



Strategic Dialogue on Sustainable Raw Materials for Europe (STRADE)

EU cooperation strategy with resource-rich developing and emerging countries

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Executive Summary

PRINCIPLES OF EU COOPERATION STRATEGY WITH RESOURCE-RICH DEVELOPING AND EMERGING COUNTRIES

STRADE considers the following underlying principles important for an effective EU cooperation strategy with resource-rich developing and emerging countries:

- 1) The reflection of EU basic values, including the UN SDGs;
- 2) Continued open, two-way dialogue with partner countries, considerate of power imbalances;
- 3) The acknowledgement of the EU and the partners' perspective as well as (potential) conflicts of interest;
- 4) The respect of Policy Coherence for Development; and
- 5) The coordination of engagements in third countries among the EU and MS and with private sector and non-EU actors and clear focusing on areas of recognised expertise.

KEY APPROACHES OF EU COOPERATION WITH RESOURCE-RICH DEVELOPING AND EMERGING COUNTRIES

STRADE identified three key approaches for the raw materials cooperation. These are strengthening good governance, implementing due diligence and certification, and academic and technical cooperation. In all cooperation engagements, it is important to better embed mining related cooperation and ODA projects within wider economic engagements and support programmes.

STRADE recommends to strengthen mining sector knowledge and competencies at the EC and the EU's international Delegations. This will enable embedding raw-material issues within wider economic policy, trade agreements, and development programmes. It would also assist the EU Delegations in assuming a coordinating function for engagements in developing and emerging countries' mineral sectors.

STRADE also identified the need for targeted communication campaigns around EU raw-material related initiatives, projects and policies. The EU Delegations, with stronger mining sector capacities, can coordinate their implementation at the country level. At the same time, mining sector competencies at the EU Delegations can facilitate market access for EU mining and mining-tech companies, investors as well as mineral buyers.

KEY TOPICS FOR EU COOPERATION WITH RESOURCE-RICH DEVELOPING AND EMERGING COUNTRIES

Governance structures in host countries

Good governance is paramount for a global responsible mining sector that contributes to sustainable development. STRADE recommends that the EU and Member States continue and extend ongoing programmes to promote general good governance and integrate mineral and mining sector governance within these wider programmes. The focus now needs to shift to implementing legal and regulatory frameworks that have been constructed. Among others, key areas are coordination between different government levels and institutions, strengthening local level governance capacities, parliamentary oversight, and CSO participation. STRADE also recommends that the EU support further research into the concept of community monitoring for environmental and social impacts, as an interim solution complementing governance support.

Mitigating environmental, social and human rights impacts and implementation of international best practice standards

The mineral extracting regions frequently bear more of the non-financial costs of extraction (such as environmental and social impacts) than the users of such minerals, who often reside in other countries. Mining activity has also been associated with the violation of human and social rights in the past, and this challenge continues today. From the treatment of indigenous populations to artisanal miners, the concerns around protecting and respecting social and human rights continue for all mineral extraction regions. The EU has a

responsibility to not transfer the sustainability burden to mining host countries, from which it imports minerals, and which are often not well-equipped to manage impacts due to lagging regulation or their implementation.

Mineral extraction by its nature is a disruptive activity, and therefore international best-practices have been developed to mitigate and lessen negative impacts. The implementation of such practices, addressing social and environmental challenges, differs by region. A strong governance structure, where governments have the capacity to monitor and enforce regulations, is one of the overarching factors that can address socio-environmental impacts in the mining sector. Even the best-intentioned regulation or standard, without an implementing mechanism, will fail to achieve its objective. STRADE strongly focuses on international cooperation to support regions with weak governance to tackle these challenges through improved governance frameworks and application of international best practice standards.

Academic and technological cooperation and capacity-building

STRADE recommends that the EU and Member States continue their ongoing programmes to support geological surveys and implement multi-purpose cadastres. Furthermore, support to developing regional centres of excellence and connecting these with global knowledge networks is recommended.

The STRADE dialogues with Latin America have identified some specific fields for cooperation, where the general high level of technical knowledge in Latin America can be complemented by targeted EU-Latin America R&D&I cooperation.

In Africa, in addition to the general support areas under this topic, support for particular skills is greatly needed, particularly for STEMs and 'soft' sciences.

Supporting the artisanal and small-scale mining (ASM) sector

The ASM sector provides millions of rural jobs and contributes significantly to local economic development and poverty alleviation in some partner countries. STRADE recommends that the EU and Member States continue engagement on improving the ASM sector's conditions, and to refrain from measures that can lead downstream companies to avoid ASM minerals. ASM is an integral part of rural livelihoods and needs to be embedded within the long-term rural development assistance programmes provided by the EU and Member States. Approaches to engaging with the ASM sector must consider its coexistence with industrial mining, contribute to formalization and impact mitigation, and recognize ASM miners' competencies and work with them.

STRADE also recommends that the EU direct support to the ASM sector in the framework of accompanying measures to the EU Conflict Minerals Regulation and implementation of the Minamata Convention on mercury.

Effective implementation of the EU Conflict Minerals Regulation (CMR) and support for responsible sourcing

The EU CMR will require most EU importers of tin, tantalum, tungsten and gold from conflict-affected and high-risk areas (CAHRAs) to comply with, and report on, supply chain due diligence obligations. The objective is to improve human rights conditions and curtail funding for armed groups in CAHRAs.

STRADE recommends to monitor impacts of the EU CMR, especially on ASM producers, to support ASM producers in the implementation of EU CMR requirements, and to facilitate exports of minerals falling under the CMR's scope. Given that the costs of certification can be quite high for some of the weakest stakeholders, the EU must fund supply chain research that can reduce this cost and ensure a fair sharing of responsibilities. STRADE further recommends to explore ways how the implementation of the EU CMR can simultaneously strengthen the governance of other mineral sectors and to extend EU CMR implementation support to include broader responsible mining and sourcing beyond the conflict dimension, in order to ensure that real changes occur on the ground. Support to mineral production from ASM sources certified to premium standards, looking

at broader improvements towards responsible production conditions in terms of workers' rights, health and safety, environmental management, community development, etc. should be continued.

REGION SPECIFIC COOPERATION APPROACHES AND TOPICS – LATIN AMERICA

STRADE recommends that the EU-Latin America cooperation shifts further towards a partnership approach, as an increasing number of countries are no longer eligible for bilateral ODA. Nevertheless, assistance and support need to continue for areas of mutual relevance for EU and Latin America; topics of high complexity requiring a regional approach and areas where the EU's and Member States' engagements are explicitly desired, given their recognised international expertise. Such engagements should be designed as long-term programmes and not short-term projects.

Promotion of responsible investment, mineral marketing and trade

A number of Latin American countries aim to attract more (responsible) investment in their mining sectors and look to strengthen the marketing and trade of their minerals. Facilitating investment by companies adhering to international best-practice standards improves the conditions in less well governed countries' mining sectors. STRADE thus recommends that the EU facilitate investment in responsible mining, for example, by EU mining and mining-tech companies, and a direct connection between mineral importers and exporters to increase supply chain transparency and importers feeling responsible for production conditions. This can be achieved through diplomatic networking events, the participation of the EU in regional mining events, or platforms, such as the Minerals Development Network Platform (MDNP).

REGION SPECIFIC COOPERATION APPROACHES AND TOPICS – AFRICA

The African Mining Vision (AMV) – a key vision document for African countries – sees mineral extraction as a catalyst for structural transformation in the medium and long-term to ensure more equitable, intergenerational social and economic development in a more sustainable and environmentally friendly manner and thus contribute to achieving the SDGs. STRADE recommends that the EU actively support the implementation of the African Mining Vision.

Strengthen domestic mining sector linkages

Linkages between the mining sector and the local economy are critical for increasing the sector's contribution to wider economic development and industrialisation. Since past supplier development programmes have had limited success, it is important to have a country-specific evaluation of past efforts and to follow the lessons-learned in devising new programmes.

To support minerals linked industrialisation and economic linkages, the EU can explore the implementation of an EU-Africa mineral networking platform which allows businesses, academics and administration to connect. A model for this might be the EU-LA platform MDNP.

In addition, STRADE believes support for key mineral feedstocks for development, such as that provided by the ACP-EU Development Minerals Programme on construction minerals, is important. Expansion of coverage to other industrial minerals and further countries (including in Latin America) would be beneficial.

Trade agreements and illicit financial flows

STRADE's African dialogues revealed a certain level of discontent with EPA provisions. In particular, the topic of export taxes is controversial. Some see these as a means to kick-start minerals-based development in Africa and thus advocate for a flexible interpretation and application of EPA provisions. The dialogues also revealed that details of the EPAs concluded or under negotiation are not always well known to concerned stakeholders. Targeted communication campaigns can help to overcome this challenge.

Illicit financial flows cause tremendous damage to resource-rich developing and emerging countries. This topic came up specifically in the STRADE dialogues with African stakeholders. STRADE acknowledges that financial transparency, tax avoidance and corruption are highly relevant issues for the sustainable development agenda, particularly in Africa, and the need for action remains urgent. STRADE recommends that the EU continue its work on tax avoidance and corruption in close collaboration with the OECD and concerned developing and industrial countries. Moreover, STRADE recommends that the EU continue the support to EITI to increase financial and fiscal transparency in developing and emerging countries' mining sectors.

OUTLOOK

The current report focuses on the underlying principles of EU cooperation with resource-rich developing and emerging countries as well as ODA approaches to support these countries' minerals and mining sectors. It has to be noted, however, that due to the changes in many of these countries and their relations with the EU, as well as increased globalisation, which also applies to the mineral value chain, it is important for the future to look beyond traditional bi-lateral cooperation and ODA. Instead multilateral dialogues and cooperation and mutually beneficial partnership approaches will become more and more important.

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List of Abbreviations

Abbreviation	Description
3TG	Tin, Tungsten, Tantalum, Gold
ACP	Africa, Caribbean, Pacific
AFD	Agence Française de Développement; French Development Agency
AMDC	African Minerals Development Centre
AMV	Africa Mining Vision
ASGM	Artisanal and small-scale gold mining
ASM	Artisanal and small-scale mining
AU	African Union
B2B	Business-to-Business
BDI	Bund Deutscher Industrie; Federation of German Industry
BEPS	Base Erosion and Profit Shifting
BGR	Bundesanstalt für Geowissenschaften und Rohstoffe; German Federal Institute for Geosciences and Natural Resources
CAHRA	Conflict Affected and High Risk Area
CAMMA	Annual Conference of Mining Ministries of the Americas
CCS	Carbon capture and storage
CELAC	Community of Latin American and Caribbean States
CMR	Conflict Minerals Regulation
CMV	Country Mining Vision
COP	Code of Practices
CSO	Civil Society Organisation
CSR	Corporate Social Responsibility
CYTED	Ibero-american Programme of Science and Technology for Development
DANIDA	Danish International Development Agency
DCI	Development Cooperation Instrument
DEG	Deutsche Investitions- und Entwicklungsgesellschaft; German Development Finance Institution
DERA	Deutsche Rohstoffagentur; German Raw Materials Agency
DfID	UK Department for International Development
DG	Directorate General
DIHK	Deutscher Industrie- und Handelskammertag; German Association of Chambers of Industry and Commerce
DRC	Democratic Republic of the Congo

ECLAC	United Nations Economic Commission for Latin America and the Caribbean
EDF	European Development Fund
EEAS	European External Action Service
EIA	Environmental Impact Assessment
EIB	European Investment Bank
EID	Emerging Infectious Disease
EIP	European Innovation Partnership
EITI	Extractive Industries Transparency Initiative
ELAN	European and Latin American Business Services and Innovation Network
Enabel	Belgian Development Agency
EP	European Parliament
EPA	Economic Partnership Agreement
EPRM	European Partnership for Responsible Minerals
ESHIA	Environmental, Social and Health Impact Assessment
ESIA	Environmental and Social Impact Assessment
EU	European Union
FARI	Fiscal Analysis of Resource Industries
FDI	Foreign Direct Investment
FM	Fairmined
FPIC	Free, Prior and Informed Consent
FT	Fairtrade
FTA	Free trade agreement
GIZ	Gesellschaft für Internationale Zusammenarbeit; German Development Agency
GTAI	Germany Trade & Invest
IADB	Inter-American Development Bank
ICGLR	International Conference of the Great Lakes Region
ICT	Information and communications technology
IFF	Illicit Financial Flows
IGF	Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development
ILO	International Labour Organisation
IMF	International Monetary Fund
KfW	Kreditanstalt für Wiederaufbau; German Development Bank
KP	Kimberley Process
LAC	Latin America and Caribbean
LSM	Large-scale mining

MDNP	Mineral Development Network Platform
MERCOSUR	Southern Common Market; Trade bloc and customs union comprising Argentina, Brazil, Paraguay, Uruguay, Venezuela (currently suspended)
METS	Mining Equipment, Technology and Services
MS	Member States (of the EU)
MSM	Medium-scale mining
NGO	Non-governmental organisation
n/a	not applicable or not available
NRGI	Natural Resource Governance Institute
ODA	Official Development Assistance
OECD	Organisation for Economic Co-operation and Development
OECD DDG	OECD Due Diligence Guidance
OSH	Occupational Safety and Health
PCD	Policy Coherence for Development
PNG	Papua New Guinea
PPP	public-private-partnership
REC	Regional Economic Community
RGI	Resource Governance Index
RJC	Responsible Jewellery Council
RMI	Raw Materials Initiative
RMV	Regional Mining Vision
R&D	Research and Development
SDC	Swiss Agency for Development and Cooperation
SDG	Sustainable Development Goals
SIDA	Swedish International Development Cooperation Agency
SLO	Social license to operate
SME	Small and Medium Enterprises
STEM	Science, Technology, Engineering and Mathematics
SYSMIN	System of Stabilization of Export Earnings from Mining Products
ToT	Training of Trainers
TVET	Technical, Vocational and Educational Training
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa
USA	United States of America
USAID	United States Agency for International Development

1. Introduction

The STRADE project identified two pillars for European Union (EU) cooperation with resource-rich developing and emerging countries. The first pillar is based on traditional Official Development Assistance (ODA) approaches and is the main focus of this report. The second pillar looks at ‘new cooperation models’, based on win-win partnerships and global multilateral cooperation. This topic will be presented in the STRADE Final Report¹, however, references to this model are included in this report where applicable.

The STRADE research revealed that the details of the most suitable approach for EU resources cooperation depends on the specific situation in a country or (sub-) region, which is quite diverse. To do this diversity justice the report presents information on priorities and recommendations for cooperation separately for Africa and Latin America.

As previous STRADE publications² have extensively covered some of the most important topics for cooperation with developing countries, the present report focusses on the topics not discussed yet as well as on presenting key ideas and recommendations, where applicable with references to other STRADE publications for further details.

The report is structured as follows: Chapter 2 introduces the principles, i.e., underlying themes and cross-cutting issues of the EU cooperation strategy with resource-rich developing and emerging countries. Chapter 3 presents the EU institutions involved in the cooperation. Chapter 4 and 5 present detailed cooperation approaches for Latin America and Africa, respectively. Chapter 6 provides a brief outlook on new cooperation models, based on multilateral dialogues and cooperation and mutually beneficial partnerships. These topics will be discussed further in the forthcoming STRADE Final Report.

1.1. Limitations of STRADE research

STRADE acknowledges that some cross-sector areas are excluded from the STRADE focus, although they are of very high importance for some partner countries. These topics include trade agreements, illicit financial flows and tax avoidance; all requiring a cross-sectoral approach. Accordingly, these topics have been dealt with in other projects and initiatives (e.g. [CONNEX](#), [OECD BEPS](#)), and STRADE recommends further research and engagement on these issues.

In the course of the project, engagement with African stakeholders flagged trade agreements as a critical issue. However, a deeper research focus than STRADE was able to provide would have been required. Therefore, STRADE recommends that the topic should be pursued with more room and specific expertise in upcoming

¹ Forthcoming

² For general cooperation topics, see: STRADE Report 02/2017: [EU & Raw Material Engagements with Developing Countries](#), STRADE Policy Brief 08/2017: [Aligning EU cooperation with resource-rich developing and emerging countries' needs](#); for ASM, see: STRADE Policy Brief 09/2017: [The ASM Sector and its Importance for EU Cooperation with Resource-Rich Developing and Emerging Countries](#); for the EU CMR, see: STRADE Report 03/2018: [Successful implementation of conflict mineral certification and due diligence schemes and the European Union's role: lessons learned for responsible mineral supply](#); for Africa, see: STRADE Policy Brief 04/2018: [Africa & the European Union – Renewing Sustainable Partnerships in the Extractives Sector](#), STRADE Policy Brief 06/2016: [African Evaluation of European Union's Approach to Raw Materials Engagements: A Review of Responses and Proposals](#), STRADE Country case studies: [Rwanda and Democratic Republic of Congo](#), [Evaluation of stakeholder surveys 2017-2018 by means of questionnaires on the topic of "Aligning EU Cooperation with resource-rich developing countries"](#); for Latin America, see: STRADE Policy brief 05/2018: [Latin America's Policy Priorities on Mining and Sustainable Development, and Opportunities for EU Cooperation](#).

EU funded projects. Consequently, the topic of trade agreements is only briefly mentioned in the chapter on EU-Africa cooperation.

Likewise, some geographical areas have not been addressed in detail by STRADE. On the developing and emerging country side, this concerns most of Asia (except China³) as well as Oceania (PNG). Further research is recommended here, especially for those countries important for EU raw materials imports, such as Indonesia, Philippines and India⁴.

³ For details on China see STRADE Policy Brief 02/2018: [China's Mineral Sector and the Belt & Road Initiative](#); STRADE Policy Brief 03/2018: [China's approach towards responsible sourcing](#).

⁴ Cf. STRADE Policy Brief 02/2017: [EU raw material import flows - acknowledging non-EU environmental and social footprints](#)

2. Principles of the cooperation strategy

2.1. Basic values and sustainable development goals

The EU has committed to a set of basic values, which are expressed in its [Charter of Fundamental Rights](#). Table 1 summarises the values and rights most impacted by mineral exploitation and how 'responsible minerals' contribute to the observance of these values. These and additional EU documents referring to European values are described in detail in previous STRADE policy briefs⁵. The observance of these values is considered a basic principle in cooperation with developing and emerging countries.

Table 1 - Charter of Fundamental Rights

<i>Charter of Fundamental Rights' - Values⁶</i>	Contributions of responsible minerals: Ensure that minerals do
Dignity (human dignity, the right to life, the right to the integrity of the person, prohibition of torture and inhuman or degrading treatment or punishment, prohibition of slavery and forced labour)	Not profit or finance armed groups (whether government forces, non-governmental armed groups, organised crime or terrorist outfits) committing human rights abuses such as: preying on civilians, using forced labour, committing inhuman and degrading treatments, torture, war crimes, genocide. Ensure the protection of environmental and human rights defenders.
Freedom s (freedom of assembly and association, the right to property)	Not profit or finance operations that do not grant workers labour rights or that impact legitimate land tenancy without due and appropriate compensation.
Equality (equality before the law, non-discrimination, equality between men and women)	Not profit or finance operations that operate in an unfair manner due to bribery and corruption or political patronage
Solidarity (fair and just working conditions, prohibition of child labour and protection of young people at work, environmental protection, consumer protection)	Not profit or finance operations that use child labourers, provide unsafe working conditions to their employees or labourers, or generate non-mitigated environmental impacts
Citizens' rights (the right to good administration, the right of access to documents)	Promote transparency and good governance and ensure that revenues from mineral extraction, processing and trading accrue to the national budgets of extraction countries.
Justice (principles of legality)	Operate in accordance to host country laws and regulations

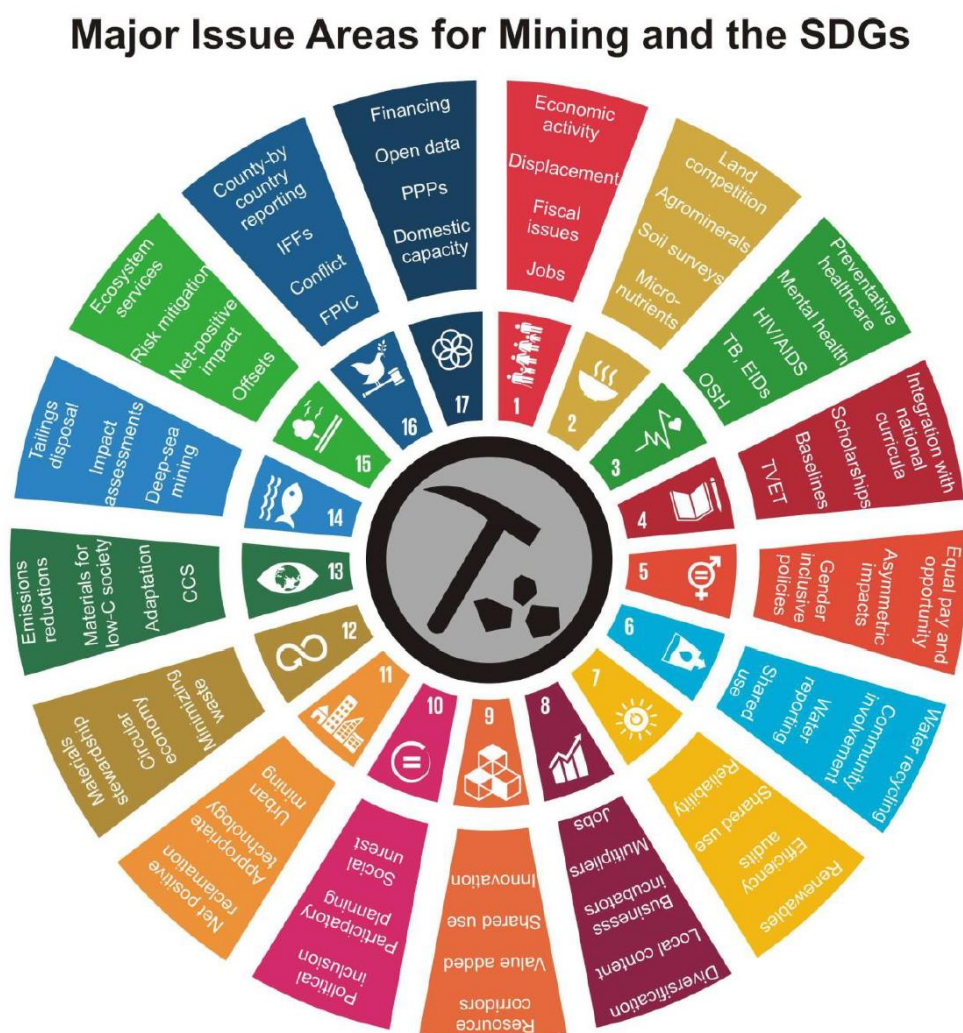
⁵ STRADE Policy Brief 04/2016: [Outlining Environmental Challenges in the Non-Fuel Mining Sector](#); STRADE Policy Brief 05/2016: [Outlining Socio-Economic Challenges in the Non-Fuel Mining Sector](#); STRADE Policy Brief 01/2017: [Minerals and metals from non-EU countries - Europe's role and responsibility](#).

⁶ This selection is based on the [EU Charter of Fundamental Rights](#). Selection of the values is based on the rights most impacted by mineral exploitation. Selected values also align with the contents of European Commission's Communication on "A Stronger Role of the Private Sector in Achieving Inclusive and Sustainable Growth in Developing Countries".

Furthermore, the EU has committed to the United Nations Sustainable Development Goals (SDG). Contributing to achieving these is considered another basic principle in the EU's cooperation with developing and emerging countries. The EU's commitment to sustainable development values is also reflected in its 'Trade for all' concept.

Figure 1 provides an overview of major issue areas where mining may have a positive or negative impact on each of the 17 SDGs. The SDGs play an important role for many of the specific fields of EU and MS engagement in the minerals and mining sector in developing and emerging countries. A comprehensive discussion of the topic can be found in CCSI (2016).

Figure 1: Mining and the 17 SDGs⁷. Source: CCSI (2016)



⁷ A selection of most major issue areas where mining may have an impact (positive or negative) on each of the 17 goals. Readers are referred to CCSI (2016) and the publication's individual chapters and diagrams for each goal for a detailed and more comprehensive discussion. Icons adapted from <http://www.globalgoals.org/>. Abbreviations: EIDs = emerging infectious diseases; OSH = occupational safety and health; TVET = technical, vocational, and educational training; CCS = carbon capture and storage; IFFs = illicit financial flows; FPIC = free, prior, and informed consent; PPPs = public-private partnerships.

2.2. Dialogue with partner countries

STRADE was designed as a dialogue based project and engaged with stakeholders extensively over the project period. This has provided invaluable insights into partner countries' perspectives on different topics. It has also reinforced the experience of the importance of such dialogues. This opinion is shared by many partner countries who repeatedly expressed the desire for a candid and open dialogue with the EU. One of the major recommendations is therefore to continue the dialogue on mineral resources with third countries, including effective regional organisations (current as well as potential future partners). For sustainable, mutually beneficial raw material partnerships it is paramount to understand and respect the partner countries' perspectives and to negotiate in order to find common ground. The time for unilateral actions by a single partner is now over.

The need for – and importance of – cooperation on mineral raw material related matters is undeniable. The importance of minerals and metals for the EU's economic welfare are as well-known as the many environmental, social and socio-economic challenges arising from mineral production. These challenges have been comprehensively summarized in previous STRADE Policy Briefs⁸ and will not be taken up again here. The increasing complexity of products, together with the long and fragmented nature of the commodity supply chain implies that many parties are involved. This also means, there is more room for non-compliance, manoeuvring and irresponsible behaviour. In order to ensure responsible mineral sourcing, all involved parties must work together.

EU dialogues and diplomatic engagements with developing and emerging countries carry an inherent power imbalance. In order to be effective, the dialogue needs to go both ways, meaning it should not be limited to discussing what the EU wants from third countries, but also address partner concerns. One important aspect is for the EU to examine in more detail than hitherto where changes in its policies – including any potential revision of the Raw Materials Initiative (RMI) – could have an impact on third countries and then actively seek dialogue on these matters. This is related to Policy Coherence for Development (cf. 2.6), but goes beyond a pure impact assessment from EU side and also beyond the area of development cooperation, and instead focuses on the dialogue component.

⇒ *STRADE: The dialogue on mineral resources with third countries, including effective regional organisations, should be continued and it should be a two-way dialogue openly addressing all involved parties' concerns.*

2.3. EU perspective

Dialogue, negotiations and accommodating partners' interests is important. At the same time, the EU's core values (cf. 2.1) and perspective need to be reflected in its partnerships. This includes some underlying principles that are upheld in EU international politics, such as the importance of good governance and free trade.

In connection with raw materials cooperation with third countries two perspectives are important: Economic, and environmental and social sustainability⁹. From an economic viewpoint, sustainable access to raw material supply refers to the long-term availability of the minerals (concentrates or refined) that are required for EU industry and infrastructure. In addition, this supply should not be subject to unexpected price swings or be

⁸ STRADE Policy Brief 04/2016: [Outlining Environmental Challenges in the Non-Fuel Mining Sector](#); STRADE Policy Brief 05/2016: [Outlining Socio-Economic Challenges in the Non-Fuel Mining Sector](#).

⁹ For more details see forthcoming STRADE Report on The EU & Industrial Countries Raw Materials Engagement.

prone to disruption. Although economic sustainability at large does not seem to be threatened at the moment¹⁰, there are some inherent strategic risks that come along with import dependency.

Environmental and social sustainability issues cover all non-technical aspects of mining activity, from local community engagement and respect for human rights to mitigating impacts on and protecting biodiversity and habitats. These have been codified under a number of best practice standards¹¹.

In general, the EU expects that the raw materials it imports are extracted under best practice standards. Given the EU's share of global mineral use¹² and the fact that most of these minerals are imported, the EU acknowledges that it has a *moral responsibility* as an importer and user of minerals, to mitigate the harm that results from its consumption. Second, it must also honour its *historical legacy* where a large number of developing raw material producing countries are former colonies of EU Member States¹³. This legacy includes the continued dependence of some former colonies on mining and the repercussions from environmental damage from abandoned mines.

In general, European consumers, governments and the European mining industry are motivated to pursue high sustainability standards in mining. A global level playing field, where these standards would be implemented by all, would offer European industry the best competitive conditions and opportunities.

EU Mineral and Metal Imports from Developing Countries

The EU imports nearly 30% of its total minerals and metals from low- and middle-income developing countries, and in 2017 these imports were valued at US\$ 10.4 billion. 8% (US\$ 15.9 billion) of its imports of minerals and metals were imported from the Latin America and Caribbean countries, while 6% (US\$ 10.4 billion) were imported from Sub Saharan Africa.

The bulk of materials imported from Latin America was in the ores and concentrates category in 2017, largely copper and iron ores and concentrates. Refined metal accounted for the largest share of EU imports from SSA, which are dominated by the Platinum Group of Metals, followed by refined copper.

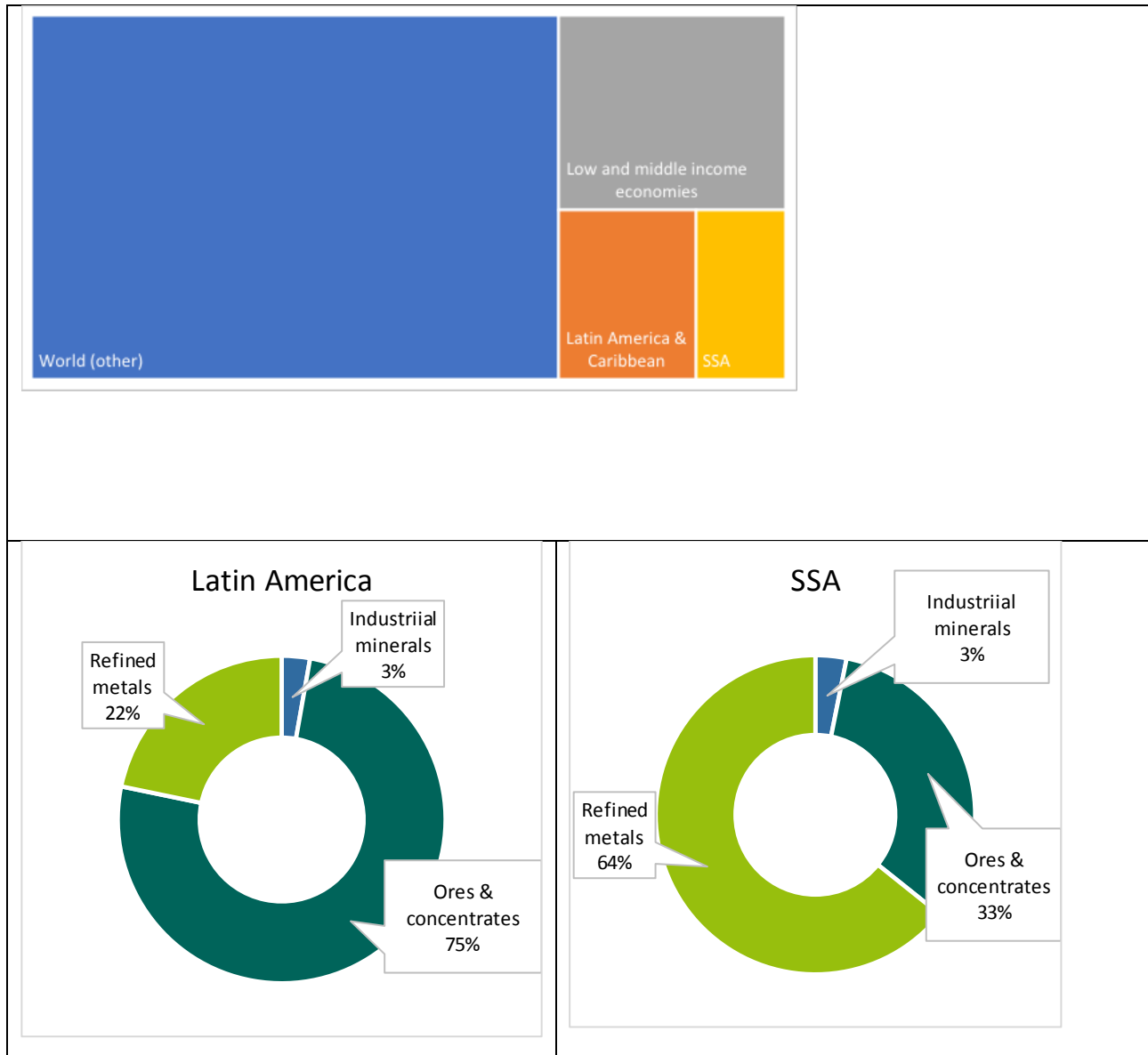
¹⁰ The recent USA tariff increases apply to Steel and not to mineral raw materials that are the subject of this report.

¹¹ See STRADE Policy Brief 07/2016: [Voluntary initiatives in the mining sector and their principles and criteria on environmental sustainability](#).

¹² The EU accounted for 17% of zinc, 15% of copper and 13% of iron ore global consumption in 2016.

¹³ See STRADE Policy Brief 01/2017: [Minerals and metals from non-EU countries - Europe's role and responsibility](#).

Figure 2: EU Minerals and Metals imports from Developing Regions, US\$ Million (2017)



Source: MineHutte Consulting calculations from WITS World Bank Trade Data, accessed September 2018
<wits.worldbank.org>

2.4. Developing and emerging country perspective

Generally, for most resource-rich developing and emerging countries, the mineral sector is expected to serve as a major driver of economic growth and employment, and resource revenues can be important for funding government budgets.

From an economic perspective, raw materials are expected to be a major driver of economic growth and employment in developing countries, although diversification away from commodities in the long run is encouraged. This perspective includes the desire to transform from raw material exporters to manufacturing economies using their raw materials and exporting finished or semi-finished products.

Investments in the mineral sector are expected to enhance forward and backward linkages, increase skill levels and knowledge, provide key minerals for domestic growth (such as agriculture and infrastructure). Some

emerging countries, which have a number of international mining companies (listed on major stock exchanges) operating within their jurisdictions over a period of decades, have already advanced a step and have developed ancillary industries that provide goods and services to the mining sector. Additionally, they have institutions to provide education and skills development programmes for employment within the mining sector. Governments of developing and emerging countries may rely on resource revenues to a large extent for funding their budget. In the rural sector, ASM activity is often a major provider of income.¹⁴

The priority given to socio-environmental concerns may vary. A common agenda for the safeguarding of social rights and environment is present. In less developed (mining) countries, however, the expectation to be able to use their natural resources to contribute to their national growth and development may be awarded highest priority.

Therefore, the economic and socio-environmental perspectives for these countries may differ from that of the EU (cf. 2.3). In emerging countries with a longer history of mining there will be a greater focus on improving the socio-environmental compliance with international best practice standards. These countries expect a certain level of partnership and dialogue to exist between mineral importers and mineral producers – and move towards agreed international best practice standards rather than externally enforced ones.

2.5. Potential conflicts of interest

The EU as a mineral producer will be unable to meet its consumption needs from domestic mineral extraction and will need to rely on imports. As long as the EU continues to import virgin minerals for domestic refining or semi-finished products, there is a conflict of interest with resource-rich developing and emerging countries.

These are also aiming for domestic value addition through the domestic beneficiation of their minerals, instead of exporting raw minerals to the EU (and other industrial countries). This has been mentioned frequently during STRADE events in and exchange with stakeholders from Africa (hereafter referred to as “in Africa”) and has also surfaced to a lesser extent in the dialogues with Latin American stakeholders (hereafter referred to as “in Latin America”). Especially in Africa, it was repeatedly mentioned that Africans do not regard the export of unprocessed raw materials as sustainable¹⁵.

STRADE acknowledges that trade and related measures are important for a number of developing/ emerging and European countries. There are fundamentally different views on what “trade” and related measures and “free and fair access to markets” mean.

While Free Trade and Economic Partnership Agreements are considered by the EU as one of their main partnership instruments and the inclusion of raw materials in those agreements as a major instrument to counter impediments to free and unhindered trade in raw materials, several resource-rich developing and emerging countries (e.g., in Central Africa, East African Community, West Africa) are reluctant to sign such agreements on grounds of questionable benefits for themselves (EP/ DG External Policies 2014). Reconciling the different positions on this matter goes beyond the scope of the STRADE project but should be picked up in other dialogues.

¹⁴ See STRADE Policy Brief 04/2018: [Africa & the EU – Renewing Sustainable Partnerships in the Extractives Sector](#).

¹⁵ Cf. STRADE Policy Brief 04/2018: [Africa & the European Union – Renewing Sustainable Partnerships in the Extractives Sector](#).

2.6. Policy Coherence for Development

Policy Coherence for Development (PCD) refers to the assessment of possible impacts of any policies on development cooperation. The aim is to build synergies between policies, support, and avoid negative impacts on, the expected results of development cooperation, which are, in a general manner, defined in the SDGs¹⁶. PCD is an integral part of the EU law, and a political commitment for the Commission, Council and European Parliament with biennial reports published from 2007 onwards¹⁷.

The RMI has repeatedly been under criticism for contradicting the EU PCD concept in several respects¹⁸. The EP in its [resolution on an effective raw materials strategy for Europe](#) calls for more coherence of the RMI with development policy, especially with regards to developing countries' sovereignty about their natural resources and introducing measures to capitalize on their raw materials to develop their economies as well as legally binding environment, social, labour and human rights standards to hold EU companies and their subsidiaries accountable for their actions abroad.

The 2011 EC update communication on the RMI¹⁹ mentions the promotion of application of EU standards by EU companies operating in developing countries and the development of a related code of conduct. It also calls for trade agreements to provide the necessary flexibility for the creation of linkages from mining to the local industry. However, it generally re-emphasises the importance of trade-related measures (i.e. free trade) to secure undistorted access to raw materials, which may contradict some developing countries' perspective on the best way to use raw materials for wider economic development.

Since then, the EU has made some efforts to consider partner countries' priorities. For example, in the [Joint Africa-EU Strategy Action Plan 2011-2013](#) key priorities of African partners as stated in the [Africa Mining Vision](#) (AMV), such as local content and development of mining development corridors are mentioned as areas for possible EU support. In a workshop jointly organized by the African Union (AU) and the EU in 2015²⁰, the topic of infrastructure for the minerals sector was discussed and the EU agreed to continue its support for related programmes.

The EU Conflict Minerals Regulation (CMR) is another step towards increased PCD in the raw materials field. However, overall results of efforts to increase PCD have been limited and in practice, PCD in connection to the EU's raw materials strategy remains a controversial issue.

⇒ STRADE: In order for an EU cooperation strategy with resource-rich developing and emerging countries to be sustainable – from both the EU's and partner countries' perspective – it is considered paramount to better incorporate the principles of PCD.

¹⁶ For more details on PCD see STRADE Policy Brief 08/2017: [Aligning EU cooperation with resource-rich developing and emerging countries' needs](#).

¹⁷ https://ec.europa.eu/europeaid/policies/policy-coherence-development_en (accessed 27.04.2017).

¹⁸ For more details see STRADE Policy Brief 08/2017: [Aligning EU cooperation with resource-rich developing and emerging countries' needs](#).

¹⁹ EC (2011): Tackling the Challenges in Commodity Markets and on Raw Materials. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0025:FIN:EN:PDF> (accessed 18.03.2017).

²⁰ <http://www.africa-eu-partnership.org/en/newsroom/all-news/eu-au-joint-session-infrastructure-minerals-sector> (accessed 09.05.2017)

2.7. EU and member states' engagement coordination

There are two main aspects of coordination between the EU and MS in their engagements in developing and emerging countries. One relates to the coordination of activities in order to avoid duplications and overlaps and instead ensure complementarity of actions. The other relates to the fact that each actor should focus on areas where it has recognized expertise.

Both aspects are relevant in the external sphere, i.e., coordination with non-EU actors (third countries, international organisations, civil society organisations (CSO) and academia) as well as in the internal sphere (coordination among EU and different MS).

Regarding the external sphere, in Latin America for example, the EU and MS are not regarded as a knowledge carrier in the mining sector due to lacking presence, especially of private sector actors. Consequently, the EU should not necessarily focus on technical cooperation projects in the mining sector, except for some specific topics (for details see chapter 4). Instead, the EU or MS could offer cooperation in fields where, in the eyes of the partner country, they have a comparative advantage (e.g. coordination between different government levels, geological services, environment).

In the internal sphere, it is important to distinguish between activities of the EU and different MS and acknowledge that different MS might have differing agendas and objectives in their resource cooperation. Nevertheless, an attempt should be made to avoid overlaps/duplication and to ensure that each actor focuses on engagements in those areas where it has the best expertise. The 2007 [EU Code of Conduct on Division of Labour in Development Policy](#) offers a blueprint in this regard²¹.

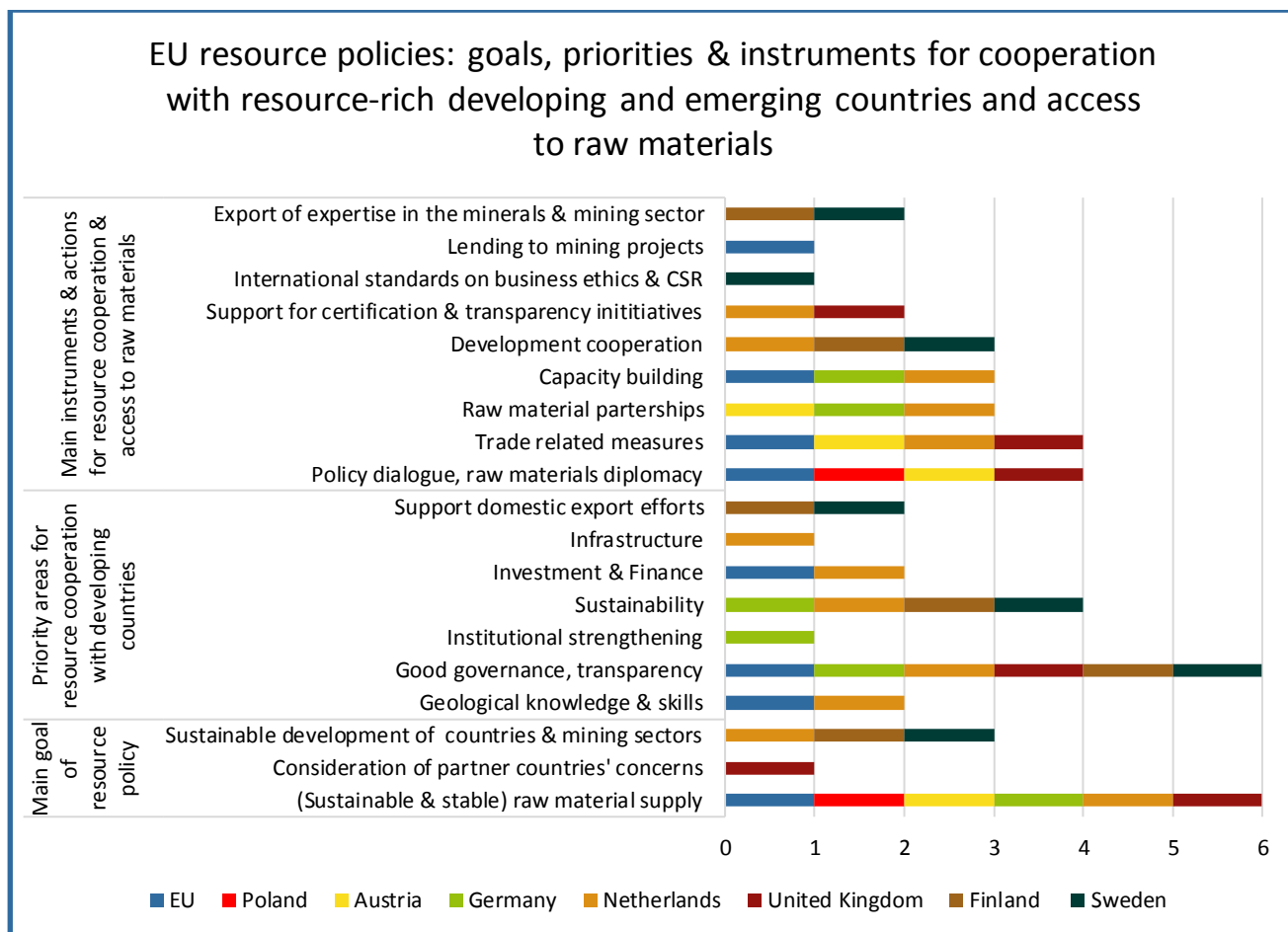
⇒ STRADE: *The EU should coordinate engagements in developing and emerging countries with its MS and non-EU actors. Complementarity of actions should be ensured and duplication and overlaps avoided as best as possible. Ideally, each actor should focus on areas where it has recognized expertise.*

Figure 3 summarises the main objectives, priority fields and instruments for cooperation with resource-rich developing and emerging countries as stated in the EU's and individual member states' raw materials policies and related initiatives.²²

²¹ For more information see STRADE Policy Brief 08/2017: [Aligning EU cooperation with resource-rich developing and emerging countries' needs](#).

²² The analysis includes all European countries having a raw materials/ minerals/ resources policy or strategy specifically addressing the cooperation with developing (and emerging) countries. Austria and Poland are included although their Minerals Strategies do not mention a specific objective or priority for the cooperation with developing/ emerging countries, but they refer to several instruments or actions with impact on these partners. For more information see STRADE Policy Brief 08/2017: [Aligning EU cooperation with resource-rich developing and emerging countries' needs](#).

Figure 3: Summary of EU resource policies.



Source: Projekt-Consult's analysis based on countries' resource policies²³.

The dialogue with mining sector stakeholders from developing and emerging countries revealed that actors associated with the EU consist of a very diverse set, including companies, NGOs, foundations, donor and international development cooperation agencies and projects of EU/ MS, or even geographical Europe (e.g. Switzerland's SDC) or international organisations (e.g. OECD). While this is beyond the direct control of the EU, it is important to acknowledge this, keep it in mind in the communication strategy (cf. 3.3), and attempt to coordinate activities as best as possible.

²³ See list of policy documents analysed in the references section.

2.8. Three approaches to raw material cooperation

The three main thematic approaches to raw material cooperation with developing and emerging countries discussed in the present report are:

1. Strengthening good governance
2. Implementing due diligence and responsible supply chain certification
3. Academic and technological cooperation

The first point is key and is, consequently, one strong focus area in this report.

The second approach is considered an interim solution to ensure that (minimum) responsible mining standards are met, as long as good governance is not a universal reality. It has been discussed extensively in another STRADE report²⁴. Because of its current importance for EU cooperation with developing and emerging countries, it will nevertheless come up in this report.

For the third approach, this report focuses on ODA projects in this area. A new concept, which aims at multilateral, mutually beneficial partnerships in this field, is only briefly introduced in this report and will be further elaborated in the upcoming STRADE Final Report.

One important general finding of STRADE's research is that mining related cooperation and ODA projects need to be better embedded within wider economic engagements and support programmes. Mining has long been viewed in isolation and ODA projects have been designed without taking the wider economic context or the potential contribution from mining to development into account. Today, one of the main concerns of resource-rich developing and emerging countries is to better integrate mining in the local or national economy, for example, through the creation of up-, down- and side-stream linkages. Economic cooperation issues need to be connected with raw-material policies, including ASM policies, and support programmes be designed accordingly. This also means integrating mining in general political dialogues on economic cooperation and in wider economic development processes.

STRADE's research confirmed that the detailed approach for EU cooperation on mineral raw materials and mining must be tailor-made for each partner country or region. Hence, even though the principles of cooperation should be universal, and the main thematic approaches remain the same, a detailed cooperation strategy must be adapted to the regions or even specific countries. The priorities and concerns of third countries depend on their (economic) development status, their mining sector, possible existing policies and their cultural context.

For reasons of simplification, and as it is clearly beyond STRADE's capacity to discuss priorities for individual (potential) partner countries, this report drafts continent specific cooperation approaches and recommendations for Latin America (chapter 4) and Africa (chapter 5). These are based on the priorities identified during STRADE's research and dialogue process. It is important to acknowledge, however, that any suggestions need to be verified and further developed with individual countries/ (sub-)regions in an ongoing open dialogue process.

²⁴ STRADE Report 03/2018: [Successful implementation of conflict mineral certification and due diligence schemes and the European Union's role: lessons learned for responsible mineral supply.](#)

3. EU and member states' institutions involved in cooperation with resource-rich developing and emerging countries

3.1. EU

Table 2 below presents EU institutions involved in raw materials cooperation, their general mandate, role and functions in relation to raw materials cooperation.

Table 2: EU institutions involved in raw materials cooperation

Institution	General Mandate, role and functions in relation to raw materials cooperation
Directorate General for Internal Market, Industry, Entrepreneurship and SMEs (DG GROW)	<ul style="list-style-type: none"> In charge of EU policy for industries, including those based on raw materials, metals and minerals; Promoting the competitiveness of these industries, hence underlining the importance of sustainable raw materials supply;²⁵ Main instruments to ensure access to raw materials: ²⁶ <ul style="list-style-type: none"> Raw materials diplomacy; Elimination of trade barriers²⁷ in trade agreements; Promotion of sustainable access to raw materials in EU development policy.
European External Action Service (EEAS)	<ul style="list-style-type: none"> EU's diplomatic service; Represents EU policy abroad, including development cooperation, trade and the responsible sourcing of minerals. Its 139 Delegations²⁸ worldwide are responsible for "all policy areas of the relationship between the EU and the host country [...] They also programme development cooperation through projects and grants." ²⁹
Directorate General for Trade (DG TRADE)	<ul style="list-style-type: none"> Objectives:^{30 31} <ul style="list-style-type: none"> Create a global system for fair and open trade; Open up markets and strengthen the EU's strategic partnerships with major trading partners; Make sure everyone plays by the rules; Ensure trade is a force for sustainable development by: <ul style="list-style-type: none"> Working with developing countries to help them integrate into the global economy; Upholding European values such as human rights, social and environmental protection. Uphold an ambitious trade agenda to the benefit of European citizens, SMEs and the broader economy".
Directorate General for International Cooperation and Development (DG DEVCO)	<ul style="list-style-type: none"> Responsible for: ³² <ul style="list-style-type: none"> The design of policies to reduce poverty, ensure sustainable development and promote democracy, peace and security; Implementing the EU's external aid programmes; Policy coherence for development (PCD).

²⁵ https://ec.europa.eu/growth/sectors/raw-materials_en (accessed 09.05.2017).

²⁶ https://ec.europa.eu/growth/sectors/raw-materials/policy-strategy/sustainable-supply-global_en (accessed 09.05.2017).

²⁷ E.g. export taxes, quotas, price-fixing.

²⁸ For details on the role of EU Delegations in the resource-related cooperation see 3.3

²⁹ https://eeas.europa.eu/headquarters/headquarters-homepage/area/foreign-affairs_en (accessed 09.05.2017).

³⁰ https://ec.europa.eu/info/topics/trade_en (accessed 09.05.2017).

³¹ <http://ec.europa.eu/trade/policy/> (accessed 09.05.2017).

³² http://ec.europa.eu/europeaid/relations-eeas-eu-institutions-and-member-states_en (accessed 09.05.2017).

	<ul style="list-style-type: none"> Coordinates its activities with the European External Action Service (EEAS), the European Investment Bank (EIB) and EU member states' aid agencies.³³
European Investment Bank (EIB)	<ul style="list-style-type: none"> Provides financing in the priority areas of innovation and skills, small and medium sized enterprises, infrastructure, environment and climate in EU and third countries³⁴; also lends to mining projects³⁵; Aim: lend to projects that contribute to sustainable growth and employment.³⁶ Supports the EU's development aid and cooperation policies.³⁷
European Parliament (EP)	<ul style="list-style-type: none"> Holds, jointly with the Council of the EU, the power to adopt European laws in a wide range of areas, including development cooperation; it is, thus, involved in the decision making process of measures for the implementation of EU development cooperation policy. Holds supervisory and control powers, amongst others regarding the implementation of policies on foreign affairs, trade and development.³⁸ Regularly discusses policies with the Commission. Has budgetary authority (jointly with the Council).³⁹

While not an institution in the sense of the ones listed in the table, the European Innovation Partnership (EIP) on Raw Materials is also briefly introduced here due to its relevance for the implementation of the RMI and the resources related cooperation with some developing/ emerging countries. "The EIP on Raw Materials is a stakeholder platform that brings together representatives from industry, public services, academia and NGOs. Its mission is to provide high-level guidance to the European Commission, Members States and private actors on innovative approaches to the challenges related to raw materials. The EIP plays a central role in the EU's raw materials policy framework."⁴⁰

3.2. Member states

Member states' institutions may also be directly involved in the cooperation with resource-rich developing and emerging countries. The ministries for international cooperation and development and their implementing agencies, such as Belgium's Enabel; Denmark's Danida; Germany's GIZ, BGR and KfW; Sweden's SIDA; UK's DfID, to name some, play an important role in the development cooperation in the mining and minerals sectors of certain countries and have gained considerable expertise. These agencies, in line with the [EU Code of Conduct on Division of Labour in Development Policy](#), should continue their work and coordinate their activities with the EU and other MS.

³³ Ibid.

³⁴ <http://www.eib.europa.eu/projects/priorities/index.htm> (accessed 10.05.2017).

³⁵ EC (2008): The raw materials initiative — meeting our critical needs for growth and jobs in Europe. <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52008DC0699> (accessed 08.03.2017); EC (2011): Tackling the Challenges in Commodity Markets and on Raw Materials. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0025:FIN:EN:PDF> (accessed 18.03.2017).

³⁶ <http://www.eib.europa.eu/projects/priorities/index.htm> (accessed 10.05.2017).

³⁷ <http://www.eib.europa.eu/about/eu-family/index.htm> (accessed 10.05.2017).

³⁸ European Parliament (2017): A general survey of development policy. Fact sheets on the European Union – 2017. http://www.europarl.europa.eu/ftu/pdf/en/FTU_6.3.1.pdf (accessed 11.05.2017).

³⁹ Ibid.; <http://www.europarl.europa.eu/aboutparliament/en/20150201PVL00002/Home> (accessed 12.05.2017); Bodenstein, Thilo, Jörg Faust, Mark Furness (2016): European Union Development Policy: Collective Action in Times of Global Transformation and Domestic Crisis. Development Policy Review, 2016, 0 (0): 1-13. <http://onlinelibrary.wiley.com/doi/10.1111/dpr.12189/epdf> (accessed 12.05.2017).

⁴⁰ <https://ec.europa.eu/growth/tools-databases/eip-raw-materials/en/content/european-innovation-partnership-eip-raw-materials> (accessed 03.10.2018).

Furthermore, ministries of economy, trade, foreign affairs and similar may be involved in resource-related cooperation with developing and emerging countries, for example through the conclusion of partnership agreements.

Private sector actors, such as industry associations, may also be active in this cooperation.

The example from Germany below shall provide an overview of possible actors involved in raw materials cooperation on the national level⁴¹:

In Germany, raw material partnerships were considered one of the main instruments to secure raw material supply to the industry. Intergovernmental agreements on raw material partnerships have been concluded with Mongolia, Kazakhstan and Peru. Bilateral partnerships based on joint declarations exist with Chile and Australia and based on an exchange of letters with Canada. In the framework of these partnerships, the private sector concludes contracts, which may be supported through foreign trade/ foreign affairs instruments. Regular meetings of bilateral government working groups, economic committees or raw materials forums accompany the implementation of the raw material partnerships.

Further actors involved in the mineral resources cooperation include, amongst others, the chambers of foreign trade and specifically their centres of competence for mining and raw materials, which have been established – and supported by the Federal ministry for economy – in selected resource-rich countries, such as Australia, Brazil, Chile, Canada, Peru, and South Africa (the latter covering all resource-rich southern African countries) and form a network with each other; the German raw materials agency (DERA), which is part of BGR; Germany Trade & Invest (GTAI); and the German Association of Chambers of Industry and Commerce (DIHK). All these have organized themselves in the German Mining Network with the aim to advise and support the German industry and particularly SMEs. The Interministerial Committee on raw materials coordinates resources policy related activities of different portfolios and authorities of the German government and also involves the Federation of German Industry (BDI).

Additionally, Germany is a member of numerous international raw materials organisations, including study groups on specific metals.

Box 1: Actors involved in German raw materials cooperation

3.3. Role of embassies and diplomats

Interviews and dialogue with stakeholders from developing and emerging countries, including with staff members of EU Delegations, revealed that European diplomats may not always appreciate how important minerals are in developing and emerging economies – they are a perceived source of wealth and often nationalistic pride in partner countries. Therefore, mining sensitive diplomacy is required at many embassies. In the following, more concrete examples of action to achieve this are given.

As a first step, it would be advisable to ensure that in countries, where mining and trade in minerals are an important part of the economy, there are sector specific competencies at the embassy level. This is currently not always the case, entailing the risk of transferring the message that mining and minerals are not a priority sector for the EU.

⁴¹ For more information see <https://www.bmwi.de/Redaktion/DE/Artikel/Industrie/rohstoffpolitik.html> (accessed 19.07.2018).

EU Delegations, MS embassies, consulates and their diplomats can support cooperation in the raw materials sector, e.g., by supporting their home countries' businesses actively: by acting as business networking hubs, hosting business networking events (mining specific or including mining in general business networking events), providing platforms where joint ventures and other partnerships can take place between domestic and international firms, stimulating trade missions of European suppliers and investors of small and medium enterprises, and promoting cooperation with the European Chambers of Commerce.

For example, the Canadian embassy in Lima, Peru, has been mentioned in an interview as strong point of contact for the development of cooperation between Peru and Canada.⁴² Likewise, many EU and MS consulates already host business networking events and this practice should continue and be extended to mining-related topics. Depending on the size of the mining sector in the country, mining specific events could also be hosted or the EU and MS embassies could represent and accompany business delegations from their countries at mining events in the host country or even represent the EU at big mining events.

For example, the EU asked its Delegation in Peru to organise an EU-specific side event at the Perumin (one of the biggest mining fairs in Latin America). This was perceived as very positive by Latin American mining sector stakeholders and they agreed that it would be beneficial if the EU was more present at such fairs as these events provide a good opportunity to increase dialogue.

For Latin America, a strategy for attraction of investment in the Latin American mining sector is highly relevant. And while the EU's economic and political presence throughout Latin America is undeniable, and its presence at diplomatic events has increased in the last four years, there has, in the view of Latin American stakeholders, been a lack of regional action in investment promotion. Moreover, it was reported that each Delegation tends to act vigorously vis-à-vis each government, but without a visibly clear agenda on the mining sector in terms of promotion of investment, and determined action through research and capacity building centres. Recently, the EU's engagement in this area has been considerably stepped up.

The EU-funded Mineral Development Network Platform (MDNP), which will be described in detail in chapter 4.1, is a good example of the new activities. There are also various EU-funded projects encouraging business relations between the EU and third countries and on promoting entrepreneurship implemented by the Association of European Chambers of Commerce and Industry [EUROCHAMBRES](#).

A help desk for export related matters could facilitate export of minerals to the EU. The technical help desk would preferably be established by chambers of commerce or associations, in collaboration with the existing national export promotion agencies (e.g. Prochile, Apex Brazil, AAICI Argentina, etc.). EU Delegations could act as contact points for these helpdesks and involved actors and provide them with information material to distribute. The need for such a help desk is derived from reports, particularly of smaller producers, that they find it difficult to comply with the different requirements for exporting, partly due to a lack of easily accessible information and assistance in case of questions. This might become comparatively more complex for exports to the EU for regions falling under the EU CMR.

In countries to which the EU conflict minerals regulation (CMR) applies, the above introduced help desk could offer advice on related matters, e.g., specific requirements for export to the EU, respective templates, etc. or promote the corresponding online information portal for EU SMEs (under development). The help desk or even EU Delegations could also assist with the access to information and training workshops on the EU CMR, either by organizing such events directly – as for instance the EU Delegation Bogotá did⁴³ – or by providing contacts

⁴² Interview with INGEMET representative at METS, 2018.

⁴³ For details see forthcoming STRADE Policy Brief on STRADE workshop in Colombia.

to other entities offering this. In a next step, the EU, as part of its development cooperation, could support mining operations/exporters that do not yet comply with the CMR.

Furthermore, EU Delegations and MS embassies could play a coordinating role for different mining sector support programmes and projects.

⇒ *STRADE recommends that EU embassies support the EU raw material diplomacy and build up strong in-house mineral sector competencies. Important tasks are networking, supporting industry relationships, facilitating exports and investments in collaboration with chambers of commerce and associations, acting as contact point for information about and assistance with the implementation of the CMR, coordinating different EU engagements (private, EU and MS activities), informing about EU policies.*

Need for a broader EU communication strategy on international EU raw material engagement

Two (interrelated) challenges have become apparent during STRADE's dialogue with mining sector representatives from around the world: 1. EU actions in partner countries sometimes lack visibility, so concerned stakeholders in the countries are not aware of the EU's contributions. The EU is thus missing out on the opportunity to a) involve and cooperate with a larger number and broader range of stakeholders, and b) improve its image as partner/donor in the extractives sector. 2. EU policies, e.g., EPAs or the RMI, are not always well communicated and explained to stakeholders in partner countries. Thus, there are a lot of prejudices and the perception that these policies serve to protect the EU against partner countries, with little knowledge of actual facts and related actions and engagements beneficial to partner countries.

The development and implementation of a focused communication strategy is thus highly recommended. It should aim at increasing the visibility of EU actions in the minerals and mining sector in developing and emerging countries, disseminating information on country- or region-specific actions and agreements as well as internal EU policies that might have an impact on third countries. The strategy should also provide spaces for dialogue, be it through information and discussion events at EU Delegations, or through a moderated online discussion forum using suitable existing national or regional platforms (e.g., the MDNP for Latin America). While a general communication strategy can be developed with experts from within the EU, for specific campaigns at country or region level, it is recommended to cooperate with local communication experts who have extensive knowledge of the particular cultural context, are able to translate the EU message into a locally understood message at various levels (ministries, local governments, traders and miners, etc...), know the best dissemination channels, and thus tailor an effective campaign. The EU Delegations could be involved in the coordination of such campaigns.

⇒ *STRADE has noted that EU actions in partner countries sometimes lack visibility, and EU policies, e.g. EPAs or the RMI, are not always well communicated and explained to stakeholders in partner countries. STRADE recommends the development and implementation of a focused communication strategy.*

4. Latin America

Latin America is the most attractive exploration destination worldwide, and South America is also the most significant EU trade partner in mining and metals.⁴⁴

Latin American countries have a strong interconnection with the EU in terms of language as well as culture. The general level of formal and technical knowledge is high; there are many well-trained lawyers and engineers. Regarding political processes and reforms, gradual policy implementation tends to be seldom considered. Preference goes to “immediate” and “robust” solutions that solve all the issues at once, thus favouring regulation design over policy implementation. This might also be connected to the high turnover rate in the administration due to election cycles and possible legal repercussions faced by high ranking civil servants.

Many Latin American countries are today considered emerging economies with upper-middle to high income levels, and thus a gradual phase-out of (bilateral) ODA has begun. Traditional cooperation approaches must therefore be re-defined. An EC communication from February 2018⁴⁵ summarises this well: “The global and regional changes in both regions as well as the significant progress in LAC and in our relations demand an ambitious and innovative approach among equals beyond a traditional donor-recipient logic”.

The EU’s or MS’ historical legacy with Latin America, including colonialism and resource exploitation without giving much consideration to local populations’ as well as continued extractivism in post-colonial times has evoked a negative perception of the mining industry in general and a low level of trust among different mining sector stakeholders. All this conditions the available policy toolbox in most countries and should be kept in mind when planning a detailed cooperation strategy.

Policy trends

For Latin America, where most countries have, in general, relatively high incomes, environmental and social issues tend to take a high priority, especially given historical legacies. With its long history of large-scale mining by foreign companies (first during colonial times, then since the liberalisation and privatisation reforms starting in the 1970s), there have been many cases of failure to internalise externalities generated at the local level, thus creating social conflicts⁴⁶. As a consequence, a (sometimes radical) anti-mining movement developed in several countries (e.g. Colombia, Peru) and brought these points on the agenda. During STRADE’s dialogue with mining sector stakeholders from Latin American countries, it was reported that, in some countries, environmental concerns serve as a pretext for protesting against mining in general (cf. 4.3.). These statements should not be interpreted in a way suggesting that protests against environmental grievances would not be justified. They are only reported here to underline the complexity of the topic and the consequent need to carefully scrutinise a specific situation before engaging in any interventions in this field.

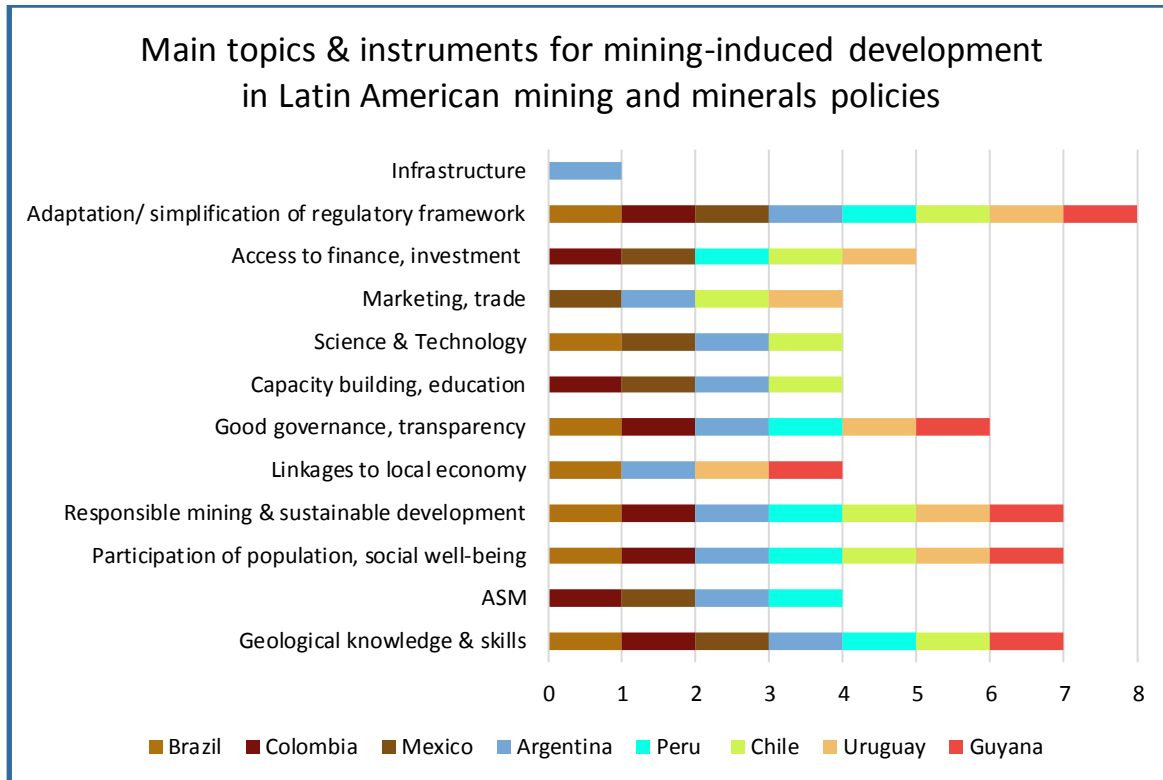
Figure 4 summarises the main topics and instruments for mining-induced development mentioned in Latin American mining and minerals policies.

⁴⁴ For details on exploration expenditure in and metals imports from Latin American countries see STRADE Policy brief 05/2018: [Latin America’s Policy Priorities on Mining and Sustainable Development, and Opportunities for EU Cooperation](#).

⁴⁵ https://ec.europa.eu/info/law/better-regulation/initiative/1603/publication/177545/attachment/090166e5b8d11b79_en

⁴⁶ For details see STRADE Policy brief 05/2018: [Latin America’s Policy Priorities on Mining and Sustainable Development, and Opportunities for EU Cooperation](#); and Annex I: Country research Bolivia and Peru

Figure 4: Summary of Latin American mining and minerals policies.



Source: Projekt-Consult's analysis based on countries' resource policies⁴⁷.

Today, three different approaches to mining and sustainable development can be distinguished in Latin America's mining countries:⁴⁸

1) Enhancing productivity and competitiveness, and conditions for sustainable development in the mining sector (e.g., Chile, Brazil, Peru, Colombia, Argentina)

Efforts were placed on enacting and strengthening environmental regulations and later expanded to enhancing public participation and local content. Approaches have been rather fragmented, and courts have been active in interpreting the legal framework.

Peru, for instance, has responded to local conflict and concerns on impacts from mining by distributing significant amounts of tax revenue to the regional and local level, by replacing the 'sectoral' system in charge of environmental matters by a centralised environmental authority and by establishing a separate environmental enforcement authority. There seems to be increased recognition on the need to improve the capabilities of sub-national government authorities to manage revenue allocated through royalties and other fees.

In Colombia, the expansion of extractive activities and its impact on indigenous territories and local communities have resulted in acute social unrest (and sometimes perpetuated conflict) and a host of local council resolutions banning mining that have triggered litigation and constitutional challenges.

⁴⁷ See list of policy documents analysed in the references section.

⁴⁸ For details see STRADE Policy brief 05/2018: [Latin America's Policy Priorities on Mining and Sustainable Development, and Opportunities for EU Cooperation](#).

2) Mining as a strategic sector for state-controlled industrialization (Bolivia)

Natural resources play a pre-eminent role in the state's economic organization and in the model for a plural economy. The state is a productive actor and must also exercise strategic control over these resources' production and industrialization chains. The powers of the state in terms of natural resource management are restricted by the duty of the state to conserve, protect and use natural resources and the biodiversity in a sustainable manner pursuant to constitutional clauses.

3) Banning mining to protect the environment (Costa Rica and El Salvador)

In spite of the general mining ban, there is still a role to play for international cooperation (ODA) in these countries' mining sectors, namely in ASM and construction materials, which continue and will continue to be present.

Lessons from current and past cooperation projects

Experiences from Canada's, Australia's and China's activities in the Latin American mining sector:

Canada and Australia have been very active in Latin America in the past two decades, through diplomacy, ODA support, framework agreements, scientific cooperation etc. Now, there is a high presence of Canadian and Australian mining as well as mining tech companies in, e.g., Chile, Mexico, Colombia, Peru, Argentina and Ecuador (Chaparro 2018).

Australia has generated new relations, created ties with Peru and Colombia and promotes the arrival of investors in almost all of South America and creates political instruments country by country to build a base of support for their investments, through commitments in training and technical cooperation (Ibid.). Canada has consolidated its presence with massive investments throughout the continent, from Mexico to Chile (Ibid.).

China meanwhile observes, buys, and invests - mainly in Argentina, Peru and Venezuela (Ibid.) - but does not provide technical cooperation or training. What is noted as positive about China's engagement is the fact that it often accepted future supplies of raw materials as collateral for loans. Former President of Argentina Cristina Fernández de Kirchner said in parliament on March 1, 2015: "Argentina was forced to reduce social benefits by former donors such as the IMF. China did not follow this colonial strategy, but offers cooperation on a level playing field" (Hansch 2017). Meanwhile, however, there seems to be growing opposition in Argentina towards too much influence of or even dependence on China.

It is not seen as advisable for the EU to repeat the model of Canada or Australia, much less to act like China (Chaparro 2018) due to its considerable difference from all three countries. China's approach has started backfiring as the example from Argentina shows and would not be possible for the EU to copy anyway as its industry is structured very differently and loans, infrastructure development and mining projects or mineral resources supply cannot be dealt with in such an interconnected way. With regards to Canada and Australia, the main difference is that those two countries have a large mining industry presence in Latin America and continue to foster cooperation in this regard. This is not true for the EU and it is unlikely that EU mining industry will develop a significant presence in Latin America.

General lessons:

Technical focused interventions predominate either in LSM best practices (these tend to be inexpensive as they are often narrowly focused and rely largely on the expertise of the donor country and address a receptive and technically adept recipient) or in ASM. In recent years another focus has been on EITI implementation support and improving mining cadastres.

There are limited (visible) political and institutional interventions, for instance on business, management, organisational skills, gender equality, to a lesser extent also on community development and environmental aspects of mining sector management, at the national and local levels. The cooperation focus on technical items has thus provoked a **greater need for work in** the above mentioned “soft” topics.

ODA projects can become very politicised when transferred from an international organisation to countries/regions. Furthermore, high administrative turnover connected to change of staff after elections and opportunist policies may stunt implementation. This is not a problem that is specific to the mining sector, it may happen here as much as in other sectors. Projects need to take this into account, as well as the governance quality in the locality of implementation. When required they should make more use of and strengthen community monitoring.

STRADE’s dialogue revealed that, currently, there seems to be a trend among some international donors to design projects, which are not very focused, but instead broadly support “governance” without a clear and visible agenda. This has been viewed very critically by Latin American dialogue partners and should thus not be repeated. Focused interventions, inclusion of all stakeholders, and wide dissemination of information is key. As far as possible it should be taken into account and addressed that stakeholder groups are no uniform entities but formed from individuals and varying influential powers due to factors such as economic and social weight and gender. **Projects aiming to increase good governance should be structured under a clear overarching theme** to enhance their focus. Moreover, **a shift from a short-term project to a long-term programme approach is desirable** (this is discussed in more detail later below).

Furthermore, **actors should concentrate on areas in which they have known expertise**. For Canada and Australia, this might include direct investment in the Latin American mining sector. The EU, on the other hand, is not regarded as having considerable experience with this topic. It is, however, highly recognized for its expertise in decentralization and coordination of different governance levels (supra-regional/national/regional/local). Also, European mining legislation, especially the environmental and social parts, often serves as a blueprint for Latin American countries and the respective best practice standards of European mining companies are highly valued.

⇒ STRADE recommends that the EU and MS focus their traditional ODA approach for cooperation in the Latin American raw materials sector on the following topics: strengthening of institutional capacities, especially at the local level and including ‘soft’ topics, coordination of governance levels, environmental performance in mining, legacy mines, support of the EU CMR and responsibly sourced minerals, and the ASM sector.

Additionally, it has been mentioned by mining sector representatives from Latin America that **long-term continuity in programmes is important**. Regular interim evaluations should inform and fine-tune programmes, but the overall strategic framework should remain in place and cooperation and dialogue with the partner institutions should be a continuous long-term process to ensure sustainability. Continued funding should be made conditional on continued political support for the programme’s overarching strategic framework to avoid that the general direction of programmes shifts with each government change. Long-term presence on the ground and cooperation with regional partners, such as CELAC, UN ELAC, MERCOSUR, or the Pacific Alliance, have been recommended, in order to avoid opportunistic trends of changing national governments. On the other hand, it has to be noted that in practice, it seems to be very difficult if not impossible for the EU to find a powerful regional organisation as counterpart.

⇒ STRADE recommends that the EU and MS design any ODA support as focused long-term programmes under a clear overarching theme. Measures to guarantee the stability and continuity of the programmes' overall strategic framework, independent from possible government changes, should be built into the programme design.

Many Latin American countries state in their constitutions that natural resources should benefit the people and development of the country. Still, there are many conflicts around mining projects, especially concerning the unfair distribution of burdens and benefits, and consequently, considerable resistance against mining in general as well as problems with SLO. In these countries (Colombia, Peru and Ecuador⁴⁹ for instance), a dialogue on the national level is essential. The EU could support this internal dialogue through cooperation with individual country governments and offer specific support targeted on key issues identified during the dialogue (e.g., mine site re-cultivation or measures against conflict). For examples of institutions to cooperate with on the national level, see Annex I: Bolivia and Peru country research.

This is connected to the need to discuss internationally what trade-off between sustainable economic development of countries/regions, environmental protection, and poverty alleviation and protection of indigenous and minority rights is acceptable.

New multilateral partnership approaches are recommended for mining innovation, research and development (especially regarding water, energy and yield efficiency) and finding solutions to the population's widespread opposition to mining – i.e. raising awareness of mining's importance in people's everyday lives and educating them about how responsible mining should operate and mechanisms ensuring it is doing so, e.g., community monitoring, grievance mechanisms, etc.

The EU-funded [EU-Latin America MDNP](#) is a promising example of a partnership project (more details on the MDNP can be found in 4.1). In the absence of alternatives, the platform has already become a key pillar for the interregional cooperation in the mining sector. The development of similar platforms between the EU and resource-rich African or Asian countries could also be explored.

4.1. Institutions to involve in resources cooperation

The Community of Latin American and Caribbean States (CELAC) is the EU's official counterpart for the bi-regional cooperation process. The EU and CELAC subscribed a strategic bi-regional partnership in 1999⁵⁰ with the aim to deepen their relations based on the long standing historical, cultural and economic ties. The strategic partnership is built on three pillars: a) Political dialogue b) Economic and Trade relations, and c) Cooperation, and includes the engagement of different EU agencies (notably DGs DEVCO; TRADE, GROW; R&I, and EEAS).

The bi-regional shared vision, agenda, and priorities of action are updated on a biennial basis through EU-CELAC Summits of Heads of State and Government and since 2016 on a yearly basis by Inter-Summit ministerial meetings⁵¹. Side events to the Summits, including the participation of NGO's, businesses, trade unions, young people, academics and social organisations enables the consideration of different points of view

⁴⁹ In Ecuador, the government policy to reserve land for and issue mining licenses very selectively to LSM meets considerable resistance from the population

⁵⁰ Declaration of Rio de Janeiro (1999). <http://www.europarl.europa.eu/delegations/northern/idel/d12/docs/cumbrederio/prioridadesaccionen.htm> (accessed 27.05.2017)

⁵¹ EU-CELAC Ministerial Meeting (2016). Santo Domingo Declaration. <http://www.consilium.europa.eu/en/press/press-releases/2016/10/26-celac-santo-domingo-declaration/> (accessed 20.05.2017)

in the discussions conducted. Resulting from these high-level political encounters, political Declarations and Action Plans are agreed upon for guiding the bi-regional actions. These are building on the EU cooperation towards the region, in accordance with the EU DCI instruments⁵², and the latest policies of EU development policy, such as the 2011 Agenda for Change⁵³.

Apart from this region-to-region approach, the EU also holds relations at a sub-regional level (with the main integration initiatives, such as MERCOSUR and the Andean Community, as well as Central America)⁵⁴ and with the individual countries of Mexico, Chile and Brazil in the framework of cooperation or association agreements (EU approval of a cooperation agreement with Cuba is currently in progress).

On the region-to-region basis, the aforementioned guiding documents of the bi-regional strategic partnership, notably the [EU-CELAC Action Plan \(2015\)](#), does not directly address or refer to mining and/or mineral resources. In the [Declaration](#) resulting from the last EU-CELAC Ministerial meeting in July 2018 in Brussels, however, the topic comes up in two points: a) Reaffirming cooperation efforts on citizen security and to address transnational organized crime in all its forms and manifestations, including illegal trade in mining products, and b) It notes the possibility of identifying areas of common interest for cooperation on Earth Observation and Earth Science in multilateral fora, and in the framework of Copernicus. One of these areas of common interest could be cooperation on geological knowledge, taking into account its identification as one important topic within the national LAC mineral policies.

Nevertheless, other key areas, which encompass or are linked to the mining sector, are considered and prioritized. That is the case of ensuring environmental sustainability, cooperation on the fight against climate change, including the development of technological cooperation (key area N.2), promote investments and entrepreneurship for sustainable development (key area N.8) and fostering science, research, innovation and technology (key area N.1). On the other hand, the European [Multiannual Indicative Regional Programme 2014-2020](#) advocates for the sustainable use and improvement of governance of natural resources recognizing that their lack would be a structural weakness that may impede more inclusive economic growth for the region in the future, along with difficult access to innovation, limited job creation and the lack of competitiveness and informality.

Despite the lack of direct mention of the sector in the bi-regional process products and guideline documents, an explicit consideration of the Latin American region within the EU policy and strategy on the mineral raw materials sector can be identified notably in the European Innovation Partnership on Raw Materials (reference to the section of foot note where the EIP is explained) under its international cooperation pillar⁵⁵, as well as on the Raw Materials Diplomacy action. The EIP Strategic Implementation Plan identifies the region as one with 'strong potential' in the sector, and includes the region notably regarding the priority action areas of technology (i.e. develop innovative metallurgical techniques, especially suitable to ASM), health, safety and environment; investment activities and skills education and knowledge. On the latter, the Plan highlights as mutually beneficial the establishment of a permanent dialogue and exchange of best practices between the EU and the

⁵² Financing Instrument for Development Cooperation –DCI https://ec.europa.eu/europeaid/how/finance/dci_en.htm_en. Specific DCI instruments for cooperation with Latin America include among others the current Multiannual Indicative Regional Programme 2014-2020

https://eeas.europa.eu/sites/eeas/files/multiannual_indicative_regional_programme_for_latin_america.pdf . It is important to note that the Caribbean countries are considered under the European Development Fund -EDF for ACP and OCTs and thus not covered by the DCI (accessed 20.05.2017).

⁵³ "The Agenda for Change is the basis for the EU's development policy" Communication on the Agenda for Change (2011) https://ec.europa.eu/europeaid/policies/european-development-policy/agenda-change_en

⁵⁴ For a comprehensive list of sub-regional integration and cooperation schemes see STRADE Policy brief 05/2018: [Latin America's Policy Priorities on Mining and Sustainable Development, and Opportunities for EU Cooperation](#) (Annex I).

⁵⁵ Chapter III Strategic Implementation Plan for the European Innovation Partnership on Raw Materials, Part II (2013) https://ec.europa.eu/growth/tools-databases/eip-raw-materials/en/system/files/ged/1027%2020130723_SIP%20Part%20II%20complet_0.pdf (accessed 25.05.2017).

main countries in Latin America involved in the mining sector. It recognizes the region's experience in tackling education as well as development of a knowledge-based mining and minerals economy, which has the potential to 'create benefits and spill-overs' regarding advanced technology skills, continuous education and economic development/adjustment⁵⁶.

With regards to the Raw Materials Diplomacy, the EU Commission has launched four EU-Latin America Raw Materials Diplomacy events between 2014 and 2017. Participating countries from Latin America included: Argentina, Brazil, Chile, Colombia, Mexico, Peru and Uruguay. This Diplomacy Dialogue⁵⁷ started in 2014 in Lima - Peru⁵⁸, followed by Cartagena - Colombia (2015), Santiago de Chile (2016) and Buenos Aires - Argentina (May 2017). During the events, key areas of mutual action for developing the sector were addressed, such as investment, innovation, trade, SDGs, environmental and safety performance, research, education and training opportunities along the mining value chain⁵⁹. From this dialogue resulted the development of the [EU-Latin America MDNP](#) – a new digital networking platform to promote cooperation within the sector between the European Member States and the seven Latin American countries that participated in the previous dialogue events to strengthen the bi-regional dialogue on raw materials.

The MDNP aims to connect all relevant stakeholders from entities and disciplines linked to the non-energy extractive industries in the EU and the participating Latin American countries. The scope of the digital platform to enable networking, information gathering, and exchange of best-practices was further supported by the EU-Latin America Mining & Exploration Convention and Trade Show held in Madrid in April 2018, also initiated by DG Grow.

Other current concrete projects or initiatives of the EU are indirectly interlinked with the mining sector in Latin America. These are notably the European and Latin American Business Services and Innovation Network – ELAN⁶⁰, the Ibero-American Programme of Science and Technology for Development – CYTED⁶¹, and the Low Carbon Business Action in Brazil⁶². The latter was financed through the EU Partnership Instrument, which was adopted in 2014 as a key tool for promoting the Union's interests worldwide on a cooperative peer to peer basis. It is complementary with the other EU external instruments (including DCI).

There is no regional initiative analogous to the Africa Mining Vision. The United Nations Economic Commission for Latin America and the Caribbean (ECLAC) called upon countries to develop a common vision towards natural resources and infrastructure governance across the continent, however, no further news on this initiative have emerged since late 2016. The Annual Conference of Mining Ministries of the Americas (CAMMA) has recently been revived with a first conference taking place in Buenos Aires - Argentina in 2017 after it had been abandoned for several years. A civil society-led dialogue group (the Latin American Dialogue Group on Mining) was established in early 2010 and, in addition, there is an active network of civil society organisations

⁵⁶ Ibid.

⁵⁷ <https://www.mineralplatform.eu/events/raw-materials-diplomacy-events>

⁵⁸ https://ec.europa.eu/growth/content/eu-latin-america-dialogue-raw-materials-0_en

⁵⁹ EU-Latin American Dialogue on Raw Materials: consolidating the co-operation (8-9/05 2017) <http://www.cvent.com/events/eu-latin-america-dialogue-on-raw-materials/event-summary-85112876aabe46828b194f150e5bb26c.aspx> (accessed 30.05.2017)

⁶⁰ ELAN, the European and Latin American Business Services and Innovation Network is a EU initiative that seeks to increase and diversify the EU economic presence in Latin America by meeting the Latin America demand for knowledge and innovative Technology. It also aims to boost the opportunities that both markets offer for European and Latin American SMEs. URL: <http://www.elanbiz.org/home>

⁶¹ CYTED is a platform that promotes and supports multilateral cooperation in science and technology, oriented transfer of knowledge, experience, information, results and technologies among countries in the Latin American Region. URL: <http://www.cytel.org/>

⁶² The Low Carbon Business Action aims to promote the adoption of low-carbon technologies through business partnerships between EU and Brazilian companies in specific industrial sectors, such as energy efficiency, solid waste management, biofuels, and renewable energies. More information available on: <http://www.lowcarbonbrazil.com/index>

in the region, the Latin American Network on Extractive Industries (Red Latinoamericana sobre las Industrias Extractivas).^{63 64}

⇒ *STRADE: Identifying a suitable partner organisation for EU cooperation in Latin America is not a straightforward task and depends on several factors. On the regional level, cooperation with CELAC would be advisable, even though mining and raw materials do not feature prominently in the partnership up to now. On the sub-regional level, resources cooperation with organisations, such as MERCOSUR, Pacific Alliance could be further explored. In many cases, cooperation with the national governments could be the most successful approach. The EU-Latin America MDNP could prove a viable channel for cooperation, especially for the private sector.*

4.2. Governance structures in host countries

Functioning governance structures are paramount for the successful development, monitoring and enforcement of regulations as well as the implementation of public support programmes. Governance capacities need to exist, coordinate and align their agendas across all different vertical levels, from national, regional to local as well as across different horizontal levels (inter-ministerial coordination). Parliamentary oversight should be promoted as a critical level of supervision. The starting point is the mere government presence on the ground.

Mining in most Latin American countries is a mature sector on the technical and legal side. **Most legal systems are good, but difficult to reliably implement.** The ease of implementation is often not considered during design. As a result, there are some distorted views, major policy backfirings (RUCOM⁶⁵ for example) have been witnessed and gunpoint conservation⁶⁶ might be an issue in some places.

The gap between laws and implementation is wider than commonly perceived. There is often a projected image of control (to illustrate this, look at the Resource Governance Index (RGI) of Chile, Brazil, Colombia [top 10], Peru, Mexico [top 20]). Yet, often government agencies are understaffed and have few resources, hence stringent laws cannot be implemented and even existing laws are not fully implemented or monitored (cf. Bolivia country research in Annex I). Most countries are geographically large and with little presence on the ground to both monitor LSM and work with ASM across their entire territory.

An issue that is deeply connected to the implementation deficit is the **lack of clear roles and responsibilities**, or the fragmentation of the same onto various state institutions and different government levels and **lack of coordination**, often paired with **inadequate governance capacities and resources at the local level** (see Bolivia and Peru country research in Annex I for examples). A related issue that can, for instance, be observed in Colombia, is the lack of coordination between area planning (local level) and sub-soil planning (national level).

⁶³ For further details and an overview of (general) (sub-/)regional organisations see STRADE Policy brief 05/2018: [Latin America's Policy Priorities on Mining and Sustainable Development, and Opportunities for EU Cooperation](#).

⁶⁴ For examples of institutions to cooperate with for the dialogue on raw materials on the national level, see Annex I: Bolivia and Peru country research.

⁶⁵ Government-initiated mineral commerce registry system in Colombia. Despite good approaches the system initially led to the massive legalisation of legalising illegal gold and money laundering before changes were implemented. The current impact balance of RUCOM is difficult to estimate as most recent changes have been implemented in December 2017.

⁶⁶ Gunpoint conservation refers to the direct or indirect protection of ecosystems caused/enacted by the presence of armed groups, e.g. the FARC in a few regions of Colombia.

Institutional strengthening of public authorities, especially at the local level, effective devolution of decision making power, coordination between and alignment of different ministries and government levels are key areas for which EU support is desired by Latin American mining sector representatives. And this especially as the EU is regarded as strong and a good example in decentralisation and coordination topics. Direct support is difficult, however, due to the geographical and historical differences and because the EU cannot interfere with these internal issues directly.

⇒ *STRADE recommends best practice exchange on devolution of decision making power and coordination among different government levels and institutions including formal communication channels (internal and with the society).*

Challenges lie, apart from law implementation, at social levels. Social issues are mostly associated to the relation of the mines with their surroundings, except in the case of ASM/LSM conflicts. Thus, exchange of best practices and research in competitive land use could be a way to support governments to develop new approaches to deal with these challenges. And the EU is also seen as strong on land planning/management.

Well implemented, this could impact identified issues and gaps in a way consistent with both donor and recipient visions, and ensure increased inclusion of externalities into mining planning, operation and closure via 1) Aligning and encouraging dialogue between different ministerial agendas competing for the same land (environment, agriculture, urbanism, mining, etc.); 2) Aligning and encouraging dialogue between different levels of government, leading to a clearer assessment of on-the-ground capacity and the development of local capacity; 3) Inclusion of informed local stakeholder demands into mining planning, through ESHIAs and other consultation/assessment mechanisms and their implementation and monitoring (community monitoring); 4) Establishing clear lines of communications (from the bottom) and grievance channels.

⇒ *STRADE recommends research and best practice exchange on land use management in order to support governments to develop new approaches how to deal with (social) challenges of the competition for land for different uses.*

⇒ *STRADE recommends technical assistance for the establishment of multi-purpose cadastres (integrating taxation, environmental and social costs and risks and valuation of economic activities) as well as for training of (local) government capacities.*

⇒ *STRADE recommends funding and training for civil society to establish: a) neutral platforms, national mining dialogue forums and other communication channels between civil society and government authorities (in the regions and the capital); b) (formalized) ESH impacts monitoring and reporting, accountability mechanisms on the local and regional level, community training on mining lifecycles, impacts, benefits and risks in order to strengthen community monitoring, reporting and decision making capacity.*

The adaptation and simplification of legal and regulatory frameworks is a very specific issue for Latin America, which is mentioned in many related policies and comes up repeatedly in reports as well as discussions and interviews with stakeholders from the region. This is clearly related to the above discussed discrepancy between the theoretical legal and regulatory framework and its practical implementation.

More laws do not necessarily translate into more results, yet there are still some significant legislative gaps (especially regarding concrete implementation guidelines and post-mine closure, e.g., in Colombia or regarding implementation guidelines, administrative coordination and ASM policy in Peru⁶⁷). At the same time

⁶⁷ For details see Peru country research in Annex I.

there is a lack of consolidated (readable) legal compendiums/information for stakeholders that do not have access to lawyers.

The robustness and reliability of implementation must be prioritized over pure optimization, i.e., the simplification of the legal and regulatory framework – while remaining effective – is key.

4.3. Mitigating environmental, social and human rights impacts and implementation of international best practice standards

While there are several EU-Latin America projects present in the field of support to, for instance, environmental, health and safety and community relations performance of mining companies, Canada's presence is clearly the most visible in this area, especially in countries with "new" LSM, such as Ecuador. Canada is especially recognized for their knowledge in socio-environmental management. **EU's engagements** are nevertheless considered as important and useful by stakeholders from the region and **should thus be continued. Existing agreements should be followed by tangible cooperation projects.**

Overall, there is a good legal and regulatory framework for socio-environmental management in mining (usually slightly better for environmental than for social concerns) in most countries (often European legal and regulatory frameworks are used as examples when drafting national legislation/regulations, especially in regards to social and environmental practices). Particular issues, such as **the development of policy and regulations to fully address the life-cycle of mining operations**, in particular post-mining/closure/rehabilitation, and including illegal/informal mining operations, have nevertheless been mentioned as areas, for which support would be desirable. **Implementation, monitoring and enforcement are a big challenge** (cf. 4.2). In Colombia, for instance, a lot of environmental legislation is not translated into implementation as there is no technical, financial and human resources capacity to implement it. Environmental legislation is, thus, regarded as just posing additional hurdles. Additionally, there are said to be new rules and restrictions coming up frequently, without considering their impact on the treasury, let alone the challenges in implementing them.

⇒ *STRADE recommends best practice exchange on policies and regulations addressing mine life cycle management and mine closure, including both, social and environmental aspects.*

Environmental impacts

Mine closure, legacies and land rehabilitation are priorities, especially for countries with significant illegal/informal mining. As the case from Peru (Annex I) shows, support from international cooperation may allow countries to map their environmental legacies. The topic is controversially discussed, however. The recuperation of mine wastes (especially ore containing contaminated tailings) can create value and additional opportunities, once legal issues have been solved. Some miners in parts of Latin America thus tend to use the low production efficiency (ASM often has a recovery rate of only 50%) and consequent considerations of reprocessing the tailings as an argument for lacking re-cultivation.⁶⁸

⁶⁸ In some cases they have actually reprocessed tailings, for instance while looking for a new deposit or when prices have risen. Oftentimes however, it is only an argument in disputes over re-cultivation with the government without any concrete reprocessing plans.

⇒ STRADE recognizes the importance of funding and technical assistance for mapping and rehabilitation efforts for legacy mines. The recommendation for the EU in partnership with other global leaders is to direct such assistance through an existing agency or institution which has the capacity to deal with these issues. Further evaluation has to be carried out to identify the suitable institution.

Water availability and quality are further priority topics and a frequent source of conflict in regions with semiarid to arid areas, especially when there is a high mine site density and a strong dependence of the poor population on mining, such as in the Andean plateaus of Peru and Bolivia.⁶⁹

An issue with high relevance for Latin America and the EU is the upcoming tremendous increase in lithium extraction from salt lakes in the Andes to supply the global battery sector. The biggest challenge is to make the extraction process water- and resource-efficient, so that the surrounding arid ecosystems in the Andes are not severely affected.

⇒ STRADE recommends that the EU supports technology development and application for lithium extraction in partnerships with local companies & academia. This also includes support for extensive environmental impact assessments and local stakeholder and community participation, which should be carried out carefully despite high lithium demand pressure calling for fast action. In particular, STRADE proposes an EU-Latin America working group which initiates the international development of a “best available techniques” guiding document for lithium extraction from brines.

Social impacts and community consultations

Although in many countries **legislation for the management of impacts on local communities is in place, it is not always robust enough and generally suffers from an implementation deficit**. In Colombia, for instance, only Environmental Impact Assessments (EIAs) are mandatory, without including the assessment of social impacts. The FPIC process, which is required when indigenous people are present (which is often the case) is then often used to force companies to look into social impacts. However, it may imply that communities have to block the project in order for this to happen. In Peru⁷⁰, legislation regulating the mining sector fails to adequately address the issue of social conflict. Here, it is thus called for enhanced measures to protect communities. Further, the localisation of consultations through the alignment between municipal level decision making and national level mining law, and the involvement of regional and local governments in the issuance of mining concessions should be increased (Columbia 2017) (cf. 4.2).

Traditionally, Mines have sometimes served as a ‘community service provider’ - and continue to do so - through their CSR efforts in areas of limited state presence. There is a need to coordinate agendas and to plan for the time after mine closure. In general, however, there is a **deficit regarding** how to obtain and maintain **SLO**, and how to frame the industry. This deficit will become more and more acute as countries are trying to capitalise increasingly on their mineral endowments, in particular in areas that had no mining yet or entirely new mining jurisdictions. **Community engagement, education on responsible mining practices and communities’ roles and means to enforce these, mediation and creation of dialogue spaces could be supported by the EU or other actors through funding civil society, jointly designed guidelines and the creation of knowledge and expert platforms.** Moreover, **community monitoring for certain environmental and social impacts would be a concept worth further exploration and support.** As a first step towards community monitoring, assistance with gathering and disseminating information on responsible

⁶⁹ For further details see Annex I: Country research Bolivia and Peru.

⁷⁰ See country research Peru in Annex I for example.

mining practices to communities could improve participation of the population, transparency and environmental management.

⇒ *STRADE's main recommendation is for the EU to support good governance in order to establish and enforce a more robust legal and regulatory framework in the field of social impact assessment and community protection. This would include building up state capacity for environmental monitoring and social consultation.*

In various Latin American countries, there are some very particular issues with undermining SLO, prior and popular consultation processes. Protest against or outright rejection of (industrial) mining projects during these consultations is sometimes initiated by “outsiders”, i.e. people who are not directly affected by the project. This misuse of these instruments makes the topic of FPIC and popular/community consultations a highly debated one in several Latin American countries⁷¹ and further undermines the few existing mechanisms to protect communities.

⇒ *STRADE: As interim solutions, the concept of community monitoring for environmental and social impacts could be further explored and the EU could provide funding for civil society as well as knowledge and expert platforms to assist with community engagement, education and SLO negotiations.*

One problem is that (sometimes radical) anti-mining environmentalist movements, supported by media campaigns against mining, try to instrumentalise community or popular consultations. Paired with some real grievances, a lack of confidence in the regular management and control of public environmental institutions over mining activities, a general lack of awareness of mining's importance as well as measures how to ensure that mining is done responsibly (e.g., community monitoring, grievance mechanisms, reporting), anti-mining movements are often successful. This is a similar pattern as in Europe, where often protests against mining projects are led by people from the next bigger city who are not at all affected by the actual project but consider it appropriate to protest for general environment protection reasons. There is thus great potential for new cooperation approaches in this field, jointly looking for solutions and exchanging best practices.

Another problem with regards to the misuse of prior and popular consultations is the fact that, in some countries, especially Colombia, parts of the Peruvian and Venezuelan Amazon, criminal groups (guerrillas, paramilitaries, criminal gangs that may be associated to (international) drug cartels, such as the Italian 'Ndrangheta, the Mexican Sinaloa Cartel, or criminal groups from China and Russia) have become increasingly involved in illegal extraction and trade of gold, sometimes using the gold business to launder drug money⁷². These groups reportedly misuse prior/popular consultation processes – as it has been reported, sometimes in cooperation with national and international NGOs – for their own interests. They influence concerned stakeholders to protest against industrial mining on environmental or similar grounds in order to protect their own illegal mining operations, i.e., to get rid of competitors and avoid regular presence of the state in the region. The government eventually sometimes denies licenses for industrial operations (even those that are known to operate responsibly) but does not crack down on the illegal operations, which use very irresponsible practices, cause a lot of environmental and social damage, exploit workers etc. Oftentimes, these operations classify themselves as small-scale or artisanal, but in fact they use heavy machinery and are far from informal subsistence activities.⁷³

⁷¹ See, for example, the forthcoming STRADE Policy brief on the STRADE workshop in Colombia.

⁷² <http://www.spiegel.de/plus/goldsucher-in-peru-die-hoelle-im-dschungel-a-00000000-0002-0001-0000-000158265318> (accessed 31.07.2018).

⁷³ Interview with mining sector stakeholder from Colombia.

4.4. Academic and technological cooperation and capacity-building

Overall, there is a high level of technical knowledge present in most South American countries. Many are, nevertheless, interested in **strengthening geo-data**; this is connected to the desire for more investment and improved access to finance, and has been mentioned as being highly relevant for countries such as Brazil, Colombia, Mexico, Chile, Uruguay and Guyana.

Cooperation projects are also desired in specific areas, such as **(water and energy) efficiency, underground mining, mining software, specialized technologies, introduction of multi-purpose cadastres and regional devolution of decision making power and government coordination** (cf. 4.2). Scientific cooperation should be expanded to **include aspects of responsible raw material exploitation**, for example regarding innovations in mine design and technology that reduce the mine's impact on environment and society.

In some countries however (cf. Bolivia country research in Annex I), problems also derive from “*the almost complete absence of mining education and training*” (Projekt-Consult 2013). Further, there is a lack of skills in the sector at all levels, e.g., to carry out geological surveys. In particular, there is a gap in the availability of (semi)skilled labour with technical education connected to mining operations and processing, further limiting the potential of the sector to incentivize and accommodate mining investment. This lack of capacity for the private sector is mirrored not only by a lack of capacity in the public sector (IADB, Bolivia 2013), but also by repeated failures to retain talent that was embedded into authorities via donor-funded projects. The issue of lacking qualified personnel is widespread in South America. Although it has been mentioned that there is a high level of technical knowledge this seems to be concentrated in too few people. The SCOT analyses⁷⁴ of all 7 countries participating in the MDNP have identified the lack of qualified personnel as a challenge or threat to the sector. This situation suggests that **in some countries basic technical capacity building and establishment or support of respective educational institutions is necessary** before considering cooperation in high-tech areas.

⇒ STRADE: EU support and cooperation projects are recommended in the following areas: *strengthening geo-data, (water and energy) efficiency, underground mining, mining software, specialized technologies, introduction of multi-purpose cadastres and regional devolution of decision making power and government coordination.*

A DANIDA (2017) evaluation of their ODA projects in Bolivia warns, however, that the value-added and sustainability aspects of capacity development interventions should be carefully considered and addressed with a context-specific design with a particular view to power relations and incentives in order to retain qualified personnel and not lose it to better-paying competitors or exchange it after elections. Although this is based on an observation from Bolivia, statements of mining sector experts in other countries suggest that a similar problem might exist there, too.

Technology transfer (as direct as possible to users) is recommended, provided that the technologies are well adapted to the local context.

⇒ STRADE: *Due to its linguistic and cultural homogeneity cooperation and learning with other Latin American countries is favoured and enacted rather efficiently. The EU could support local, regional and supra-regional knowledge networks within and including Latin America that would include an exchange of technical solutions adapted to specific contexts.*

⁷⁴ MDNP SCOT analyses: <https://www.mineralplatform.eu/tools/country-fiches> (accessed 04.10.2018).

4.5. Supporting the ASM sector

Artisanal and Small-scale Mining (ASM) is an important topic in many Latin American countries and provides livelihoods for many people, especially in remote areas. It is, nevertheless, associated with many problems, especially connected to environmental impact, and, in some areas, where there is a lot of illegal mining by criminal groups, also to human rights abuses. Specific challenges relate to ASM formalization; clean technology and mercury reduction/elimination; general environmental impact mitigation; negative social impacts, such as human trafficking and child labour as well as on indigenous populations; adapted technologies; market access and illegal trade/smuggling; certification and due diligence; access to finance; the combination of mining with alternative livelihoods; high politicization of the cooperative sector; and the design of holistic ASM governance frameworks and policies.⁷⁵

To solve these challenges, it is generally important to work bottom-up with miners at the local level. Cultural appropriateness of interventions in ASM is often lacking. It is important to acknowledge the miners' skills and competencies and their understanding of the challenges they are facing in order to work with them on a sustainable solution. At the national level, open and trustful dialogue is important, but rolling out necessary measures is very time consuming and often clashes with political cycles/elections.

On the macro level, considerable efforts need to go into the **design of holistic policies and adaptation of legal instruments, particularly looking at formalisation strategies and mitigation of impacts**. It has to be noted that (successful) formalization mainly depends on the institutional framework. In some countries, such as Chile⁷⁶ and Peru, this framework is satisfactory, in others, such as Colombia, this is hardly given, and thus considerable effort has to be placed on that issue first.

On the micro level, **the implementation of ASM formalization, including better internalization of externalities**, i.e. the mitigation of operational impacts are most important challenges. Furthermore, efforts towards **certification should be encouraged and supported**, thus strengthening formalization efforts and implementation of best practices.

A number of governments wish that ASM would develop into Medium-Scale Mining (while internalizing externalities) or be replaced by alternative livelihood activities. Keeping in mind that alternative income generation activities often pay less or are not possible in remote regions, ways to internalise external impacts should be explored and facilitated (e.g., through the establishment of different legal provisions for ASM and Large-Scale Mining (LSM), and technical support to miners) and incentivized with negative (enforcement) and positive (credit with strings attached, provision of technical support or geological information, etc...) incentives.⁷⁷ Nevertheless, for external donors, it is recommended to **include ASM support in broader rural development programmes** that foster the parallel execution of several different livelihood activities and also aim at land use management.

⇒ *STRADE recommends for the EU to include ASM support components in broader long-term rural development programmes.*

⁷⁵ For further details on these issues see STRADE Policy Brief 09/2017: [The ASM Sector and its Importance for EU Cooperation with Resource-Rich Developing and Emerging Countries](#) and Annex I: Bolivia and Peru country research.

⁷⁶ In Chile, the decisive advantage is that mining generates considerable revenues while hardly affecting the population due to the remoteness of operations.

⁷⁷ Cf. [IGF guidance for Governments: Managing Artisanal and Small Scale Mining](#) (accessed 17.07.2018)

Yet, ASM issues are extremely context dependent. General **policy recommendations on content cannot (and should not) be made**. Processes, however, can be recommended. Implementation of the best available practice⁷⁸ should be encouraged, but implementation of broad based consultations takes time, meanwhile administrations change and such a big effort cannot be well developed and implemented. What is interesting to note is that formalization of ASM already involves regional authorities such as the Andean Community and the Amazon Parliament, reflecting the transnational importance of this issue (Projekt-Consult 2013).

⇒ STRADE recommends for the EU to support national governments and regional organisations on their governance agendas regarding the management of the ASM sector. This could be done through funding regional and supra-regional best practice exchange.

While the EU and MS are not the most active donors in the Latin American ASM sector, (USAID has the most visible presence, Swiss SDC is also historically present), **interventions should be continued in** areas of specific expertise (such as **environmental impact mitigation**⁷⁹, **management of mining legacies or formalization and certification**). A further idea is to support the establishment of collective EIAs for ASM operations⁸⁰, as has been successfully piloted in past assistance projects. Technology driven solutions (cleaner mining) for ASM have often operated on a “*design first, find the mine after*” basis. **Cleaner technologies should be more adapted to specific mines** and possibly tailored to specific needs in situ and with the miners.

⇒ STRADE recommends continued support in areas of successful current or past technical assistance projects of the EU or MS, such as environmental impact mitigation, management of mining legacies or formalization and certification. In the medium- term, ongoing stand-alone project activities should be integrated in broader long-term programmes.

Additionally, the EU could become active in **new support areas**, such as **CMR accompanying measures** aiming at improving the ASM sector’s capacity to comply with the regulation and to implement responsible mining practices as well as **Minamata Convention implementation**⁸¹, i.e., the reduction of mercury use in artisanal gold mining through the introduction of cleaner technologies.

⇒ STRADE recommends supporting the ASM sector to comply with the EU CMR and through CMR accompanying measures aiming at the implementation of responsible mining practices more generally.

⁷⁸ [IGF guidance for Governments: Managing Artisanal and Small Scale Mining](#) (accessed 17.07.2018); most Latin American countries are part of the IGF.

⁷⁹ For details see STRADE Policy Brief 09/2017: [The ASM Sector and its Importance for EU Cooperation with Resource-Rich Developing and Emerging Countries](#); STRADE Report 03/2018: [Successful implementation of conflict mineral certification and due diligence schemes and the European Union's role: lessons learned for responsible mineral supply](#); IDB (2013) – Bolivia, Annex I: Bolivia and Peru country research.

⁸⁰ This has been successfully implemented in Ecuador. For more information see STRADE Policy Brief 09/2017: [The ASM Sector and its Importance for EU Cooperation with Resource-Rich Developing and Emerging Countries](#) and Wotruba et al. 1998.

⁸¹ Past EU and MS projects in the domain of environmental impact mitigation often included components on mercury reduction and elimination, for example the German-funded ‘Reduction of environmental pollution through small-scale mining in Bucaramanga, Colombia’ project, implemented by BGR from 1997-2012 (https://www.whymap.org/EN/Themen/Zusammenarbeit/TechnZusammenarb/Projekte/Abgeschlossen/Archiv/Lateinamerika/736_2001-2225-9_Kolumbien_Kleinbergbau_Bucaramanga_en.html, accessed 17.07.2018).

⇒ STRADE recommends for the EU to support the implementation of the Minamata Convention on mercury. It should be discussed with experts, whether channelling funding through GEF would be fruitful or whether a different approach is more promising.

4.6. Effective implementation of the EU CMR and support for responsible sourcing

The EU's Conflict Minerals Regulation will require most EU importers of tin, tantalum, tungsten and gold from conflict-affected and high-risk areas (CAHRAs) to comply with, and report on, supply chain due diligence obligations. The objective is to improve human rights conditions and curtail funding for armed groups in CAHRAs.

The direct conflict link and thus immediate application of the CAHRA definition is only relevant for selected countries, such as Colombia. However, it should be noted that countries such as Venezuela, Mexico, Peru, and Brazil are not necessarily out of scope either⁸². The discussion on 'legality' and conditions of production is definitely important for many countries. Moreover, the infiltration of mineral production from neighbouring countries into a country's mineral supply chains may pose additional risks, in particular in the case of gold.

The impacts of the EU CMR⁸³ on ASM producers in CAHRAs and other countries/regions to which the regulation might apply should be monitored from the onset. Regulations should not be an extra burden for legitimate and legal mining. **Support is needed for the facilitation of compliance and cost sharing as well as certification of best practice cases.**

EU institutions should partner with host countries to provide ASM miners with consolidated and abridged legal codes that are updated as needed, which present them their rights as well as all the relevant information for formal operation, certification, formal exports, and exports to EU countries in a clear, understandable, and actionable language in a single document. It should also be thought about **specific support programmes for ASM operators to reach the required standards** and information about these programmes be widely disseminated.

Further, the **EU should engage with host countries to analyse whether a system of "trusted" exporters towards the EU can be implemented for certified sites.** **Export facilitation** (wide dissemination of simplified procedures, e.g. development of export guides, establishment of help desks – cf. 3.3) and **capacity building** are important. Experience shows that formal export procedures can be very challenging for small-scale miners, even for Fairtrade (FT) or Fairmined (FM) certified operations. OECD support to customs authorities is also a good example in this respect.

Risk assessments for companies sourcing from Latin American CAHRAs should be supported. **Community monitoring may be a possible solution** in areas with limited state presence, but it has not yet been (extensively) piloted.

Countries trying to enter the OECD (Colombia, Argentina) see this as a key incentive for regulatory/policy alignment, including promoting the observance of the OECD DDG⁸⁴. However, this does not necessarily

⁸² Venezuela and Mexico due to their current (political) situation, for Peru and Brazil it might only affect the Amazon territories with a high presence of an illegal mining sector at least partly controlled by organised criminal groups.

⁸³ For detailed recommendations to support the implementation of the EU CMR and other conflict mineral certification and due diligence schemes see STRADE Report 03/2018: [Successful implementation of conflict mineral certification and due diligence schemes and the European Union's role: lessons learned for responsible mineral supply.](#)

⁸⁴ Additionally, Peru is one of the eight non-OECD members that adhered to the Recommendation of the Council on the OECD DDG, to the same effect.

translate into enough **capacity on the ground to reach successful implementation**, calling for support in that regard.

⇒ *STRADE recommends to monitor impacts of the EU CMR, especially on ASM producers, to support ASM producers in the implementation of EU CMR requirements, and to facilitate exports of minerals falling under the CMR's scope.*

It should be **ensured that efforts made in third countries to design, implement, strengthen and promote EU CMR compliance in host countries simultaneously strengthen the governance of other mineral sectors**, including sub-sectors with limited direct or obvious connection to the EU, such as construction materials. These are usually extracted for the local market and not exported to the EU. However, machinery and other equipment used to mine these materials may be supplied by the EU or MS, meaning that some degree of connection cannot be excluded.

Support should ideally extend beyond the EU CMR towards responsible mining. To this effect, host countries' data gathering and analysis could be complemented via the coordinated funding of relevant field research in regions and sectors linked to EU imports, thus preventing the emergence of the next mineral supply chain scandal, as were cobalt and mica, and to a lesser extent talc.

Furthermore, the understanding of illegal minerals trade and markets needs to be integrated in the implementation of projects on responsible supply chains, and the creation and implementation of mitigation measures supported that are resilient to the impacts of the illegal mineral trade and that can be implemented across borders and at regional level.

It should also be noted here that Latin America has the highest presence of 'premium standards' initiatives, such as Fairmined (FM), Fairtrade (FT) and RJC CoP. There is (probably higher than elsewhere) potential in Latin America for responsible mining certification. FT/FM certifications have started here, and several other initiatives fostering and certifying responsible ASM are active today showing that it is possible⁸⁵. This is, however, also a consequence of the continued support to ASM cooperatives and operations over extended periods of time. Responsible mining (in both, ASM and LSM operations) is also driven by NGO/public/media pressure in many cases, which adds to international demand and national regulatory requirements. Some dialogue partners have pointed out that many EU mineral buyers attach importance to the compliance with certain standards. Nevertheless, Latin American dialogue partners advocated for the **EU to increasingly demand the compliance with responsible mining standards**, especially regarding environment and human rights. To this end, the EU could also join relevant international forums or industry initiatives through which the EU can exert leverage on the development of best practice, such as the Intergovernmental Forum on Minerals Metals and Sustainable Development (IGF), which has a significant presence in Latin America. **Support to mineral production certified to premium standards** – even though it might remain a niche product for jewellery – should be continued as these certifications make a real contribution to improving conditions in the ASM sector.

⇒ *STRADE recommends to explore ways how the implementation of the EU CMR can simultaneously strengthen the governance of other mineral sectors and to extend EU CMR implementation support to include broader responsible mining.*

⁸⁵ For details see STRADE Report 03/2018: [Successful implementation of conflict mineral certification and due diligence schemes and the European Union's role: lessons learned for responsible mineral supply](#) and Peru country research in Annex I.

Further support could be directed at EU industry associations to increase downstream mineral users', especially SME's leverage regarding responsible mineral demands on mid- and upstream operators. This could be framed as part of the establishment of development partnerships. One idea would be to set up a fund, managed by industry associations, to which EU companies could contribute and out of which projects to improve responsible mining practices in the ASM sector could be financed.

4.7. Promotion of responsible investment, mineral marketing and trade

While this was not one of STRADE's core research areas, it is important to acknowledge that a number of Latin American countries aim to attract more (responsible) investment in their mining sectors and look to strengthen the marketing and trade of their minerals.

The EU has recognised the need to increase efforts in this direction and has financed the [EU-Latin America MDNP](#) (cf. 4.1), which is still in an infant stage but has the potential become a viable tool for investment promotion in the future. Further actors of interest in this area are the Eurochambres and the mining centres within the German Chambers of Commerce.

The Raw Material Partnerships, for instance, which Germany concluded with Chile and Peru, are one instrument of trade promotion. While these agreements were regarded as a promising measure to secure access to raw materials for the German economy, they have soon been criticised for the inherent conflict of interest between the German side mainly looking at access to raw materials and the Chilean/Peruvian side mainly hoping for technology transfer and investment in their mining sectors. Moreover, the agreements were criticised for not sufficiently addressing questions of responsible mining and sustainable development. They have also not succeeded in boosting German investment in the partner countries' mining industry (which is not surprising considering that very few German companies are still active in mining) and thus resulted in a lot of frustration on both sides⁸⁶. Meanwhile, it has become silent around the partnerships in Germany as well as the Latin American partner countries. Similarly, the EU has signed political agreements and letters of intent for raw materials with Chile and Uruguay as well as a joint press release with Argentina, Columbia, Mexico and Peru. Neither the EU, nor the German raw materials agreements/partnerships were mentioned by any of the Latin American mining sector representatives during STRADE's dialogues, suggesting that they do not play an important role in the resources cooperation.

⇒ STRADE: Further research on measures to promote (responsible) investment and trade and development of recommendations is advocated.

⁸⁶ http://www.kas.de/wf/doc/kas_36104-544-1-30.pdf?131120143826

5. Africa

When discussing raw materials cooperation with Africa, the historical legacy of colonialism has to be acknowledged. While some representatives of African countries will distinguish between different European countries – those that have a colonial history with the particular country and others (which are seen in a more positive light) – and yet others will compare European to Asian, especially Chinese, actors and highlight the advantages of engaging with the Europeans. In general, it should be kept in mind that not all European actors may be associated with exploitative colonial powers.

Nevertheless, the historical legacy needs to be considered when designing cooperation actions. For example, some may regard capacity building measures – highly valued by numerous stakeholders and generally perceived as important for African economic development – as directions from ‘know-it-all Europeans’ instructing Africans on how to manage their economy, their natural resources and their people.

The perception of European actors in the African mining sector is diverse. Actors associated with the EU range from EU Delegations and EU-financed programmes/projects and CSOs to MS agencies, or projects funded by MS and European mining companies, investors and traders, some of which may represent the former colonial powers. Cooperation with European actors (public as well as private sector) is sometimes seen as comfortable. At other times compliance with stringent requirements, e.g. for export to the EU, is considered tough. But overall European actors are regarded as honest, serious and reliable⁸⁷.

Only some mining sector representatives make a clear distinction between public (EU Delegations, international cooperation agencies and ODA programmes/projects funded by EU/MS) and private sector actors, stating that the former mainly aim at increasing good governance and transparency in the mining sector, sometimes including socio-environmental dimensions of sustainable development, while the latter were mainly interested in profit and disrespecting the environment and local communities⁸⁷.

The dialogue with representatives from African mining countries revealed that there is no clear profile of the EU visible with regard to the mining sector in Africa.

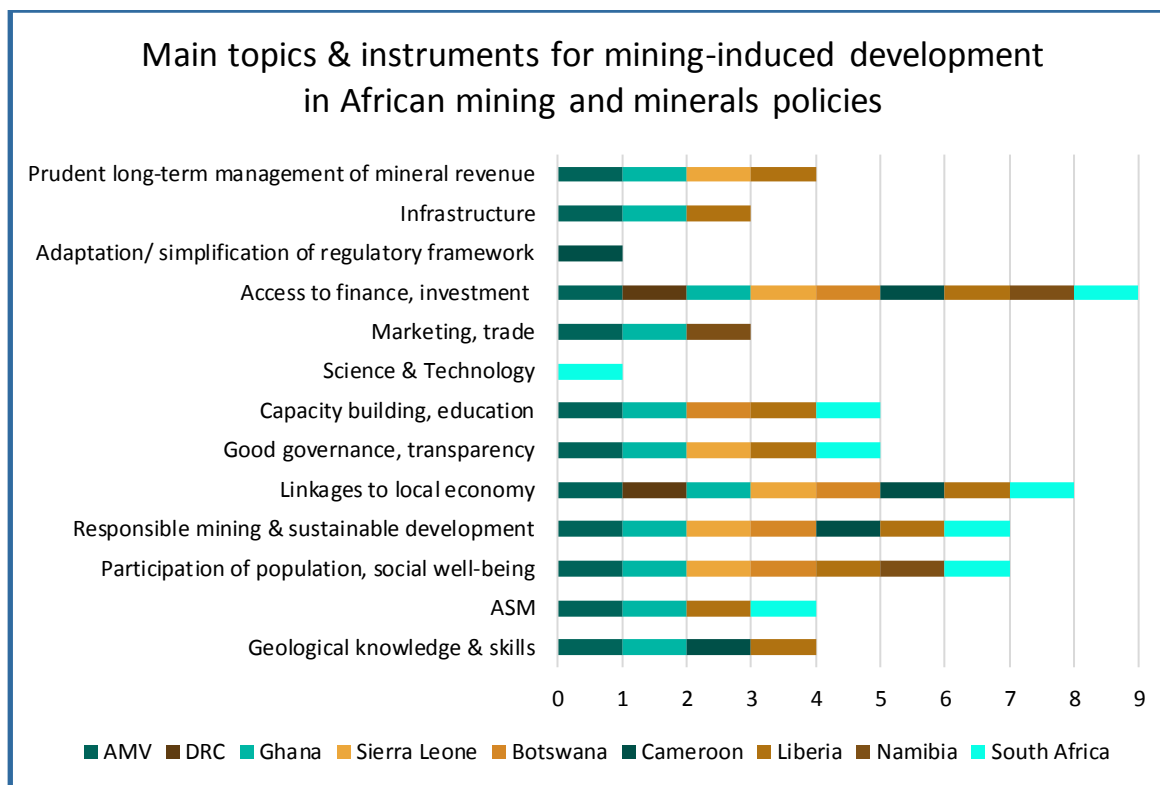
There is consensus in that the role and the visibility of the EU in the mining sector should be strengthened in the future. However, there are critical reflections that the EU will unlikely be in a position to win the market competition against Asian actors in regions where Asian companies/projects are already well established, such as in Central Africa⁸⁷.

The EU's strengths in exploration, good governance, institutional development, environmental reclamation, human and employment rights for women and men are deemed important. Some voices would favour more EU support to the private sector instead of projects focusing on the government level. This includes support for the implementation of standards. Others, however, prefer the EU to engage in areas where it is known to have a lot of expertise, namely exploration and good governance/ institutional capacity building⁸⁷. Therefore, the role of the **EU to support better governance is seen through both its private and public actors**.

Figure 5 summarises the main topics and instruments for mining-induced development mentioned in African mining and minerals policies.

⁸⁷ For details see STRADE [Evaluation of Stakeholder Surveys Central Africa](#).

Figure 5: Summary of African mining and minerals policies



Source: Projekt-Consult's analysis based on countries' resource policies⁸⁸.

The African Mining Vision (AMV), adopted by the African Union in 2009, is the continent's key strategy for its mining and minerals sector development. The AMV sees the extraction of mineral wealth as a catalyst for structural transformation in the medium and longer term to ensure more equitable, intergenerational social and economic development in a more sustainable and environmentally friendly manner and thus contribute to achieving the SDGs. This perspective implies stimulating local transformation of minerals and developing linkages with mining supply and services as well as with other sectors of the economy (agriculture, transport, energy). Almost half of all African countries⁸⁹ and several Regional Economic Centres are working on the integration of AMV principles into their national country mining visions (CMV) or regional mining visions. In the analysis presented in Figure 5, 3 (DRC, Ghana, Sierra Leone) out of the 8 countries analysed have aligned or are in the process of aligning their CMV to the AMV.

Regional integration is key for industrialisation, infrastructure etc. **Thinking beyond the national level, towards resource/industrialisation/development corridors is important and thus EU cooperation with RECs recommended.** The RECs could be directly supported in the development and implementation of regional mineral-based development strategies. Support for regional centres of excellence for minerals and mining, including human resources development, research, development and innovation and governance (cf. 5.2) is another recommendation. The latter is an area that has been identified for the application of a 'new partnership approach' with a potential win-win involvement of institutions from both, Africa and Europe.

⁸⁸ See list of policy documents analysed in the references section.

⁸⁹ For more on AMV implementing countries see: <https://www.slideshare.net/UNECA/AMDC/overview-amv-implementation> (accessed 11.08.2018).

The development barrier caused by the lack of infrastructure (especially transport and energy) is a very particular concern for Africa. With very limited railways, roads and navigable rivers, transporting the resources exploited inland to the often far away coast is a major challenge. The lack of affordable electricity is a constraint especially for local processing⁹⁰. The limited infrastructure also poses a problem to “mineral/mining linkage sectors” and the economy as a whole. The AMV suggests tackling the problem by the introduction of the above-mentioned development corridors.

The EU has taken up the problem of infrastructure development as well as the development corridor idea in the Joint Africa-EU Strategy Action Plan 2011-2013⁹¹ and a related workshop, the EU-Africa Roadmap 2014-2017⁹², as well as in a specific workshop on infrastructure for the minerals sector, which was jointly organized by the AU and the EU in 2015⁹³. The EU agreed to continue its support for related programmes. The EU-Africa Roadmap 2014-2017 also mentions some raw material specific areas, such as transformation at the source, transparent management of natural resources, and cooperation in issues, such as geological surveys, mineral resources governance, investment, and skills development, among others. However, results have been limited.

⇒ STRADE recommends that the EU actively support the implementation of the African Mining Vision.

⇒ STRADE recommends to evaluate the high-level EU-Africa cooperation and assess why results have been limited in order to improve the strategies' implementation.

Human rights concerns are often framed around conflict (especially in the ASM sector) and corruption within governments. In addition, the issue of social rights is linked with the spending of resource revenues, focusing on how governments use such revenues to deliver better living standards for its people. Environmental issues arise from a lack of implementation and monitoring of international best practice standards. Poor mine rehabilitation and its continued impact on communities is a further issue that was identified.

Some additional general points to consider before discussing topics for cooperation in detail:

The role of China going forward is important. There has been a late realisation of the limited benefits from the Chinese model (infrastructure for raw material access). **The EU should be wary that any ‘new partnership’ approaches it wants to introduce are clearly distinguishable from the Chinese model. In general, the consultations revealed that many African mining sector stakeholders seem to be a little uncomfortable with the idea of moving away from traditional ODA towards new partnership approaches.** This might be connected to a fear to lose ODA engagements, and maybe also to the historical legacy of colonialism and a consequent lack of trust in being regarded and treated as equal partner.

⁹⁰ For an example from Rwanda see STRADE Rwanda Case Study: [STRADE Country case studies: Rwanda and Democratic Republic of the Congo](#).

⁹¹ Joint Africa EU Strategy Action Plan 2011-2013. http://www.africa-eu-partnership.org/sites/default/files/documents/doc_jaes_action_plan_2011_13_en_1.pdf (accessed 19.04.2017).

⁹² Fourth EU-Africa Summit, 2-3 April 2014, Brussels: Roadmap 2014-2017. <http://www.consilium.europa.eu/en/press/press-releases/2014/04/pdf/Fourth-EU-AFRICA-Summit-ROADMAP-2014-2017/> (accessed 11.06.2017).

⁹³ <http://www.africa-eu-partnership.org/en/newsroom/all-news/eu-au-joint-session-infrastructure-minerals-sector> (accessed 09.05.2017)

⇒ STRADE: With the alternative Chinese finance and assistance to Africa model, it is strongly recommended that the EU reinvigorate its diplomatic relationship with African countries. On raw materials, this would include a commitment under the RMI to respect and support the development agendas of the EU's raw material partners. A clear acknowledgment of the importance of Africa's raw materials for the EU - including those that flow from Africa via China to Europe, would be required.

5.1. Institutions to involve in resources cooperation

The African Mining Vision (AMV) is the first continent-wide mining policy since the World Bank's 1992 Strategy for African Mining, which recommended that "governments focus on industry regulation and promotion and private companies take the lead in operating, managing and owning mineral enterprises". The African Union (AU) agenda is to have this tool implemented by regional boards and individual member states. To this end, the African Minerals Development Centre (AMDC) was set up to coordinate the implementation of the AMV, as adopted at the highest levels of African leadership, by AU Heads of State and Government. The AMDC is currently housed within the United Nations Economic Commission for Africa (UNECA) and operates under the leadership of the AU Commission⁹⁴. The AU is campaigning for the development of Country Mining Visions (CMVs), which are an adaptation of the AMV to country's realities. This means, the main principles and objectives of the AMV are also valid for individual CMVs. The 24 AU member states are in various stages of implementing the AMV through CMV processes, while four out of eight Regional Economic Communities (RECs) and the International Conference of the Great Lakes Region (ICGLR) are supported by AMDC in research and policy analysis on specific aspects of the AMV, capacity building initiatives for policy makers/institutions, and full harmonization of regional mining policies with the AMV⁹⁵. Specific support can go to the AMDC in assessing the effective implementation of AMV and support recommendations for a better and more effective AMV in mineral-rich African countries as well as to the implementation in some pilot countries.

EU-AU cooperation has proven difficult in the past, whilst cooperation with the RECs appears to have more scope for focused/actionable work. Given the diverse countries, cultures, economic conditions and governments in different African sub-regions, effective strategy implementation at a national/regional level, rather than at a continental level, is more likely. This makes a strong case for the EU to work more closely with the RECs. Compared to national governments, RECs have a long-term vision as they focus on regional competitive advantages and needs, whilst still maintaining a continent-wide outlook. Another advantage of working with RECs that has been mentioned, is where individual countries may not be strong on bi-lateral cooperation but are more likely to cooperate through the RECs. The EU could thus renew its support of RECs and further support the AMDC in their efforts to implement the AMV, especially in their regional outreach, e.g. establishment of regional offices⁹⁶.

⇒ STRADE: The EU needs to respect the centrality of the institutions of the AU (and hence the AMDC) to the raw materials discourse in Africa. Given the diversity of governments and institutions in Africa, STRADE recommends coordination with the RECs for effective regional focused engagements.

5.2. Governance structures in host countries

Functioning governance structures are paramount for the successful development, monitoring and enforcement of regulations as well as the implementation of public support programmes. This is relevant for

⁹⁴ <http://www.drcminingweek.com/AMDC-interview#popup>

⁹⁵ <https://www.oxfam.org/sites/www.oxfam.org/files/bp-africa-mining-vision-090317-en.pdf>

⁹⁶ For examples of institutions to cooperate with for the dialogue on raw materials on the national level, see [STRADE Country case studies: Rwanda and Democratic Republic of the Congo](#).

the management of the entire minerals and mining sector, from managing resource potential data, to supervising mining projects and managing mineral revenue. Governance capacities need to exist, coordinate and align their agendas across all different vertical levels, from national, regional to local as well as across different horizontal levels (inter-ministerial coordination). Parliamentary oversight should be promoted as a critical level of supervision. The starting point is the mere government presence on the ground. **Strengthening local governance capacities** cannot be overemphasized in this regard. Institution building and specific training for government officials are important. The DRC example illustrates well what may happen if the state is absent from most of its territory⁹⁷. The EU and MS are traditionally strong in governance support projects, which should be continued, albeit with the necessary sensitivity.

While African stakeholders generally believe that improving governance in the mining sector is important, it is also stated that **political will for governance improvement is low**. It was hence suggested that the **EU could increase political pressure on governments in this regard and offer practical support**.

⇒ STRADE recommends to continue ongoing EU and MS support for improved governance at the national level and strengthening local governance capacities through development assistance programmes. Sustained pressure on African government leaders to continue improvement in governance and democratic structures should continue.

While best practice standards, transparency, due diligence and certification initiatives, etc. are used to fill the governance gaps, and the cooperation with formal listed companies is seen to reduce the risks of non-compliance, the mine case study from DRC⁹⁸ shows that formalisation and cooperation with listed international companies does not preclude irregular practices. Even “low-risk” European head-quartered companies may be working to lower standards when operating in badly regulated or governed territories. This may result from a compromise between following best practices (voluntary) with the ‘cost of doing business’ in such jurisdictions. This supports two general principles of raw material engagement: 1) The importance of a global level playing field, where all parties implement best practices and 2) The need to evaluate the effectiveness of regulation vs. voluntary initiatives in order to avoid a race to the bottom. Enhancing governance structures will contribute to the attraction as well as the execution of responsible mineral projects.

⇒ STRADE: While focused due diligence requirements address a gap in governance, in the long term the EU must support improvement in overall governance structures, as this assists international companies in operating under best standards as well.

5.3. Mitigating environmental, social and human rights impacts and implementation of international best practice standards

There are particular concerns around the application of responsible mining performance standards that go beyond statutory requirements; the quality of Environmental and Social Impact Assessments (ESIA); the integration of environmental and social impact in wider social and economic planning; and planning for mine rehabilitation from the start of a mine⁹⁹.

Further support is needed to **enhance governance capacities** (cf. 5.2) to ensure the monitoring and implementation of standards, as well as the existing legislation regarding environment, health and

⁹⁷ See STRADE DRC Case Study: [STRADE Country case studies: Rwanda and Democratic Republic of the Congo](#).

⁹⁸ STRADE DRC Case Study: [STRADE Country case studies: Rwanda and Democratic Republic of the Congo](#).

⁹⁹ For details on all these issues see STRADE Policy Brief 04/2018: [Africa & the European Union – Renewing Sustainable Partnerships in the Extractives Sector](#). For specific examples see STRADE Rwanda Case Study: [STRADE Country case studies: Rwanda and Democratic Republic of the Congo](#).

safety, human rights and social/community issues. The EU has extensive experience in this regard, which could form a basis for collaboration.

It is widely acknowledged by EU mining and exploration companies that in Africa they cannot be successful just doing business, but they have to take development, CSR, and local poverty levels into account and become, to a certain extent, development partners (and some at least see themselves as such). However, it has to be kept in mind that where this is successfully realised it bears the risk of these companies assuming functions of the state (as providers of social services for instance). This makes planning for beyond mining all the more important.

Mining sector stakeholders from different parts of Africa mirrored the aforementioned stating that EU company principles are, overall, judged on sustainability, environmental awareness, labour rights, and broad consistency and respect for the local laws of the host country. This is one reason why some countries would welcome more investment of EU companies. How to regulate – or hold to account – the black sheep, which of course also exist, is another question¹⁰⁰ and would need to start with understanding the different business models and risk thresholds present across EU investors.

⇒ *STRADE: EU support is recommended for capacity building and institutional strengthening of African regulators to improve monitoring and enforcement capacities for legislation regarding environment, health and safety, human rights, social and community issues.*

5.4. Academic and technological cooperation and capacity-building

The main issue for Africa under this heading is addressing the knowledge and skills gap¹⁰¹. This is also closely related to the creation of resources linkages (cf. 5.7). STRADE recommends (ongoing) EU support in the following fields:

Support for particular skills needed including basic Science, Technology, Engineering and Mathematics (STEM), business, contract negotiations, mineral economics, commodity markets, planning, modelling, environmental sciences as well as ICT. University cooperation has been very successful over the last decades and should be continued. The development of regional centres of excellence for minerals and mining and partnerships of involved academic institutions with EU universities would be a good next step and an area for the application of a 'new partnership' model with joint research ventures and two-way exchanges. This could also contribute to R&D efforts to support wider industrialisation. Additionally, more emphasis needs to be placed on Technical and Vocational Education and Training (TVET).

Continued support for geo-surveys. This relates to STEM skilling, research, development and innovation. Partnerships and twinning are also good instruments here. Improving geo-data, followed by exploration and an increase in the mineral reserve base are important for Africa also in terms of sustainability of the mining and minerals sector. Ongoing projects, such as [PanAfGeo](#) should be continued.

⇒ *STRADE: The EU should continue its current support for STEM skills, 'soft' sciences and for geo-surveys.*

On the private sector side, in Central Africa, the few EU companies active in the study zone are appreciated to have a technological lead against Asian and partly to non-EU enterprises. The European companies are

¹⁰⁰ For further information on this see STRADE DRC Case Study: [STRADE Country case studies: Rwanda and Democratic Republic of the Congo](#) and STRADE Policy Brief 01/2018: [Holding European Business Responsible](#).

¹⁰¹ For details see STRADE Policy Brief [Africa & the European Union – Renewing Sustainable Partnership](#)

rated as the better exploration experts with outstanding competences. Many representatives of the Central African mining sector thus wish for more direct investment of EU companies in the mining sector. This is connected to the hope for a more sustainable mining sector, respecting the environment, surrounding communities and workers' rights as well as knowledge and technology transfer¹⁰².

⇒ STRADE: The EU should consider, through the European Investment Bank, financial support for EU companies (mining & equipment suppliers) for operations in Africa. Creating access to market intelligence on potential mineral related opportunities is another avenue of support to encourage European businesses in Africa.

5.5. Supporting the ASM sector

The ASM sector plays a large contributory role for rural livelihoods and development in Africa, both directly and indirectly impacting local economies. At the same time, the sector is associated with a host of challenges, such as social and environmental impact; conflict over alternative land uses; worker exploitation; and the question of legitimacy of operations.

In general, support towards scaling-up from artisanal to small-scale mining could benefit some operations but is not necessarily envisioned for the entire sector. **Micro-scale artisanal mining, in parts combined with alternative income generating methods, might be a viable livelihood strategy for many miners.** Efforts towards formalisation would still be beneficial in order to protect the miners, increase their creditworthiness and improve access to support measures. It has to be noted though that formalisation, in isolation, is not a panacea. In DRC, for instance, risks associated with formalisation are related to 'dispossessing' artisanal miners to the advantage of local elites through predatory "cooperatives", and large businesses, which would not significantly improve living standards of artisanal workers¹⁰³. Where formalisation is out of scope, for instance due to the remoteness of operations and lack of state presence at the local level, or due to their dynamic character, at least basic measures should be taken to legalise operations, protect workers against exploitation and mitigate adverse environmental and social impacts.

In terms of assistance from the EU through ODA programmes (rather than single projects) both, artisanal and small-scale miners would benefit from **access to geological information, technology and skills**. In general, it is important to keep in mind that **the sector is extremely diverse and there is no 'one size fits all' solution**. Short-term, stand-alone support projects have not been very successful in tackling the challenges of the sector and making the activity more sustainable. The EU ODA programme approach should consider **integrating ASM in larger rural development programmes with a wider scope and a longer time horizon**¹⁰⁴. Within these programmes, implementation of the best available practice¹⁰⁵ should be encouraged.

The dialogue with mining sector representatives from Central Africa revealed that European actors, at least in that sub-region, are regarded as having serious shortcomings in the ASM sector. Capacity development and institutional reforms stimulated by EU programmes exist, but they are mainly focused on urban areas, the state's capitals and the national government level. There is less knowledge how cooperatives could be used

¹⁰² For details see STRADE [Evaluation of Stakeholder Surveys Central Africa](#).

¹⁰³ For more details see STRADE DRC Case Study: [STRADE Country case studies: Rwanda and Democratic Republic of the Congo](#)

¹⁰⁴ For more information, see STRADE Policy Brief 09/2017: [The ASM Sector and its Importance for EU Cooperation with Resource-Rich Developing and Emerging Countries](#) and STRADE Policy Brief 04/2018: [Africa & the European Union – Renewing Sustainable Partnerships in the Extractives Sector](#).

¹⁰⁵ [IGF guidance for Governments: Managing Artisanal and Small Scale Mining](#) (accessed 17.07.2018).

best to develop the ASM sector, strengthen the capacities of local stakeholders and thus contribute to wider rural development. Here, the Chinese, Asian and other non-EU countries make the better deal, but it focuses almost exclusively on profit and business from geological resources. By comparison to EU companies, the Asians have an easier access to local ASM workers in understanding local mentalities better. This creates genuine network connections to the benefit of Asian companies involved in cooperatives. It is extremely rare that EU companies – if they exist at all – encourage active participation in ASM cooperatives in the smaller mining business. Mining sector representatives from Central Africa stated that an engagement in rural areas and cooperatives in the ASM sector were particularly important¹⁰⁶.

⇒ *STRADE: To support the ASM sector, EU/MS support should be in the form of programmes and not just as stand-alone single projects. They must be incorporated in wider rural development programmes, an area where EU presence is limited at this time.*

While the above recommendations address the ASM sector in general, ASM activities related to conflict minerals requires a separate mention. Private initiatives from European companies have emerged in recent years, focusing on responsibly mined 3TG minerals in countries such as the DRC. These private initiatives are likely to become more important in the future, expanding in scope to fair and ethical production and trade of ASM products or to other minerals, such as cobalt. For cobalt, the pressure on downstream companies is high to ensure that it is mined without child labour. Therefore, in the coming years large downstream companies along the battery value chain are expected to become involved in ASM-related development projects in the DRC. This commitment is an important element of responsible sourcing efforts. However, it is important that the un-coordinated coexistence of numerous development assistance projects in the DRC is avoided. It is therefore an important task of the EU to coordinate the activities of EU companies, for instance within the framework of the European Battery Alliance or EU CMR support measures on the ground. Further support could go towards organization of best practice exchange forums, coordination and integration with the donor community and host governments and their potential projects in this field or financing specific measures on the ground. Another idea would be the set-up and management of a fund for downstream SMEs who want to engage for the improvement of upstream (ASM) operations but are too far away and have too little leverage to engage with miners directly. The SMEs could pay into the fund, managed by the EU, which could either directly support measures on the ground or tender such actions, as EPRM does, for instance¹⁰⁷. Involved actors would be EU Delegations and MS embassies.

⇒ *STRADE recommends that the EU embassies in the DRC and other conflict-affected states coordinate the upcoming activities of EU companies, which will engage in local ASM-related development projects as part of their due diligence policy for responsible sourcing of conflict minerals and cobalt.*

5.6. Effective implementation of the EU CMR and support for responsible sourcing

The EU's Conflict Minerals Regulation will require most EU importers of tin, tantalum, tungsten and gold (3TG) from conflict-affected and high-risk areas (CAHRAs) to comply with, and report on, supply chain due diligence obligations. The objective is to improve human rights conditions and curtail funding for armed groups in CAHRAs.

¹⁰⁶ STRADE [Evaluation of Stakeholder Surveys Central Africa](#)

¹⁰⁷ For details see STRADE Report 03/2018: [Successful implementation of conflict mineral certification and due diligence schemes and the European Union's role: lessons learned for responsible mineral supply.](#)

A number of initiatives dealing with conflict minerals are operating in Africa, including the Kimberley process for diamonds and Dodd Frank 1502 for the 3TG. The latter especially focus on the Great Lakes Region (DRC and adjoining countries) due to the ongoing conflict in the East of DRC and the involvement of conflict actors in the mining sector. The region is thus also the prime target of the EU CMR¹⁰⁸.

Mining sector stakeholders from Central and Eastern Africa generally saw the different initiatives to strengthen transparency and good governance in the extractive industries in a critical light¹⁰⁹. Distrust of the stakeholders to initiatives like the EITI as too technocratic (distribution of reports with no real discursive practice in civil society) was common. The effectiveness to change and to ensure future sustainability of the Kimberley Process (KP) was also doubted by some of the interviewees. Conflict-minerals related initiatives were regarded as costly for the miners and placing an additional burden to export minerals to the EU. Improving governance in the minerals and mining sector is seen as important and maybe more effective than conflict minerals regulation and standards in order to combat fraud (cf. 5.2).

Supply chain research and development projects, especially **aiming at cost cutting and fairer distribution of costs** for supply chain due diligence and certification, and **business-to-business (B2B) partnerships**, especially in the mineral supply-chain, could be further explored and supported.

⇒ STRADE: The EU must balance addressing its immediate need for responsible sourcing of conflict minerals through due diligence & certification schemes, with the longer-term objective of improved regional governance which is the more complete solution. In the short-term financial assistance to certification schemes and compliance with due diligence requirements for regional producers is recommended.

Certification schemes for best practice standards in ASM that go beyond the scope of conflict-free certification and aim at responsible mining and trading practices are another area for support through the EU. The AMDC is currently working on such certification schemes for certain gemstones and metals¹¹⁰. Ideally, certification schemes are based on progressive standards: Compliance with the entry level guarantees minerals are conflict-free, full compliance with the standard qualifies the minerals to be certified as responsible. Certification schemes should include the sphere of informal and illegal cross-border mineral trade¹¹¹.

5.7. Strengthen domestic mining sector linkages

Building linkages within the local economy is one of the key topics of the AMV¹¹². In the long-term, Africa has ambitions to host the entire mineral value chain within the continent. It is, however, widely acknowledged that this is unrealistic at this time¹¹³. **Regional integration is essential** for mineral processing and beneficiation in order to create the necessary economies of scale. The minerals sector is seen to offer Africa the opportunity to develop the resources linkages sectors in line with their development and industrialisation agenda. Support

¹⁰⁸ For detailed recommendations to support the implementation of the EU CMR and other conflict mineral certification and due diligence schemes see STRADE Report 03/2018: [Successful implementation of conflict mineral certification and due diligence schemes and the European Union's role: lessons learned for responsible mineral supply](#).

¹⁰⁹ For details see STRADE [Evaluation of Stakeholder Surveys Central Africa](#).

¹¹⁰ For more information see STRADE Policy Brief 04/2018: [Africa & the European Union – Renewing Sustainable Partnerships in the Extractives Sector](#).

¹¹¹ For examples of this practice and its consequences see STRADE Rwanda and DRC Case Studies: [STRADE Country case studies: Rwanda and Democratic Republic of the Congo](#).

¹¹² For a thorough discussion of mineral sector linkages in Africa see STRADE Policy Brief 04/2018: [Africa & the European Union – Renewing Sustainable Partnerships in the Extractives Sector](#).

¹¹³ Shifts in resource intensity/needs should be considered here. By 2050 there will be about 2.5 billion people in Africa and the EU will be well within circular economy patterns, as a result the market for mining companies might shift towards the African continent's domestic consumption.

for the development of such linkages, through capital, skills development and technology, is to some extent already being provided through EU's ODA for education and technology development for the wider economies. Additional support, by encouraging European business associations to form **Joint Ventures between EU and local companies that include elements of supplier development, capacity building and promotion of local entrepreneurship** is another avenue of indirect support. As noted in an earlier STRADE's Report on [EU Raw Materials Engagement with Resource Rich Developing countries](#), while at the EU level such programmes remain non-existent, Germany, Spain, Czech Republic, France and Finland have been quite active in areas of technical assistance to developing countries.

It is difficult to judge the effectiveness of past and current supplier development programmes (both public and private) in inculcating strong industrial linkages from the mining sector. Therefore, it is important to establish what has worked and what has not. Since supplier development is at the centre of all efforts to strengthen linkages, both financial and intellectual resources need to be devoted to this activity. The report emphasises the importance of inclusive supplier development that focuses **beyond technical and innovation aspects, and including business skills and access to finance and emphasising the competitiveness of local suppliers**.

⇒ STRADE: To support for minerals linked industrialisation and economic linkages, the EU can explore the implementation of an EU-Africa mineral networking platform which allows businesses, academics and administration to connect. A model for this might be the EU-LA platform [MDNP](#).

Apart from encouraging joint ventures and linkages, another area for domestic value addition is the **domestic industrial minerals sector**, which provides key mineral feedstocks for Africa's own development¹¹⁴. These include classical low-value construction materials, as targeted by the [ACP-EU Development Minerals Programme](#), but also minerals such as copper, iron ore that could be used to build railways, hospitals etc.

⇒ STRADE: Continue support for the [ACP-EU Development Minerals Programme](#) on construction minerals and expand coverage to other industrial minerals.

Infrastructure is a related issue and refers mainly to social, but also physical infrastructure for booming minerals, such as gold, copper, diamonds. Infrastructure required for mine development is usually built directly and rather exclusively for the mines (e.g. railway mine to port), but the rest of the economy can benefit from these structures. Moreover, recently, not even such infrastructure has been developed but instead old (pre-independence) infrastructure has been used.

In considering EU engagement on the matter of infrastructure development in Africa, a few possibilities for collaboration arise. While co-financing infrastructure projects between mining companies and states is quite common in large scale, bulk mineral projects, the EU could consider, through the EIB to provide additional finance. Loans/grants (depending on country, sector priority) from EIB, German KfW, French AFD or similar could assist with the financing of the government part. At least part of the investment burden needs to be taken off mining companies to encourage domestic investment. Mining related infrastructure can also assist in wider economic growth, with **Infrastructure planned with a wider perspective** (taking other needs into account), **sharing and regional integration** of infrastructure. This is also in line with the resource corridor approach promoted by the AMV. Such investments would also start to address the EU 'invisibility' in Africa, particularly

¹¹⁴ For more details see STRADE Policy Brief 04/2018: [Africa & the European Union – Renewing Sustainable Partnerships in the Extractives Sector](#).

compared with the large infrastructure investments made by the Chinese over the past decade and expected to continue under its Belt & Road Initiative.

⇒ *STRADE: The EU needs to carefully study the costs & benefits of co-financing infrastructure projects in Africa, as these involve large sums of money. Whilst the EU/MS have in the past moved away from infrastructure project assistance, re-emergence in this field could balance Chinese presence in the infrastructure sector in Africa.*

5.8. Trade agreements and illicit financial flows

The EU-Africa partnership is mainly based on Economic Partnership Agreements (EPA)¹¹⁵. Although this topic has not been addressed by STRADE in detail, it should be acknowledged that the dialogue with some of the African representatives revealed a certain level of discontent with EPA provisions¹¹⁶, particularly regarding the topic of export taxes. Some see these as a means to kick-start minerals-based development in Africa and thus advocate for a flexible interpretation and application of EPA provisions¹¹⁷. The judicious use of trade instruments to enhance linkages development is also often mentioned by African mining sector representatives.

On the other hand, it has also become apparent that details of the EPAs concluded or under negotiation are not always well known to concerned stakeholders. While this might be the consequence of ‘anti-EPA-campaigns’, the EU should also assume the responsibility of information dissemination and communication and consider, if it seems necessary, implementing ‘pro-EPA-campaigns’ highlighting the benefits for the partner country/ies.

Another topic that is beyond STRADE’s research capacity, but of high importance to African stakeholders is financial transparency, illicit financial flows (IFF), namely tax avoidance, transfer pricing and base erosion and profit shifting (BEPS),¹¹⁸ and corruption. Illicit financial flows cause tremendous damage to resource-rich developing and emerging countries, and from an ethical point it is completely unacceptable that poorer countries’ revenues are “smuggled” to Europe and elsewhere. STRADE thus acknowledges that financial transparency, tax avoidance and corruption are highly relevant issues for the sustainable development agenda in Africa.

The Extractive Industries Transparency Initiative (EITI) has contributed to increasing financial and fiscal transparency in the minerals and mining sectors of developing and emerging resource-rich countries. STRADE thus recommends continuing funding for the EITI.

⇒ *STRADE recommends that the EU continue its work on tax avoidance and corruption in close collaboration with the OECD and concerned developing and industrial countries. Further, continued funding for the EITI is recommended.*

¹¹⁵ For details on current status of different EPAs, their characteristics and controversies see STRADE Policy Brief 04/2018: [Africa & the European Union – Renewing Sustainable Partnerships in the Extractives Sector](#).

¹¹⁶ Some African RECs were/are even reluctant to sign EPAs on grounds of questionable benefits for themselves. For more information see STRADE Policy Brief 08/2017: [Aligning EU Cooperation with Resource-Rich Developing and Emerging Countries’ Needs](#); EP/ DG External Policies 2014.

¹¹⁷ For more information on the EPA debate see STRADE Policy Brief 06/2016: [African Evaluation of European Union’s Approach to Raw Materials](#).

¹¹⁸ For more information see STRADE Policy Brief 06/2016: [African Evaluation of European Union’s Approach to Raw Materials](#); for examples see STRADE DRC Case Study: [STRADE Country case studies: Rwanda and Democratic Republic of the Congo](#).

6. Outlook

As mentioned in the introduction, the current report focuses on the underlying principles of EU cooperation with resource-rich developing and emerging countries as well as ODA approaches to support these countries' minerals and mining sectors. It has to be noted, however, that due to the changes in many of these countries and their relations with the EU, as well as increased globalisation, which also applies to the mineral value chain, it is important for the future to look beyond traditional bi-lateral cooperation and ODA. Instead multilateral dialogues and cooperation and mutually beneficial partnership approaches will become more and more important. STRADE's dialogue and research revealed that a number of countries, particularly (but not exclusively) emerging ones in Latin America, envision new types of mutually beneficial partnerships. Depending on the topic, these could be bilateral with the EU, or multilateral, involving other countries/regions. One example is the advancement of responsible sourcing efforts, including the EU CMR. Due to the nature of the mineral supply chain, any effective efforts will have to look beyond the mineral producing country and include important mid-stream actors, such as China. Other examples for multilateral dialogues and cooperation include matters that require a global approach and solution, e.g., the mapping and rehabilitation of legacy mines. Or the establishment of knowledge networks for the exchange of experiences and best practices, where all partners can learn from each other and develop joint ideas for I&R&D.

Below, some concrete examples are briefly introduced for Latin America and Africa.

Latin America

The EC communication on 'The European Union and Latin America and the Caribbean: A renewed partnership' (February 2018) states: *"The global and regional changes in both regions as well as the significant progress in LAC and in our relations demand an ambitious and innovative approach among equals beyond a traditional donor-recipient logic."*

This quotation summarises the reality well. An equal level partnership between the EU and Latin America is key, especially considering the reduction of (bilateral) ODA flows from the EU to the region; the latest political and economic developments; and the development of EU-Latin America relations.

Areas for cooperation, exchange of experiences and mutual learning include mining innovation, research and development (especially regarding efficiencies), SLO, community monitoring, as well as general awareness raising of mining's and minerals' importance in people's everyday lives. The latter may even be an area for trilateral cooperation EU-Latin America-China as all three regions face similar problems with the general acceptance of mining in their jurisdictions.

Examples of such 'new cooperation approaches' include the first OECD meeting on Mining Regions, hosted by the OECD in October 2017 in Antofagasta (Chile), with the objective to build a network "for knowledge-sharing about regional development issues for regions and cities that are specialised in mining and extractive industries". The meeting sought to bring together experts, policymakers and practitioners with a consultative role.

In the framework of the raw materials agreement concluded by Germany and Chile in 2013, several initiatives developed that can be categorized under the 'new partnership' approach. For instance, a Declaration on the Intention to Set Up a Platform for Exchange and Development with a focus on technological infrastructure (efficient use of water and energy), and mining production processes (use of waste from mining). The Chilean-German Forum on Mining and Raw Materials has been established as outcome. A cooperation agreement between Antofagasta region and North-Rhine Westphalia (NRW) through the Association of Industries of Antofagasta and the Energy Agency NRW to develop solutions for mining through supplier companies, and an

agreement between CODELCO and BMW to cooperate in enhancing transparency and sustainability of the copper supply chain (concluded in 2018). A Chilean-German Cluster for the Sustainable Production of Mineral Resources is under consideration.

Similar examples exist from the cooperation between Sweden and Chile. A Memorandum of Understanding on Cooperation in Sustainable and Innovative Mining (concluded in 2016) aims at strengthening cooperation on sustainable mining by implementing projects in both countries. The Chilean-Swedish Forum around water-land-energy nexus for sustainable mining, brings together universities for scientific cooperation (2017).

Africa

It should be considered that the STRADE dialogue revealed that African mining sector representatives seem to feel a bit uncomfortable with the topics of shifting to multilateral cooperation (particularly regarding a trilateral EU-China-Africa cooperation as the Africans stakeholders stated that they like having the choice between EU and China) and also shifting increasingly to mutually beneficial partnerships – this may be connected to the fear to lose ODA engagements, maybe also to the historical legacy and consequent lack of trust in being regarded and treated as equal partner.

New, mutually beneficial and multilateral partnerships – maybe considering a step wise approach of including more partners – could nevertheless be implemented on regional centres of excellence for mining and minerals and integrating these in global knowledge networks; green technologies and raw materials; mining, processing and supply-chain (traceability) technologies (including a B2B component); market intelligence; and joint protocols for conflict minerals and responsible mining and sourcing.

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Annex I - Bolivia and Peru Country Research

Bolivia and Peru research

**Strategic Dialogue on Sustainable Raw Materials
for Europe (STRADE)**

by Nicolas Eslava

Projekt-Consult GmbH



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1. Plurinational State of Bolivia

Table 1 - RGI of Bolivia

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Mining in Bolivia should be understood within the framework of a State-lead strategy of industrial development and makes a holistic and respectful usage of “mother earth”. This is enshrined in Bolivia’s new constitution and creates an operating environment that has made foreign investors weary of investing in the country, among others it establishes precedence of domestic over foreign investment; the precedence of Bolivian jurisdiction, laws and authorities in settling disputes¹, (which is troublesome for investors when considering Bolivia’s *failed* score on RGI’s Rule of law indicator and recent experiences related to nationalisation of assets or expropriation); that the central level of government has exclusionary competence (cannot be transferred or delegated) on matters related the creation, control and administration of strategic public companies, and exclusive competence for strategic natural resources, including minerals (exclusive competence in that it can exercise legislative, regulatory and executive powers, but it can also transfer and delegate the last two). In terms of the environment, the central government’s competence is concurrent with that of the autonomous territorial entities. (Bastida and Bustos, 2017)

Furthermore the Mining and Metallurgy Law of 2014 clearly establishes that as mineral resources are strategic in nature, and strategic public mining companies have exclusionary competence at the central government level according to the Political Constitution of the State, ‘autonomous departmental and municipal governments are not allowed to create departmental, regional and/or municipal mining units or companies and may not participate in activities involving prospecting, exploration, exploitation, benefit or concentration, smelting or refining and commercialization.’ (Bastida and Bustos, 2017).

Generally Bolivia is thought as having the worst climate for mining investments in Latin America due to a climate of resource nationalism generated by Bolivia’s new constitution as well as legal uncertainties. Requirements to allow for a 55% mandatory participation of the Bolivian state in future private mining projects further reduces the attractiveness of the country for mining investors. (PC, 2013; IDB, 2013 - Bolivia). Inversion risks are also stifling the development of small and medium mining ventures (IDB, 2013 - Bolivia).

¹ In May 2007 Bolivia withdrew from the International Centre for Settlement of Investment Disputes (ICSID), of which it had been a member since 1991.

Meanwhile Bolivia's mining landscape is made up mostly of ASM operators, the state owned COMIBOL, and a few medium-scale mining companies with the majority of the workforce being in cooperatives. Bolivia licensing system is unique and comprises four types of mining licenses, namely: licenses belonging to the national SOE COMIBOL; cooperative mining licences (mostly SSM in size); SSM private licences; and, MSM private licences (SPDA, 2014).

This peculiar licensing landscape is a consequence of the restructuration of its national mining company (COMIBOL) in 1987 and the subsequent layoff of around 20,000 miners, the overwhelming majority of which were absorbed by the cooperative sector (Priester, 2013), leading, among others, to the very strong political leverage enjoyed by mining cooperatives in the country. In addition to the aforementioned transfer of miners, machinery and mining titles were also transferred from COMIBOL to cooperatives².

As of 2012 recorded mining production is dominated by MSM (48%) and Cooperatives (45%), the remainder being registered as SOE COMIBOL's production (Priester, 2013). Non-inclusion of ASM production data due to limitations in production data collection, and indications that ASM sector miners (including cooperatives) register part of their production through COMIBOL (Bocangel, 2007) likely biases production figures in favour of the latter.

Due to a number of challenges the *“sector minero en Bolivia se ve enfrentado a tiempos difíciles: Con respecto al desarrollo del sector minero, el Gobierno Boliviano parece estar en una crisis estratégica, de confianza, de autoridad y de liderazgo y comunicación. La implementación del Plan Estratégico no avanza y las políticas sectoriales son reactivas y dominadas por oportunismo. El papel de COMIBOL es crítico a los ojos de los inversionistas del sector privado y –sobre todo- la aplicación del marco legal es deficiente, especialmente respecto a la gestión ambiental (IADB, Bolivia)”*. And as a result has adapted accordingly to this complex and complex economic framework.

- The Minería Chica, the private small-scale mining, has shut down its activities, especially where the pits were occupied by the local population, or in mining on raw materials whose mines are target of occupations, such as: gold, tin, tungsten and lead / silver, The extraction activity of zinc and antimony is less affected by this, mainly because of the difficult market access and the fact that it is a mass product. The transition from concessions to contracts with the state has also dampened investment in private mines. They fear further restrictions on their entrepreneurial freedoms as a result of the new regulations, as well as greater overall influence and surveillance by the state.
- The Minería Mediana, the private medium and large-scale mining mostly of international investors, continues to be the most important cornerstone of national production. Regrettably, the conflicts surrounding the Mallkukhota (Indium) project and a similar conflict in Colquiri have led to the nationalization of the mines, and the international investors have left the country and all the necessary know-how to carry it out leave complex projects.
- COMIBOL is the key player of the Bolivian sector but is not positively perceived by private companies, in particular due to bad management capacity/decisions.
- In the sector of cooperative mining, one can also find a shift in the focus of production, away from the traditional mining activities on non-ferrous metals in the Altiplano towards increased activity in gold mining on the Andes east canopy. Some cooperatives have teamed up with overseas investors (China, for

² Of note is that the common understanding of what cooperatives are may not fit a number of Bolivian cooperatives; while a few are true cooperatives, a majority of them resemble more closely small private companies that are organised according to cooperative law in order to retain their mining title. In such cases existing members rarely mine and rather contract miners to do so for them in exchange of a salary (Michard, 2008).

example) to gain legal status and political coverage through joint ventures. The entire cooperative sector has seen a sharp increase in the number of members of approx. 60,000 to more than 120,000 members between 2008 and 2013, mainly due to local farmers registering to enjoy the substantial transfer of mineral ownership to local communities under Bolivia's new constitution. In 2013 approx. 1400 cooperatives were registered. (PC, 2013)

Bolivia does not have mechanisms enshrined in law that allow the authorities to save money in times of high commodity prices, which incentivizes immediate spending, especially at the local level, in order not to end fiscal years with budget surplus. This has generated high fiscal volatility at the sub-national level (NRGI, 2017a).

Despite a professed interest into decentralization of State functions, in practice this decentralization has been weakened if not rolled back in the application of said decentralization. This is especially visible when it comes to decision-making related to title granting, the approbation of E(S)IAs, negotiations and contract/impact monitoring. And while in Bolivia use of non-renewable resources and their windfalls is a key driver of conflict, national regulatory amendments have progressively criminalized certain "traditional" (or at least entrenched) community driven aspects thereof (NRGI, 2017a).

Cuadro 2. Criminalización de la protesta social en los países andinos¹⁰¹

Bolivia	<ul style="list-style-type: none"> • Ley 367 contra los avasallamientos mineros, promulgada en mayo de 2013, penalizando entre 6 y 8 años de cárcel a quienes irrumpen en áreas mineras e impidan la explotación de los yacimientos • 2013: Ley 477, establece sanciones drásticas contra las invasiones u ocupaciones de tierras, violentas o pacíficas, temporales o continuas • 2014: Ley de Minería y Metalurgia, que en los artículos 99 y 100, establece como delito las acciones individuales y colectivas que impidan la actividad minera
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1.1. Challenges of the mining sector

"The biggest problems facing the sector at present are the destruction of the environment, the precarious working conditions, especially in the cooperatively organized mines, the partly detectable child labor, the often lacking occupational safety and the social conflicts between Mine operators and the local population. [...] On the institutional side, the major challenges in the mining sector lie in the ineffective administration, poorly-developed control functions, the almost complete absence of mining education and training, extreme politicization of the cooperative sector and public policy and resource nationalism, which have led to a catastrophic investment climate" (PC, 2013).

1.1.1. Environmental and cultural impacts

While less visible than in Peru (see *Peru Section*) conflicts over water are nonetheless existent as mining often takes places in semi-arid areas that are otherwise dependent on agricultural incomes (PC, 2013; IDB, 2013 - Bolivia). This issue is illustrated by the case of the small community of San Cristobal where water management issues, issues related to the impacts on cultural landmarks and impacts on the health of the community and its livestock (due to dust) has resulted in strikes that have paralysed the mine in 2009, 2010 and 2011, which were called by trade union both of miners and of agriculture workers (Ejolt, 2015).

Moreover in addition to affecting water availability, mining activity in Bolivia has a direct and substantial impact on its quality either due to the use of mercury by ASM operators or due to acid rock drainage generated by old

tailings (of non-ferrous metals) that have not been rehabilitated, the latter being a substantial issue for both surface and groundwater (PC, 2013).

The vast majority of mining cooperatives in Bolivia extract gold with environmentally impactful techniques and about 90% of them lack environmental licenses (IDB, 2013 - Bolivia). In essence most of said cooperatives simply do not treat waters before returning them to their watersheds.

1.1.2. Authorities limitations

Bolivia has problems with compliance and supervision of the legal framework in both cooperative and private mining due to high levels of informality, but despite commitments from authorities little concrete actions are being undertaken to mitigate the issue. According to figures from cooperative and private small-scale mining, only around 20% of businesses have a valid environmental license (PC, 2013).

“The country's legal framework has been consistent and pragmatic, but there is a lack of implementation of the legal bases set by the new constitution. [Importantly] the role of COMIBOL is viewed critically by investors from the private sector, but also the implementation deficits in implementing the legal framework are problematic, especially with regard to environmental legislation. It also has a weakening effect that with COMIBOL one of the most important players is not subordinate to the ministry of mining and the cooperatives often negotiate directly with the president past the ministry. The mandates for monitoring are fragmented: they lie with the mines and metallurgical ministries at the national level, the regional administrations and the municipalities (the latter almost completely lack the readiness and the conditions to deal with the tasks of supervision and control) (PC, 2013).

While Bolivia is generally devolving a number of responsibilities to its regions, decision making regarding mining operations and when relevant their sanctions remains centralised. And there is a movement towards more centralisation in the sector: *“en el 2011, se aprobó la Ley de Clasificación y Creación de Impuestos, que en la práctica impide que los Gobiernos subnacionales generen mayores recursos o se descentralicen algunos impuestos. Posteriormente, en el 2014, la nueva Ley de Minería establece que los Gobiernos autónomos departamentales y municipales no pueden constituir empresas mineras ni participar en ninguna de las actividades de la cadena de valor”* (NRGI, 2017a). At the same time the central government's decision to devolve the management and regulation of civil participation spaces (including in relation to extractive projects) to departments and municipalities has lead to the disarray of such formal spaces as sub-national entities have proven incapable of regulating these activities, thus resulting in unorganised civil participation (NRGI, 2017a); a dangerous type of participation given Bolivia's history of violence as a civil participation tool (see the *Community interactions* section).

An interview with SENARECOM (*Servicio Nacional de Registro y Control de la Comercialización de Minerales y Metales*)'s Executive Director in late 2016 lead to a frank self-assessment of the capacities of the institution, an assessment equally applicable to the vast majority of relevant institutions in the mining sector; the institution was found to be facing severe shortcomings regarding: funding, human resources, as well as knowledge and local presence. Furthermore it was highlighted that the lack of certain regulation elements has impacted the institution's ability to operate.

SENARECOM is a peculiar institution that is tasked with the collection of commercial information from Bolivian mineral and metal traders and illustrates one of the key challenges to policy making, implementation, oversight, monitoring and correction in Bolivia: a data collection process that biases information towards LSM/SOE companies and the export of non precious metals and minerals. Compounding the issues observed with cross border gold smuggling from Peru (see *ASM* section). SENARECOM is tasked with the collection of commercial information from Bolivian mineral and metal traders as collection of mineral production data at the mine level

was considered impractical by the Bolivian Authorities. All mineral declarations in Bolivia are self-declared and done through SINACOM (*Sistema Nacional de Información sobre la Comercialización y Exportaciones Mineras*). Relevant taxes (such as royalties) are calculated and collected based on the statistics collected by SENARECOM, unfortunately there is scant data sharing from institutions (such as customs) which could support SENARECOM's data precision.

SENARECOM is in charge of ensuring the accuracy of the self-declarations and the regulatory compliance of traders via punctual controls. According to the Executive Director of SENARECOM [in late 2016], the institution verified between 10 to 20 per cent of the declarations through randomized controls. SENARECOM has offices in five of the nine Bolivian departments, and while this lack of regional presence does not impact its data gathering capacity directly, as this is based on online self-declarations, it does instead strongly reduce the capacity of SENARECOM to verify the information received and consequently reduces the incentives for accurate self-reporting from mineral traders. It should be noted that despite claims that the agency was aiming to expand and open offices in the remaining regions as one of its priorities in late 2016 a review of SENARECOM's organogram in June 2018 has shown no signs of having done so.

Self-disclosure is incentivized by the fact that minerals need SENARECOM documentation to be legally exported, which is only an incentives for minerals that exit the country through official channels. Furthermore, under Bolivian mining law all traders operate using the same license and must all comply with the same level and complexity of regulations, regardless of their size or whether they export or not. Smaller producers find it too difficult to comply and are thus prone not to declare production.

Lack of information on the sector is not limited to production statistics or supply chain and socioeconomic data; it is also acutely felt in regards to geological data. The geological survey is incomplete and out-dated, and most of what is available goes back to the cooperation projects with BGR in the 60s to 80s. Currently, only a maximum of one mapping campaign is carried out each year by the national geological service (SERGEOTECMIN) which is described as suffering from: persistent changes in personnel and consequent lack of continuity in leadership, a high degree of politicization, low efficiency and poor services for the mining sector. And due to the investment climate in the recent past very little exploration work has been undertaken in the country by private companies³. Another noted shortcoming from SERGEOTECMIN is its almost exclusive focus on geology and lack of service provision or skills relating to mining operations and processing despite enormous demand.

This lack of skills is not limited to SERGEOTECMIN but is a constant feature across the sector and at all levels. In particular there is a gap in the availability of (semi)skilled labour with technical education connected to mining operations and processing, further limiting the potential of the sector to incentivize and accommodate mining investment. This issue is likely to continue being a limitation going forward as there is no professional training for such kind of operators (PC, 2013).

This lack of capacity for the private sector is mirrored not only by a lack of capacity in the public sector (IADB, Bolivia), but also by repeated failures to retain talent that was embedded into authorities via donor-funded projects, as illustrated by DANIDA's evaluation (see *Lessons learned from cooperation projects* section). Another noted and highlighted shortcoming of institutions that deserves to be emphasized is the existence not of meritocratic appointments but rather of appointments based on political affiliation with the ruling party and/or proximity with key cooperatives.

³ Furthermore negative experiences with SERGEOTECMIN have lead the private sector to largely refrain from using SERGEOTECMIN. In particular the case of Mina Himalaya where leaks of confidential mineralisation data lead to a site invasion by communities and eventually to expropriation by the Bolivian State despite millions in investment already sunk (PC, 2013).

Illustrating these shortcoming from the authorities is the fact that a number of key project have stalled despite having been singled out and pushed forward by the government, to quote IDB, (2013 – Bolivia): “Los prestigiosos proyectos gubernamentales para la diversificación del sector minero y para la industrialización (ampliación de las líneas de producción), tal como están previstas en el Plan Sectorial de Desarrollo Minero Metalúrgico (PDSMM), no han avanzado casi:

- *El proyecto minero Mutún (explotación minera y siderúrgica) en la zona del oriente, en vista de los problemas con la infraestructura de transporte así como con el suministro energético todavía está lejos de un comienzo de su trabajo.*
- *La explotación de litio en el Salar de Uyuni no avanza según la planificación, debido a problemas técnicos (condiciones climáticas adversas, a pesar de grandes cantidades solo bajo contenido de litio, relación muy desfavorable entre magnesio y litio), querellas políticas, así como a una limitada demanda por parte de mercados de lugares lejanos (debido al desarrollo tardío de la electro-movilidad, mercados principalmente en Asia oriental). Ya no parece posible el desarrollo autónomo de una producción nacional de baterías; el Gobierno ahora ha entrado en contacto con posibles socios internacionales.*
- *La puesta en marcha de la fundición polimetálica Karachipampa, que fue terminada ya hace 30 años con financiación alemana, no es previsible debido al lamentable estado de la planta.*

1.1.3. Community interactions

Bolivia's civil society participation in the governance of the natural sector is marred by the use of violent protest by communities and social movements to a higher degree than other countries in the continent, which has lead to dramatic events such as the so-called Gas War of 2003 or the abduction, torture and death of Deputy Interior Minister Rodolfo Illanes in 2016 during a dispute between the National Mining Cooperatives Federation (FENCOMIN) and the Bolivian Workers' Centre (HIK, 2017).

“El Grupo Internacional de Crisis lo describe como una “cultura” de protesta violenta que en 2003 culminó en la así denominada “Guerra del Gas”, una protesta violenta en contra de la privatización de la industria petrolífera y de gases. Lo que actualmente estimula más los conflictos mineros es la falta de parajes de trabajo para las cooperativas mineras, la sobre explotación de algunos yacimientos y la no reposición de reservas; algo que, por cierto, no hacen las cooperativas ya que lo suyo es intervenir en yacimientos explotados o residuales y no explorar o desarrollar reservas. Tal situación llevó a la toma y ocupación de minas, como una forma de presionar al gobierno y buscar arrancarle nuevos parajes, o bien directamente a la apropiación de los yacimientos y las vetas más prometedoras. La declaratoria de reserva fiscal de todo el territorio nacional, dispuesta por el actual gobierno el año 2007, parece haber tenido el efecto de no solo paralizar inversiones privadas en la prospección de yacimientos mineros, sino también de empujar a grupos de cooperativistas a la ocupación de yacimientos en desarrollo.” (IDB, 2013 - Bolivia)

As highlighted, a particular concern is the significance of invasion and squatting of mineral permits by farmers, indigenous people or cooperative members which has in the past lead to confrontation, violence, and death, in particular between mining cooperatives and farmers (IDB, 2013 - Bolivia). Mining title invasions have grown concerning enough that in may 2013 “la Ley 367 fue incorporada en el Código Penal: Delito de avasallamiento minero, establece una condena de entre cuatro y ocho años de cárcel para las personas que se apropien ilegalmente de algún yacimiento o comercialicen recursos mineralógicos sin autorización de la Corporación Minera de Bolivia” (IDB, 2013 - Bolivia).

1.1.4. ASM

ASM activities are noted as being mostly informal/illegal and as being even less environmentally responsible with operations taking place in at least 8 protected areas and using on average 36 kg of mercury for each kilogram of gold produced. Other impacts of ASM mining include water, air and soil pollution, primarily through mining acid drainage, and, faulty/inexistent OHS practices. (STRADE, 2018; IDB, 2013 - Bolivia).

Furthermore ASM practices in regions neighbouring Peru and Brazil, a zone of social conflict, insecurity and very limited state presence, have been linked to human trafficking, including of minors, for labour or sexual exploitation in mining towns on the other side of the border; an estimated 45,000 AM and SSM gold miners operate illegally, including 13,500 children, half of these are working for no pay and at risk of trafficking (GITOC, 2016).

Cross-border flows do not stop at labour. Following a crackdown on illegal mining from Peruvian authorities, Bolivia has become an international export hub for illegally produced Peruvian ASM gold⁴, including playing a part in an operation that allegedly smuggled gold worth US\$ 3.6 billions from illegal mines across Latin America to the US between 2012 and 2015⁵. An inferred role supported by the six-fold discrepancy between declared Bolivian gold exports and production⁶. Since 2006 an estimated 68 tons of alluvial gold from the Amazon and the border with Peru entered the Bolivian market through trading chains based on middlemen re-selling purchases to larger traders (Michard, 2008; Gomiam, 2011), this gold is then smuggled out of Bolivia, and worth an estimated US\$ 3 billion (GITOC, 2016).

Part of these issues can be attributed to the low level of technical knowledge, leadership, division of labour, internal organization and capitalization within the ASM and cooperative mining sector, which has prevented technical modernization, mechanization, formalization and the diffusion of responsible mining practices. This is particularly evident in traditional non-ferrous metal mining (PC, 2013). A very low level of administrative and financial capacity from small operators and cooperatives is a challenge to the uptake not only of better practices but for the access to credit, as pointed by the experience of CEPAS – MEDMIN (IDB, 2013 - Bolivia).

And while with regard to the financing of investments for the cooperative sector a special financing instrument exists (the FOFIN) the demand for loans is extremely low due to the obligation to repay the loans. Instead the majority of cooperatives are equipped with equipment that is transferred without obligations or costs to the cooperatives as part of the program *Evo cumple* (PC, 2013). *Evo cumple* is currently interrupted until May 2019.

The formalization of ASM already involves regional authorities such as the CAN (*Comunidad Andina de Naciones*, Andean Pact) and the Amazon Parliament, reflecting the transnational importance of this issue (PC, 2013).

⁴See: Insight Crime, 26.11.2014, *Peru's Illegal Miners Trafficking Gold to Bolivia*. Accessible via www.insightcrime.org/news-briefs/peru-illegal-miners-trafficking-gold-to-bolivia ; and, Reuters, 25.11.2014, *Lucha contra minería ilegal de oro en Perú crea nueva ruta de contrabando por Bolivia*. <http://lta.reuters.com/article/domesticNews/idLTAKCN0J91WL20141125?pageNumber=1&virtualBrandChannel=0>. As accessed on the 30.10.2017 for all links.

⁵See: Bloomberg, 16.03.2017; *Gold Company Manager Charged in Vast Peruvian Smuggling Plot*. Accessible via: www.bloomberg.com/news/articles/2017-03-16/gold-company-manager-charged-in-vast-peruvian-smuggling-scheme. As accessed on the 30.10.2017

⁶See Reuters, 25.11.2014, *Lucha contra minería ilegal de oro en Perú crea nueva ruta de contrabando por Bolivia*. <http://lta.reuters.com/article/domesticNews/idLTAKCN0J91WL20141125?pageNumber=1&virtualBrandChannel=0>. As accessed on the 30.10.2017

1.1.5. Summary (IDB, 2013 - Bolivia)

Minería chica :

- *Mal clima de inversión por inseguridad legal, falta de apoyo para asegurar los títulos mineros*
- *Avasallamientos especialmente de minas de estaño, wolframio, plomo/plata*
- *La participación de Comibol en nuevos proyectos mineros dificulta la toma de decisiones sobre la inversión en nueva tecnología*
- *Falta de personal calificado y servicios de capacitación técnica*
- *El fondo de apoyo (Fademin) ha sido preparado, pero aún no está funcionando. La demanda es incierta: 80% de las operaciones mineras ni siquiera tiene su manifiesto ambiental, un pre-requisito importante para un apoyo financiero de cualquier fondo financiero.*

Cooperativas mineras :

- *Cooperativas altamente politizadas; expectativa de apoyo a fondo perdido (Evo cumple u otros programas). Los fondos establecidos con repago de créditos (FOFIN, APEMIN II) no son o no han sido utilizados extensamente.*
- *Existe una cierta resistencia contra innovaciones técnicas.*
- *Falta de personal calificado y servicios de capacitación técnica*
- *Falta de conocimiento de reservas por falta de prospección y exploración*

Minería mediana (technically mostly LSM):

- *Riesgo de expropiación o nacionalización*

Comibol :

- *Historia de cooperación es poco prometedora con respecto a la sostenibilidad de impactos;*
- *calidad de gestión dudosa.*

1.2. Lessons learned from cooperation projects

The following is an extract from the commissioned evaluation of Danish-Bolivian Cooperation efforts from 1994 to 2016 (DANIDA, 2017). This report is the most recent information available on bi/multilateral project implementation in Bolivia and associated challenges. The information selected does not contradict in any form the limited information regarding other projects' successes, including the EU's EMPLEOMIN, APEMIN, APEMIN II and MEDMIN.

Referring specifically to the sections on lessons learned and on the Environmental Programme Support phases one and two (1999-2013), a program that has clear parallels with the mining sector due to the environmental impacts of the later and the resource governance aspect [relevant excerpts]:

"The evaluation found different explanations for the limited sustainability of the environmental support provided to municipalities: Firstly, frequent changes in management and staff within the Vice Ministry of the Environment. The original focus on supporting implementation of the multi-year plan by the Vice Ministry

through an expected basket fund arrangement with other DPs did not materialise. Secondly, the municipalities have also experienced frequent changes in personnel and, over time, knowledge of and buy-in to environmental management concepts and tools introduced through the Danish support have gradually been lost. Thirdly, the CSOs supported have not been able to continue their roles as effective “bridge builders” between the central and local level for dissemination of knowledge, awareness raising and capacity building on environmental management and topics. A narrowing of the space for CSO operations in general over the past decade has made it increasingly difficult for the CSOs to continue playing this role.

Another key objective during the first phases of environmental support was to ensure sustainable and competitive production through development and implementation of cleaner and more efficient production technologies. Despite positive project results obtained by CPTS, and although potential for cleaner production and EE is considered high in Bolivia, it has been difficult to encourage production industries to invest their own funding in technical assistance in this area. There is not sufficient economic incentive for the industries to request services and technical assistance directly from an institution like CPTS (unless they get it funded through a project). Consequently, CPTS also still depends heavily on funding from DPs, in particular to finance the technology development part of their business.

Developments that have taken place after the Danish support to COMIBOL was terminated in 2013, question the sustainability of the institutionalisation of DIMA within COMIBOL and thereby also the long term achievement of the objective to contribute to socio-environmental improvements in the mining sector. Around half of the 23 staff members have left DIMA since 2013, and none of the vacant positions has been filled. There is a serious risk that the unit will gradually disappear over the next couple of years with the rest of the employees being integrated into COMIBOL. The reason is that, after Danida left, the focus on social issues and gender has gradually been reduced within the institution. [...] led to a large number of otherwise highly qualified and motivated DIMA staff members leaving the institution.

The second phase of the environmental programme support included a more specific objective related to integrated and sustainable management of natural resources, generation of productive capacities and equal distribution of benefits. While the evaluation findings show that the immediate results achieved from the direct Danish support to the national parks are largely being sustained and the concepts that were introduced were still being used and extended to other areas, the findings also show that the sustainability of the support provided to SERNAP is low. Changes of management and staff within SERNAP have been very frequent and the political direction of the institution has often been unclear. For these and other reasons, the direct financial support from the DPs to SERNAP has decreased drastically since 2010 and the GoB has only managed to fill in the financial gaps to a limited extent. Consequently, within SERNAP as well as within the protected areas, there is currently a strong focus on how to generate income to fund operational costs (including payment of salaries to park rangers) in the short to medium term. While this is no doubt a critical issue, at the same time, there is a risk that the focus and attention to sustainable management of the natural resources will become compromised in the process.

EQ 1: What lessons can be learned from the partnership that may be relevant for Danish assistance elsewhere, for the Bolivian stakeholders and in terms of the sustainable development goals (SDGs)?

Firstly, where development programmes are implemented in complex and constantly shifting political and institutional contexts it is necessary to apply a flexible, adaptive and opportunity-driven programmatic approach with short-term planning cycles and decision points.

Secondly, the value-added and sustainability aspects of capacity development interventions should be carefully considered with a particular view to power relations and incentives.

Thirdly, the application of a dual track approach, working with both government and NGOs within the supported sectors, is an effective and preferred means by which to promote and support multi-stakeholder dialogue and cooperation.

Although women have a high representation in parliament in Bolivia, and legislation for protection of women against violence and political persecution has been approved, the enforcement and implementation of gender equality in the Bolivian society have not ranked high on the priority list of the GoB and have not been dealt with from a strategic perspective in any of the sector programmes.

EQ 3: What notable difficulties arose in the Danish-Bolivian partnership and how were the challenges overcome?

The major challenges in the Danish-Bolivian partnership arose in relation to the institutional support, mainly at central governmental level. Frequent changes in political direction and in management and staff within many of the supported institutions made it very difficult to maintain continuity and ensure ownership of the implemented activities. It also made it difficult for the international advisors effectively to perform the role they were supposed to play within a particular institution. In some cases, these challenges were solved by slightly changing the focus of the advisors work or by transferring the advisor to another institution.

The Danish insistence on channelling part of the support through NGOs, via a range of different modalities and set-ups, has been an important response to the shrinking of CSO space by the Bolivian government”.

These observations from DANIDA (2017) complement the following highlights from IDB (2013 – Bolivia):

A pesar de la multitud de estudios ya realizados en el pasado, solamente se han realizado pocas intervenciones prácticas que apoyaran la minería en forma directa y sostenible. Buenos conceptos para (nuevos) proyectos no llegaron a ser ejecutados o terminados debido al constante cambio a nivel político. El modelo ejemplar es la Escuela Minera de Oruro, la cual comenzó en los años 70 con COMIBOL y ayuda austriaca, y tuvo una vida muy corta.

Los proyectos financiados por donantes internacionales que han sido exitosos son aquellos que se ocupan directamente con la operación minera y con el empresario en una forma directa y dirigida a la práctica. Buenos ejemplos son el mencionado proyecto FONEM, APEMIN y la aplicación de la protección ambiental con MEDMIN.

1.3. Possible topics/areas for continued support and future cooperation engagements

1.3.1. New partnership approaches

To the difference of Peru, Bolivia present much fewer, if any opportunities for new-partnership approaches. In line with the overall strategy of the government the addition of value to minerals prior to export could be singled out as one such avenue for collaboration (PC, 2013). However lessons learned from the failed implementation of Karachipampa (see *Authorities limitations*) suggest that this might be a trickier proposition than expected.

1.3.2. ODA

The following areas of interest from the Bolivian government have been highlighted through most sources and in particular PC, 2013 and IDB, 2013 - Bolivia:

- Technology transfer [as direct as possible to users as in the cases of FONEM, APEMIN and MEDMIN (see *Lessons learned from cooperation projects* section)]
- Water conservation and acid rock drainage contamination of watersheds and aquifers
- Supporting SERGEOTECMIN, specifically in regards to
 - o Geological mapping of Bolivia's mining potential
 - o Skills and services related to mining operations and processing
 - o [and COMIBOL in] the process of completing a cartographic survey of the contaminated sites, which also includes a determination of the pollutants and recyclables, both technically and with the proper financial incentives
- Training of operators, while being mindful of the lessons learned from the failure of the *Escuela Minera de Oruro* in the 70's
 - o In parallel support established programs in vocational or higher learning institutions
- Institutional strengthening of public authorities and support of effective decentralisation.

1.4. Institutions for EU and MS to cooperate with

1.4.1. Public bodies

- Ministry of Mines and Metallurgy (Ministerio de Minería y Metalurgia) and its sub-entities, including but not limited to:
 - o SERGEOTECMIN
 - o SENARECOM
 - o Empresa Boliviana del Oro
 - o As well as regional representations.
- The Presidency, which oversees
 - o SOEs (including: Empresa Minera Huanuni; Empresa Metalúrgica Vinto; Industrialización del litio; Bismuto Telamayu; Cobre Coro-Coro) and importantly COMIBOL
 - o Autoridad General Jurisdiccional Administrativa Minera (AGJAM), which manages mining titles and the participation of the government in exploitation contracts.
 - o Program Evo Cumple (suspended for a year since mid-May 2018)
- Ministry of Productive Development and the Plural Economy (Ministerio de Desarrollo Productivo y Economía Plural) – regulates internal markets, raw material exports and added value products

- Ministry of Environment and Water (Ministerio de Medio Ambiente y Agua)
- Vice-ministry of public investment and external financing (Viceministerio de Inversión Pública y de Financiamiento Externo) part of the Ministry of Development planification (Ministerio de Planificación del Desarrollo)
- Prefectures

1.4.2. Private sector

- Cámara Nacional de Minería (represents private SSM operators) and Departmental Chambers (both understaffed and underfunded)
- Asociación Nacional de los Mineros Medianos (represents private L–MSM operators)
- Cámara Nacional de Industrias
- Cámara de Comercio and in particular for the mining sector the Colombo-German Chamber of commerce (most important mining companies are affiliated with it).
- Specific LSM companies (MSM according to Bolivian law)
 - o Inti Raymi
 - o San Cristóbal
 - o Sinchy Wuayra
 - o In addition to a number of smaller companies listed in Annex B6 of IDB (2013 – Bolivia)

1.4.3. Relevant Universities

- Universidad Tomás Frías de Potosí
- Universidad Técnica de Oruro
- Universidad Mayor de San Andrés (UMSA) La Paz
- Universidad Privada Boliviana (private University)
- Colegio de Geólogos (private College).

1.4.4. Cooperatives (all HIGHLY politicised)

- Federación Nacional de Cooperativas Mineras (FECOMIN) and the federaciones regionales de cooperativas mineras;
- COMERMIN (Central Integral de Comercialización de Minerales de las Cooperativas Mineras)

1.4.5. NGOs / CSOs on mining issues

- Fundación Manejo Integrado del Medio Ambiente en la Pequeña Minería (MEDMIN)
- Cumbre de Sajama; Liga de Defensa de Medio Ambiente

- Fundación (LIDEMA)
- Centro de Promoción de Tecnologías Sostenibles (for issues relating to clean production and its promotion).

Bolivia is part of the Andean committee against informal mining (*Comité Andino contra la minería ilegal*) supported by the CAN. However no updated information on the activities of the committee can be found since June 2016, casting doubt on whether its activities are ongoing and whether it is a relevant stakeholder to contact.

The Financial Action Task Force of Latin America (GAFILAT) can be both a stakeholder and provide a neutral forum to discuss issues of mineral smuggling between countries (FATF, 2008).

1.5. Relevant examples

1.5.1. Implementation of mutually agreed treaties/rules and Governance structures in host countries

As mentioned earlier the Bolivian constitution establishes the precedence of Bolivian jurisdiction, laws and authorities in settling disputes (Bastida and Bustos, 2017). I lack a clear understanding on how this impacts mutually agreed treaties, but that is likely something that would have to be considered.

Similarly the type of devolution of powers, benefits from the extractives and decision making (including regarding to sub-regional autodetermination and administration) to the regions and their people enshrined in the new constitution, paralleled by the centralisation of certain functions regarding mineral governance make governance structures shifting and lacking proper technical and financial backbone in most cases.

1.5.2. Effective implementation of the EU conflict mineral legislation

Would Bolivia be considered a CAHRA due to infiltration of Peruvian gold marred by human rights it is unlikely that State agencies would be able to implement traceability, certification, or due diligence measures by themselves and would require significant support to do so or to facilitate the entry of third party service providers. This is due to a number of reasons, including the lack of reliable information and local presence/capacity, as exemplified by the case of SENARECOM, the role of intermediaries and of the cooperative sector as illustrated by Bolivia's failed state gold buying program (SGBP). The following is an excerpt from STRADE (2018)⁷:

Following failed attempts to discourage ASGM miners from selling to these informal traders, the Bolivian government initiated its SGBP, the Bolivian Gold Company (EBO), to mitigate these challenges. EBO intends to buy directly from ASGM miners and its objectives include the gradual formalisation of the activity, and thus the implementation of regulations and better practices. Gold purchased through EBO could thus be considered as going towards responsible practices.

However lack of cooperation between government and cooperative stakeholders led to the parallel implementation of a non-governmental gold-buying programme established by the National Federation of Cooperatives: COMERMIN, which critically is exempted from taxing the gold it buys from miners (Toro, 2014), allowing it to offer better prices than EBO and thus weakening the latter. Furthermore COMERMIN's objective of gradually cutting out intermediaries, and thus shortening trading chains, did not push for requirements on sellers, and COMERMIN has historically had a better reputation amongst AM and SSM miners than

⁷ Further details are available in Bolivia's case Study in IIED (2016).

government agencies (IIED, 2016). Finally the Bolivian Central Bank was allowed to purchase gold from both EBO and COMERMIN.

To date EBO has failed to attract significant sales to its buying stations having purchased a paltry 174 kg of gold between 2010 and 2014. A failed implementation that can be attributed to diverse factors, in particular:

- Lack of state capacity in ASGM regions, compounded by an overlapping lack of infrastructure and security;
- Limited and remote buying stations which require miners to travel and thus add significant operational costs to their sales to EBO;
- Better purchasing conditions offered by the competing COMERMIN and entrenched traders, which also provide pre-financing, and with which they have long-term trust based relations. Furthermore COMERMIN's operations are backed by the political and social muscle of mining cooperatives, a key ally of President Evo Morales.
- The EBO suffered from an overly-bureaucratic model staffed with few and ill formed agents, which contrasted with the operations of the highly-experienced (informal) intermediaries.

1.5.3. (Non-judicial) grievance mechanisms and liability

While Bolivia is noted for having more violent conflict prone (if not violent conflict-driven) mining sector, the devolution of powers granted by the new constitution presents certain clear opportunities for the piloting and establishment of (non-judicial) grievance mechanisms. In essence the Bolivian constitution allows communities to design and implement their own FPIC and consultations mechanisms (Bastida and Bustos, 2017), allowing for the localisation of consultation mechanisms and by extension of (non-judicial) grievance mechanisms. However as highlighted by NRGi (2017a) local administrations have shown their lack of capacity to take advantage of the capacity and thus hinder the development of localised mechanisms.

2. Republic of Peru

Table 2 - RGI of Peru

Enabling environment	62
<i>Voice and accountability</i>	80
<i>Government effectiveness</i>	59
<i>Regulatory quality</i>	85
<i>Rule of law</i>	57
<i>Control of corruption</i>	56
<i>Political stability and absence of conflict</i>	55
<i>Open data</i>	39

Peru's *satisfactory* RGI score on the *Enabling Environment* indicators reflects a rather sound situation on the ground. However this score is not uniform and remoteness impacts greatly the capabilities of the GoP. Governance in remote areas such as the department of Madre de Dios, a major illegal ASGM production area, is significantly lower than in more urbanised and better-connected regions (Vérité, 2013; KMPG, 2016; Columbia, 2017).

Its *poor* score on the *Open Data* indicator is surprising considering that the country is the first implementer of the Extractive Industries Transparency Initiative (EITI) in Latin America, furthermore Peru possesses a very complete publicly accessible mining cadastre displaying considerable information (www.geocatmin.ingemmet.gob.pe/geocatmin/) which is also available as an app. Geocatmin is very investor friendly designed and less useful to local communities and EITI information if of limited usefulness at the local (municipal) level due to its aggregated format. This lack of information is particular stringent when it comes to information on the environmental impacts of mining operations. Civil society organizations have been pushing to broaden the EITI agenda to include beneficial ownership disclosure and environmental information, some extractive companies have resisted (RGI 2017).

Peru's challenges from human rights point of view are linked to a lack of state capacity (and company engagement with local communities, in particular when it comes to the extremely sensitive matter of environmental impacts. This is illustrated by the lack of guidelines on the use of force by the police protecting mining sites or of capacity to support companies in FPIC processes. In addition ASM operations come with their own type of challenges and impacts.

Peru does not have mechanisms enshrined in law that allow the authorities to save money in times of high commodity prices, which incentivizes immediate spending, especially at the local level, in order not to end fiscal years with budget surplus. This has generated high fiscal volatility at the sub-national level (NRGI, 2017a). Peru's mining revenue is redistributed its regions, in particular its mining regions. Interestingly in addition to distributing royalties back to its region, GoP also redistributes 50% of cadastral taxes (impuesto a la renta) from the mining and oil industry (NRGI, 2017a). Peru achieves a poor score in subnational revenue sharing due to a lack of clear rules on the responsible agencies for transferring and receiving revenues, and lack of requirements and practices for auditing subnational transfers (RGI, 2017).

Despite a professed interest into decentralization of State functions, in practice this decentralization has been weakened if not rolled back in the application of said decentralization. This is especially visible when it comes to decision-making related to title granting, the approbation of E(S)IAs, negotiations and contract/impact monitoring. And while in Peru socio-environmental impacts (first environmental, then becoming social) are key driver of conflict, national regulatory amendments have progressively criminalized it, or certain aspects thereof (NRGI, 2017a).

Perú

- 2006: Ley 28820, aumenta el marco de delito de atentado contra vías de comunicación y disturbios para aumentar las penas efectivas
- 2007: Ley 29166, permite el uso de armas letales de las FFAA para el control interno
- 2010: DL 1095, permite uso de armas letales en caso de conflictos sociales
- 2012: Resolución No.096, crea jurisdicciones especiales en Ica y Lambayeque para juzgar a líderes sociales de Cusco y Cajamarca
- 2012: Ley 29986, establece posibilidad de remoción de cadáveres sin presencia del Fiscal
- 2013: Ministro del Interior anuncia creación de frentes policiales en zonas mineras
- 2014: Ley 30151 modifica Código Penal y facilita impunidad de Fuerzas Armadas y Fuerzas Policiales que hieren o matan usando armas en forma no reglamentaria

2.1. Challenges of the mining sector

2.1.1. Sector governance framework

Mining sites are often located in remote, rural regions of Peru that experience higher-than-average levels of poverty. Economic growth stemming from mining activities has done little to alleviate rural poverty. This fact, combined with negative perceptions of the state based on past experiences, has given rise to general feelings of distrust towards the state among rural communities (Columbia, 2017). Distrust compounded by the environmental impacts of mining operation, particularly in semi-arid Andean regions where (copper-gold LSM mines) mining competes with traditional agrarian livelihoods.

During the last years environmental protection has been downsized in Peru in order to foster investment into mining and ride the high commodities waves. Said regulations were seen as a “brake” for economic development. Environmental monitoring and oversight capabilities were reduced and the Ministry of the Environment lost both a part of its power in sanctioning companies as well as its central role in centralizing the approval of EIAs, due to lack of time and personnel resources to treat these EIAs correctly created by a *flexibilisation* of the EIA process. Furthermore, as a ministry it cannot delimit areas that cannot be titled. One of the consequences of this downsizing has been the growth of environmental violations rising from 10 to 37% of operations. Furthermore consultative processes with local communities have been limited to information dissemination sessions to local communities that cannot weight into the decision making process (NRGI, 2017a). In that regard it is notable that jurisdictional conflicts are happening on certain projects in coastal Peru regarding the impacts of popular consults: *“Precisamente, en Perú, en escenarios de conflicto entre empresas mineras y poblaciones rurales costeñas (pequeños y medianos propietarios mestizos) en las regiones de Piura y Arequipa, las organizaciones sociales y los gobiernos locales han promovido consultas ciudadanas. En estos ámbitos, se les ha dado a las Consultas Ciudadanas carácter vinculante en virtud de las competencias incluidas en la Ley Orgánica de Municipalidades para hacer consultas ciudadanas sobre temas de interés general en sus territorios. El Gobierno central no ha reconocido estas consultas señalando que la Ley de Minería le otorga al Ministerio de Energía y Minas la potestad de dar concesiones y al Ministerio del Ambiente,*

la de aprobar los Estudios de Impacto Ambiental sin que los Gobiernos locales tengan competencias en estas materias” (NRGI, 2017a)

Legislation regulating the mining sector in the form of the Framework Mining Law (*Ley General de Minería*) fails to adequately address the issue of social conflict. This issue could be alleviated via the strengthening the Framework Mining Law by increasing landowner protections, making the Compromiso Previo legally binding, increasing the publication of mining concessions, enhancing the legal and technical reports performed by the Dirección de Concesiones Minera, eliminating automatism of concession granting under the law, and by increasing the involvement of regional and local governments in the issuance of mining concessions (Columbia, 2017). Columbia's (2017) scan of the sector also highlights a lack of intra-governmental coordination has impeded information sharing, resulted in unclear or overlapping responsibilities, and hampered the development of a national strategy for the prevention of social conflict.

A noted avenue to mitigate the issues related to the community grievances (Columbia, 2017; NRGI 2017a) is to facilitate the participation of civil society via the streamlining of participation forums (less bureaucracy), their localisation through the alignment between municipal level decision making and national level mining law, and ensuring that consultations and discussions (with local and impacted populations) do have an impact on decision making and are not used to whitewash operations (in other words: real FPIC consultations and accountable grievance mechanisms).

2.1.2. Environmental, then social impacts – i.e. social license to operate issues

This noted lack of proper consultation with local populations has given rise to unease about the environmental impacts of mines, unease that has on repeated occasions led to protests. Questions about the environmental implications of several LSM mines coming on stream in Peru continue to be raised and lack of satisfactory answers leads to social tensions, and on occasion to protests. In particular when it comes to water use.

Based on interactions with community members and leaders in the field, the Capstone team identified three

Gráfico 17. Conflictos “socio ambientales” en el Perú durante el súper ciclo⁹²



Fuente: Defensoría del Pueblo. Elaboración: NRGI

issue areas that drive communities to pursue conflict with mining companies and the state: community disempowerment, lack of effective communication with communities, and failure to properly manage

community expectations. When communities lack technical resources and information about proposed mining projects in their area, they may form inaccurate expectations of the project, both in terms of impact and benefit. When their expectations are not met, they may feel powerless to change the situation because of a lack of knowledge, expertise, and/or political leverage, and thus opt to protest, clash with authorities, create work stoppages, etc. (Columbia, 2017)

For example environmental issues and more specifically changes to environmental management plans (the cancellation of plans for a conveyor belt to carry copper, which sent 300 ore-laden trucks per day along a road that ran through villages), triggered the September 2015 protests at Las Bambas where four protesters died (GW, 2016), as well as the October 2016 protests where one protestor died (Peru Reports, 2016). These deadly clashes have proven to be very damaging for the reputation of Las Bambas. Environmental issues also triggered the protests at *Tia Maria* mine where one protester and one policeman were killed in May 2015. On that occasion, the army was deployed to stabilise the region (BBC, 2015; The Guardian, 2015).

A great part of the issues described above stem from a lack of engagement by companies and support from the government. According to an interview with SPDA (a leading environmental and communities rights NGO involved with the mining sector) representative, this was evident during the steps taken to obtain FPIC. The ongoing lack of communication does not help to build the trust needed for a constructive dialogue to take place between companies and local populations. This lack of trust and sufficient consultations to obtain FPIC can also complicate matters relating to resettlement.

Resettlement issues have on occasions become difficult. Certain individuals and families but have been generally appropriately managed, which includes the resettlement of an entire town by Chinalco: Morococha (FT, 2013; China Dialogue, 2013). However, recent declarations from a Southern Mining executive regarding protests to the Tía Maria mine, where he linked local protestors to the *Sendero Luminoso* (La Republica, 2018) cast doubt as to whether LSM companies have become more adept at working with local communities.

From a formal standpoint, there is currently no universal community consent agreement that includes state oversight and sanctions, penalties or legal remedies for breaches much less standardised guidelines to do so. Formal prior consultations are also made more difficult by the lack of legal enforcement, the difficulty of determining which communities the law applies to, the overlapping of administrative responsibility during application of the law, and the ambiguity surrounding the timing and continuation of the consultation process (Columbia, 2017).

2.1.3. **Protesting LSM activity**

Global Witness reported that in 2016, Peru was: “one of the deadliest countries for activists protesting against mining. Approximately 80% of the 69 killings there since 2002 were linked to the mining sector, including 11 of the 12 in 2015. In the last decade, human rights organizations in Peru have documented hundreds of social conflicts and cases of criminalization against activists related to such operations. On 28 September 2015, highland farmers in Apurimac launched a protest against the massive Las Bambas copper mine, run by the Chinese company MMG Limited, due to changes in the environmental impact plan that they believed would cause pollution. Four protesters were killed and another 15 wounded by police gunshots, while eight police officers were injured” (GW, 2016).

Issues strengthened by the overuse of declarations of state of emergency by the state, as well as the overuse of force by police in response to social conflicts (Columbia, 2017).

2.1.4. ASM

Peru's ASM sector forms an important part of the country's mining landscape, particularly in terms of job provision⁸. It is however associated with grievances and legal and governance issues linked to its informality and illegality, mercury pollution, and widespread presence of forced labour and sexual exploitation linked to ASM communities (Vérité, 2013). These issues are particularly salient in peripheral regions, which have scant governmental presence (KMPG, 2016), which also coincides with significant ASM production hubs. In parallel gold smuggling to Bolivia has become a growing problem since the Peruvian Government's crackdown on illegal operations⁹.

Of particular concern to observers of the sector are:

- Child and forced labour, along with sexual exploitation in ASGM communities in the country's peripheries, and particularly in Puno and Madre de Dios (Vérité, 2013)
- (Profitable) money laundering (GITOC, 2016) is a present and growing phenomenon and now seem to have taken a cross-border dimension in particular with Bolivia (see earlier section on Bolivia). But to the difference of Colombia, armed groups with a political agenda or very structured organised crime outfits do not appear to play a major role in this phenomenon. There are, however, some suspicions that this money laundering could be used to clean money from the Peruvian narcotics trade¹⁰.
- Illegality of the operations (Vérité, 2013; SPDA, 2014)
- Environmental impacts (including mercury pollution and deforestation)¹¹ (IDB, 2013 - PERU)
- And by extension impacts on indigenous territories and populations (IDB, 2013 - PERU).

However it should be noted that information on ASM is focused nearly entirely on ASGM. There are indications that a limited number of ASM miners work with copper (interview with SPDA representative in early 2017) but these activities are not documented. While IDB (2013 - Peru) notes that 50% of non-metallic minerals are extracted by ASM there is currently no visibility about the conditions and value chains of ASM for non-metallic minerals and in particular construction materials

2.2. Lessons learned from cooperation projects

As pointed out by Columbia (2017) and corroborated by interviews (with SPDA and INGEMET representatives in 2017 and 2018 respectively). There is a need to work with various state institutions that often operate in separate silos. The Peruvian government has realised the difficulty and in occasions has created what amount

⁸ ASM is estimated to provide 150,000 direct jobs, which support more than 500,000. The Ministry of Mines and Energy registered a total of 9,780 mining operations, including 1,575 SSM and 5,335 AM operators (MME, 2016), as the informality of the sector is likely to lead to an underestimation of the share of ASM operators, this should be treated as a lower benchmark.

⁹ See, for example: Insight Crime, 02.05.2017 *Peru-US Gold Case Shows How Importer Shifted Gears*. Accessible via: www.insightcrime.org/news-analysis/peru-us-gold-case-shows-how-importer-shifted-gears; Insight Crime, 26.11.2014, *Peru's Illegal Miners Trafficking Gold to Bolivia*. Accessible via www.insightcrime.org/news-briefs/peru-illegal-miners-trafficking-gold-to-bolivia. Reuters, 25.11.2014, *Lucha contra minería ilegal de oro en Perú crea nueva ruta de contrabando por Bolivia*. Accessible via:

<http://lta.reuters.com/article/domesticNews/idLTAKCN0J91WL20141125?pageNumber=1&virtualBrandChannel=0>. As accessed on the 30.10.2017 for all links

¹⁰ See www.insightcrime.org/news/brief/peru-authorities-struggle-combat-illegal-mining-deforestation-continues/

¹¹ See <http://maaproject.org/2017/mdd/> and www.insightcrime.org/news/brief/peru-authorities-struggle-combat-illegal-mining-deforestation-continues/

to taskforces under the Presidencia del Consejo Ministerial (PCM). PCM “taskforces” however are more sensible to political changes than ministries and have on occasions been disbanded on short notices despite having shown their capabilities to implement results as in the case of ACAFMIRA (Alto Comisionado en Asuntos de Formalización de la Minería, Interdicción de la Minería Ilegal y Remediación Ambiental), or to quote NRG (2017a): *“A lo largo del súper ciclo, el país que trató más sistemáticamente de construir una institucionalidad especializada en la materia fue Perú, que llegó a organizar una oficina en la Presidencia del Consejo de Ministros para la prevención y transformación de conflictos a través del diálogo; el loable intento perdió utilidad una vez que los ministerios de Energía y Finanzas, y de Energía y Minas, impidieron la creación de un sistema estatal para facilitar el cumplimiento de dicha función.”*

Outside of the context of conflict minerals and its regional focus, Peru is the country with the most extensive experience in the implementation of standards, in particular in the gold ASM sector with the successful implementation of the: RJC CoP, Fairmined, and Fairtrade, as well as the BGI (STRADE, 2018), illustrating that better mining practices can be successfully implemented in the ASGM sector through the use of certification mechanisms. But also showing that substantial support has to be given so that these certifications can be successfully implemented. However it is unclear how feasible the implementation of these initiatives would be in areas of limited state presence and without the willing support of ASM companies. Not so feasible is a likely response.

Support from international cooperation has allowed Peru to map its environmental legacies, an important effort that would likely not have been feasible, or at least so successful without that support (interview with INGEMET representative at METS 2018).

A large World Bank support project, the Peru Third Programmatic Environmental Development Policy Loan (75m \$) was coordinated through the Ministry of Economy and Finance and not the Ministry of Environment or any similar entity. Furthermore for this project the bank coordinated its work with *“the Inter-American Development Bank (IDB), the Andean Development Corporation (CAF), the United Nations Development Programme (UNDP), and the KfW. The Bank has worked closely with the IDB, in particular, in sharing documentation and through joint missions. Moreover, in an effort to coordinate sector policies with the IDB, the proposed ENVDP program has been designed to complement efforts led by three IDB Policy Based operations on water resources policies, sanitation sector policies, and a sustainable energy matrix.”*¹²

Good research has been undertaken and financed by “non-classic” actors. The report from the Bonn International Center for Conversion “En la búsqueda del oro limpio: Minería artesanal del oro en el Perú y la RD del Congo” was financed by Misereor, Evangelischen Entwicklungsdienst (EED), Stiftung Umwelt und Entwicklung (SUE) North Rhine-Westphalia and the Sparkassenstiftung für internationale Kooperation e.V. in Bonn.

A representative of INGEMET mentioned in an interview during METS 2018 that project leaders/directors play a significant role in projects’ success and that replacing outgoing talent can prove difficult and put a project’s progress on hold or worse impact said progress.

GAMA’s 2008 annual reports highlights the following difficulties:

¹² See <http://projects.worldbank.org/P118713/peru-third-programmatic-environmental-development-policy-loan?lang=en&tab=details>

- *La voluntad política oscilante de las autoridades sectoriales a nivel central y regional ha limitado la continuidad de acciones y una mayor sinergia de recursos y capacidades para lograr una mayor amplitud y profundidad de resultados. [...]*
- *La transferencia de competencias a gobiernos regionales sin la correspondiente asignación de recursos económicos y de capacidades en el tema de minería artesanal ha limitado la participación económica de algunas contrapartes regionales del Proyecto y en algunos casos también la coordinación operativa debido a la gran movilidad de los funcionarios regionales.*
- *La espectacular subida del precio del oro unida a la estructural escasez de puestos de trabajo en el país determinaron que en forma masiva e incontrolable sectores desocupados se volcaran a realizar actividad minera artesanal de manera informal en muchas regiones del país generando situación conflictivas y fuerte rechazo de parte de la minería formal y el Estado. Esta circunstancia ha minimizado a nivel de la opinión pública los avances logrados por los mineros artesanales formalizados. [...]*
- *Existe una insuficiente oferta de prestadores de servicios diversos especializados en minería artesanal, sobre todo a nivel de las regiones lo que constituye una barrera para el desarrollo empresarial. [...]*
- *Aparente estancamiento en el fortalecimiento institucional de las organizaciones regionales de los mineros artesanales. Existen dirigentes que ha ganado representatividad y mucha experiencia ejerciendo un liderazgo personal que si bien es funcional puede resultar muy vulnerable para la sostenibilidad las organizaciones actuales.*

2.3. Possible topics/areas for continued support and future cooperation engagements

2.3.1. New partnership approaches

New partnerships present a certain potential if targeting the right partners/sectors, and would thus be mostly concentrated on LSM operations.

Peru is one of the eight non-OECD members that adhered to the Recommendation of the Council on the OECD DDG, which calls for promoting the observance of the OECD DDG by companies operating in or from its territory, taking measures to actively support its integration into corporate management systems, as well as ensuring its widest possible dissemination (STRADE, 2018). Helping companies to engage local communities and obtain an effective FPIC and maintain their social license to operate, local government agencies, CSOs operating in the area and national authorities (ministries). The biggest drivers for responsible mining within Peru currently are NGO/public/media pressure as well as the national regulatory requirements.

- IRMA could possibly be of interest for massive LSM operations looking for a framework to structure their relation with communities and operate within clear guidelines.
- Combined ASM/LSM approaches where certification and integration of ASM operators within an LSM operation is feasible. Replicating the (partial) success of MYSAC (RJC, 2015).
 - o Facilitating the purchase of material responsibly produced under these conditions by EU downstream buyers, at a slight premium, could both incentivize this approach and supply downstream operators with more material, as fairtrade jewellers complain of a lack of material according to your sources.
- Establish academic exchanges and scientific cooperation (including in the social sciences)

2.3.2. ODA

Based on the factors highlighted above, and bolstered by an interview with an INGEMET representative ODA should focus on ASM and Environmental Monitoring and Social Consultation issues, mostly with the aim of building up state capacity within a local level devolution framework.

Environmental impacts are seen as a key issue going forward by all stakeholders, in particular in regards to water for LSM operations, and for legacy issues for the ASM sector. On the later it should be noted that: *"Under Peru law (Law No. 28271), the government is responsible for cleaning up and rehabilitating abandoned (orphan) mining sites and their legacies. Given this and the growing awareness to address these mining legacies, the GoP has committed resources to MEL remediation. Budgetary support for MELs remediation is being provided by the National Environmental Fund (FONAM), and Activos Mineros (state company)"*¹³

Columbia (2017), NRG1 (2017) and interviewees also make mention of a few regulatory gaps that would need to be plugged, specifically:

- Police intervention guidelines for the protection of mine-sites and addressing min-sites related protests
- Gaps between the organic law on municipal territorial planning and national level mining law
- Making transparency efforts more relevant to CS and local actors
- Supporting the design of a holistic and practical ASM policy, likely based on the IGF ASM Guidance. Something that is difficult to achieve due to political cycles (as the ACAFMIRA case exemplifies).

2.4. Institutions for EU and MS to cooperate with

2.4.1. Public institutions

The Ministry of Energy and Mines (MINEM), the main central government agency for the mining sector, has the authority to regulate mining activities and grant mining concessions. INGEMMET might be of particular interest given that it manages GEOCATMIN and thus has a special role in disseminating information. It could be of interest to use GEOCATMIN to provide information to local communities in a manner mirroring of IFC's web-based platform *Municipio al Día* (IFC, 2013).

Ministry of Environment (MINAM).

In addition to MINAM and MINEM and their different departments, which should all be approached as a interministerial and national/regional taskforce, possibly via the *Presidencia del Consejo Ministerial* (PCM) and thus mirroring the implementation of the now defunct ACAFMIRA, the following institutions are of interest:

- PCM
 - o Vice-Ministry for Territorial Governance (Viceministerio de Gobernanza Territorial del Perú) under the PCM
- Ministry of Finance

¹³ See <http://projects.worldbank.org/P118713/peru-third-programmatic-environmental-development-policy-loan?lang=en&tab=details>

- Different funds for investment and financing the development of relevant technological solutions, including:
 - o Fondo Marco para la Innovación, Ciencia y Tecnología (Fomitec)
 - o Fondo Nacional de Desarrollo Científico y Tecnológico (Fondecyt)
 - o Fondo para la Innovación, la Ciencia y la Tecnología (Fincyt)
 - o Fondo de Investigación y Desarrollo para la Competitividad (Fidecom)
- *Activos Mineros*, a state owned enterprise established to implement and manage gold trading agreements with trading companies buying ASM gold in remote mining locations as part of the country's ASM formalisation process.
- Consejo Nacional de Ciencia y Tecnología, Concytec

2.4.2. Academia

- Universities (MNDP provides a full list of relevant universities)

2.4.3. NGOs / CSOs on mining issues

- NGOs / CSOs (MNDP provides a full list of relevant NGOs / CSOs)

2.4.4. Private sector

- Private companies (MNDP provides a full list of relevant private companies)
- Private sector or representatives:
 - o Sociedad Nacional de Minería Petróleo y Energía (SNMPE);
 - o Cámara Minera del Perú (CAMIPER);
 - o Sociedad Nacional de Industrias del Perú (SNI);
 - o Asociación de Exportadores (ADEX)
- ASM sector representatives
 - o Asociación de Pequeños y Medianos Empresarios Mineros (APMEME);
 - o Federación Nacional de Mineros Artesanales del Perú;
 - o Confederación Nacional de mineros artesanales y pequeños productores mineros del Perú (CONAMI);
 - o Sociedad Nacional de Minería en pequeña escala (SONAMIPE);
 - o Federación Minera de Madre de Dios (FENAMAD);
 - o Federación regional de pequeños productores mineros y productores mineros artesanales (FERPEMIMA).

Peru is part of the Andean committee against informal mining (*Comité Andino contra la minería ilegal*) supported by the CAN. However no updated information on the activities of the committee can be found since June 2016, casting doubt on whether its activities are ongoing and whether it is a relevant stakeholder to contact.

The Financial Action Task Force of Latin America (GAFILAT) can be both a stakeholder and provide a neutral forum to discuss issues of mineral smuggling between countries (FATF, 2008).

2.5. Relevant examples

2.5.1. Implementation of mutually agreed treaties/rules

The EU Peru/Colombia FTA does make no specific mentions of mining, however the EU CMR is likely to affect both countries due to the situation of their ASGM sector and cross-border flows.

2.5.2. Effective implementation of the EU conflict mineral legislation

Currently Peru possesses the only RJC certified miner that sources part of its ore from artisanal miners: Minera Yanaquihua S.A.C. (MYSAC), located 160 kilometres northwest of the city of Arequipa. It treats approximately 130 tons of ore per day, which is extracted by contractors, micro-contractors and artisanal miners working independently on the MYSAC concession. This certification process was only made possible by the extensive support from the NGO *Solidaridad*, illustrating the difficulties of implementing such a complex standard in ASGM operations.

This success story aside it is likely that Peru would need substantial support to implement traceability, due diligence and certification in its gold supply chain, as main ASGM areas (overlapping with areas where substantial human rights abuses occur during mining) are areas where the state has little to no presence. Cooperation could target the existing efforts deployed by Peru via *Activos Mineros* “a state owned enterprise established to implement and manage gold trading agreements with trading companies buying ASM gold in remote mining locations as part of the country’s ASM formalisation process. Implemented in 2012¹⁴, *Activos Mineros* has managed to channel more than half of the country’s estimated ASGM production in 2016. To do so it has relied on a no-questions asked SGBP up to now [see IIED 2016, for details on no-questions asked SGBPs]. To date operators have only provided mine site location data under this framework, which will soon be verified by authorities¹⁵” (STRADE, 2018). This verification will be likely to be complex and costly and international cooperation to do is likely to be well received

2.5.3. Strengthen domestic value added

In-country value addition was mentioned as a key area of interest by an INGEMET representative during an interview at METS, 2018. In particular in the form of dedicated smelters.

2.5.4. Role of embassies/diplomats

The Canadian embassy in Lima has been mentioned as strong point of contact for the development of cooperation between Peru and Canada by an INGEMET representative during an interview at METS, 2018. The *Fondo Canadiense para Iniciativas Locales* was mentioned as an interesting opportunity on that front.

¹⁴ Through the *Decreto Supremo N° 012-2012-EM*.

¹⁵ Communications with Guillermo Medina Cruz, National Coordinator Peru, Better Gold Initiative. 05.10.2017

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