

Social license to operate

We support our clients in their commitment to sustainable development. Focusing on securing the social license to operate, including incorporating social issues in the applicable legal framework, allows our clients to operate in a commercially successful and socially beneficial manner.

The issue

The social license to operate comes from the engagement of a business enterprise with communities, stakeholders, and society at large to secure the recognition that the business enterprise is mutually beneficial, as well as acceptance and perhaps support for the commercial goals of the business.

The social license to operate touches all of the Sustainable Development Goals, but is especially relevant to UN SDG 9: Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation. Specifically, SDG Target 9.2 seeks to “Promote inclusive and sustainable industrialization and, by 2030, significantly raise industry’s share of employment and gross domestic product, in line with national circumstances, and double its share in least developed countries.” By securing the social license to operate, industrial partners can assure stakeholders that sustainable industrialization is to their benefit, and ensure that projects can advance to help accomplish this goal.

What we do

As lawyers, we know how to obtain the licenses, permits, concessions and agreements necessary to have the legal right to operate. Our clients are better served if they also have a social license to operate – in other words, a commitment from the affected stakeholders and communities that the project is socially beneficial.

Having the social license to operate minimizes conflict and protest, and allows the mutually acceptable, cooperative development of natural resources. By gaining support from members of society based on the recognition of the mutual benefits of the business enterprise, our clients can avoid conflicts and challenges to their endeavours, and the community will see the business as part of the community, rather than an outside force acting on the community.

As advisors to these companies, we assist clients in gaining not just a legal license, but also the social license. The social license can be a shifting target, but fundamentally securing that license requires engagement with communities and stakeholders, and a willingness to understand their goals and concerns, and develop strategies to meet those goals and address those concerns.

For example, we often advise clients on applicable policies and regulations that affect their current operations and future projects or plans. In addition to setting out the regulatory process, we also review whether the regulations include a process for consultation or stakeholder engagement. Many clients are willing to pursue stakeholder engagement beyond the level required by regulation to assure that stakeholder and community concerns are identified and considered.

Similarly, in project development and project finance, the process of designing and developing a project often includes a commitment to stakeholder engagement and outreach. We can assist in providing a framework for that process, and create agreements and legal instruments that allow the incorporation and facilitation of the communications, transparency and commitments consistent with careful business management and legal risk management, while promoting the social license to operate.

Our impact

Our representative experience includes:

- Representing a solar company in siting a utility scale project on Native American lands in the United States that would provide local construction jobs and an energy source for the tribal community and the national grid
- Advising Continental Coal Limited in relation to the business rescue of the Continental Coal (South Africa) Group of Companies, including advising in relation to regulatory aspects, the placing of the operations into care and maintenance under the prevailing mining and employment legislation, compliance with social, environmental, and related responsibilities during business rescue, as well as mining work programmes
- Providing training to the Government of Malawi in relation to sustainable development principles and best practices for international mining agreements
- Advising the Government of Liberia regarding the inclusion of provisions in its large-scale agricultural concession agreements requiring investors to construct public infrastructure and build schools and hospitals and train workers in the communities where they were granted concessions.
- Advising a consortium of social entrepreneurs and foundations on the “Solar for All” Fund, a novel fundraising venture capital to invest in developing businesses in Africa and Asia with the aim of providing off-grid power to millions of people in the developing world

Useful links

- [ENRG: Business Integrity and Sustainable Development: Leading the Way](#)
- [Get in the Driver’s Seat: Social License to Operate](#)
- [Business Integrity and Sustainable Development site](#)
- [Sustainability in Europe](#)

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