# Guidance Note on Indigenous and Local Community

## Participation in Environmental Impact Assessment in the European Arctic

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# PART I: EIA FRAMEWORKS IN THE EUROPEAN ARCTIC

## 1. Introduction

### 1.1 Purpose and context of the Guidance Note

This Guidance Note on Indigenous and Local Community Participation in Environmental Impact Assessment in the Arctic seeks to contribute to the existing field of guidance and regulatory documents by highlighting good practices and lessons learnt. Its aim is to encourage and support public and private project proponents active in the European Arctic in their efforts to engage with local and indigenous communities.

To date, the only official guidance on how to conduct EIAs in the Arctic is the *1997 Guidelines for Environmental Impact Assessment (EIA) in the Arctic*. On 7 May 2019, a new document from the Arctic EIA project was published under the auspices of the Sustainable Development Working Group of the Arctic Council. The project was spearheaded by Finland, under the 2017-2019 Finnish Chairmanship of the Arctic Council, and co-led by Canada, the Kingdom of Denmark and Gwich'in Council International. It aimed to identify and share good practices that take into account the environmental, social and health aspects specific to the Arctic, and to promote the meaningful engagement of indigenous peoples and the use of indigenous knowledge and local knowledge in EIA. The deliverables of the Arctic EIA project included a report on *Good Practices for Environmental Impact Assessment and Meaningful Engagement in the Arctic - Including Good Practice Recommendations*, which was adopted at the Ministerial Meeting of the Arctic Council in May 2019. This Guidance Note supported the process and the final Arctic EIA project report.

There are other guidance documents that broadly address how responsible investment in the Arctic should occur, but to date there is nothing that provides a compilation of tools focused on improving meaningful indigenous and local community engagement in the EIA process specifically in the Arctic. Other key initiatives relevant to the participation of local and indigenous communities in EIAs and development in the Arctic include the Arctic Investment Protocol, the International Labour Organisation (ILO) Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries, the UN Guiding Principles on Business and Human Rights, the Indigenous Peoples and Mining Position Statement of the International Council on Mining and Metals, the UN Declaration on the Rights of Indigenous Peoples and those specified in section 3.2.

This Guidance Note is therefore meant to contribute to strengthening EIA practice for any potential future investments in the Arctic by the European Investment Bank (EIB) and other financiers. The objective is to ensure that local concerns and knowledge are taken into consideration when decisions are made regarding the preparation and implementation of new projects, which can influence the environment, and the wellbeing of people living in the Arctic region.

The Guidance Note focuses primarily on advising on the inclusion of local and indigenous communities living in the European Arctic–namely Finland, Sweden, Norway, Iceland and Greenland – but it also draws on experiences and best practices in other parts of the global Arctic.

## 1.2 The Arctic region

The Arctic is the northernmost region of the Earth. Most scientists define the Arctic as the area within the Arctic Circle, a line of latitude about 66.5° north of the Equator. Inside this circle are the Arctic Ocean and the northern parts of Scandinavia, Greenland (Kingdom of Denmark), Iceland, Russia, Canada and the US state of Alaska. The Arctic is almost entirely covered by water, much of it frozen. Some frozen features, such as glaciers and icebergs, are frozen freshwater. The salty seawater of the Arctic Ocean, however, constitutes most of the Arctic. Some parts of the ocean's surface remain frozen for all or most of the year.

People established communities and cultures in the Arctic thousands of years ago, and continue to thrive there today. They have all developed ways to adapt to the challenges posed by the region's severe climate and extreme environment. Approximately four million people inhabit the Arctic region according to the definition used in the Arctic Human Development Report. The University of the Arctic, which is an international cooperative network consisting of universities, colleges and other organisations with an interest in promoting education and research in the Arctic region, uses a broader definition and estimates that there are approximately 13.1 million people living in the circumpolar North. The settled area is divided mainly among the five Arctic coastal states of Greenland (Kingdom of Denmark), Canada, the US state of Alaska, Norway and Russia, but Sweden, Iceland and Finland also have populated areas within the Arctic. When referring to the European Arctic in this Guidance Note, this consists of the Arctic areas of Finland, Sweden, Norway, Iceland and Greenland.

The Arctic region has experienced substantial climate change, the repercussions of which have accelerated during recent decades. This has led to profound effects and impacts on the physical, chemical and biological conditions of the Arctic and is expected to lead to fundamental impacts on the environment and people across the region. Climate change and their effects of climate change are a main driver of Arctic change, but other factors such as resource demands, tourism, transport, fisheries, and other economic developments also drive change in the Arctic. The different drivers of change are often interrelated and interlinked.

The present situation in the Arctic, where adaptation and transformation are taking place as a response to the ongoing changes and human activities, is having a significant influence on conditions in the natural Arctic environment and the wellbeing of the Arctic people. It is hence of utmost importance to engage with the local and indigenous peoples when projects are being planned, managed and monitored to ensure that undesired impacts are mitigated.

## 1.3 The indigenous peoples of the Arctic

The indigenous peoples of the Arctic constitute about 10% of the total population. Indigenous peoples are, according to the International Labour Organisation (ILO) Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries, understood to be:

- tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations;
- peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of

present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.

There are more than 40 different ethnic groups living in the Arctic region. These include, for example, the Saami in circumpolar areas of Finland, Sweden, Norway and north-west Russia, the Nenets, Evenk and Chukchi in Russia, the Aleut, Yup'ik and Inuit (Iñupiat) in Alaska, the Inuit (Inuvialuit) in Canada and the Inuit (Kalaallit) in Greenland. All of the Artic countries, except Iceland, have indigenous peoples living within their Arctic territories. Indigenous peoples living in the European Arctic include the Saami and the Inuit (Kalaallit). Each group is heterogeneous in terms of language, cultural practices and more. There are no other known groups claiming to be indigenous in the European Arctic.

There are six Arctic indigenous peoples' organisations that have Permanent Participant status on the Arctic Council. These are:

- Aleut International Association;
- Arctic Athabaskan Council;
- Gwich'in Council International;
- Inuit Circumpolar Council;
- Russian Association of Indigenous Peoples of the North;
- Saami Council.

The indigenous peoples' organisations are supported by the Arctic Council's *Indigenous Peoples' Secretariat*. The Secretariat, Inuit Circumpolar Council and the Saami Council all have extensive transboundary networks in the European Arctic.

There is a great variety of cultural, historical and economic backgrounds among the indigenous communities in the Arctic, including in the European Arctic. However, a common feature of most of them is that they have already undergone substantial changes due to the globalisation of the western way of life, state policies, modern transport and the introduction of the mixed economy. Rights to land and natural resources are an important part of the culture of indigenous peoples in the Arctic and crucial for their survival. Industrialisation, social change and environmental problems such as climate change are therefore potential threats to the preservation and continuation of traditional livelihoods and culture.

Starting in the late 20th century, regional, national, and international organisations have increasingly recognised the political and cultural sovereignty of Arctic indigenous peoples. Rights to land and natural resources are a critical element of this sovereignty.

## 1.4 EIA as an arena for the inclusion of stakeholders

Any changes provoked by human activities in the Arctic have the potential to influence the Arctic environment and the people living in the region, as well as the potential to interact with the other changes experienced by the region. A key tool used to manage the potential change, mitigate negative impacts and enhance benefits in a dialogue with the people of the Arctic is the Environmental Impact Assessment (EIA), which is a legal requirement in all jurisdictions in the Arctic States.

The main function of an EIA is to produce information for the decision-making process on a proposed activity. EIA processes are carried out with public participation as an intrinsic component in accordance with international standards as well as national legislation. Public participation is concerned with the public being actively involved in decisions affecting their

lives and is consistent with the declared principles of sustainable development. The EIA process and the EIA report in itself does not lead to a decision; it is rather the key informational input, forming the basis for a decision on whether or not to go ahead with the proposed activity. It is typically specified in EIA legislation that the decision-maker is obliged to integrate the results from the EIA process as summarised in the EIA report. Furthermore, the EIA is expected to have an effect through the dialogue it facilitates between proponents, authorities and communities, improving projects through (re)design, site selection, and the development and implementation of mitigation measures and monitoring programmes, etc.

The EIA process is considered to be the main arena for the engagement of all stakeholders, including local and indigenous groups. Knowledge exchange during public participation processes is essential for the impacted communities to be able to adapt to and benefit from projects. EIA is therefore also expected to have an effect on work with communities to assist them in coping with change and planning for positive futures.

EIA also aims to support democratic processes and equality, and promote the exchange of knowledge, facilitating transparency and ensuring that local knowledge and concerns are taken into consideration in decision-making processes and project development.

## 1.5 Structure of the Guidance Note

The Guidance Note is structured in three parts containing a total number of 10 sections.

**The first part** introduces the overall framework for EIA and describes specific legislation and requirements. The first section is an overall introduction to the Guidance Note, the Arctic region and in particular the European Arctic. The second section presents the context of EIA in the Arctic with a focus on the main environmental concerns in the European Arctic, an overview of interrelations between social consequences of climate change and their significance for indigenous peoples in the European Arctic. This section also presents an overview of the legal framework for EIA in the European Arctic and cross-Arctic frameworks for EIA including the Arctic EIA guidelines.

The third section includes a review of public participation requirements in the legislation. It also presents a review of best practice documents and their recommendations/demands for tools and approaches for public participation with a particular focus on the indigenous communities and the European Arctic.

The fourth section introduces Free, Prior and Informed Consent (FPIC) and discusses the implications for FPIC implementation in relation to the participation of indigenous communities in EIA processes in the Arctic.

The fifth section summarises the results from a review of the national EIA legislation in the European Arctic with regard to the demands for handling climate change. It includes a review of key international guidelines on climate change in EIA, including European Union (EU) guidelines and best practice principles from the International Association for Impact Assessment (IAIA). Both reviews are focused on connections between climate change and local and indigenous participation.

**The second part** of the Guidance Note gives an overview of selected experiences from practice. The sixth to ninth sections in the second part include case examples of public participation in EIA processes from the Arctic. Each case is described briefly, and the

experiences are discussed in terms of best practice. The selected cases cover both public and private sector projects. The 10th section summarises the key take-away messages based on the experience gathered in practice.

**The third part** of the Guidance Note summarises and provides conclusions on the former parts. The 11th section summarises conclusions in the form of recommendations for meaningful engagement. The 12th section provides a checklist for quality assurance of stakeholder engagement in projects by project developers and potential financiers alike.

# 2 EIA in the European Arctic

In this section, an introduction is given on the main environmental concerns in the Arctic according to Arctic institutions and stakeholders. This is followed by a discussion of the role of EIA in this context. Then the main frameworks for EIA in the Arctic and selected characteristics are presented as a backdrop to the review of public engagement processes in section 3.

## 2.1 Environmental concerns in the European Arctic

Environmental change is a main concern in the Arctic, as stated by the Arctic Council in the Kiruna Vision for the Arctic in 2013:

> *"We recognise the uniqueness and fragility of the Arctic environment, and the critical importance of healthy environments to sustainable communities. We are aware that the Arctic environment continues to be affected by events outside of the region, in particular climate change, and that resulting changes in the Arctic have global repercussions."*

Some of the main drivers for environmental changes in the Arctic are increased economic development activities such as oil, gas and minerals extraction, shipping and tourism.

Some of the main environmental concerns in such processes include:

- noise and light pollution from e.g. industrial processes, seismic surveys, transportation;
- disturbance from an increased human presence;
- barrier effects from e.g. roads, pipelines, railways;
- loss of land and habitat e.g. due to uptake of land for economic activities;
- damage to vegetation;
- damage to permafrost leading e.g. to erosion and instability of terrain;
- pollution of water, air, soil etc. by e.g.:
    - persistent organic pollutants (POP's), chemicals and heavy metals used in industrial activities;
    - oil spills;
    - ballast water;
    - waste and sewage.

Many of the above-listed issues are interlinked and are also linked to impacts on both land-based and marine wildlife, which can be cumulatively affected by all of the impacts listed above.

The increased impacts from economic activities interact with international trends that exacerbate the total pressure on the Arctic environment. One of the prominent trends is the warming of the climate, especially in the Arctic. According to the 2011 assessment of the Arctic Council's Arctic Monitoring and Assessment Programme, "*The increase in annual average temperature since 1980 has been twice as high over the Arctic as it has been over the rest of the world*." The warming climate leads to:

- reduced snow cover;
- decreased areas with permafrost and a deeper layer of soil above the permafrost that thaws in summer;
- earlier break-up of ice on rivers and lakes;
- melting of larger ice masses including glaciers;
- decline in sea-ice cover and thickness.

Such changes brought on by a **warming climate** will also impact the ecosystems and wildlife, for some species there can be positive impacts while for others impacts will be negative. In any case, climate change brings about changes in ecosystems, which means changes for those who depend on them e.g. for water, timber, transport (e.g. on ice and snow roads), food, grazing lands and for reasons of cultural significance. While these changes impact ecosystems, wildlife and local populations, they also open up new avenues for economic activities in e.g. shipping, resource extraction and tourism, and at the same time they cause increased risk of e.g. collision with icebergs, and degrading infrastructure such as runways, roads and buildings due to thawing permafrost.

Another trend is the concentration of POPs and heavy metals that, although emitted in other places on the globe, accumulate in the Arctic environment. They enter the food chain and are thus a particular risk to the health of top predators and humans at the top of the food chain, who end up consuming the accumulated contaminants: "*As a result, lipophilic contaminants, such as POPs and methylmercury (MeHg) bioaccumulate in organisms and biomagnify through the marine food web, generating concern for the health of exposed wildlife and fish as well as for those indigenous populations that consume these food items as part of a traditional diet*." As an illustration of the complex links between environmental stressors, some of the species most impacted by climate change are those relying on the ice as part of their habitat, such as walruses, seals and polar bears, and these are also among the species that show the highest levels of contamination by POPs.

## 2.2 Related social concerns in the European Arctic

Ultimately, the environmental impacts can have significant social impacts on local populations. This is e.g. because the impacts on wildlife constitute a risk to subsistence hunting and fishing and the related cultural aspects; economic activities take up land that would otherwise be used for other local activities; and, in particular, the impacts from the pollution of air, drinking water and food constitute a risk to the health and lifestyle of people relying on those natural resources.

Indigenous perspectives on environmental issues include particular concerns and emphasis on the importance of access to land to sustain specific cultures. Access to land also relates to self-determination issues. Many indigenous groups have been de facto owners of land areas across the Arctic region for thousands of years and feel restrained by governmental structures regulating and allocating interests in their homelands. The Saami Council particularly highlights the challenging paradox that growth in one area comes at the expense of growth in another. In this respect, it finds that international as well as national companies are pursuing

the growth of their respective businesses (e.g. mining) in order to feed global consumption. However, to create this growth, indigenous access to land is reduced so that the opportunity to uphold traditional livelihoods and culture is reduced and nature is lost.

## 2.3 The role of EIA in relation to the main concerns

When human activities, such as large-scale industrial projects, infrastructure, shipping etc., are being developed and decided upon, EIA constitutes one of the essential regulatory tools for addressing the issues mentioned above and ensuring that planning is sustainable in the long term. It plays a pivotal role in mainstreaming environmental concerns into the decision-making process, securing mitigation and improving transparency on impacts.

The following figure 1 shows a summary of the relations between the environmental issues examined above. Here we see that both economic activities and social and economic trends have direct impacts on local populations and the environment. In turn, these direct impacts lead to indirect impacts through the close interaction between the environment and local populations. For example, a mining project may have an impact on the local reindeer population, which in turn could have an indirect impact on the local communities that herd them or hunt them for food. The circled arrows indicate that the factors within each box can also affect each other internally.

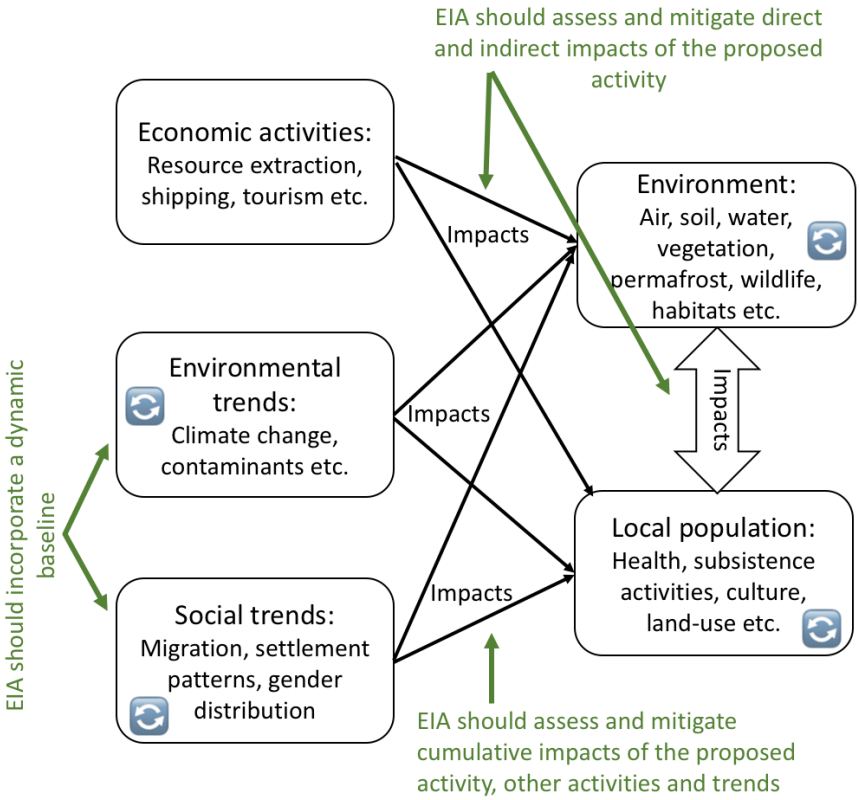


Figure 1 Overview of environmental concerns and the general role of EIA

The green text and arrows in figure 1 illustrate the crucial role of EIA in this complex web. As shown at the top of the figure, one of the primary roles of EIA is to assess and mitigate the direct and indirect impacts on the environment and local population. It is an important task

seen in the light of the complexity of impacts and causal mechanisms. As shown at the bottom of the figure, the role of EIA is also to focus on assessing and mitigating not only the impacts derived from the activity under assessment but also the cumulative impacts of these combined with impacts from both other activities and social and environmental trends.

Last, as shown on the far-left side of the figure, the impacts from global trends and generally increasing economic activity emphasise the fact that, when setting the environmental baseline, it is important to consider these dynamics and not merely project the current status of the environment into the future. As regards the role of EIA, it can be added that it has the important function of documenting the complex impacts of activities under assessment and communicating them in an understandable way to the concerned stakeholders, contributing to transparency and an informed decision-making process.

## 2.4 Frameworks for EIA in the European Arctic

This section provides an overview of key documents and legislation for EIA in the European Arctic nations: Finland, Sweden, Norway, Iceland and Greenland. First, international guidelines are presented and then a brief overview of national EIA legislation.

### *2.4.1 International guidelines*

The two main documents in terms of international guidelines for EIA with relevance for the European Arctic are the *Guidelines for Environmental Impact Assessment (EIA) in the Arctic* published by the Finnish Ministry of the Environment in 1997 and the *Principles of Environmental Impact Assessment Best Practice* published by the International Association for Impact Assessment (IAIA) in 1999.

According to the *Principles of EIA Best Practice*, the objectives of EIA are:

- *to ensure that environmental considerations are explicitly addressed and incorporated into the development decision-making process;*
- *to anticipate and avoid, minimise or offset the adverse significant biophysical, social and other relevant effects of development proposals;*
- *to protect the productivity and capacity of natural systems and the ecological processes which maintain their functions; and*
- *to promote development that is sustainable and optimises resource use and management opportunities.*

According to the *Guidelines for EIA in the Arctic*, the objectives of EIA specifically in the Arctic region are:

- *to estimate and describe the nature and likelihood of environmentally damaging events to provide a basis for decision-making;*
- *to provide for the incorporation of traditional knowledge and consultations with the developer;*
- *to devise and implement remedial measures for eliminating or minimising undesirable impacts.*

In order to pursue these objectives, the guidelines describe a general EIA process including screening, scoping, examination of alternatives, analysis of the baseline, impact analysis, evaluation of significance, mitigation, preparation of an EIA report, review of the EIA report, decision-making and follow-up. Public engagement should take place throughout this

process, as set out in section 3. These overall objectives and the process for EIA have been integrated into national legislation in the countries in the European Arctic.

### 2.4.2 National legislation

As Sweden and Finland are European Union (EU) Member States, the EIA process is regulated by EU *Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment* as amended by *Directive 2014/52/EU* (henceforth the EIA Directive). In Sweden, the Directive is implemented through the broad national *Environmental Code,* which entered into force in January 1999. Finland has implemented the Directive in the *Act on Environmental Impact Assessment Procedure* (252/2017) with a pursuant decree (277/2017). Although Iceland is not a member of the EU, it has entered into the European Economic Area Agreement and is therefore obliged to integrate the EIA Directive into its national legislation. This was done through the *Environmental Impact Assessment Act No. 106 of 25 May 2000* and its amendments (latest in 2014).

Greenland and Norway are not part of the EU, and are hence not obliged to implement the EIA Directive. In Greenland, EIA is governed through one set of legislative acts in the resource extraction sector and one that governs EIA of other projects. Activities in the resource extraction sector are regulated by *Greenland Parliament Act No. 7 of 7 December 2009 on mineral resources and mineral resource activities (Mineral Resources Act)* including several amendments from 2012. EIA of other projects is regulated by the *Greenland Parliament Act No. 9 of 22 November 2011 on the protection of the environment (Protection of Environment Act),* including the amendment *Greenland Parliament Act No. 1 of 29 May 2012*, as well as the *Greenland Parliament Executive Order No. 5 of 27 March 2013 on the assessment of impacts of certain facilities on the environment and payment for environmental inspection*. In Norway, EIA is implemented by the *Regulation on Impact Assessment* (FOR-2017-06-21-854) pursuant to the *Planning and Building Act* (LOV-2008-06-27-71), with separate legislation regulating EIA for off-shore oil and gas activities, namely the *Law on petroleum activities* (LOV-1996-11-29-72) and the pursuant regulation (FOR-1997-06-27-653).

### 2.4.3 Types of impacts covered by EIA

The EU Directive prescribes that the EIA should assess impacts on population and human health, biodiversity, land, soil, water, air, climate, material assets, cultural heritage, landscape and the interaction between the different factors. The assessment of these factors should include "*the direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium-term and long-term, permanent and temporary, positive and negative effects of the project*" (Annex 4). It is also worth noting that all the European Arctic nations are parties to the Espoo Convention on Environmental Impact Assessment in a Transboundary Context, except for Iceland (which has signed but not ratified it). This means that they are obliged to assess transboundary impacts and to inform and consult with other states that might be affected by projects under assessment.

In Greenland, the Mineral Resources Act stipulates that the EIA of projects related to extraction of minerals and hydrocarbons should include the assessment of impacts of emissions into water and the atmosphere and noise, the disturbance of seabirds and marine mammals including by noise, impacts of lights and burning, impacts on fishing and hunting, cumulative impacts and the risk of introducing invasive species. The legislation for all other projects has a slightly different scope including impacts on ice, water, air, soil, fells, climate, landscape, fauna, flora, material assets, human health, human use of the area and interactions between these impacts. For the resource extraction projects, there is a legal requirement for separate "assessments of societal sustainability" (in Danish "vurdering af

samfundsmæssig bæredygtighed" – VSB) with a focus on social impacts. They result in negotiations and tripartite agreements that are required before a project can be approved. The agreements are negotiated and agreed between national government, the relevant municipality and the company holding the extraction licence, also involving relevant Greenlandic stakeholders. For projects other than those related to the extraction of minerals and hydrocarbons, it is stipulated in Appendix 4 to the Self Rule Act No. 5 that the description of impacts on human health and use of the area should "*include type and magnitude of potential impacts on the population*", including long- and short-term impacts on health. The Appendix further requires that the EIA report should "*state the positive and negative impacts of the project, broken down between direct, indirect, secondary, cumulative, short- and long-term and constant*."

The Icelandic legislation covers impacts on "*human beings, fauna, flora and other life forms, soil, geological formations, water, air, climate and landscape, society, health, culture and cultural heritage, employment and material assets.*" It is further specified that *macro-economic effects* and *profitability of projects* be specifically excluded from the impact assessments. The legislation calls for the inclusion of "*direct and indirect impacts, positive and negative impacts, permanent and temporary impacts, reversible and irreversible impacts, synergistic and cumulative impacts*."

In the Norwegian legislation, the scope of the assessment covers impacts on the environment and society including for the following parameters:

- nature diversity;
- ecosystem services;
- nationally and internationally agreed environmental targets;
- important mineral resources;
- emergency planning and accident risk;
- access for the general public to outdoor areas and cycle and footpaths;
- architectural and aesthetic design, expression and quality;
- cultural heritage and environments;
- outdoor life;
- landscape;
- Saami nature and cultural foundation;
- impacts resulting from climate change including the risk of rising sea levels, storm surges, floods and landslides;
- growing-up conditions for children and young people;
- pollution (emissions into the air, including greenhouse gas emissions, contamination of water and soils, as well as noise);
- water environment;
- soil resources (protection of farmland);
- transport needs, energy consumption and solutions;
- the health of the population and the distribution of health in the population;
- crime prevention.

The legislation further stipulates that the assessment should include positive, negative, direct and indirect, temporary, permanent, short- and long-term, cumulative and cross-boundary impacts. As regards cumulative impacts, it is especially emphasised, "*Where reindeer interests are affected, the overall impact of the plans and initiatives within the relevant reindeer grazing district shall be considered*." The separate legislation for off-shore oil and gas activities states that EIA should "*include emissions into water, air and soil, material assets and cultural heritage*."

A summary of the impacts covered by the EIA legislation is presented in Appendix A to this Guidance Note. As can be seen, the environmental issues of relevance in the Arctic are broadly covered by the EIA legislation, as is the need to assess cumulative impacts (cf. section 2.1). In addition, some social issues and impacts are covered by the legislation

and included in the EIA, with the exception of EIA for resource extraction activities in Greenland, where separate social impact assessments are mandatory. Apart from this Greenlandic legislation, the extent to which social issues are specifically covered by the EIA legislation varies. Provisions range from requirements to include specific social issues, as in the Norwegian legislation, to broad requirements to assess impacts on population, for instance, as in the EU Directive. However, in some instances the scope for requiring assessment of social impacts is limited, such as in Greenland's general EIA legislation which only covers human health and human use of the area, and the Norwegian legislation for off-shore activities which only includes material assets and cultural heritage.

Two impacts that were stressed as important issues in the Arctic in section 2.3 do not receive much direct attention in the legislative frameworks, namely impacts on land use, the economy and the socio-economy. The discussions about types of impacts also emphasise the importance of good scoping including public engagement, focused on determining which impacts are inherent to a specific project, environmental context and community.

### *2.4.4 Project types covered by EIA*

All the countries in the European Arctic have two annexes to the EIA legislation (in Greenland this excludes the legislation for resource extraction activities), whereby the project types listed in Annex I are subject to EIA and the project types in Annex II are subject to case-by-case screening. Appendix C to this Guidance Note provides an overview of project types and activities included in the EIA based on the national legislations. The lists include oil, gas and minerals extraction, and infrastructure for shipping and tourism, for example. The inclusion of such important projects and activities makes EIA a pivotal decision-making tool for development in the Arctic.

Table 1 below provides an overview of some of the main differences touched upon here, between the EU Directive and the national legislations in Greenland and Norway, where the EU Directive does not apply.

| **Categories** | **Differences between the EU EIA Directive and Greenlandic EIA legislation** | **Differences between the EU EIA Directive and Norwegian EIA legislation** |
|---|---|---|
| Structure of legislation | Has separate legislation for resource extraction projects and other projects. | Has separate legislation for off-shore oil and gas projects and other projects. |
| Projects covered | Many project types included in the EU Directive are not included in the Greenlandic legislation, while only a few are added (see Appendix C). | Few project types included in the EU Directive are not included in the Norwegian legislation, while more are added (see Appendix C). |
| Impacts covered | For resource extraction projects, specific impacts on fishing and hunting are included in EIA and a separate Social Impact Assessment (SIA) is conducted.<br><br>For other projects, specific impacts on ice and human use of the area are included in EIA. | The environmental impacts on ecosystem services, national and international environmental targets and mineral resources are specified. Furthermore, a range of social impacts is added to the EIA (see Appendix B). |

Table 1 Overview of main differences between the EU Directive on EIA and national legislation in Greenland and Norway, where the EU Directive does not apply.

### 2.5 Key take-away messages from section 2 – EIA in the European Arctic

Key message #1: It is of critical importance to examine cumulative and transboundary impacts, as these are essential for assessing impacts on both the environment and people in the Arctic.

Key message #2: It is possible and imperative to use the broad definitions of the environment in legislation to assess both environmental and social impacts (especially where there is no separate SIA process) as these are vital and closely interlinked in the Arctic.

Key message #3 The impacts on land and local land use are significant in the Arctic but their inclusion in EIA is not clearly required in legislative frameworks.

Key message #4 A good scoping process including public engagement is critical for determining which impacts are inherent to a specific project, environmental context and community.

## 3. Public participation in the EIA process

In this section, an overview of international best practice documents is presented, followed by a broad overview of the national legal requirements for public participation in the European Arctic.

### 3.1 Public participation in international best practice documents

Table 2 below provides an overview of best practice documents of relevance for public participation, with a particular focus on indigenous communities and the European Arctic. The main principles reproduced are not an exhaustive list, but rather they have been extracted from the documents to give a sense of the purpose and direction they indicate for public participation. The table is divided into two parts: international documents and documents aimed specifically at the Arctic region. Note the particular importance of the Aarhus Convention, to which all the nations in the European Arctic, except for Greenland, are signatories (see also section 3.2). For references to the documents, see Appendix A.

| **INTERNATIONAL DOCUMENTS** | |
|---|---|
| **Document** | **Main principles of relevance for indigenous and local community participation** |
| *UN Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters*, 1998 | • People have the right to gain access to information, including environmental information.<br>• Individuals should be given the opportunity to express their concerns and opinions, and public authorities should take due account of these.<br>• The public must have recourse to a court of law or administrative proceeding. |
| *UN Convention on Biological Diversity - Akwé Kon Guidelines*, 2004 | • Support the full and effective participation and involvement of indigenous and local communities in screening, scoping and development planning exercises.<br>• Properly take into account the cultural, environmental and social concerns and interests of indigenous and local communities, |

| | |
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| | especially of women who often bear a disproportionately large share of negative development impacts.<br>• Take into account the traditional knowledge, innovations and practices of indigenous and local communities as part of environmental, social and cultural impact assessment processes, with due regard to the ownership of and the need for the protection and safeguarding of traditional knowledge, innovations and practices.<br>• Promote technologies used in impact assessment that are appropriate to the specific circumstances.<br>• Identify and implement appropriate measures to prevent or mitigate any negative impacts of proposed developments.<br>• Take into consideration the interrelationships between cultural, environmental and social elements. |
| International Association for Impact Assessment *Public Participation International Best Practice Principles*, 2006 | Public participation should be:<br>• adapted to the context, informative and proactive, adaptive and communicative, inclusive and equitable, educative, cooperative and imputable;<br>• initiated early and sustained, well planned and focused on negotiable issues, supportive to participants, tiered and optimised, open and transparent, context-oriented, credible and rigorous. |
| International Association for Impact Assessment *Respecting Indigenous Peoples and Traditional Knowledge*, 2012 | Basic Principles:<br>• equality;<br>• uniqueness;<br>• rights;<br>• sovereignty;<br>• cultural heritage;<br>• free, prior informed consent.<br>Operating principles based on the basic principles:<br>• provide an open and transparent impact assessment process;<br>• agree on the degree of participation;<br>• provide meaningful participation and reassurance;<br>• ensure gender equality;<br>• allow mediation;<br>• include native customs;<br>• provide interpretation and translation;<br>• safeguard against exploitation;<br>• use traditional knowledge (TK) responsibly;<br>• use TK only within its context;<br>• plan ahead. |
| *UN Declaration on the Rights of Indigenous Peoples*, 2007 | • Indigenous Peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.<br>• States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilisation or exploitation of mineral, water or other resources.<br>• States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to |

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| | mitigate adverse environmental, economic, social, cultural or spiritual impact. |
| *UN Guiding Principles on Business and Human Rights*, 2011 | • In order to gauge human rights risks, business enterprises should identify and assess any actual or potential adverse human rights impacts with which they may be involved either through their own activities or as a result of their business relationships. This process should involve meaningful consultation with potentially affected groups and other relevant stakeholders.<br>• In order to verify whether adverse human rights impacts are being addressed, business enterprises should track the effectiveness of their response. Tracking should draw, *inter alia*, on feedback from both internal and external sources, including affected stakeholders.<br>• In order to account for how they address their human rights impacts, business enterprises should be prepared to communicate this externally, particularly when concerns are raised by or on behalf of affected stakeholders.<br>• To make it possible for grievances to be addressed early and remediated directly, business enterprises should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted. Grievance mechanisms should be: legitimate, accessible, predictable, equitable, transparent, rights-compatible, a source of continuous learning, and based on engagement and dialogue. |
| International Council on Mining and Metals *Indigenous Peoples and Mining Position Statement*, 2013 | Principles of good community engagement are to ensure that:<br>• indigenous peoples have an understanding of their rights;<br>• companies in turn understand the rights, aspirations and concerns of indigenous peoples;<br>• indigenous communities are informed about and comprehend the full range (short, medium and long-term) of social and environmental impacts – positive and negative – that can result from mining;<br>• companies understand and address positive and any potentially negative impacts, and recognise, respect and use traditional knowledge to inform the design and implementation of mitigation strategies;<br>• there is mutual understanding and respect between the company, the indigenous community and other relevant stakeholders regarding their respective roles, responsibilities, rights, challenges and decision-making processes;<br>• indigenous aspirations and concerns are taken into account in project planning so that people have ownership of and participate fully in decisions about community development programmes and initiatives;<br>• the company has worked to obtain the broad, ongoing support of the community including, where applicable, their FPIC;<br>• the voices of all in the community are heard, i.e. engagement processes are inclusive. |
| International Labour Organisation (ILO) *Convention 169 concerning Indigenous Tribal Peoples in Independent Countries*, 1989 | • In applying the provisions of this Convention, governments shall establish, *inter alia*, means by which these peoples can freely participate, at all levels of decision-making in bodies responsible for policies and programmes which concern them.<br>• The consultations carried out in application of this Convention shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures. |

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| | • The peoples concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual wellbeing and the lands they occupy or use, and to exercise control over their own economic, social and cultural development. They shall participate in the formulation, implementation and evaluation of plans and programmes for development which may affect them directly.<br>• Governments shall ensure that studies are carried out, in cooperation with the peoples concerned, to assess the social, spiritual, cultural and environmental impact on them of planned development activities.<br>• Government shall establish procedures to consult these peoples, with a view to ascertaining whether and to what degree their interests would be prejudiced, before permitting any programmes for the exploitation of resources pertaining to their lands. The peoples concerned shall participate in the benefits of such activities, and shall receive fair compensation for any damages. |
| International Petroleum Industry Environmental Conservation Association (IPIECA) *Indigenous Peoples and the Oil and Gas Industry: context, issues and emerging good practice*, 2012 | • Establish relationships with indigenous communities and their representative institutions at an early stage.<br>• Carry out engagement in a culturally appropriate manner.<br>• Provide internal cultural training for company staff who are engaging with indigenous peoples.<br>• Work with indigenous representative institutions, as well as organisations that represent their interests.<br>• Aim to be inclusive, taking into consideration customary decision-making processes while being sensitive to those sections of the community who may be excluded from the decision-making process, such as women and youth.<br>• Inform indigenous peoples of their rights as set out in national law.<br>• Include indigenous peoples in decision-making, and develop a relationship through which respectful dialogue can occur.<br>• Aim to reach agreements, where relevant, with indigenous peoples through good faith negotiation.<br>• Document formal consultations.<br>• Develop a register of company commitments.<br>• Set the objective of broad community support.<br>• Aim to maintain broad community support through ongoing engagement and implementation of effective grievance mechanisms. |
| European Investment Bank Environmental and Social Standards 2018 – *1. Assessment and Management of Environmental and Social Impacts and Risks* | Objectives:<br>• Apply the mitigation hierarchy by identifying measures to be taken to avoid, reduce and, if required, compensate/remedy significant adverse residual effects on workers, affected stakeholders, and the environment, so as to contribute to the avoidance of any deterioration in the quality of human life, the environment and any net loss of biodiversity and ecosystems.<br>• Develop an environmental and social management system, as a dynamic, adaptive, and continuous process, initiated and supported by the promoter's senior management, while fostering meaningful communication and dialogue between the promoter, its workforce, local communities and, where appropriate, other stakeholders. The system should be commensurate to the size and nature of the project activity. |

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| | • Identify people and/or communities that are or could be affected by the project, as well as other interested parties.<br>• Ensure that such stakeholders are appropriately engaged with on environmental and social issues that could potentially affect them through a sustained public participation process comprising both information disclosure and meaningful consultation.<br>• Maintain a constructive relationship with stakeholders on an ongoing basis through meaningful engagement throughout the planning, implementation, monitoring and decommissioning of the project. |
| European Investment Bank Environmental and Social Standards 2018 – *4. EIB Climate-related Standards* | • Ensure that potential adverse consequences of projects on the climate change vulnerability of natural ecosystems and human structures are addressed in Strategic Environmental Assessment (SEA) and EIA best practice.<br>• Encourage project promoters to provide information on expected absolute and relative greenhouse gas (GHG) emissions from the project.<br>• Request information from project promoters on the climate change risks the projects face, also those of the system within which they operate, e.g. vulnerability in the surrounding infrastructure, communities and ecosystems. Where significant risks are identified, require the promoter to identify and apply necessary measures at planning, design and implementation stages as well as establish appropriate monitoring. |
| European Investment Bank Environmental and Social Standards 2018 – *7. Rights and Interests of Vulnerable Groups* | • Affirm, respect and protect the rights and interests of vulnerable individuals and groups within the designated operational scope, throughout the project lifecycle.<br>• Adopt a gender-sensitive approach to the management of environmental and social impacts that takes into account the rights and interests of women and girls, and men and boys.<br>• Identify and avoid adverse impacts of EIB operations on the lives and livelihoods of vulnerable individuals and groups, including women and girls, minorities and indigenous peoples. Where avoidance is not feasible, reduce, minimise, mitigate or effectively remedy impacts.<br>• Ensure that vulnerable individuals and groups are duly identified early in EIB operations and that engagement is meaningful, taking into account individuals' and communities' specificities, and delivered in an appropriate form, manner and language.<br>• Enable vulnerable groups, including women and girls, minorities and indigenous peoples, benefit from EIB-financed operations. |
| European Investment Bank Environmental and Social Standards 2018 – *10. Stakeholder Engagement* | • Acknowledge and respect the rights of access to information, access to consultation and participation, and access to remedy/justice.<br>• Establish and maintain a constructive dialogue between the promoter, the affected communities and other interested parties throughout the project life cycle.<br>• Ensure that all stakeholders are properly identified and engaged.<br>• Engage stakeholders in the disclosure process, engagement and consultations in an appropriate and effective manner throughout the project lifecycle, in line with the principles of public participation, non-discrimination and transparency.<br>• Ensure FPIC for projects impacting indigenous peoples as well as forest communities in REDD+ projects. |

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| | • Ensure that the relevant stakeholders, including commonly marginalised groups on account of gender, poverty, educational profile and other aspects of social vulnerability, are given equal opportunity and possibility to voice their opinions and concerns, and that these are accounted for in the project decision-making. |
| **ARCTIC DOCUMENTS** | |
| **Document** | **Main principles of relevance for indigenous and local community participation** |
| Arctic Council 2019 *Good Practices for Environmental Impact Assessment and Meaningful Engagement in the Arctic – including good practice recommendations* | • **Seek true dialogue to meaningfully engage**. Start building a relationship with the affected communities at the earliest possible stage. Find out in cooperation with communities what kind of engagement would be meaningful for them. Commit to continuous dialogue.<br>• **Utilise indigenous knowledge and local knowledge to complement scientific knowledge.** Take steps to become more familiar with the principles of indigenous knowledge systems. Find sources of local knowledge. Be inclusive of experts from different knowledge systems.<br>• **Build internal capacity to work in the Arctic context and provide resources to communities to meaningfully engage in EIA.** Authorities and proponents, with their consultants, should be trained to work with Arctic communities. Authorities and proponents should increase the capacity and resources of communities.<br>• **Allow EIA to influence project design and decision-making process.** Engagement with communities, their views and the inclusion of complementary knowledge should be well documented.<br>• **Strengthen circumpolar cooperation on transboundary environmental impact assessment.** Apply the principles of the UNECE Espoo Convention. Draft agreements or memorandums of understanding to guide transboundary processes. Strengthen cooperation under the Espoo Convention. |
| World Economic Forum *Arctic Investment Protocol*, 2015 | • Build resilient societies through economic development.<br>• Respect and include local communities and indigenous peoples.<br>• Pursue measures to protect the environment in the Arctic.<br>• Practice responsible and transparent business methods.<br>• Consult and integrate science and traditional ecological knowledge.<br>• Strengthen pan-Arctic collaboration and sharing of best practices. |

Table 2 Overview of selected principles from international best practice documents

One of the main principles running through the best practice documents listed above is that meaningful, respectful and comprehensive engagement should take place, and that it should be up to the affected stakeholders to define this. Engagement should begin early, be proactive and continuous – not only during the EIA process, but also throughout the whole project lifecycle from planning to decommissioning. Various documents also mention the need for grievance mechanisms. It is stressed that engagement should include all affected stakeholders and interested parties, and several documents call for a special focus on marginalised groups, such as women and young people. Support for participants and building their capacity to participate in the engagement process are also common requirements. One aspect of this is the utilisation of local and indigenous knowledge and practices in the process. Importantly, the best practice documents point towards planning and implementing engagement processes that are adapted to the context, e.g. the cultural context and the

project type. Part of this is respecting local and indigenous institutional settings and decision-making processes, and focusing on the actual environmental and social concerns of the stakeholders.

Moreover, there is a focus on the rights of stakeholders e.g. to control their lands and economic development, with a view to gaining their support and Free, Prior and Informed Consent (see section 4). Many of the documents emphasise the need to determine and document mitigation measures for potential negative impacts and to monitor development in continuous dialogue with stakeholders. As part of this, there is a call for stakeholders to share in the benefits from a project or receive fair compensation for any damage. Some of the documents also emphasise the need to consider interrelations between impacts and to support collaboration across the Arctic concerning transboundary impacts. Generally, there is an emphasis on transparency and documentation, and on providing a due response to inputs received and allowing them to influence the project and decisions.

## 3.2 Public participation in national legislation

All the European Arctic nations, except Greenland, are participants in the Aarhus Convention providing the public with rights to (see also Table 1):

- access to Information;
- public participation in decision-making;
- access to justice in environmental matters.

Thus, all the nations are obliged to implement these rights in their national legislation. Inspired by Arnstein's ladder of participation from 1969 (for a specific reference, see Appendix A), the first two rights of the Aarhus Convention can be seen as separate levels of participation, namely:

- information: where information is shared with the stakeholders by different means (corresponding to the first right);
- dialogue: where the information forms the basis for dialogue and two-way (or multiple-way) communication between the proponent, the authorities and the stakeholders (corresponding to the second right).

Figure 2 below gives an overview of where in the EIA process these types of public engagement are required by national legislation.

As presented, all national frameworks require public participation when the draft EIA report is published and in relation to the decision on approving the activity under assessment. Finland, Sweden and Iceland have clear requirements for public participation in relation to the screening decision. The Greenlandic legislation for non-extractive projects is the only one that specifically requires that the application for a project approval be published when it is received, and thus clearly requires a form of participation before the screening phase. None of the other EIA legislation expressly requires that the application or notification of intent from the proponent be made public prior to the screening decision being made public (at which point a project description is included as well as the fact that the project has been applied for). The Swedish legislation does encourage early engagement, but does not specifically mention the application. There may be requirements to publish the application for the project pursuant to other applicable legislation.

All countries, except Greenland, call for public participation as part of the scoping process. In Greenland, the legislation requires public participation in the scoping phase for projects

related to the extraction of minerals and hydrocarbons. In other projects, the Minister for the Environment has the option, according to the legislation, to impose public participation in the scoping phase, although it is not a general requirement. The Minister has the same option during the assessment phase. The Greenlandic, Icelandic and Swedish legislations contain specific provisions on the possibilities for appeals. The Greenlandic legislation states that an appeal may be made against decisions on project approval to a board of appeals, and that the authorities should provide guidance on the scope for appealing when publishing the decision on the project. The Icelandic legislation states that an appeal can be lodged against the screening decision with the Minister, while an appeal against the project decision can be made to a board of appeals. According to Swedish legislation, an appeal may be lodged against the project decision. None of the national legislations contains requirements for public engagement in the follow-up phase.

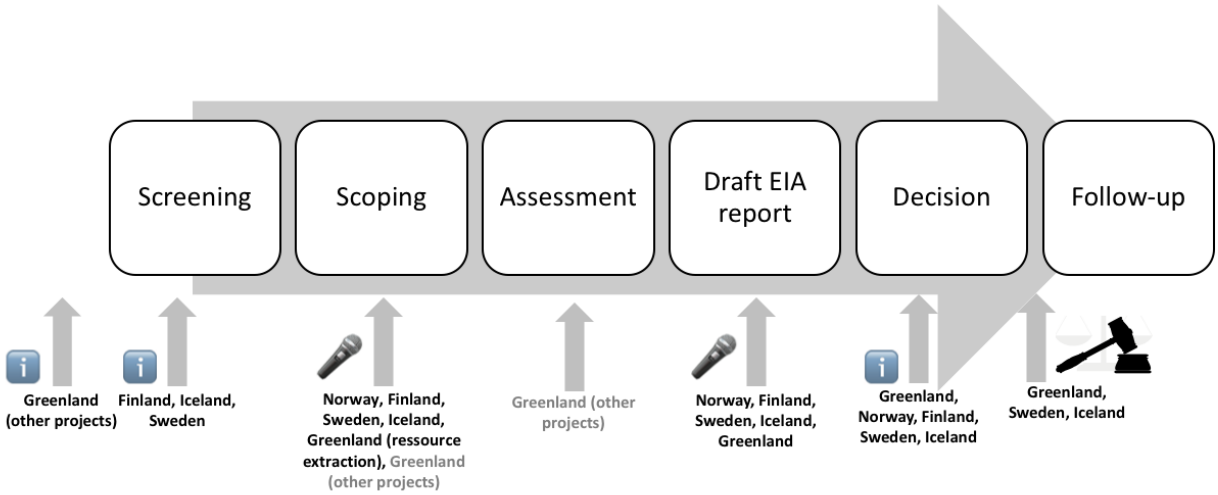


Figure 2: Overview of where in the EIA process the national legislation requires public participation. The stages of mainly providing information is marked with the symbol “i”, while the stages open for dialogue is marked with a microphone and that dealing with appeals is marked with a gavel. The grey text indicates that there is not a general requirement, but a possibility.

In the screening phase, public participation generally consists of a requirement to publish the screening decision outcome of the process and any adaptations made to the activity in the process. The Icelandic legislation differs somewhat from this, since it specifically allows the public to ask the authorities to assess the need for an EIA of an announced project. In the scoping phase, the project should be presented along with a proposed plan for the process including public participation as well as the content and structure of the EIA report. In this phase, public participation takes the form of a call for comments and suggestions from the public. The draft EIA report is made accessible to the public along with any background material, technical reports, etc. The public participation process should give the public the opportunity to comment and make suggestions before any decision is made, as provided for in the EU Directive, the public shall: “*be entitled to express comments and opinions when all options are open to the competent authority or authorities before the decision on the request for development consent is taken”* (Article 6(4)). At the decision stage, the decision and the final EIA report must be made public. There are generally requirements to include the reasoning for the decision, the conditions, comments received from the public, and details of how these have been addressed. There is no public participation requirement in the follow-up stage.

As can be seen in figure 2, the levels of public participation differ at different stages of the process. At the screening and decision stages, there is primarily a requirement to publish details about decisions, i.e. to inform the public, followed by various possibilities for appeal. At the scoping stage and with respect to the draft EIA report, there is also a requirement for consultation via an invitation for comments and suggestions.

### 3.3 Key take-away messages from section 3 – Public participation and engagement in the EIA process

The following are the key messages from section 3:

Key message #5: The national legislations governing EIA in the European Arctic have different requirements for public participation, and should be consulted with regard to the minimum legal requirement.

Key message #6: Appropriate and clearly communicated project-level grievance mechanisms (with possibilities of appeal) are best practice and are not necessarily secured in the EIA legislation in the European Arctic.

## 4. Free, Prior and Informed Consent

According to the European Investment Bank's Standard 10, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) should be applied to the implementation of sustainable development projects affecting indigenous peoples at all levels, including their full participation in decision-making through Free, Prior and Informed Consent (FPIC) to policies, programmes and projects affecting them. Additionally, the EIB adheres to good international practice requiring that REDD+ projects apply FPIC, too, where indigenous populations or forest communities are affected. Other examples of industry standards that include FPIC are the World Bank Group International Finance Corporation (IFC) Performance Standards on Environmental and Social Sustainability of 2012, and the International Council of Metals and Mining (ICMM) Position statement on indigenous peoples and mining of 2013.

The FPIC principle was first formally established in the 1989 International Labour Organisation (ILO) Convention on Indigenous and Tribal Peoples in Independent Countries No. 169. This is a legally binding international convention, which was adopted in 1989 and entered into force in 1991. It has to date been ratified by 23 states. The EU promotes ratification and implementation of the ILO Convention 169 by EU Member States and partner countries, and four of its Member States have so far ratified it[1]. In the European Arctic indigenous peoples live in Greenland, Norway, Sweden and Finland, however only the Kingdom of Denmark (including Greenland) and Norway have ratified the convention.

According to the European Investment Bank's Standard 10, FPIC is to be understood as follows:

- **Free** implies a self-directed process with consent given voluntary without coercion, intimidation or manipulation;
- **Prior** implies that consent has been sought sufficiently in advance of any authorisation or commencement of activities and respects the time requirements of indigenous consultation/consensus processes;

1 Denmark, Netherlands, Spain and Luxembourg. The Convention enters into force for Luxembourg on 5 Jun 2019.

- **Informed** implies that information provided is adequate and covers (at least) the following aspects:
  (a) the nature, size, pace, reversibility and scope of any proposed project or activity;
  (b) the reason/s for or purpose of the project and/or activity;
  (c) the duration of the above;
  (d) the location of areas that will be affected;
  (e) a preliminary assessment of the likely economic, social, cultural and environmental impact, including potential risks and benefit sharing in a context that respects the precautionary principle;
  (f) personnel likely to be involved in the execution of the proposed project (including indigenous peoples, private sector staff, research institutions, government employees and others); and
  (g) procedures that the project may entail; and
- **Consent** implies a collective decision reached through consultation and participation, made in good faith and full and equitable participation, allowing as much time as needed and an effective system for communicating among stakeholders, participation of indigenous peoples' own freely chosen representatives and customary or other institutions, and the participation of indigenous women, as well as children and young people as appropriate.

The principle of FPIC was complemented and reinforced in the 2007 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), according to which indigenous peoples have "*the right to be consulted and make decisions on any matter that may affect their rights freely, without pressure, having all the information and before anything happens."*

UNDRIP is a non-legally-binding international declaration, which was adopted in 2007 by 144 states, with 11 abstentions and four voting against it. Since 2009, all four states that voted against it have reversed their positions and now support the declaration. Within the European Arctic, it has been adopted by the Kingdom of Denmark (including Greenland), Norway, Sweden, Finland and Iceland. Furthermore, the EU was one of the main driving forces behind the adoption of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in September 2007 by the UN General Assembly, and all its members voted for it.

| | **Indigenous peoples** | **ILO 169** | **UNDRIP** | **National EIA legislation** | **EU membership status** |
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| **Kingdom of Denmark incl. Greenland** | Kalaallit (Inuit) | X | X | No specific FPIC requirement | Denmark is a member of EU, Greenland is not |
| **Norway** | Saami | X | X | No specific FPIC requirement | Non-EU member state |
| **Sweden** | Saami | | X | No specific FPIC requirement | Member |
| **Finland** | Saami | | X | No specific FPIC requirement | Member |
| **Iceland** | | | X | No specific FPIC requirement | Member |

Table 3 Overview of countries in the European Arctic and their commitment to consult with indigenous peoples, including the application of the FPIC principle.

As previously mentioned, two indigenous peoples are living in the European Arctic. These are the Saami and Kalaallit (Inuit). In Greenland, the Inuit are a majority and in government (Naalakkersuisut – The Government of Greenland). Indigenous rights are not specified in relation to EIA requirements: rather than referring to indigenous rights, terms such as "traditional knowledge" and "land use" are used in the EIA legislation. Consent in relation to the approval of projects in Greenland may be understood as the consent by the Naalakkersuisut. Consent is thus manifested, indirectly, through the democratic process and Greenlanders have no distinct indigenous rights in relation to their own government. Yet, Kalaallit cannot be considered a homogeneous group in Greenland as cultures, languages and lifestyles vary significantly between communities on the east and the west coast as well as between the north and south of the country.

In Norway, Finland and Sweden, Saami Parliaments are publicly elected. According to the Act on the Saami Parliament in Finland, the authorities must negotiate with the Saami Parliament concerning all far-reaching and important measures that may directly and in a specific way affect the status of the Saami as an indigenous people, and which concern certain matters in the Saami homeland. Similar arrangements are in place in Norway and Sweden. Also, within the Saami People, varying values and interests are identified.

The obligation to consult with indigenous peoples, including the application of FPIC, thus requires that project proponents develop an understanding of the potentially impacted communities, their culture and socio-economic structure, and the need for companies to work together with community representatives chosen by the communities themselves. Methods of communication must not be intrusive and must be sensitive to indigenous peoples' customs and lifestyles. Contact and building relationships with communities must start early, and be maintained continuously.

### 4.1 FPIC in relation to EIA

The EU EIA Directive does not include specific FPIC requirements; nevertheless, the EU's endorsement of both ILO 169 and UNDRIP is strong. Similarly, the states in the European Arctic do not mention FPIC in their EIA legislation, but as they have either adopted the UNDRIP declaration and/or ratified the ILO 169 convention, they are all obliged to consult with indigenous peoples, including the application of FPIC. An overview of the states' aspirations in relation to FPIC is provided in Table 3 above. Of particular relevance to EIA, Article 6 in ILO 169 establishes the need for governments to consult the indigenous peoples concerned and enable them to freely participate in all levels of decision-making with the objective of achieving agreement or consent. Article 7 specifies their right to decide their own priorities and participate in development that may affect them, including on lands they occupy or otherwise use, and Article 15 establish the rights of the indigenous peoples to participate in the use, management and conservation of the natural resources on their lands.

UNDRIP Article 32 is of particular relevance to EIA, as it establishes the duty of states to obtain FPIC from indigenous peoples prior to the approval of projects affecting their lands and resources, and to take measures to mitigate the adverse environmental, economic, social, cultural or spiritual impacts of such activities. The UNDRIP outlines a series of scenarios in which FPIC should become the standard "best practice" for negotiations between indigenous peoples and states. The UNDRIP articles argue for the inclusion of FPIC in negotiations regarding the use and development of lands and resources, relocation, cultural traditions and customs, legislative and administrative measures, as well as the conservation and protection of the environment.

States have the right to make decisions on the development of lands and resources according to applicable national laws, including those laws implementing host country obligations under international law. Some countries have made an explicit consent provision under national or sub-national laws. Some argue that consent also encompasses the option for indigenous peoples to veto development projects, and that the notion of consent is meaningless if there is no option of refusal, or reconsideration if proposed activities change or new information relevant to the activities emerges. In the European Arctic, however, neither indigenous peoples nor any other population group have the right to veto development projects that affect them, so FPIC should be regarded as a principle to be respected in relation to a participation process for development planning and the implementation of activities by proponents, which is premised on the consultation and participation of indigenous peoples.

The principle of FPIC is only applicable to indigenous peoples as part of their special collective rights as set out in ILO C1609 and UNDRIP, which call for special consideration in the engagement process compared to the more general requirements for public participation in EIA processes. Indigenous peoples often have cultural characteristics, governance structures and ways of interacting and decision-making that set them apart from the non-indigenous population. This requires project proponents to engage with indigenous peoples in relation to EIA processes in ways that are culturally appropriate, and to pay special attention to their capacities, rights and interests within the context of broader community engagement.

Although ILO C169 and UNDRIP, and hence FPIC, specifically refer to the duty/right relationship between states and indigenous peoples within their state borders, in EIA it is often the industry that in practice implements the states' duties to consult.

The issue relating to FPIC as to who represents the interests of the community in negotiations with external developers and the extent to which a community can agree internally and reach consensus on future development choices is important to address well in advance. An approach that addresses both of these issues is the use of **community protocols**. This term encompasses a broad range of practices and procedures, both written and unwritten, developed by indigenous peoples and their communities and other local communities in relation to their indigenous knowledge systems, territories, and natural and other resources. Community protocols aim to enable communities to clarify their expectations in advance of a participation process, independently of the developer; to build consensus in advance of external negotiations; and to establish their priorities, and preferred procedures and expectations relating to participation, consent and benefit sharing.

Guided by the principles of the International Association for Impact Assessment (IAIA), good practice further emphasises the need for developers and communities to mutually agree on participation and consent processes in advance, for example in relation to the scoping phase of an EIA. For a consent process, they should agree what the consent is for, how it will be reached, which representatives will take part in the process on behalf of the community, and how they will communicate with their fellow community members. Consent needs to be maintained, and repeated at critical points in project development if there is a significant change in circumstances, e.g. if activities develop or change and if additional information relevant to the activities emerges.

### 4.2 Key take-away messages from section 4 – Free, Prior and Informed Consent

The following are the key messages from section 4:

Key message #7: It is important to allow sufficient time to ensure that all parties are heard and have the opportunity to familiarise themselves with the project proposal in order to develop an opinion.

Key message #8: A way to ensure Indigenous representation in EIA processes is to involve representatives from communities, such as elders, council members, chiefs, and representatives of organised entities such as the Saami Council and/or other representatives.

Key message #9: Community protocols can be considered as a useful tool enabling communities to clarify their expectations in advance of a participation process.

## 5. Climate change

In this section, the legislation regulating EIA in the EU, Greenland and Norway is reviewed with a focus on public participation in relation to the integration of climate change aspects. This is followed by a similar review of international best practice documents and finally recommendations.

### 5.1 Climate change integration in EIA legislation

The latest amendment to the EU Directive recognises that climate change among other issues has emerged as a critical element and thus requires increased consideration in impact assessment and decision-making processes. Based on this, climate change is one of the factors, which, in accordance with Article 3.1 must be part of the assessment:

> "*The environmental impact assessment shall identify, describe and assess in an appropriate manner, in the light of each individual case and in accordance with Articles 4 to 12, the direct and indirect significant effects of a project on the following factors….climate change*" (EU Directive 3.1).

In Annex 4 to the Directive, this is reiterated emphasising the appropriateness of both assessing the impacts of projects on climate change as well as the vulnerability of projects to climate change[2]. The Annex lists information that should be part of the EIA report including:

> "*(f) the impact of the project on climate (for example the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change.*"

The Norwegian legislation is very similar to the EU Directive, stating that climate is one of the factors, which must be assessed and requiring that assessments include emissions of greenhouse gases (GHG) as well as potential climate change threats to the activity under assessment. Furthermore, the legislation also specifies a significant increase in GHG emissions as a factor in the screening process.

In Greenland, the general EIA legislation for projects with significant environmental impacts states in its definition of environmental impacts, "*impact on the environment is in this act understood as impacts on…climate…*" Also, similarly to other jurisdictions, climate is mentioned as one of the factors to be considered in EIA to gauge the impacts of a project.

[2] Note that even if EIA is not required, it may be required to carry out a process of assessing and mitigating the project's vulnerability to climate change in accordance with the EU *Guidelines for Project Managers: Making vulnerable investments climate resilient*. See also Table 1 under *European Investment Bank Environmental and Social Standards 2018 – 4 EIB climate-related standards.*

The specific legislation for resource extraction activities has a section on climate protection, where it is stated that if an activity is assumed to have negative impacts on the climate, it can only be approved after an assessment of the climate impacts. The assessment should be carried out following the EIA regulation. The guidelines for EIA of mining or hydrocarbon projects does not specifically mention the assessment of the climate change vulnerability of the project.

The legislative framework recognises impact assessment (IA) as a tool for providing the public and decision-makers with knowledge about climate change impacts, as well as making concrete contributions to mitigating impacts in terms of both:[3]

- mitigation: assessing the potential emissions of GHGs resulting from the project and how to mitigate their impact; and
- adaptation: assessing the potential impacts of climate change on the project and mitigating these. For some of the major impacts of climate change in the Arctic, see section 2.1 of this Guidance Note.

To these two main approaches can be added the need to analyse changes in the baseline for assessment due to climate change.

## 5.2 Best practice documents

As regards best practice, two main publications have been reviewed:

- *Climate Change in Impact Assessment Best Practice Principles* from the International Association for Impact Assessment (published 2018);
- *Guidance on Integrating Climate Change and Biodiversity into Environmental Impact Assessment* from the European Union (published 2013).

The IAIA principles emphasise that climate change is not only an environmental issue, but also a health issue (e.g. altered spread of disease, increased heat waves with ensuing risk for health) and an equity issue as it is especially critical for the lives and livelihoods of the poorest people in developing nations and for future generations. This emphasises the need to focus on public participation to ensure that all potentially impacted and otherwise interested parties have the opportunity "*to understand how climate change has been addressed*" (IAIA 2018, p. 3). Furthermore, the IAIA principles point to the potential of using the knowledge and observations of local and indigenous peoples for "*establishing the baseline, conducting trends analysis, and identifying and evaluating mitigation and adaptation measures*" (IAIA 2018, p. 3).

The EU guideline recommends early involvement of stakeholders in order to benefit from their knowledge and identify e.g. significant climate change issues, trends and arguments, as well to develop suggestions for mitigation and adaptation measures. The EU guideline also highlights that the degree of complexity involved in dealing with climate change means that special emphasis should be placed on communicating uncertainties, to provide stakeholders with transparent and accessible knowledge about the levels of likelihood and confidence in the various parts of the assessment.

## 5.3 Key take-away messages from section 5 – Climate change

The following are the key messages from section 5:

[3] For EU requirements and guidelines for working with climate change in major projects, please see the European Commission's document on Climate Change and Major Projects.

| | |
|---|---|
| Key message #10: | When assessing climate change impacts, the early and open involvement of stakeholders is crucial and should take into account that the implications of climate change on e.g. health and equity makes it an important issue for discussion. |
| Key message #11: | Local stakeholders may have key knowledge and observations concerning climate change trends and impacts. |
| Key message #12: | It is important to communicate openly and clearly about the uncertainties encountered in assessing the impacts of climate change. |

# PART II: EXPERIENCES FROM PRACTICE

This section presents case examples of public participation in EIA processes in the Arctic. The selected cases do not necessarily represent best practice but rather a variety of scenarios from which different lessons can be learnt. Each case is described briefly with a focus on selected parts of the participation process, aspects of the EIA process, and lessons learnt from the case. Table 4 provides an overview of the cases and results.

| Case and type of project | Country | Legislation applied | Participation | Lessons learnt |
|---|---|---|---|---|
| *Nuuk Harbour*<br><br>Infrastructure project | Greenland | Greenland Parliament Act No. 9 of 22 November (Protection of Environment Act), including amendments<br><br>Greenland Parliament Executive Order No. 5 of 27 March 2013 | • Written hearing and public meeting<br>• Close dialogue with key stakeholders | • Publish a hearing report and a draft of conditions for approval as part of the consultation<br>• Engage in close dialogue with stakeholders as this can lead to a socially and environmentally optimised project design |
| *Aqqaluk extension to Red Dog Mine*<br><br>Extractive industries | Alaska | National Environmental Policy Act (NEPA) | • Written hearing, public meetings and open house consultation and cooperation with local tribal governments | • Establish long-term goals and engagement for the social and environmental performance of the project<br>• Seek cooperation, local knowledge and delegation of power concerning subsistence<br>• Offer high-level government-to-government consultation with local leadership |
| *Ruby mine in Aappaluttoq*<br><br>Extractive industries | Greenland | Greenland Parliament Act No. 7 of 7 December 2009 (Mineral Resources Act), including amendments | • Written hearing and public meetings<br>• SIA: group meetings and interviews, focus groups and individual interviews | • Consult a broad range of local communities and stakeholders via different techniques<br>• Establish close dialogue concerning Impact and Benefit Agreement (IBA), and maintain the dialogue during implementation and follow-up |
| *Copper mine in Laver*<br><br>Extractive industries | Sweden | EU Directive 2011/92/EU (and Swedish Environmental Code, 1992) | • Community-based EIA by Saami community<br>• Workshops, meetings and interviews<br>• Comparative case study<br>• Participatory mapping and scenario analysis | • Utilise participatory methods such as community-based assessment, comparative case studies, participatory mapping and scenario analysis when appropriate to the context |

Table 4 Overview of the four case studies

The review of the relevant documentation for these cases did not find FPIC explicitly mentioned and addressed, even though indigenous peoples were potentially impacted. This may reflect the fact that the existing EIA legislation does not explicitly contain requirements for FPIC.

## 1. Harbour in Nuuk, Greenland

Increasing activities in e.g. shipping and fishing have since 2000 led to several reports pointing out a lack of space to accommodate growing activities in the harbour in Nuuk. This led the project proponent Sikuki Nuuk Harbour, the company running the harbour, to start planning for a larger and deeper harbour in a new location. The EIA for the expansion of the harbour in Nuuk was published in 2013 and approved by the Government of Greenland (Naalakkersuisut) in 2014. Construction began in 2015, and the new harbour was opened in September 2017.

*Participation process*
As part of the process, a written consultation and an open public meeting were conducted. The meeting was held in Katuaq, the cultural centre in Nuuk, in early 2013. After the consultation, a report summarised all the questions asked during the process, and presented the corresponding answers from the proponent and the authorities, along with any resulting changes in the EIA, in the form of a table as shown below.

| Question/comment | Answer from proponent | Comments from authorities | Changes in EIA |
|---|---|---|---|
| | | | |
| | | | |

Table 5 Translated template for hearing report from the Nuuk Harbour EIA process

The written consultation resulted in the receipt of five statements, three from authorities and two from civil society organisations: the Maritime Authority, the National Association for Greenlandic Municipalities, Sermersooq Municipality (includes Nuuk), Nuuk Boating Association and the Inuit Circumpolar Council (ICC). From the public meeting, seven questions from the audience were registered, mainly concerning the conditions for the boat harbour and the impact of dust and noise. The hearing report concludes that they were all answered at the meeting and that none of them led to changes in the EIA.

*Other experiences from the EIA*
One of the matters dealt with in the EIA is the road access and the potential impacts of traffic to the new harbour on the general traffic situation in Nuuk. The matter arose from the continuous dialogue between the team preparing the EIA and the municipality, whereby the municipality contributed with a broader perspective on the effects and solutions – beyond the narrow project scope of the EIA. This led to two scenarios for road access being assessed in the EIA: in the first scenario, the new harbour was connected to the existing road network at one point, and in the second scenario an additional new road connection was proposed. It was assessed that the second scenario would improve the traffic situation in Nuuk provided that an intersection was converted to a traffic light-controlled system, a solution which was outside the influence of the project proponent. Based on the positive impacts for Nuuk as a whole, the second scenario was chosen even though it went beyond the scope of the specific project, and it was implemented under a cooperation arrangement between the proponent and the municipality.

*Lessons learnt*
A lesson that can be learnt from the Nuuk Harbour EIA is that it is essential to prepare a good and well-structured report on the participation process. A hearing report that covers the whole participation process is preferred over several documents covering different parts (e.g. one for the meetings and one for written comments). The report from the Nuuk Harbour project could have been improved by including the answers to questions raised at the public meetings, so that people who were not present at the meeting could also read the answers.

Another important lesson is that many of the issues raised in the written hearing concern the conditions set for the possible approval of the project, e.g. emphasising specific issues that stakeholders believe should be regulated by conditions. It would make a stronger basis for discussion and provide more transparency if a draft of these conditions were included in the consultation material.

Finally, a close and continuous dialogue with stakeholders can contribute to a broader perspective on a project and its impacts, and can lead to project design solutions that are environmentally and socially beneficial for the community as a whole.

## 2. Zink mine near Kotzebue, Alaska

Red Dog zinc mine was opened in 1989 the international resource company Teck in cooperation with the regional Alaska Native Corporation NANA, which is owned by the Iñupiat people living in Northwest Alaska. NANA owns the land on which the mine is situated and receives royalties from the mine, which is distributed through the corporation to its Iñupiat shareholders. The original EIA was prepared in 1984 prior to the completion of the permitting procedure for the mine. In 2007, the mining corporation applied for a permit to start mining the neighbouring deposit Aqqaluk, which triggered an additional EIA. The final EIA report was published in October 2009, and operations on the new deposit started in 2010. This latest EIA is the main point of departure for the information below about the participation process.

*Participation process*
The EIA was headed by the US Environmental Protection Agency (EPA) and conducted with the cooperating agencies US Army Corp of Engineers, the State of Alaska and the National Park Service. In addition, nine local tribal governments represented by the Maniilaq Association (the Native Village of Buckland, the Native Village of Kiana, the Native Village of Kivalina, the Native Village of Kobuk, the Native Village of Kotzebue, the Native Village of Noatak, the Noorvik Native Community, the Native Village of Selawik and the Native Village of Shungnak) were cooperating agencies with equal status to e.g. the state agencies.

The first formal public participation activity was a scoping hearing from 31 August to 15 October 2007. As part of the hearing, a scoping document was distributed and the EPA hosted public meetings in early October 2007 in Anchorage (21 participants[4]) and Kotzebue (29 participants), as well as the two villages closest to the mine Noatak (116 participants) and Kivalina (57 participants). The meetings consisted of an informal open house for the first two hours, followed by a two-and-a-half-hour public meeting with a presentation of the project and a formal recorded testimony from the public. The EIA report states the purpose of the scoping hearing was to inform the public about the project and to "*provide a framework for the public to ask questions, raise concerns, and identify specific issues with the proposed options; and*

[4] The number of participants is a minimum as perhaps not all participants signed in at the meetings.

*recommend options other than those currently proposed"* (EIA report, p. 1-4). In December 2008, the draft EIA report was published and distributed. Public meetings were held again in Anchorage, Kotzebue, Noatak and Kivalina in January 2009.

Furthermore, the local tribal governments, through *Executive Order 13175 of 6 November 2000*, have the right to direct top-level government-to-government consultations with the lead federal agency. This consultation is confidential at the outset, and activities are financed by the federal government, meaning that the federal government representatives fly out to meet the tribal governments on their terms. The Kivalina Indian Reorganisation Act (IRA) Council requested and participated in a government-to-government consultation prior to the public meeting in Kivalina concerning the draft EIA report.

*Other experiences from the EIA*
When the project originally started, an agreement was negotiated between the mining company and NANA as the landowner in order to enable the project to go ahead. As part of this agreement, long-term environmental and social goals were established for the mine and communities and a framework for cooperation between NANA and the mining company was established. A key goal in the agreement and cooperation is to prevent negative impacts on subsistence activities. To this end, the agreement set up a Subsistence Committee consisting of elders from Noatak and Kivalina as well as representatives from the mining company, thus including both indigenous and western scientific knowledge. The committee has, for example, the power to shut down the mining operations if it thinks there is a threat to subsistence. Another the long-term goal of the original agreement was that 100% of employees should be Iñupiat NANA shareholders in 2001. The agreement set up a joint committee with representatives from NANA and the mining company to oversee employment issues at the mine. Many initiatives have been implemented to attain this goal and, as of 2014, 57% of the Red Dog Mine employees were Iñupiat NANA shareholders. Even though the goal of 100% has not been not attained, it is high compared to global standards.

*Lessons learnt*
A significant lesson learnt from the Red Dog mine is the importance of working with long-term goals, including follow-up and long-term cooperation with local communities regarding social and environmental issues and impacts. This includes inviting locals to be part of the project and securing benefits for the local communities, through e.g. jobs or shares.

One of the most important issues to address is the risk to subsistence activities, and in this regard, it is vital to engage with local communities and take into account their indigenous knowledge. In the case of Red Dog, this is partly achieved through the power over the operation delegated to locals through the Subsistence Committee.

Finally, the requirement to offer communities high-level government-to-government consultation is a valuable lesson in terms of respectful engagement.

## 3. Ruby mine near Qeqertarsuatsiaat, Greenland

In 1966, a ruby deposit was discovered near Qeqertarsuatsiaat on Greenland's west coast, launching various exploration efforts over the years. In February 2014, the Government of Greenland (Naalakkersuisut) approved the EIA and Social Impact Assessment (SIA) for a ruby and sapphire mine called Aappaluttoq. Following the approval, the proponent True North Gems started production in the mine in May 2017.

*Participation process*
The draft assessments were subject to a public hearing between 17 June and 12 September 2013, where the public could submit written comments. As part of the hearing, public meetings were held in Qeqertarsuatsiaat (26 August), Paamiut (27 August) and Nuuk (29 August). At the meetings, presentations were given by the Minister for Business, Resources and Labour Market, the consultant in charge of the EIA and the consultant in charge of the SIA, followed by a session for questions from the participating public.

For the SIA, baseline information and inputs for impact analysis were gathered using, among other things, qualitative participatory methods. The methods deployed included group meetings and group interviews with larger groups as well as focus group interviews with smaller groups, using interview guides and participation techniques to collect information, opinions and perceptions. Key stakeholders were also interviewed about complex issues and past events as well as mitigation measures. The stakeholders included in the participation process for the SIA are shown in Table 6 below.

| **Organisations** | **Authorities** | **Communities** |
|---|---|---|
| ● The National Museum<br>● Association of 16 August<br>● KANUKOKA (association of municipalities)<br>● SIK (labour union)<br>● NUSUKA (employers' association)<br>● Mineralogical Society of Greenland<br>● Qeqertarsuatsiaat Fishing and Hunting Association | ● Bureau of Minerals and Petroleum<br>● Sermersooq Municipality | ● Chairperson of settlement council in Qeqertarsuatsiaat<br>● Small-scale mineral licence holders<br>● Individual citizens with different occupations |
| **Knowledge Institutions** | **Business** | |
| ● University of Greenland<br>● Geological Survey of Denmark and Greenland | ● MT Højgaard (contractor)<br>● True North Gems (proponent)<br>● Various jewellers | |

Table 6 Stakeholders included in the SIA participation process for data collection

Some of the issues discussed with stakeholders were:

- social network;
- use and significance of the Greenlandic language;
- use of traditional food;
- health;
- housing and living standards;
- commitment to the community;
- social problems;
- security, safety and the environment in the local community.

*Other experiences from the EIA*
Included in the SIA is a draft Impact and Benefit Plan (IBP), which outlines the potential impacts and the proposed mitigation measures to be implemented as part of the project. The IBP served as the basis for negotiating what would later be the Impact and Benefit Agreement (IBA). Table 7 below shows, as an example, part of the draft IBP for employment during the operation of the mine.

| Description of impact | Existing mitigation | Proposed mitigation | Impact after mitigation |
|---|---|---|---|
| **Employment during operation phase (direct)** | | | |
| During operation phase True North Gems estimates a seasonal workforce of approximately 80 people at Aappaluttoq including 14 in Nuuk | Training course at the School of Minerals and Petroleum | ● Prepare a description of requirements for the different job categories for the operation phase<br>● Undertake an assessment of training needs<br>● Develop a job training programme for the required job categories<br>● Job advertisement in Greenlandic newspapers and on national television (KNR)<br>● Etc. | The goal is for 95% of the project workforce to consist of Greenlandic personnel after 4-5 years |

Table 7 Extract from the draft IBP in the SIA report

On the basis of the IBP, the final IBA was negotiated and agreed by the proponent True North Gems, Sermersooq Municipality and the Government of Greenland (Naalakkersuisut). As part of the process, the municipality had been in dialogue with the local council for Qeqertarsuatsiaat and the local population to agree on a mandate to enable the municipality to negotiate on their behalf. Likewise, the Ministry of Industry and Mineral Resources (representing Naalakkersuisut) had been in dialogue with the union and employers' association to negotiate on their behalf. After the IBA was signed, a working group with representatives from the municipality, the proponent and the local community was established to ensure continuous communication between the parties on the progress of the project. As part of the IBA, the proponent must deliver yearly status reports on the nature and status of its efforts to implement mitigation measures and achieve the goals of the IBA.

*Lessons learnt*

The Aappaluttoq case emphasises the benefits of the practice of consulting a broad range of local communities and stakeholders via different techniques, especially when identifying, assessing and mitigating social impacts.

It also is an example of the importance of negotiating and implementing agreements on how to mitigate environmental and social impacts, as in the case of the IBP. An important part of working with such goals and plans is allowing them to be scrutinised by the public as part of the engagement process, and negotiated with the participation of the public before being finalised, as well as ensuring continuous follow-up and dialogue on implementation during the entire lifetime of the project.

## 4. Copper mine in Laver, Sweden

*Background*

This case focuses on a Community-Based Impact Assessment (CBIA) for an open-pit copper mine proposed by Boliden Mineral AB, in Laver, northern Sweden. The CBIA was prepared under a formal cooperation arrangement between researchers from Stockholm University and

Stockholm Environment Institute and the indigenous Saami community Semisjaur Njarg. The proposed mine was located on land which is used as a winter pasture by the community for their reindeer herding activities. With a special focus on this issue, the community wanted to conduct an impact assessment to challenge the impact assessment prepared by the mining company and to give voice to the concerns of the community members and their perception of possible impacts from the mine. This CBIA is thus considered a parallel process to the EIA mandated by law and prepared by the mining company. The process and outcomes are described by the participating researchers in a publication by Lawrence and Larsen from 2017 (for a reference see Appendix A).

*Participation process*
The CBIA followed the generic structure of an EIA, generating a baseline for the situation and development without the mine and an assessment of the potential impacts of the mine if implemented. The process included multiple workshops, meetings and interviews with groups and individuals within the community, some focusing specifically on occasionally marginalised groups such as young people and women. The purpose of these events was to explore how community members anticipated that their reindeer herding activities would be impacted by the planned mine.

The assessment was structured as a scenario analysis with room for different viewpoints and visions from community members on the impacts and future developments within a timeframe of 25 years. The process also included gathering experiences through conversations with other Saami communities, and an in-depth comparative case study of experiences of a Saami community with a very similar mining project. Here, testimonies from members of the community were gathered and used.

These community-based approaches meant that considerable additional knowledge about the social and cultural impacts of the mine and ensuing changes in land use was brought to light, compared to the EIA prepared by the mining company. Participatory mapping also took place with the Semisjaur Njarg community. For this, GIS was used to map zones around the mine and its infrastructure, as well as other human activities in the area (e.g. wind power, roads) which were expected to impact or disturb the reindeer.

*Other experiences*
The CBIA created a framework where the community, in collaboration with researchers, delimited the scope and content of the IA, and the resulting report was made part of the permitting process and used by the community in their process of appealing against the mine project. It is important to note that the CBIA was lengthy and extremely demanding in terms of resources for both the community and the researchers.

*Lessons learnt*
Overall, the CBIA was considered an effective approach to highlighting the community's perspective of impacts and provided a deeper analysis of long-term and cumulative impacts compared to the company-driven EIA. Specific participatory methods worth exploring are participatory mapping and the scenario analysis approach, as well as comparison with experiences in other similar projects. The fact that the community chose an approach involving the mapping of impacts of both the project and other activities in the area stresses the need to assess cumulative impacts in EIA.

## 5. Key take-away messages from Part II – Experiences from practice

The key messages from Part II are divided into key messages from the cases and from the conducted interviews:

Key messages from cases:

Key message #13: A hearing report with the comments received from participation activities during the hearing and the full answers from the proponent and relevant authorities should be published, along with a clear indication of whether and what changes was subsequently made in the EIA.

Key message #14: If possible, draft conditions for approval of a project should be included in the material released for review in the hearing before the decision is made.

Key message #15: Maintaining a close dialogue with stakeholders can contribute to a broader perspective on a project and its impacts, and can lead to new solutions and alternatives.

Key message #16: Acknowledging and engaging with local and indigenous leadership and allowing for consultation at top level on their conditions and territory is a way to foster respectful dialogue and build trust.

Key message #17: A broad range of local stakeholders and community individuals should be consulted extensively using different techniques, especially when identifying, assessing and mitigating impacts on their lives through SIA.

Key message #18: A close dialogue should be had with local communities concerning negotiations for IBA or similar processes (depending on the legislative framework). The dialogue should be kept open during implementation and follow-up throughout the lifespan of the project.

Key messages from interviews:

Key message #19: Dialogue with local communities should start at the very beginning of project planning, well before the EIA application is submitted, to enable project planning to take account of local opinions, ideas and knowledge from the outset when there is still room for influence. This can improve project preparations as well as trust between stakeholders.

Key message #20: Communities have very different resources, skills and traditions making it imperative to use participation techniques that match these. Also, the different stages in EIA present different questions and thus a need for different methods. People are different, and have different preferred ways of communicating, meaning that a mix of methods will usually reach more people. Public participation should be tailored to the specific situation and community.

Key message #21: Communication strategies should be planned carefully and should take local aspects into consideration, so that when impact assessors start make initial contacts with a community they are already having an impact.

Key message #22: Participation efforts should be coordinated both within the project and with other ongoing processes, to minimise strain on communities and avoid “participation fatigue”.

Key message #23: When assessing a project's impact on indigenous peoples' rights a separate Human Rights Impact Assessment may be appropriate to determine consistency with international conventions and human rights commitments in corporate policies.

# PART III: RECOMMENDATIONS

The third part is a summary of recommendations for meaningful engagement in each relevant stage of the EIA process, with a general focus on "how". In addition, a checklist for due diligence on the quality of stakeholder engagement for the EIB and other potential financiers is provided in Appendix D.

Overall, it is recommended that a close dialogue with local and indigenous stakeholders is maintained throughout the EIA process, constantly allowing input even if the project is not necessarily subject to a public hearing, and during implementation and follow-up throughout the lifespan of the project.

Based on the key messages from this Guidance Note, the following recommendations are made for the different steps in the EIA process.

**Screening**

- It is recommended that the dialogue with local communities be initiated at the very beginning of project planning, before the EIA process is initiated, but bearing in mind, when starting to engage with communities, that this can already have an impact on their way of living.
- It is recommended that processes guiding the development of community protocols be offered to the potentially impacted communities in advance of a participation process.
- It is recommended that a communication plan and strategy be developed and that public participation procedures and techniques be tailored to the specific project, situation and community.

**Scoping**

- It is recommended that both environmental and social impacts and the interactions between these be included in the scope (especially where there is no separate SIA process).
- It is recommended that indigenous peoples' rights and human rights be included in the scope, possibly in a separate Human Rights Impact Assessment.
- It is recommended that impacts on land and land use be included in the scope.
- It is recommended that specific attention be paid to cumulative and transboundary impacts.
- It is recommended that local people and indigenous peoples in potentially impacted areas be involved in the scoping process with a focus on determining which impacts are inherent to the specific project, environmental context and community.
- It is recommended that climate change implications, e.g. impacts on health and equity, be included.
- It is recommended that participation efforts be coordinated both within the project and with other ongoing processes, to minimise strain on communities and avoid "participation fatigue".
- It is recommended that the resources, skills and traditions of local and indigenous peoples in potentially impacted communities be taken into consideration when

participation techniques are chosen to make sure the techniques match these aspects.

- It is recommended that participatory community mapping be used during EIA and hence included in the terms of reference based on the scoping.
- It is recommended that different techniques and approaches to engagement be planned throughout the EIA process to make sure they are used at the relevant times.
- It is recommended that sufficient time be devoted to engagement processes taking into consideration traditional activities and other activities hindering the participation of stakeholders.
- It is recommended that the proponent engage with local and indigenous leaders and allow for consultation at top level on their conditions and territory.

**Assessment**

- It is recommended that persons from potentially impacted communities, representing certain groups such as elders, council members, chiefs, representatives of organised entities such as the Saami Council and/or other representatives be involved in the assessment of the findings and the interpretation of these in the EIA.
- It is recommended that the local and indigenous knowledge of impacted communities be utilised in the process alongside scientific knowledge, including in data collection, impact assessment, identification of mitigation measures, and monitoring.

**Draft EIA Report**

- It is recommended that appropriate grievance mechanisms (with possibilities of appeal) be provided for the specific project under assessment and clearly communicated.
- It is recommended that uncertainties related to assessments made on individual parameters (particularly climate change) and in general be addressed.
- It is recommended that a draft of conditions for the approval of a project be included in the material released for review in the hearing before the decision on a project.
- It is recommended to ensure that all parties have had the time and opportunity to make themselves acquainted with the project proposal and develop an opinion prior to the final hearing of the draft EIA report.

**Decision**

- It is recommended that all inputs and responses received from participation activities be recorded in a report, along with the full responses from the proponent and relevant authorities as well as an indication of any changes in the process or the EIA brought about by the comments, and that this information be provided for decision-makers.

**Follow-up**

- It is recommended that persons from potentially impacted communities be involved in a structured manner in the monitoring of social and environmental impacts during construction, operation, disclosure and post-disclosure of projects.

# Appendix A: Sources of further information


Arctic Centre (n.d.) *Demography of indigenous peoples of the Arctic based on linguistic groups*. University of Lapland, Rovaniemi
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World Bank Group - International Finance Corporation (2012) *Performance Standards on Environmental and Social Sustainability*.
https://www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/Sustainability-At-IFC/Policies-Standards/Performance-Standards

## National EIA legislation

*EU Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment* as amended by *Directive 2014/52/EU*
*http://ec.europa.eu/environment/eia/eia-legalcontext.htm*

*Finnish Act on Environmental Impact Assessment Procedure (252/2017)*
http://www.ym.fi/en-US/The_environment/Legislation_and_instructions/Legislation_on_environmental_impact_assessment

*Greenland Parliament Act No. 7 of 7 December 2009 on mineral resources and mineral resource activities (Mineral Resources Act) including following amendments:*

- *Greenland Parliament Act No. 26 of 18 December 2012*
- *Greenland Parliament Act No. 6 of 8 June 2014*
- *Greenland Parliament Act No. 16 of 3 June 2015*
- *Greenland Parliament Act No. 34 of 28 November 2016*

https://govmin.gl/images/Documents/Mineral_resource_act/Unofficial_translation_of_unofficial_consolidation_of_the_Mineral_Resources_Act.pdf

*Greenland Parliament Act No. 9 of 22 November 2011 on the protection of the environment (Protection of Environment Act),* including the following amendment: *Greenland Parliament Act no. 1 of 29 May 2012*
http://lovgivning.gl/lov?rid={DD908A25-E80F-47EA-BF4D-FF8EF8473250}http://lovgivning.gl/lov?rid={AEF8F7D7-63FD-4B14-B770-E9B50084010F}

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*Icelandic Environmental Impact Assessment Act No. 106, 25 May 2000*
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*Norwegian Regulation (FOR-1997-06-27-653)*
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Saami Council: http://www.saamicouncil.net/en/

## Appendix B: Overview of types of impacts covered by EIA in the European Arctic

The table below shows an overview of what types of impacts the national legal frameworks in the European Arctic defines as being part of the EIA.

| Finland and Sweden | Greenland | Iceland | Norway |
|---|---|---|---|
| The direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium-term and long-term, permanent and temporary, positive and negative effects of the project on:<br><br>Environmental parameters: biodiversity, land, soil, water, air, climate, landscape<br><br>Social parameters: population, human health, material assets and cultural heritage | The positive and negative impacts of the project, broken down between direct, indirect, secondary, cumulative, short- and long-term and constant impacts on:<br><br>Environmental parameters: ice, water, air, soil, fells, climate, landscape, fauna and flora<br><br>Social parameters: materiel assets, human health and human use of the area.<br><br>**Specifically, for resource extraction projects**:<br><br>Environmental parameters: emissions into water and the atmosphere, noise, disturbance of seabirds and marine mammals including by noise, impacts of lights and burning, cumulative impacts and the risk of introducing invasive species<br><br>Social parameters: impacts on fishing | The direct and indirect impacts, positive and negative impacts, permanent and temporary impacts, reversible and irreversible impacts, synergistic and cumulative impacts on:<br><br>Environmental parameters: fauna, flora and other life forms, soil, geological formations, water, air, climate and landscape<br><br>Social parameters: human beings, society, health, culture and cultural heritage, employment and material assets | The positive, negative, direct and indirect, temporary, permanent, short and long-term, cumulative and cross-boundary impacts on:<br><br>Environmental parameters: nature diversity, ecosystem services, nationally and internationally agreed environmental targets, landscape, pollution (emissions into air, including greenhouse gas emissions, contamination of water and soils, as well as noise), water environment, soil resources (protection of farmland), important mineral resources, impacts resulting from climate change<br><br>Social parameters: cultural heritage and environments, outdoor life, Saami nature and cultural foundation, transport needs, energy consumption and solutions, emergency planning and accident risk, the health of the |

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| | and hunting, plus separate VSB). | | population and the distribution of health in the population, access for the general public to outdoor areas and cycle and footpaths, growing-up conditions for children and young people, crime prevention, architectural and aesthetic design, expression and quality<br><br>**Specifically for off-shore oil and gas activities**:<br><br>Environmental parameters: emissions into water, the air and soil<br><br>Social parameters: material assets and cultural heritage |

## Appendix C: Overview of project types covered by EIA legislation

The table below shows an overview of the project types covered by EIA in the European Arctic. To simplify, the starting point is the EU Directive, i.e. Finland and Sweden. For the other countries, the table lists what is added (plus) or missing (minus) compared to the EU Directive. For further simplicity, the list does not include details and thresholds, so in specific cases the legislation should always be consulted.

| | Mandatory EIA (corresponding to Annex I to the EIA Directive) | Screening for EIA (corresponding to Annex II to the EIA Directive) |
|---|---|---|
| **EU: Finland and Sweden** | Crude-oil refineries and installations for gasification and liquefaction of coal or bituminous shale<br>Thermal power stations and other combustion installations<br>Nuclear power stations, other nuclear reactors, facilities for production, enrichment, re-processing, storage or disposal of nuclear fuel or waste<br>Integrated works and installations for the initial smelting of cast iron and steel or production of non-ferrous metals<br>Installations for the extraction, processing and transformation of asbestos and products containing asbestos<br>Integrated chemical installations for production of basic organic and in-organic chemicals, fertilisers, plant health products, biocides, pharmaceutical products and explosives<br>Construction of railways, airports, motorways, express roads, roads, inland waterways, ports and piers<br>Waste disposal installations for incineration, chemical treatment or landfill of hazardous and non-hazardous waste<br>Groundwater abstraction or artificial groundwater recharge schemes<br>Works for the transfer of water resources between river basins<br>Wastewater treatment plants<br>Extraction of petroleum and natural gas for commercial purposes<br>Dams and other installations designed for the holding back or storing of water<br>Pipelines for the transport of gas, oil, chemicals and carbon dioxide ($CO_2$) streams for the purposes of geological storage | **AGRICULTURE, SILVICULTURE AND AQUACULTURE**<br>Restructuring of rural land holdings, use of uncultivated land or semi-natural areas for intensive agricultural purposes, water management projects for agriculture, afforestation, deforestation, intensive livestock installations, fish farming, reclamation of land from the sea<br>**EXTRACTIVE INDUSTRY**<br>Quarries, open-cast mining, peat extraction, underground mining, extraction of minerals by marine or fluvial dredging, deep drilling and surface industrial installations for the extraction of coal, petroleum, natural gas and ores, as well as bituminous shale<br>**ENERGY INDUSTRY**<br>Industrial installations for the production and carrying of electricity, steam and hot water, transmission of electrical energy by overhead cables, surface storage of natural gas, underground storage of combustible gases and fossil fuels, industrial briquetting of coal and lignite, processing and storage of radioactive waste, hydroelectric energy production, harnessing of wind power, and capturing of $CO_2$ streams for the purposes of geological storage<br>**PRODUCTION AND PROCESSING OF METALS**<br>Installations for the production of pig iron or steel, processing of ferrous metals, hot-rolling mills, smitheries with hammers, application of protective fused metal coats, ferrous metal foundries, smelting of non-ferrous metals, surface treatment of metals and plastic materials using an electrolytic or chemical process, manufacture and assembly of motor vehicles and motor-vehicle engines, shipyards, construction and repair of aircraft, manufacture of railway equipment, swaging by explosives, roasting and sintering of metallic ores<br>**MINERAL INDUSTRY** |

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| | Installations for the intensive rearing of poultry or pigs<br>Industrial plants for the production of pulp from timber or similar fibrous materials, paper and board<br>Quarries and open-cast mining<br>Construction of overhead electrical power lines<br>Installations for storage of petroleum, petrochemical or chemical products<br>Storage sites and installations capture of $CO_2$ streams for geological storage | Coke ovens, installations for the manufacture of cement, asbestos, asbestos products, glass including glass fibre, ceramic products by burning and smelting mineral substances including the production of mineral fibres<br>**CHEMICAL INDUSTRY**<br>Treatment of intermediate products and production of chemicals, production of pesticides and pharmaceutical products, paint and varnishes, elastomers and peroxides, storage facilities for petroleum, petrochemical and chemical products<br>**FOOD INDUSTRY**<br>Installations for manufacture of vegetable and animal oils and fats, confectionery, syrup, starch, sugar, dairy products, fish meal and fish oil factories, packing and canning of animal and vegetable products, brewing and malting, and the slaughter of animals<br>**TEXTILE, LEATHER, WOOD AND PAPER INDUSTRIES**<br>Industrial plants for the production of paper and board, pre-treatment or dyeing of fibres or textiles, tanning of hides and skin and cellulose-processing and production<br>**RUBBER INDUSTRY**<br>Manufacture and treatment of elastomer-based products<br>**INFRASTRUCTURE PROJECTS**<br>Industrial estate and urban development projects, railways, intermodal transhipment facilities, intermodal terminals, airfields, roads, ports, port installations, inland waterways, channelling, flood-relief works, dams and other installations designed to hold water or store it, tramways, elevated and underground railways, suspended lines or similar lines used mainly for passenger transport, oil and gas pipeline installations, pipelines for the transport of $CO_2$ streams for the purposes of geological storage, long-distance aqueducts, coastal work to combat erosion, maritime works capable of altering the coast, groundwater abstraction, artificial groundwater recharge schemes and works for the transfer of water resources between river basins<br>**OTHER PROJECTS**<br>Permanent racing and test tracks for motorised vehicles, test benches for engines, turbines or reactors, sludge-deposition sites, knackers' yards, installations for the disposal of waste and wastewater, storage of scrap iron, manufacture of artificial mineral fibres, recovery or destruction of explosive substances<br>**TOURISM AND LEISURE** |

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| | | Ski runs, ski lifts and cable cars and associated developments, marinas, holiday villages and hotel complexes outside urban areas and associated developments, permanent campsites and caravan sites, theme parks |
| **Greenland** | **Minus:** Piers and inland waterways, non-hazardous waste handling facilities, works for the transfer of water resources between river basins, wastewater treatment plants, installations for the intensive rearing of poultry or pigs, construction of overhead electrical power lines, storage sites and installations for capture of $CO_2$ streams for geological storage<br>**Plus:** Logging | **Minus**: Reclamation of land from the sea, water management projects for agriculture, deforestation, intensive livestock installations, surface storage of natural gas, underground storage of combustible gases and fossil fuels, industrial briquetting of coal and lignite, processing and storage of radioactive waste, capturing of $CO_2$ streams for the purposes of geological storage, transmission of electrical energy by overhead cables, processing of ferrous metals, hot-rolling mills, smitheries with hammers, application of protective fused metal coats, ferrous metal foundries, surface treatment of metals and plastic materials using an electrolytic or chemical process, manufacture and assembly of motor vehicles and motor-vehicle engines, shipyards, construction and repair of aircraft, manufacture of railway equipment, swaging by explosives and roasting and sintering of metallic ores, coke ovens, installations for the manufacture of cement, asbestos, asbestos products, glass including glass fibre, ceramic products by burning and smelting mineral substances including the production of mineral fibres, treatment of intermediate products and production of chemicals, production of pesticides and pharmaceutical products, paint and varnishes, elastomers and peroxides, storage facilities for petroleum, petrochemical and chemical products, installations for manufacture of vegetable and animal oils and fats, confectionery and syrup, industrial starch, sugar, dairy products, fish meal and fish oil factories, packing and canning of animal and vegetable products, brewing and malting, and the slaughter of animals, industrial plants for the production of paper and board, pre-treatment or dyeing of fibres or textiles, tanning of hides and skin and cellulose-processing and production, manufacture and treatment of elastomer-based products, Industrial estate and urban development projects including the construction of shopping centres and car parks, construction of railways, intermodal transhipment facilities, intermodal terminals, roads, harbours, port installations including fishing harbours, inland waterways, channelling, flood-relief works, elevated and underground railways, tramways, suspended lines or similar lines used mainly for passenger transport, oil and gas pipeline installations, pipelines for the transport of $CO_2$ streams for the purposes of geological storage, long-distance aqueducts, coastal work to combat erosion, maritime works capable of altering the coast, groundwater abstraction, artificial groundwater recharge schemes, permanent racing and test tracks for motorised vehicles, test benches for engines, turbines or |

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|---|---|---|
| | | reactors, sludge-deposition sites, knackers' yards, installations for the disposal of waste and waste water, storage of scrap iron, manufacture of artificial mineral fibres, recovery or destruction of explosive substances, marinas, hotel complexes outside urban areas and associated developments, permanent campsites and caravan sites, theme parks<br>**Plus**: Installations for production of animals, helipads, power lines, tunnels, hostels outside urban areas |
| **Iceland** | **Minus**: Piers and inland waterways, non-hazardous waste handling facilities, open-cast mining, storage sites and installations capture of $CO_2$ streams for geological storage<br>**Plus**: Geothermal power stations, submarine electricity cables, fish meal and fish oil plants | **Minus**: extraction of minerals by marine or fluvial dredging, transmission of electrical energy by overhead cables, and capturing of $CO_2$ streams for the purposes of geological storage, maritime works capable of altering the coast, pipelines for the transport of $CO_2$ streams for the purposes of geological storage, port installations including fishing harbours, intermodal transhipment facilities, intermodal terminals, Industrial estate and urban development projects including the construction of shopping centres and car parks, knackers' yards, holiday villages and hotel complexes outside urban areas<br>**Plus**: Intensive rearing of poultry and pigs, open-cast mining, geothermal heat production, transmission of electrical energy by underground cables, submarine cables, landfills, disposal of slaughterhouse waste, recycling stations, constructions for avalanche protection, service centres for travellers in the highlands and outside of urban areas in protected areas in the lowlands |
| **Norway** | **Minus**: Piers, quarries and open-cast mining<br>**Plus**: Hydroelectric power plants, suburban railways and underground railways, extraction of ores, minerals, stone, gravel, sand, clay or other mass, ground and sea cables, commercial buildings, buildings for public or private services and general-purpose buildings for, new residential and holiday home areas which are not in accordance with the overall plan, large military artillery ranges and training grounds, transhipment of oil and gas from ship to ship, wind power plants, protected areas | **Minus**: Installations for production of syrup, intermodal transhipment facilities<br>**Plus**: Reindeer fences, agricultural roads, storage of fossil fuel above ground, helipads, commercial buildings, waste disposal sites on land and at sea |

# Appendix D: Checklists for quality of local and Indigenous participation

This appendix provides a list of items, which could be checked to secure that EIAs in the Arctic ensure quality in the engagement of local and indigenous peoples during all steps of the EIA.

**Screening**

- ❑ Was the dialogue with local communities initiated at the beginning of project planning, before the EIA process is initiated, bearing in mind, when starting to engage with communities, that this can already have an impact on their way of living?
- ❑ Have processes guiding the development of community protocols been offered to the potentially impacted communities prior to a participation process?
- ❑ Have communication plans and strategies been developed and are public participation procedures and techniques tailored to the specific project, situation and community?

**Scoping**

- ❑ Are both environmental and social impacts and the interactions between them included in the scope of the EIA?
- ❑ Are impacts on indigenous peoples' rights and human rights included in the scope of the EIA?
- ❑ Are impacts on land and land use included in the scope of the EIA?
- ❑ Is specific attention paid to cumulative and transboundary impacts?
- ❑ Are local and indigenous communities in potentially impacted areas involved in the scoping process with a focus on determining which impacts are inherent to the specific project, environmental context and community?
- ❑ Are climate change implications including impacts on health and equity included?
- ❑ Are the participation efforts coordinated both within the project and with other ongoing processes, to minimise strain on communities and avoid "participation fatigue"?
- ❑ Are the resources, skills and traditions of local and indigenous peoples in potentially impacted communities taken into consideration when participation techniques are chosen to make sure the techniques match them?
- ❑ Is participatory community mapping used during EIA?
- ❑ Are different techniques and approaches to engagement planned throughout the EIA process to make sure they are used at the relevant times?
- ❑ Is sufficient time devoted to engagement processes taking into consideration traditional activities and other activities hindering the participation of stakeholders?
- ❑ Is the proponent prepared to engage with local and indigenous leaders and allow consultation at top level on their conditions and territory?

**Assessment**

- ❑ Are persons from potentially impacted communities, representing certain groups such as elders, council members and chiefs, representatives of organised entities and/or other

representatives involved in the assessment of the findings and their interpretation in the EIA?

- ❑ Is local knowledge and indigenous knowledge of impacted communities utilised in the process alongside scientific knowledge?

**Draft EIA Report**

- ❑ Are appropriate grievance mechanisms ensured for the specific project under assessment and are they clearly communicated in the EIA process?
- ❑ Are uncertainties related to assessments made on individual parameters (particularly climate change) and in general addressed?
- ❑ Is a draft of conditions for the approval of the proposed project included in the material released for review in the hearing before a decision on a project?
- ❑ Is it ensured that all parties are given the time and opportunity to familiarise themselves with the project proposal and develop an opinion prior to the final hearing of the draft EIA report?

**Decision**

- ❑ Are all inputs and responses received from participation activities recorded in a report, along with the full responses of the proponent and relevant authorities, as well as an indication of any changes in the process or the EIA resulting from the comments, and is this information provided for decision-makers?

**Follow-up**

- ❑ Are persons from potentially impacted communities involved in a structured manner in the monitoring of social and environmental impacts during the construction, operation, disclosure and post-disclosure of projects?

**Additional items**

- ❑ Does the proponent have the capacity to undertake a participation process according to the plans provided in the application to the EIB in a case where the proponent has not conducted an EIA prior to application?
- ❑ Are requirements ensuring compliance with the recommendations for participation of local and Indigenous communities in EIA included in the contract?
- ❑ Does the proponent, during construction, production and disclosure, engage with local and indigenous communities in practice, in accordance with the original project material provided to the European Investment Bank?

To check further the quality of the proponent's performance in practice, representatives of the European Investment Bank could conduct site visits during the assessment, construction, production and disclosure stages, to meet with representatives from local communities and indigenous peoples to ensure that they feel engaged in an appropriate manner.

# Guidance Note on Indigenous and Local Community

## Participation in Environmental Impact Assessment in the European Arctic

July 2019

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