set up, composed of volunteer community members who supervise the selected development projects financed by Casa Grande.

Participatory monitoring of water quality (2016-2017, Information/Dialogue/Collaboration). The communities of Nuevo Balsas, Guerrero, where the main economic activity is fishing, filed a complaint against the Media Luna (Torex Gold) mining company as a result of their concerns regarding possible impacts of their operations on the water quality of the rivers where they carry out this activity. In this scenario, the company initiated a process of participatory monitoring of water quality, in collaboration with researchers from the Universidad Autónoma de Guerrero (UAGRO) and community members.

Extractive Industries Transparency Initiative (EITI) (2013-2017, Information/Dialogue). The EITI is an international standard that promotes transparency in the economic flows derived from the exploitation of minerals, oil and gas of member countries. It is designed and supervised by a coalition of governments, companies, civil society organizations (CSOs), investors and international organizations. Mexico worked for over three years to present its candidacy, which was approved by the International Secretariat in 2017.

The mining industry is made up of companies with capital that is mainly or entirely Mexican, as well as foreign companies with mainly Canadian capital. Companies that have international funding meet the requirements that the institutions financing them demand in order to guarantee a favorable business environment;¹⁷⁸ therefore, their practices tend to go above and beyond what is currently required by Mexican regulations. There are companies that do not receive international funding, but voluntarily carry out actions that lead to better social and environmental engagement practices. However, there are also companies that only satisfy the minimum requirements of Mexican regulations, with more traditional views on the actions of the industry.

Government participation is focused on administrative aspects and the promotion of investment in mining as a strategic activity; it is a regulatory entity between companies and communities. At the federal level, various secretariats play a role in the planning, coordination and administration of public policies centered on mining; in addition to intervening in the administration of the Mining Fund, in strengthening transparency in the mining industry and its economic flows, and in the regulation

Legal and regulatory framework



of working and environmental conditions.¹⁷⁹ State and local governments maintain close relationships with mining companies, since their investments are considered essential to the development of their municipalities and states. Local governments have the greatest interaction with communities, as they are the first entities that receive complaints, learn about conflicts or project development designed to improve the living conditions of the communities.

Universities play an important role in the sector, given their capacity to train human capital and generate knowledge; they have ties to all other sectors, allowing them to influence public opinion and decision-making. Many CSOs are trusted by their communities. Some have the ability to build networks among stakeholders that participate in negotiation or training processes, but few collaborate with companies in the sector to undertake joint plans or projects. One finding of the study is that community organizations participate more actively with mining companies—from positions of both confrontation and collaboration—so that their communities may receive the greatest possible benefits during mining operations and closure.

The legislation that regulates mining in Mexico is derived from Article 27 of the Constitution, which establishes that ownership of all subsoil resources belongs to the Nation, defining a regime of private concessions for the exploitation of minerals. The Mining Law was modified in 1992 during the economic liberalization, favoring an increase in foreign investment by facilitating the processes for granting concessions and starting a business. In terms of access to information, the 2002 enactment of the Federal Law on Transparency, Access to Public and Government Information and Protection of Personal Data was a significant step forward, along with the federal government's commitment to transparency in extractive industries and the presentation of Mexico's candidacy to EITI in 2017. Although Mexico signed ILO Convention 169, until now no such consultation has been held, since for the moment mining operations have not been established near indigenous peoples, according to the National Commission for the Development of Indigenous Peoples (CDI). The CDI, at the request of the Subsecretariat of Mining, is the entity that decides which communities are considered indigenous or comparable, and therefore, whether any decisions affecting their territory must be consulted beforehand.¹⁸⁰

2.5.2 Introduction

Mexico is a country with a mining tradition that has a wide range of mineral resources, and thus is a privileged site for foreign and national investment. It is the leading country in silver production and is among the top ten producers of gold, copper, lead, cadmium and zinc. Its mining production has increased significantly over the last decade, registering 1,190 mining projects: 74% are in the exploration phase, 17% are operational, 5% are suspended and 4% are being developed.¹⁸¹ These projects are a part of 25,510 mining concessions that comprise 12% of the national territory.¹⁸²

Due to the changes to the legal framework during the economic liberalization in the early nineties, more favorable conditions were created for foreign investment, making Mexico a destination of great interest for investment in the mining industry. With respect to the number of companies, prior to the reforms to the Mining Law and the Foreign Investment Law, the country's mining activity was concentrated in three large companies with capital that is mainly or entirely Mexican: Grupo México, Industrias Peñoles and Frisco. Currently, there are a total of 267 companies with foreign capital that operate 927 projects in Mexico.¹⁸³ Foreign investment reached an all-time high of 8,043 million dollars in 2012, with Canadian capitals being the main source of foreign direct investment (FDI), accounting for 65% of total investments received, followed by capital from the United States (17%), China (5%) and Japan (2%).¹⁸⁴

Currently, the scenario of volatility in the value of metals, the lack of sources of funding and the changes in the contributions mining companies are obliged to make have forced the industry to reevaluate its projects in Mexico. This situation adds to the challenge of creating a sustainable business environment, for which it is essential that companies improve their engagement with other key players in the industry, based on criteria of greater transparency and access to information, corporate social responsibility, and a commitment to mitigate social and environmental impacts throughout the duration of the projects. Although the mining industry has a long tradition in Mexico, it is also true that it is necessary to continue working to create conditions that may help this activity become a strategic activity that promotes the economic development of the country and of the communities where this activity is carried out.

2.5.3. Best practices

This section describes the process followed by five of the best practices identified in order to improve the engagement between the mining industry, civil society and communities in Mexico. Fact sheets on some of the other practices identified, but not validated, can be found in Appendix 3.

The research conducted showed that the CSOs that have collaborated with the mining companies in the aforementioned best practices were able to improve the collaboration and the success of these practices, thus ensuring transparency and access to information.



Another key aspect in their success was the inclusion of community members in the project's design and decision-making process, which helped facilitate the creation and appropriation of capacities by the community.

The following section will analyze best practices in the engagement levels of Information, Dialogue, Consultation, Collaboration and Partnership, including:

2.5.3.1. Comprehensive Closure Plan

2.5.3.2. Participatory Resettlement Plan

2.5.3.3. "Casa Grande" Community Development Program

2.5.3.4. Participatory Monitoring of Water Quality

2.5.3.5. Extractive Industries Transparency Initiative

2.5.3.1. Comprehensive Closure Plan

ENGAGEMENT LEVEL



Dialogue



Collaboration



Partnership



DURATION

2014 – 2016



MAIN STAKEHOLDERS

San Xavier (New Gold) company, National College of Technical-Professional Education (Colegio Nacional de Educación Profesional Técnica), Ministry of Labor and Social Security, Work Training Institute (Instituto de Capacitación para el Trabajo). NGO Center for Civic Collaboration and Sustainable Economic Futures, Monterrey Technological Institute (Instituto Tecnológico de Monterrey), Zapatilla and Portezuelo communities (employees, population).



DESCRIPTION

Start of gold mining: in 2007, the Canadian company New Gold began its operations, with gold mining as part of the San Xavier project, in the Municipality of Cerro de Pedro, in San Luis Potosí, Mexico. By mid-2016, it gradually began closing operations.

Preparing for closure of activities: in 2014, the company started communicating and organizing dialogue roundtables to inform employees, contractors and communities about the closure of the mine. It developed participatory plans that considered aspects related to biophysical, economic, labor and cultural remediation.

Stakeholder collaboration: for a participatory process capable of providing feedback for the comprehensive closure plan, New Gold promoted collaboration with a civil society organization. The Civic Collaboration Center (CCC) and New Gold reached agreements on transparency and public access to results. For 10 months, CCC organized workshops and roundtables with communities and employees to develop an initial diagnosis in order to determine the extent to which these communities depended on the economic activity generated by mining. Similarly, CCC created infographics that helped facilitate

the workshops and community development programs. Surveys and workshops were organized for mine employees to identify which capacities they would like to develop for their job reinsertion or to start their own businesses after mine closed.

Entrepreneurship programs and training workshops: based on the results of the participatory process, New Gold developed entrepreneurship programs and training workshops offered by local public and private institutions, which led to new collaborations and partnerships with universities, civil society organizations and government institutions.

Examples of programs: the Colegio Nacional de Educación Profesional Técnica (CONALEP) contributed by training employees in automotive mechanics, plumbing, electricity and computing. The Instituto Tecnológico de Monterrey offered entrepreneurial workshops (“Yo Emprendo”) and “personal savings and finance courses” to lay the foundations for knowledge in the field of business culture. The Canadian organization, Sustainable Economic Futures, supported with the intention of providing better tools and knowledge for communities to develop successful productive projects. New Gold entered into a strategic agreement with the Ministry of Labor and Social Security and the Work Training Institute to prioritize the creation of job opportunities and training for self-employment.

Entrepreneurship program: thanks to these actions, which have improved the self-esteem and confidence of the population of the communities in the impact area of Minera San Xavier, its inhabitants continue to promote an entrepreneurship program for collaborating in the local economy and participating in trade within their community and region.

Environmental closure: another of the closure plans that the company implemented was the participatory environmental closure plan. This plan responded to the communities’ concern regarding historical environmental liabilities.¹⁸⁵ Since 2016, Minera San Xavier has been carrying out various tasks of biophysical closure, starting with the topsoil disposal program¹⁸⁶ for revegetation and reforestation of the lands of the former open-pit mine. This plan also includes the remediation and development of the “Paseo Patio Victoria,” an old mine yard that is being environmentally remedied to form a path that allows tourists to visit the center of the Municipality of Cerro de San Pedro, which will become one of the area’s main attractions.¹⁸⁷

New Gold Legacy: New Gold was able to add the knowledge of civil society and the communities to projects that can now remain in time as a legacy of this company. Among these undertakings are: the creation and commercialization of high-quality gastronomic products, promoting the cultivation of the *nopal* cactus for sale at the local and state level, and fostering the development of tourism in the Municipality of Cerro de San Pedro, seeking to use the nickname “*Pueblo Mágico*” (“Magic Town”).¹⁸⁸ Another important undertaking was the creation of the “Everyone for Cerro de San Pedro” Foundation (Fundación “Todos por Cerro de San Pedro”), which will operate seed funds so that the community may continue to develop economic alternatives after the closure of the mine.



MAIN IMPACT/OUTCOME

The inhabitants of Cerro de San Pedro, Real del Potosí and the communities of La Zapatilla, Calderón, Portezuelo, Joyita de la Cruz, Monte Caldera and Divisadero continue to promote entrepreneurship programs to collaborate in the local economy and participate in trade in their community and region, both with a silversmith's shop, the opening of restaurants and hotels in the municipality, as well as training as tourist guides to support the transition to tourism activities as an economic alternative for the development of this municipality and its communities.

Investment has been made in infrastructure works for the Cerro de San Pedro communities, such as the repair and construction of roads (i.e., Benito Juárez street, the paving of Hidalgo Street, the community road from La Zapatilla to Portezuelo), electrical networks, sewage and potable water works, road asphaltting, classroom construction and equipment, schools and clinics (i.e., Community Health Center in Planta del Carmen), and the repair and restoration of historic buildings and monuments (i.e., the Cerro de San Pedro Ejido House, repairs to the San Pedro Apóstol Church). 393 hectares of the mine's environmental footprint have been reforested.



INNOVATION

This is the first participatory economic closure plan and participatory environmental closure plan carried out in Mexico by a mining company, which incorporates the concerns, interests and proposals of the community for developing the capacities required to ensure the community's stability and economic diversification and improve environmental quality after the closure of the mine. It is also the first time that a mining company in Mexico makes the decision to assume its historical environmental liabilities¹⁸⁹ on the sites where its operations were located before the mine closed. It has carried out one of the most significant environmental recovery works in major urban spaces at the state level.



PARTICIPATION, RELEVANCE, SUSTAINABILITY

- Inclusive participation: the closure plan followed a proprietary methodology that included several stages of systematization, recording the opinions of the families in the surrounding communities, workers, government and civil society organizations. The nature of this plan proved to be binding.
- Relevance by demand: by taking into account the opinions and interests of the workers and communities in the impact area, there was a process of community appropriation of the comprehensive closure plan, which also helped reduce the economic uncertainty resulting from the closure of the mine.
- Financial sustainability: New Gold supported the creation of Fundación “Todos por Cerro de San Pedro,” which includes a “seed fund” set up with company investments, and which will continue to be managed together with the community to continue developing new productive projects in the communities within the impact area..



APPROACHES

Diversity Approach: A special effort was made to restore historic buildings and monuments in the region to attract tourism, but also to maintain community traditions. In addition, the programs and workshops offered in the communities considered the participation of various social groups. The workshops tried to incorporate the different ideologies of the inhabitants through respect, dialogue and understanding.

Gender Approach: the development of new productive projects was promoted by the women of the community, who sell the products they produce at the local and state level (i.e., preserves) and have participated in opening restaurants and hotels in the municipality, in addition to receiving training as tourist guides.



LESSONS LEARNED

The success of the comprehensive closure plan lies in the collaborations and partnerships formed based on capacity-building, transparency and access to information resulting from the workshops and roundtables with all the sectors involved (workers, community members, CSOs, local and state authorities and companies).

Improving engagement between stakeholders requires the commitment of companies to go beyond what is required by current regulations, committing to the economic and environmental development of the places where their operations are located. This requires the company to be open to letting communities help plan the closure of operations, favoring a process of appropriation of the strategies that will be implemented.

The participation of the government in the creation of these economic and environmental closure plans is fundamental, not only in terms of the accompaniment they can provide for the community, but also because this can create synergies that favor the economic and environmental development of the impact areas, through the creation of programs and plans that accompany the operations of mining companies and give assurance to the inhabitants that public services will be adequately provided in their communities after the closure of mining operations.



VALIDATION

The key stakeholders involved were interviewed, including representatives of New Gold/Minera San Xavier (MSX), the Center for Civic Collaboration, and employees from the communities of La Zapatilla, Calderón, Portezuelo, Joyita de la Cruz, Monte Caldera and Divisadero, as well as members of the aforementioned communities that did not work in the mine. The practice was validated and analyzed with the members of the three sectors that attended the workshop on best engagement practices between stakeholders in the mining industry in Mexico, on July 13, 2017.



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2.5.3.2. Participatory Resettlement Plan

ENGAGEMENT LEVEL



Dialogue



Collaboration



Partnership



DURATION

2013 – 2016



MAIN STAKEHOLDERS

Torex Gold company; Agrarian Prosecutor's Office; Municipality of Cocula.

Population of the *ejidos* La Fundición and Real del Limón; community organizations such as the Ejido Commissary of La Fundición and Real del Limón and their *ejido* assemblies, religious and women's groups, and *ejidatarios* from both communities.



DESCRIPTION

Gold pre-exploitation preparation: in 2013, two years before the start of the Torex Gold operation of Canadian capital in the Municipality of Cocula, Guerrero, there was a rapprochement between the company and two communities, La Fundición and Real del Lemon. These communities would be affected by the operation of the El Limón-Guajes mine; one of the richest open-pit gold deposits in the world with a grade of 2.65 g/t. Once its peak production is reached, an average annual production of 370,000 ounces of gold is estimated.

Participatory resettlement: in order to mitigate the impacts of the mining operations on these communities, the project required the resettlement of two communities with approximately 102 households and 500 inhabitants. The resettlement was requested by the inhabitants of these communities, since El Potrerillo hill was in danger of disintegrating. This process followed Performance Standard 5 for Land Acquisition and Involuntary Resettlement of the International Finance Corporation (IFC), as an example of permanent collaboration between the company and the community.

Dialogue roundtables: the framework of the resettlement plan was developed taking into account the information resulting from a social baseline study. The company and the communities participated systematically in dialogue roundtables to discuss how to select their destination site, the conceptual designs for the new homes and compensation for lost assets.

Transparent compensation: the compensation and benefits phase for displaced persons used a compensation framework. This establishes that land purchases must be transparent and equitable, and therefore must ensure that each person who is part of this process is compensated in the same manner, and must also agree with the respective compensation.

Company-community engagement: in order to maintain a permanent and open dialogue with the community, there were home visits, meetings of *ejidatarios*, community assemblies and regular meetings with community members to address the concerns and requests of each family. It is worth mentioning that several of these meetings were attended by the Agrarian Prosecutor's Office, which is a public entity responsible for defending agrarian rights, the regulation of rural property, and the strengthening of judicial security in rural areas. The houses in the plan were designed together with the community, whose members decided where the schools, municipal buildings, green spaces and churches should be located.



Cultural issues: since most of the inhabitants of the resettled communities profess the Catholic religion, with a significant number also being Jehovah's Witnesses, the parishioners of each of these religions reached agreements on where their churches would be relocated. These negotiations required a constant effort that ultimately succeeded because of the day-to-day engagement between the company and the community.

Development plans: the company was constantly communicating with the families to understand their aspirations and help them prepare family investment plans and develop new economic alternatives.

Social cohesion program: Torex Gold implemented a social cohesion program, because with the resettlement a new community was formed, which has brought about changes, since two neighboring communities are now sharing the same space and must work to integrate and adapt to their new environment.



MAIN IMPACT/OUTCOME

The new settlement has paved streets, public lighting, potable water, a sewer treatment system that discharges to a wetland, and each family lives in a house built with quality, long-lasting materials. These resettlements have offices for municipal and *ejido* authorities, as well as recreational areas such as a basketball court, a playground for children, and public buildings to meet educational needs.

As a result of the resettlement, a five-kilometer access road to the new community was built. The new homes have three bedrooms, a basement, a barn, one bathroom, a laundry room, a kitchen, a terrace and space for a farm, allowing families to develop traditional productive activities.



INNOVATION

From the beginning, this practice aimed to stand out from the mechanisms which are normally present in other mining projects where, because of the resettlement, the community only receives payment for its house, which causes a permanent situation of conflict. The Torex Gold company decided to carry out a participatory resettlement plan—the first of its kind in Mexico—which was considered successful.



PARTICIPATION, RELEVANCE, SUSTAINABILITY

- Regular participation: The company met with community members almost every day in order to address the concerns and requests of each family regarding the materials, design and location of the new property.
- Relevance by need: The practice substantially improved the quality of life of the inhabitants. All families have electricity, water and sewer services, which they lacked prior to resettlement.
- Institutional sustainability: Each of the new owners has a legal deed to their house. In addition, the Municipality of Cocula has formally accepted responsibility for maintaining and operating the community's infrastructure, which guarantees that it will continue to operate efficiently in the long term.



APPROACHES

Diversity Approach: Some community members profess the Catholic religion and others are Jehovah's Witnesses. The parishioners reached an agreement on where their churches will be relocated in the resettlement site. Also, originally only the La Fundación community was going to be resettled, but due to its close relationship with the Real del Limón community, and given that resettlement would affect the social fabric of these communities, Torex Gold agreed to resettle both.



Gender Approach: The new homes built addressed problems related to the time invested by women to guarantee access to water, with women from the aforementioned communities benefiting to a greater extent.



LESSONS LEARNED

Resettlement must go beyond just paying for lands and then building new housing—it must focus on improving the quality of life of the population that is being resettled.

A central component of a successful resettlement is the permanent participation of the community throughout the process, providing it with information and making it a participant in the decision-making process. Therefore, the community must actively participate in determining the design, characteristics, and location of their homes.

Finally, resettlement processes require social cohesion programs capable of helping community members develop a sense of belonging to the new community, as well as facilitating their integration and adaptation to the new environment.



VALIDATION

Interviews were conducted with members of the communities of La Fundición and Real del Limón, the Torex-Gold company, the government of the State of Guerrero and the people involved in the resettlement. The practice was validated and analyzed with members of the three sectors that attended the workshop on best engagement practices between stakeholders in the mining industry in Mexico, at the IDB offices in July 13, 2017.



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2.5.3.3. “Casa Grande” Community Development Program

ENGAGEMENT LEVEL



Partnership

DURATION

2008 - 2017

MAIN STAKEHOLDERS

Grupo México company. Local governments. Community councils, educational institutions, civil society organizations, and population.

DESCRIPTION

Background: Grupo México is the top producer of metallic minerals in Mexico, in addition to being the fourth largest copper producer in the world and having the largest copper reserves worldwide. It has 15 underground mines and one open-pit mine. The company is present in Mexico, Peru, the United States, Argentina, Chile, Ecuador and Spain.

Community development: Casa Grande is a community development model implemented by Grupo México since 2008 in the regions where it has operations, which include 11 states of the Mexican Republic.¹⁹⁰ This model seeks to promote community involvement and participation, assuming a shared responsibility with the company, in order to increase economic and social development by funding social projects where co-responsibility is assumed by inhabitants, institutions and authorities. These projects are built on the following cornerstones: education, environment, health, safety and productive development, paying special attention to including children and young people among the beneficiaries.

Company-community engagement: this program promotes the involvement and participation of communities in a context of shared responsibility with the company. This aims to strengthen healthy and long-term relationships between Grupo México and the communities.

Community centers: each branch of the Casa Grande program is a community center with various areas, such as libraries, gyms, workshops rooms (i.e., cooking, computers, arts), among other activities.

Participatory diagnosis: to bring the Casa Grande program to a community, participatory diagnoses are first developed with individuals who have leadership skills and are interested in transforming their communities. They reflect on the community's present situation and their vision for the future, as well as on the activities required to achieve their goals.

Community council: the community council is a diverse and transparent citizen participation entity, made up of eight volunteers who are recognized as leaders in their communities. The council also includes one representative from Grupo México or its subsidiaries, and one community development representative. The council must

review, approve and monitor the proper implementation of the community engagement projects, which will be financed by Grupo México. It is also responsible for discussing the projects that the community has prioritized according to its needs and publishing calls for project proposals.

Preparation of community projects: in order for the community to develop its own projects, workshops are organized with qualified personnel who provide them with the tools necessary not only to select an idea for a project, but also to ensure its long-term sustainability and social impact. Project proposals must be submitted in the form of financing requests for the fund created by Grupo México.

Evaluation: the preliminary projects are evaluated by the community council and the results are disseminated in the media. The selected projects are supported only with in-kind resources, providing seed capital to kick-start them.



MAIN IMPACT/OUTCOME

The program has managed to transform an environment of conflict and distrust into a more positive one that promotes dialogue, collaboration and partnerships. Examples of projects approved and financed through Casa Grande include:

Health care – “Path to Life”: this project was proposed by the community of Cananea in Sonora and approved by the community council in 2010, and involves transporting oncological hemodialysis patients in a humanitarian manner from their communities to hospitals where they receive free treatment. The trips are made twice a week, so in five years there are around 700 trips made.

Youth sports promotion – “Choko Gym”: this project was approved in 2014 by the community council of Santa Eulalia, Chihuahua, and consists of a gym that helps young people to use sports to overcome the social problems they face. The gym equipment was used to create a space that has benefited over 900 children and young people who live in street situations and who are exposed to drugs.

New technologies – “Ecological or Patsari stoves:” this project was approved in 2016 in Taxco, Guerrero for elderly people living in extreme poverty and who cook their food with firewood. The goal is to reduce the incidence of respiratory diseases caused by long-term exposure to carbon monoxide. A Patsari stove reduces carbon dioxide emissions by 95% and smoke is avoided inside the home, as well as saving 60% of the consumption of firewood. 1,000 people have benefited from this project, and 250 stoves have been built in 6 communities of Taxco, Guerrero.

Support for culture and training – “Story Path”: approved by the community council of Taxco, Guerrero, in 2013, this project has created a model for teaching literature to children and young people, asking children to write stories for a book that is later published. This project promotes creativity and a love for literature among children, so that they may not only be readers but also writers. It has benefited 50 institutions in the region, leading to four books with publishing runs of 1,000 copies each.



INNOVATION

Communities do not usually have the opportunity to select and monitor projects financed by extractive companies in their benefit. However, in this practice, in the case of the Casa Grande community development program, it was the community itself, along with its leaders, that defined the priorities and needs that are to be addressed by implementing various projects that will receive financing from the fund created by Grupo México. These community leaders are responsible for reviewing, approving and monitoring the proper implementation of the projects proposed by the community, which aim to improve their quality of life and strengthen the social fabric. Thus, the community is empowered by the projects it undertakes, since it participates in the process of selecting them and carrying them out



PARTICIPATION, RELEVANCE, SUSTAINABILITY

- Inclusive participation: the community council is a diverse and transparent citizen participation entity, made up of eight volunteers who are recognized as leaders in their different communities.
- Relevance by demand: this practice came in response to a demand by the population to improve long-term relations between the company and the communities, by addressing the needs identified as priorities by community members. Monitoring the communities served as a tool to strengthen their entrepreneurial capacities in alternative economic activities, while also improving their living conditions in terms of health, education, sports, the environment, and economic development.
- Institutional sustainability: Time and resources were dedicated to offering workshops organized jointly by the company and the communities, with qualified personnel who provide the tools required to ensure the long-term sustainability and social impact of the projects.



APPROACHES

Diversity Approach: the projects aim to improve the quality of life of the population, paying special attention to including children and young people among the beneficiaries.

Gender Approach: women have benefited from this program, since they can submit projects that benefit this vulnerable group: they have access to training workshops that allow them to establish new businesses, as an economic alternative to mining (i.e., bakery, pastry-making, hairdressing), favoring their economic independence and empowerment.



LESSONS LEARNED

The formation of a community council with leaders that are recognized and respected by the community, and the participation of the community in the selection of community projects that address relevant issues in their communities, has been a key element for improving and strengthening the relationship between company and communities with a long-term vision.



VALIDATION

Interviews were conducted with Grupo México, community council, members of the beneficiary community and local authorities. The practice was validated and analyzed with the members of the three sectors that attended the workshop on best engagement practices between stakeholders in the mining industry in Mexico, on July 13, 2017



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2.5.3.4. Participatory Monitoring of Water Quality

ENGAGEMENT LEVEL



Information



Dialogue



Collaboration



DURATION

2016 – 2017



MAIN STAKEHOLDERS

Media Luna company (subsidiary of Torex Gold). Universidad Autónoma de Guerrero (UAGRO), community members of Nuevo Balsas, Guerrero..



DESCRIPTION

The mine: in 2015, the El Limón-Guajes Mine was installed north of the Balsas River, at the foot of the Media Luna Hill. It is one of the richest open-pit gold deposits in the world, with a grade of 2.65 g/t. This mine, operated by the Canadian company Torex Gold, focuses on the extraction of gold.

Complaint: in 2016, the company received a complaint from the inhabitants of the communities of Nuevo Balsas, Guerrero, who are mainly fishermen. They were concerned that the water from their fishing sites was contaminated with discharge from the mine's tailings and dust generated by the detonations. The inhabitants of these communities argued that these environmental impacts had reduced their fishing stocks.

Impact assessments: this complaint prompted the company to request the collaboration of the Universidad Autónoma de Guerrero (UAGRO), through its Center for Innovation and Technology Transfer (CITT), which conducted a study to analyze the water quality, assessing whether or not there was evidence of contamination resulting from the mine's operations. Researchers from UAGRO signed an agreement with Minera Media Luna that guarantees transparency and community access to the resulting information.

Company-community engagement: the negotiation of agreements between the employees in the community relations unit of the mining company, the municipal authorities of Colula, the community authorities of Nuevo Balsas, and the representatives of the fishing cooperatives, required a dialogue based on assertive and respectful listening, in order to ensure that the concerns and priorities of each stakeholder were heard. It was agreed that the results of the monitoring process would be presented to the community and that its members would freely choose the sites from which water samples would be taken.

Participatory monitoring: the company, the university and the communities reached an agreement on the number of water samples to be analyzed, and a community assembly was convened to decide what sites the samples would be taken from. Prior to the sampling process, UAGRO researchers led several workshops in the community to provide a detailed explanation of the parameters that must be analyzed to assess water quality, how to take measurements, draw samples, and the procedure used to prepare the samples for their transfer to a certified laboratory in Canada and the laboratory of

the Universidad Autónoma de San Luis Potosí. During these workshops, the researchers also answered the community's questions about the equipment and its operation, the processing of samples and the implications of the results obtained. They specified the concentrations of these metals that could be considered a risk to health or economic activities. A group of villagers participated in the sampling process, accompanying researchers to do the work of collecting water samples at the sites selected by the community.

High levels of arsenic: the analysis showed arsenic levels above the allowable limit that were not a result of gold mining activities, but were present naturally. Similarly, the study concluded that there are no heavy metals in the tissue and organs of the fish.

Follow-up: in order to continue with the participatory monitoring process, the company asked if the university could train community members to continue taking water samples, so that they could follow up on the quality of the effluents, paying special attention to the evolution of arsenic concentrations in the water. In addition, Torex Gold proposed to conduct a health survey in the communities and to continue holding multi-sector meetings to address the population's concerns regarding water quality.



MAIN IMPACT/OUTCOME

This best practice changed the company's perception, communication and relationship with the community in a positive way, strengthening a long-term engagement and favoring the development of capacities for monitoring the water quality of its effluents.

The community was trained to take water samples in the sites of interest, which favored an exchange of information with experts and improved their knowledge on the subject and its impact on health. The results of the monitoring process reduced the uncertainty and anxiety of these inhabitants in terms of potential risks to their health or their economic activities. It should be mentioned that, after analyzing the results that were validated, no contamination was found in the effluents, and the price per kilogram of fish sold by the community increased, bringing economic benefits to the population.



INNOVATION

This was one of the first participatory environmental monitoring exercises conducted in Mexico. The collaboration between the company, the community and the university improved the perception, communication the engagement between the company and the community.



PARTICIPATION, RELEVANCE, SUSTAINABILITY

- **Inclusive participation:** The participation of social groups was encouraged in the environmental monitoring process, explaining the metals that would be analyzed, as well as the implications of certain concentrations of these in the water. Community members participated in the selection of the analyzed sites and the improvement of the monitoring mechanisms.

- **Relevance by need:** When the company responded assertively to a conflict situation with the community, supporting the implementation of a participatory sampling of water quality, this created the conditions to favor mechanisms of collaboration and partnerships.
- **Sustainability by consensus:** This partnership between the community, UAGRO and the company demonstrates a long-term engagement, which will allow for the collective planning of new projects of interest to the community, as well as favoring a better business climate in the region and preventing the appearance of potential conflicts.



APPROACHES

Diversity Approach: this participatory monitoring required the organization of workshops with the Ejido Assembly, allowing community members to be included in the planning decisions regarding the sampling, based on the community's forms of organization.

Gender Approach: the workshops had an important number of women participants, who were interested in learning the results of the water quality analysis; they participated actively in these workshops, receiving information on the parameters that were measured, the equipment used and the process for collecting and analyzing the samples.



LESSONS LEARNED

Through dialogue and collaboration, agreements were reached on how to implement the monitoring phase, where to conduct the water sampling, what laboratories to use to analyze the samples obtained, and how to communicate the results.

The fact that the university and the company shared the results of the monitoring phase with the population of Nuevo Balsas favored the transparency of the process and helped create and strengthen relationships of trust, acknowledging the commitment of Torex Gold to avoid environmental impacts and involve the community in the monitoring of water quality.



VALIDATION

Interviews were conducted with representatives of Minera Media Luna, UAGRO researchers in charge of participatory monitoring, state and local authorities, and community members. The practice was validated and analyzed with members of the three sectors that attended the workshop on best engagement practices between stakeholders in the mining industry in Mexico, on July 13, 2017.



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2.5.3.5. Extractive Industries Transparency Initiative (EITI)

ENGAGEMENT LEVEL



Dialogue



Information



DURATION

2013 - 2017



MAIN STAKEHOLDERS

Private sector representatives of the extractive industry. Representatives of a broad group of CSOs. Mexican Government, EITI International Secretariat.



DESCRIPTION

Mexico's commitment to EITI: within the framework of the Open Government Partnership (AGA), Commitment No. 26 was included in Mexico's Action Plan 2013-2015, establishing the country's adherence to the Extractive Industries Transparency Initiative (EITI). One of the first challenges faced by this process was the formation of the National Multi-Stakeholder Group (MSG), which prepared and discussed the documents required to present its candidacy. The MSG is currently working on the definition of the materiality, scope and economic flows that will be included in the first report and subsequent reports.

National Multi-Stakeholder Group: the creation of the MSG on November 22, 2016, was a strategic step for its proper functioning. The inclusion of this group took about two years, since a central requirement was to build and solidify trust, while recognizing the representatives as legitimate stakeholders. The creation of the MSG required each of the three sectors (government, industry and civil society) to choose its representatives.¹⁹¹

EITI Principles: one particular aspect of the Mexican case was that, during MSG's first meeting, the representatives signed the "EITI Principles for Mexico" in order to declare their commitment to collaborating between sectors, respecting the participation of all parties with maximum transparency, and promoting and respecting human rights and social and environmental issues.

Rules of operation: during the second meeting, Mexico's Operating Rules and National Goals were approved. The public presentation of these operating rules involved weekly work meetings for about eight months until all three sectors agreed on their content. During the third meeting, the work plan was approved, thus fulfilling the fifth and last requirement for presenting Mexico's candidacy to the EITI International Council.

Support from external stakeholders: other stakeholders that have accompanied Mexico's candidacy to EITI, including several cooperation agencies¹⁹² which have financed the training and participation of members of civil society at various events relevant to the presentation of the candidacy and the first report.

Relationship of trust: it is worth mentioning that these frequent work meetings, based on a respectful and open dialogue, as well as effective listening to the concerns and priorities of civil society, over the course of two years helped build a relationship of trust that continues getting stronger.



MAIN IMPACT/OUTCOME

The benefits of the standard include:

- Guarantees access to quality information on the economic and socio-environmental flows of extractive industries.
- Strengthens public participation and oversight of extractive industries.
- Builds trust in institutions.
- Reduces conflicts between companies, governments and communities.
- Protects the reputation of companies.



INNOVATION

Mexico was the first country in which the three sectors signed a declaration of principles, and civil society representatives are supported by a group of approximately 40 civil society organizations. Another important innovation is the agreement between the three sectors that make up the National Multi-Stakeholder Group (MSG) to include economic flows related to social and environmental issues in the first report on Mexico.



PARTICIPATION, RELEVANCE, SUSTAINABILITY

- Inclusive participation: in the process of presenting the candidacy and preparing the first report, the active participation of the government, companies and civil society has been essential for developing stronger trust among the stakeholders, as well as improving communication between these sectors.
- Relevance by demand: with this mechanism, the request of the three sectors (government, companies and civil society) to make the economic flows related to extractive industries more transparent is being addressed, together with including information on environmental and social flows. This permitted Mexico to be recognized internationally as an EITI candidate country.
- Institutional sustainability: EITI has guidelines and orientations that encourage countries to join this standard permanently.



APPROACHES

Diversity Approach: through an assertive dialogue, the various sectors involved (government, companies and civil society) have shared their concerns and positions on transparency. In the case of civil society, the organizations involved in this initiative work in very diverse social, cultural and economic contexts, and their opinions transmitted and negotiated by the group of civil society representatives and deputies.



LESSONS LEARNED

There were no spaces in which these three sectors (business, civil society and government) could meet to establish common goals and targets. Therefore, the formation of the MSG has made it possible to strengthen communication and joint work by these three sectors in favor of extractive industry transparency. Promoting transparency is a long-term goal that requires the commitment and effort of all three sectors, so that information made accessible may support decision-making and the governance of mineral resources, thus empowering communities.



VALIDATION

Interviews were conducted with members of the National Multi-Stakeholder Group (MSG) from the government, company and CSO sectors. CSOs whose interest is focused on transparency and access to information were also interviewed, as well as government authorities and international cooperation agencies involved in promoting this initiative. The practice was validated and analyzed with the members of the three sectors that attended the workshop on best engagement practices between stakeholders in the mining industry in Mexico, on July 13, 2017.



BIBLIOGRAPHY/LINKS

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2.5.4. Stakeholder analysis

Some of the stakeholders involved in these practices are: (1) mining companies with mostly Mexican and foreign capital, (2) different levels of government, and (3) civil society, including non-governmental organizations, universities and community organizations. It is important to emphasize that community organizations are the ones that have collaborated most significantly with companies to improve their social engagement practices, which can be attributed to their interest in improving their living conditions, promoting alternative activities that favor economic development in their communities, reducing potential environmental impacts, and taking advantage of all the benefits that mining could offer them.

Company

The mining industry is a strategic sector for Mexico. The mining industry includes companies with capital that is mainly or entirely Mexican (i.e., Grupo México, Peñoles, Frisco, Fresnillo plc, Carrizal), as well as foreign companies mainly of Canadian capital (i.e., New Gold, Goldcorp, Torex Gold, Leagold, Agnico Eagle, First Majestic, Pan American Silver). Companies with international funding meet the requirements imposed by the institutions funding them to ensure a favorable business environment;¹⁹³ therefore, they implement various practices aimed at improving their social and environmental engagement. These practices sometimes go beyond the requirements of current Mexican mining regulations, but are international requirements for receiving or maintaining funding. There are other companies that voluntarily carry out actions that favor better practices for social and environmental engagement, which do not receive international funding but do recognize the importance of strengthening the social fabric of their operations' impact areas and improving their collaboration and partnership strategies with community social organizations (CSOs), in order to promote a business environment with greater legal certainty and lower economic, social and environmental risks. Finally, there are also companies that meet the minimum requirements established by Mexican regulations.

State

The government sector's participation in the mining industry focuses on administrative matters related to the design and supervision of regulations. The State collaborates with companies to promote investment and the realization of mining projects as stipulated in the goals of the National Development Plan. The government functions as a regulating entity for the various stakeholders involved. At the federal level, the various secretariats perform their functions in planning, coordinating, managing and implementing national public policies for economic development and the promotion of mining activity. Other secretariats and governmental entities are in charge of protecting, conserving and exploiting natural resources, while monitoring the industry's compliance with environmental regulations.¹⁹⁴ Other entities participate by helping manage the Mining Fund, strengthen the mining industry's transparency and economic flows, and regulate working conditions. In this sense, federal government authorities have a certain degree of influence on the mining industry in Mexico, and they establish close relationships with the companies. At this level of government, relationships with communities and CSOs are limited, since the functions of these entities do not include a requirement to accompany the communities where mining projects are being developed. Both local and state governments usually have close relationships with mining companies, since their investments are considered key to the development of their municipalities and states. However, local governments have the greatest amount of interaction with communities near mining operations. This level of government also interacts with the



business sector, but local governments usually have limited economic, human and technological resources, which hinders their ability to influence and intervene in the industry to promote better social and environmental engagement practices.

Civil society

Universities have relationships with the metal mining industry and are trusted by various stakeholder groups for their ability to build networks, as well as for their contributions to creating knowledge and building capacities, including: federal, state and local authorities; national and foreign mining companies; civil society organizations and community organizations. Many universities¹⁹⁵ throughout the country offer engineering programs in mining and metallurgy and related fields.¹⁹⁶ Graduates of these programs enter the mining industry but maintain close relationships with their alma maters, which has favored collaboration between companies and universities. Universities can influence public opinion and decision-making regarding public policies in the industry, as well as the development and strengthening of the regulatory framework, contributing through the knowledge and skills of their researchers.

Civil society organizations (CSOs)¹⁹⁷ are involved with the mining industry in different ways, depending on their nature (as determined by their mission statement) and their position with respect to mining, which will depend on: (1) environmental impacts, including water, soil and air pollution, biodiversity degradation and environmental compensation; (2) effect on the human, indigenous and territorial rights of the communities in impact areas; (3) effect on labor rights, social security and job security for mining company workers; and (4) attention to complaints and allegations, as well as initiatives for promoting transparency in this extractive industry.

These organizations have the ability to build networks between different stakeholders, participating in training or negotiation processes for conflict resolution. Only a few CSOs collaborate with companies to prepare participatory plans for environmental and economic closures, as well as participatory plans on the destination of the social investments made by companies during their operation in the communities within their impact areas. Normally, the organizations that are trusted by a significant number of communities are those dedicated to the defense of human, indigenous, labor and territorial rights; these CSOs support the communities with legal consultancy and support during litigation and complaints.



Mexico has not yet conducted any indigenous consultations on mining projects, since the projects carried out in agreement with the Mexican government have not been carried out in indigenous or equivalent communities. Mexico is obliged to comply with the provisions regarding consultations, based on Article 169 of the ILO. However, this study revealed that the great majority of communal and ejido lands where mining projects operate are inhabited by populations that are vulnerable due to their high levels of poverty, lack of education, insufficient infrastructure for the provision of basic services, and low economic diversification. Because these conditions of marginalization existed prior to the start of the mining operations by the companies, these communities have a limited ability to participate in an informed manner and to empower themselves, which

interferes with a better governance of their natural resources. In particular, in places where gold mining is carried out, communities must also face—in addition to the aforementioned factors that explain their vulnerability—the proliferation of organized crime and human trafficking, which puts them in situations of even greater risk.

Community organizations maintain positions of both confrontation to prevent mining projects from being initiated in their territories, as well as collaboration with mining companies in order to ensure that their communities receive the greatest possible benefits during their operation and closure.¹⁹⁸ Four types of community organizations were identified: (1) the commissariat of *ejido* and communal property; (2) the *ejido* and communal assemblies; (3) community organizations and collectives; and (4) community cooperatives.

The commissariat of *ejido* and communal property, which consists of a president, a secretary and a treasurer, represents the *ejidatarios* or *comuneros* in the decisions made at the roundtables set up with mining companies. The commissariat is the body responsible for executing and enforcing the agreements reached by the assembly. It is responsible for convening the assembly to discuss proposals by mining companies regarding the purchase or rental of *ejido* and communal lands, as well as other benefits intended for the community.

The *ejido* and communal assemblies include the commissariat and the *ejidatarios* or *comuneros*, who come together to discuss topics of interest to the community. Both the *ejido* and communal commissariat and the assembly may have different positions, either supporting mining because of the economic and labor benefits this activity can bring for the economic development of their communities, or against allowing this activity to be carried out in their territory, due to the negative perception among the inhabitants regarding its potential environmental and social impacts. In some cases, the communities do not have clearly defined positions, since some inhabitants may be in favor of mining companies initiating operations in their territories, and another important number may be against it; in this case, community members are often confronted.

On the other hand, there are also organizations and collectives formed by community members, including *ejidatarios*, *comuneros* or *avecindados*, women's groups, indigenous groups and youth groups that organize themselves to defend their territory, their human



rights and their labor rights. These organizations were identified as having the largest number of projects implemented together with mining companies to improve the living conditions of their communities and their participation in decision-making on mining operations in their territories. Finally, there are community cooperatives established for economic purposes in transport, fishing, agriculture, beekeeping, aquaculture and livestock, among others; depending on which economic activity they pursued, they may or may not be in favor of mining. For example, those cooperatives that can provide services to mining companies and that see an opportunity for economic development will generally be in favor of mining being carried out in their communities, since they can provide cleaning, transportation and food provision services, among others.

2.5.5. Legal framework

The legislation that regulates mining in Mexico comes from Article 27 of the Constitution, which establishes that all subsoil resources are owned and controlled by the Nation, and lays out a regime of specific concessions for the exploitation of minerals. The Constitution sets forth laws, regulations and rules that help regulate the development and implementation of mining exploration and exploitation. Among these laws, the Mining Law is the main legislative instrument that is responsible for authorizing permits, or concessions for the exploration and exploitation activities that must safeguard the protection of the environment.

In order to attract more foreign investments to Mexico, the Mining Law was modified in 1992, during the economic liberalization, and the Foreign Investment Law followed in 1993. This helped create the optimal conditions for facilitating the processes for acquiring concessions and opening companies dedicated to mining activities. With these regulatory improvements, legal certainty was provided for both Mexican and foreign investors.¹⁹⁹ As a result of this process, the Mexican State put the public mining companies up for sale, forming large mining consortia with capital that is mainly or entirely Mexican, with a high degree of vertical and horizontal integration, as well as favoring the investment of foreign capital in the sector, mainly from Canada and the United States.



Information

Other relevant advances in the Mexican regulatory framework applicable to the mining sector are the enactment in 2002 of the Federal Law on Transparency, Access to Public and Government Information and Protection of Personal Data. Supporting the federal government's commitment to transparency, Mexico joined in 2017 as a candidate country for the Extractive Industries Transparency Initiative (EITI) standard, laying the groundwork for reducing the opacity in the economic flows of the mining industry. With this initiative, the government, civil society and companies have joined efforts to promote better governance in the sector.

The regulatory analysis shows that access to information is regulated and important advances have been made to facilitate it. However, these mechanisms only regulate information controlled by the State, but the law does not specify mechanisms that may force companies to provide information in a timely and systematic manner to communities in the impact areas of their operations.



Consultation

Although Mexico signed ILO Convention 169 in 1990, no consultations of this kind have been conducted so far, since according to the National Commission for the Development of Indigenous Peoples (CDI), mining operations are not found in indigenous areas. At the request of the Subsecretariat of Mining, the CDI is the entity that decides which communities are considered as indigenous or equivalent, and therefore, any decision that affects their territory should be consulted previously.²⁰⁰ However, although consultations are not mandatory for mining projects, the population may submit a written request to the Environmental Authority for a public hearing to analyze the project, during the analysis of the relevance of an environmental impact assessment. The foregoing is supported by the General Law of Ecological Balance and Environmental Protection (LEGEEPA) (articles 20 bis, 34, 47, 58, 79, 157, 158 and 159).

There are no other consultation mechanisms where the participation of civil society in mining legislation is considered mandatory. The engagement levels associated with dialogue, collaboration and partnership are not considered in the current legislation, either, since the use of mechanisms for dialogue that facilitate interactions between the government, civil society and companies has not yet been institutionalized. Similarly, there are no mechanisms for promoting collaboration and the creation of partnerships between these stakeholders.



2.6. PERU

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2.6.1. Summary

Context



Economic: in 2016, the extractive sector contributed 14% to the GDP.²⁰¹ Copper, gold and zinc were the main contributors. In 2016, the mining and hydrocarbon sectors contributed 64.65% of the country's total exports. In the same year, the total economic transfers from the extractive sector to regional and local governments exceeded 1.35 billion dollars. In addition, there are other contributions such as trusts or the newly created Social Advancement Fund (FAS) for mining. There was decrease in contributions compared to 2015. For example, in the case of the Regional Governments, mining and hydrocarbon transfers represented 5.50% of their revenues for 2015 and 3.30% for 2016. For local governments, transfers represented 17.52% of total revenues for 2015 and 13.89% for 2016.²⁰²

In 2016, mining generated 174,112 direct jobs (61,873 jobs for mining companies that owned their mining operations and 112,253 jobs for mining contractors that provide services to these companies). It is estimated that the mining sector²⁰³ creates 1,567,138 indirect jobs.²⁰⁴

Social: Civil society in Peru is not very compact, but it does have an increasing environmental awareness. There are important movements of intellectuals, activists and communities that oppose extractive activities. On the other hand, there are also communities that negotiate and work with the mining companies, as well as NGOs and universities that engage in partnerships with them.

In December 2017, the Ombudsman's Office registered 169 latent or active socio-environmental conflicts,²⁰⁵ with a decline of these conflicts compared to 2016 (212 conflicts). The Dialogue Group on Mining and Sustainable Development has been encouraging civic dialogue between public and private sector leaders since 1999.

Best practices



Partnership for the promotion of a virtuous water circle: Cerro Verde in Arequipa (2010-2017, Dialogue/Partnership). As a result of social conflicts, a multi-sector partnership was formed with different levels of government for the execution and maintenance of works that provide the collective benefit of water collection through dams, treatment plants and distribution systems. The agreement between the mining company, the State and the community regarding the sharing of costs and responsibilities is the product of lengthy discussions and exchanges in a roundtable with representatives of all sectors.

Participatory environmental monitoring in Orcopampa. Affirming collaboration and dialogue (2007-2017, Dialogue/Collaboration). In the Arequipa Region, an "environmental monitoring committee" has been formed, with delegates from the communities, the mining company, the local government and NGOs, among others. This collaboration allows water quality to be monitored in a participatory and regular manner, and provides an open forum for discussing other issues. The communication between the company and community leaders became more

Stakeholder map



regular and specific, and conflicts were mitigated, promoting respect, tolerance, perseverance and honesty among the stakeholders.

Huari dialogue roundtable. Association of Municipalities of Population Centers of Huari (2011-2017, Information/Dialogue/Collaboration). Following protests and roadblocks, the government intervened and dialogue roundtables were set up between the company, national and local authorities, and community and civil society representatives. Agreements were reached in two roundtables: environment and social investment. The dialogue began in a climate of confrontation and distrust. Subsequently, the social cohesion of the communities has been strengthened, together with significant lessons learned in all sectors.

REDyPAC in Hualgayoc: An experience in productive development and citizenship formation (2009-2017, Collaboration/Partnership). Two non-governmental organizations and one company made joint efforts and pooled their resources in order to strengthen business networks and citizen participation through collaborative projects designed to improve farmers' income in the direct impact area and surrounding areas. They encouraged decision-making from a "win-win" perspective. The model consists of technical assistance and a supply of technologies for agricultural growth and the promotion of agroforestry, as well as training in citizen participation, engagement with regional and national authorities, and a leadership school.

Dialogue Group on Mining and Sustainable Development (1999-2017, Dialogue). This is a national multi-sector working group of organizations, leaders, companies and institutions connected to the mining sector that promotes the exchange of diverse opinions. It is innovative in the type of mainly informal engagement, and at the same time the dialogue is structured according to different interaction spaces. It has achieved multi-sector agreements and promoted similar initiatives at the regional and local levels.

The National Society of Mining, Oil and Energy (SNMPE) stands out as the most significant association of extractive industry companies, which assembles, defends and promotes the interests of mining, oil and energy companies, with a preponderance of the former. The Peruvian Hydrocarbons Society (SPH) is a newer association.

The Ministry of the Environment and its affiliated entities, such as the National Service of Environmental Certification for Sustainable Investments—which is responsible for approving Environmental Impact Assessments—and the Supervisory Entity for Investments in Energy and Mining, which has a growing presence and legitimacy. The Ministry of Energy and Mines as an entity for promoting the sector. The Ombudsman's Office, as an autonomous state entity with a national presence and recognition.²⁰⁶ The Vice Ministry of Interculturality, which coordinates and accompanies consultations of indigenous and native peoples.

Indigenous and peasant communities that do not have a strong, representative national representation, except for communities in the Amazon.²⁰⁷ Environmental and human rights NGOs with increasingly influential voices.

Legal and regulatory framework



Peru has an extensive legal framework for engagement with the extractive industry. Convention 169 of the International Labour Organization was ratified in 1993 and entered into force in 1995. Peru has a Law on the Right to Prior Consultation of Indigenous or Native Peoples (No. 29785, 2011), which led to regulations (DS No. 001-2012-MC). The Prior Consultation of Indigenous and Native Peoples is required up to three times, according to the Single Text of Administrative Procedures (TUPA) of the MINEM. In mining this is established after the concession, before the mining exploitation, while in oil operations it comes before the oil field is awarded.

The General Environmental Law (No. 28,611) emphasizes the right to information (articles 41 and 42) and the right to submit opinions, points of view and contributions on decisions made in relation to the environment (Article 46). In addition, the Regional Government Law, the Municipalities Law, and the National Environmental Impact Assessment System regulate the different engagement levels.

There are citizen participation regulations for both the mining and oil sectors. As established by the Constitution, subsoil resources are national property and the State has sovereignty over their use. The entity responsible for granting mining concessions is the Metallurgical Mining Geological Institute. Mining companies require explorations to be authorized by the owner of the surface land—which in many cases is a community—and they must also comply with the provisions of the Prior Consultation. The Secretariat for Social Management and Dialogue (formerly ONDS), dependent on the Presidency of the Council of Ministers, was created as an entity responsible for managing socio-environmental conflicts.

2.6.2. Introduction

In Peru, the extractive sector is the main source of foreign exchange that boosts the economy. Resources for regional and local territories depend on international prices. However, the extractive sector is a controversial activity.²⁰⁸ Some fear environmental impacts and the complexity of socio-economic relations generates negative perceptions among the populations affected by the intervention.

There is an extensive legal framework (signing of ILO Convention 169 and Prior Consultation and participation standards) and with advanced environmental regulations, but in many cases these are not fully enforced, such as in the notable case of the Environmental Assessment and Inspection Agency.²⁰⁹

In recent years, the socio-environmental conflicts and the rejection of large mining projects have been analyzed, and the search for proposals has also been influenced by the progress made in the Corporate Social Responsibility of some extractive companies, as well as by pressure from civil society organizations themselves and the expansion of current regulations. This has fostered the emergence of best practices that promote local economic development, spaces for dialogue and environmental management initiatives.

2.6.3. Best practices

This section describes the process followed by five of the best practices identified in order to improve engagement between the mining industry, civil society and communities in Peru. During the study, a total of five best practices were identified and validated for the levels of Information/Dialogue (2), Collaboration (2) and Partnership. At the same time, there are other engagement practices that have been identified but not yet validated by the three sectors: business, civil society and State. However, these experiences reveal efforts that may perhaps be considered for future systematization and dissemination. These experiences are found in Appendix 3.

The following best practices were validated through interviews, field visits, reviews of secondary sources and working groups:

2.6.3.1. Partnership for the promotion of a Virtuous Water Cycle: Cerro Verde in Arequipa

2.6.3.2. Participatory Environmental Monitoring in Orcopampa. Reaffirming collaboration and dialogue

2.6.3.3. Huari Dialogue Roundtable: Municipal Association of Huari Population Centers

2.6.3.4. REDyPAC in Hualgayoc: a productive development and citizen formation experience

2.6.3.5. Dialogue Group on Mining and Sustainable Development

2.6.3.1. Partnership to promote Virtuous Water Cycle: Cerro Verde in Arequipa

ENGAGEMENT LEVEL



Dialogue



Partnership

DURATION

2006 – 2017

MAIN STAKEHOLDERS

Sociedad Minera Cerro Verde SAA (SMCV), Arequipa Energy Company (Empresa de Generación Eléctrica de Arequipa).

Ministry of Energy and Mines; Regional Government of Arequipa; provincial and district municipalities.

Broad Civic Front of Arequipa; Departmental Federation of Workers of Arequipa; Association of Popular Urbanizations of Arequipa; Education Workers' Union of Peru; Front for the Defense and Integration of the North Cone of Arequipa; Coordinator of Fronts (COFREN).



DESCRIPTION

Expansion of copper and molybdenum mining. In 2005, SMCV proposed to double its production (278,000 additional tons of copper and 6,000 additional tons of molybdenum per year) and extend leaching until around 2025 in the districts of Uchumayo and Yarabamba in the Arequipa region.

Conflicts of interest: conflicts arose over the company's potential use of water, in a context of scarcity of this resource and in which the Chili River, the city's main source of water, was contaminated by untreated sewage. Social stakeholders began to demand more and more development resources from the company. Part of the population, together with the district and provincial municipal authorities, began to organize against the company, generating a protest movement directed by a struggle committee formed for that purpose.

Dialogue roundtable: after a march of approximately 3,000 people in 2006, the national, provincial and district authorities, the civil society and SMCV initiated a dialogue process and set up a dialogue roundtable that brought together the Prime Minister at that time, the Minister of Energy and Mines and high-level company executives. The president of the regional government then joined them, along with representatives of popular organizations.²¹⁰ They had biweekly meetings, then monthly meetings, and finally less frequent meeting.

Letter of Agreement: the stakeholders signed the letter of agreement in 2006, which establishes a framework agreement aimed at the protecting the environment, developing infrastructure works and economic, productive and social promotion, convening a working group; this has been called the Arequipa Agreement. The decontamination of water from the Chili River—with a significant contribution from the company—was a central part of this agreement, given its impact on the Arequipa community. This river was contaminated mainly by the city's sewage.

Partnership for water harvesting: the stakeholders designed a strategy that consisted of harvesting more water using dams, building a drinking water treatment plant, improving drinking water distribution lines, removing drains and treating the Chili River. An agreement was made to share costs between the company and the municipalities, and a partnership was formed for execute and maintain the works, establishing an initial trust of 48 million dollars, an amount that was progressively increased.

Challenges and solutions for implementation: difficulties in implementation included that certain sectors of the population refused to sell their land for treatment plants or the delay in the municipality's contribution. Incremental exchanges began to establish trust, and agreements were ultimately reached, thus achieving a collective benefit.



MAIN IMPACT/OUTCOME

Before this best practice, there was competition for water resources among stakeholders with different interests. The expansion of SMCV activities, completed in 2016 and providing the mining company with 30 years of additional operations, was considered a potential threat for both the rural area and for the urban sector, which was already suffering from water scarcity. The best practice has facilitated better relationships between different stakeholders. It has been possible to create a shared vision of the water problem, demonstrating the potential of the work through an agreed-upon development approach that is part of a long-term plan. This will help improve the quality and quantity of water resources and decontaminate the waters of the Chili River for human consumption and agriculture, with a potential economic gain due to the quality of the product that will be offered.



INNOVATION

The innovative aspect of this best practice has been the business contribution, which has a comprehensive vision developed progressively together with the population and the authorities. SMCV was highly innovative when it suggested—for example—to use wastewater from human-use drains, proposing to treat it for its operations, which (according to the available information) is not a common strategy. This was aided by the mine's proximity to the city of Arequipa. The population and their authorities understood that this was a viable solution that could benefit everyone, since there was a guaranteed investment.



PARTICIPATION, RELEVANCE, SUSTAINABILITY

- Inclusive participation: the participation of civil society in a wide range of neighborhood organizations in the Arequipa Province, mainly, was very dynamic in setting the agenda and pressuring for its execution. The responsibility for the administration itself has fallen on the regional and local government authorities. The company has regularly provided the public with information channels on the progress of the commitments.

- Relevance by need: water scarcity and the contamination of the Chili River as the main water source were real problems and priorities for the population, which showed an interest in them on a daily basis. The proposed solution is relevant, since it has generated a partnership in a “win-win” approach.
- Institutional sustainability: technically the system has long-term projection, and the company has made long-term commitments and maintained an open dialogue on the subject. There are agreements and contracts signed, which the authorities and civil society are monitoring, and budgets, systems and responsibilities have all been established to sustain the investments.



APPROACHES

Gender Approach: the leaders of the civil society that participated in the process have mostly been men—those who presided the business associations at that time. However, the topic of the agreement—water quality and quantity, environmental improvements, etc.—is a top priority for women who see their household chores overburdened by water scarcity, water transportation, water storage, etc., and also because they demonstrate a greater sensitivity to environmental issues.²¹¹

Sustainable Development Approach: The contents of the agreement are framed within the Sustainable Development Goals referring to safe water.



LESSONS LEARNED

This practice shows that, although water is a scarce resource, it can become an important factor when it is prioritized in company-community relationships. The vision of the entire water cycle makes it possible to maximize its potential as well as attract more stakeholders.

The interaction between the various stakeholders is neither linear nor progressive. It is important to periodically evaluate the progress made and replenish these processes with new initiatives. Periodic updates are required to refresh the advances and operations, so that both the achievements and the commitments may be shared with the population, and so that they are both respected.



VALIDATION

This best practice was validated with the company representatives, social leaders and the NGO Labor. It was mentioned at the working group held on June 6, 2017. It has gained public recognition at various events and with SNMPE



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2.6.3.2. Participatory Environmental Monitoring in Orcopampa. Reaffirming collaboration and dialogue

ENGAGEMENT LEVEL



Dialogue



Collaboration



DURATION

2007 - 2017



MAIN STAKEHOLDERS

Compañía de Minas Buenaventura SAA, National Water Authority, Ministry of Energy and Mines, Arequipa Regional Government, Orcopampa and Chilcaymarca municipalities, NGO Asociación Civil Labor, communities



DESCRIPTION

Mining operation: in 1967, Compañía de Minas Buenaventura SAA began the exploration of Orcopampa (Castilla Province, Arequipa Region)—although this had already been a mining town since colonial times—and mining began in 1972, with a primarily gold and silver underground mine. In 2016, 191,102 ounces of gold and 692,318 ounces of silver were mined.

Water monitoring: in 2007, the Participatory Environmental Monitoring Committee (CMAP) was formed to monitor water quality in the area of the Orcopampa and Chilcaymarca rivers. The company realized the importance of monitoring as a mechanism for preventing possible complaints and conflicts. The NGO Asociación Civil Labor has directed the Technical Secretariat and participates through a team of specialists who have their own funding. The company demonstrates transparency in the information they share, presenting environmental processes through internships, planned visits to experiences, institutions and the facilities themselves, for learning purposes. The municipalities also participate and name their own representatives, while the Mayor of the Municipality of Orcopampa presides over the CMAP.

CMAP members: the committee has 16 delegates from the communities (two from each community, plus substitutes), the company, local government and other entities, who have received adequate training and monitor water quality twice. Each community chooses its delegates and these are renewed almost every year. Members' expenses are covered but no fees are paid.

Training: monitoring calls for a systematic training program (one-day training sessions plus one day of internship) with high-level specialized entities, as well as women with a participation of around 40%. The monitoring is carried out in accordance with the current national protocol (around 40 mining companies carried out environmental and water monitoring in 2016) and with coordination between the Local Water Authority and the Regional Environmental Authority, conducting water quality tests at a certified laboratory chosen by the parties and visited by CMAP participants. A total of 140 community leaders and 30 public sector leaders have received training, strengthened their leadership skills, and conducted monitoring in their communities. Around 20 people

participate in each monitoring action, with field notebooks and instruments facilitated by the NGO as the entity in charge.

Monitoring results: until 2017, two field monitoring meetings were held per year. Monitoring results are communicated to the population by the technical secretary in extended sessions, with group dynamics; for example, the monitoring process is reconstructed by the CMAP members with pictures and pamphlets, using the steps of the monitoring protocol as points of reference. They make presentations with slides and fluid dialogues and distribute a fact sheet and a newsletter. The municipal representative also presents the results at a municipal council session.

Emergency response: the CMAP remains alert in critical situations. In 2014, a tailing pipeline was ruptured, creating a high-risk situation. The CMAP intervened in that situation and clearly followed its protocols.

Expansion of the CMAP to air and soil: the idea is to expand the functions of the CMAP, and several participants are suggesting other environmental monitoring actions, such as air and soil.



MAIN IMPACT/OUTCOME

Prior to the participatory environmental monitoring, only the company performed this action and the other stakeholders did not trust the results. Nor were the results shared with the population or local authorities. This best practice has improved communication and dialogue, generated trust and respect between the parties and mitigated potential conflicts. True information about water quality is also generated and disseminated, with the endorsement of the Local Water Authority.



INNOVATION

It is considered innovative that the CMAP has a highly organized process for capacity-building, which is organic in the sense that it has representations in the communities and districts that are periodically renewed and are representative, together with state and company representations. Similar experiences do not have a consolidated capacity-building process. Similarly, the active presence of women in this process is a noteworthy aspect of this experience.



PARTICIPATION, RELEVANCE, SUSTAINABILITY

- Inclusive participation: the CMAP includes representatives of the different sectors, allowing for regular renewal of community members through elections. Monitoring training is available and opportunities for new members—especially young people—to participate are guaranteed.
- Relevance by need: this practice responds to the population's interest in monitoring water quality, since it is a peasant population that uses water and is therefore careful to maintain a quality source.

- Sustainability by consensus: the company, the municipal government and the NGO Asociación Civil Labor value the monitoring actions, the presence of municipal leaders and CSO leaders is supported by periodically presenting the results to them, and they share these results in their own spaces.



APPROACHES

Gender Approach: there is a high degree of female participation in the CMAP. Women proactively assume leadership roles, and there are several techniques that energize the committee.

Diversity Approach: special care is taken to communicate in a simple and direct manner to both the participants and the general community, since a significant portion of the population is peasant and Quechua-speaking, and radio broadcasting also contributes to this.



LESSONS LEARNED

Carrying out monitoring for several years with the participation of the various stakeholders generates trust and minimizes sources of conflict. It also helps build capacities among participants, including young people and women, with certification incentives.

Having an institution of recognized professional prestige and independence interacting with the companies in the Technical Secretariat strengthens the confidence in the quality of the CMAP as a relational space.



VALIDATION

This best practice was validated with company representatives, with social and NGO leaders, and with GDMDS representatives, and has been presented at two national meetings of environmental monitoring committees. Similarly, it has been recognized at the national level, obtaining first place in the “Water Culture” Prize awarded by the National Water Authority.



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2.6.3.3. Huari Dialogue Roundtable. AMUCEP – Municipal Association of Huari Population Centers

ENGAGEMENT LEVEL



Information



Diálogo



Collaboration



DURATION

2011 – 2017



MAIN STAKEHOLDERS

Antamina mining company, Minera Nystar (later Quenuales).

Association of Municipalities of Population Centers-AMUCEP Huari, Ministry of the Interior, Ministry of Energy and Mines, Ombudsman's Office, National Office for Dialogue and Sustainability (now Secretariat of Social Management and Dialogue in the Vice Ministry of Territorial Governance of the PCM).

Communities, population centers.





DESCRIPTION

Start of mining operations: operation of the polymetal mining complex began in 2001, producing copper concentrates (450,000 MT annually), zinc (2,015,810 FMT annually), in addition to molybdenum, silver and lead.

Origin of conflicts: until 2011, there was no perception of evident improvement in the quality of life of the population. Testimonies from the community indicate that, based on the dissemination of a social study carried out by an NGO, high levels of malnutrition and childhood anemia were found in the area, while the population perceived breaches of company commitments; the large mining canon that the municipality received did not benefit the population, and the participatory budgeting agreements were not implemented either. The arrival of a new legitimized leader sparked protests by the Association of Municipalities of Huari Population Centers (AMUCEP), which organized a forceful action, paralyzing communications and traffic flow for three days, and even occupying one of the company mining facilities, in order to apply pressure and demand more attention and investments.

Conflict management committee: due to the scale of the conflict, the government created a high-level committee and signed a document listing the demands and promising to address them, with the intention of eliciting a commitment from the central government. In 2012, two dialogue roundtables were convened: environment and social investment. The dialogues and negotiations began between AMUCEP (representing the municipalities of the population centers, which are grassroots spaces), the Antamina mining company and the government agencies (including the district municipality, the Ministry of Energy and Mines, the Ombudsman's Office and the National Office for Social Dialogue). The Episcopal Commission for Social Action (CEAS) was also invited on behalf of the Catholic Church, contributing effectively to the dialogue.

Interaction between government, industry and civil society: as a result of this dialogue, a partnership was established between the State, the company and the population represented by AMUCEP, to carry out social and economic projects such as afforestation, dams, roads, highways, health infrastructure, irrigation and education. The details of the projects—currently nurseries and reforestation—are agreed between the three sectors. The State and the company share the costs, with over 8 million dollars allocated to afforestation (with 26% contributed by the company and the rest by the Ministry of Agriculture and Irrigation), in addition to others in progress. The comuneros have received temporary jobs in the afforestation project. There are also trainings, internships and exchanges. The NGO Caritas manages the afforestation project. Although with delays and certain breaches by the government, the prioritized works continue.

Long-term vision: the partnership is developed with a long-term perspective and is based on “learning by doing,” while also accepting setbacks and delays. The need was observed to strengthen the social fabric, improve increase coordination between government entities, and generate mutual understanding, in addition to better defining the scope of the mining canon and promote transparency in the use of resources by municipalities.



MAIN IMPACT/OUTCOME

The dialogue and subsequent partnership contributed to stop the confrontations and move towards a spirit of collaborative development. Today, this can be observed in the 3,052 hectares of eucalyptus, pines and native species that were planted. The processing and commercialization of wood and the production of edible mushrooms is foreseen. Also noteworthy are the lessons learned during the dialogue process, the identification of the need to improve preparation, and maintaining a collaborative spirit while prioritizing their demands. Meanwhile, the state representations realized that the State must honor its commitments and continue paying attention to this space



INNOVATION

The roundtable facilitated the capacity-building among the authorities of population centers, a small amount of equipment, and an operating fund for the AMUCEP that gives it a certain degree of autonomy.



.PARTICIPATION, RELEVANCE, SUSTAINABILITY

- Inclusive participation: it was very significant that—despite having started with a violent protest—the dialogue roundtable was generated with the participation of all stakeholders and was maintained over time, although not everyone participates with the same intensity.
- Relevance by need: the dialogue roundtable is relevant in the context of the limited opportunities for exchange that previously existed between the parties, and especially because the central government was not committed to local processes.
- Institutional sustainability: the agreements focus on high-profile environmental and economic sustainability projects, such as reforestation and irrigation, as well as continuous dialogue and concerted investments.



APPROACHES

Gender Approach: women have little participation, although many of the demands addressed respond to their interests. Women do not assume leadership roles in this province.

Diversity Approach: the participants of the dialogue roundtable made an effort to achieve a cultural understanding and address language differences.

Conflict Transformation Approach: a goal was to generate empathy, agreements by consensus and responsible compliance, in order to sustain the relationship of trust and prevent crises.



LESSONS LEARNED

The multi-stakeholder dialogue process allows communities to understand how the State, the bureaucracy, competencies, deadlines and requirements all work, as well as internally strengthening the cohesiveness of their demands and prioritizing these.

The state representations have assumed that it is necessary to strengthen their coordination with the Executive level, but also between the municipal, district, provincial and regional governments.



VALIDATION

The best practice was validated with business leaders from Antamina and the Mining Dialogue Group, with representatives of the Ombudsman's Office, social leaders that participated in the experience, NGOs and the Church.



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2.6.3.4. REDyPAC in Hualgayoc: a productive development and citizen formation experience

ENGAGEMENT LEVEL



Collaboration



Partnership



DURATION

2009 - 2015



MAIN STAKEHOLDERS

Gold Fields La Cima mining company. NGO CEDEPAS Norte, U.S. international cooperation agency Lutheran World Relief (LWR)



DESCRIPTION

Beginnings: since 2005, Gold Fields La Cima has been mining copper and gold in the Cerro Corona concession (29,886 fine metric tons of copper and 166,000 fine ounces of gold in 2015), using conventional open-pit methods and sulfide treatment through extraction by flotation of concentrates, in the Cajamarca Region, province and district of Hualgayoc, in the peasant community of El Tingo.

Initiative: the idea to generate joint action came from LWR and CEDEPAS Norte, since both had developed a cooperative relationship with some companies, and CEDEPAS Norte had local contact with Gold Fields. All three institutions signed an agreement that was renewed for up to six years and contributed the financial resources, with Gold Fields being the main donor (around 500,000 dollars over 5 years), besides resources from LWR and CEDEPAS Norte as an implementer. Subsequently, another contribution was secured through state funds for strengthening livestock activities.

Collaboration: the collaborative project Business Networks and Citizen Participation (REDyPAC) aims to improve farmers' income and increase citizen participation within the district. The goal of this partnership is to take better concerted decisions, from a "win-win" perspective.

Challenges: it was not easy to implement the project, since contributions were requested from producers in an area where mining companies had normally distributed free supplies, starting with a small group. When people saw results through productive improvements, they slowly became more interested. In the case of the leadership program, the quality of the proposal—playful, dynamic and featuring internships—helped sustain participation.

Beneficiaries: through the project, around 430 small farmers have received technical assistance with artificial insemination, dosage, seeds for improving pastures, small irrigation systems, micro-reservoirs, promotion of agroforestry, among others, as well as improving their small cheese plants and increasing milk production and revenue (up to 60% in cheese sales).

Citizen participation: the citizen participation and capacity-building components brought together the participants of the productive component and other interested individuals, for a total of 163 people. A small group of participants became the “heart” of the citizen participation component, motivating others to join.

Leadership school: the project created a leadership school, drama exercises, exchanges, internships within the region and in Lima, participation in GDMS sessions, and inter-learning processes, including innovative dynamics and self-reflection, which helped produce strong leaders that favor dialogue, are more informed and possess legal skills, the ability to negotiate and foster dialogue, and the ability to develop viable proposals. Experts and institutions were invited to participate in this program, together with the NGO Prodiálogo. Thus, the leaders were able to develop their skills for engaging with regional and national authorities and business officials, and some young people and women joined.



MAIN OUTCOME

Knowledge and technical capacities (pasture silage, sanitary calendars, best practices of commercialization, hygiene, maintenance, recordkeeping, etc.) have been developed among local producers and 35 artisanal cheese plants have been formed and strengthened, generating five business networks that sell their products cooperatively. Contributions have been made to improve their minimal infrastructure and equipment, with contributions from each producer. Thus, they have managed to raise production levels and sale prices, expanding their client base both in Cajamarca and Lima. The producers see the NGO and the company as potential allies, but they also continue to observe their interventions with a critical eye.

In a scenario of great unrest in the region, such as the opposition and confrontation around the Conga project, the leaderships promoted have contributed to conflicts in the area not escalating towards levels of mass mobilization and violence.



INNOVATION

The innovative aspect has been to combine productive experiences with training programs, developing innovative dynamics, helping to strengthen leaders that favor dialogue, are more informed and possess legal skills, the ability to negotiate and foster dialogue, and the ability to develop viable proposals. They were responsible for new initiatives presented to the Hualgayoc dialogue roundtable, improving the quality of participation. Some leaders were able to develop their skills for engaging with regional and national authorities and business officials.

In the productive area, the innovation has been the adaptation of best productive practices to this area, on a small scale, yielding better prices and quality.



PARTICIPATION, RELEVANCE, SUSTAINABILITY

- Inclusive participation: a continuous participation of 430 producers and 163 social leaders with influence in their local and regional spaces was achieved, while respecting their diverse opinions.
- Relevance by need: the main economic activities of the area were small-scale livestock and cheese production. The development of collaborative leaders was also relevant in an area with an increasing polarization and little experience in dialogue.
- Financial and institutional sustainability: the experience in the productive aspects is sustainable, since those involved are achieving significant improvements in new markets, income, technologies, etc. and environmental care, although they demand technical assistance for a longer time. In the social sphere, more empowered leaders have the GDMDS as a national point of reference, although there is still a need to consolidate regional spaces for the interaction and strengthening of local leaders.



APPROACHES

Gender Approach: Many women are responsible for small-scale livestock activities or artisanal cheese plants, while men leave home to work in other areas or in the mines. This has empowered them, since many have also joined citizen participation activities. During this project's development, 163 leaders have been trained, 70 of whom are women, and a group of younger leaders was gradually incorporated. Women played an active role in the productive component, more than in citizen participation, where one of the challenges is to find forms of participation that are appropriate to their cultural context and may allow them to continue participating.



LESSONS LEARNED

It has become evident that it is possible to generate trust between companies and NGOs through concrete experiences with professional, independent mediation.

This project demonstrates that the challenge of coordinating productive development and citizen participation is valid as long as both components generate feedback and have the opportunity to help generate a culture of dialogue and conflict transformation.

One lesson is that a process of dialogue and collaboration requires highly qualified teams with clear strategies in order to convene and coordinate dialogues and responses to the tense situations that arise, as well as to continuously engage female participants.



VALIDATION

Interviews were conducted with representatives of LWR, CEDEPAS Norte, Gold Fields La Cima, community leaders and local authorities. A field visit was also conducted.



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2.6.3.5. Dialogue Group on Mining and Sustainable Development

ENGAGEMENT LEVEL



Dialogue



DURATION

1999 – 2017



MAIN STAKEHOLDERS

Private companies (Compañía de Minas Buenaventura, Anglo American, Antamina, Milpo, Glencore, among others). State (National Water Authority, Ombudsman's Office, Ministry of Energy and Mines, Ministry of the Environment, Presidency of the Council of Ministers, among others). NGO Asociación Civil Labor (Labor), other NGOs such as Prodiálogo, CARE, private consultants, social leaders, academics.



DESCRIPTION

Multi-stakeholder platform: the Dialogue Group on Mining and Sustainable Development (GDMDS) is a nationally recognized, multi-stakeholder platform that includes professionals, business leaders with a clear social responsibility vision, municipal and community leaders, consultants and NGO professionals.

Beginnings: it was formed in 1999 in the context of a process of privatization of natural resources. The NGO Asociación Civil Labor promoted a series of meetings between people with connections to the mining sector, aiming to generate dialogue on the processes already underway, particularly the reform of the mining canon mechanism.

Exchange: topics of national significance for the sector were presented at the GDMDS meetings, generating a lively exchange of diverse opinions, but with a common denominator: social and environmental responsibility.

Platform structure: four basic spaces for exchange have been set up: (1) The Dialogue Group Forum is the plenary space open to the public (more than 100 participants, twice a year) that includes a series of specific dynamics, reports and current topics; (2) The Direct Dialogue Group is the core dialogue space, and contributes by preparing the



agenda and the larger meetings, but above all, it provides fluid dialogue on sensitive issues, and its meetings (about 5 each year) are closed; (3) The three-person Coordinating Committee is a support space; (4) The GDMDS Electronic Network, which manages Communications. Each year, more than 500 people participate in its various activities, with more than half travelling from regions outside Lima, and even from other countries.

Committees: temporary committees have been established, including Prior Consultation, Environmental Impact Assessments, Sustainable Management of Natural Resources and the Environment, which sometimes issue declarations.

Virtual platform: the virtual mechanism is another space for dealing with conflicts. The open network of the GDMDS becomes highly dynamic at critical moments, offering a space for groups of opinion leaders to present their points of view, which are sometimes controversial.

Financing: its financing (for work sessions, transportation of social leaders and a small support team for coordination and the communications network) is also multi-stakeholder; small company funds and NGOs are its most significant sources.



MAIN IMPACT/OUTCOME

The GDMDS has several ways of expressing agreements: the vision, the GDMDS principles that help establish its rules, and some declarations that help unify the intentions. The document called “Vision of Mining to 2021”²¹² was presented in 2015, with about 120 endorsements.

The GDMDS has helped generate and strengthen several initiatives at the national and international level, such as the Social Leaders Network, the Ancash Group and the Arequipa Regional Agreement, as well as the Latin American Dialogue Group on Mining, Democracy and Sustainable Development (GDL), a Latin American platform for exchange and collaborative work, incubated and composed by multi-stakeholder dialogue groups and initiatives on mining in eight countries of Latin America.



INNOVATION

The space has been maintained for almost 20 years with the participation of representations from various stakeholders in the mining sector, feeding multi-stakeholder dialogues but also those within certain sectors, such as social leaders. The dialogue is face-to-face, virtual, in smaller or larger spaces, and is enriched by the use of playful formats, the treatment of the self, and gender relations, for example. And despite lacking direct, concrete funding, it has different ways of securing the resources required for the sustainability of the space.



PARTICIPATION, RELEVANCE, SUSTAINABILITY

- Inclusive participation: the multi-stakeholder space is high quality, with fluidity and respect for the diversity of opinions by companies, the State and social organizations, and nuanced in terms of the different ways of dealing with conflicts.
- Relevance by need: the subject matter is highly relevant to the national reality (socio-environmental conflicts, resources, innovative experiences) and the sector, and helps generate informed and contrasting opinion by the participants.
- Financial sustainability: the collective experience is sustainable because of the nature of the subject matter: environmental, social and economic aspects of the sector. The GDMS can be expected to endure, as various supporters help pay for its basic expenses of the space and its participants are highly committed, although this requires a determined effort to secure resources destined to provide transportation for social leaders from remote regions to the events, to facilitate decentralized meetings, and to communicate its actions, etc.



APPROACHES

Gender Approach: There is a growing participation of women that is around 50%.

Diversity Approach: High-level executives from companies and international and national projects participate in the various sessions and levels of the GDMS. The objective is to promote dialogues with leaders of Andean communities with mining projects located in the north and south of the country, which have been increasing in recent years. At the meetings of the Social Leaders Network, special attention is given to using communicative formats and exchanges that are appropriate for different participants.



LESSONS LEARNED

The generation of multi-stakeholder spaces helps expand participants' vision, but requires a recognized leadership, as well as tenacity to bring them together, establish an agenda and manage internal differences.

One tension that must be addressed is whether or not the dialogue space should intervene directly in conflicts in a mediating or negotiating capacity.

Multi-stakeholder spaces require shared responsibility for their management, but their actions remain autonomous.



VALIDATION

The experience was validated through dialogue with business leaders, cooperation agencies and civil society organizations, as well as a secondary bibliography.



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2.6.4. Stakeholder analysis

Next, the key players in the engagement between companies, civil society and the State within the extractive industry are analyzed, including their actions in this field, as well as some of their strengths and weaknesses.

Company

The National Society of Mining, Oil and Energy (SNMPE) is the most significant association of extractive industry companies, which brings together, defends and promotes the interests of mining, oil and energy companies (with the former being predominant). During successive government administrations, the SNMPE has exercised its power, which stems from the significance of mining within the national economy; it can be seen that it pressures government authorities to limit environmental and fiscal controls and request greater State intervention in the prevention and management of social conflicts. A small group of companies subscribes to the principles of ICMC, as well as SNMPE itself, although this does not imply that all member companies endorse and practice them. The Peruvian Hydrocarbons Society (SPH) is a new association and seeks its own space to express the interests of the oil industry, emphasizing its competitiveness. It has a proposal that favors dialogue and seeks forms of engagement with best practice standards.



State

The State lacks a legitimized governing body capable of coordinating efforts with regional governments and different sectors, as well as possessing sufficient resources and capacities. This reduces its capacity to intervene in socio-environmental conflicts and invoke dialogue.²¹³ The main responsibility for dealing with socio-environmental conflicts²¹⁴ lies with the central government (more than 68% of cases, followed by regional governments with 17%). Civil society sectors, mainly, do not perceive the Ministry of Energy and Mines to be very neutral in socio-environmental conflicts.²¹⁵ There is a significant development of the institutional framework on environmental issues (rules, regulations, entities such as the National Environmental Certification Service for Sustainable Investments), although its coordination with the other offices and regional spaces is seen as insufficient²¹⁶

The National Office for Dialogue and Sustainability is a coordination entity for communication between the various stakeholders, and is focused on extractive industries, but its reorganization

and subsequent transfer to the Vice Ministry of Social Administration-Presidency of the Council of Ministers, as well as successive changes to its coordination activities, has neutralized his role. According to national surveys, the Ombudsman's Office is the stakeholder most recognized for intervening in socio-environmental conflicts and promoting multi-stakeholder dialogue. Its function is to defend the constitutional and fundamental rights of individuals—including the right to enjoy a healthy environment—and communities, and to monitor the fulfillment of the state administration's duties and the adequate provision of public services.

Civil society

Non-governmental organizations implement lines of action for information, advocacy and dialogue. From a critical perspective, Cooperation-Solidarity Action for Development (Cooperación-Acción para el Desarrollo) and the Citizen's Proposal (Propuesta Ciudadana) consortium, which includes 10 NGOs, both contribute to transparency in the extractive sector through reports and analyses, technical assistance and training processes. The NGO Grufides generates information and conducts regional actions to impose restrictions on the entry or operations of mining companies. The Dialogue Group on Mining and Sustainable Development is a multi-stakeholder forum in which different NGOs (such as Labor or Prodiálogo) play an important coordination role.

The Economic and Social Research Consortium, an association of 48 Peruvian institutions dedicated to research and teaching, executes analysis, design, execution and evaluation of public policies, programs and projects; and seeks to encourage dialogue and interaction between academia, the public sector and civil society. It has a research line: environment, natural resources and rural development, which analyzes the problem of extractive industries and emphasizes its role for analysis and the design of proposals in recent years.

Two representations of indigenous peoples exist in the Amazon. The Interethnic Association for the Development of the Peruvian Jungle (AIDESEP) has important local bases, although it struggles to coordinate actions with them and carries out actions for the defense and environmental monitoring of extractive industries. The Confederation of Amazonian Nationalities of Peru (CONAP) brings together important ethnic groups of the Amazon, although it has less of a regional presence than AIDESEP; it has sought a rapprochement with the State, Perupetro (the Peruvian national oil company) and other extractive companies.

The Peasant Confederation of Peru and the National Agrarian Confederation are two national associations that mostly include federations and associations of Andean populations, which are not necessarily indigenous. The National Coordinator of Communities Affected by Mining is a collective (a type of association and NGO) that was highly prominent around 2010, contributing to the development of mobilization and representation capacities for making visible the problems and demands of different Andean communities. It has been emphatically critical of extractive industries, but in recent years has suffered internal conflicts and is no longer very active. The National Social Leaders Network, formed around 2010, is a forum for dialogue and coordination, consisting of about 50 male and female leaders from communities in mining activity impact areas, grassroots social organizations and associations, as well as regional and local governments, and is in coordination with the GDMS.

Universidad ESAN and the Universidad Católica del Perú (PUCP) are private universities that have some programs or diploma courses on issues of community relations, negotiation and others. The studies and research of these universities are generally respected. The Universidad Nacional Mayor de San Marcos (UNMSM) is the most important public university in Peru and had an agreement with the University of Queensland, Australia to improve the capacities of its professors in social issues and to replicate this in other universities, although this has not yet been done. In addition, the PUCP and UNMSM have recognized schools in mining engineering, geology and related subjects.

One of the recently created entities is the Center for Studies on Mining and Sustainability of the Universidad del Pacífico, a space for research, education, dialogue and reflection on the mining sector. Its efforts seek to integrate the State, companies and communities by reaching agreements on public policies and business management. It was recently created and seeks to consolidate itself as a technical and independent point of reference for consultancy and training at the national and international levels, designed to promote the sustainable development of this economic activity.

2.6.5. Legal framework

According to the Political Constitution of Peru (1993), both renewable and non-renewable natural resources are national property, and the State has sovereignty over their use. The locations from which natural resources are extracted receive the canon. Mining canons are the participation of local governments (provincial and district municipalities) and regional governments in the total income and profits obtained by the State for the economic exploitation of mining resources (metal and non-metal).

The Metallurgical Mining Geological Institute (INGEMET) is the entity responsible for granting mining concession licenses in Peru, managing the national mining registry and the payments made by mining companies to keep their mining rights.

Currently, hydrocarbon licenses in Peru are assigned by Perupetro, which grants the contract if the company complies with the requirements specified in the regulatory framework for companies to receive qualification, hire employees and sign contracts. The license is dependent upon the approval of the lot through public tender or direct negotiation. In terms of tenders awarded, in 2015 and 2016 there have been no cases of bidding processes in the hydrocarbon sector.²¹⁷



Information

The Political Constitution of Peru, the Environment and Natural Resources Code (in Article 6 of its Preliminary Chapter) and the General Environmental Law consider the people's right to be informed in general and about measures or activities that may directly or indirectly affect people's health, the integrity of the environment and natural resources, as well as to participate in the creation of the general policy and the implementation of measures related to the environment and natural resources.

In the mining sector, General Mining Law No. 23,453 (1992) and the Regulations on Citizen Participation in the mining subsector, DS No. 028-2008-EM and DS No. 052-2010-MEM/DM, emphasize providing timely and adequate information on the activities being planned or executed, promoting dialogue with people in the impact area and their representative organizations, considering the opinions of the population



Dialogue

This same Law recognizes dialogue roundtables as participatory spaces. A Relationship Protocol, Citizen Participation Plan and Community Relations Plan have all been created, along with a mandatory Community Relations Guide. In hydrocarbons, the Regulations on Citizen Participation for conducting hydrocarbon activities (DS No. 012-2008-EM, Arts. 17 and 18) established the Citizen Monitoring and Surveillance Program.

In hydrocarbons, the Regulations on Citizen Participation for conducting hydrocarbon activities (DS No. 012-2008-EM., Arts. 17 and 18) established the Citizen Monitoring and Surveillance Program. It also considers the stages of the citizen participation process: in the negotiations or tendering and award of contracts for the exploration and/or exploitation of hydrocarbons; during the preparation and evaluation of environmental studies; and after the approval of environmental studies. However, specialized entities note that "it has been verified that Perupetro does not fulfill its function and does not guarantee citizen participation during the tendering and negotiation stages, as stipulated in the regulations, which indicate that: "it is up to Perupetro S.A. to conduct the Citizen Participation process in the areas in which it is negotiating or bidding for the award of a Contract for the Exploration and/or Exploitation of Hydrocarbons."²¹⁸



Consultation

There are a significant number of regulations referring to the participation of the populations that live near extractive industries. Some of this has to do with the realization of environmental studies. There are different types of environmental studies: Environmental Impact Statements (EIS), Semi-Detailed Environmental Impact Assessments (sdEIA) and Detailed Environmental Impact Assessments (DEIA). They must all include a Citizen Participation Plan.²¹⁹ Although environmental studies are divided into categories, there is a similar process for each of them, which includes: (1) dissemination in the areas most affected by the project, with information and

documents in a simple, clear format that asks the community or its representatives to provide information or observations on the proposed investment project; (2) public invitation to citizen participation processes, through the most widespread mass media and electronic means of communication; (3) a public hearing will be held in the area where the investment project will be developed, ensuring that the chosen location allows for the greatest possible participation of those potentially affected; (4) the public participation process must be properly documented and recorded in the file, with all information produced by said consultation being public knowledge.

The Law on Private Investment in the Development of Economic Activities on the Lands of the National Territory and of Peasant and Native Communities (Law No. 26,505) establishes that people have the right to participate responsibly in the decision-making processes on matters referring to mining activity. Any actions or measures taken by the authorities, the mining companies or the population involved that blocks or hinders the start-up, development or termination of a citizen participation process constitute transgressions of the legal provisions on citizen participation. The competent authority will determine the mechanisms to be considered in citizen participation processes, as appropriate, according to the particular characteristics of the impact area of the mining activity, of the project and its magnitude, of the population involved, the surroundings and other relevant aspects.

In 2008, DS No. 028-2008-EM and Ministerial Resolution No. 304-2008-MEM/DM, modified by Ministerial Resolution 009-2010-MEM/DM, which expands its provisions to the modification of Semi-Detailed EIAs, the modification of Category II mining exploration activities, the modification of environmental studies through the expansion and modification of mining exploitation or development activities. It should be noted that it recognizes the right to information, citizen oversight and continuous dialogue. Companies are required to have a Citizen Participation Plan and a Community Relations Plan, and it is established that citizen participation mechanisms should preferably include the implementation of a Permanent Information Office or a Participatory Environmental Surveillance and Monitoring Committee. These remain in force even though the specific regulations for exercising the right to Prior Consultation have been recognized.

Convention 169 on Indigenous and Tribal Peoples of the International Labour Organization (ILO) was ratified by the Congress of the Republic in 1993 and entered into force in Peru beginning on February 2, 1995. In 2011, the Law on the Right to Prior Consultation (Law No. 29,785) was approved and enacted. In addition to the Law and Regulations on Prior Consultation (DS No. 001-2012-MC), a Methodological Guide has been published by the Ministry of Culture.²²⁰

Law No. 29,785 indicates that the result of the consultation process is not binding, “except for those aspects in which there is agreement between the parties.” It also indicates that the Ministry of Culture, through the Vice Ministry of Interculturality, is in charge of providing, arranging, articulating and coordinating the state policy on implementing the right to consultation. In this framework, a Directive of the Official Database of Indigenous Peoples has been developed, which (as of 2016) had identified 55 indigenous or native peoples. The first Prior Consultation on hydrocarbons in Peru was that of Lot 169 (Ucayali Region), while the first one in mining only began in 2015; these experiences are being progressively adjusted.



2.7. DOMINICAN REPUBLIC

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2.7.1. Summary

Context



Economic: there are no oil or gas activities in the Dominican Republic. Mining activity has grown significantly.²²¹ Its percentage of Gross Domestic Product went from 0.4% in 2010 to 1.9% in 2016.²²² In 2016, mineral exports constituted 18.13% of total exports. Gold contributed 76% of all mineral exports.²²³ Mining production has had a significant impact, both in creating wealth and creating jobs, in the provinces of Monseñor Nouel, Sánchez Ramírez and Pedernales. Although the Mining Law establishes taxes and royalties for the sector, the four large mining companies that operate in the country have special contracts. A tax of 5% of the net profits of companies is specified for municipalities (Law 64-00), but not all companies fully comply with that. The formal metal mining sector²²⁴ creates 9,199 direct and 25,760 indirect jobs. Extractive industry jobs represent 0.21% of total employment.

Social: in the Dominican Republic, there are tensions between the industry and civil society regarding mining activity, as well as great social and environmental challenges. These tensions and challenges arise from the need to develop policies that ensure the sustainability of the sector. The two most important challenges—governance and implementation and monitoring of environmental licenses—have space for development, not to mention the fact that civil society opinions must be validated through social licenses.

Best practices



Municipal Development Plans: (2009-2017, Dialogue/Consultation/ Collaboration/ Partnership). The Barrick-Pueblo Viejo Dominicana Corporation (PVDC) promoted multi-sector working groups in the municipalities near the mine, as a prelude to the process of creating Municipal Development Plans between the different sectors of the municipalities and their respective approval by referendum on May 3, 2009. These are still valid today, and act as guidelines for social and economic development in each municipality.

Cibao Sur Business Incubator: (2011-2017, Consultation/Collaboration/ Partnership). This is the result of a public-private partnership designed to accelerate growth and ensure the success of entrepreneurial projects in the Eastern Strip of Cibao Sur, through a wide range of business resources and services such as market research, process analysis, legal and financial consultancy. The incubator is part of a development plan generated through a participatory process and supported by PVDC.

Stakeholder map



Candiver Products: (2003-2017, Partnership). This is a small factory for cleaning, medicinal and personal hygiene products, established in December 2003 by a group of women from Cotuí in the Sánchez Ramírez Province. Originally, 22 women received training in the production of chemical products with their own resources, and they were also responsible for promoting and selling the products. In 2009, Barrick-Pueblo Viejo Dominicana Corporation (PVDC) made contact with Candiver and supported them with funding, training and commercialization. In 2017, Candiver had a presence in more than 75 communities and a group of 300 vendors who transport, distribute and re-sell the products (retail).

Community Roundtables: (2013-2017, Dialogue/Collaboration). With the initiative of the Falcondo company, the community roundtables emerged as planning and communication entities for achieving direct engagement with the 9 communities (63,700 inhabitants) that live near the mine. Each roundtable has been formally registered under the Law for the Regulation and Promotion of Non-Profit Associations (Law 122-05) and represents the community in conversations with external stakeholders.

School sponsorship: (1989-2015, Partnership). The purpose of this program, executed by the foundation created by Falcondo, is to support public schools with teacher training and to respond to the needs of the school community, including an adult literacy program. The program was supported by the Ministry of Education and civil society through school's parent associations and neighborhood councils. As of 2016, 132 educational centers with more than 75,000 students had participated, representing more than 70% of the student population of the Monseñor Nouel and La Vega provinces.

There are four large mining companies in the country: Pueblo Viejo Dominicana Corporation (PVDC), Falconbridge Dominicana (Falcondo),²²⁵ Corporación Minera Dominicana (Cormidom) and Las Lagunas Ltd. The business association is the Oil and Mining Chamber of the Dominican Republic (CAMIPE), which represents metallic, non-metallic and service companies.

The Ministry of Energy and Mines (MEM), created in 2013, establishes mining policies. The General Directorate of Mining (DGM) is an entity dependent on the MEM and responsible for controlling extractive activities. The Ministry of the Environment and Natural Resources (MIMARENA) enforces environmental regulations.

The following civil society organizations are noteworthy: the Academy of Sciences of the Dominican Republic, the Dominican Observatory of Public Policies of the Universidad Autónoma de Santo Domingo (UASD), as well as the Environmental Commission of the same university, which has a position critical on the mining industry. It is important to include the National Space for Extractive Industry Transparency (Espacio Nacional por la Transparencia de la Industria Extractiva, ENTRE), which brings together more than 137 popular organizations, business associations, peasant associations and non-governmental organizations, and was formed in 2015 through the Extractive Industry Transparency Initiative (EITI). EITI's National Commission is playing an important role as the initiator of a multi-stakeholder dialogue.

Local stakeholders include the community roundtables of the Municipality of Bonao, the Provincial Council for the Administration of the Mining Funds of the Sánchez Ramírez Province (FOMISAR), the María Liberadora Training Center for

Legal and regulatory framework



Organized Women (CEFOMOMALI), a cooperative that brings together more than 3,000 women in Cotuí, and the Instituto Tecnológico de Cibao Oriental (UTECO), the only university in the country that offers a major in Geology and Mining.

The mining sector operates under Mining Law 146-71 and the provisions and regulations imposed by the Ministry of Energy and Mines. However, the main mining operations are governed by special contracts with the State.

The General Law on the Environment and Natural Resources (Law 64-00), its regulations and procedures establish the action guidelines for the sector, including public consultation as a requirement for obtaining environmental licenses.

The Law of the National District and Municipalities (2007)²²⁶ establishes the right to a referendum for consulting citizens on infrastructure projects (Article 234). There is also the General Law on Free Access to Public Information, so that documents and contracts between the government and the industry are publicly accessible (2004).²²⁷

2.7.2. Introduction

The mining industry in the Dominican Republic is relatively new, although mineral and hydrocarbon exploration has been carried out since the beginning of last century. Beginning in the 1970s, mining was promoted through two large projects: the Falcondo nickel mine and the Pueblo Viejo gold and silver mine.²²⁸

Mining has become one of the key sectors for the economic development of the Dominican Republic. According to the company ranking of the General Directorate of Internal Taxes, the mining and quarrying sector represented 45% of all taxes collected by the government, much more than the communications sector with 19% in 2015.²²⁹ These data reflect a significant increase in 2016, when this figure rose to 51%.²³⁰ These percentages are basically supported by the activities of the Pueblo Viejo Dominicana Corporation (PVDC).

Towards the end of the first decade of the millennium, new engagement initiatives between stakeholders started being implemented.²³¹ These initiatives can be observed in the locations nearest to the mines and are not well known at the national level. The new forms of engagement promoted mainly by PVDC in the Sánchez Ramírez Province²³² have contributed to a higher level of education among the population, with adult literacy programs, a stronger primary education system and technical training in various areas, both to serve the mines directly or indirectly and to foster the development of entrepreneurs in mining provinces. Similarly, programs have been developed to promote environmental education, crop improvement, forest management and ecotourism, creating new sources of employment and fostering productive linkages. PVDC's contribution to social responsibility between 2008 and 2014 was more than 25 million dollars in education, entrepreneurship, preventive health, infrastructure, self-employment and microenterprises and the environment, impacting more than 30 communities and around 66,500 people.²³³

Social responsibility projects, which began to develop over the last decade (PVDC 2008, Cormidom 2010, Las Lagunas 2011) in mining provinces, have led to changes that provide a better understanding of the sector and a more open attitude towards dialogue. Some examples of these projects are included in this report. In the case of the Sánchez Ramírez Province, the role of the Provincial Council for the Administration of Mining Funds of the Sánchez Ramírez Province (FOMISAR),²³⁴ which was formed to manage the funds generated by the mining companies, has been important for helping the population understand that the State must distribute the mining revenues paid for the operations of the PVDC and Las Lagunas Ltd. companies to the municipalities, a total of 5% in accordance with Law 64-00. FOMISAR is the institution that distributes the money generated by extractive activities to finance the municipal development plans.

2.7.3. Best practices

Several best practices have been identified in the Dominican Republic. Five of these have been chosen, representing all engagement levels. The majority is currently at the partnership level. In these cases, engagement starts with the company and aims to invest resources with civil society, and often with local authorities, in a coordinated manner. At the consultation level, a referendum on development plans that have helped to prioritize these investments is being analyzed.

Best practices are:

2.7.3.1. Municipal Development Plans

2.7.3.2. Cibao Sur Business Incubator

2.7.3.3. Candiver Products

2.7.3.4. Community Roundtables

2.7.3.5. School Sponsorship



2.7.3.1. Municipal Development Plans

ENGAGEMENT LEVEL



DURATION

2008 – 2017

MAIN STAKEHOLDERS

Barrick Pueblo Viejo Dominicana Corporation (PVDC), Fundación Falcondo.

Dominican Federation of Municipalities, Embassy of Canada, Central Electoral Board of the Dominican Republic, local governments, sectoral offices of the National Institute of Drinking Water and Sewage, National Institute of Hydraulic Resources, Agrarian Institute of the Dominican Republic.

Representatives of the communities of Fantino and Cotuí in the Sánchez Ramírez Province and Maimón in the Monseñor Nouel Province.

DESCRIPTION

Gold mining: PVDC has a lease contract with the Dominican State for the operation of the Pueblo Viejo gold mine. This mine was originally operated from 1973 on by the Rosario Resources LTD company. In 1979, it was bought by the Dominican government and closed in 1999 when the oxide deposits were depleted. In 2001, it was tendered and concessioned to the Placer Dome company. In 2006, PVDC acquired Placer Dome and consequently the concession of the Pueblo Viejo mine. Pueblo Viejo is one of the largest gold mines in the world. Its production for 2016 was 1.16 billion ounces of gold. It has proven reserves of about 13.1 million ounces of gold, plus about 78.4 million ounces of silver and 334.6 million pounds of copper contained in the mineral reserve.²³⁵

Referendum as a rule: Municipal Law 176-07 contemplates the referendum figure as a tool for consensus and administration in municipalities. In 2008, PVDC identified the need to work with the population of the municipalities near the mine, to help them prepare to receive 5% of the company's benefits as stipulated in Law 64-00 on the Environment and Natural Resources. Using the figure of the referendum, each municipality organized working roundtables with 4 main lines of work,²³⁶ agreed upon together with its population, which led to the referendum held on May 3, 2009, where the communities voted to approve each municipality's development plans.

Partnership with local governments: to implement these roundtables, PVDC established a partnership with local government and civil society leaders that included validating the agreements reached in the working groups through the Municipal Councils of Maimón, Fantino and Cotuí.



Prior training: first, the PVDC Corporate Social Responsibility (CSR) team was prepared through workshops and meetings. Community leaders were also trained—a total of 60 representatives of local government and communities, who received training in the creation of development plans.

Information: the communities were informed about the process through different channels, which included offering workshops and meetings.

Roundtables: with these previous steps, roundtables were organized in each municipality. The roundtables agreed on 4 main lines of work:²³⁷ a) Economy, Production and Employment; b) Natural Resources, Environment, Mitigation and Risk Prevention; c) Health, Sports, Education and Culture; d) Institutional Reinforcement, Territorial Organization and Citizen Participation. The roundtables also agreed on development plans for each municipality.

Consensus forums: once the roundtables had produced results, these results were taken to the communities for approval at a municipal congress with at least 500 participants in each municipality.

Referendum: in a joint process between the municipalities the referendum was held in May 2009. The population voted by approving the development plans for each municipality recognized by the central and local government and whose process was validated by the Central Electoral Board.²³⁸ It was the first time, and the only one so far, that an event of this magnitude was held in the Dominican Republic.

Prioritization guide: this participatory process—which involved authorities, civil society and companies—a guide was also produced that contains ideas for development projects to be executed in each territory over the next 5 years, based on the 4 lines of work established by the roundtables.

Implementation: the implementation of these plans was supported by the Economic and Social Municipal Councils,²³⁹ which joined the roundtables in each municipality as State-recognized entities.

New form of distribution: in 2013,²⁴⁰ the PVDC operation contract was renegotiated during the administration of President Danilo Medina. As part of this negotiation, the 5% stipulated in Law 64-00 was now to be collected directly by the central government. For this reason, communities would no longer receive this income directly. The contributions would be passed on to the communities through the Provincial Council for the Administration of the Mining Funds of the Sánchez Ramírez Province (FOMISAR), which contributes to the municipalities according to the projects included in their development plans.

Current: currently, as part of the corporate responsibility program developed by the company directly with the communities, all of PVDC's actions involving social responsibility projects are based on the development plans, thus recognizing as legitimate the requests submitted for development.



IMPACT AND MAIN OUTCOME

In short, some of the positive impacts of PVDC's investment projects in the communities from 2008 to 2017, worth more than 25 million dollars, are:²⁴¹

In education: the Municipality of Cotuí implemented literacy plans, remedial classes, teacher upgrading, trainings in science and training of women leaders. These projects involved more than 84 communities, more than 3,000 women, some 20 schools near the mine, more than 750 teachers, more than 3,900 students and some 15 technicians from the Regional Ministry of Education, among other projects.²⁴² In addition, some 3,266 people benefited from the "Quisqueya Learns With You" program launched by the Presidency of the Republic in 56 communities. Work was done with 59 teachers and 928 students from 9 schools in the "Schools That Transform" program, which has provided school transportation to more than 950 students and 80 teachers. Other programs included educational loans, scholarships, UTECO university support, and One Computer Per Child.²⁴³

In the field of production, jobs and the environment, programs were established for 18 projects with some 5,000 beneficiaries. The Enda-Barrick forestry project was implemented, benefiting more than 2,301 families,²⁴⁴ as well as dairy projects and fish farming in Lake Hatillo.²⁴⁵ Other projects are related to infrastructure, such as electrification of rural areas,²⁴⁶ repair of irrigation channels and roads and highways.



INNOVATION

In the Dominican Republic, CSR policies focus on working with and for communities. In this case it was different. The company actively encouraged coordination between the communities and the municipal authorities. This allowed us to promote joint decision-making processes on the development of the territory.



PARTICIPATION, RELEVANCE, SUSTAINABILITY

- Institutionalized participation: all sectors were invited with the right to speak and vote, and all could express their needs. Each roundtable produced reports on their results that were presented at small local assemblies, and these results were then openly presented to the general population, ultimately leading up to the referendum.
- Relevance by need: work was done collectively and based on a vision shared of the territory, searching for projects that generate common benefits that are long-term and sustainable over time.
- Institutional sustainability: the sustainability of this process lies with a reinforced civil society that is empowered and becomes an integral part of the process, allowing development plans to enter into effect.



APPROACHES

Gender Approach: The partnership has generated inclusion, empowerment and territorial awareness, which generates shared value. Throughout the process, the active participation of the most experienced leaders, including women, and the participation of young people in decision-making processes was very positive.



LESSONS LEARNED

This project developed a vision of the territory and learned the value of creating partnerships that produce linkages, as well as the awareness that each community is responsible for its own development.

The involvement of the communities and their teamwork created a commitment to execute the plan, since each person involved assumed it as their own. This in turn strengthened the plan.

Those who were opposed to and in favor of the process were able to coexist without creating conflicts, especially in communities where protest was generally used more than dialogue. The trainings, meetings and workshops facilitated this new spirit of dialogue, making it possible for the communities themselves to work directly on their development plan.



VALIDATION

Interviews were conducted with PVDC executives from the CSR department and the Inter-Institutional Relations Department, provincial authorities such as the Provincial Governor and the Mayor, President of UTECO, representatives of civil society: CEFORMOMALI, Association of Peasants, suppliers. A field visit was also conducted.



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2.7.3.2. Cibao Sur Business Incubator

ENGAGEMENT LEVEL



Consultation



Collaboration



Partnership



DURATION

2011 – 2017



MAIN STAKEHOLDERS

Pueblo Viejo Dominicana Corporation – PVDC

Municipalities of Piedra Blanca, Maimón, Cevicos, Fantino, Cotuí and Villa La Mata, Technical Secretariat of the Presidency, Ministry of Industry and Commerce (MIC), Center for Development and Industrial Competitiveness PROINDUSTRIA, Ministry of the Presidency, Ministry of Labor, Bank of Savings and Loans of Cotuí, National Council for the Promotion and Support of Micro, Small and Medium Companies, Provincial Government.

Agricultural cooperatives, peasant communities, housewives' associations, UTECO.



DESCRIPTION

Incubator as part of the development plan: The incubator project was one of the projects voted and approved during the referendum as a result of the roundtables in the Municipality of Cotuí, as part of the implementation of its development plan.²⁴⁷ This public-private partnership has been growing and providing services that extend far beyond the municipality that gave birth to it.

Consolidation phase: the incubator was launched in the Municipality of Cotuí and the communities of the Sánchez Ramírez Province. In June 2011, this project was consolidated with the inauguration of the business incubator office in the Cibao Sur Region. The project received funding from PVDC, which contributed \$41,580 in seed capital for the first year.²⁴⁸ In the second year, this amount grew to \$103,950 and the company created a guarantee fund of \$62,370. In the fourth year, the incubator started to achieve self-sufficiency in the generation of entrepreneurial projects.

Its services: the business incubator is the result of a public-private partnership designed to accelerate growth and ensure the success of entrepreneurial projects in the Eastern Strip of Cibao Sur, through a wide range of business resources and services such as market studies, process analyses, legal and financial consultancy and the identification of business opportunities.



MAIN IMPACT AND OUTCOME

This initiative impacted the Sánchez Ramírez Province and its estimated population of 160,000 inhabitants²⁴⁹ in 2017, which span 4 municipalities and 10 municipal districts, in addition to the municipalities of Maimón and Piedra Blanca, which have 18,000 and 25,000 inhabitants, respectively, and belong to the Monseñor Nouel Province. A significant number of young entrepreneurs, associations and cooperative groups have received training in the understanding, implementation and management, and commercial knowledge of projects, and entrepreneurship has been fostered. The incubator has expanded their projects. As of 2017, 18 projects have been incubated, among them the following examples: Mantas del Coco project by the women's group Unidas de Hatillo; Fish Farming by the Fishermen's Union, the medicinal plant initiative by the COOPSEMUCO Cooperative.²⁵⁰ In 2016 they received the National Award for Excellence, presented by the National Institute of Technical-Professional Training (INFOTEP).²⁵¹



INNOVATION

Plans have been formulated through a program called Entrepreneurs Without Limits (EPSI), designed to create sources of employment for disabled persons, who the last census (2010) determined were more than 8,000 people in the Sánchez Ramírez Province. There are initiatives to create a mop factory and another for windows.²⁵²



PARTICIPATION, RELEVANCE, SUSTAINABILITY

- Inclusive participation: the incubator benefits a wide range of stakeholders, including peasants, university students, housewives' associations, cooperatives.
- Relevance by need: the incubator has created a safe and growing source of jobs. Many individuals and micro-entrepreneurs have received support from the incubator and have become local suppliers for PVDC, which guarantees them a minimum number of regular purchases.
- Financial sustainability: after six years of project implementation, the incubator is self-sufficient and continues to grow.



APPROACHES

Gender Approach: For new projects, gender mainstreaming is being pursued, seeking equality in terms of resources and training.



LESSONS LEARNED

According to the incubator's Executive Director, the best lesson learned has been to "incubate ourselves." Despite being the country's third business incubator, it is the first with a self-sustainability format. They have created their own fund from the services to incubate projects.



VALIDATION

Interviews were conducted with the incubator staff, PVDC, FOMISAR, City Hall, UTECO, program beneficiaries. A field visit was also conducted..



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2.7.3.3. Candiver Products

ENGAGEMENT LEVEL



Partnership



DURATION

2003 - 2017



MAIN STAKEHOLDERS

PVDC, Cibao Sur Business Incubator.

Municipalities of Cotuí, Villa La Mata, Fantino and Cevicos, Embassy of Canada.

Communities of Zambrana, Quita Sueno, Platanal, Hernando Alonso, La Cueva.



DESCRIPTION

Gold mining: PVDC acquired the mine in 2006 after purchasing Placer Dome. It is largest operation in the Dominican Republic, having made an investment of 4.93 billion dollars between 2010 and June 2016.²⁵³

The idea is born: the “María Liberadora” Training Center for Organized Women (CEFOMOMALI) is a non-governmental organization dedicated to the formation, promotion and development of the most needy population: women’s organizations in rural areas and marginalized neighborhoods of the Sánchez Ramírez Province. It receives advice from the Daughters of Jesus convent and the “Uniting Effort” Production, Work and Multiple Services Cooperative in order to promote cooperative savings, loans and multiple services. It benefits more than 3,000 women members from 75 organizations.

Origin of initiative: Candiver Products was founded in 2003 following an initiative by Sister Luisa Suarez, a nun from the Daughters of Jesus and a community leader who participated in a similar project in Bohechío in the south of the country. In the beginning, 22 women received training in the production of chemical products with their own resources. They immediately began to produce one gallon of each product: laundry detergent, floor cleaning products, chlorine, and shampoo, among others. They took them to their homes and neighborhoods and tested them to verify their effectiveness and the reactions of their neighbors. They bought the products themselves so that they could once again buy chemicals to manufacture new products.

Support from the mining company: in 2009, PVDC, through the Embassy of Canada, learned about this initiative and decided to support it. The company offered funding to improve the quality of the products and their labels. For this purpose, a chemist a marketing expert was brought in. Training was offered in administration, finance and sales development, in partnership with UTECO (Universidad Tecnológica de Cibao Oriental).

Consolidation and growth: PVDC went on to guarantee them a fixed purchase of their cleaning products, for which purpose they were required to take additional training courses and meet the company's safety and hygiene requirements, including adding safety information to their product labels, mode of use, industrial and sanitary registry, among others. PVDC also provided a vehicle to help distribute the products, which started being purchased by other suppliers of the company, as well as public and private schools. Clients also include a public hospital and a private clinic, as well as some 1,500 individuals who use personal beauty products in beauty salons or resell them in their communities.

Current scenario and projections: they now manufacture 16 products, and women from 75 communities participate as producers or sellers of these products. 300 salespeople are registered on its sales force and 32 employees work in the factory. The next project to improve production and distribution is to acquire new mixing machines and a filling and sealing machine for small plastic bags with their products, in order to make retail sale more accessible.



MAIN IMPACT/OUTCOME

The project has gained a special place in the province and is perceived as an example of the perseverance of rural women. Small groups of entrepreneurs have formed among those who have opened beauty centers using and distributing Candiver products. When the institution voices complaints or opinions, these are heard and addressed, as it has become an institution respected by all social areas, the local and central governments, and the productive enterprises of the region.



INNOVATION

What is innovative about Candiver is that it is a women's initiative that manufactures products that were not being manufactured in the region. Since 2009, with the support of PVDC, its position in the province has been consolidated, expanding its range of products and, in partnership with CEFORMOMALI, a support center for women's development has been established with trainings for their personal and social development.



PARTICIPATION, RELEVANCE, SUSTAINABILITY

- Inclusive participation: the active participation of women is promoted, which helps them achieve independence and empowerment.
- Relevance by need: facilitates the development of a new industry where women learn to be entrepreneurs and developers of a project that expands their entrepreneurial spirit in different communities.
- Financial sustainability: the training is complemented with financial support from PVDC through direct financing, vehicle acquisition for distribution, and support and monitoring by PVDC. The initiative is self-sustaining.



APPROACHES

Gender Approach: this is a project dedicated to the economic and social empowerment of women. It promotes the recognition of women in equal conditions through educational processes, human promotion and accompaniment.



LESSONS LEARNED

In interviews with several of the women who are part of Candiver, there was great agreement that everything learned in terms of how to improve the quality of their products, trainings on safety and hygiene, entrepreneurship, administration and marketing is applicable not only to business, but also to their personal lives, which makes them feel safe and willing to show that women can become entrepreneurs and succeed when they decide to do so. They started with very limited resources of their own, and today they are examples for hundreds of women throughout the province and the country.



VALIDATION

Interviews were conducted with the President of Candiver, coordinator of CEFORMOMALI and the Cibao Sur Business Incubator, UTECO, the Department of Social Responsibility at PVDC, the Mayor of Cotuí, and product users. Websites and the press were also consulted, and a field visit was conducted.



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2.7.3.4. Community Roundtables

ENGAGEMENT LEVEL



Dialogue



Collaboration



DURATION

2013 – 2017



MAIN STAKEHOLDERS

Falconbridge Dominicana (Falcondo).

Municipal director of the Ministry of the Environment, municipal director of the Ministry of Agriculture, primary care units of the Ministry of Health and the Mayor of the Municipality of Bonao.

Nine communities (Bonaito, Jayaco, Peñaló, Palmarito, El Verde, Caribe, Hato Viejo, Rancho Nuevo and La Minita, which are part of the impact area of the mine).



DESCRIPTION

The mine: in 1958, the concession was granted to the Falconbridge Dominicana (Falcondo) company to exploit ferronickel in the Monseñor Nouel Province in the center of the Dominican Republic. It began operations in 1971. The mine was closed between 2008 and 2011. The reported production, according to data from the National Bureau of Statistics of the Dominican Republic, is 38,069 tons for the 2010-2015 period. The mine is currently operated by American Nickel Limited, owner of Falcondo.

Surroundings: the development of the city of Bonao, capital of the Monseñor Nouel Province with a population of 80,258 inhabitants,²⁵⁴ has been intimately tied to the development and growth of the nickel operation.

Origin of community roundtables: Falcondo's community roundtable initiative began in 2013, with the goal of reactivating engagement after the closure of the mine in 2011. Initially, it worked with 13 communities, but engagement was only maintained with the nine communities closest to the mine and operating plant. These nine communities add up to a population of over 18,000 inhabitants. The roundtables were designed as planning and communication entities for a suitable community engagement.

Participation structure: the engagement with community entities was developed through the roundtables, which brought together the various legitimate social groups recognized by the communities (for example, the trustee, a church representative, the housewives, or a youth representative, to name just a few). Each roundtable analyzed the problems of the community and any request to the company was channeled through it.

Frequency: each roundtable met monthly. In addition, a meeting was held once in a while in which all the community roundtables participated together; this has helped improve relations between the different communities and promote productive linkages.

Dialogue for dealing with conflicts: as part of the dialogue process, participants had the right to share their ideas and points of view in an organized manner and decisions were made by consensus. The dialogue at the roundtables has made this initiative an effective conflict management tool. Since its implementation, conflicts over access roads, noise, pollution, or lack of jobs have been reduced significantly.

Institutionalization of the roundtables: Each roundtable was legally registered under the Law for the Regulation and Promotion of Non-Profit Associations (Law 122-05). This law encourages the formal registry of non-profit organizations whose goal is to carry out activities of social or public interest, strengthening the development of a diverse, democratic and participatory civil society.



MAIN IMPACT AND OUTCOME

The community roundtables have helped resolve conflicts, complaints and concerns between the company and the communities. One example is the complaint regarding the dust that was stirred up by the trucks driving through, which is why the company implemented a system for wetting the roads before truck movements. Relationships between the communities themselves have also been improved, as well as their relationships with local governments.

The roundtable format has managed to generate important productive linkages and has helped diversify the local economy, including trade between the communities themselves and with other areas of the province. One example is the community of Peñaló, with a population of around 200 people, where the inhabitants developed a beekeeping project that produces honey for the community. The producers sell it to the other communities and the company has connected it with a beekeeping cooperative from the neighboring La Vega Province to sell the honey in other areas of the region. Another example has been the creation of the Coopyuna company, a cooperative that encourages savings and project financing. The Rancho Nuevo Internet Center has allowed students to access the Internet. It also serves as a communications hub that also benefits nearby communities.

The roundtables and their interactions with the company have led to the creation of more than 300 community jobs, representing 29% of the mine's total employment.



INNOVATION

Being able to include all sectors of the community has been an innovative aspect. Each sector is represented and has a voice and vote, and so decisions are consensual. The company does not receive a request unless it goes through the roundtable and has been properly discussed. Falcondo is the only company in the Dominican Republic that has adopted this mechanism for channeling job applications, donations and community aid, among others.



PARTICIPATION, RELEVANCE, SUSTAINABILITY

- Inclusive participation: all sectors of the community are represented in the roundtables and have a say in the decision-making process.
- Relevance by need: it is relevant because it covers the entire impact area of the mining operation, facilitating the effective management of community conflicts.
- Institutional and financial sustainability: it is a sustainable initiative, as the roundtables become non-governmental organizations with their own legal status. The roundtables have learned to properly manage the resources available to the communities. These resources come directly from the mine or are generated by community projects. Another source of income is agroforestry projects involving communities and the mine. For 2018, the contribution of the agroforestry project is estimated at \$142,800.



APPROACHES

Gender Approach: Women play a very active role and this is widely accepted. Of the 9 working groups, 4 are presided by women. The roundtables also include leaders from the CRECIENDO leadership training project, another Falcondo initiative for training young people from different communities in technical and leadership skills so that they may participate in the roundtable projects and ensure generational changeover.



LESSONS LEARNED

Without planning there cannot be effective communication. The foundation of dialogue is building trust. It was recognized that the needs of the communities must be heard, valuing the importance of their needs and their rights.

The communities have understood that it is important to sit down and define priorities, to plan how they will develop locally without necessarily depending directly on the mine. They have gained a certain economic-productive independence that has allowed the communities to grow beyond their relationship with the mine.



VALIDATION

Interviews were conducted with company executives, community leaders, and the presidents of the roundtables. Several communities were also visited.



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2.7.3.5. School Sponsorship

ENGAGEMENT LEVEL



Partnership



DURATION

1989 – 2017



MAIN STAKEHOLDERS

Fundación Falcondo, Falcondo company.

Ministry of Education, regional and district directorates of the Ministry of Education, Dominican Association of Teachers, provincial governments, parent associations and neighborhood councils, Barna Business School.



DESCRIPTION

The mine: see description in Community Roundtables.

Corporate Social Responsibility: Fundación Falcondo emerged in 1989 as the social responsibility branch of Falcondo. The areas chosen to implement social responsibility programs were education, preventive health, natural resources and community development. It operated in Santo Domingo until the end of 2015 and then its office was moved to Bonao, the year in which the company passed from hands to Americano Nickel.

Investment in education: the education area received 53% of foundation's total investment, for a total amount of 6,974,552 dollars; its main program was the Sponsorship of Educational Centers.²⁵⁵ This program became a model for private sector participation in public education, through a partnership with the Ministry of Education and recognized by international organizations such as the Inter-American Development Bank (IDB) and the Inter-American Development Agency.



Contributions: the contributions to education made through this program were construction and renovation of school campuses, school equipment and teaching materials, library reinforcement, literacy programs, educational loan programs and scholarships for low-income students, teacher training, partnerships and support from regional and district education departments and the Dominican Association of Teachers.

Impact area: it included a school in Quita Sueños, Haina, San Cristóbal Province, 54 schools in the La Vega Province, which in turn included 6 important schools in Constanza, 6 schools in Jarabacoa and 77 in the Monseñor Nouel Province.



MAIN IMPACT/OUTCOME

With the implementation of this program over 26 years, it has been possible to improve education in the areas where the program has intervened, while reducing the level of illiteracy in the region.

Specifically, the Monseñor Nouel Province has the highest rate of teachers with a degree, 70.7% when the national average is 49.9%, and with graduate degrees, 5.7% compared to 4.0% nationally. The educational quality is 95.1%, compared to the national average of 94.7%, so the impact in raising the quality of education is significant.²⁵⁶ The program has directly impacted 132 public schools and educational centers, and 77,000 students representing more than 70% of the student population of the Monseñor Nouel and La Vega provinces. 4,900 people learned to read and write through the literacy program. 794 low-income students have completed their technical and university studies through the program of educational loans and scholarships, with an investment of \$1,123,163.²⁵⁷ Similarly, 2,100 teachers have been trained and upgraded with modern pedagogical tools, and 80 school principals graduated from the leadership and management program at the Barna Business School, which made a strategic agreement with the foundation.



INNOVATION

The implementation of a training system to increase the educational and pedagogical capacities of teachers resulted in direct benefits for students, using the same human resources employed by the Dominican State through its Ministry of Education. Other companies were unable to achieve this partnership and work with the State; they usually just donate equipment, uniforms, books and furniture, but do not engage in teacher training. This best practice was an example that other companies later followed.



PARTICIPATION, RELEVANCE, SUSTAINABILITY

- Inclusive participation: the program is inclusive, designed for schools—specifically rural schools.
- Relevance by need: the program has responded to deficiencies in the education system.
- Sustainability: this program has produced lasting effects, improving teacher quality and educational levels by increasing their pedagogical capacities.



APPROACHES

Regulatory approach to rights and obligations: the project helped guarantee the right to education. It was able to improve educational quality, eliminate school absenteeism, over-age students in classrooms and school dropouts, and extend educational levels.



LESSONS LEARNED

Sustainability can be maintained over time—even with changing stakeholders—through agreements with institutions such as the Ministry of Education and its provincial and municipal units, and with CSOs such as the Dominican Association of Teachers, neighborhood councils, community leaders and the company.

Educational communities, meanwhile, can maintain their quality standards when they participate and learn to fulfill their duties and understand their rights as established by our legislation, developing a sense of the common good.



VALIDATION

Interviews were conducted with Fundación Falcondo executives, teachers, community leaders, and the Falcondo Social Responsibility Department. A field visit was also conducted.



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2.7.4. Stakeholder analysis

Company

The Dominican Republic is a country with a recent mining tradition. In the sixties, the bauxite mine in the Pedernales Province was operated by Alcoa and later abandoned due to disagreements with the State. In the seventies, two mines began to operate. The first was the Pueblo Viejo gold and silver mine, operated by the US-based company Rosario Resources, which was later acquired by the State in 1989, closed in 1999, tendered in 2001, acquired by Barrick in 2006²⁵⁸ and reopened in 2012.²⁵⁹

The second is the nickel mine that was initially operated by Falconbridge Dominicana (Falcondo), but which changed owners several times during the 2000s and was closed twice due to international market prices. In 2015, Falcondo was purchased by Americano Nickel Ltd.

In order to better understand the public perception of mining in the country, it is worth mentioning that the closure of the Pueblo Viejo mine in 1999, which had operated with minimal production and inadequate environmental controls during its last years, generated significant environmental liabilities after ceasing its operations, basically due to Acid Rock Drainage (ARD) in lands and rivers near the mine.²⁶⁰ The deficient environmental management of Rosario Dominicana in the Pueblo Viejo mine gave the entire sector a negative image.²⁶¹

There are other important metal mining operations: Corporación Minera Dominicana (CORMIDOM), which extracts copper, gold, silver and zinc, and the Las Lagunas Ltd. operation. Besides metal mining, there are important salt, gypsum, marble and limestone mines, as well as mines that supply the national cement industry, with 7 different plants throughout the country.

There is an important association that represents mining and service companies. The Oil and Mining Chamber of the Dominican Republic (CAMIPE) was established in 1997 and has gradually earned its place in public opinion, now being recognized by the government, NGOs, civil society, academia and various associations.

The Dominican Republic keeps no basic information at the school or university level on mining as an important factor in the country's development, nor is the knowledge of the nation's mineral resources promoted. To overcome this lack of information, CAMIPE has designed a program of lectures for high schools, along with informative workshops for business associations, government offices and agencies, and communities. Together with the Canadian Embassy, it has also published the "Mining Guides," which are brochures that explain the mining process from exploration to mine closure.²⁶²

Government

The Ministry of Energy and Mines was created in 2013 under Law 100-13. The messages from the State regarding the development of the sector have been weak. The renegotiation of Barrick's contract for operating the Pueblo Viejo mine,²⁶³ as well as the case of Loma Miranda, a major nickel reserve that is part of the Falcondo concession, have shown some weakness in the implementation of clear rules and guarantees for legal certainty,²⁶⁴ aspects that are widely debated in the national press by various sectors.



The General Directorate of Mining was a unit within the Ministry of Industry and Commerce that had almost no budget for its operations, which included monitoring and oversight under Law 146-71. In 2013, with Law 100-13, it was transferred to the MEM.

The Ministry of the Environment and Natural Resources was created in 2000 under Law 64-00. Law 64-00 manages the country's natural resources and establishes environmental regulations, along with a series of regulations and standards that complement it.

Civil society

Civil society is represented by different groups from the academy, NGOs and community associations. Opinions such as “No to the Mine” have been increasingly common, and the lack of information on the industry leaves gaps that are filled with incorrect information. The general public perception is that the industry does not contribute enough and that it does more harm than good.

In early 2017, the Green March (Marcha Verde) movement²⁶⁵ was formed with the goal of fighting corruption and impunity in the Dominican Republic.²⁶⁶ Civil society has become increasingly organized due to corruption and a lack of transparency. This issue was triggered in early 2017 by a local case and by the international case of the Odebrecht company, which provided the movement with strength and legitimacy to in its anti-corruption struggle, and which has also led to it begin protesting on mining issues. The movements most critical of mining have started at the Academy of Sciences of the Dominican Republic (ACRD) and the Environmental Commission of the Universidad Autónoma de Santo Domingo (UASD),²⁶⁷ followed by a popular movement led by Father Rogelio Cruz, who spearheaded a series of protests against Loma Miranda and, more recently, against potential gold mining at the Romero mine in San Juan de la Maguana,²⁶⁸ which belongs to the GoldQuest mining company. These three groups, together with the new Green March movement, have led the protests against mining projects.²⁶⁹

There are several dialogue initiatives at the national level. The National Space for Transparency in the Extractive Industry (ENTRE) is one example that has created an atmosphere of greater openness and dialogue between the industry, civil society and the government. Its members represent mainly the provinces of Pedernales, San Juan de la Maguana, Barahona, San Cristóbal, Santiago, La Vega, Monseñor Nouel, Sánchez Ramírez and Monte Plata. There have been other efforts between the Oil and Mining Chamber of the Dominican Republic (CAMIPE), an organization that represents the country's mining sector, and institutions such as the Academy of Sciences, the Dominican Observatory of Public Policies of the UASD, and the non-governmental organization Participación Ciudadana.²⁷⁰

2.7.5. Legal framework



Information

The General Law on Free Access to Public Information, 200-04 of July 28, 2004 regulates access to information. Chapter 1 and Article 2 of this law establish the mandatory right of all citizens to have free access to information on state activities, state enterprises (or those with ties to the State) and national development projects.

Law 100-13 (2013) created the Ministry of Energy and Mines (MEM) which, as a governing body, is still adjusting some technical and legal issues related to both the mining and hydrocarbon sectors. The provisions issued by the MEM are informed to the different sectors through resolutions published on the MEM website. The MEM has launched the Technical Department of Social Management, which is responsible for engaging with mining communities, educating them on mining issues, listening to their complaints and expectations, and connecting with the interested parties in order to search for solutions.

The General Law of the Environment and Natural Resources (Law 64-00 of July 25, 2000) makes it mandatory to publicly disseminate all environmental impact assessments (Article 48-50).



Consultation

This same Law establishes the environmental assessment procedures and their scope, including public consultation (Article 38). Article 43 makes it mandatory to request a letter of non-objection from local governments regarding the projects. The Compendium of Regulations and Procedures for Environmental Authorizations of the Dominican Republic of September 22, 2014 stipulates that the process of public participation for all projects must include at least four potential and non-exclusive participation spaces: project information or dissemination; stakeholder analysis; public visits; comments on environmental assessments; public hearings.

For projects that are subject to environmental impact assessments, the proponent must make a public visit, indicating the possible impact in the area that may be affected by the project. The visit must be open to the public and must be published in a national newspaper or on some form of media that is accessible to the communities surrounding the project. The publication must contain basic information about the project, its location and its goals. Depending on the magnitude of the project and whether it is for metal or non-metal mining, more than one public visit may be requested. The



Ministry of the Environment and Natural Resources (MIMARENA) reserves the right to use any public participation instrument and may convene public hearings at any time during the environmental authorization process.

The projects require public hearings, which shall be coordinated through MIMARENA. The community will have an active participation and should include neighborhood councils, clubs, business associations, universities or educational centers and municipal authorities, among others. The comments and observations gathered will be included in the technical report and the final report submitted with the environmental license application. This process is evaluated by MIMARENA and, if it must be repeated, a new hearing will be convened.

The General Mining Law, 146-71 of June 4, 1971 does not consider public visits, public consultations or environmental concepts. This law only refers to the requirement to contact landowners to agree on rights of way, easements or land purchases.

Referendum

Law No. 176-07 on Municipalities of July 17, 2007 establishes the power of municipalities to manage their territories and the effective participation of communities in the management of public affairs. Article 234 establishes the right to hold a referendum to ask citizens their opinions on general environmental guidelines, infrastructure projects or territorial planning. It should be noted that the documentation submitted with the environmental impact assessment for the environmental license application must include a letter of non-objection issued by the municipality of the project area, indicating that there are no obstacles in terms of land use or industrial zoning in the project's impact area.

3. CONCLUSIONS AND RECOMMENDATIONS



The national regulatory frameworks, as well as the regulations regarding extractive industry, the environment, taxes and development in the six countries studied, heavily favor establishing standards for access to information and public transparency, which helps provide citizens with relevant information about the company, the project evaluation process, and in some cases the public revenue.

3.1. Conclusions

On the economy, extractive industries and engagement with other stakeholders

- The extractive sector continues to play an important role in terms of its contribution to the Latin American economy, despite the end of the so-called “super cycle” of mining and hydrocarbon commodities. National regulatory frameworks were adapted to encourage the arrival of big investments in this sector, as can be observed in the opening of the hydrocarbon sector in Mexico—which was previously a state monopoly—with the energy reform of 2014. These policies have contributed to the arrival of international corporations that have raised community engagement standards and, as a result of greater tax revenues, and together with civil society, have helped promote multi-stakeholder mechanisms that favor transparency, such as the EITI, which has been operating successfully in some countries of the region.

On regulatory frameworks and engagement levels

- The national regulatory frameworks, as well as the regulations regarding extractive industry, the environment, taxes and development in the six countries studied, heavily favor establishing standards for access to information and public transparency, which helps provide citizens with relevant information about the company, the project evaluation process, and in some cases the public revenue. Although these are not directly related to the extractive industries, the information they provide to the State as part of their obligations is subject to this regulatory framework and can be accessed publicly, without requiring a change in the law, but rather a better application of the law in the sector.
- Similarly, rules that consider citizen participation as a right to participate in the different stages of extractive activities are quite common in the six countries studied, and the public consultation mechanism appears as one of its dimensions.
- The information analyzed for each country shows that there are no specific regulations referring to other engagement levels, such as collaboration or partnerships; the exception is Peru, which instituted a rule in 2010 that establishes a prior commitment by the company towards the communities in the impact area as a precondition for developing extractive activities.
- In general, these are forms of engagement that are based on the corporate policies of the extractive industry. Dialogue is a mechanism that is found, in a broad sense, at all levels of community engagement and is incorporated into segments of the current regulations on participatory and consultation processes.
- Most of the countries in this study have signed ILO Convention 169, with the exception of the Dominican Republic, but only Colombia, Peru and Chile have designed regulations to implement it. In fact, in other countries the process depends on the interpretation of companies and local authorities, with the possibility of questioning the process or taking it to court, thus causing instability and insecurity for the parties.

On practices, engagement levels and coordinating dialogue

- When practices are made up of several engagement levels, it is often the Dialogue level that articulates them. Broadly speaking, dialogue takes place through regular meetings and spaces with broad, diversified and inclusive participation by the various stakeholders, mainly from the impact area of the extractive project. Dialogues can evolve towards the creation of specific work agendas.
- Due to the degree of complexity required for its implementation, engagement at the collaboration and partnership levels usually occurs through a multi-stakeholder dialogue, in its more structured version, which is mainly used as the most appropriate mechanism for clarifying the interests and needs of the parties, as well as to build the necessary trust demanded by these complex processes and to negotiate mutual beneficial agreements.
- Multi-stakeholder engagement through dialogue, when properly organized and managed with a strategic, comprehensive perspective, can help contribute by implementing projects that are connected to local development plans, magnifying stakeholders' voices, influencing operational decisions and engagement plans, improving relationships and obtaining or renewing social licenses.

On the main stakeholders

Civil society

- Civil society organizations, especially NGOs and social movements, assume different roles in the extractive industry: as suppliers or contractors that execute development projects; building bridges and promoting collaborative processes; remaining critical of the how the industry has been operating; promoting discussions; advocating for public policies; guaranteeing the individual and collective rights of communities; or openly opposing extractive activity through resistance actions.
- Universities that enjoy legitimacy are important local resources, because they are trusted by a significant number of stakeholders and have the ability to build networks with key stakeholders with different characteristics, both in terms of producing knowledge and building capacities. They are seen as a specialized and impartial stakeholder for technical matters and for conducting research on the extractive industry; its contributions to the economy and development; water quality studies; education and training; social management and conflict prevention and transformation; among others.
- CSOs also play a role as a third party in engagement processes between communities and companies, either by impartially facilitating dialogue or negotiations between the parties, providing consultancy for these processes, training the company and/or community for adequate and constructive participation, acting as observers, or monitoring the implementation of development projects.

State

- The relationship between the National/Federal Government and the Regional/State/Provincial and Local Governments tends to create tensions that are caused by policies and measures related to the governance of natural resources. In extreme situations, these tensions have eventually led to open opposition and rejection of the extractive industry. In Argentina, for example, some provinces have declared a ban on large-scale mining. It is therefore important that the different levels of government establish coordination mechanisms and inter-governmental dialogue for the concerted discussion and implementation of public policies related to sustainable economic development, and establish the role of extractive industries in the development of the country and its local territories.

Companies

- Improving engagement with other stakeholders requires the commitment of companies and their associations to go beyond the tenets and requirements established by current regulations.
- The teams dedicated to social management and community engagement are essential for field operations, in coordination with the other areas of the companies. This internal coordination is important and necessary. In some cases, companies decide to hire or sign agreements with consultants, commercial or civil society organizations/entities specializing in social management and community engagement in order to promote it. In some cases, considering an external team to support community engagement can facilitate dialogue events, as well as providing an external perspective on the process.
- The main purpose of extractive industry associations is to represent the interests and needs of their affiliated companies. They can also help their members through other strategies such as capacity building, research, publications, databases and communication campaigns related to their activities, among others. They have the potential to be important contributors to sustainable development through projects designed to help companies with their community engagement processes by developing innovative perspectives, such as the best practice of the Social Basins of Argentina, where the Salta Chamber of Mining coordinates the engagement between different mining companies operating in a territory and the surrounding communities.

On the issues related to practices

- Best practices can cover a very broad range of themes, related to the human needs and unfulfilled rights in social environments and to the operational needs of extractive projects. From a basic level of information about the project, all engagement levels allow for the inclusion of multiple issues, such as:
  - » Environmental issues, such as those related to water, air, noise, land use;
  - » Search for jointly agreed solutions with the community that are related to operational needs (health infrastructure, roads, electricity, drinking water, among others);
  - » Product manufacturing;
  - » Education and other basic services;
  - » Issues that concern specific groups such as women, senior citizens, indigenous communities and other groups in vulnerable situations;

- » Local development issues;
- » Establishment of continuous engagement within the framework of sustainable development and social licensing;
- » Strengthening community and local institutions, among others.

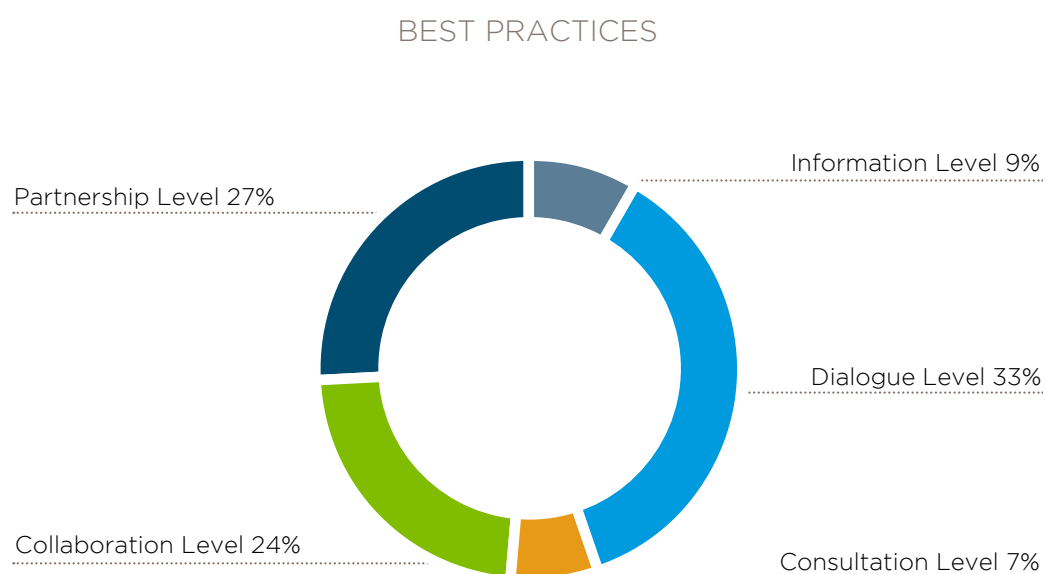
On engagement

- *Contribution of the extractive sector to the national and regional economies:* all stakeholders acknowledge that the sector makes relevant contributions to the national economy. However, in some countries, local communities still feel that the industry has an outstanding debt in terms of strengthening local development.
- *Minimum engagement standards:* the extractive industry, unlike other economic activities, considers the issue of community engagement in the impact area a relevant matter, sometimes even a key aspect of the business, and not as a merely voluntary process. There is an awareness of the potential costs that a context of social risk may impose on the development of an extractive project.
- *What is required and what is voluntary:* engagement processes illustrate that industry and company behaviors are a result of both the standards defined by the State and the internal policies of companies (codes of conduct), as well as industry standards at the national and international level. However, the State is beginning to assume a more active role in defining minimum engagement standards based on recognized best practices, thereby reassuring both companies and communities on the best way to establish harmonious, constructive relationships oriented to sustainable development. In addition, the industry continues to make progress on voluntary policies that benefit the development of the territory in which the operation is located.
- *Civil society organizations:* in the last 5 years, CSOs have played an important role, achieving a certain degree of influence on public policy decisions in terms of proposing, accompanying and ensuring compliance with the regulations that govern extractive industry projects. Different levels (local, regional/provincial and national) of influence have recognized their contributions to achieving goals shared with the industry. Undoubtedly this influence was favored by the massive use of social networks and the increasing digital transformation.
- *Civil society engagement as a continuous process:* the task of building trust is a priority. In addition, those who facilitate and participate in these spaces for creating best engagement practices must be stakeholders with knowledge and experience in this area, capable of promoting exchanges; impartial stakeholders capable of building a permanent and useful engagement while recognizing the differences of each party.
- *Perceptions of extractive industries:* the extractive sector still generates backlash in some sectors. This is usually based on the perception that the growth of extractive activity has not led to better living conditions for some communities that coexist with extractive projects, and that in some cases have seen previously existing economic activities decline (agriculture, local tourism, livestock, among others), thus causing dependence on a finite activity, in addition to the concerns surrounding the environmental and health impacts that this activity could bring.

- *From conflict to negotiated agreement:* a review of some practices studied shows that the relationship between the extractive industry and the communities has changed from a process of conflict and opposition to a transactional negotiation process that compensates communities with social benefits, employment and infrastructure works. This dynamic eventually contributes to local development processes. In many of the experiences studied, during the dialogue processes environmental impacts become a secondary issue and are not sufficiently taken into account, and the issue of social compensation—or rather negotiation—plays an important role.
- *Internal fabric of communities:* often, the complexity of relationships within communities has caused tensions that translate into complaints that are difficult to understand. Companies lack methodologies for dealing with conflicts in a broader, more comprehensive manner, and this has often led to distrust, causing breakdowns in the relationship and even resulting in conflicts within communities.
- *Role of the State:* the historical response by the State has been to maintain a distant position and observe from the outside the engagement processes that occur at different levels between companies and communities. However, in recent years it has become a key player at the consultation level.

On engagement practices

- In the diagnoses of the six countries, this study found 27 best practices at all engagement levels: 5 at the Information level, 18 at the Dialogue level, 4 at the Consultation level, 13 at the Collaboration level and 15 at the Partnership level. It should also be said that most best practices represent two or more levels simultaneously.



- Major progress: The best practices in this study demonstrate that there has been significant progress towards improving the relationships between the industry and the communities, such as the implementation of corporate engagement policies, teams of specialized professionals and financial resources. However, there are still weaknesses in the engagement between civil society and extractive industries. Well-documented experiences have contributed to the creation of new and innovative engagement practices that can be learned, improved and replicated in other projects.
- It is often thought that the extractive sector has a great deal of experience with best practices that are recognized and validated, with positive results for quality of life and stakeholder engagement, and that this work should be oriented to communities, academia and the companies themselves. The companies can count on the Academy and independent consultants to continue the task of systematization, research and dissemination of engagement experiences.
- One conflict observed in most of the best practices studied is community opposition to the project, due to the way the project coexists with its surroundings (environmental, social, cultural) and/or due to the lack of direct benefits and development for the community. Dialogue is most obvious channel for resolving these situations, as an alternative for reaching agreements and negotiating with the community. Dialogue spaces are necessary in order to solve the problems of small rural sectors near large extractive exploitation. For example, a partnership to improve livestock production.
- Spaces for Early Citizen Participation: Decisions made regarding large-scale national projects often do not enjoy effective participation or consensus from local governments and communities within the territories. Without this step, which gives the project a degree of social legitimacy, citizen participation processes (including prior consultation) can become complex, slow and/or confrontational.
- Partnerships between CSOs have started to play a community outreach role, as in the case of the Coahuila Energy Cluster, one of whose roles was to provide information on the implications of the energy reform and the new role of companies in the region. Civil society mediation can help in making the information more reliable and therefore better accepted by the communities.

3.2. Recommendations

For companies

- Have early, timely and long-term plans for engagement with communities that may contribute to economic progress while addressing social and environmental issues in the territories where their projects will be developed.
- Have an area dedicated exclusively to social management and community relations. This study has confirmed that having a capable area and work team has helped companies develop best practices.
- Consider the particular characteristics of the territory and understand that recognizing the rights of different communities is best practice. Including among their due diligence protocols a detailed survey on the dynamics of the territory and the communities present in the impact area is highly recommended, either executed jointly with the community or subsequently validated by it.
- Regular coordination with community leaders from the beginning, involving them in the different engagement levels: Information, Dialogue, Consultation, Collaboration and Partnership.
- Generate actions at each level (Information, Dialogue, Consultation, Collaboration and Partnership) that:
  - » Are systematically reviewed, including deadlines for their review
  - » Are flexible enough to be reformulated
  - » Have clearly established goals, targets and timelines from the beginning
  - » Comply with the law
  - » Aim for an engagement with permanent and systematic accompaniment
- Monitor the actions derived from the environmental and social legislation related to extractive industries, with compliance and continuity of the agreements of the dialogue roundtables with multi-sector and inter-governmental coordination.



- Strengthen business associations and organizations representing companies that can participate in the most diverse spaces for dialogue and compromise to achieve a more fluid engagement.
- Promote training to foster partnerships with projects in the territories and encourage community participation.
- Consider the leading Multilateral Development Banks (MDBs) in Latin America and the Caribbean—with their experience in citizen engagement²⁷¹, their interdisciplinary approach in the region and their comparative experience in civil society issues—as technical allies in the development of engagement plans, as well as national CSOs with territorial experience, in order to strengthen the principles of engagement between companies and communities through their technical knowledge and close ties to the community.
- To the extent that extractive activities are going to cause environmental damage, companies should prioritize environmental compliance within the framework of national legislations, as well as social engagement with timely, accurate and transparent information, promoting dialogue with communities in order to analyze problems and make decisions.

For civil society

- Form an organic structure that provides representative community leaders with legitimacy to share information in a timely manner, interacting with the government, companies and other communities, as the case may be, to create joint initiatives in the context of a systematic and not just circumstantial engagement.
- Clearly identify community leaders and counterparts at the national and local levels in areas impacted by extractive activities, so that an early, constructive coordination may be used to find solutions. Due to the disparity of cultures, rhythms and traditions, it is necessary for the State and companies to adapt engagement spaces to this reality. In addition, to achieve effective results the communities themselves should identify resources that may help implement closer approaches in a timely manner, reviewing international experiences as points of reference that may strengthen their capacities while safeguarding their autonomy.
- Ensure that community leaders include community members in the decisions submitted for consultation, as well as in other spaces of influence, through thematic roundtables that take into account gender disparity, and in order to facilitate capacity-building, as well as the appropriation of knowledge by the community. The work of community leaders to ensure the meaningful participation of the community, as demonstrated by the practices analyzed, has been key to transforming the perception of communities regarding the extractive industry, improving existing relationships and preventing the emergence of conflicts.
- Community leaders should encourage and promote the dissemination of timely information, as well as dialogues with community members and company representatives whose work is relevant to them, for the development of engagement plans and strategies throughout the different phases of extractive activity.

- Community leaders and companies can support accompaniment, education and training processes aimed at strengthening the capacities different community groups (women, young people, minorities) in processes that adopt a comprehensive view of the territory, so that sustainable development may be achieved independently of the company's presence.
- Contact impartial actors (such as universities) in order to solve problems and make decisions regarding internal conflicts within the community or between the community and other stakeholders (governments, companies).

For the State

- Implement regular monitoring activities in order to obtain feedback on the perceptions of both civil society and companies. Experience shows that monitoring is important for involving other stakeholders and sectors, communicating about the practice, providing greater transparency and making necessary adjustments according to local specificities.
- Have methodologies for public consultations that include local authorities, minorities (women's groups, the elderly, young people). It is suggested to build systematic and regular processes at the Information and Dialogue levels, facilitating collaboration with anonymous complaint mechanisms that are accessible for the community.
- Promote early citizen participation, which is crucial for creating engagement spaces that promote opportunities for growth and mitigate potentially negative impacts of extraction operations, to prevent conflicts, to build trust and social legitimacy, as well as to optimize potential value in the regions.
- Regulate the application of ILO Convention 169 with minimum standards for public consultations. Support the work of the agencies in charge of overseeing, inspecting and monitoring environmental studies, maintaining and refining the mechanisms of participation and Prior Consultation (ILO Convention 169). It is essential to strengthen institutions such as the Ombudsman's Office and other institutions that defend society and citizens' rights.
- Strengthen the environmental instruments that allow environmental authorities to monitor compliance with mitigation plans and commitments regarding the closure of extractive projects must be strengthened. Early planning of economic and environmental closures is crucial for limiting environmental and social damage and ultimately improving the perceptions of communities and the general population in the impact area regarding the projects.
- Strengthen transparent mechanisms for managing the funds generated by extractive activity income, supporting new projects which in turn generate new ventures in regions rich in natural resources, in order to ensure alternative sources of job creation that may strengthen local economies by innovating and generating long-term income.
- Train local governments on issues that affect the interests of their territories, supporting the formation of political and technical capacities to support and coordinate territorial planning processes.

For all three stakeholders

- Use new technologies that favor more effective forms of engagement. The maturity of democratic systems in the region, along with the use of social networks and new technologies, is providing an unprecedented opportunity for government officials, company executives and community leaders to use new instruments for rapprochement and information to discuss common territorial interests.
- Governments, companies and communities find it relevant to foster and participate in engagement spaces that promote: timely and reliable informative actions; dialogues that include minorities; public consultations in accordance with sectoral regulations and prior spaces for information and dialogue; collaborations for capacity-building that foster sustainable territorial development; partnerships in participatory monitoring and/or small businesses development activities.
- Developing engagement plans initiated by any of the main stakeholders with clear activities builds trust, and therefore a more active role by the government and large corporations in the promotion of spaces for agreements, where communities participate after previously having received the information and training necessary to present their interests and concerns, represents, as the findings show, a tool for advancing sustainable growth.
- Generating dialogue builds trust, so a more active role by the government and large corporations in the promotion of spaces for agreement, where the rights and duties of citizens, companies and the government are presented, discussed and agreed upon, would be a step forward. These spaces should allow the different voices of civil society to be heard, including critical ones.
- Universities that enjoy legitimacy are important local resources, because they are trusted by a significant number of stakeholders and have the ability to build networks with key stakeholders with different characteristics, both in terms of producing knowledge and building capacities. It is important to use them and call on them more often.
- To the extent that extractive activities are going to cause environmental damage, companies should prioritize environmental compliance within the framework of national legislations, as well as social engagement with timely, accurate information, transparency and dialogue with communities, their leadership and authorities, as a way to make its business and investment feasible and decrease socio-environmental risks.
- Include other existing resources, local CSOs, and especially universities with legitimacy in order to strengthen a sustainable engagement.
- Inform and review the projections on the resources of the extractive industries and the limits for invigorating the economy, recognizing that this activity depends on a series of external variables that do not depend on specific plans. Specifically, subnational spaces must plan their activities by considering resources from other sources and from the extractive sector, in order to avoid causing frustration due to potential variations in the transfers from the national government. In this sense, it is important to complement the data and analyses from extractive industry projections with civil society authorities and leaders, building on the transparency actions currently underway in extractive industries.

4. ROADMAPS

Next, four roadmaps are prepared based on the findings of this diagnosis. They aim to provide clear guidelines for representatives of companies, government agencies and civil society, strengthening the coordination between these three stakeholders, promoting spaces for exchange that focus on the territory, and responding to the needs of communities. The ultimate goal is to contribute to the efforts made to promote a responsible extractive activity as a synonym of development.

Three of the roadmaps are based on specific countries studied in the diagnosis (Colombia, Peru and the Dominican Republic), while the fourth is a regional exercise that seeks to improve engagement between the different stakeholders involved in the development of responsible mining in Latin America and the Caribbean.

These roadmaps seek to use the findings of the diagnosis in Peru, Argentina, Colombia, Chile, Mexico and the Dominican Republic, in relation to the five engagement levels: Information, Dialogue, Consultation, Collaboration and Partnership, as well as adding other regional experiences with an emphasis on multi-stakeholder dialogue.





Roadmap for Colombia

GOVERNMENT



Information Level

The feasibility of an extractive project in Colombia requires two types of authorizations: one from the National Mining Agency, and the environmental license from the competent authority. In Colombia, the regulatory framework also contains several provisions on citizen participation issues. However, the civil society participation generally occurs when projects have already been authorized and licensed.

In this regard, it would be important to consider Argentina's best practice: Social Basins as an intervention area, where the provision of information from companies to communities was coordinated with the participation of the government, which issues a formal report covering the needs, concerns and interests of the community and the commitments assumed by the companies.

Thus, the first effort should be made by the authorities that seek to determine the feasibility of potential projects before granting a license. Complementarily, the Ministry of Mines and Energy should develop an engagement strategy with the authorities of the departments and municipalities where extractive activities will be carried out, seeking agreements between public entities on the restrictions and conditions of the areas with potential for interventions.



Dialogue Level

In recent years, citizen participation mechanisms in the political sphere have been activated, such as consultations, referendums, popular initiatives and town hall meetings; all these are focused on the defense of natural resources and of the territories.

It is advisable to define, generate and appropriate contextualized engagement spaces that reduce the asymmetries between the parties in order to bring them closer together and facilitate spaces at the different engagement levels. The experience of the Dialogue Group on Mining and Sustainable Development in Peru can provide guidelines for developing coordinated dialogues between different levels.

The Government should participate in collective spaces or working groups so that it can act as a guarantor of the agreements or commitments made between the company, local authorities and members of civil society, generating a permanent and useful dialogue for all sectors. This is the role played by the State, for example, in the experience of Social Basins as an intervention area in Argentina.



Consultation Level

At the Consultation level in Colombia, Law 21 of 1991 is the legal instrument that regulates prior consultation as the only formal opportunity for engagement between the three sectors. However, this regulation only applies to the case of indigenous and afro-descendant communities present in the impact areas of projects, excluding many of the communities that do not have these characteristics.

In order to avoid potential contradictions and conflicts between national and local authorities and the communities present in the project's impact areas, institutional articulation and coordination is considered best practice before offering an area for exploration and subsequent mining or oil exploitation. Achieving coordination between institutions would avoid transferring to the investor/company the uncertainty of the territories and of the areas that may be excludable from extractive projects due to environmental or social restrictions.

In this regard, it is interesting to highlight the Chilean process: **Citizen Participation in the development stage of the Nueva Unión mining project EIA**, which initiated a process of early citizen participation, that is, before the Environmental Impact Assessment (EIA) was submitted for environmental evaluation, with the purpose of informing and including early observations by local communities in the EIA process, and thus reaching a consensus using mechanisms for dialogue that helped discover topics of interest and account for the progress and outcomes.



Collaboration Level

The Colombian legislation lacks mechanisms to promote collaboration and partnerships between the stakeholders. Collaboration between sectors generally occurs at the local level through exchanges generated by multi-stakeholder dialogue. Once the projects are licensed and begin operations in the regions, engagements between companies, communities and authorities are generated, specifically through working groups that reach agreements which result in collaboration commitments.

In this regard, it is important to highlight the practice of Peru: **Participatory environmental monitoring in Orcopampa**, where an environmental monitoring committee was set up with delegates from the communities, the mining company, the local government and NGOs, among others, facilitating a participatory and regular monitoring process on water quality and opening an engagement space to discuss other issues.

Establishing and maintaining collaborative spaces when a regional analysis of projects is available facilitates the concept of agreements and partnerships between sectors.



Partnership Level

There are no specific regulations that promote partnerships between sectors. These partnerships usually occur through agreements motivated by the fulfillment of environmental or social obligations made once the project has been licensed and begins its intervention in the territory. These agreements are generally established between companies and communities, with the authorities acting as a guarantor or observer of the agreements in the framework of compliance with administrative acts.

EXTRACTIVE COMPANY



Information Level

At the Information level, the country has the Law on Transparency and the Right to Access National Public Information (Law 1712 of 2014), which, although not specific to extractive industries, does promote access to public information in a transparent, timely and effective manner, which makes it easier for citizens to obtain relevant information about projects.

It is noteworthy that the best practice that a company can develop is to take the time necessary to socialize and explain the project it intends to develop, to use institutional channels to reach the territory in the best way and to connect with the public planning and administration instruments and schemes; to identify local investment programs and projects that deserve to be enhanced, either through incentive schemes or support to achieve more or better social coverage. One example is the citizen participation in the development stage of the EIA Nueva Unión Mining project in Chile.

This is an opportunity to achieve better engagement by sharing information about the projects with the region before beginning any type of activity in the field, where the communication channels for any member of civil society regarding the project are clearly informed.



Dialogue Level

The best practice of **intercultural dialogue with indigenous peoples in Colombia** has generated actions favorable to the promotion of dialogue with indigenous communities. The company, recognizing the communities' needs and interests, has worked with an analyst who knows and shares their idiosyncrasy and language in order to build trust, guide and facilitate the dialogue, and help establish agreements.

In dialogue spaces, it is important to have strategic long-term views, and not just answers to immediate problems. The main goal is to reach agreements instead of simply confirming differences (in interests, narratives, visions, etc.). The dialogue must be inclusive, not exclusive, and adapted to each of the stakeholders involved.





Consultation Level

It is worth highlighting the experience of Chile, on **Citizen Participation in the EIA design stage**, where a process of community participation is used to include the concerns of local communities early in the Environmental Impact Assessment process. This helped develop a consensus using mechanisms for dialogue that helped identify topics of interest and account for the progress and outcomes. Facilitating spaces in which civil society can be consulted during the early stages of projects participation is advisable. However, this does not preempt the official spaces established in the legal framework for citizen participation.



Collaboration Level

At the Collaboration level, it is important to highlight the best practice developed in Colombia by several mining companies in the Department of Cesar, such as the **Participation of peasant families in a forest compensation program**, in which not only were the investment obligations of several mining companies present in the same region grouped together, but collaboration strategies were also developed through conservation agreements with the participating peasant families. Another example is the practice of Social Basins as an intervention area in Argentina. Reaching agreements between several mining companies present in an area maximizes the benefits of local communities and builds trust in the engagement with companies present in the territories.



Partnership Level

The partnership strategy developed in Mexico, known as the **Community and Environmental Support Program (PACMA)**, which seeks to promote social development through shared responsibility between the public and private sectors in communities, is relevant for Colombia because it has a mixed-economy company called Ecopetrol, which has a large share of the oil blocks awarded in the country. It would be useful to try to replicate this best practice.



Information Level

Being involved from the earliest stages of a mining project allows the community and the mining project to have the same information from the beginning of the studies, which is why the best practice developed in Chile, **Citizen Participation in the EIA design stage**, where a participatory approach was used to generate information for the Environmental Impact Assessment, is so relevant. It is important to develop actions and work agendas that help implement and improve the different engagement levels, in order to produce and share information and knowledge. Encouraging citizen participation at the local level is important in order to have an influence on informed decision-making.

CIVIL SOCIETY



Dialogue Level

The experience of multi-stakeholder dialogues has been spearheaded mainly by Peru and replicated in countries such as Argentina, Colombia and Chile, among others. The Dialogue Group on Mining and Sustainable Development in Peru has become a space for exchanges between multiple stakeholders, incorporating innovative approaches such as the use of playful formats, self-reflection, gender relations, with various forms of support for the sustainability of the space. Civil society is committed to establishing decentralized spaces based on the political and administrative configuration (region, municipality) or basin, convening institutional representations for development as in Argentina or through a more individual participation by multi-stakeholder leaders.



Consultation Level

In Colombia, consultations are understood within the framework of ILO Convention 169, which is governed by Decree 2613 of 2013. However, this research has found that the decisions that are made on large-scale national projects, are often not negotiated with the local governments and communities of the territories where they will be executed, so that citizen participation processes (including Prior Consultation) become complex and slow. It is advisable to recognize the particular characteristics of the territory and the interests of their communities as a best engagement practice at the Consultation level and to include the dynamics of the territories and their inhabitants in all project planning and development.



Collaboration Level

In terms of collaboration, it is worth reviewing the Mexican experience on **Participatory monitoring of water quality**, which facilitates not only the participation of the communities within the project's impact area but also representatives from the academy or regional universities that can contribute stronger sampling protocols and better knowledge of the connections between the water resource with other indicator species in a landscape, as has also achieved in Peru with the exercises of the **Participatory environmental monitoring in Orcopampa**.



Partnership Level

Communities would benefit greatly by strengthening their capacities for developing sustainable projects at the Partnership and Collaboration levels. There is a higher interest for communities to remain in their territories, fostering productivity and preventing extractive activities from causing human displacement. In this sense, best practice developed in Colombia by several mining industries in the Department of Cesar has been the **Participation of peasant families in a forest compensation program**, in which not only were the investment obligations of several mining companies present in the same region grouped together, but collaborative strategies were also developed through conservation agreements with the participating peasant families, which included economic incentives and technical training for the growth and development of sustainable businesses while internalizing conservation actions the project impact areas.

Roadmap for Peru

Stakeholders: During the development of this Roadmap, it was observed in Peru that there would be a special interest in strengthening the participation of the Secretariat of Social Management and Dialogue of the Presidency of the Council of Ministers (PCM).

According to Art. 58 of the Regulations on Organization and Functions of the PCM, this body, with regulatory technical authority at the national level, is responsible for preventing, managing and resolving controversies, differences and social conflicts; and since it is part of the PCM, it is responsible for coordinating national policies of a sectoral and multi-sector nature.

GOVERNMENT:



Information Level

The Peruvian regulatory framework promotes various participatory mechanisms that emphasize providing timely and adequate information regarding projected or current extractive activities and promoting dialogue with the population of the impact area and their representative organizations, while gathering their opinions. Drawing on the experience of the Dialogue Group on Mining and Sustainable Development, that encourages multi-stakeholder engagement at the national level, it may be good to consider decentralized spaces in areas with high concentrations of extractive companies, so that the various government authorities can provide quality information on issues related to mining development. Participatory monitoring experiences, as in Mexico, represent other opportunities for providing information. The relevance and quality of their information is valued, as well as their forms of communication with an intercultural perspective.



Dialogue Level

The regulations for the mining subsector of Peru recognize mechanisms for dialogue such as citizen oversight and environmental monitoring, indicating that companies should include a Permanent Information Office or a Participatory Environmental Surveillance and Monitoring Committee. There are at least 40 participatory monitoring committees. The National Water Authority, the Local Water Authority and OSINERGMIN as a supervisory entity, can share their monitoring knowledge and practices, generating a space for exchange and dialogue regarding the monitoring findings, facilitating decision-making on protection of the water resource.

The Secretariat of Social Management and Dialogue, through the involvement of the Ombudsman's Office, can play a role in promoting a decentralized Dialogue Roundtable that may contribute to bringing together several companies and communities, in areas with multiple interventions; the GDMDS experience illustrates this process at the national level. It is especially important to facilitate rapprochement with methodologies that favor productive, face-to-face dialogue in "safe spaces" capable of addressing asymmetric conditions. This will probably require a facilitator for the work sessions. As in Argentina, the regional authority can assume a coordination and oversight function by inviting company and community representatives to share their experiences and help build bridges when faced with different positions.



Consultation Level

Convention 169 of the International Labour Organization has been incorporated into the Peruvian Constitution, and there is also a law on the Right to Prior Consultation of Indigenous or Native Peoples (No. 29,785 of 2011) with its respective regulations. The application of these legal frameworks is relatively recent, as of 2015 in the case of mining, and procedures are being progressively adjusted, although there is still criticism from civil society. The Ministry of Culture could emphasize the exchange with the Ministry of Energy and Mines for carrying out transparent Prior Consultation processes with an intercultural perspective, strengthening the intervention of the Ombudsman's Office and other entities recognized as impartial. For this purpose, a possible model may be the best practice of the dialogue with the Wayuú People in Colombia, which, although related to a different engagement level, provides important intercultural elements that can serve as a point of reference.



Collaboration Level

In Hualgayoc, two NGOs and the GoldFields mining company were able to join forces with the state program FondoEmpleo for the productive improvement of poor farmers. But the involvement of the State is complex due to the nature of requirements and processing times, which warrants its revision. Also in Colombia, various government agencies were part of an initiative to promote sustainable forestry and productive projects with companies in areas affected by coal mining. This experience highlights the commitment of the State and its involvement in development planning and monitoring. Even agricultural educational institutions are active participants, which constitutes a referential model.

In order to enhance results, it would be convenient for Peru to consider (through the Ministry of Energy and Mines and the National Mining, Petroleum and Energy Society) promoting multi-company collaborative actions in spaces where several extractive interventions overlap.



Partnership Level

There are few occasions in which the Peruvian Government establishes partnerships with third parties. Somehow there have been opportunities in which collaboration and partnership for productive development are combined (although not for capacity-building). The legislative framework is limited in this field, and it needs to be made more flexible in order to effectively include capacity-building in the planning of budgets, along with clearer guidelines for authorities on its implementation.



Information Level

The participatory environmental monitoring committees in Orcopampa and in Mexico and the roundtables have been presented as spaces for civil society organizations to gather and request information on environmental issues and report on ongoing actions with the company, taking the opportunity to share it with their communities or groups of influence. Having adequate and timely means for dissemination, such as bulletins, news programs, radio programs, etc., contributes to the quality of the information.

CIVIL SOCIETY



Dialogue Level

Civil society has been a tenacious promoter of multi-stakeholder dialogue in Peru. The Dialogue Group on Mining and Sustainable Development has become a space for exchanges between multiple stakeholders, incorporating innovative approaches such as the use of playful formats, self-reflection, gender relations, with various forms of support for the sustainability of the space. Civil society is committed to generating decentralized spaces based on the political and administrative configuration (region, municipality) or basin, convening institutional representations for development as in Argentina or through a more individual participation by multi-stakeholder leaders. Any of these will require working together with state entities such as the Secretariat of Social Management and Dialogue.



Consultation Level

There are no Prior Consultation experiences systematized in Peru that have been presented as successful practices. The Vice Ministry of Interculturality, as a technical body specialized in indigenous matters under the Executive Branch of Peru, would benefit from systematizing the Prior Consultation experiences in both hydrocarbon and mining activities, convening academic and civil society entities for this purpose.



Collaboration and Partnership Levels

NGOs and universities have participated in collaborative actions or partnerships with both companies and the State, and illustrate processes that combine different knowledge and specialties to yield a higher quality proposal, whether in environmental issues, proposals for economic development, etc. It is noteworthy that they have retained their autonomy and put professionalism first, as well as the agreements defined. Thus, they have provided guidelines that should be replicated and may be strengthened by working with transparency and accountability.



COMPANY



Information Level

Peruvian regulations are productive in terms of the requirement to provide timely and adequate information regarding activities being planned or executed, promoting dialogue with the impact area population and their representative organizations, gathering the opinions of the population. The company must play an active role in providing information, recognizing the right of the population and the community to be informed of the actions taking place in the territory. By drawing on the environmental monitoring process and establishing collaboration and dialogue, the company will be able to exchange information on its environmental management systems and the results of monitoring water (and soil or air) resources in safe dialogue spaces, with municipal delegates and authorities, providing responses to the environmental concerns of the population.

The Huari Dialogue Roundtable has been an opportunity for various stakeholders to meet and share information and concerns regarding development. In Argentina, a common space has been created by bringing together several companies and communities so they may raise their concerns and obtain a single, concerted response from the business sector, in a process managed by the State. In its first phase, the space was mainly focused on the exchange of information regarding projects.

One of the main systematic efforts to provide specialized Information is the Extractive Industries Transparency Initiative (EITI), which is being implemented in several countries, including Mexico. This initiative promotes transparency in the economic flows derived from the exploitation of minerals, oil and gas in its member countries. A coalition of governments, companies, civil society organizations, investors and international organizations participate in this space. EITI is also being implemented in Peru and its findings should be disseminated more broadly throughout society in coordination with the media.



Dialogue Level

A broad multi-stakeholder dialogue process was generated in Arequipa around water and in Huari for development works, in both cases after a conflict emerged, which shows how all stakeholders, including the company, need to develop their dialogical capacities, remain open to dialogue and use bilateral channels to deal with conflicts when necessary.



Consultation Level

In Peru, the Prior Consultation of Indigenous and Original Peoples has only recently been applied, both in hydrocarbons and mining. Nor are there many systematized experiences in other countries of the region. In the Dominican Republic, there has been progress in the involvement of communities based on broad consultations regulated by law, in the planning of development at the municipal level, with the intervention of the company and the State.

Third-party accompaniment is suggested for Prior Consultation processes in the extractive sector in Peru, in order to analyze and systematize their development, reviewing the role of companies, which generally do not participate in the process directly.



Collaboration Level

In the case of Peru, there have been many efforts by companies that individually carry out Collaborative actions with civil society organizations. Participatory monitoring, developed in Peru with the active participation of companies, as well as in other countries such as Mexico, delegate technical work to a specialized and recognized entity, leading to positive changes in the company's perception, communications and relationship with the community, and strengthening long-term engagement. But the impact is enhanced with when companies join forces, as in the case of the Management Committee for the Sustainable Development of the Lower Urubamba Basin (CGDBU), which brings together the members of the Camisea Consortium, responsible for gas exploitation, to meet the demands of the indigenous populations.

The challenge is how to develop Collaborative actions at the company group level, overcoming the limits of bilateral action to advance towards actions of greater impact. In Colombia, there have been positive results with the collaboration implemented by various companies for forestry development, as a result of the impacts on a group of communities. Similarly, in Argentina with the Social Basin Project and in Chile with the Good Neighbor Roundtable of Sierra Gorda, companies that work in the same area join forces to carry out initiatives in the impact areas of their operations, involving communities and local governments.



Partnership Level

The REDyPAC Project in Hualgayoc illustrates how a collaboration and partnership action between an international cooperation agency, an NGO and a company can successfully promote an innovative productive development program (livestock and cheese production improvement) by strengthening capacities for the exercise of citizenship. Similarly, the partnership to promote a Virtuous Water Circle is an example of a multi-sector effort between a company and different levels of government for the execution and maintenance of works of collective benefit for the collection, treatment and distribution of river water, which has helped improve the relationships between the different stakeholders and build a development perspective consistent with a long-term plan, as well as clear benefits in the quantity and quality of water for the population.

In Peru, the creation of partnerships between companies and NGOs for the development of entrepreneurship initiatives could be more deeply explored, as has been done in the Dominican Republic based on their expertise and commitment.

Roadmap for Dominican Republic

Stakeholders: During the design of this roadmap, it was especially important to strengthen the efforts of those who participate in the Extractive Industry Transparency Initiative (EITI). In July 2015, the Dominican Republic joined the initiative with its own National Committee. The implementation of the EITI in the Dominican Republic has made it possible to coordinate the work of the government, civil society and industry in the extractive sector, with a greater understanding of the concerns of civil society and the ways in which the government manages the resources generated by this activity.

GOVERNMENT:



Information Level

The Dominican Republic has different mechanisms that promote information in the sector and that constitute an opportunity to improve access to information for civil society. In addition, in the framework of the EITI initiative, information on online mining contracts and revenue is published.

At the same time, there is a need to promote a mechanism that permits the exchange of information between the different stakeholders jointly at the local level. This diagnosis has identified experiences in which dialogue roundtables promote exchanges, such as the case of the Social Basins in Argentina, the Good Neighbor Roundtable of Sierra Gorda in Chile, the participation of peasant families in the Colombian forest compensation program and the Dialogue Group on Mining and Sustainable Development in Peru. All these experiences have in common that the information is generated and made available to the public within the framework of a multi-stakeholder dialogue process, which illustrates how the different engagement levels complement one another by generating virtuous circles of engagement.



Dialogue Level

The Extractive Industry Transparency Initiative (EITI) adopted by the government of the Dominican Republic in 2015 has established an important precedent and the main example of multi-stakeholder dialogue in the country. Another example of the positive role that the State can play in dialogue processes is that of the provincial government of Sánchez Ramírez, which managed to coordinate other government entities simultaneously, a practice that had not been observed previously. To strengthen these efforts, the experiences of the Social Basins in Argentina, the Good Neighbor Roundtable of Sierra Gorda in Chile, the participation of peasant families in Colombia's forest compensation program, and the Dialogue Group on Mining and Sustainable Development in Peru illustrate the power of dialogue to coordinate and incorporate diverse stakeholders, many of them with contrasting interests.



Consultation Level

Law No. 176-07 on municipalities provides for the participation of community members in decision-making and establishes the right to a referendum. This legal framework is recent and has only been applied in the case of municipal development plans in the Dominican Republic. The referendum to confirm the results of consultations with civil society is an example to follow. Alternatively, at the community level, the government would benefit by promoting the validation of agreements reached through consultations with the entire community potentially affected by the projects, as in the case of the consultation with the community of Caimanes in Chile.



Collaboration Level

The government has the tools to establish multi-stakeholder collaboration agreements based on the management of knowledge on the sector, its contributions, statistics, achievements, collections, investments and Corporate Social Responsibility projects. In Peru there was an experience where various stakeholders recognized as a lesson learned the fact that stakeholders understand how the State works, its bureaucracy, powers, deadlines, requirements, etc. This helps build trust and the capacity to implement actions to ensure a harmonious climate in relation to the development objectives of the sector. Another example that worth emphasizing is the case of Colombia: Participation of peasant families in a forest compensation program, where the participation of the government together with companies, NGOs and the community contributed greatly to the success of the project.



Partnership Level

This diagnosis has identified several partnerships concerning the extractive sector in which the government of the Dominican Republic has participated, notably the Cibao Sur Business Incubator, which emerged following a referendum. Therefore, local and national governments are encouraged to continue engaging in these efforts and there is a great opportunity to expand their engagement with extractive companies and civil society at this level. Some interesting references for this can be observed in the case of Peru, with the Huari Dialogue Project, where the resulting partnership managed to curb the problems and confrontations. In this case, the government's commitment was important in order to resolve the conflict. The Alianza Valor Minero in Chile also features a multi-stakeholder network and is an example of a public-private partnership that would be a good point of reference for the development of the extractive sector in the Dominican Republic.

CIVIL SOCIETY



Information Level

The diagnosis of the Dominican Republic demonstrated the need to create a forum where relevant information can be exchanged between Civil society and the extractive industry. Civil society would benefit from playing a more active role in the demand for truthful information from the government and companies. A smooth flow of information builds trust and allows the industry's actions to be monitored, as observed in the experiences of the Bonao Community Roundtables and the results of the municipal development plans, in which civil society played a crucial role. In Mexico, there are two mining projects that serve as models and illustrate the importance of demanding information from companies. One is the Participatory Monitoring of Water Quality by



Minera Media Luna, in which the community's complaint resulted not only in the quality of the water being tested, but also training for leaders to learn how to monitor the water resource. The second model is the Comprehensive Closure Plan by the New Gold company, in which the mediation of a civil society organization helped gather certain information that made it possible to implement actions in accordance with the needs of the population.



Dialogue Level

The construction of dialogue as a tool for engagement has proven to be very effective in the country. The different stakeholders of the Community Roundtables, which include local governments and the different associations of each community, make consensual decisions for local development, and Falcondo accompanies their processes. This example of dialogue can be taken to other levels, following the example of Peru and the Dialogue Group on Mining and Sustainable Development that has crossed borders and led to the creation of the Latin American Dialogue Group. In the case of the Dominican Republic, civil society can use this as an example to transcend provincial borders and take the dialogue to the national level.



Consultation Level

A point of reference for consultations in the Dominican Republic were the municipal development plans implemented in the provinces of Sánchez Ramírez and Bonao. The success of the consultation was based on the construction of dialogue as a tool with multi-stakeholder participation including local authorities, community and company, once again demonstrating how the different engagement levels complement one another. It is recommended that civil society participate actively in regional spaces to learn about consultation experiences in other countries and to promote learning and knowledge management processes at the national level.



Collaboration Level

A great example of engagement in the Dominican Republic is group of the collaborative agreement between the Community Roundtables and Falcondo. This case also brought nine communities together around the extractive issue, creating a connection that did not exist before—despite their geographical proximity—and enhancing development opportunities for civil society. A similar and interesting project that has gone through all engagement levels from Information to Partnership and that has elements that can be replicated in the Dominican Republic is that of the Good Neighbor Roundtable of Sierra Gorda in Chile. In this experience, a territorial dialogue has been established, connecting several communities, incorporating all the information generated for the common good of the entire territory, and giving rise to more complex engagement levels. Something similar could emerge from civil society, since Barrick, Falcondo and Cormidom are all located in nearby territories in the Dominican Republic, and it would be convenient for communities to collaborate with them in a unified way.



Partnership Level

This diagnosis has identified several partnerships concerning the extractive sector in which civil society plays a key role. For example, the Sponsorship of Schools in which the parent associations, the Dominican Association of Teachers and neighborhood associations, were so relevant. It is recommended that communities continue to be involved in these types of efforts, and there is a great opportunity to strengthen their engagement with extractive companies, governments and other members of civil society at this level by participating in similar partnerships.

COMPANY



Information Level

Under Law 64-00, all mining projects must positively provide the mandatory information. Therefore, companies already make a significant amount of information available to the general public, including the community and the government. The law also provides for public hearings where the project and its scope is explained and the concerns of the communities that will be affected by the project are heard. In the diagnoses of Argentina, Chile and Colombia, three practices were identified that demonstrate that teamwork has shared benefits that are important not only for the development of a mine, but also of a region. One is the Social Basins in the Salta Province in Argentina, where the interesting thing is that five companies, four of them still in the exploration stage and one in the construction phase, meet and together decide the strategy for working with the communities and keeping them informed about the different mining processes that they carry out. In this way, communities have a single space they can go to when they have concerns. Other similar examples are: Participation of Peasant Families in Forest Compensation Programs in Colombia and Good Neighbor Roundtable of Sierra Gorda in Chile. The information generated by extractive companies when carrying out best practices should also reach the general public at the national level, ensuring that the population is aware of the projects and the benefits they generate for the development of the communities and the nation.



Dialogue Level

In the Dominican Republic, dialogue as a cornerstone of the engagement between civil society and industry is observed in the community roundtable and development plan processes. Meanwhile, in Argentina the Social Basins are once again noteworthy, and Peru has the Huari Dialogue Roundtable, the Dialogue Group of Peru and the case of Arequipa with the Virtuous Water Circle. In all these cases, dialogue is the essential factor for ensuring the project's successful relationship with communities and governments, and therefore Dominican companies are encouraged to continue strengthening this engagement practice.



Consultation Level

In the Dominican Republic, the process of Public Hearings for Law 64-00 is the starting point for a consultation, in which the project and its scope are presented and the population participates, receives information, expresses its concerns and reaches important agreements. The results could be used more effectively, to the extent that the results of the consultation are widely disseminated at the national level.



Collaboration Level

There is a great opportunity for companies in the Dominican Republic to strengthen the Collaboration level if they follow the example of the regional projects observed in the diagnosis: Good Neighbor Roundtable of Sierra Gorda (Chile), Social Basins (Argentina) and Participation of Families Peasants in the Forest Compensation Program (Colombia). These three cases have in common that, besides being good examples of dialogue and collaboration with the government and civil society, they bring together several companies in the same area to draw up coordinated plans and advance local development. It is a clear example of the power of collaboration among companies in extractive processes and the positive effects this action can have on development.



Partnership Level

Companies in the Dominican Republic have led several partnerships. To continue these efforts, it is recommended that the case of Colombia be studied. The Participation of Peasant Families in the Forest Compensation Program is not only an example of the engagement process between the interested parties, but it also represents an environmental milestone. This example shows that partnerships can contribute to the conservation and recovery of degraded areas, and that it is possible to work in collaboration with the environmental authorities. This environmental perspective is not very well-established in the Dominican Republic, and this is an example that can be studied and implemented in mining projects that are near environmentally sensitive areas.

Regional roadmap for Latin America and the Caribbean

Stakeholders: At the regional and international level, there are important stakeholders that can coordinate and improve their respective missions, such as: Conference of Mining Ministries of the Americas (CAMMA), Latin American Mining Organization (OLAMI), Latin American Energy Organization (OLADE), International Council on Mining & Metals (ICMM), United Nations Development Program (UNDP), World Bank, Extractive Industry Transparency Initiative (EITI), and the governments of mining countries such as Canada or Australia.

GOVERNMENTS:



Information Level

Chile has the best practice of Early Participation in the Development of Environmental Impact Assessments, whose key message is the need to share information with the population while the Environmental Impact Assessment is being prepared. This can be complemented by another best practice implemented in this country, called Voluntary Pre-investment Agreements. One of its goals is to provide information before a future investment in the area has been initiated or even approved. This can be very appealing to governments that want to attract new investments and need a preventive intervention before the investment is underway.

The Extractive Industry Transparency Initiative is another valuable effort that exists in several Latin American countries, for example, in Peru, the Dominican Republic, Colombia and Mexico. When governments extend the invitations, the appropriate variety of business and civil society stakeholders is achieved, along with a good level of information shared. The expansion of this information—so that it does not only cover the financial and economic issues that companies face—is one of the changes already underway.



Dialogue Level

The institutionalization of dialogue in the public administration is observed in different countries. One example is Alianza Valor Minero in Chile. In Peru, the creation of the Vice Ministry of Territorial Governance, the Secretary of Dialogue and Social Management in the Presidency of the Council of Ministers, as well as dialogue and conflict management offices in most of the ministries, are other forms of institutionalization of dialogue.

The diagnoses have shown other best practices of dialogue with the participation of state entities such as the Huari Dialogue Roundtable in Peru, the Participatory Resettlement Plan in Mexico, and the Good Neighbor Roundtable of Sierra Gorda in Chile.

It is important for governments to participate and promote dialogue processes, ensuring coordination between the different levels of the State and between the Ministries. The success of the dialogue institutionalization process depends on this coordination, as well as on the participation of civil society. Different experiences encourage the promotion of regional meetings between governments to reflect on conditions, methodologies and roles in the dialogues concerning the extractive sector.



Consultation Level

Prior consultations are regulated in Convention 169 of the International Labour Organization, which has been signed by all the countries included in this diagnosis, except for the Dominican Republic. At the same time, the diagnoses report consultation processes that were developed under national laws not necessarily linked to Convention 169. Some best consultation practices are: municipal development plans in the Dominican Republic, creation of the development agency in Chile, Huari Dialogue Roundtable in Peru.

The State assumes different roles in these processes. It would be important to hold regional meetings to address these consultation processes and allow these experiences to be analyzed in light of Convention 169. In these spaces, state entities could review and redefine their roles in consultation processes.



Collaboration and Partnership Levels



These countries have no regulations or state institutions overseeing the collaboration and partnership levels, and therefore the State has no clear guidelines for civil society engagement with the extractive sector.

However, Development and Land-Use Plans represent an important connection between the priorities of a population in a given territory and the investment provided by the extractive sector. Society has participated in the design of these Plans, although this is not always an active and representative participation, and it must assume a role of oversight in order to ensure implementation of the Plans.

Two best practices identified in the diagnoses illustrate the importance of development plans. In the case of the Dominican Republic, the construction and approval of local development plans were central to one experience. The experience of establishing the development agency in Argentina was also based on the design of a development plan. Although they have not been validated, the Life Plans of indigenous peoples must also be considered as examples of such a practice in Peru.

At the regional level, it is suggested that evaluations be carried out by governments to determine the extent to which extractive sector investments are contributing to the implementation of the Plans at both the national and local levels. In addition, national governments should promote capacity-building so that local governments can have more tools to consider the extractive sector in the territorial planning process.

CIVIL SOCIETY



Information Level

Civil society plays an important role within the EITI framework. This was observed in the best practice of the EITI reported in Mexico. Also, the Roadmap for the Dominican Republic highlights the role of civil society in the multi-stakeholder dialogue promoted by the EITI. The Roadmap for Peru also mentions the EITI as an important practice and recommends greater dissemination of information throughout society.

Another international initiative for improving transparency in the extractive sector is Publish What They Pay (Publique Lo Que Pagan), which also channels information through the EITI. The mission of this London-based organization is to achieve a more transparent and responsible extractive sector that allows citizens to participate in making decisions about the extraction or non-extraction of their resources, how they are extracted, and how the revenue from extraction is spent. As of the publication of this report, Publish What They Pay is not yet working in Latin America.

The role of civil society in demanding and contributing to the generation of truthful information is observed in the best practices of Participatory monitoring of water quality in Mexico, Participatory environmental monitoring in Orcopampa in Peru, and the Huari Dialogue Roundtable in Peru, in which civil society organizations gather and request information on environmental issues and report on actions currently being developed by the company, taking advantage of the opportunity to share it with their community or group of influence.

EITI could identify and register the experiences of these and other local initiatives, in order to improve the dissemination of information at the local level and support its use by communities. In 2015, the Latin American Dialogue Group (GDL), a regional exchange and collaborative work platform, launched the Transparency Protocol for Extractive Industries in Latin America, designed to promote a more informed participation of civil society. The multi-stakeholder nature of the GDL could be a comparative advantage in identifying and coordinating the various transparency initiatives that exist in the region.



Dialogue Level

In different countries of the region, there are multi-stakeholder dialogue processes such as the Dialogue Group on Mining and Sustainable Development or the Argentine Platform for Dialogue on the Sustainable Use of Natural Resources. Many of these processes were promoted by civil society organizations, and have the participation of academia, and in some cases of the communities.





The diagnosis demonstrated how multi-stakeholder dialogue not only contributes to the coordination between different sectors within a territory, but also manages to coordinate the local and national levels and is an important condition for connecting the different stakeholders around the access to information and to establish partnerships and collaborative relationships.

This coordinating role of dialogue can be observed in some best practices such as the signing of easement agreements in Argentina or the Community and Environmental Support Program (PACMA) in the Mexican hydrocarbon sector, where multi-stakeholder dialogue helps establish partnerships for the investment of company resources in productive projects.

Despite countless valuable experiences in dialogue at the local, national and regional levels, a comparative study that can identify success factors and challenges in the dialogue processes in the extractive sector is still lacking. Identifying these factors, regardless of the context in which the dialogues take place, would be an important regional contribution and could help overcome some difficulties that emerge in these processes. Ideally, such a comparative study should be developed by the academy, in coordination with non-governmental organizations with practical experience in facilitating collaborative processes.



Consultation Level

The diagnosis revealed a few best practices in this engagement level, but none of them is directly linked to Convention 169 of the International Labour Organization. This shows that national and local regulations can be used as a framework for the development of consultations. In fact, the Popular Consultation in Colombia is an important regulatory tool for organizations that are resisting extractive projects.

But it also shows that the implementation of Convention 169 still faces very serious challenges. In spite of the extensive regulatory framework that governs prior, free and informed consultations in Peru, the stakeholders involved in the diagnosis did not report best practices in the implementation of these norms, nor were others identified in the remaining countries.

Civil society, and specifically indigenous movements, should continue insisting on the implementation of Convention 169, which is stipulated in it, and on the development of a regulatory framework for its application in countries where one does not yet exist. Popular consultations or referendums can provide important inputs for enriching the debate on Convention 169. As much as possible, civil society should work with decision-makers in political systems to obtain the necessary support and should work with regional bodies to find a regional reference framework.



Collaboration and Partnership Levels



One of the few organizations with a regional impact that actively promotes collaboration between civil society and extractive companies is the Devonshire Initiative (DI). The DI is a forum established in Canada for the main international development NGOs and mining companies to meet in response to the emerging social agenda around mining and community development. The Devonshire Initiative believes that NGOs and mining sectors are better able to improve development outcomes in the communities in which they operate when they collaborate with one another rather than when they work separately.

A document published by DI suggests that one lesson learned from partnership and collaboration projects between civil society and companies in the extractive sector is the need to begin engagement by building trust and mutual understanding. In addition, it mentions success factors such as establishing a formal agreement, investing the right amount of time and resources, the importance of personal relationships, great internal communication and a commitment to external communication, and the continuous evaluation of successes and challenges.

The best practices identified in the diagnosis confirm and complement these findings. Transparency between the parties that enter into a partnership, the complementary roles of civil society and business, permanent and open communication, the need for letters of intent and partners with legitimacy in the communities or respect for communities' forms of representation are some of the success factors reported in the diagnosis.

Civil society organizations that are interested in forming partnerships or collaborative relationships with companies in the extractive sector should make greater efforts to systematize these practices and learn from them. The lessons learned could mitigate the risks if partnerships and collaborations do not enjoy the expected success and if these forms of engagement lose legitimacy.



COMPANY



Information Level

The diagnoses identified a series of best practices for facilitating community access to information. One innovation that was reported is when companies working in the same geographical area start associating, which improves their ability to deliver truthful, timely and consistent information. The Good Neighbor Roundtable in Chile provides an example of how a strategy of shared access to information by several companies jointly can foster processes of dialogue and formation of partnerships.

Mining Chambers can play an essential role in promoting this type of association. At the regional level, the International Council on Mining and Metals (ICMM), as well as the embassies of countries such as Canada or Australia, could promote access to information by different companies working in the same area.

Another best practice in the Information engagement level refers to the participatory monitoring of water resources. One of its characteristics is that communities are trained so that they can draw samples and traceability is ensured from the moment a sample is taken until its analysis in the laboratory. Participatory monitoring not only generates information on water quality, but also trust for a long-term engagement, and this can prevent conflicts.

Recently, the NBSAP Forum and the GOXI platform, with the support of the UNDP, carried out a series of webinars on the subject of participatory environmental monitoring in the extractive sector. This type of dissemination appeals to a very broad audience and companies are encouraged to use this form of communication, which should be directed not only to the private sector, but also to civil society and the State, in order to promote a multi-stakeholder dialogue on this issue.



Dialogue Level

In the diagnosis, a series of practices have been identified that show the capacity and willingness of the extractive sector to dialogue at the local level. Best practices of dialogue were found in every country that was part of the diagnosis, touching on issues such as the resettlement of indigenous communities in Colombia, the Dialogue on a Closure Plan in Mexico, or productive and environmental issues in Peru, the Dominican Republic, Argentina and Chile.

At the national level, the company participates in dialogue processes within the EITI framework, or in dialogue groups such as the one in Peru. The opening of extractive industry to civil society allows companies to hear other points of view and these are important opportunities for identifying potential improvements in the engagement between the different stakeholders.

In some countries, and at the regional level, this opening of the extractive sector is still tentative. It is important to consolidate the dialogue with civil society, especially at the regional level, exchanging experiences and generating new methodologies and tools in order to implement collaborative processes. One of the conclusions of the diagnosis is that dialogue is transversal to partnerships and collaborative relationships. In this sense, a discussion at the regional level could identify the synergies required to consolidate collaborative relationships between civil society and the extractive industry.



Consultation Level

The diagnosis found few best practices at the Consultation level. At the same time, the discussion regarding ILO Convention 169, which stipulates prior, free and informed consultation, is bogged down in whether or not it is binding. A private sector initiative to resume the discussion and show a willingness to move forward with its regulation at the national and perhaps regional level could not only improve consultation practices but also show the good faith of the business community, in terms of consulting with communities about extractive projects in the early stages.



Collaboration and Partnership Levels

The diagnoses reveal changes in the policies of extractive companies in relation to the engagement between civil society and companies. These changes are not linear, homogeneous and orderly; rather, they are progressive, unequal and sometimes reversible processes.

One example of these changes worth mentioning is that, where there were Public Relations Managers who were responsible for community relations during the 1980s, there are now External Relations Managers or Areas with a strong legal component that assumed these functions in the early 1990s. Later, in 2000, Community Relations Managers began to appear and, starting in 2012, Vice Presidencies of Social Management were formed, which assumed the tasks of community relations, the environment and in some cases security and institutional relations. In summary, within companies, the attention given to the communities progressively received more power, capacities and resources.

In terms of the priority given to water by companies, the following evolution can be traced in their operations: in 2000, the budget allocated to the use, management and disposal of water resources in a mining project did not exceed 1 or 2%, but over the course of a decade this number has increased to 5 and 10%.

The trends in Corporate Social Responsibility policies and practices have created opportunities for civil society and companies in the extractive sector to discover new forms of partnership and collaboration in order to improve the quality of life in the communities. Companies should consolidate their work with civil society, clearly identifying the comparative advantages of civil society over unilateral actions by the company. This process requires building trust, and so a medium- to long-term vision is recommended for this type of engagement.

Endnotes

1. Most of the extractive projects located in rural areas and the surrounding communities are the main affected stakeholders, with whom the companies seek to engage with initially. Other important stakeholders are small municipalities with a large rural population. Projects near medium-sized or large cities, such as the case of Arequipa, Peru, or Chile, are less frequent, see for example: *Valor Minero*, 2017: *Los desafíos para el desarrollo futuro de la minería en la zona central, Las Condes*; *Valor Minero*, http://valorminero.cl/site/docs/2017/desafios_desarrollo_futuro_mineria_zona_central.pdf.
2. Cameron, Peter, & Michael Stanley, 2017: *Oil, gas and mining – A sourcebook for understanding the extractive industry*, Washington: The World Bank, p. 19.
3. The criteria, as well as details on the methodology used, can be found in Appendix 1.
4. See conceptual methodological framework (Appendix 2). For more information, see IDB, 2018: IDB Group-Civil Society, <https://www.iadb.org/en/civil-society/home>.
5. See Milano, Flavia & Andrea Sanhueza, 2016: *Public Consultations with Civil Society: Guidelines for Public and Private Agencies*, Washington: IDB, <https://publications.iadb.org/handle/11319/7499?locale-attribute=en>.
6. For the purposes of this investigation, non-renewable resources are oil, gas and metal minerals at any stage of the extraction cycle (prefeasibility, feasibility, exploration, exploitation).
7. The ICCM website is <http://www.icmm.com/en-gb>.
8. The members of the ICCM have committed to complying with 10 principles for contributing to sustainable development, see: ICCM, 2015: *Sustainable Development Framework: ICCM Principles*, London: ICCM, http://www.icmm.com/website/publications/pdfs/commitments/revised-2015_icmm-principles.pdf.
9. The IOGP website is <http://www.iogp.org>.
10. To this end, IOGP has formed different committees, such as the environment committee, which aims to respond to the demands of different stakeholders, see: IOGP, 2018: *Our committees*, <https://www.iogp.org/our-committees/>.
11. Wilson, Emma, Sarah Best, Emma Blackmore & Saula Espanova, 2016: *Meaningful Community Engagement in the Extractive Industries*, London: International Institute for Environment and Development, <http://pubs.iied.org/pdfs/160471IED.pdf>.
12. On one hand, the Voluntary Principles of Security and Human Rights were launched by the governments of the United States and the United Kingdom, together with companies and some non-governmental organizations, in 2000, see: *The Voluntary Principles on Security and Human Rights*, December 19, 2000, http://www.voluntaryprinciples.org/wp-content/uploads/2013/03/voluntary_principles_english.pdf. They are the only Human Rights standards designed exclusively for the extractive sector. Currently, 30 companies have adhered to the principles, see: *Voluntary Principles*, 2018: *For companies*, <http://www.voluntaryprinciples.org/for-companies/>. Meanwhile, in 2011 the United Nations published the guiding principles on business and human rights, which apply to States and all transnational companies and others, see: Office of the High Commissioner, United Nations, 2011: *Guiding Principles on Business and Human Rights – Implementing the United Nations “Protect, Respect and Remedy” Framework*, New York and Geneva, UN, http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf.
13. Salmón, Elizabeth (coord.), 2016: *La Progresiva Incorporación de las Empresas en la Lógica de los Derechos Humanos*. Lima: Instituto Democracia y Derechos Humanos de la Pontificia Universidad Católica del Perú (IDHPUCP), pp. 17-18.
14. Various studies confirm the challenges of a greater link between the local economy and the extractive sector in the Latin America countries. See for example: Rudas, Guillermo, 2014: *Notas sobre la minería de carbón a gran escala en Colombia*, in: FES (Friedrich Ebert Stiftung): *La minería de carbón a gran escala en Colombia: impactos económicos, sociales, laborales, ambientales y territoriales*, Análisis 1/2014, pp. 5-22. Albrieu, Ramiro, 2012: *La macroeconomía de los recursos naturales en América Latina*, in: Albrieu, Ramiro; Andrés López, y Guillermo Rozenwurcel (coord.) *Los Recursos Naturales como Palanca del Desarrollo en América Del Sur: ¿Ficción o Realidad?* Montevideo: Red Mercosur de Investigaciones Económicas, pp. 105-147.
15. Ed O, Keefe, director of Synergy Global, in an interview with Sarah Busque, on December 10, 2013, in: *Borealis*, 2013: *Claves para mejorar las prácticas en las relaciones comunitarias*, <https://www.boreal-is.com/es/blog/mejorar-relaciones-comunitarias/>.
16. Wilson 2016, Op. cit.
17. Ibid.
18. ICCM, 2012: *Mining’s contribution to sustainable development*, InBrief, June 2012). See also: López-Morales, José Satsumi, y otros, 2017: *Estrategias de responsabilidad social en América Latina: un análisis de contenido en la industria extractiva*, in: Ad-Minister (Universidad Eafit), No. 31 julio a diciembre 2017, pp. 115-135.
19. Oxfam Internacional & Social Capital Group (SCP), 2007: *Corporate Social Responsibility in the Mining Sector in Peru*. <https://www.oxfamamerica.org/publications/corporate-social-responsibility-in-the-mining-sector-in-peru/>
20. It is important to differentiate executive branch of the national government from other public stakeholders such as the judiciary or the legislative branch. The analysis below refers to the executive branch, except when indicated otherwise.
21. See Penfold, Michael y José Luis Curbelo, 2013: *Hacia una nueva agenda en inversión extranjera directa. Tendencias y realidades en América Latina, Serie Políticas Públicas y Transformación Productiva*, N° 10/2013. Corporación Andina de Fomento (CAF).
22. Medina, Leandro, 2010: *Efectos dinámicos de los precios de las materias primas en las posiciones fiscales de América Latina*, CAF Working Papers No. 2010/02.
23. Marczak, Jason & Peter Engelke, 2016: *Latin America and the Caribbean 2030: Future Scenarios*, Washington: IDB, p. 21. <https://publications.iadb.org/handle/11319/7978>
24. Data from the diagnoses of this study. These figures do not include indirect employment.
25. Monge, Carlos, 2017: *Minería y marco institucionales en la región andina*, Lima: NRG/GIZ, pp. 3-14.
26. Marczak 2016, Op. cit., p. 21.
27. The only country in this study that has not ratified Convention 169 is the Dominican Republic.
28. In Argentina, there is no legal standard that regulates the agreement. In Mexico, the constitutional reform of 2011 incorporated ILO Convention 169 into the Constitution, which is regulated by a protocol of the National Commission for the Development of Indigenous Peoples (CDI), published by decree, see: Castillo Lara, Clara, 2017: *La constitución mexicana y el Convenio 169 de la OIT sobre pueblos indígenas y tribales*, in: *Alegatos*, No. 97, p. 575.
29. Data extracted from each country’s diagnoses that form the main part of this publication.
30. In Chile, there is a Ministry of Mines and a Ministry of Energy.
31. Corporación Nacional de Desarrollo Indígena (CONADI), 2018: <http://www.conadi.gob.cl/>.
32. Data extracted from each country’s diagnoses that form the main part of this publication.
33. Salinas Alvarado, Carlos Eduardo, 2011: *La consulta previa como requisito obligatorio dentro de trámites administrativos cuyo contenido pueda afectar en forma directa a comunidades indígenas y tribales en Colombia*, accessed at: <https://revistas.ueh.edu.co/index.php/derest/article/view/3019/3055>.
34. Wilson, Emma, 2016, Op. cit.
35. Ibid.

36. Data extracted from each country's diagnoses that form the main part of this publication.
37. In fact, "in many Latin American countries, popular consultations on mining have become a conflict between national governments, on the one hand, and local governments and social stakeholders," see: Dietz, Kristina, 2017: *Consultas populares mineras en Colombia: Condiciones de su realización y significados políticos. El caso de La Colosa*, en: *Colombia Internacional* (93), 93-117, p. 96.
38. ECLAC (Economic Commission for Latin America and the Caribbean), 2014: *Pactos Igualdad – Hacia un futuro sostenible*, pp. 294-298.
39. Sanborn, A. Cynthia, y Juan Luis Dammert, 2013: *Extracción de recursos naturales, desarrollo económico e inclusión social: Perú*, *Américas Quarterly*, p. 26. Perry, Guillermo y Mauricio Olivera, 2009: *El impacto del petróleo y la minería en el desarrollo regional y local en Colombia, CAF, documentos de trabajo 2009/06*.
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54. Ibid.
55. ECLAC: Argentina: National Economic Profile, http://estadisticas.cepal.org/cepalstat/Perfil_Nacional_Economico.html?pais=ARG&idioma=english.
56. Prepared using the INDEC database: https://www.indec.gob.ar/nivel4_default.asp?id_tema_1=3&id_tema_2=2&id_tema_3=39, según categoría: Minas y Canteras.
57. Law No. 23,548 – Federal Tax Co-Participation. Periodo 2017 (I): <http://www2.mecon.gov.ar/hacienda/dncfp/provincial/recursos/esquemas/ley23548.pdf>.
58. It is worth noting that the hydrocarbon sector has a greater preponderance in the number of registered jobs, with 66.6% of the jobs registered in 2016, compared to 33.4% of employees in the metal mining industry for the same year. Prepared using the database of the Argentine Integrated Pension System (SIPA): http://www.trabajo.gob.ar/left/estadisticas/novedades/novedad_empleo.asp.
59. Jueguen, Francisco, 2017: *El desempleo terminó 2016 en 7,6%, según el Indec*, in: *La Nación*, 16 de marzo de 2017, <https://www.lanacion.com.ar/1994231-el-desempleo-termino-2016-en-torno-al-76-segun-el-indec>. According to this article, the EAP was 18 million people in 2016.
60. *Asamblea de Vecinos Autoconvocados de Esquel por el No a la Mina 2002-2017*, www.noalamina.org.
61. Fundación Cambio Democrático, 2017: *Plataforma Argentina de Diálogo para el Uso Sustentable de los Recursos Naturales*, Capital Federal, <http://cambiodemocratico.org/2017/02/07/plataforma-argentina-dialogo-para-uso-sustentable-recursos-naturales/>.
62. The Environmental Justice Atlas is led by Leah Temper and Joan Martinez Alier and coordinated by Daniela Del Bene, from the Institute of Environmental Science and Technology (ICTA) of the Universidad Autónoma de Barcelona. Its purpose is to gather stories of communities fighting for environmental justice around the world. The data is sent from different countries by academics, concerned citizens, informal committees and non-governmental organizations. An editing team verifies the data. It is important to mention that the type and number of conflicts registered depends on the perspective of those sending the data, so it is not an objective data. In this document, the Atlas' data are used when there are no figures that are more reliable in the country, as in the case of Argentina. For more detail on the Atlas methodology, see: Leah Temper, Daniela del Bene and Joan Martinez-Alier. 2015. Mapping the frontiers and front lines of global environmental justice: the EJAtlas. *Journal of Political Ecology* 22: 255-278. The access link to the Environmental Justice Atlas is: <https://ejatlas.org/>.
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64. Chubut (Law 5,001 of 2003), Tucumán (Law 7,879 of 2007), Mendoza (Law 7,722 of 2007), La Pampa (Law 2,349 of 2007), Córdoba (Law 9,526 of 2008), San Luis (Law 634 of 2008), Tierra del Fuego (Law 853 of 2012).

65. Famatina Conflict: since 2004, camps, marches and roadblocks have been held in Famatina, La Rioja Province, to prevent government officials and company representatives from entering the mine. Thus, the population has managed to prevent the projects of companies such as Barrick Gold, Osisko Mining Corporation and Shandong Gold, as well as Midais from Salta, under the slogan "Don't Touch Famatina."
Equel Conflict: in July 2002, the Meridian Gold company officially authorized the purchase of a project located ten kilometers from this city. Different groups of neighbors began to organize. In October 2002 they held an assembly in the Normal School, and in November the Council of Self-Convended Neighbors Saying "No to the Mine" was born. After several marches, the Deliberative Council approved a popular consultation. On March 23, 2003, 81% of Esquel voters rejected the gold and silver mine. Although the consultation was not binding, the results caused the execution of the project to be suspended.
66. Velarde Ponce de León, Claudia, 2018: *Defendiendo a comunidades del avance del fracking en Argentina*, <https://aida-americas.org/es/blog/defendiendo-comunidades-del-avance-del-fracking-en-argentina>.
67. Several other practices identified have not been validated in the framework of this study. These experiences can be found in Appendix 3.
68. The field research concluded in 2017, and therefore the duration of the best practice can only be assured for this year, which does not exclude the possibility that it may still be valid in the future. This observation applies to all best practices.
69. This space is accessible to the community, which has posed some problems within it, for which solutions have been sought (lack of firewood – donations, lack of mining training – mobile classroom, lack of communication – free WiFi for the entire community).
70. Innovation refers to practices that were novel at the time of their validation in the respective country.
71. Each best practice was evaluated according to the dimensions of participation, relevance and sustainability, based on previously designed indicators. For more information, refer to the conceptual and methodological framework, 4.3. (Appendix 2).
72. All best practices included in the diagnosis were analyzed considering the following approaches: participatory approach, regulation of rights and obligations approach; sustainable development approach; diversity approach; gender equality approach; conflict transformation approach. The definitions can be found in the conceptual framework (Appendix 2). If the approaches are not mentioned in the best practice analysis, it means that no elements have been found to indicate their inclusion in the best practice implementation.
73. Boon, Johannes, 2017: "Corporate Social Responsibility, Relationships and the Course of Events in Mineral Exploration – an Exploratory Study," Carleton University, Johannes Boon, Ontario, p. 194.
74. Ibid.
75. Information provided by PAE.
76. Cámara Argentina de Empresarios Mineros: HMS, <http://www.caem.com.ar/hms/>.
77. Just to give an example, the La Rioja Province can be mentioned with its conflict in Famatina and the position of the provincial governor. DyN, 2011, Beder Herrera asked environmentalists to "stop fucking" with mining, Clarín Noticias, 05/31/2011, https://www.clarin.com/medio_ambiente/Beder-Herrera-ambientalistas-joder-mineria_0_Skl-TiWawXx.html.
78. One important organization is the *Fundación Ambiente y Recursos Naturales* (Environment and Natural Resources Foundation, or FARN). FARN has conducted various studies, including one on Lithium mining. Regarding extractive activities, they argue: "The social and environmental effects of this type of activity are devastating: ecological destruction, loss of natural forests, soil deterioration, contamination by agrochemicals, displacement of local communities, no generation of quality employment and even violation of rights, among others. FARN affirms that there are no extractive policies that are friendly to society, nor to the environment." (<https://farn.org.ar/extractivities>).
79. One example is the Council of Self-Convended Neighbors for the "No to the Mine," a neighborhood movement that was formed in the town of Esquel, Chubut Province, and expanded to other locations. According to its website, they are already present in 15 locations throughout the country. It does not have a formal structure with positions and roles. Their actions and their presence as a group opposed to mining are very strong in Argentina. For more information, see: *Asamblea de Vecinos Autoconvocados de Esquel por el No a la Mina 2002-2017*, Op. cit.
80. Universidad Nacional de San Martín, <http://www.unsam.edu.ar>
81. As an example, Universidad de San Martín and Universidad Tres de Febrero trained teachers from the communities belonging to the Bajo La Alumbrera mine impact area for several years.
82. Ministerio de Desarrollo Social Presidencia de la Nación, 2015: *Instituto Nacional de Asuntos Indígenas (INAI), Tierras y registro nacional de comunidades indígenas*, <https://www.desarrollosocial.gob.ar/wp-content/uploads/2015/08/6.-INAI-Tierras-y-registro-nacional-de-comunidades-indigenas.pdf>.
83. For example, regarding the participation spaces in the Environmental Impact Assessment framework. Some examples are: *Ley N° 123 de Evaluación del Impacto Ambiental de Buenos Aires*, last modification published on 05/18/2012. *Ley de Evaluación de Impacto Ambiental, provincia de Santa Cruz*, published on 08/21/2003. *Ley 10.208. Política Ambiental Provincial (Córdoba)*, published on 06/27/2014.
84. Ministerio de Ambiente y Desarrollo Sustentable, 2016: *Informe del estado de ambiente 2016*, Buenos Aires. https://www.argentina.gob.ar/sites/default/files/mayds_informe_estado_ambiente_2016_baja_1_0.pdf.
85. Covo, María Julia, 2013: *Derecho de minería y energía – El principio de congruencia de la ley general del ambiente en el Derecho Minero*, in: *Anales de la Facultad de Ciencias Jurídicas y Sociales*; año 10, no. 43, pp. 151-160; p. 153.
86. Oil and gas production is marginal in Chile and the author did not find macroeconomic figures that included oil. Oil production is concentrated in ENAP, a national company whose purpose is the exploration, production and commercialization of hydrocarbons and their derivatives. There are 10 companies that produce Natural Gas, and they have their own business association. ENAP's sustainability report indicates that oil production in Chile, (Magallanes Region) was 987 million barrels for 2016; meanwhile, natural gas production in Chile (Magallanes) was 1 billion standard cubic meters (5,909,500 equivalent barrels). ENAP exports were 0.42 million cubic meters of oil products, equivalent to 3.8% of the total production of its refineries.
87. Consejo Minero, 2018: *Cifras actualizadas de la minería*, <http://dev.consejominero.cl/wp-content/uploads/2018/03/Cifras-actualizadas-de-la-miner%C3%ADa-Marzo-2018.pdf>.
88. Comisión Nacional de Productividad 2016: *Productividad de la Gran Minería el Cobre*, <http://www.comisiondeproductividad.cl/productividad-de-la-gran-mineria-del-cobre/>.
89. Consejo Minero, 2018, Op. cit.
90. Comisión Nacional de Productividad 2016, Op. cit.
91. Accessed at: Sociedad Nacional de Minería, *El nivel de empleo en la minería es el más bajo de los últimos siete años*, <http://www.sonami.cl/site/noticias/el-nivel-de-empleo-en-la-mineria-es-el-mas-bajo-de-los-ultimos-siete-anos/>.
92. Comisión Chilena del Cobre, 2017: *Anuario de Estadísticas del Cobre y otros Metales 1997-2016*, Santiago de Chile, <https://www.cochilco.cl/Lists/Anuario/Attachments/17/Anuario-%20avance7-10-7-17.pdf>.
93. Comisión Nacional de Productividad 2016, Op. cit.
94. Instituto Nacional de Derechos Humanos, 2015: *Mapa de Conflictos Socioambientales en Chile*, Santiago de Chile, <http://bibliotecadigital.indh.cl/bitstream/handle/123456789/989/libro.pdf?sequence=5>.

95. Comisión Minería y Desarrollo de Chile Consejo Nacional de Innovación y Competitividad, 2014: *Minería. Una Plataforma de futuro para Chile*, http://valorminero.cl/site/docs/2017/mineria-una_plataforma_futuro_para_chile.pdf.
96. Findings of the Extractive Industries Working Table, held on August 18, 2017 in Santiago of Chile for this study.
97. Alianza Valor Minero, *Seminario Valor Minero Inversión y Diálogo para el Desarrollo*, http://valorminero.cl/site/docs/2017/informe_seminario_inversion_dialogo_desarrollo.pdf.
98. *Informe Sistematización Caracterización Socio-Ambiental Proyecto Acuerdo Territorial Para El Desarrollo-Localidad De Sierra Gorda*. Agencia de Cambio Climático – Alianza Valor Minero, septiembre 2017.
99. Ibid.
100. There is no information on the amounts of companies' social investment in Sierra Gorda.
101. Alianza Valor Minero is a public-private institution that brings together multiple stakeholders with the aim of creating the conditions for transforming Chilean mining into a platform for virtuous, inclusive and sustainable development, Valor Minero, <http://www.valorminero.cl/valor-minero/>.
102. *Chile Transparente*, Transparencia Caimanes, Santiago de Chile, <http://www.chiletransparente.cl/project/transparencia-caimanes/>.
103. Nueva Unión, 2017: *Corproa elige a Nueva Unión como "Empresa Destacada del Año,"* <http://www.nuevaunion.cl/noticias/2017/corproa-elige-a-nuevaunion-como-empresa-destacada-del-ano>.
104. Ibid.
105. *Política de Pueblos Indígenas Nueva Unión*. Accessed at: Nueva Unión, Sustentabilidad, <http://www.nuevaunion.cl/sustentabilidad>.
106. *Desarrollo Futuro de la minería en la zona Central. Diagnóstico y recomendaciones para la sostenibilidad*. Alianza Valor Minero. Noviembre 2017.
107. Other initiatives between different sectors are: National Council on Innovation for Development, Advisory Council for the National Territorial Planning Policy, Sustainable Exploration Group, Working Group for Agenda 2030, Working Group on Women, Mining and Best Practices of the Ministry of Mining.
108. Alianza Valor Minero, Op. cit.
109. Alianza Valor Minero, Op. cit.
110. Ministerio de Minería, Misión Institucional, <http://www.minmineria.gob.cl/mision-institucional/>.
111. Mapa de las organizaciones de la sociedad Civil 2015. Centro de Políticas Públicas Universidad Católica (2016).
112. Villalobos, Fernanda, 2017: *Ambientalistas y rechazo a Dominga: Quiénes gobiernan "están tomando las decisiones correctas,"* Santiago de Chile, <http://www.emol.com/noticias/Economia/2017/03/10/848734/Organizaciones-ambientalistas-por-rechazo-a-Dominga.html>.
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116. Delamaza, Gonzalo, 2011: *Espacio público y participación ciudadana en la gestión pública en Chile: límites y posibilidades*. Revista de la Universidad Bolivariana, volumen 10, N° 30, 2011, pp. 45-75.
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118. OIT (2014) Matías Abogabir. *Estudio de Caso Chile Convenio N° 169 de la OIT y la consulta a los pueblos indígenas en proyectos de inversión*.
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121. There is no official information to establish an income distribution at the national or central level.
122. According to the DANE figures, in 2016 the total employed population was 22.8 million. The definition of "employed population" includes people in one of the following situations: 1. Worked at least one hour paid in cash or in-kind during the reference week. 2. Did not work the reference week, but had a job. 3. Unpaid family workers who worked during the reference week for at least one hour.
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124. Environmental Justice Atlas, Op. cit.
125. Fundación Futuro Latinoamericano (FFLA), 2017: *Tendencias de la Conflictividad Socioambiental en América Latina y Propuestas para su Abordaje*, Quito, https://www.ffla.net/publicaciones/doc_details/320-tendencias-de-la-conflictividad-socioambiental-en-am%C3%A9rica-latina-y-propuestas-para-su-abordaje.html.
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135. Gestión Ambiental Estratégica. *Informe a las Autoridades Ambientales ANLA y Estratégica*, febrero 2014. Bogotá, Colombia. Grupo Prodeco.

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144. The source of all 2016 figures is: PEMEX, 2016: *Anuario Estadístico 2016*, México, pp. 5-6 and 15-16. <http://www.pemex.com/ri/Publicaciones/Anuario%20Estadistico%20Archivos/anuario-estadistico-2016.pdf>. The source of the 2010 value is: González, Ixel, 2015: *Petróleo aporta menos al crecimiento del PIB en 2014*, México, <http://www.elfinanciero.com.mx/economia/petroleo-aporta-menos-al-del-pib-en-2014.html>.
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146. Centro Mexicano para la Filantropía, 2017: *Número de organizaciones en cada estado por figura legal*, <http://200.57.117.52/Directorio2/Estadisticas/frmoOrganizacionesFiguralLegal.aspx>.
147. In general, the *amparo* is a set of procedural acts or processes that culminate in a judicial resolution or sentence, which constitutes their common final cause, and in a strict sense, it is a right or a power that a person has to demand that any violation of their individual guarantees be repaired in their favor. The Mexican Constitution of 1917 establishes the Federal Judicial Power as a constitutional control body, empowering it to modify acts of authorities or laws that violate individual guarantees, and provides that through the *amparo*, acts or laws of any of the three branches of government can be challenged, thus creating the trial of *amparo* against, also, judicial resolutions. Accessed at: GMORR, 2009: *Juicio de amparo en México*, <https://www.gestiopolis.com/juicio-de-amparo-en-mexico/>.
148. Environmental Justice Atlas, Op. cit.
149. Enciso, Angélica, 2016: *Hay en México 420 conflictos socioambientales*: Investigador, <http://www.jornada.unam.mx/2016/02/10/sociedad/O38n1soc>.
150. David Shields, analyst, journalist and energy industry consultant. General Director of the Energy Up For Debate project; and Jorge Arriaga, PhD in Regional Development from the Sorbonne Université in Paris, was a Deputy Manager of the Social Organizations Office at PEMEX and is currently a consultant for the energy industry.
151. "First of all, the ASF (Superior Auditor of the Federation – SC) declares that there are regulatory gaps, since the Guidelines on Donations from PEMEX and Other Agencies do not establish clear lines on the follow-up procedure for the use of resources and goods. This leaves a wide margin for discretion and makes it difficult to control them. Thus, these guidelines do not regulate the deadlines for application and verification of donations, nor the periodicity and deadlines of application reports that must be delivered by the beneficiaries," in: De la Fuente López, Aroa, 2017: *Donativos y Donaciones de PEMEX: Deficiencias e Irregularidades*, México, pp. 2-3, <http://www.fundar.org.mx/mexico/pdf/ASF-Donativosydonaciones.pdf>.
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154. Interviews with academic experts in energy.
155. Interviews with social stakeholders in the framework of this diagnosis.
156. Secretaría de Energía, 2016: *4º Informe de Labores de la Secretaría de Energía 2015-2016*, México, p. 69, http://transparencia.energia.gob.mx/rendicion_cuentas/archivos/SENER-4oInformeLabores.pdf.
157. As of November 2017, the pipeline had still ceased operations on the Guaymas-El Oro section. Accessed at: Zúñiga, Norma, 2017: *Pide CFE liberar ducto Guaymas-El Oro*, México, <http://www.reforma.com/aplicacioneslibre/articulo/default.aspx?id=1262784&md5=0164b194d21007299490c50495577918&ta=0dfdbac11765226904c16cb9ad1b2efe>.
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161. The interviews with the different stakeholders in each project and with civil society organization employees allow us to make this statement, which in no way intends to be generalized.
162. That is, the historical clientelistic ways have had to change to ways based on international agreements for carrying out indigenous consultations, for example, where prior information and consultation are principles that must be respected.
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180. CCC is part of a network of organizations called Partners.
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190. The environmental liabilities were the results of operation by other companies, including ASARCO, which subsequently sold their concessions to Grupo México. During these companies' operations, Mexico lacked environmental regulation, so the remediation of environmental liabilities was not a requirement for companies.
191. A total of 490,000 m3 of vegetable soil was recovered and saved for restoration actions.
192. This project will cost more than 2 million dollars, since the remediation process calls for the removal and encapsulation of the contaminants that were dumped by other companies. It is important to point out that New Gold, as a strategy to safeguard and comply with the commitments defined as part of its participatory environmental closure plan, has paid a bail to the Federal Treasury for almost 30 million dollars that supports a 100% biophysical and socioeconomic closure. Thus, the *Patio Paseo Victoria* is currently one of the entity's most important urban recovery works, as well as a palpable example of the legacy that New Gold/Minera San Xavier will leave for current and future generations in this municipality.
193. "Pueblos Mágicos" is a program implemented since 2001 by the Mexican Secretariat of Tourism (SECTUR), to promote tourism in the country, in places where its inhabitants and local governments have managed to protect their cultural wealth, being recognized as sites with great historical-cultural attributes. These places promote local crafts, festivities and gastronomy, as well as tourist products based on adventure tourism, hiking or ecotourism.
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196. *Industry*: industrial sector representatives include Petróleos Mexicanos (PEMEX), Asociación Mexicana de Empresas de Hidrocarburos (AMEXHI) and Cámara Minera de México (CAMIMEX). These organizations include the main companies in the hydrocarbon sector in Mexico and the mining companies that generate approximately 90% of the country's mining production. *Civil society*: civil society representatives were elected by a group of approximately 40 CSOs that were invited to national and regional workshops and informed of the government's intention to adhere to this standard by a driving group consisting of Transparencia Mexicana, FUNDAR and PODER. A group of representatives and alternates was elected: PODER, Economic Research Institute of UNAM, Alianza para la Sustentabilidad del Noroeste Costero (ALCOSTA), Transparencia Mexicana (TM), Universidad Autónoma Metropolitana (UAM) and the University Development Studies Program (PUED) of UNAM. Currently, ALCOSTA is not part of this group of representatives and alternates. The government formed an Inter-Secretarial Group (IG) consisting of: the Subsecretariat of Revenue, Finance and Public Credit (SHCP), the Secretariat of Economy (SE) (through the Subsecretariat of Mining) and the Subsecretariat of Hydrocarbons (SENER). Today, the IG is responsible for presiding over the Subsecretariat of Mining.
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APPENDIX 1: METHODOLOGY OF THE STUDY

Reviews of materials, semi-structured interviews and field visits were all part of the planned research tools. In addition, each country formed a working group to present and validate the best practices already identified and learn about other best engagement practices in order to organize them systematically. It should be mentioned that, due to limited time and resources, only the practices that were validated by all three sectors (government, industry and civil society) are included in the text. Other practices that the research team was unable to visit were included in the appendices of this study. This does not mean that they are not considered best practices, or that they are less relevant, only that in the context of this study the former were validated.¹

1.1. Development of the conceptual methodological framework

To guide the field research, a conceptual methodological framework was prepared (Appendix 2). The document has two parts. The first part indicates the definitions used to prepare the diagnosis, in order to ensure coherence and a common use of the terms across all countries, describes the methodological steps to conduct the field research, and proposes matrices for the systematization of data.

1.2. Interviews

The interviews were based on a questionnaire that was shared previously and applied in the selected countries. The questions focused on two objectives: 1) they sought to characterize the stakeholders near extractive projects and learn about their engagement capacities, with an emphasis on civil society organizations; 2) they aimed to identify best practices that could subsequently be validated. At a later stage, the interviews also served to confirm data and perceptions on the best practices already collected.

A total of 180 interviews (72 women, 108 men) were conducted in the six countries. Of the total interviews conducted, 31% belonged to the business sector, 18% to the public sector, and 51% to civil society, including academia, communities, trade unions and non-governmental organizations. In general, the interviews were carried out in the workplace of the person interviewed. The main results were systematized in matrices.

Table 1: Total interviewees by country, sex and sector

Country	No. of Interviews	Sex		Sectors		
		M	F	Company	State	Civil Society
Argentina	14	8	6	5	2	7
Chile	12	8	4	5	1	6
Colombia	27	11	16	11	4	12
Peru	21	15	6	7	6	8
Mexico	74	51	23	18	13	43
Dominican Republic	32	15	17	9	7	16
TOTAL	180	108	72	55	33	92

Source: Compiled by author

1.3. Field visits

To learn about best practices in the field, and to be able to talk with local stakeholders, the regions where the practices are implemented were visited. A total of 27 field visits were made. Depending on the contact person, the visit was coordinated either with the company involved or with the communities or CSOs. During the visits, it was possible to observe the implemented processes and speak with a series of stakeholders to understand their view of the practice. Each visit is supported by a field visit report. The following visits were made:

Table 2: Field visits: places visited, dates and related best practice

No.	Country	Region	Town	Date	Name of best practice
1	Argentina	Chubut Province	Comodoro Rivadavia	June 4, 2017	SME Program
2	Argentina	Salta Province	Tolar Grande	August 10 - 12, 2017	Social Basins as Intervention Areas
3	Chile	Antofagasta Region	Town of Sierra Gorda	July 17, 18 and 19, 2017.	Good Neighbor Roundtable
4	Chile	Coquimbo Region	Town of Caimanes	June 14 - 15, 2017	Dialogue, Consultation and Participation Process in Caimanes
5	Colombia	Cundimarca	Bogotá	July 12, 2017	Dialogue Group on Mining in Colombia
6	Colombia	Cesar	Valledupar	November 10, 2017	Forest Compensation Program in the Middle and High Basins of the Tucuy and Sororia Rivers
7	Colombia	Antioquia	Medellín	November 20 - 21, 2017	Civil Society Roundtable for Extractive Industries
8	Mexico (hydrocarbons)	States of Coahuila and Tamaulipas	Municipalities: City of Saltillo de Coahuila, Río Bravo	August 15 - 17, 2017	Coahuila Energy Cluster
9	Mexico (hydrocarbons)	State of Campeche	Ciudad del Carmen: Nuevo Progreso and Nuevo Campechito	August 18, 2017	Support Program for the Community and the Environment
10	Mexico (mining)	San Luis Potosí	Municipality of Cerro de San Pedro	July 4 - 6, 2017	Responsible Comprehensive Mine Closure Plan
11	Mexico (mining)	Guerrero	Municipality of Taxco	June 17 - 18, 2017	Casa Grande: Community Development Program
12	Mexico (mining)	Guerrero	Municipality of Chichila	June 17 - 18, 2017	Chichila Conservation Zone
13	Mexico (mining)	Guerrero	Municipality of Cocula y Taxco	June 17 - 18, 2017	Water Quality Monitoring in Dry Tailings
14	Mexico (mining)	Guerrero	Municipality of Cocula, Iguala and Taxco	June 17 - 18, 2017	Resettlement Plan
15	Mexico (mining)	Guerrero	Municipality of Ixtacamaxtitlán	August 4 - 6, 2017	Participatory Consultation for Exploration / Dam Project in Ixtacamaxtitlán Area
16	Mexico (mining)	Hidalgo	Municipality of Zimapán	June 20 - 21, 2017	Dialogue Roundtables and Support for Community Projects through Mining Fund

17	Mexico (mining)	Hidalgo	Municipality of Zimapán	June 20 - 21, 2017	Universidad Tecnológica de Zimapán
18	Mexico (mining)	Hidalgo	Municipality of Zimapán	June 20 - 21, 2017	Tailings Dam to Avoid Solid Waste Contamination of River in Mezquite I and II <i>Ejidos</i>
19	Mexico (mining)	Durango	Durango	August 30 to September 2, 2017	Use of Solar Energy and Treated Water in Mining Operation
20	Peru	Department of Cajamarca	Hualgayoc Province, Hualgayoc district	August 1 - 3, 2017	REDyPAC in Hualgayoc: A Productive Development and Citizen Training Experience
21	Dominican Republic	Sánchez Ramírez Province	City of Cotuí	June 9 2017	Cibao Sur Business Incubator
22	Dominican Republic	Monseñor Nouel Province	Bonao	July 5, 2017	Mesas Redondas Comunitarias
23	Dominican Republic	Sánchez Ramírez Province	Cotuí	July 25, 2017	CEFOMOMALI, Candiver Products
24	Dominican Republic	Monseñor Nouel Province	Bonao, communities: Palmarito, Hato Nuevo, Peñalo	July 26, 2017	Community Roundtables
25	Dominican Republic	Sánchez Ramírez Province	City of Cotuí	September 13, 2017	Candiver Products
26	Dominican Republic	Sánchez Ramírez Province	City of Cotuí	September 18 2017	Candiver Products, Business Incubator
27	Dominican Republic	Sánchez Ramírez Province	Pueblo Viejo and Maimón mines	February 13, 2018	Municipal Development Plans Project

Source: Compiled by author

1.4. Roundtables

In each country, a multi-sector Roundtable was convened with the following goals: a) to identify the key stakeholders for engagement in the field of extractive industries, and b) to identify best engagement practices at the national, regional and local levels. The Roundtables followed the same steps to meet these goals.²

The Roundtables met at the IDB offices in each country. A total of 200 representatives from all three sectors participated in the seven Roundtables.³ Many of the participants were also interviewed and the percentage of the different sectors over the total number of participants was similar to that of the interviews. The dates on which the Roundtables were held and the number of participants per country can be seen in the following table:

Table 3: Roundtables by country, date and number of participants

Country	Date	No. of Participants
Argentina	June 28, 2017	29
Chile	August 16, 2017	29
Colombia	July 11, 2017	23
Mexico (hydrocarbons)	July 14, 2017	14
Mexico (mining)	July 13, 2017	43
Peru	June 6, 2017	36
Dominican Republic	September 20, 2017	26
TOTAL		200

Source: Compiled by author

APPENDIX 2: CONCEPTUAL AND METHODOLOGICAL FRAMEWORK

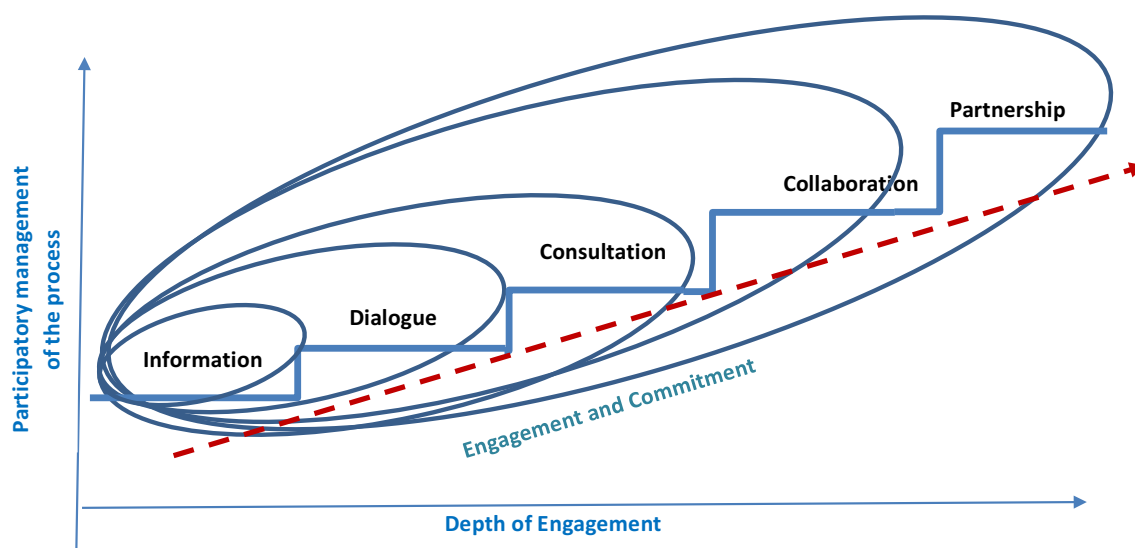
Conceptual and Methodological Framework for diagnosis of engagement by country

The conceptual and methodological framework presents the approaches, defines the terms to be used and guides the way in which the diagnosis was made.

1. Conceptual Framework

- **Executing agency:** refers to a public or private mining company or hydrocarbons company.
- **Best practice:** it is an experience that has driven an innovative process and has achieved a positive outcome in a specific context, and which is believed to be replicable in similar scenarios in order to achieve similar processes and outcomes. Best practice has characteristics such as:⁴
  - » Represents a process and a result that is valuable and satisfactory for the stakeholders involved.
  - » Appears as a response to a situation that needs to be modified or improved.
  - » Is relevant and appropriate to the local context in which it is implemented.
  - » Is sustainable over time (it can be maintained and can produce lasting effects).
  - » Invites replication of the experience in a different scenario, but under similar conditions.
  - » It is innovative (understanding that innovation implies not only a new action, but that it can be a different and creative way of carrying out traditional practices or of reorganizing them).
  - » Considers elements of outcome evaluation, feedback and reorganization of actions them based on the lessons learned.
  - » Has achieved a satisfactory result for all parties involved.
- **Extractive industries:** all companies that aim to extract natural resources. For the purposes of this study, this refers to non-renewable resources such as oil, gas and metallic minerals. This term includes all private and state-run companies at any stage of the extraction cycle (pre-feasibility, feasibility, exploration, exploitation). It also includes companies that provide services directly related to the extraction process (for example, companies that provide drilling rigs). At the same time, it excludes all companies involved in commercialization, whether they are the managers of pipelines, ships, gas stations, etc.

- **Engagement levels:** These are the levels of involvement and commitment to working with civil society. The higher the level of involvement and commitment, the greater the possibility of contributing to a higher level of impact. Engagement levels can occur sequentially or simultaneously. All levels contain best practices for due diligence and some of the levels are regulated by national and/or international legal frameworks. For the purposes of this diagnosis, engagement levels have activities and indicators that are specific to them and allow us to orient or measure their implementation for due diligence. The impact on development increases as the engagement level also scales up or down according to the order shown in the following graph:⁵



- **Information:** Includes both the delivery of data and references by the executing agency about itself and its scope, benefits and risks, mitigation measures of the project, as well as the first draft of the engagement plan. It respects proper due diligence principles such as the timely, relevant and intelligible provision of information (in the language understood by the audience). It is a movement whose primary and most responsible stakeholders are the competent state authorities and the executing agency, as well as civil society organizations present in the area that facilitate information in order to ensure that the executing agency is aware of the interested parties. The executing agency contacts the stakeholders to share with them all the information related to the main operation, as well as the actions and/or projects that are being planned around it. The information level has three sub-levels:
  - I1: provides unilateral information through printed, electronic, radio or television media;
  - I2: provides bilateral information, face-to-face with the informant or the Office of Community Relations, an exchange takes place between stakeholders; and
  - I3: has institutionalized mechanisms to provide transparent information on a regular basis.

- **Dialogue:** Dialogue refers to the process of active and continuous engagement that, from varying degrees of contact between different stakeholders, seeks to create or strengthen constructive relationships between the parties. These processes can be temporary or continuous and, in addition, may have the potential to changes these relationships in a constructive manner. In the latter case, dialogue refers to “a process of genuine interaction through which human beings listen to each other with such depth and respect that they are changed by what they learn. Each of the participants in a dialogue strives to incorporate the concerns of others into their own perspective, even when the disagreement persists. None of the participants renounces their identity, but each recognizes the validity of the human claims of others and consequently acts differently towards others.”⁶ The dialogue level has two sub-levels:
  - » D1: This sub-level witnesses the occurrence of the “event dialogue,” which is limited to specific actions designed to foster openness, build trust or discuss topics of common interest. Dialogue is not conceived as a process. These events can be creative, such as organizing the screening of a film, sporting events that lead to camaraderie, cultural events in general, as well as themes. The idea is to get to know others on a closer, more personal level.
  - » D2: “Dialogue as strategic process management,” with multi-stakeholder participation (company, civil society and State), which focuses on two levels. The first one establishes the rules and the process that may help build a dialogue process plan together, where factors such as time and structure of the process, goals, conditions, and forms of participation are all present. The second one addresses the interests and needs of the parties and therefore contributes to resolving structural development issues such as poverty, education and health care, among others. The idea of the process is based on strengthening the relationships between stakeholders—through deep listening, mutual empathy and trust—and reaching agreements through consensus. This sub-level of dialogue can also occur at the other levels of engagement, including them, permanently or momentarily, simultaneously or sequentially.
- **Public consultation:**⁷ A formal, public and organized process in stages that respond to legal or regulatory obligations, as well as principles of universal best practices, following a precise methodology and seeking to provide reliable information, with the goal of receiving inputs regarding a project/strategy/program. It differs from the Dialogue level in that a Public Consultation responds to legal mandates, follows methodologies that are specific to it (such as including a consultation plan on specific topics), and as its name indicates, fundamentally seeks to listen and learn about the concerns, questions and proposals of human groups with particular interests, who will be directly affected (in positive and/or negative ways) by the implementation of a specific project/strategy/program.⁸ The consultation level has two sub-levels:
  - » CON1: It responds to a national or international regulatory structure or framework;⁹ it has a specific consultation plan that is shared with the interested parties and includes the consultation phases. It is manifested through a platform or broader structure of stakeholders who are informed in person or virtually and have a pre-established time period to express their opinions and provide input. It follows its own methodology, which includes a phase of systematizing the different opinions with the corresponding feedback delivered to the community for its consideration. The results of the consultation are not binding.

- » CON2: It has the same characteristics as CON1, but the results of the consultation are binding. This process occurs via broadly publicized Hearings or Referendums where information is shared and contributions, criticisms, requests and recommendations are received. Due to its binding nature, it is mandatory that the recommendations be considered in the design of the final project. Free, prior and informed consultation is included when there is an agreement, in accordance with the international standards of ILO Convention 169.
- **Collaboration:** These are the actions in which civil society and the executing agency produce knowledge products or where the same civil society participates in training initiatives to add advanced human capital in a certain field/theme/occupation. The objective of this level works in two ways: 1. it uses CSO knowledge to contribute technical input; 2. it improves CSOs capabilities to implement satellite projects of the main operation. The audience is technical or moderately technical. The level of collaboration in the engagement plan implies making effective use of the contributions received during the consultation and dialogue processes.
- **Partnership:** These are actions in which CSOs are included and financed so that they may become responsible for implementing a project or project component. The goal is to include technical or properly trained CSOs in the joint planning and implementation of initiatives and/or satellite project component(s) that complement the main operation, wherever such inclusion is most effective. The audience is technical in the sense of being knowledgeable about the land and its social fabric, or having received previous training (at the “collaboration” level above).
- **Civil Society:** Civil society is understood as a wide range of nonprofit organizations and/or human groups that represent social, cultural, and ethnic sectors and interests. Its scope of action can be both rural and urban, local, regional and/or international. It can be foundations; community organizations; associations; professional groups; non-governmental organizations; academics; social movements; NGOs or foundations of extractive companies that finance development projects; trade unions; indigenous groups; afro-descendant groups. They can be formal (duly registered in their respective countries) or informal (organizations not officially registered). Civil society acts in the public space, with other stakeholders such as Governments and the Private Sector. For the purposes of this publication, civil society is considered to be the great variety of human groups mentioned that do not belong to the State or the Private Sector.

2. Methodological framework

This investigation required the use of certain lenses for its successful execution. This responds to the complex environment and complex engagement among civil society, business and state stakeholders. As a result, the following approaches were employed to implement the methodology and obtain information:

- a. *Participatory approach:* the information required to prepare the products requested in this consultancy is sought out using a participatory methodology.
- b. *Regulatory approach to rights and obligations:* the presence of the extractive industry has important social, political and legal implications, since it interacts with communities and with the State, with potential consequences for economic, civil, labor, environmental and cultural rights and obligations. Since the States have the power, within their jurisdictions and under national and international law, to demand the respect for rights and fulfillment of obligations, extractive companies have been

adopting—in parallel and increasingly—voluntary initiatives that have contributed to the respect for the rights of communities.

- c. *Sustainable development approach*: sustainable development is seen as an integral and integrating model, which coordinates and balances the economic, social, ecological, political and cultural dimensions, assuming that it is impossible to respond to the great challenges of sustainability if not from a holistic perspective. Extractive projects must consider the five dimensions if they wish to contribute to sustainable development. The diagnosis must specify whether the identified best practices have also contributed to the fulfillment of the Sustainable Development Goals (SDGs).
- d. *Diversity approach*: the presence of extractive projects in peasant, indigenous or afro-descendant communities requires that the engagement necessarily must have an intercultural approach. With indigenous or tribal populations, the right to consultation resulting from ILO Convention 169 applies. The diversity approach demands respect for all identities, whether they be ethnic, linguistic, cultural, or based on sexual or other orientations. An identity different from the culturally dominant one should not be a cause for exclusion or discrimination.
- e. *Gender equality approach*: this means that women and men have the same conditions and opportunities to exercise their rights and to achieve their potential in social, economic, political and cultural terms. The pursuit of equality requires actions focused on equity, which implies the provision and distribution of benefits or resources in a way that reduces existing gaps, while also recognizing that these gaps can harm both women and men. Women's empowerment is understood as the expansion of the rights, resources and capacity of women to make decisions and act autonomously in the social, economic and political spheres.¹⁰
- f. *Conflict transformation approach*: it regards conflict as a complex process that, when properly managed, can become an effort towards constructive change. It is based on two premises: conflict is normal in human relationships and, further, it is an engine of change. Transformations will occur when stakeholders change internally, such as when they attain more internal tranquility, when they cooperate more or when they improve their disposition towards their counterparts. In terms of relationships between stakeholders, changes will occur if communication and trust are improved, and empathy and cooperation between parties flourishes. On the cultural level, a pattern is created in which conflict is handled through peaceful, face-to-face means; and at the structural level when the institutions and rules that helped promote conflicts are changed.¹¹

2.1. Mapping strategy for stakeholders in extractive industries:

2.1.1. Obtaining information on civil society experiences and stakeholders:

Relevant information was collected from primary and secondary sources in relation to each engagement level. The secondary information considered was the most up-to-date and came from state, private, international cooperation, civil society and academic sources, among others.

Primary information was obtained using methodologies such as focus groups, interviews and field visits.

Focus Groups

For the implementation of the focus groups, 15 key people from the four sectors—civil society, private sector, academia and the State—were invited to expand on the information gathered. Key stakeholders were identified for each country, based on the following criteria:

- Criterion 1: Ability to generate nodes used to build networks with other similar stakeholders at the local level in extractive projects.
- Criterion 2: Ability to build bridges between stakeholders of a different nature (civil society - State - companies)
- Criterion 3: Legitimacy; that is, they are trusted by a significant number of stakeholders.
- Criterion 4: They have material or immaterial resources that allow them to play a central role in the network of stakeholders.
- Criterion 5: They have the ability to influence public opinion and decision-makers.

Interviews

Interviews were conducted with key individuals from the four groups indicated above and applying the same selection criteria, whether they were the same people or others who could enrich the findings.

Field Visits

Field visits were made to places where best practices were identified.

2.1.2. Identification of minorities and groups in vulnerable situations.

It was also necessary to map the groups in vulnerable situations and the minorities involved in engagement processes with extractive companies.

A minority is understood as part of the population of a State that differs from the majority of the same population by their characteristics of race, language, religion or other criteria. The term vulnerability refers to those sectors or groups of the population, such as abandoned children and young people, migrants, people with disabilities, elderly adults and indigenous populations who are at risk, which does not allow them to satisfy their basic needs, and who in the face of extractive industry activities, could become even more vulnerable to potential socio-environmental impacts, such as, for example, environmental contamination due to water pollution; in the social sphere, human trafficking; and in the cultural sphere, drastic changes to their ways of life.

2.2. Identification of best engagement practices based on the five engagement levels

Engagement experiences considered best practices were identified, according to the definition in the glossary of this document, trying to cover all engagement levels. After a first record of the findings, the best practices were verified by the research team.

2.3. Common and comparable indicators to measure best practices

The indicators serve to classify best practices according to each engagement level. The indicators measure civil society's involvement in the process and the depth of this involvement, that is, it corresponds to the same scale as the engagement levels themselves.

Compliance with the indicators has been reported as follows:

Participation

- *Institutional participation*: There are rules, mechanisms, signed agreements or some other mechanism that is regulated to ensure participation.
- *Inclusive participation*: Diverse stakeholders are able to participate and no specific stakeholder is discriminated against.
- *Regular participation*: Participation occurs regularly for a long time.

Relevance

- *Relevant to reality*: Responds to a real demand of some or all interested parties.
- *Relevant by need*: Responds to the needs of a territory that were diagnosed by external stakeholders.
- *Methodological relevance*: Tools and methodologies used are in an adequate format for the target audience (language, times, cultural aspects, and others).

Sustainability

- *Sustainability by consensus*: Mechanism recognized by the stakeholders of the 3 sectors (government-company-civil society).
- *Financial Sustainability*: Financial or other resources available for continuity of best practice.
- *Institutional Sustainability*: Institutional mechanism through business policy, formal agreement between the three sectors or legal regulations.

2.4. Normative or regulatory framework of each of the five engagement levels by country

The national and international standards and codes of conduct related to the mining and hydrocarbon industries were identified at each engagement level for the countries in which the study was conducted, according to the text "*Public consultations with civil society: Guides for public and private Executing Agencies*,"¹² checking to ensure that the most current information was included.

2.5. Inputs for the Roadmap

Based on the findings and results of the diagnosis, three countries were chosen and a Roadmap was drawn up for each one, based on the findings of the diagnosis, so that the three sectors may design their action plans at each engagement level, considering criteria such as the quality of the information obtained in the country diagnosis, the political will of decision-makers and a favorable context for collaboration between different sectors.

The Roadmap aims to achieve the ultimate goal of the study, which is to promote a responsible extractive sector, in an improved investment climate and with the participation of civil society at the different engagement levels, reducing the costs and risks linked to the extractive industry.

APPENDIX 3: ADDITIONAL ENGAGEMENT PRACTICES

No	Short name	Place	Brief description	Participating stakeholders	Engagement level
ARGENTINA					
1	Energy and environmental education program	Whole country	2015-2017. It consists of several integrated initiatives: a program for top educators and public policy leaders throughout the country; the “Energies of My Country” website, together with Educar; the publication “You and Energy” for school-age children; the TV series “The Non-Conventionals,” and the Power Plazas in certain locations.	Yacimientos Petrolíferos Fiscales S.A., Fundación YPF, universities and NGOs from different parts of the country. Ministries of Energy and Mining, Education, of the Environment of the Nation and various provincial governments	Information
2	Neuquino Dialogue Group	Neuquén	2014-2017. Seeks mechanisms and processes that contribute to social justice and peace, given the risks and opportunities that extractive and productive activities entail for the region, particularly Vaca Muerta and unconventional reservoirs.	Mapuche authorities; oil, fruit and trade entrepreneurs; NGO representatives; educational models; leaders of professional associations; journalists; and religious authorities, among other stakeholders.	Dialogue

No	Short name	Place	Brief description	Participating stakeholders	Engagement level
3	Participatory environmental monitoring ¹³	San Juan	2009-2017- Minas Argentinas conducted participatory environmental monitoring at its Gualcamayo mine. Following its best environmental practices, it invited members of the communities of Jáchal and Guandacol to help take samples and then to transport them up to the laboratory that performs the analysis.	Minas Argentinas and 12 people from the communities, including journalists, merchants, teachers, municipal officials and producers.	Collaboration
4	Native plant production	Neuquén	2012-2017. "Native Thought" is a small business supported by Pluspetrol and dedicated to producing plants that are native to the Neuquén plateau. It is led by a group of at-risk youth from disadvantaged neighborhoods on the west side of the City of Neuquén.	<i>Fundación Familia, Nuestra Señora de la Guardia</i> School, School of Environmental Sciences and Health of the Universidad Nacional de Comahue (UNCo) and the Pluspetrol S.A. company	Collaboration
5	Educational improvement plan	Catamarca	2006-2015. It sought to improve academic results in school. It managed to reduce grade repetition, introduce the use of new teaching technologies, provide updated literacy and math tools, and improve school management.	Minera Alumbrera – Universidad de San Martín – Universidad Tres de Febrero	Partnership
6	Controlling hospital-acquired infections ¹⁴	Tierra del Fuego	2016. The Total Austral company helps consolidate a program on management, surveillance and control of hospital-acquired infections and the improvement of laboratory, sterilization and hospital hygiene services, through assistance for the creation of an Infectious Disease Control Committee and the transfer of knowledge to local health professionals.	Total Austral, FUNCEI, Regional Hospital of Río Grande, Ministry of Health of the Tierra del Fuego Province, Municipality of Río Grande.	Partnership

No	Short name	Place	Brief description	Participating stakeholders	Engagement level
COLOMBIA					
8	Business Initiative on Biodiversity and Development	8 priority areas	2012-2017. Working group that aims to strengthen the capacities of authorities and companies in the integrated management of biodiversity and its ecosystem services, through collective business initiatives that represent additionality in the territory.	Vice Presidencies of Sustainable Development and Mining, Hydrocarbons and Energy of the National Association of Entrepreneurs of Colombia, Ministry of Environment and Sustainable Development, National Environmental Licensing Authority (ANLA) and the Alexander Von Humboldt Institute	Information and Dialogue
9	Approval process for environmental license in gold mining project	Municipality of Santa Rosa de Osos	The Red Eagle company, in dialogue with the communities, respected places whose ecological and environmental importance could not be sacrificed for any economic consideration. Through monthly dialogues, social programs have been established for education, culture, sports and health care, strengthening local institutions and promoting sustainable enterprises in various sectors.	Red Eagle Company, communities in the direct impact area of the project	Information and Dialogue
10	Start a business with Equion	Municipalities of Tauramena, Nunchía, Yopal and Aguazul, Dept. of Casanare	2014-2017. The Equion Energy company creates the program “Start a Business with Equion,” where the company provides consultancy and support for developing and strengthening business ideas, contributing to the economic diversification of oil-dependent regions. Some achievements: accompanied 250 entrepreneurship initiatives, started 86 companies, created 369 jobs.	Equion Energy company, entrepreneurs and businesspersons from the municipalities	Collaboration

No	Short name	Place	Brief description	Participating stakeholders	Engagement level
11	To the field with Equion	Municipalities of Yopal and Nunchía, Dept. of Casanare	The company implements a program to strengthen food security for families, helping them access foods that benefit their nutrition under business principles. The program currently serves 143 families from the municipalities of Yopal and Nunchía.	Equion Energy company, families of Yopal and Nuchía, Regional Autonomous Corporation of the Orinoquia	
MEXICO					
12	Conservation zone	Chichila, Guerrero	2015-2017. This practice consists in the environmental protection of an area in San Pedro and San Felipe Chichila. Its innovative aspect is that it is a voluntary ecological reserve area proposed by the community. Workshops were held between these communities and Minera Media Luna to design a collaboration agreement that indicates that the company will donate a monetary sum for the conservation of this area over the next 6 years as part of its plan to mitigate environmental impacts.	Minera Media Luna, Ejido Commissaries of San Pedro and San Felipe Chichila, communities near Balsas, population of Chichila, Secretariat of the Environment and Natural Resources of Guerrero	Dialogue
13	Dry tailings	Media Luna Hill, Cocula, Guerrero	This practice is aimed at promoting efficient water use up to 80%, while avoiding the creation of tailings during the gold mining process at El Limón-Guajes mine. The company's decision to implement this process caused concern among the communities in the project's impact area regarding the potential environmental impacts of the tailings in the bodies of water several community cooperatives use to fish.	Minera Media Luna, communities near Balsas, remediation experts	Dialogue

No	Short name	Place	Brief description	Participating stakeholders	Engagement level
14	Transparency strategy	Puebla, Hidalgo and Morelos	This practice is based on promoting transparency in decision-making as an everyday exercise for improving relations between the company and the community, in response to requests for information from the community.	Various mining companies such as Alamos Gold, Almaden Minerals and Carrizal Mining; communities of La Esperanza (Morelos), Ixtacamaxtitlán (Puebla) and Zimapán (Hidalgo).	Information
15	Preservation of cultural traditions	Tetlama, Temixco, Morelos	The polygon of the area in which this mining project is located is very close to Xochicalco, an important archaeological zone of this state. The company identified that there was a lack of knowledge and distance from their cultural roots among the population of Tetlma, in the Municipality of Temixco, State of Morelos. Therefore, this practice focuses on working with the community to understand and rebuild an identity. Some actions have supported the construction of a development center where Nahuatl classes are taught to maintain the cultural roots of the community.	Alamos Gold, communities of Temixco, Miacatlán and Xochitepec, local governments, Academia.	Dialogue and Collaboration

No	Short name	Place	Brief description	Participating stakeholders	Engagement level
16	Social Witnesses	Tetlama, Temixco, Morelos	The social witness practice is one way to ensure a constant communication, quality and trust in the information the company provides to the community it is working with. A process of transparency is also generated towards the community, in which it seeks to reinforce the legitimacy and loyalty of what is being done by the company. Social witnesses can be community members or CSO employees in charge of verifying that the agreements made with the company are fulfilled.	Alamos Gold company, community	Information
17	Pro-employment	Chihuahua, Zacatecas; Sonora; Durango	This practice encourages people who want to achieve a more dignified and productive life, offering training and advice for self-employment and creating or improving their micro-enterprises. It is based on creating solid relationships of collaboration and mutual growth with the community, contributing with business opportunities that strengthen the local economy and help fight against uncertainty in the face of a possible mine closure. The program is based on cooperation agreements with training institutions dedicated to teach students a trade, which favors the human capital formation required to carry out entrepreneurship-based projects.	Minera Peñoles, workers, communities, trainers, financial institutions	Collaboration

No	Short name	Place	Brief description	Participating stakeholders	Engagement level
PERU					
18	Coordinating Council of the Antapaccay Framework Agreement	Espinar Cusco	2003-2017. This agreement promotes a strategic partnership in community/company/local government relations. 3% of the company's profits are used to finance social investment projects. The Coordination Committee, with 37 partner institutions, prioritizes and approves projects. The projects related to the Dairy Plant, livestock development, and the improvement of health infrastructure are noteworthy.	Antapaccay company, communities, local government	Collaboration
19	Compromise and dialogue table of Hualgayoc	Cajamarca	A "development basket" was prepared with contributions from the local and national governments and the company, which raised 180,000 dollars. Given the municipality's difficulties in ensuring the transparency of these resources, they were centralized for direct management by the Dialogue Roundtable. There is a Concerted Plan that has required a dialogue effort. Concrete actions have improved the medical center, the roads and the drinking water service.	Goldfields company, community	Dialogue and Collaboration

No	Short name	Place	Brief description	Participating stakeholders	Engagement level
20	Management Committee for the Sustainable Development of del Bajo Urubamba Basin	Bajo Urubamba, Cusco	1999-2017. It is made up of tripartite representations (company, State and community) that meet every three months to make decisions regarding the projects of the communities of the Lower Urubamba, impact area of the Camisea Project. This is coordinated with indigenous organizations. Community life plans have been generated, and a gender approach is being developed, as well as municipal companies that provide direct services to the companies operating in the area. It also evaluates the actions of the operating companies there (for example, Ex Petrobras, now known as NPC, REPSOL).	Companies, communities, municipality	Dialogue and Collaboration
21	Community environmental monitoring program of the Bajo Urubamba	Bajo Urubamba, Cusco	2002-2017. In Camisea, environmental monitoring has been carried out from the beginning of its activities. Representatives of the native communities, grouped into three indigenous federations, participate in this process. In order to implement this program, a training component was developed for the population: the Community Environmental Monitoring Program of Lower Urubamba. Environmental monitoring is carried out through monthly visits to the different locations and operating areas of Pluspetrol.	Pluspetrol company, indigenous organizations, state entities	Dialogue and Collaboration

No	Short name	Place	Brief description	Participating stakeholders	Engagement level
22	Moquegua Dialogue Table		In 2011, a Dialogue Roundtable was set up with representatives of Moquegua civil society, local and district authorities, AngloAmerican Quellaveco S.A. and representatives of the Executive Branch, through an initiative of the Regional Government of Moquegua. Controversies had existed for years regarding water use, and the company-approved EIA had even been adjusted. After 22 sessions, the Roundtable reached an agreement on three issues: 1) measures in relation to the use of water resources, 2) measures for environmental protection and sustainability, and 3) the creation of a local development fund for investments in development lines defined by the local and regional governments.	Civil society, AngloAmerican Quellaveco company and local authorities, of GR and the Executive Branch	Dialogue and Collaboration
23	Local economic development program	Various	2010-2017. The Livestock Program sponsored by the San Rafael mine of MINSUR has its heart in the "Charcahuallata" Genetic Reserve Center (CRG). It is implemented in partnership with the NGO Desco. It includes: genetic livestock improvement, especially alpaca; increased supply of fodder; shearing techniques and fiber selection; and improved capacities for productive action and institutional development.	MINSUR company, NGO DESCO	Collaboration

APPENDIX 4:

FINAL VALIDATION OF STUDY

Between May 19 and 29, 2018, the team of consultants from the different countries carried out a validation of the final version of the diagnostic document with the stakeholders that were involved in the information gathering phase. The country diagnoses were sent to a total of 201 stakeholders, of which 57 responded and 38 contributed with comments that were included in the document. The summary of the validation process by country can be found in the following table:

Country	Contacts sent	Responses	Comments Included	Observations
Argentina	13	9	7	In two cases there were broader comments that could not be considered
Colombia	45	3	1	Two responses only thanked for sending the document
Peru	45	13	4	Most responses were acknowledgments of the document sent and general comments
	28	8	8	
Chile	28	8	8	
Mexico	62	17	11	8 responses congratulated on the work and had no comments
Dominican Republic	8	7	7	
TOTAL	201	57	38	

Annex Endnotes

1. In Peru, some of the practices that were not analyzed in depth are already studied practices that appear in other publications. Examples in Peru are: Camisea, Tintaya, Constancia and La Granja.
2. The program was slightly changed after the first Roundtable in Peru. It included an annotated agenda with all the details, intended as guidelines for facilitators.
3. Two Roundtables were held in Mexico, one for the mining sector and another for the hydrocarbons sector.
4. Taken from: <http://buenaspracticassaps.cl/que-es-una-buena-practica/>
5. Milano, Flavia & Viviane Espinoza (2016). IDB Group-Civil Society: Engagement Review 2014-2015. IDB, p. 10. See at: <https://publications.iadb.org/handle/11319/7496?locale-attribute=en>
6. This definition of dialogue refers to “democratic dialogue,” “genuine dialogue” or “transformative dialogue,” and must be differentiated so as not to be confused with the unqualified term “dialogue”, which can have multiple interpretations. See Pruitt, Bettye and Philip Thomas (2008). Democratic dialogue: a manual for practitioners. Washington: CIDA, IDEA, OAS, UNDP. P. 20-21. See: http://www.oas.org/es/sap/dsdme/pubs/dial_%20demo_e.pdf
7. See IDB, Milano, F. & Sanhueza, A. Public Consultations with Civil Society: <https://publications.iadb.org/handle/11319/7499?locale-attribute=en>.
8. Milano, Flavia & Viviane Espinoza (2016). IDB Group-Civil Society: Engagement Review 2014-2015. IDB, p. 17. Available at: <https://publications.iadb.org/handle/11319/7496?locale-attribute=en>
9. See IDB, Milano, F. & Sanhueza, A. Public Consultations with Civil Society: <https://publications.iadb.org/handle/11319/7499?locale-attribute=en> on free, prior and informed consultation in accordance with the international standards of ILO Convention 169.
10. *Política Operativa sobre Igualdad de Género en el Desarrollo del BID*. Taken from: <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=35428394>.
11. Based on the text by Lederach, John Paul (2009). *El pequeño libro de la transformación de conflictos*. Bogotá: Good Books – Justapaz.
12. Milano, F. & Sanhueza, A. Public Consultations with Civil Society. Available at: <https://publications.iadb.org/handle/11319/7499?locale-attribute=en>. Argentine regulations can be found on p. 33 et seq., Chilean ones on p. 79 et seq., Peruvian ones on p. 176 et seq., Colombian ones on p. 93 et seq., regulations from the Dominican Republic on p. 191 et seq., and Mexican ones on p. 149 et seq.
13. Participatory Environmental Monitoring is carried out by several companies in Argentina, including, besides Minas Argentinas, Barrick (Veladero Mine), Troy Resources Limited (Mina Casposo) and YPF.
14. IAPG: The social responsibility of companies in the oil and gas industry. 2016 Report. www.iapg.org.ar

