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Mining 2030: Stakeholder Engagement and Benefit Sharing

Consultation document, June 2025 from The Global Investor Commission on Mining 2030

Consultation Response from Stockholm Environment Institute, SEI

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1. Introduction

The Stockholm Environment Institute (SEI) is grateful for the opportunity to contribute its views on the briefing document titled ‘Mining 2030: Stakeholder Engagement and Benefit Sharing’, presented by The Global Investor Commission on Mining 2030 ([Homepage - Mining 2030](#)). SEI is conducting research in many areas concerning mining and minerals extraction, environment, human rights, and development. This response was, following the request, submitted directly into the online survey form ([Mining 2030: Stakeholder Engagement and Benefit Sharing](#)). The present document presents the input as was submitted following the three questions from the commission, only with slight formatting.

2. SEI responses to the commission’s questions

Question 1: Do you believe that the recommended investor actions:

- a) set the right level of ambition;**
- b) are sufficiently comprehensive;**

c) are reasonable (i.e. feasible whilst providing room for improvement for investors and their business partners);

d) are likely to drive better outcomes for stakeholders?

Please explain why.

The ambition of the recommendations is strong and relatively comprehensive. The underlying rationale for the actions is highly motivated and reasonable, given the known issues with rights violations and lacking stake/rights-holder engagement in the sector.

It is positive that the briefing combines substantive actions with those demanding greater transparency and disclosure, enabling enhanced accountability (for instance, regarding the need for investors to communicate expectations publicly, p. 4, and for companies to disclose benefit agreements – hence avoiding confidentiality clauses).

It is fully reasonable for investors to contribute proactively to set in motion enhanced rights-protection via government legislation and enforcement (e.g., with recommendations for state-led actions and reforms, p. 5, and regional policy instruments on good practice, p. 5). Whereas some positive examples exist, globally, we know that governments generally lack motivation to enhance rights protections – investors can here play a greater role in creating incentives for governments (e.g., Bebbington et al. 2018). Indeed, many mining jurisdictions do not formally recognize Indigenous populations, even where UNDRIP has been ratified. This means there may be no domestic laws requiring FPIC, creating uncertainty for investors and companies. In these contexts, proactive FPIC with self-identified Indigenous groups should be treated as an industry safeguard and internalized as part of operational guidelines, not just a legal obligation. Doing so reduces the risk of conflict, strengthens long-term investment stability, and reflects best practice beyond compliance (Phillips 2025).

However, the actions are often overly general and oftentimes too abstract to know whether they will support the necessary concrete action. We elaborate on these issues in our response to question 2 below.

Question 2: Do you agree with the initial recommendations for expectations of mineral value chain companies to promote:

a) meaningful stakeholder engagement (as outlined in Table 1), and

b) sustainable and equitable benefit sharing (as outlined in Table 2) aligned with good practice identified in the research? Is there anything missing?

Given time limitations, we focus here on some specific examples and will be happy to explain more in later follow-up, as relevant.

- One example concerns the proposed action “Making investment conditional upon legitimate FPIC processes and self-determined governance approvals for projects that affect Indigenous Peoples (as per UNDRIP) and publicly disclose how these conditions are assessed”. Such actions are fully reasonable, and in principle feasible to implement, but the value will entirely depend on operationalisation. Implementation will, to hold companies to account, require investors to develop verification measures separate from public/regulatory regimes, since the latter often do not recognize the right of Indigenous groups to give or withhold their consent. Some Indigenous Peoples and communities have published policies and procedures that can guide such actions; others have not yet had the resources or opportunities to develop such guidelines and would need investor support via financial resources (see more on this point below).
- The proposed actions do not pay attention to the lack of capacity amongst rights-holders to engage in the expected due diligence and FPIC processes. The capacity gap extends to issues much beyond translation (p. 7, table 1) (e.g., Kløcker Larsen 2017). We recommend the commission to investigate the praxis being developed in some jurisdictions of capacity funding, which means that mining companies commit to substantial funding to concerned rights-holders from the early phase of engagement, enabling e.g. Indigenous groups and local communities to engage in negotiations, recruit necessary human resources, and undertake community-led impact assessments (Kløcker Larsen et al. 2024). Importantly, such funding is non-conditional on community consent and aims to level the playing field for equitable engagement. Investors could also themselves have a role in setting up independent funding streams for e.g. regional rights-holder organizations. There is a business case for this capacity funding, since it helps enhance certainty and predictability in community engagement (see also Gibson & 2015). Note that this capacity funding is distinct from the issue of benefit sharing, which only becomes relevant in the instance where mining projects proceed and receive consent.
- Another example concerns the actions related to “Conducting rights-based and gender-informed due diligence”. Such actions would only help investors align with existing international law and good practice, and in some jurisdictions even emerging mandatory due diligence rules. Recent research shows that there is a host of issues with the implementation of companies’ due diligence procedures, and it is unclear from the briefing how the proposed actions will support improvement (Gordon et al. 2025).
- Investor actions should also recognize the problems involved in companies’ reliance on private voluntary standards to demonstrate compliance. Much research has shown that use of certification schemes often provokes a race to the bottom, with industries opting for the least stringent scheme, and auditors failing to ensure compliance (Gordon et al. 2025). There is variation in available standards for

responsible mining and investors could help drive positive change if they put out expectations for companies to adopt the strongest standard(s). For instance, we note that IRMA has been found to perform best in recent civil society evaluations (Lead the Charge, 2024).

Question 3: Do you have any other comments or observations on the outputs of this working group to bring to our attention?

The following points also merit attention:

- The document currently groups ISDS with SLAPPs, but this mischaracterizes the distinct nature and purpose of these legal mechanisms. SLAPPs are discretionary legal tactics aimed at silencing opposition, while ISDS is a binding dispute resolution mechanism, frequently arising from bilateral investment treaties or multilateral investment agreements. Where parties do have discretion (e.g., in contract negotiations), investors can support alternatives that preserve states' regulatory space. More realistically, investors and states should push for transparency in ISDS proceedings, or negotiate contractual provisions limiting ISDS in cases where states aim to strengthen environmental or human rights protections. While these steps cannot fully insulate states from treaty-based claims, they provide practical ways to reduce risks and align dispute settlement with responsible mining governance (see Phillips 2025).
- The recommendations for early-stage engagement are important, but without addressing decision-making authority, they will not drive systemic change. In most jurisdictions, the state owns mineral resources and unilaterally decides whether deposits will be developed. This leaves communities with little formal power, even when engagement starts early. To be effective, investor expectations must grapple with these legal realities and not treat engagement as a substitute for authority. Co-ownership models or benefit-sharing agreements can help, but they do not alter the property rights structures that shape outcomes from the outset. Best practice guidance should therefore include: (1) recognizing these limits openly; (2) promoting contractual provisions and governance arrangements that enhance community influence beyond consultation; and (3) ensuring that benefit sharing is tied to real decision-making authority. Early engagement is a worthy endeavor, but it will be far less impactful if a discussion of the legal realities is completely side-stepped (Phillips 2025).
- The actions do not address the issue that the time necessary to consult communities through their own processes and customs oftentimes do not fit within the timelines given by mining companies for the consultative processes (e.g., Leifsen et al. 2017). Investors could pose expectations on companies to, in variable ways, ensure ample time and allowing for changes to timelines when sufficient time

is not given – indeed that timelines for engagement be negotiated and agreed with rightsholders based on their own protocols.

- The rationale briefly mentions the risk of benefit sharing provoking internal conflict in local populations and communities. However, it does not elaborate on how the proposed actions would help counter such risk of internal conflict. Whereas several of the actions, such as the respect for Indigenous consent processes, could help in this regard, more is needed.

3. Selected references

Bebbington, A., Abdulai, A.-G., Bebbington, D.H., Hinfelaar, M., Sanborn, C., 2018. *Governing Extractive Industries*. University Press, Oxford.

Gibson, G. & O'Faircheallaigh, C. 2015. *IBA Toolkit*. <https://firelight.ca/iba-community-toolkit-2015>.

Lead the Charge. (2024). *An Assessment of Third-Party Assurance and Accreditation Schemes in the Minerals, Steel and Aluminum Sectors*. Lead the Charge. <https://leadthecharge.org/wp-content/uploads/2024/02/LeadTheCharge-Assessment-06022024.pdf>.

Kløcker Larsen, R. 2017. Impact assessment and indigenous self-determination: a scalar framework of participation options. *Impact Assessment and Project Appraisal* 36(3): 208-219, <http://dx.doi.org/10.1080/14615517.2017.1390874>.

Kløcker Larsen, R., Staffansson, J., Omma, I-A, O'Faircheallaigh, C. 2024. Negotiated Agreements and Sámi Reindeer Herding in Sweden: Evaluating Outcomes, *Society and Natural Resources* 37(7): 981-999, <https://doi.org/10.1080/08941920.2024.2321874>.

Leifsen, E. et al. 2017. New mechanisms of participation in extractive governance: between technologies of governance and resistance work, *Third World Quarterly* 38(5): 1043-1057.

Phillips, S. K., Mining law and governance: structures and challenges, in *Comparative Environmental Law* (Tseming Yang, Anastasia Telesetsky & Sara K. Phillips eds., Edward Elgar, 2025), <https://doi.org/10.4337/9781788971201.00031>.

Phillips, S. K., The Legal Construct of Mining Conflicts, *109 Resources Policy* 105706 (2025), <https://doi.org/10.1016/j.resourpol.2025.105706>.