

# ANTI-CORRUPTION HELPDESK

## PROVIDING ON-DEMAND RESEARCH TO HELP FIGHT CORRUPTION

### STANDARDS OF PUBLIC PARTICIPATION

#### QUERY

Could you please provide information on standards of public participation?

#### PURPOSE

We are working with a mining company, and we have to evaluate the participation of local organisations in the processes of discussion about projects and programmes. We would like to know if these processes have complied with minimum standards of public participation.

#### CONTENT

1. Standards of public participation
2. Evaluating public participation processes
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#### Author(s)

Marie Chêne and Ben Wheatland, Transparency International, [tihelpdesk@transparency.org](mailto:tihelpdesk@transparency.org)

#### Reviewer(s)

Dieter Zinnbauer, Ph.D, Transparency International

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#### SUMMARY

The participation of the public in the decision-making processes of public affairs is a right that is enshrined in many international conventions.

Public participation is a core element of good governance, and can directly improve the quality of laws and policies, strengthen democracy and increase the accountability of decision makers. At the same time it can afford the people directly affected by a decision, policy or law with a chance to have their concerns heard and respected, and can help to foster legitimacy and manage conflicts in society.

There are a number of countries and international organisations that define standards of public participation, mainly focusing on consultation times, accessibility to information and processes and the responsiveness of officials as well as the principles of trust, accountability, transparency and independence which are at the core of effective public participation.

Similar principles apply in the mining sector. Mining companies have increasingly come to understand the importance of public participation in the creation of their projects, and some countries have even enshrined these principles in their laws and regulations. Evaluating the public participation process can be difficult. However, guidance has been created that broadly focuses on the planning and implementation stages of the process, as well as on the quality of decision-making.

## 1 STANDARDS OF PUBLIC PARTICIPATION

### Benefits and challenges of public participation

The right to participate in the conduct of public affairs is a fundamental human right enshrined in major human rights instruments and international treaties and conventions, based on the principle that all persons have a right to express their opinions on decisions directly affecting their lives (Danish Institute for Human Rights 2013; OSCE 2010). In the anti-corruption arena, this right is articulated in Article 13 of the UN Convention Against Corruption (UNCAC), which promotes the active participation of individuals and groups outside the public sector in the prevention of and the fight against corruption.

#### Benefits

There is no universal definition for public participation and the concept can be understood in many different ways. The [International Association for Public Participation](#) refers to public participation as “involving those who are affected by a decision in the decision-making process. It promotes sustainable decisions by providing participants with the information they need to be involved in a meaningful way, and it communicates to participants how their input affects the decision.” This definition implies that a deliberative process of thoughtful and consequential discussion between citizens and decision-makers takes place before a decision is taken, enabling a collaborative problem-solving approach, ultimately resulting in more legitimate decisions and policies (European Institute for Public Participation 2009). While most standards of public participation are concerned with law making, these principles can be adapted to consultation on projects and programmes.

Involving the public in decision making processes is a core element of good governance, and the expected benefits are many, allowing for the inclusion of a diversity of perspectives and solutions in the decision making process (OSCE 2010):

- Creating fairer laws and policies that reflect the diversity of views, opinions and concerns, which have been tested through a

comprehensive process of review and revision before being approved

- Establishing an early warning system for public concerns as a way to collect accurate and timely information and identify public values and concerns
- Strengthening democracy and preventing social tensions among various stakeholders
- Managing social conflicts by bringing different stakeholders and interest groups to the same table
- Enhancing the quality of the decision-making process by enabling decision makers to make better informed choices
- Ensuring legitimacy of proposed policies and increasing ownership and responsibility in implementation of the decision
- Increasing accountability of decision-makers

#### Challenges

There are also major challenges that can be associated with public participation and should be taken into account when designing public participation mechanisms (OSCE 2010; European Institute for Public Participation 2009):

- **Political context:** The political context needs to be conducive for public participation. In some context some precautionary measures may be needed to allow citizens to express themselves freely and safely.
- **Costs of participation:** Public participation is costly in terms of time and finance for both organisations and participants, requiring covering costs for the organisation of meetings, facilitators, dissemination of results, etc. Overuse of participatory process can also lead to consultation fatigue and discourage citizens from engaging, especially if the impact of their contribution is not ensured.
- **Control:** Loss of administrative and political control over the decision making process.
- **Time pressure:** The decision-maker needs to have sufficient time for meaningful consultation and participation and not be

under time pressure to design a law, programme or policy.

- **Representativeness and inclusiveness:** The issue of who to consult to ensure balanced representation of the diversity of public views through adequate selection process can be challenging. Attention should be given to include marginalised groups that are affected by the decision.
- **Complexity:** Some of the processes that require public consultation can be overly complex and technical and the public need to be adequately informed of the topic to meaningfully contribute.

## Core values and issues to consider for public participation

A number of core values and principles underlie the right of participation.

### *The International Association for Public Participation*

The International Association for Public Participation's (2007) core values are often referred to in this regard and consist of seven broad principles, which stipulate that public participation:

1. is based on the belief that those who are affected by a decision have a right to be involved in the decision-making process
2. includes the promise that the public's contribution will influence the decision
3. promotes sustainable decisions by recognising and communicating the needs and interests of all participants, including decision makers
4. seeks out and facilitates the involvement of those potentially affected by or interested in a decision
5. seeks input from participants in designing how they participate
6. provides participants with the information they need to participate in a meaningful way;
7. communicates to participants how their input affected the decision

The expectations and aspirations for public participation articulated in these seven principles are supported by the IAP2's Code of Ethics for Public Participation targeted at public participation practitioners. After re-affirming the commitment to public participation in decision-making and to building trust and credibility among all participants in the process, the code emphasises a number of key principles practitioners should adhere to including:

- **Definition of the public's role:** The role of the public in the decision-making process is carefully considered and accurately portrayed.
- **Openness:** The disclosure of all information relevant to the public's understanding and evaluation of a decision is encouraged.
- **Accessibility:** Stakeholders have fair and equal access to the public participation process and the opportunity to influence decisions.
- **Commitments:** All commitments made to the public, including those by the decision-maker, are made in good faith.

### *Other core values*

A recent civil society forum organised by the OSCE in Vienna recommended further principles to enhance the participation of civil society in public decision-making processes, complementing generally accepted underlying values (OSCE 2015; OSCE 2010).

### *Transparency*

The objectives and level of participation sought as well as roles and responsibilities of the various stakeholders need to be clarified to participants at an early stage of the process.

Public and timely access to objective, comprehensive and clear information should be ensured to enable participants to shape their views and opinions and provide informed contributions on the proposed decision.

Publicity and information disclosure should be encouraged at all stages of the process, including decisions and other public documents adopted by the public authorities.

It is also important to ensure that contributions are acknowledged and feedback provided, including on how input has been used in the process and to which extent it has influenced the decision. This can involve setting up of timely feedback mechanisms.

### *Accessibility, affordability and efficiency*

Proper and efficient structure and mechanisms need to be established to ensure effective coordination of the participation process. To the extent possible, participation in the process should be free or at least affordable and accessible to all interested parties. It is also important to set out a clear and reasonable minimum timeline for public participation that provides all parties with sufficient time to prepare, discuss and provide input into the process.

### *Non-discrimination, equal treatment and inclusiveness*

Those – including individuals or associations – who are affected by a decision should have equal access to public decision-making processes and not be discriminated or excluded from the process without a well-grounded and objective justification. Attention should be given to ensure the equal participation of men and women and overcome specific challenges associated with including vulnerable or marginalised people and groups to participate. All comments received by participants should be given equal consideration by decision-makers, irrespective whether they are in favour or against the proposed decision.

### *Accountability*

The decision should be taken in accordance to agreed-upon rules accountability of the process and results. Decision-makers should report back to parties involved in the consultation and provide timely and meaningful feedback on the outcome of the public consultation, including justifications for not including some comments and proposals.

Decision-makers should be ultimately accountable to the public with respect to consultation processes and should report on the status of participation in decision-making processes. Such processes could be monitored by designated independent bodies.

## **Key issues to consider**

Whether involving the public in the development of laws, policies or programmes, there are a number of key considerations to take into account.

### *Levels of participation*

Public participation can take many forms depending on the decision to be made, time frame for making the decision, resources available and other contextual circumstances. The choice on the form and level of public participation should be unbiased and based on the extent to which public participation is legally and politically possible in a given country as well as based on consideration such as social and monetary costs, the need to maximise involvement and the evidence of the effectiveness of methods in achieving democratic and efficiency benefits (European Institute for Public Participation 2009).

There are different levels of participation that can be envisaged (IAP2 2007; OSCE 2010; European Institute for Public Participation 2009; OECD 2001):

- **Inform:** passive forms of participation

At this stage, the public is provided with balanced, comprehensive and objective information about the policy. Access to information is a pre-requisite for effective public participation. As a one-way relationship, providing information to the public on decisions and policies either through access to information requests by citizens or pro-active information disclosure through document dissemination, press conferences, websites is the first level of participation. Information and Computer Technologies provide new opportunities to exchange information and reach out to a wide number of citizens. However, they do not seek to incorporate stakeholders' views into the decision-making process.

- **Consult and involve:** consultative forms of participation

This level of participation seeks to obtain feedback from the public on decisions, or to

work directly with the public throughout the process to ensure that policies take into account information, public concerns and other information provided by citizens. At this level, consultation is seen as a two-way process whereby the decision-maker defines the decisions on which citizens input is sought and manages the process. Such consultations can be achieved through various mechanisms such as focus group discussions, public hearings and workshops allowing citizens to share their concerns and provide their views and feedback on proposed decisions.

- **Collaborate:** active participation

This level of participation is one of the highest levels of public engagement and aims at partnering with the public in each aspect of the decision including identification of alternatives and preferred options. Responsibilities are thus jointly undertaken at all stages of the process. As such, active participation refers to a partnership model whereby citizens actively share power and are empowered to directly influence the programme or policy. In such approaches, the public actively engages in defining the process and content of decision-making and is given equal standing in setting the agenda, proposing policy options and shaping policies, even though the final decision-making power lies with the government.

As an underlying form of collaboration, the Council of Europe in its 2009 code on participation also highlights the dialogue as an active form of participation, understood as “a two-way communication built on mutual interest and potentially shared objectives to ensure a regular exchange of views”.

- **Empower**

At this level of participation, the final decision making is placed in the hands of the public.

## Framework for public participation

At country level, rules and principles regulating public participation in law and policy making processes can

be outlined in documents of different nature (OSCE 2010). Some are legally binding (stand-alone laws and regulations), while others are non-legally bindings (codes and standards). In some countries such as Hungary, the right of participation has been included in the constitution. In any case, measures need to be adopted for implementation, including resources, awareness raising activities and specific guidance to ensure compliance with the regulations.

## What should be open for public participation?

In principle, all legislative acts should be open to consultation, including draft laws and policies (OSCE 2010). This can include a wide range of documents, including draft laws and decrees, directives, documents, concepts, policies, development plans and programmes, public service regulations, conventions and international agreements. However, some countries like Bosnia Herzegovina distinguish laws on the basis of whether they are likely to have a significant impact on the public or not. Most standards and laws regulating public participation provide for exceptions to consultation in emergency situations, exceptional circumstances, important issues such as national security or defence and obligations resulted from international treaties.

## Who should be involved?

Most organisations or standards refer to the right of those directly or indirectly affected by a decision or those that may be affected in the future to participate in decision-making processes. In Europe for example, relevant documents of institutions and governments typically refer to the public as “anybody who will be affected by the specific decision, an interested party” (OSCE 2010). The Austrian standards consider that the concept of the public encompasses individuals as much as groups of persons, including those formed in connection with a concrete project with very loose internal organisational structures. In Bosnia, in some cases, the institution can involve not only domestic but also foreign experts, lawyers, prosecutors and judges.

While access to information should be available to the whole public, for practical and efficiency reasons, consultation or active involvement processes can focus on specific target groups. In such cases, the selection process and criteria in terms of competence,

expertise and representation should be made clear and be open, transparent and applicable to all parties, including government representatives and civil society participants. Here as well, steps and measures should be taken to encourage the participation of categories of citizens who for various reasons (gender, age, disabilities, minorities) may have difficulties with participating in the process.

Developing a list of interested parties may be useful to facilitate the process and ensure the wide participation of stakeholders.

### When should parties be involved?

In terms of access to information, documents should be made available to the public at the earliest stage of their development as a pre-requisite for providing timely and meaningful feedback (OSCE 2010). This gives enough space for interested parties to consult constituencies, prepare their input or jointly develop their contributions with other stakeholders. If decision-makers are unwilling to share drafts at an early stage of development, they should at least provide short summaries of issues to be addressed.

For consultation and active involvement processes, it is good practice to engage with key stakeholder groups well ahead of the process in order to reach a consensus on timing and the forms and methods of consultation (RTPI 2005).

It is also important to plan how much time is given to the public to provide input into the process, taking into account the type of decisions and documents that need to be consulted on, their length and complexity, available expertise on the issue and the participation tools used, among other factors.

In considering the most appropriate timeframe, the need for adequate public participation should be balanced with swift decision-making. The EC for example prescribes eight weeks for the receipt of responses for written consultations and 20 working days' notice for working meetings (OSCE 2010). The UK code on consultation recommends that consultation lasts 12 weeks, with a possibility for extension when consulting during holidays or when issues are particularly complex.

Decision-makers should also acknowledge and provide timely feedback to all involved parties. While

the feedback does not necessarily need to be individualised in large consultation processes, a summary of all responses and actions taken upon them should be made available in a collective report (OSCE 2010).

### What information should be provided to consulted parties?

Most standards emphasise the need to provide the public with clear, concise and comprehensive information. In addition to the draft law or policy, complementary information can be provided such as a summary of the background, the scope and objective of the consultation, issues of particular importance, justification for the proposed law or policy, methods on how to submit comments and more generally all information needed to understand the process and enable the public to meaningfully contribute.

Good practice also requires that the public be informed in a timely manner about the process and the information about the process should be disseminated as widely as possible.

### Tools for involving the public in decision-making

Different models of participation may be chosen depending on the situation, the objective of the consultation, resources available, timeframe of the consultation and the target group. The use of internet and ICTs are opening new opportunities for public participation. In many cases a combination of various tools may be selected and adapted to local circumstances and practices (OECD 2001):

- **Information tools:** used to facilitate the first level of participation and inform the public about the proposed law or policy. These can include a range of different information tools such as publishing information on targeted websites, portals, official gazettes, brochures, leaflets, information centres, toll-free phone numbers, advertising, media coverage or civil society organisations used as intermediaries
- **Consultation tools:** used to collect feedback from citizens on policy issues. They can include opinion polls and surveys and notice periods for submitting comments

- **Tools for active participation:** used to facilitate debates and deliberation and provide greater levels of interaction. Methods for engaging the public can take various forms such as public hearing, focus group discussions, workshops, conferences, experts meetings, email lists and chat forums

## Standards and guiding principles

### European standards

Many countries have laws and policies that require public participation. The literature refers to the British code on consultation and the Austrian standard of public participation as good practice.

#### *The UK Code of Practice on Consultation (2004)*

Although this code is non-binding, when a government body adopts it, it is expected to comply with its provisions and can be evaluated on the extent to which it has used the criteria in the code in specific consultation processes.

The code sets out the approach the UK government takes to run a formal, written public consultation exercise. It contains seven criteria:

**When to consult:** formal consultation should take place at a stage when there is scope to influence the policy outcome

**Duration of consultation exercises:** consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible

**Clarity of scope and impact:** consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals

**Accessibility of consultation exercises:** consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach

**The burden of consultation:** keeping the burden of consultation to a minimum is essential if consultations

are to be effective and if the buy-in of those being consulted is to be obtained.

**Responsiveness of consultation exercises:** consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation

**Capacity to consult:** officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from experience

More information on the UK Code of Practice on Consultation can be accessed [here](#).

#### *The Austrian Standards of Public Participation (2008)*

The Austrian standards have been divided into three sections, highlighting standards for the preparation, implementation and monitoring and evaluation of the participation process and have been structured as a list of questions. In high quality public participation, all answers can be answered, while deviations from the standards need to be justified in a comprehensible way. A practical guide has been developed to facilitate the implementation of the standards.

The Austrian Standards of Public Participation can be accessed [here](#).

#### *Code of Good Practice for Civil Participation in Decision-Making Process (2009)*

The code offers a repertoire of non-mandatory good practice and provides guidelines drawn from concrete practical experience of dialogue and co-operation between NGOs and public authorities. It reinforces principles of participation, trust, accountability and transparency and independence. It defines four levels of participation (information, consultation, dialogue and partnership) and identifies six steps in the decision-making process, including agenda setting, drafting, decision, implementation, monitoring and reformulation and proposes tools and mechanisms for the four levels of public participation for each of these six steps.

The Code of Good Practice for Civil Participation in the Decision-Making Process can be accessed [here](#).

## International standards

### *The Aarhus convention*

The United Nations Economic Commission for Europe (UNECE)'s Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters is open to all members of the United Nations and came into force in 2001. It establishes minimum global standards for public participation in environmental matters, including:

- timely and effective notification
- reasonable timeframe for participation and at an early stage of the decision-making process
- availability of documentation free of charge
- due account of the outcome of public participation
- prompt notification and publication of the decision

While initially developed for environmental issues, these key principles could and should be extended to all issues and not just environmental issues. The convention can be accessed [here](#).

### *The OCDE guiding principles for open and inclusive policy making*

When engaging with the public, the OECD emphasises three key principles that need to be ensured for effective public participation: 1. information is complete, objective, reliable, relevant, easy to find and understand; 2. consultation has clear goals and rules defining the limits of the exercise and the decision-maker has an obligation to account for its use of citizens' input; and 3. participation provides sufficient time and flexibility to allow for meaningful input, and mechanisms for their integration into policy making process (OECD 2001).

There are 10 guiding principles for successful information, consultation and active participation of citizens in policy making:

1. **Commitment** at all levels from politicians to public officials
2. **Rights** of citizens to participate grounded in law or policy

3. **Clarity** of objectives and limits of the participation process
4. **Consultation period** should be early in the policy process
5. The provision of **objective**, complete and accessible information
6. Adequate financial, human and technical **resources**
7. **Coordination** across government units
8. **Accountability** and justification of the decision to use or not use citizens' feedback
9. **Evaluation** of performance in participation process
10. **Active citizenship** to engage in the consultation process

The OCDE guiding principles for open and inclusive policy making can be accessed [here](#).

## Multilateral development banks' standards

Multilateral development banks apply participation standards to the private sector (Bradlow and Chapman 2011).

For example, the public participation standards are outlined in the International Finance Corporation's performance standards establishing key guiding principles:

1. **Disclosure**: timely, relevant, understandable and accessible information
2. **Consultation**: Clients are required to consult with potentially affected communities for all projects that may have adverse social and environmental impact
3. **Grievance mechanisms**: A grievance mechanism needs to be established if the client anticipates risks and adverse impact on affected communities.

The Inter-American Development Bank (IDB) has made a priority of facilitating public participation in IDB's activities and published in 2004 a strategy for promoting citizens participation in bank's activities. The strategy is partially formalised by its binding Environment and Safeguards Compliance Policy and its disclosure policy (Bradlow and Chapman 2011).

The Environment and Safeguards Compliance Policy requires the borrower to conduct some environmental

assessment, but the depth of the assessment depends on the type of project. Some projects must involve consultation with affected parties and may include consultation with other interested parties while no consultation requirements are required for certain projects where there are no identified social or environmental risks. Disclosure of appropriate information to make the consultation meaningful is implicit in the policy consultation's requirements. Although the IDB disclosure policy does not require disclosure of key documents for private sector borrowers as it does for public sector for business confidentiality reasons, a summary of key documents needs to be disclosed. There is no requirement to establish a grievance mechanism, but affected parties have access to the Independent Consultation and Investigation Mechanism (MICI).

A table summarising public participation requirements of multilateral banks applicable to private sector clients can be accessed [here](#).

## Open Government Standards

As part of the Open Government Initiative, seven standards have been developed to mobilise citizens to engage in public debate:

1. **Openness:** opportunities to participate in decision-making are widely promoted via the internet, mailing lists, public announcements and the media
2. **Clear and reasonable timelines:** participation processes are structured to ensure sufficient time for interested stakeholders to learn about the process, review materials and prepare quality and considered input
3. **Clear and comprehensive information:** background materials available to public officials are made available and presented in a form that is understandable and comprehensible to the public
4. **Active collaboration:** public bodies are proactive in their interaction with the public, establishing multiple channels to gather information
5. **Appropriate and clear procedures:** rules on how to engage are made clear in advance along with the timeframes and how comments should be submitted

6. **Empowerment:** comments received must be carefully reviewed and perspectives incorporated in the documentation of the final decision
7. **Transparency and accountability:** the process is made accountable through reports and feedback on the contribution received. There should be transparency on who participated and written reasoning explaining how the comments were taken into consideration should be made available.

The full version of the Open Government Standards can be accessed [here](#).

## Public participation standards and guidelines in mining/extractive industries

Public participation in mining and extractive industry policies and programmes can help integrate citizens' concerns into decisions related to energy and the environment. Principles specific to the mining and extractive industry sector broadly follow those laid out above, focussing on enshrining the rights of local communities to be involved in the process of developing a project as well as access to information on upcoming projects.

## Standards and guidelines

### *Consultative Forum on Mining and the Environment's guidelines (2002)*

The forum's guidelines are based on the core values of public participation that are set out by International Association for Public Participation (IAP2). IAP2's values include public participation being based on the belief that those affected by a decision have a right to be involved in the process, that public participation promotes sustainable decisions and that participants are provided with all the information that they need to meaningfully participate in the process. The full set of IAP2's core values can be found [here](#).

The guidelines spell out 15 principles of good practice for mining companies in public participation, in addition to the IAP2 core values. These additional principles include flexibility to accommodate local needs, transparency and honesty, independent

facilitation, time and cost efficiency, respect for cultural diversity, participation according to ability and interest level, sufficient and accessible information, inclusivity and representativeness, ample announcement of the opportunity for involvement and for comment in various ways, opportunity to expose the viewpoints of different sectors of society to each other and ongoing feedback and acknowledgement.

These guidelines also provide a six-step guide that any public participation process can and should use. These steps highlight objectives of participation in the scoping, impact assessment and decision-making stages.

Scoping phase:

1. **Identify stakeholders** representative of all relevant members and groups of society
2. **Announce opportunity for comment** using a variety of methods and with the aim to provide sufficient information to stakeholders.
3. **Obtain issues and alternative suggestions**
4. **Verify all issues are recorded**, usually by publishing a report and holding an event to allow different stakeholders to share their views

Impact assessment phase:

5. **Present findings** of specialist investigations for comment. Also provide opportunity for stakeholders to verify if issues that they raised were considered

Decision-making phase:

6. **Announce the final decision**, including information on how stakeholders may appeal

The full version of the Consultative Forum on Mining and the Environment's guidelines can be found [here](#).

*Shift Discussion Paper on Stakeholder Engagement in the Extractive Industry (2013)*

Shift is an independent and not for profit centre for business and human rights practice. Its discussion paper on stakeholder engagement in the extractive industry was created in the context of the OECD Guidelines for Multinational Enterprises, in an effort to plug any gaps that exist in relation to the extractive

industry in particular. It provides recommendations for guidance that should be included in any future updates of the OECD's guidelines in order to move from good guidance on paper to good implementation in practice.

The 2011 update of the guidelines included a new set of guidance on stakeholder engagement. This guidance states that multinational companies should engage with relevant stakeholders in order to take their views into account in a meaningful way for projects or activities that might significantly impact local communities. The guidelines also state that engagement should be interactive (via consultations or hearings) and should include two-way communication between the company and the community (OECD 2011).

Shift's discussion paper evaluates the challenges that are present in stakeholder engagement, and proposes a number of areas that should be taken into account when new guidelines are created. The paper also suggests that guidance should emphasise the purpose of effective stakeholder engagement from both a human rights and a business perspective. Areas of focus should also include adapting stakeholder engagement to the operational context, engaging with the right stakeholders, using the right modes of engagement for different stakeholders, supporting stakeholder engagement at early stages of exploration and project development, supporting a more strategic approach to stakeholder engagement across the project lifecycle and enhancing capacity and support for effective stakeholder engagement.

Readers can access the full discussion paper [here](#).

*Towards Sustainable Mining – Guiding Principles (2004)*

The Mining Association of Canada's (MAC) guiding principles on sustainable mining include pledges to involve communities in the design, implementation and legacy of mining projects and proactively seeking and engaging dialogue between interested partners.

A further part of the MAC's work is the Aboriginal and Community Outreach Framework (2008), which provides guidance on stakeholder engagement with aboriginal groups in relation to the mining industry. These include identifying communities that might be

interested in or affected by a mining project in a timely manner, effectively engaging with them and opening up cross-cultural understandings, provision for response mechanisms from any communities of interest and effective and transparent reporting.

The full Aboriginal and Community Outreach Framework can be found [here](#).

*Making Free, Prior and Informed Consent a Reality: Indigenous Peoples and the Extractive Industry (2013)*

Doyle and Carino's research paper on extractive industries and indigenous communities provides a series of general guidelines that should guide extractive industry projects. These include guidance for mining companies, indigenous peoples themselves, states, the financial sector, civil society and the international community.

The principles state that indigenous communities should have the right to consider project proposals and negotiate any contractual conditions that they do, or do not, consent to. This right should extend to all steps of a project. This also requires that all proposals and information made public is done so in a clear and understandable way.

## Country Examples

### Belize

Regulation 24 (2) of Belize's Environmental Impact Assessment Regulations (1995) requires that the Department of the Environment take into account certain factors when deciding if a public hearing must be held regarding a certain project. These factors include the size and type of environmental impact that the project is likely to take and the possibility that information gathered from public hearings might assist the developers (Subsidiary Laws of Belize 2003). Should these be followed to the letter, any significant mining project would require the company running the project to engage the local public in its decision-making process (Economic Commission for Africa 2004).

### Peru

Peru's [Regulations on People's Consultation and Participation in the Process of Approval of Environmental Studies in the Energy and Mines Sector \(2002\)](#) contains detailed provisions regulating the use of public participation. The regulations require that all mineral development projects (with the exception of exploration activities and small-scale and artisanal mining) require the holding of public meetings after the conclusion of the impact study (Economic Commission for Africa 2004).

The regulations also state that public meetings must be held before, during and after the completion of environmental impact studies. Such public participation is key for the environmental impact assessments being approved, which are required for the granting of mining permits (Labo no date).

It also gives the power to prescribe a number of workshops to the Ministry of Energy and Mines. These workshops offer the sponsors of a project the chance to publicly share information about the technology that a project will use and the anticipated impacts of the project. Moreover, the new regulations allow for public hearings to be held anywhere in the country and stipulate that they should be held at a location near the affected project area. Previously, all hearings were held in the capital city (Labo no date).

They also provide the opportunity for questions to be posed to the sponsors by the community (Economic Commission for Africa 2004).

## 2 EVALUATING PUBLIC PARTICIPATION PROCESSES

### Challenges associated with evaluation participation processes

Most standards refer to the crucial need to evaluate the performances of the participation process for financial, practical, learning and ethical reasons and recommend including the evaluation of the effectiveness of the consultation in the initial planning.

In practice, however, the OECD points to a striking imbalance between the investments made in engaging citizens in decision-making processes in recent years

and the resources and attention allocated to evaluating the effectiveness and impact of such exercises (OECD 2005). In addition, assessment exercises rarely clarify how well participation processes are working and could be improved (European Institute for Public Participation 2009). There are also a number of methodological challenges associated with the evaluation of participation exercises (OECD 2005; Rowes and Frewer 2004):

1. **Definition of success/effectiveness/quality of the process:** there are no clear and universal criteria to define the concept of effectiveness of participation process (for example, speed, number of contributions, quality of ideas generated, satisfaction of involved parties)
2. **The evaluation perspective:** the perceived success of the participation process may greatly vary according to whose perceptions of the effectiveness of the process are taken into consideration
3. **Outcome versus process effectiveness:** similarly, it may prove challenging to define the end point of consultation process. There is also a dichotomy between measuring the outcome of the process and the effectiveness of the process that led to this outcome. In addition, the outcome may be due to other variables than the participation process
4. **Alternative comparison:** challenge of comparing the current situation with the one that would have resulted if the participation process had not taken place.
5. **Timeframe of the evaluation exercise:** challenges of producing relevant results within a limited time frame
6. **Resources:** financial and human resources are required as well as technical expertise

## Evaluation framework and criteria

In spite of these difficulties, a number of researchers and stakeholders have developed a set of criteria and indicators to assess the quality of participation processes, broadly aiming at revealing the effectiveness and efficiency of the planning and implementation of public participation processes and the quality of decisions taken, among others (European Institute for Public Participation 2009).

Some studies evaluating participation techniques often use participant satisfaction as a key evaluation criterion. However, while satisfaction level can provide useful feedback to facilitators, satisfaction is not necessarily the ultimate goal of the participation process, does not necessarily mean that the process resulted in better policies, can be misleading and affected by irrelevant factors (Coglianese 2002).

Other researchers have developed a number of principles defining success of participation processes. Consultation should be fair, efficient, inclusive, influential and informative and occur at an early stage of the decision-making process. In addition, all stakeholders should be able to participate on an equal basis with administrative officials and technical experts (Ronmark et al 2006; Wouters et al 2008).

Criteria often mentioned in the literature for assessing participation processes include:

1. **Representation:** Can the process claim some sort of representativeness, and is that clearly communicated? All parties with an interest in the issues and outcomes of the process interested and affected people should be represented throughout the process. The full spectrum of the opinions and values held by the public is exposed.
2. **Influence:** Are the outcomes of the participation reflected in the policy justifications, decision and actions? Public contributions should be used in the development and evaluations of alternative options and have an impact on the decision. Public participation is to the extent possible on an equal basis with that of the administrative officials and technical experts
3. **Timeliness:** Realistic timeframe and deadlines should be ensured to allow sufficient time for meaningful consultation with the public.
4. **Early involvement:** The public is involved at an early stage in and throughout the planning process of the participation exercise. Participants provide input on how they wish to participate.
5. **Information disclosure:** Participants are provided with the information they need to participate in a meaningful way. High quality, clear, comprehensive

and understandable information is made available in a timely manner.

**6. Transparency of purpose and procedures:** The participants know why participation is taking place and develop a sense of ownership for the process and the outcome. The nature and scope of the participation task are clearly defined. This includes ensuring that the process is transparent, and the public knows how decisions are being made. Procedural ground rules and roles of the participants must be clearly defined.

**7. Effective forums:** The choice of process matches the proposed decision and the intention of the process. The public must be able to participate in an effective forum and all participants are given the opportunity to share their concerns and opinions and be heard. A variety of techniques are used for sharing information, including face-to-face discussion between parties.

**8. Independence:** The process is conducted in an independent, unbiased way and provides for equal and balanced opportunities for all parties to participate effectively.

**9. Accountability:** Participants are kept informed of progress and get feedback on how their input affected the final decision.

**10. Costs and benefits:** The process is cost effective in terms of costs and benefits for citizens (time and resources devoted in comparison to the perceived impact of the process) and for organisers.

**11. Outcome:** The process has a substantive impact on the decision and more generally the public debate. There is evidence that participation had an impact and helped shape the plan or the policy (European Institute for Public Participation 2009; Wouters et al 2008; Rowe and Frewer 2004).

A table of all indicators and evaluation criteria used in a number of evaluation exercises can be accessed [here](#).

## Evaluation methods and tools

While the content of each evaluation may be different, in most cases a number of items need to be covered, including the objectives of the engagement process,

contextual information, levels of involvement, methods and techniques used, who was involved, inputs (monetary and non-monetary costs), outputs (products and activities) and outcomes (benefits and impacts) (Warburton no date).

There are different approaches for collecting the information needed for evaluating public participation. An evaluation can include a combination of various tools and approaches (OECD 2005).

### Surveys

Questionnaires are a common evaluation technique. Apart from background information, there are four basic types of questions including knowledge questions – to find out what factual information the respondent has; feeling questions – about emotions; opinion questions – to find out what people think of something; and behaviour questions – about what a person does or has done. These questions are aimed at descriptions of actual experiences, activities and actions. In principle, surveys should get a high response rate – as a rule, no less than 80 percent.

### Interviews

Interviewees are selected in a way to ensure that his/her perspective is meaningful and knowledgeable. Respondents' point of view are made explicitly clear in reports to easily show that the information is not just that of the writer. Interviews can be informal and conversational, use a general interview guideline approach or be a standardised interview. However, the quality of the information obtained during an interview often depends on the skills and experience of the interviewer.

### Observation

Interviews and surveys are the most common sources of information in evaluations. However, direct participation in and observation of the process may be the best method and yield different insights. The observer may focus on patterns of interaction, sense-making, exclusion and other aspects of group dynamics, which would be very difficult to capture in an interview or survey. Observation can also be a cost-effective instrument of evaluation that occurs in real time, more or less immediately when the event takes place. The results of observation can be reported verbally, but they are usually written.

### Documentation

The study of documentation such as written materials and other documents from organisational or programme records, memoranda and correspondence; official publications and reports; diaries, letters and artistic works; annual reports, budgets, expenditure accounts and bookkeeping can complement other evaluation tools. They can provide quantitative data and allow the calculation of efficiency rates on the basis of cost information in expenditure records. But some texts will require qualitative analysis, for which there are now a variety of analytical tools.

### Participatory approaches

Citizens are increasingly called upon to take part in evaluations. In participatory evaluations, those who are the subjects of an intervention are involved in its evaluation. Their involvement can vary from answering questions to full participation in defining questions, answering them, and using the results. This approach is especially relevant to evaluate public participation processes, which seek to strengthen the connections between governments and citizens.

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