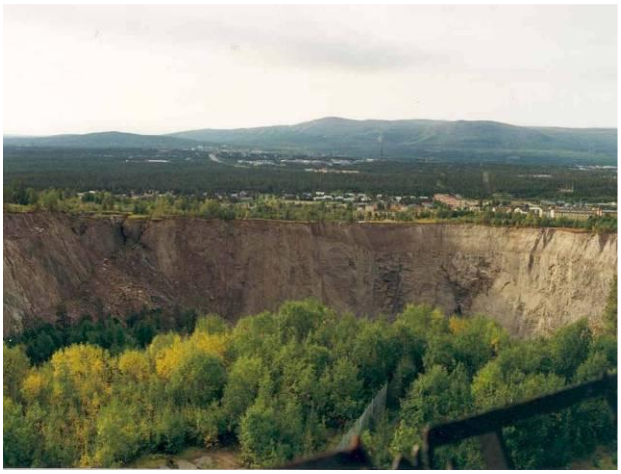
GEORANGE

En investering för framtiden

EUROPEISKA UNIONEN
Europeiska regionala utvecklingsfonden

The Georange guidelines for stakeholder consultation & disclosure

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1. Introduction

The purpose of these guidelines is to assist developers and other stakeholders in minerals and exploration projects in the process of consultation and disclosure. The guidelines have been developed by Georange, a Swedish independent, nonprofit organisation that aims to encourage and broaden the development of the Swedish mineral sector. The guidelines have been developed by Georange's specialist group on land-use, which includes representatives from local and regional authorities, industry, a Sami village, and other experts. The guidelines have also undergone review by a range of representatives from public authorities, experts and other individuals who are working with issues that relate closely to the content of these guidelines. The aim of the guidelines is to contribute to the meaningful participation of affected land-users in the planning of mineral sector projects, and to thereby lessen the risk for conflict and ultimately contribute to better and more sustainable projects. This document is furthermore a "living document" which is continuously being improved in accordance with comments and suggestions that are submitted to Georange. The guidelines also exist in a Swedish version.

> ***Disclosure*** is the process of providing information to communities and stakeholders that are impacted by a specific project or development plan.
>
> ***Consultation*** is a two way process of communication, undertaken in an inclusive, respectful & culturally appropriate manner, which provides concerned communities and stakeholders with opportunities to express their views on a specific project or development plan.
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> The concepts of disclosure and consultation may be seen to be encompassed within the Swedish concept of "***samråd***". The word samråd implies a process of jointly discussing, exploring and ideally agreeing on how to address an issue or a problem. However, in addition to its meaning in day-to-day conversation, the term samråd also has legal connotations and requirements for samråd is defined in various legal text, most notably within the Environmental Code.

Mining and exploration projects are often associated with the need to access land, land acquisition and/or the need to resettle and compensate residents and neighbours. Furthermore, while mining projects often provide important benefits to national, regional and local economies, they may also create significant and unwanted economic, environmental and

social impacts. Such impacts may translate into risks for the project proponent, a concern to potential investors, and may lead to increased resistance to mines among the public at large.

Experiences suggest that the cost of performing adequate disclosure and consultation often represents only a fraction of the cost of any major development project. Conversely, failure to adequately consult may lead to resistance to the project and significant additional costs. Furthermore, a properly executed process may foresee future problems, help to identify methods to mitigate these and promote a project design that can be sustained environmentally, socially and economically. For these reasons alone, an ambitious process of consultation and disclosure should form a key part of all responsibly managed mining and exploration projects.

In order to effectively consult stakeholders, and disclose information in a timely manner, project proponents need to understand how Swedish society works in general, and the laws, regulations and prevailing practices of the minerals industry in particular. Thus, in addition to providing advice on how to best consult and disclose, these guidelines also provide a useful overview of the following topics: the Swedish model of public administration; the applicable laws, regulations and practices; international trends and good practice; and other important land uses.

2. *The Swedish model of Public Administration*

Sweden is a constitutional monarchy, where the supreme authority is held by the Parliament ("riksdag"), whose members are elected on the basis of proportional representation. The judicial system is independent, based on public authorities and a court system. The legal system is further based on the Scandinavian family of Civil Law, where the laws enacted by the riksdag are written down and codified in statute books, and where Courts may interpret law but cannot make new law through precedent (although precedent can be used to interpret law). Sweden is a member of the European Union.

The executive power is exercised by the government, which is appointed by the Prime Minister who, in turn, is appointed by the riksdag. The government exercises its powers by controlling the budget that is decided upon by the riksdag, by appointing senior public officials, and by defining the framework and scope of work of the various public authorities and agencies. The government is assisted by the Government offices ("regeringskansliet"), which in turn consists of the Prime minister's office and a number of ministries ("Departments"). Each ministry is led by a minister.

The ministries are, in an international comparison, rather small entities and much of the work that in other countries are done within ministries is instead the responsibility of public authorities and agencies. These are usually led by a Director General, who is appointed by the government. The agencies work in an independent manner, within their allocated budget and within their respective scope of work. Whilst the agencies belong to one department (a few exception exists that are answerable to the riksdag), they are not strictly governed by the department, with such ministerial rule being unlawful. Government ministers are allowed to exercise a general control of the agencies, but not to interfere in matter pertaining to specific cases or decisions). This set up is meant to minimize the politicization of the decision making process, and the prohibition against trying to influence how an agency handles a specific case also applies to members of parliament and other public authorities.

As a whole, Swedish society is characterised by a comparatively high degree of trust – both among fellow citizens and towards government institutions – and this makes it possible to have a system for public administration that is based on a high degree of administrative autonomy, public insight and decentralization.

Extensive powers are delegated to the regional and local levels. Thus, the country is divided into 21 counties and in each of these there is a county administrative board which is that central state's representative at the regional level. The county administrative board ensures

that the national objectives and strategies decided upon by government are followed through, for example within the fields of environmental protection and reindeer husbandry. There are two further political organisations at the regional and local levels: the municipalities and the county councils and these manage a large part of the public services. The municipalities are concerned such issues like town planning, schooling, social security and care for the elderly; whereas the county councils are mostly concerned with health care. There is no hierarchical relation between municipalities and the county councils as they have both different responsibilities, competence and geographical coverage.

Thus, the Swedish model for public administration is based on a history of openness and accountability, strong and autonomous civil servants and a high degree of decentralization of political authority to regions and municipalities. The decentralization can be exemplified by local and regional governments to some extent being allowed to implement their own interpretations of laws. The openness and accountability may in turn be exemplified by the principle of public access to official documents, which means that documents that are submitted to, or stored at, an administrative agency must be made accessible to any person wishing to see them (exceptions to this include documents that contain personal or sensitive information about individual citizens); there is also legal protection for “whistle blowers”, and for persons providing information to the press.

The Swedish labor market system is based on a set of laws and regulations, and on so called “collective agreements” made between groups of employers and the trade unions. The collective agreements are of great importance, and many issues that in other countries are regulated by law are instead stipulated through these agreements. The importance of the collective agreements is, in turn, related to the historical strength of the labor organizations and on an overall Swedish pragmatic way of pursuing public administration.

The Swedish labor force is in general well organized, and their rights to collective bargaining and action is strongly supported in both laws and tradition. In the mining industry, the collective agreements represent what is expected from an employer and this expectation or standard is strongly upheld by both the public at large and the labor unions.

3. Legal requirements

Sweden is a mining friendly country with a stated policy to promote the search for and establishment of new mines. This attitude is based upon the fact that mining has been one of the historic drivers behind the industrialisation of Sweden. However, there are significant regional differences and the support for mining is generally stronger in the established mining areas (e.g. Bergslagen, Skellefteå and Malmfälten), whereas both the public and the local politicians may be more skeptical towards the industry in other parts of the country.

Swedish law does not explicitly state who controls the mineral resources of the country (except for the so called 'landowner minerals', see below). However, it may be interpreted such that although minerals belong to the land owner, the state may grant the right to explore for, and exploit mineral resources, to someone else than the landowner. Further, although it is theoretically possible for a land owner to utilise his/her own minerals, a landowner needs a permit from the state to do so in practice.

The Swedish Mining inspectorate (Bergmästaren) is the agency responsible for the administration of these mineral resources. The Mining inspectorate is part of the Geological Survey of Sweden which in turn belongs to the Ministry of Enterprise, Energy and Communications. The director of the Mining inspectorate is the Chief Mining Inspector and this person is appointed by the government. The Inspectorate's head office is situated in Luleå, with a subsidiary office in Falun. The Inspectorate also reports to, and receives administrative and other support from, the Geological Survey of Sweden. The Inspectorate considers applications for exploration permits and exploitation concessions, and further provides information to landowners, businesses, authorities and the public at large. It also performs audits supervises and controls mining and prospecting activities with respect to the Minerals Act and its regulations.

The role of supervising the environmental performance of mining and exploration operations is, however, conducted by the applicable county administrative board. The county administrative board may give this responsibility to a municipality (as has happened in Skellefteå, where the municipality has a special right to supervise and control mining activities that occur within its boundaries.

The legislation dealing with the requirements for consultation and disclosure in mineral related projects are contained in the Minerals Act (1991:45); the Environmental Code (1998:808); and the Planning and Building Act (2010:900).

The Minerals Act

The Minerals Act (1991:45) is concerned with the so called “concession minerals” (including most of the more valuable metals and minerals that are commonly mined but also diamonds and oil), where the rights of exploitation is issued by the state (in contrast to certain industrial minerals where the rights for exploitation rests with the landowner; these are referred to as “landowner minerals”).

The Minerals Act stipulates the requirements and obligations related to the issuance of the exploration permits and exploitation concessions. It is also concerned with the procedures related to the designation of land rights needed for mining. In practice, this means the landowner may choose between selling the land, or keeping the land and being compensated for any damages and possibly also have a share in the so called “minerals fee” (a type of royalty, see below). With regards to disclosure and consultation, the main stipulations of relevance are thus related to the issuance of exploration rights, exploitation concessions and the designation of land for mining. Decisions made under the Minerals Act can be appealed, either to the applicable Court or in some cases to the Government. The Mineral Ordinance (1992:285) contains further detailed requirements regarding the process of obtaining permits of exploration and mining.

Affected land right holders, those holding so called “special rights” (these include leaseholders and Sami communities) and the applicable county administration and municipalities are notified in writing about applications for exploration permits received by the Mining inspectorate. They are also informed about any decisions that are subsequently made. However, an exploration permit is not sufficient to start work , as the proponent also needs to have a valid work plan. The work plan, includes a description of the work to be done, a timetable, and an assessment of the impact on private rights and public interests. The work plan is then sent out to the land user or holders of the special rights, and these are given a three week period to submit any objections or comments to the Mining inspectorate in writing.

A proposed work plan enters into force if there are no objections within the three week period. It will also enter into force if the applicant can come to an agreement with an objecting party on how to resolve their possible differences. If an agreement cannot be reached, then the applicant may request that the Mining inspectorate finalises the work plan; and in such cases certain conditions for the exploration work are likely to be set. Rights holders have the opportunity to appeal the Mining inspectorate’s decision to the Property Court. If requested, the Mining inspectorate may then decide that the work may proceed up until such time that the case has been tried by the Property Court.

The granting of an exploration permits does not exclude the need to abide by other laws and regulations, for example the environmental code. Thus, for example, if the suggested work is expected to have a significant impact on the environment, or if the activities are to take place in a so called undisturbed mountain region ("obrutet fjällområde"), then an environmental permit will be needed and it will be necessary to initiate consultations, first with the relevant county administrative board who in turn will advise the company with regards to who else may need to be consulted.

Landowners have right to full compensation for damage and encroachment caused by exploration work. The project proponent will need to provide a financial security in this regard before the work may proceed. This is usually done through the project proponent making a deposit in a bank account which is held or controlled by the Mining inspectorate. If the landowner is not satisfied with the amount thus submitted, then the county administrative board may assist in setting the appropriate level.

An application for an exploitation concession is submitted to the Mining inspectorate. These applications must be accompanied by an Environmental Impact Assessment (EIA), performed in accordance with the stipulations of the third and fourth Chapters of the Environmental Code (which are concerned with the husbandry of land and water resources). There are no formal requirements for stakeholder consultations at this stage. However, for reindeer herding areas, a specific reindeer herding impact study will be required, which in practice calls for consultation with the affected Sami community/ies.

The Mining inspectorate decides whether to grant an application for an exploitation concession. However, before granting, the consent of the county administrative board is sought and it will, in turn consult with the relevant municipality, with these consultations mostly being based on the findings of the EIA. If the Mining inspectorate and the applicable county administrative board cannot agree, then the case will be tried by the government. Further, if there is an appeal against a concession, then the case will also be decided upon by the Government. Once granted, a mining concession takes precedence over other possible uses of the land. The validity of an exploitation concession is normally 25 years, and if mining is occurring then the concession is automatically prolonged.

Before mining operations may commence, additional permits are required, of which an environmental permit is the main one (see below). A permit according to the Planning and Building Act (granted by the Municipality, see below) will also be required. Regulations in the Heritage Conservation Act as well as a number of ordinances may also apply.

Once a mining project has received its exploitation concession, and its environmental permit, it is necessary to undergo a process of designating the land needed for the operations. This designation process is conducted by the Chief Mining Inspector who can be assisted by two executive officials. The Mining inspectorate will encourage the project proponent and the affected land owners to agree terms. However, if an agreement cannot be reached, then the Mining inspectorate will call a meeting between the project proponent and the relevant stakeholders, in order to arrive at an agreement. During this meeting, the land owner is obliged to account for all known stakeholders (e.g. if there is rental or similar arrangement in place). The process of designating land is conducted on request of the project proponent who also carries all the associated costs. Further meetings may be called, but only if further investigative work is needed before an agreement can be reached.

In cases where agreement cannot be reached, then compensation will be decided upon by the Mining inspectorate, and these will be based on the stipulations contained within the Law on expropriation which at present means that the land be compensated at 125% of the prevailing market rate. It is the land owner who decides whether to sell the land, or to keep the land and instead receive compensation. The designation of land may be appealed to the Property Court.

During mining, the holder of an exploitation concession is obliged to pay an annual minerals fee to the landowners and the state. The fee is 2 parts per thousand of the average value of the concession minerals mined, 1.5 of which is paid to the landowners, to be distributed among them in proportion to their share of the concession area and the remaining 0.5 is paid to the state.

The Environmental Code

Once a project proponent has successfully obtained an exploitation concession, an Environmental Permit will be required before project construction and mining can start. This EIA is submitted to one of five Environmental and Land Courts, and it concerns the conditions for how the mine should be operated. The issues related to the location's suitability for housing a mine, in terms of requirements and stipulations regarding the husbandry of land and water resources is not considered again. In practice, thus, there is a two phased (or sometimes, in the case of test mining, a three phased) EIA process for mining with the EIAs necessary to obtain an exploitation concession being different to the EIA required to obtain an environmental permit for mining from the Environmental and Land Court.

Chapter 6 of the Environmental Code stipulates with whom to consult, to what extent, how information should be disclosed to the public, and that the results of the consultation process must be documented. Thus, the project proponent must consult with the county administrative

board (or the municipality of Skellefteå), and in a first meeting the authority will advice on who else need to be consulted and how. These will include those stakeholders that will be immediately affected by the project and, for large projects such as mining, consultation is also required with other agencies, municipalities, affected communities and organizations that may have an interest in the project.

The Environmental Code states that the consultations should be performed in good time, and at a sufficient scope and extent before a submission for an environmental permit is lodged. It is further stipulated that the consultations should deal with the location of the operation, its scale and design and its environmental impact. The level of ambition and the scope of the EIA should be determined in consultation with the stakeholders, most notably the supervising agency. The consultations should further be preceded with the proponent having produced and submitted in writing, detailed plans and reports that explain the characteristics of the project. Such material should be submitted to the supervising agency and the individuals who will be specifically affected by the project.

The EIA process must be disclosed in the local media. Further, before a decision is taken by the Environmental and Land Court, the existing EIA documentation must be made available to the public, at a suitable location. The public is invited to provide comments during a period of time, the length of which is decided by the supervising agency. Once a final decision on whether to approve the EIA has been made, this must also be made public.

Before the Environmental and Land Court makes a decision on an EIA, the case will be sent for review by other agencies, among them the Environmental Protection Agency (EPA). The EPA is generally restrictive in its involvement in EIA processes, and only become a truly active party in cases which are seen to include a high risk for severe environmental impacts, or where some principle on how to interpret a specific legal requirement is at stake. The EPA may even appeal against decisions made by the Court.

The Environmental Code and its regulations do not, however, provide detailed information on exactly how the process of consultation and disclosure should be pursued. The process of consultation is mainly a way for the project proponent to inform about the project and its associated effects and impacts and although there is room for dialogue, stakeholders do not necessarily have any real influence on the project and its design. Further, the extent to which social and cultural issues should be considered is not stipulated. However, a practice to more fully address social aspects is developing in current Swedish EIA methodology (see below).

The Environmental Code allows for specific areas to be declared as ”national interests”. Such designation can occur for a variety of reasons, including them being important in terms of cultural heritage; reindeer herding or fishing; that they are important due to economic development, including potential for minerals development or energy generation. An area of national interest is protected from other types of land use than those designated, and the stipulation that other developments may only be permitted if they do not significantly harm the national interest that has been identified. In case of several “national interests” being present at the same site, then preference should be given to that which is seen to be most important for longer term sustainable development.

The Planning and Building Act

The Planning and Building Act (2010:900) is concerned with the planning of land and water areas as well as buildings. It gives the municipalities the exclusive right to develop the appropriate plans in this regard, and this is done through: (i) comprehensive plans, that cover the entire municipality, and provide non binding guidance for decisions about the use of land and water areas and on the development and preservation of the built environment; and (ii) detailed development plans, which provide detailed regulation of land use and buildings, generally covering only a limited part of a municipality. These plans are to be developed in consultation with the inhabitants of the commune, the county administrative board and other municipalities that may be affected. Additionally, those agencies that have a significant stake in the process should also be consulted, including stakeholders from the mineral sector.

4. International trends

Environmental and social issues in mining and exploration projects are attracting increasing interest worldwide. This is a direct result of both increasing pressure from NGOs and the public at large of what is sometimes perceived as poor performance of mining projects. This perception is, in turn, backed up by several well known examples of mining and exploration projects where social and environmental issues have been unsuccessfully managed.

This public interest and concern has, in turn, prompted legislators to tighten and strengthen regulations of the sector, and international organizations such as the IFC, the World Bank to develop guidelines and/or standards aimed at improving the performance of the mining sector. In most countries, the requirements related to disclosure and consultation are included in the legislation that relate to the need to perform EIAs. The EIA requirements are increasingly being coupled with Social Impact Assessments (SIA) as there is a growing consensus of the need for an integration of social and environmental issues when performing impact assessments. Furthermore, mining sector representatives are themselves developing "best practice" guidelines, e.g. those of the International Council of Mining and Metals.

All available guidelines on consultative procedures share some general recommendations. These include the imperative of consulting early and widely, that is even before firm project plans exist. By doing this, a company is more likely to identify the crucial issues that prevail both locally and regionally. This, in turn, may assist in preventing a company investing in project plans and ideas that are associated with excessive risk. Seen from a more positive angle, it may also help a company to better adapt the proposed project to its local environment and social context. Furthermore, the need to involve local authorities and local decision makers is usually highlighted. An additional general consideration is the need to identify minority groups, including indigenous communities, whose way of life and/or livelihoods may be especially vulnerable to the proposed developments. The right to consultation and Indigenous People's right to free, prior and informed consent now increasingly being recognized by national law, international norms and voluntary best practice standards and guidelines.

5. *Introducing the land right holders and users*

The total land area of Sweden comprises 45 million hectares, and the patterns of land use and landownership vary markedly from south to north. These patterns have historical roots: the southern parts are more akin to continental Europe with a relatively dense population, and with many small and some large privately held estates; whereas the north, which has a history of colonization and settlement and which developed economically more recently, is sparsely populated, with the state as the major landowner and with Sami communities having traditional land use rights over large areas. Farming is an important land use in the southernmost parts, whereas forestry and reindeer-herding are the aerially most extensive and common land uses in the middle and northern areas.

Sweden further has a somewhat unique (shared only with Finland) system called the "Right of Public Access" ("allemansrätten") which provide everyone the right to freely spend time in the

countryside. There are some restrictions in these rights, however, aimed at protecting the natural environment, and landowners interests. The restrictions are summarized by the slogan used by the EPA: “don’t disturb and don’t destroy”.

State land

The state is the largest land owner, and it controls extensive areas, especially in the north. The land is held and managed through state owned companies, and institutions, the main ones being:

- The National Property Board, which manages palaces, royal parks, embassies, conservation areas and historical buildings, and controls some 6.5 million ha;
- The forestry company, Sveaskog, which own about 4.3 million ha;
- The Swedish Fortifications Agency, which controls 380,000 ha, most of it for military purposes.

The state also controls some 800,000 ha of communally held forest areas (commons) in the northern and central parts, and these are managed through a variety of means including leasing to forestry companies and to individuals. Significant parts of this state land are also claimed by Sami people as being their traditional lands, which means that there remain some unresolved land use issues in the north of Sweden which, in turn, needs to be understood when consulting with various stakeholders in these areas.

Protected areas

About 700,000 ha are controlled by the EPA and are set aside as national parks. There are a further 4 million ha that have been designated as nature reserves, a weaker degree of protection which may allow some limited activities to take place. These areas are controlled and usually managed by the county administrative boards, and the land uses that may be allowed varies from county to county, and in some cases also from area to area within the same county.

There are also some 4,000 so called “Natura 2000 sites”, with a total area of about six million ha. These are sites with high conservation interest in the EU, and which should be maintained or restored in order to retain a favorable conservation status. Approximately 60 per cent of these sites are in the national parks or nature reserves. There are several cases of “Natura 2000 sites” being allowed to be impacted by developments, although the process of gaining such permission is usually long and cumbersome, and involves in depth environmental investigations and stakeholder consultations.

Private land

Private land is more common in the southern parts of the country, and there are also distinct regional differences in the size and character of land holdings that stem from historical causes. For example, the farms and land holdings in the far south (e.g. the landscape of Skåne), are generally fairly large, whereas in the central regions (e.g. Bergslagen and the landscape of Dalarna), they are much smaller. There are also some sizeable tracts of land in the south and central parts of Sweden, which are held by the former gentry. The Swedish Church, which separated from the state in 2000, owns some 0.5 million ha.

Reindeer husbandry and Sami communities

Reindeer husbandry is performed over large areas in the north; about one third of Sweden's territory is used in this way. The reindeer herders are Sami, the local Indigenous people, and reindeer husbandry is a traditional Sami livelihood. The reindeer herding lands are divided into 51 different so called "Sami villages", a concept encompassing a geographical area, a form of communal work arrangement and a business. Membership in a Sami village is required in order to engage in reindeer husbandry. Each Sami village is governed by an elected board, which is headed by a Chairman. Only a minority of Sami people are reindeer herders and members of Sami villages.

Most of the Swedish Sami move with their reindeer, from the summer pastures in the western hills (and to some extent into Norwegian territory), to the winter pastures close to the coast in the east. A smaller number of Sami villages have more restricted and forest bound territories. The Sami villages and their members hold traditional rights to utilize the land for their reindeer as well as special rights for hunting and fishing. Areas of special importance for the reindeer husbandry activities are often identified to be "national interests".

Forestry and forest products industry

Forestry takes place on more than half of Sweden's territory, and the industry produces timber, pulp, and biomass. The sector comprises a small number of large companies and land owners, (including the state owned Sveaskog) that control some 55 percent of the total forested areas, and a large number (more than 200,000) of smaller, private owners and operators. The smaller operators, in turn, are often organized in cooperatives that assist members to access and use equipment for management and processing. Forestry is conducted in cycles from planting seedlings and felling mature trees of some 50-100 years.

Farming

Agriculture and animal husbandry used to be the dominant land use but today, only about 7 percent of the land area is used in this way. There are some 70,000 farms though numbers are

decreasing, as farm entities are becoming ever larger and more efficient. Furthermore, more than ¾ of the agricultural land is wholly or partly leased out.

Farming is very important in the far south, in the landscape of Skåne, and also significant on the inland plains further North, in an area situated roughly in between Stockholm and Gothenburg.

Hydro and wind power

The majority of Sweden's major rivers are used for hydropower generation, and all such facilities entail significant land use and surface water management issues. There are some 1,800 hydro power plants, 200 of which are large (with an effect of > 10 megawatt). The vast majority if the energy generated is controlled by three large companies, including the state owned Vattenfall. The remaining 10 percent is generated by some 200 local companies.

The wind power industry is developing rapidly, and extensive areas are being considered for wind parks. The industry is rather young, and somewhat immature, with many new actors emerging. Wind power parks occupy significant areas, and they are becoming an increasingly noticeable land user in the Swedish countryside.

Other activities

Sweden is a fairly large country, and it has a diversified economy which means that there are various stakeholders, and activities that may be encountered. Important activities that are prevalent in areas where mineral prospecting and development is occurring include car testing, tourism, hunting and fishing etc.

6. How to disclose and consult

The establishment of a successful mining operation hinges on there being sufficient local support and understanding. For this reason, Georange recommends that companies commit to effective, ambitious and transparent processes of consultation and disclosure. It is also important that companies use efficient and accessible language in their communication strategy.

Disclosure and consultation should be a two way process, entailing a flow of information and ideas between the developer and stakeholders. Thus, it is not sufficient to simply keep stakeholders informed; they need to be involved and developers should aim to achieve an understanding of their stakeholders' objectives, fears and aspirations. Building confidence and understanding takes time, which means that adequate resources will need to be allocated. The developer will, in the process, understand the project area and its people, and can then better adapt and modify the project to ensure that it suit its environment as well as is possible.

Below follows some advice on how to conduct the process of disclosure and consultation, starting with the initial preparations, leading through how to abide by legal requirements, and providing some ideas on how to better integrate environmental and social issues in project development through conducting a Social Impact Assessment (SIA), an initiative that goes beyond strict legal compliance.

Gather background knowledge and identify the stakeholders

Considerable time, effort and care must go into planning the process of disclosure and consultation. The first action of the project proponent will be to ensure that he/she has sufficient knowledge of the affected area, and the communities in question.

Key stakeholders should be identified at the initial stages of the project, and this work will provide a direct basis for the subsequent work. The stakeholders include both those who stand to gain from the project, as well as those who may be vulnerable. A special effort should be made to identify those that may have special rights in the area, e.g. landowners and Sami communities.

The project proponent needs to understand the stakeholders respective interest in, and influence over, the project. This understanding will then influence decisions on how to best consultant with the different groups. This process can then be summarised in a stakeholder engagement plan.

Consult early

The Swedish law stipulates that the process of "samråd" (consultation) be initiated in association with the environmental permitting process (see below). This means that the legal requirements for consultation and disclosure are limited in scope and in time. However, it is strongly recommended that preliminary consultations are initiated at an earlier stage, and that meetings are held with the relevant authorities (mainly the county administrative board and the relevant municipalities), the holder of special rights to land, other industry or activities that already take place in the area, local communities and any Non Governmental Organisations that may have a significant interest in the project.

In these early meetings, it is important for the project proponent to remain open and respectful. The developer may be the only one who holds this specific project closest to heart, and there may be several good reasons for other parties to feel threatened by, or even to resist, the proposed development. The proposed project and the process of seeking permission should be explained carefully. For example, there is often considerable confusion of what prospecting and mining activities entail, and what the relevant rights and obligations are, as stipulated in relevant legislation. The objectives of these early meetings must also be explained, and it should be explained that these meetings are not part of the formal process which follows.

Although these early meetings are not part of the formal consultation process, it is strongly recommended that adequate records are kept. Furthermore, it is recommended that the project proponent begins considering how to inform, consult and invite comment from the wider community. The company should nominate a contact person, someone stakeholders and/or members of the public may contact should they wish to lodge a complaint or know more about the project. Various other initiatives may be taken to assist this work, such as the construction of a designated web site with information about the project and which provide opportunity to have questions submitted and replied to. While these kinds of more formal mechanisms are important, it should be remembered that stakeholder relationships are among the company's most important assets. Thus, just as a company invests time and resources into building and managing client relationships, so too should companies focus on building and nurturing relationships with stakeholders.

Companies may choose to manage the process through in-house staff, by using a consultant or a mix of the two. In any case, it is important to ensure stakeholders that the process is run in an impartial and open manner, and that the staff involved in managing the process have adequate experience, background knowledge and the necessary social and cultural skills. Consultation processes are highly person dependant. The project proponent therefore needs to be open to the possibility to replace certain persons, if it turns out the the process is faltering due to

differences between individuals. In larger processes and projects (such as most, if not al , mining projects), it may be useful to divide up the consultation efforts into a number of groups that work with specific issues, rather than to attempt including all issues and problems during the same occasion.

Formal consultation ("samråd")

Formal consultations are performed in accordance with the Environmental Code and its stipulations (c.f. Section 3). The process starts with a first meeting with the relevant supervising agency where the consultation procedures are considered, together with the overall requirements for the EIA. The supervising agency will guide the project proponent on who to consult, and may also provide recommendations on how this should be done: how many meetings must be held, with whom, where and how. Generally, it is advised that holders of special rights be consulted individually or in groups separately from other stakeholders; whereas the general public may be invited for larger meetings. The project proponent is obliged to produce and submit plans and reports that explain the project in detail. This information needs to be completed already for the initial meeting, and should thereafter be updated and provided to the relevant stakeholders before each subsequent consultation.

The EIA will eventually be submitted to the Environmental and Land Court for decision, and the Court will base their decision on the opinions of all important stakeholders. Being a formal process, the Court will require records of the consultative process to be submitted. Questions that that will be asked by the Court when the EIA is considered include:

- Have stakeholders received full and relevant written documentation before the consultation meetings took place?
- Have the stakeholders been able to submit questions and/or opinions?
- Has there been enough time for the process?
- Has the process been documented in a satisfactory manner?
- How has the developer considered the concerns and proposals expressed by the stakeholders?

Each consultative meeting held will need to be carefully recorded, and these records then form part of the EIA. A proposed, draft, outline of an agenda for a formal meeting is shown below. Such an agenda will, however, need to be adapted for each stage of the process and the type of stakeholder involved:

1. Presentation of participants

2. Aims & Objectives of meeting
- Company objectives
- Legal background

3. Formal agreements
- When & how will meetings be held
- Should minutes or notes be taken?

4. Presentation of Project plans
- Presentation of technical plans
- Predicted impacts (environmental & socio-economic)

5. Questions and answers

6. Continuation of process
- When / how meet next?
- What should be done before the next meeting?
- Evaluation of process / meeting

The process of consultation and disclosure needs to be tightly coupled with the technical development of the project. This means that the technical planning process must be flexible, with adequate possibilities of adapting to the outcomes of the consultations. The process should thus not be one of "selling" a pre-conceived plan to stakeholders, but one in which the project is adapted and optimized so as to suit its environment.

It is important that all the main stakeholders are provided with the opportunity to participate meaningfully in the process. The company should therefore consider how to facilitate participation. One aspect that must be carefully considered is when and where consultations can take place. Evenings or weekends generally work best as most stakeholders are busy during the week and during daytime. Another option is to have an exhibition, including photos, diagrams and plans, which interested parties can visit at their leisure and which can be manned at specific suitable times. If a convenient solution to reaching all stakeholders cannot be found, and people may need to leave their work to participate in the process, then the company may

need to consider assisting stakeholders with transport, accommodation and/or similar financial outlays that may be necessary for them to attend meetings and take part in the overall process.

Consider conducting a Social Impact Assessment

The Swedish EIA process has traditionally focused on the biophysical aspects of the environment. However, the Environmental Code does provide for a wide definition of the environment, including socio-economic and cultural impacts and considerations. Since around 2007 and 2008, some proponents of mining projects in Sweden (and other natural resource projects) have elected to also conduct a "SIA" as part of the EIA process. To date, SIAs in Sweden have mostly been concerned with projects that affect reindeer husbandry and Sami communities. Such initiatives have overall been fairly well received both by the authorities and the Sami communities, although it should be acknowledged that SIA practice and debate is still in its early development stages in Sweden.

Impacts considered in an SIA may be defined as changes (either positive or negative) to: people's way of life, culture, community, political systems, health and well-being, land-use rights and practices, as well as people's general fears and aspirations (c.f. ICPGSIA, 2003). As yet there is no general agreement on what impacts a "Swedish SIA" should address and how the work should be performed. However, the methods used should at least include the analysis of existing information and statistical data on issues such as the social, human health, educational, economic status of a community. Further, the prediction of social impacts requires that other methods also be used, and these may include interviews with individuals or groups; focus group discussions; and participant observation. The work might also entail the identification of socio-economic and cultural indicators of impacts, which can be monitored before, during and after project implementation.

As SIA related studies are not strictly required by law, it is recommended that the sections and texts that relate to an SIA are kept apart from those relating to the traditional EIA, in order to facilitate the authorities and other stakeholder's assessment of the various issues. However, it is strongly recommended that when SIA related work is performed, it is performed in close coordination with the EIA work, as much understanding can be gained from the exchanges of ideas and information that result from this type of multidisciplinary approach.

7. Links and references

Geological Survey of Sweden: www.sgu.se/sgu/eng/index.html

Georange: www.georange.se

Interorganizational Committee on Principles and Guidelines for Social Impact Assessment (ICPGSIA) (2003), Principles and guidelines for social impactassessment in the USA. www.nmfs.noaa.gov/sfa/reg_svcs/social%20guid&pri.pdf

International Council on Mining and Metals (ICMM): www.icmm.com

International Finance Corporation (IFC): www.ifc.org

Mining inspectorate of Sweden: www.bergsstaten.se/index_e.htm

Sami Parliament: www.sametinget.se/english

Svemin: http://www.industriarbetsgivarna.se/web/SveMin_1.aspx

Swedish statutes in translation: www.regeringen.se/content/1/c6/05/47/82/fe3c5e91.pdf

Swedish Environmental Protection Agency: www.naturvardsverket.se/en/

World Bank: www.worldbank.org

Summary table of requirements and Georange recommended actions related to Consultation and Disclosure.

Mining or exploration activity	Applications for permits	Related reports	Requirements related to consultation and disclosure	Recommended actions
Fact finding				Obtain understanding of: ▪ Swedish model of public administration ▪ The Minerals Act, and the Environmental Code ▪ Main land users in areas of interest
Reconnaissance exploration e.g. stream sediment sampling, regional geophysics	Application for **Exploration permit**, accompanied by Work Plan, to ***Mining inspectorate***		Submission of Work Plan to surface right holders and special rights holders	Meetings with: ▪ Mining inspectorate ▪ Surface right holders and holders of special rights Nomination of person (or team) that manages disclosure and consultation
	Environmental permit from ***County Administrative Board*** needed if significant environmental impacts expected or if work is in undisturbed mountain region or protected area		Consultation with County Administrative Board and special rights holders, e.g. Sami villages	
Exploration & resource definition e.g. drilling, trenching, and geophysics	Applications for additional **Exploration permit (s)**, accompanied by Work Plan (s), to ***Mining inspectorate***	**Scooping Study**	Submission of Work Plan to surface right holders and special rights holders	Meetings with: ▪ Mining inspectorate ▪ Surface right holders and holders of special rights ▪ County Administrative Board and Municipality Identification of key stakeholders, including all right holders Establishment of **Stakeholder Engagement Plan**
	Environmental permit from ***County Administrative Board*** needed if significant environmental impacts		Consultation with County Administrative Board and special rights holders	
Detailed exploration e.g. close spaced drilling, trenching & detailed geophysics	Application for **Exploitation concession**, accompanied by **EIA** in accordance with 3rd & 4th Chapters of the Environmental Code to ***Mining inspectorate***	**Prefeasibility Study**	Consultation with County Administrative Board and special rights holders	▪ Wide consultation with affected and interested parties ▪ Disclosure of project plans, including provision of possibility for feedback ▪ Establishment of process for compensating right holders for impacts on property, crops, land etc.
Mine development	Application for **Environmental permit**, accompanied by comprehensive **EIA**, to the ***Environmental and Land Court***	**Feasibility Study**	Consultation with County Administrative Board, and all interested and affected parties, including relevant local and national government authorities	Integrate **SIA** work in EIA Completion of process for compensating surface right holders Establishment of community programs
Mining & mine decommissioning				Establishment of **continuous dialogue** with : ▪ Affected communities ▪ Interested parties ▪ Local and regional government and relevant state agencies