

2015 Nancy: Mineral Resources in a Sustainable World

SOCIAL LICENSE TO OPERATE AND THE ENVIRONMENTAL AND SOCIAL CHALLENGES OF THE MINING INDUSTRY

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Face wind

Several opposition groups to either commodities, or specific operations, or overall activity of resource extraction

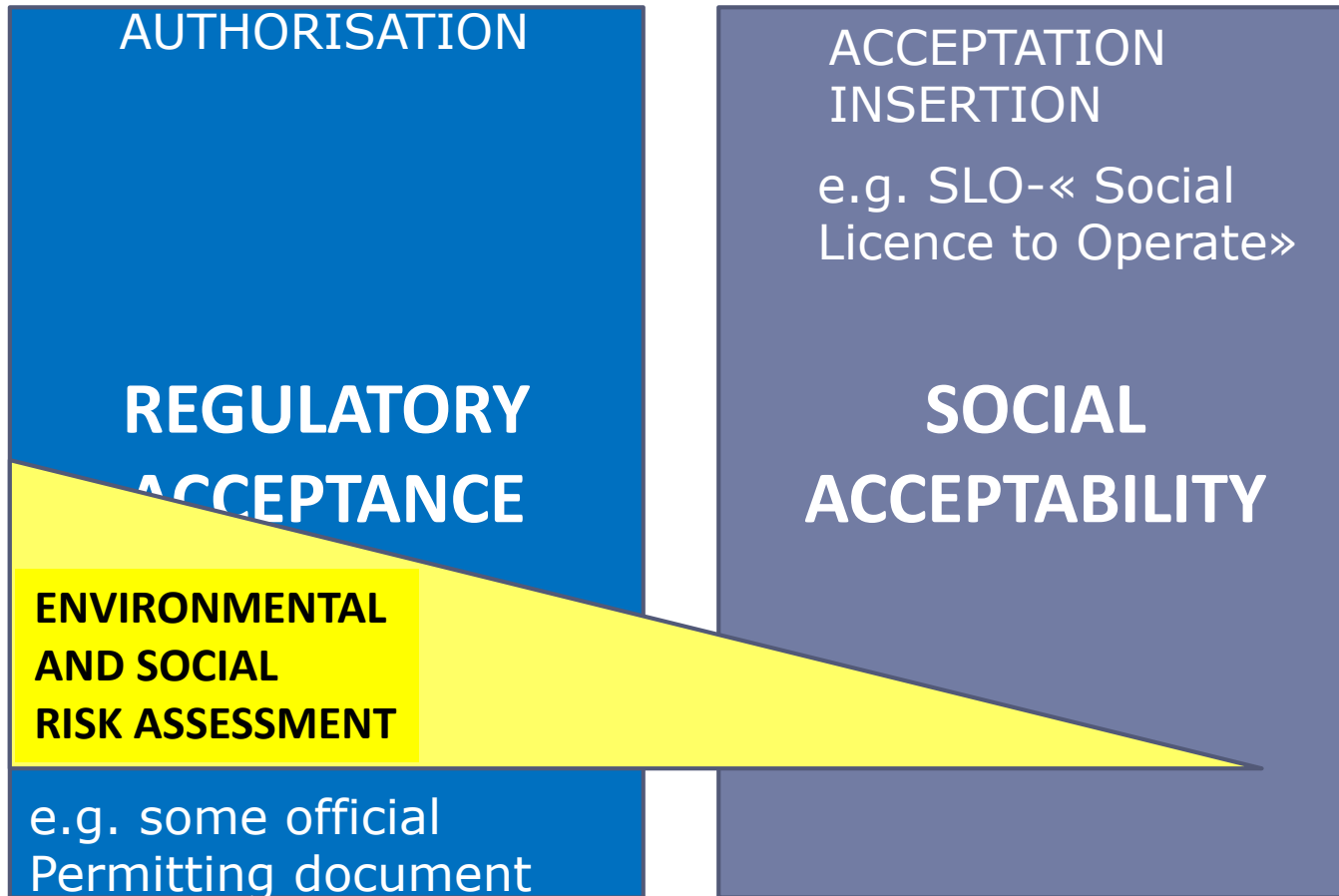
Negative legacy, orphan sites, dark examples of pollution, contamination, or resources exhaustion, possibly lopsided economic returns, and the like...

Yet there are numerous instances where mining operations are

- a) optimally conducted**
- b) as per the highest environmental standards meeting all environmental and social obligations required by laws and regulations,**
- c) and providing substantial wealth and economic returns to neighbouring populations and host nations**

Still those projects may not be viewed as acceptable by many; they are not entirely “accepted”.

Therefore we can think of a dual requirement for mining operation, one that we may call regulatory acceptance, and another one, now called “social acceptability”.



LA RECHERCHE ET L'OBTENTION DE
L'ACCEPTABILITÉ RÉGLEMENTAIRE PAR LES
MINIÈRES EST UN PROCESSUS BIEN ACCEPTÉ ET
BIEN MAÎTRISÉ

- 1) NOTAMMENT PAR LE BIAIS DE L'ÉVALUATION ENVIRONNEMENTALE ET SOCIALE- ÉTUDES D'IMPACTS**
- 2) LA CONSULTATION PUBLIQUE FORMELLE ET STATUTAIRE (PAR EXEMPLE, PROCÉDURE DU BAPE AU QUÉBEC MÉRIDIONAL OU PROCESSUS DE CONSULTATIONS PRÉVUS AUX CHAPITRES 22 ET 23 DE LA CBJNQ EN RÉGIONS NORDIQUES)**
- 3) LES CONSULTATIONS ET ARRANGEMENTS HORS CADRE AVEC LES POPULATIONS LOCALES-PRATIQUE DE PLUS EN PLUS COURANTE**

- **A number of external and internal pressures and incentives bring mining companies to search for “social acceptability” (SA) in addition to regulatory authorization.**
- **There is pressure from funding agencies, banks and Equator Principles Financial Institutions, investors and shareholders who altogether push for corporate environmental and social responsibility (CSR)**
- **There is incentive as well, as most companies realize that clearly, projects are not viable if they alienate the neighbouring populations, with possible ensuing delays and extra-costs.**

COMMAND AND CONTROL

PRESSURE AND INCENTIVE

EXTRA-COSTS AND DELAYS



STATE REGULATIONS

**FINANCING INSTITUTIONS
EQUITY INVESTORS
EQUATOR BANKS
SHAREHOLDERS
LOCAL AND INT. NGO'S**

- **While regulatory acceptance is well understood, and well integrated into common environmental and social management systems of most mining companies, the notion of social acceptability (SA) remains fuzzy with no clear rules on how to achieve it.**
- **It has been morphed into the concept of “social licence to operate”, (SLO) something that can perhaps, hopefully, be managed under the purview of the company**

ENVIRONMENTAL AND SOCIAL CHALLENGES OF THE MINING INDUSTRY



**MACROECONOMIC, ETHICAL AND
POLITICAL ISSUES**

**GOVERNANCE AND SOCIAL
ACCEPTABILITY ISSUES**

**« CLASSICAL » ENVIRONMENTAL
AND SOCIAL IMPACTS AND RISK
ASSESSMENT ISSUES**

REGULATORY PERMITTING



DUTCH DISEASE
CORRUPTION
CONFLICT AREAS

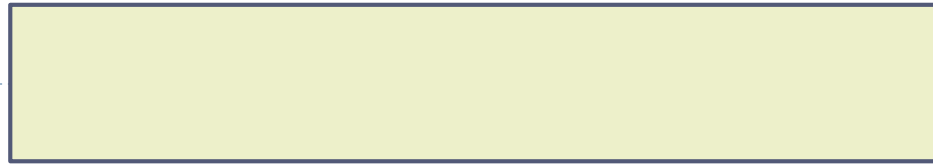
GOVERNANCE AND STEWARDSHIP

STRATEGIC ISSUES
SOCIAL IMPACTS
ENVIRONMENTAL FOOTPRINT
AND MANAGEMENT



SOCIAL LICENSE

COMMON MANAGEMENT TOOLS AND MEANS



« SOCIAL LICENSE TO OPERATE »

STRATEGIC ISSUES

COMMUNITY ISSUES
COMPENSATIONS
PDA/IBA **

MITIGATION/ENGINEERING ISSUES

****PDA: PRE-DEVELOPMENT AGREEMENT**
IBA: IMPACT-BENEFIT AGREEMENT

SOME STRATEGIC ISSUES

- **PRESSURE ON WATER RESOURCES**
- **PRESSURE ON ENERGY DEMAND**
- **LAND MANAGEMENT CONFLICTS**
- **PRESSURE ON ANCILLARY INFRASTRUCTURES**
 - **ROAD SYSTEM**
 - **PORTS AND AIRPORTS**
- **OPENING UP (DÉSENCLAVEMENT)**

SOME CSR AND SLO ISSUES

- **HUMAN RIGHTS**
- **MATERIAL STEWARDHIP**
- **CHAIN OF SUPPLY**
- **PUBLIC CONSULTATION**

Specific to mining in developing countries

- **LORD'S DILEMMA**
- **PSYCHO BOOM AD BUST**
- **LONELY PLAYER SYNDROME**

LORD'S DILEMMA

(Disproportion between the breadth of the mining operation and the receiving neighborhood)

Example: Big mine in a small town

- 1. You let the workforce fully interact and mix with the local population.....set of problems A**
- 2. You create separate residential quarters for your workforce.....set of problems B**

PSYCHO BOOM AND BUST

Whatever positive effects will materialize, they will never be to the level that was anticipated by the neighboring community.

« Consiste au fait que peu importe les retombées, l'industrie minière ne rencontrera que rarement les « attentes » et les espoirs, parfois démesurés, qui ont été créés par sa venue anticipée »

Lonely player

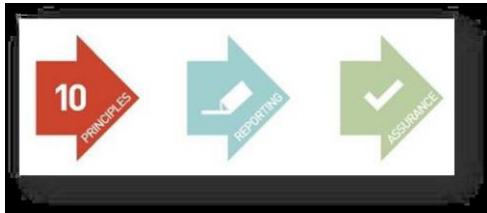
- **Discrepancy between the technical capacity of the company and that of the regulatory authority responsible for environmental surveillance and monitoring.**
- ***Dangerous pitfalls to substitute for the state.***

EITI

(CSR) (GRI, ISO 26000)

**ICMM-SDF/SMD/EV
ESMS (ISO 14001)**

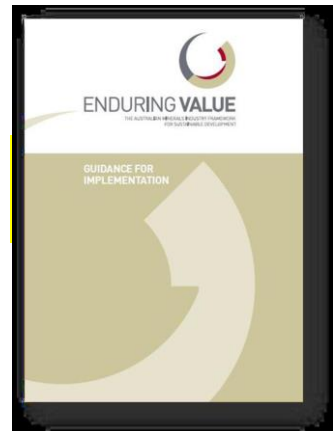
MAIN MANAGEMENT TOOLS AND FRAMEWORKS



ICMM-SDF



Mining Association of Canada

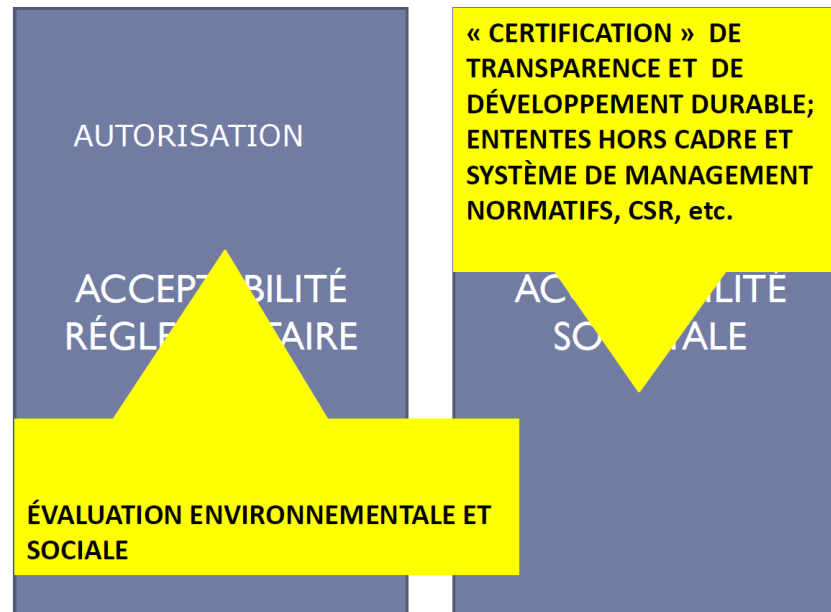


Mining Council of Australia

Le cumul des processus et moyens se traduit-il par une somme DES ACCEPTABILITÉS?

COMMAND AND CONTROL

PRESSURE AND INCENTIVE



CONSTATS

- 1) L'AUTORISATION RÉGLEMENTAIRE (VIA L'ÉVALUATION ENVIRONNEMENTALE ET LA CONSULTATION PUBLIQUE STATUTAIRE) NE CONFÈRE PAS ENTIÈREMENT UNE « LICENSE SOCIALE » (E.G. AU QUÉBEC: LE PROJET RABASKA)
- 2) LA CONFORMITÉ À DES NORMES DE DÉVELOPPEMENT DURABLE SECTORIELS OU GÉNÉRALES OU LA CONFORMITÉ À DES NORMES CERTIFIABLES DE MANAGEMENT ENVIRONNEMENTAL NE CONFÈRENT PAS ENTIÈREMENT UNE « LICENSE SOCIALE » (E.G. EN RDC, LE PROJET TENKE FUKURUME DE FREEPORT MINING)

SLO

Origin

Definitions

Components

Building and Sustaining

The scale problem

Pitfalls and distortions

SLO and social acceptability

Origin

FIRST WRITTEN REFERENCE GOES BACK TO 1997
WORLD BANK SEMINAR ON EXTRACTIVE INDUSTRIES AND
COMMUNITY RELATIONS (QUITO)
CREDITED TO THE CEO OF PLACER DOME

DEFINITIONS

EXPRESSION OF THE SOCIAL ACCEPTABILITY CHALLENGE AT THE PROJECT/COMMUNITY LEVEL

ACCORDING TO THE WORLD BANK:

« ...ACQUIRING FREE, PRIOR AND INFORMED CONSENT (FPIC) FROM INDIGENOUS PEOPLES, AND LOCAL COMMUNITIES THROUGH MUTUAL AGREEMENTS »

SOCIOLOGICAL LITTERATURE

« THE SOCIAL LICENSE TO OPERATE IS THE LEVEL OF ACCEPTANCE OR APPROVAL CONTINUALLY GRANTED TO AN ORGANISATIONS' OPERATIONS OR PROJECT BY THE LOCAL COMMUNITY AND OTHER STAKEHOLDERS » (BOUTILIER, 2005)

COMPONENTS

LEGITIMACY

- 1) respect and inclusion
- 2) will to abide by all laws and get all regulatory acceptances

CREDIBILITY

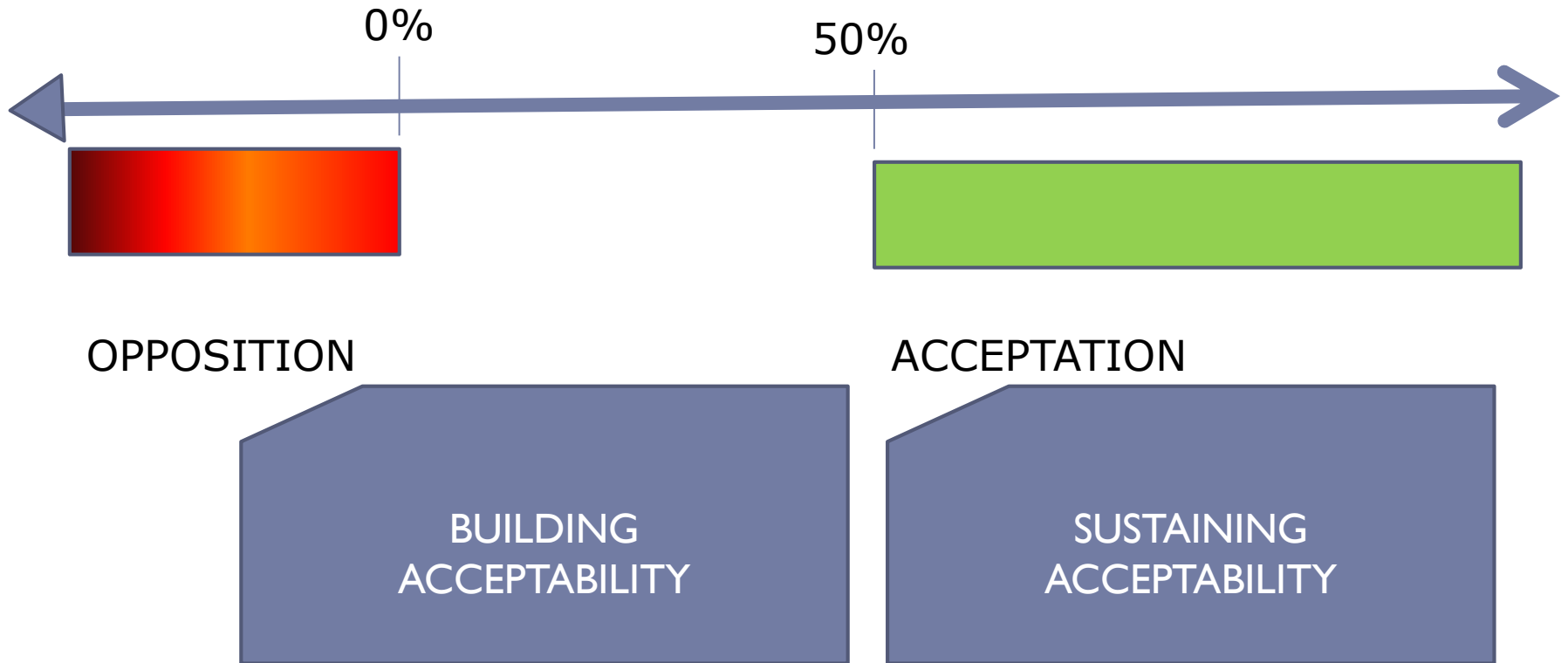
- 3) Transparency
- 4) will to listen
- 5) will to respond swiftly

RELIABILITY

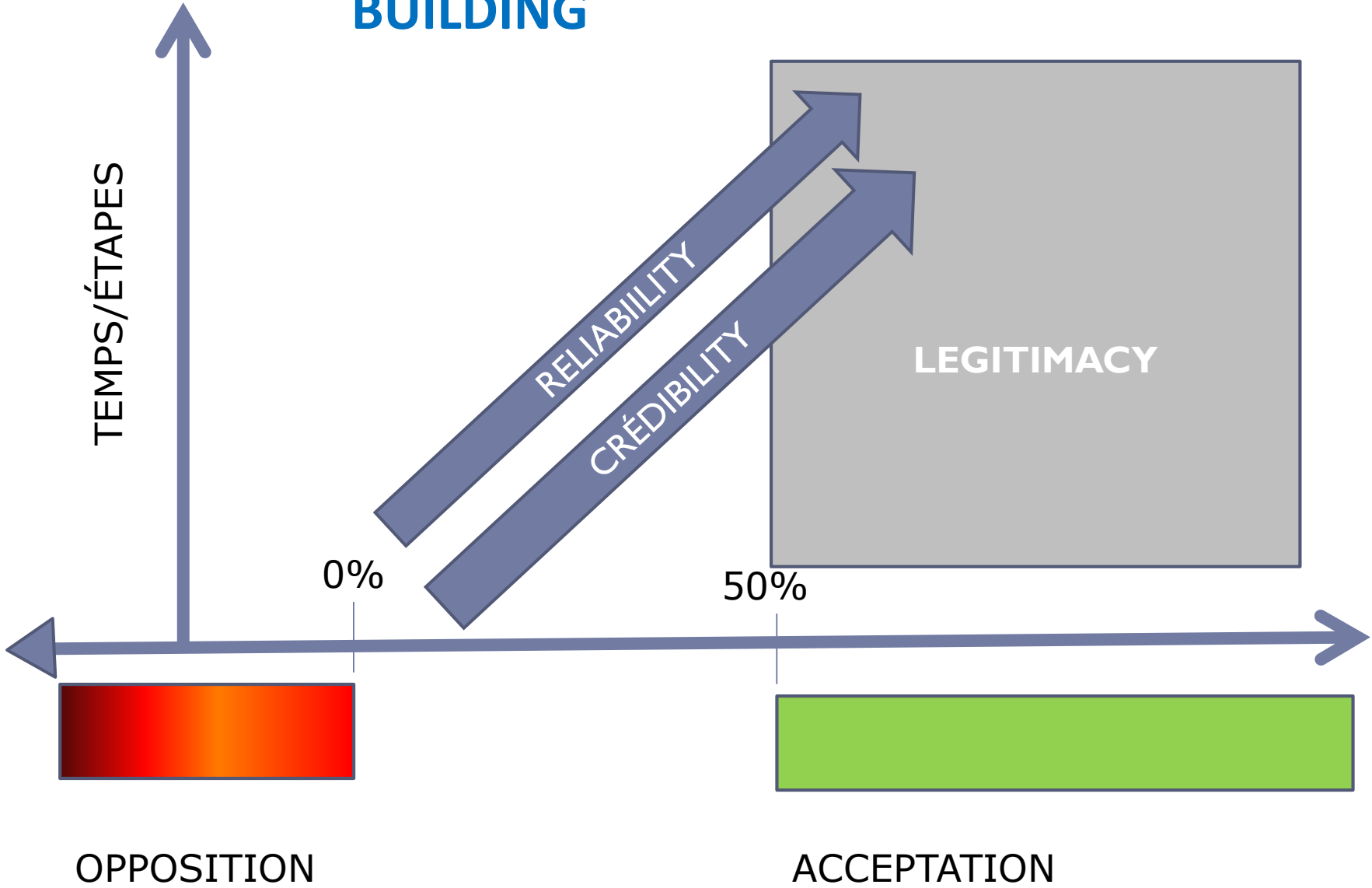
- 6) demonstration that you do what you say
- 7) demonstration that the company goes by rules and principles

(MODIFIED FROM THOMPSON ET BOUTILIER, 2011)

Building and sustaining Quantum of acceptability



BUILDING

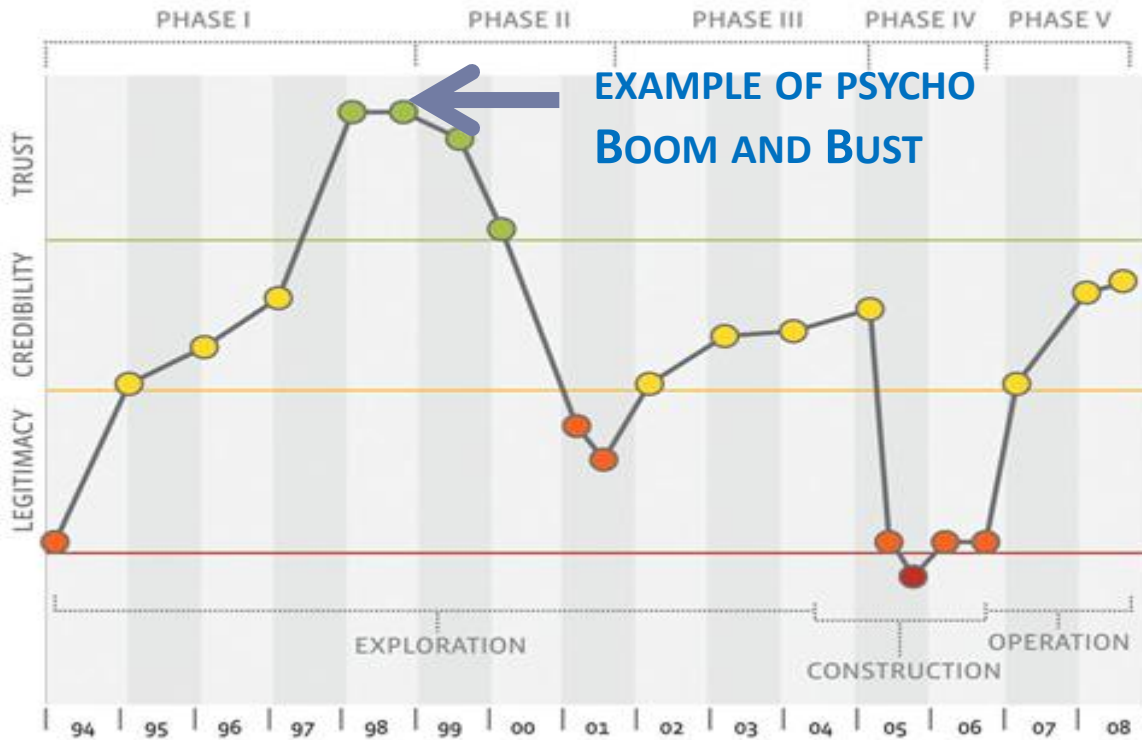




MINERA SAN CRISTÓBAL S.A.



Evolution of the Social License

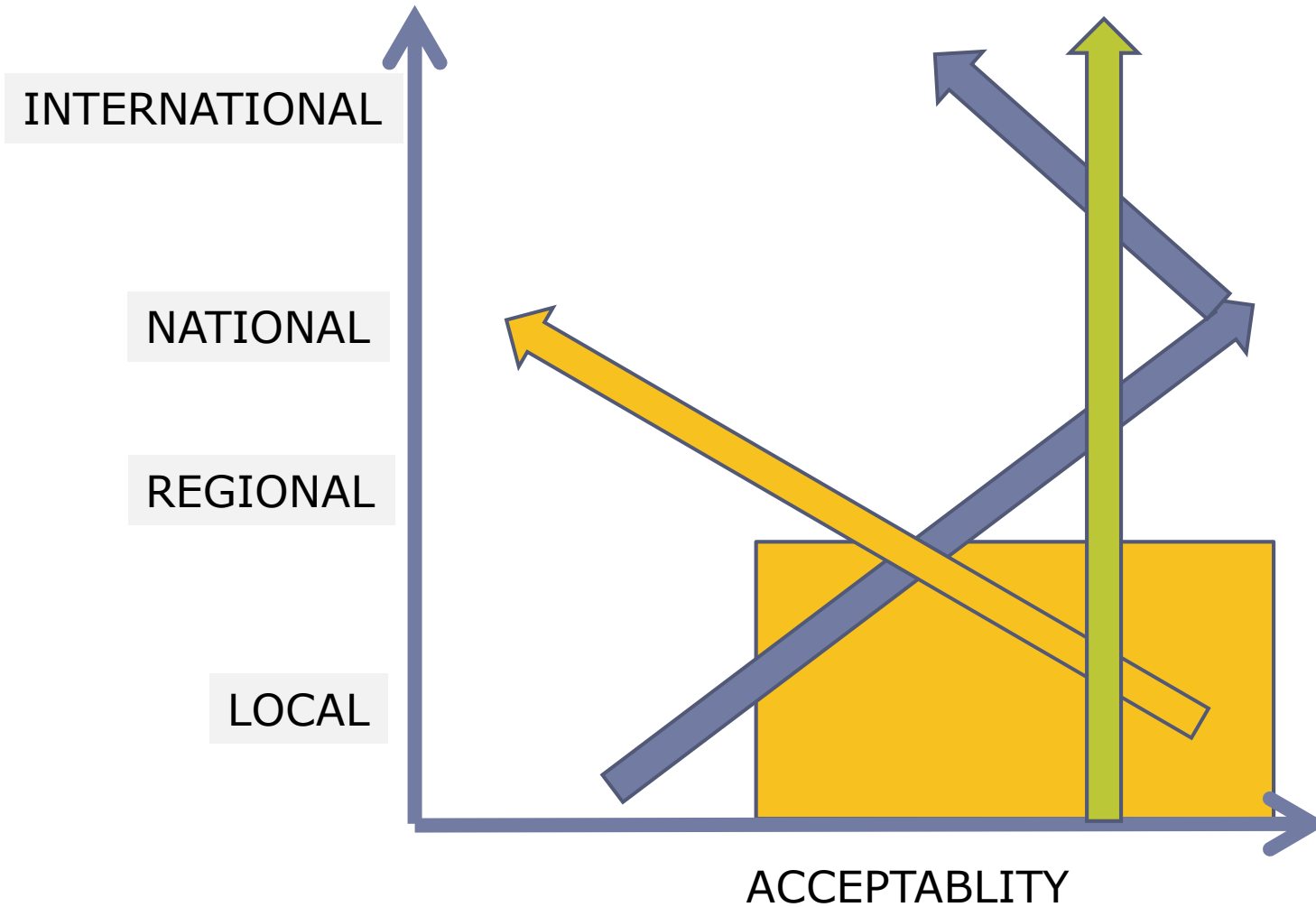


EXAMPLE OF PSYCHO BOOM AND BUST



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THE SCALE PROBLEM



PITFALLS AND DISTORTIONS

- 1) MAY BECOME A SLANTED LEVEE FOR NEGOCIATION BY LOCAL COMMUNITY IF SEEN AS A VETO POWER**
- 2) MAY LEAD TO INTERCULTURAL OR INTERCOMMUNAL DISPUTES**
- 3) OTHER DISTORTIONS – « PARALLEL REGULATION »**

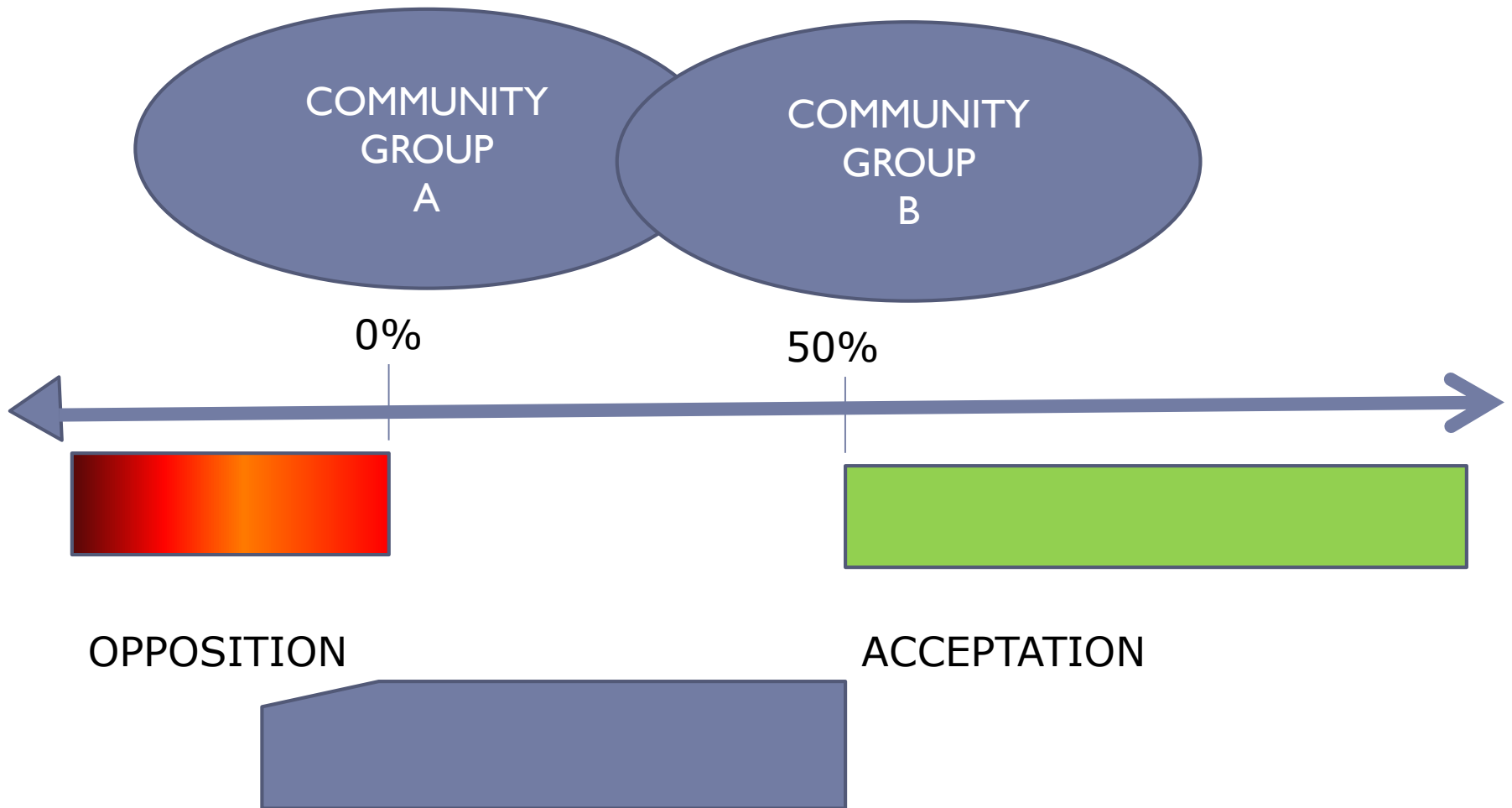


**Nation haïda c. Colombie-Britannique
(Ministre des Forêts), [2004] 3 R.C.S. 511,
2004 CSC 73**

Ce processus ne donne pas aux groupes autochtones **un droit de veto** sur les mesures susceptibles d'être prises à l'égard des terres en cause en attendant que la revendication soit établie de façon définitive. **Le « consentement » dont il est question** dans *Delgamuukw* n'est nécessaire que lorsque les droits invoqués ont été établis, et même là **pas dans tous les cas**. Ce qu'il faut au contraire, c'est plutôt **un processus de mise en balance des intérêts, de concessions mutuelles**.

LA COUR SUPRÊME A RECONNU QUE L'OBLIGATION DE CONSULTER NE CONFÈRE PAS UN DROIT DE VETO AU GROUPE CONSULTÉ

L'INCLUSIVITÉ MULTICOMMUNAUTAIRE





www.ot.mn

Mongolie (Désert de Gobi)
Turquoise Hill Resources (Rio Tinto)
Cu-Au-Ag ; Investissement total 13 G\$
Revendications (nouvelles) de groupes locaux de nomades (2012)

Concluding remark

For a long time Mining was OK if it was profitable (economic justification) and law-abiding

Mining is now OK only if seen as

- 1) Desirable and useful (societal justification)**
 - 2) Sensical (commodities, material stewardship)**
 - 3) Fair (EITI, CSR, SLO)**
- and**
- 4) Clean (Environmental and social risk management)**

Thank you

