Indigenous Peoples’ Perspectives on Participation in Mining
The Case of James Bay Cree First Nation in Canada

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**Acronyms**

CBD – UN Convention on Biological Diversity  
CERD - Convention on the Elimination of all Forms of Racial Discrimination  
CHRD – Cree Human Resources and Development  
CMEB – Cree Mineral Exploration Board  
CLMB - Cree Local Management Board  
CRA – Cree Regional Authority  
CSR – Corporate social responsibility  
FPIC - Free Prior Informed Consent  
GCC - Grand Council of the Crees  
IBA – Impact Benefit Agreement  
IC – Implementation Committee  
ICCCPR- International Covenant on Civil and Political Rights  
ICESR – International Covenant on Economic, Social and Cultural Rights  
ICMM – International Council on Mining and Metals  
ILO – International Labor Organisation  
IP – Indigenous Peoples  
ISP - Income Security Program  
JBNQA – Jame Bay and Northern Québec Agreement  
MDDEP - Ministry of Sustainable Development, Environment and Parks  
MRNF  - Ministry of Natural Resources  
OAS – Organisation of American States  
UN - United Nations  
UNPFII - United Nations Permanent Forum on Indigenous Issues
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Abstract

Mining exploration and production are rapidly increasing in remote regions of the world where traditionally large scale mining has not taken place such as in the North of Quebec in Canada. In these remote areas, mining companies frequently take over lands and territories of Indigenous Peoples disrupting their traditional livelihoods. Indigenous Peoples have specific rights to land and resources, rights to free prior informed consent as well as participation in decision making. A number of CSR initiatives have been taken by mining companies to shift towards responsible business and participation of Indigenous communities in decision making. Yet the implementation of meaningful approaches to participation is not common or in many cases not properly applied in practice. Furthermore although Aboriginal participation is highly promoted in the business industry little is known how Indigenous communities perceive proper conditions for participation and FPIC process. This study examines the perspectives of James Bay Cree First Nations in the North of Quebec on the participation process with Troilus mine project and the implementation and implications of the Troilus agreement on the Cree. Additionally the study scrutinizes the internal participation and FPIC process in two Cree communities and the impacts of mining on the Cree First Nation.

Key words: Indigenous Peoples, mining, livelihood, human rights, participation, FPIC, Cree First Nation, CSR, corporate Aboriginal agreement, development impacts, Canada.
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1 Introduction

Indigenous Peoples\(^1\) constitute about 5% of the world population, are around 350 million people and make up 15% of the world’s poor (IFAD, 2009). These peoples tend to live on resource rich lands and are therefore an interest of states and businesses. Mining exploration and production are rapidly increasing in remote regions of the world where traditionally large-scale mining have not taken place. As mining companies move to these remote areas such as in the northern and arctic regions of Canada, they frequently take over lands and territories of Indigenous Peoples disrupting their traditional livelihoods. These people often find themselves on the front line of local struggles and global debates about economic, environmental, and human rights impacts and benefits of mining (Coumans in O’Faircheallaigh et al, 2008). Indigenous Peoples have historically gained very little benefits of the large scale extractive development projects such as mining exploitations that take place on their ancestral lands (O’Faircheallaigh et al, 2008). Couple of decades ago, Indigenous Peoples did not have much say in the decision of mining development. Back then, the way for mining companies to exploit resources was to ride rough shod right over Indigenous communities (Bergmann in O’Faircheallaigh et al, 2008). During the last 30 years, these communities and their allies have mobilised themselves in response to the resource development using different strategies and approaches from formal direct negotiations with companies, co management, legal resistance, recognition of their rights on the international level, pressure for adoption of national and provincial legislation recognizing indigenous land rights and their traditional culture (O’Faircheallaigh et al, 2008). In response to these initiatives, risks of conflicts and civil society pressure, large mining companies have started to address the concerns related to the impact of their projects on the Indigenous Peoples by adopting corporate social responsibility strategies. Companies are increasingly trying as part of the state’s legislation or the companies’ initiative to better engage with Indigenous communities. Business and human rights and corporate social responsibility are becoming forefront issues in the corporate world and it has become difficult for companies to operate without taking into consideration the environment, and communities rights. Indigenous Peoples have special rights to land and resources, rights to free prior informed consent as well as participation in decision making. These rights are outlined in a number of international agreements such as the UN Declaration on the Rights of Indigenous Peoples. The concept of free prior informed consent seeks that local communities must be informed about development projects in a timely manner and given the opportunity to accept or veto a project on their lands before the start of operations (Oxfam, 2007). Despite the existence of these international standards, free prior informed consent is a rarity and is seen as a controversial debate. This is due to the lack of understanding of how to implement it in practice and the concern of the right to veto against development projects by the Indigenous Peoples (Weitzner, 2009). In addition to that, the implementation of meaningful approaches and participation is not always common or in many cases not properly applied in practice.

The case study focuses on the perspectives of Cree First Nation on participation and free prior informed consent (FPIC) in the mining sector in Canada. The mining activities have increased dramatically in Canada’s different provinces especially in the North such as in James Bay territory in Québec where the Cree First Nations live. Exploration activities that are taking place on Cree lands have been affecting the environment and the communities’ distinct way of life and their rights. Mining represents one of the largest sectors in Canada and is one of its most productive industries

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\(^1\) The term Indigenous Peoples refers to Indigenous communities around the world, whereas Aboriginal Peoples is used for settler societies such as Canada, USA and Australia. First Nations is generally used for Canada.
and a major contributor to the country’s ongoing economic prosperity (Miningworks, 2005). Since the industrialization of mining in Canada, the Aboriginal peoples of Canada (First Nations, Inuit and Métis peoples) were often not involved in decision making related to mining projects on their traditional lands. However, the situation in certain regions is slowly changing for a number of reasons, notably due to pressures from civil society and the media to move towards more sustainable practices. Nonetheless the situation has also evolved due to advances Aboriginal people have made with regards to the recognition of their rights to land and title and the negotiation of comprehensive land claim agreements (Hipwell et al, 2002). Today, there has been a shift towards mechanisms that include Aboriginal perspectives in decision making, although their views tend to not be appropriately integrated in decision making.

1.1 Problem Formulation
- There is a knowledge gap due to the lack of information on the proper conditions for participation and FPIC process from Indigenous Peoples’ point of view. Participation processes can be problematic in practice if the community’s point of view is not understood
- James Bay territory in Québec Province is a high potential region for new mining discoveries. The government has released a new mineral strategy to push for further exploration of new mines in the North. The communities living in these remote regions are already concerned about the implications of mining on their lives and the environment especially when their involvement is not properly considered in practice.
- The corporate Aboriginal agreement is generally regarded as positive sign of mining’s willingness to engage with Indigenous Peoples in a serious manner but there is criticism on the extent of Aboriginal community involvement in negotiation processes and limited benefits gained by some groups. There is also little focus on the consequences for Indigenous Peoples entering such agreements.

1.2 Aim
- The aim of the project is to scrutinize the present process of participation and FPIC and its effectiveness and to examine Indigenous Peoples’ perception on participation and FPIC in the mining sector in Canada.

1.3 Objectives
- Evaluate the current practices of participation and Free Prior Informed Consent (FPIC)
- Examine the outcomes, implementation and implications of agreements from Cree perspective and the impacts of mining activity on Indigenous Peoples
- Improve the current practices and mechanism to enhance the implementation of participation and FPIC.

1.4 Research Questions
- What are the impacts and benefits of resource development on Indigenous Peoples?
- How and at what level is FPIC implemented?
- What are the opportunities and obstacles of the practices for the participation of Indigenous Peoples in mining?
- What are the community’s perspectives on the outcomes and the implementation of the corporate- Aboriginal agreements?
• How well does the Aboriginal representative communicate the concerns and issues raised by the community during negotiations with companies?
• How well does the company communicate with the communities?
• What are the conditions required for a good foundation to improving the current mechanism in terms of participatory process and FPIC?

1.5 Limitations
Logistical and research limitations are identified and highlighted below:
• Limitations with time partially due to the lack of funding. Travelling to the North tends to be very expensive, in terms of food, accommodation and transport since there are no public transports.
• A number of people were not easy to get hold of because they were often staying on their tralplines which cannot be easily accessed.
• Although Inmet Corporation was interviewed, the study is one sided, as the intent is to scope out the perspectives of Indigenous Peoples.
• The complexity of the political system in Canada federal vs provincial vs territorial and its relation to Aboriginal rights.
• Although social impacts and issues are covered, it is important to point out that they are also related to historical events that are complex. This report does not have the capacity to cover or explain all those issues.
• Environmental impacts are covered at the general level. Furthermore the contamination case focused on participation and not on the technical details of the contamination.
• Background on JBNQA and la Paix des Braves agreements were provided the analysis of their implications on mining are not fully addressed in this study.
• The implications of a state’s focus on solving land tenure issues as a result of mineral discoveries require further research and are not covered in this report.

2 Research Methodology

2.1 Methodology
Indigenous researchers from different countries such as Linda Tuhiwai Smith a Maori from New Zealand have identified that the concept of research is deeply problematic for Indigenous Peoples. In many indigenous contexts, it stirs up silence, brings up bad memories and conveys deep cynicism and suspicion (Newcastle, 2009). Until recently, Indigenous Peoples have often been “the researched”. Western academic research, which has usually been aimed at solving the indigenous problem, has given power and control to non-indigenous researchers. This has disempowered Indigenous Peoples who have long been used merely as passive objects of Western research (Smith 1999, 61). One of the issues is that Indigenous Peoples are tired of research because of their experience being measured, judged and treated as the 'object', the 'subject' of research - the 'other' (Smith, 1999; Porsanger, 2004). This research promotes a topic political in essence, which implies the right to self-determination of Indigenous Peoples with respect to research (Dominguez, 2008). The topic chosen on participation and FPIC is a political and human right issue. Indigenous methodologies tend to approach cultural protocols, values, and behaviors as an integral part of methodology. In First Nations and Native American communities there are protocols of being respectful, of showing or accepting respect and reciprocating respectful behaviors, which also develop membership, credibility and reputation (Tuhiwai Smith, 1999:15). In this study several
guidelines have been looked for reference such as Inuit Tapirisat research principles which can be found under Appendix. The principles followed were mainly confidentiality, respect of culture, rights of First Nations and privacy, people interviewed will have access to the report, and informed consent was obtained from the authorities to conduct the field work. The main methodology used in this study is a case study research, in which the issues studied or the units of the study are the following:

- The type of process for participation and FPIC
- The representation of the community internally and externally
- The agreement and the impacts of development on the Cree.

### 2.2 Selection of the case

The case study selected is on Cree First Nations’ participation in mining with a focus on Inmet Corporation’s project called Troilus Mine project and the community of Mistissini. Additionally the community of Ouje-Bougoumou was chosen in relation to mine activities’ environmental impacts (see section on information collection). The choice of the project was in relation to the agreement signed between Mistissini Cree Band Council and Inmet Corporation. The partnership that the company has with the Cree is considered a success story in the mine industry. This is due to its approach in involving the Cree community, and also from the Cree perspective as it is the first mine operation that had signed an agreement in James Bay Territory. The selection of the case was based on the availability of information, as there has been an assessment and follow up made by the company and the Cree authorities on the implementation of the agreement. The assessment was mainly focusing on the employment and economic contribution of the Troilus Agreement, but this research will complement the case study and bring a broader perspective to Aboriginal participation.

A number of other events led to choosing the Cree First Nation and Canada as a case study. My first contact with First Nations in Canada was in 2003 when I spent few days in Kitigan Zibi reserve in Ontario. However, it was a project in Environmental Justice course at KTH on traditional knowledge of Cree First Nations in Waswanipi and later the meeting of the Cree Native Arts and Crafts Association representatives in Montreal during an art and design exhibition in December 2008 that encouraged me to further look at the Cree First Nation as a case study.

Given the experience the Cree have with not only mining projects, but also forestry and hydro development projects, the lessons learned from the Cree can provide a great deal of knowledge and experience that can be shared for a more meaningful participation of Indigenous Peoples. Furthermore, due to the region’s high-potential for new discoveries, the province of Québec has recently released its new mineral strategy that will push for the exploration and development of new mines in the North, which is going to have serious implications on the environment and on the communities living in these remote regions. Therefore, understanding the Cree perspective will be beneficial for governments, companies and community representatives. Since the Troilus Mine has been ongoing since 1996 and is reaching its closure stage, the case can provide relevant information on the community’s perspective on Inmet Corporation’s approach to participation, and whether there was a proper mechanism for obtaining consent to go ahead with the project, not only from the Cree representatives, but also by directly engaging with community members. It will also be an opportunity to understand the impacts that the development has had on the Cree well-being and whether the success story of the project is the perspective of the majority of the community.
2.3 Information Collection

The case study was initially limited to a geographical area where Troilus mine project is located and the Cree community located at Mistissini village, in the North of Quebec Province, Canada. However, the scope of my research got expanded while on the ground. During the field work, I was advised to visit Ouje-Bougoumou as it has had a different experience with mining from Mistissini. Troilus mine project was located far from Mistissini and therefore the effects were not directly seen, whereas Ouje-Bougoumou was a community surrounded by mining and has experienced negative impacts throughout these years. I came to realize that myself and decided to travel to Ouje-Bougoumou for a couple of days in order to have a broader perspective of the situation in the region. The fieldwork grounding this study is undertaken from 19th May until 4th of June 2009 in addition to two meetings in Montreal at the Cree Regional Authority. The study was mainly in Mistissini, in addition to short visits to Ouje-Bougoumou and to Troilus mine site (see section on fieldwork design). In reference to Inuit Tapirisat research principles, the project proposal was sent to the Grand Council of the Cree and to the Chief of the Cree community in Mistissini in order to obtain approval to conduct the fieldwork and for comments in relation to the research. The Chief of the Cree community in Ouje-Bougoumou was also contacted and informed about the research prior to visiting the community. The research approach has to address the cultural ground rules of respect, of working with communities of sharing processes and knowledge (Smith, 1999: 191). In the process of disseminating research results, sharing knowledge and reporting back to the community will be done, which will assume a principle of reciprocity and feedback (Smith, 1999:15; Porsanger, 2004).

The methodology used for gathering data relies on multiple sources of evidence through triangulation to add depth to data collection to contribute to the validity of the research (Yin, 2003). Prior to the field work, a checklist of questions (see Appendix 1) were developed by topic covered. During the field work, the methodologies for collecting primary sources included:

- Formal and informal interviews and discussions with individuals, self observations
- Participation in a community meeting
- Reviews of documents from the Cree Regional Authority and local news magazine,
- Observation: attendance of cultural events such as the Walking out, and cultural weekend in Ouje-Bougoumou
- Photography.

Secondary sources are accessed through the Internet such as academic journal articles, reports from research institutes and books and reports from practitioners.

Most interviews were conducted in English but some were in Cree, with translation provided by a family member. Initially key contacts were found through official Cree websites such as the Cree Council of Mistissini. I later contacted Vivian Weitzner, a researcher at North South Institute who directed me to Alan Penn a Scientific Advisor at the Cree Regional Authority. Alan Penn became my key contact who helped me get in touch with Cree official and other contacts in Mistissini and Ouje-Bougoumou. People interviewed were kept confidential, however they ranged from Cree officials, advisors, Cree mining workers, elders, youth, Cree Women’s Association and Inmet Corporation. To have a more holistic view of the events in the area, and to better understand the people in the community and their culture and values, a more appreciative approach was taken whenever possible, where the author first wants to illustrate the community achievements, existing strengths, local skills, and their visions, instead of directly discussing problems, local needs and constraints. However, it is important to clarify that the intention is not to make an analysis or assessment of culture. This holistic approach can provide a better understanding of the community’s
assets and how they can become the agent of change. This differs from other outsider’s approaches which tend to look more at problems and needs. This will be important for capacity building on existing strengths in a community. Although the research and the fieldwork focused on mining, there were times when the discussions would broaden to cover other economic development in the region. By 1995 development of the region had expanded into mining, tourism, forestry and hydro-power (Whiteman, 2004). One would observe that the impacts of these projects cannot be totally separated, and that they had cumulative and interrelated effects (negative and positive) on both the Cree culture and environment. Once the report is completed, it is then reviewed to construct validity.

Table 1: Relevancy of different applied research methods

<table>
<thead>
<tr>
<th>Issues</th>
<th>Literature Review</th>
<th>Analysis of Documents</th>
<th>Field Investigations, Photography, Oral stories</th>
<th>Observations Outdoor/Indoor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cree First Nation Rights and mining development (political / legal context)</td>
<td>XX</td>
<td>XX</td>
<td>XX</td>
<td>X</td>
</tr>
<tr>
<td>Community values, culture, assets</td>
<td>XX</td>
<td>X</td>
<td>XXX</td>
<td>XX</td>
</tr>
<tr>
<td>Development/ mining impact on people and the land</td>
<td>XX</td>
<td>X</td>
<td>XXX</td>
<td>XX</td>
</tr>
<tr>
<td>Internal community communication</td>
<td>XX</td>
<td>XX</td>
<td>XXX</td>
<td>X</td>
</tr>
<tr>
<td>External community communication</td>
<td>XX</td>
<td>XX</td>
<td>XXX</td>
<td>X</td>
</tr>
<tr>
<td>Corporate-Aboriginal agreement (Troilus Agreement)</td>
<td>XX</td>
<td>XXX</td>
<td>XXX</td>
<td></td>
</tr>
<tr>
<td>Decision making and participation process</td>
<td>XX</td>
<td>XX</td>
<td>XXX</td>
<td>X</td>
</tr>
</tbody>
</table>

XXX High relevance
XX medium relevance
X Some relevance

2.4 Fieldwork Design

The following table presents the process followed for the fieldwork and the topics covered during the field trip.
Table 2: Fieldwork Design

<table>
<thead>
<tr>
<th>Pre-Fieldwork</th>
<th>Topics covered</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Literature review</td>
<td>- Cree values, culture</td>
</tr>
<tr>
<td>- Development of thesis proposal</td>
<td>- Representation</td>
</tr>
<tr>
<td>- Request permission from the Grand Cree Council and the Cree Band Council to conduct research in the community</td>
<td>- Participation and FPIC in decision making process</td>
</tr>
<tr>
<td>- Development of checklist questionnaire</td>
<td>- The Troilus Agreement</td>
</tr>
<tr>
<td>- Background readings on Cree culture</td>
<td>- Social, economic, and environmental impacts</td>
</tr>
</tbody>
</table>

Fieldwork
- Interviews and meetings:
  - Meeting in Montreal May 15, 2009 (year?)
  - Interviews in Mistissini: May 20 – 27 and June 3-5, 2009
  - Ouje Bougoumou May 28 – 29, 2009
  - Chibougamou May 31, 2009
  - Troilus Mine June 1-2, 2009
  - Meeting in Montreal June 8, 2009

Post fieldwork
- Analysis of data
- Writing of the report
- Feedback to some of the interviewees

2.5 Structure of Thesis

The following section and figure illustrate the structure of the thesis:

The details of the theoretical framework are provided under this section. It covers (1) Indigenous Peoples and human rights, (2) Indigenous Peoples mining and CSR, (3) community participation and FPIC (4) livelihood approach and action planning.

Context Canada provides an overview of the First Nations’ human rights situation in the country, and the context of mining and Aboriginal land rights with a focus on Québec.

The case study provides a description of the James Bay territory, Mistissini, Ouje-Bougoumou and the Troilus project. It explains the Cree Nation’s culture, values, the traditional land system, the survival in the context resource development, and the legal framework.

Findings are the results of the field-work which will be presented under this section.

Findings are analysed under Discussion, supported by the theory used for this research.

Recommendations provided based on the Findings and the Discussion.
3 Theoretical Framework

3.1 Indigenous Peoples and Human Rights

This section provides a background on Indigenous Peoples and their human rights situation at the international level.

3.1.1 Who are the Indigenous Peoples?

Indigenous Peoples constitute about 5% of the world population, are around 350 million people and make up 15% of the world’s poor (IFAD, 2009). These populations are living in more than 70 countries, where they usually constitute a minority, but in certain regions such as in South America they can make up half of the population. Indigenous Peoples tend to live on lands and territories rich in natural resources, and are, therefore, an interest of states and businesses. Since indigenous communities have a distinct way of life separate from the rest of the society, they are often placed in subordinate and marginal positions. The dominant political, social and economic structures have led and continue to lead to the discrimination, marginalization and violation of Indigenous Peoples’ rights. As a consequence of the abuses of states and companies, Indigenous Peoples have mobilized themselves with the support of non-indigenous organizations such as Earthworks and Amnesty International to seek justice at the international and national levels. This mobilization has led to the emergence of the indigenous movement. Indigenism is a social movement that is not particularized but it is rather global (Niezen, 2003: 9), under which Indigenous Peoples have brought their issues to the international arena, such as at the United Nations. The indigenous movement emerged out of common and shared experiences and issues of marginalized groups facing the negative impacts of resource extraction and economic development. One of the interesting features of this movement is the extent to which it is grounded in international networks, such as the Inuit Circumpolar Conference, and the World Council of Indigenous Peoples (Niezen, 2003). Indigenous Peoples have more collective goals and tend to work together, and collaborate intensively to share their experiences to achieve those goals. The international movement attempts to provide three levels of moral certitude and social empowerment:

- It affirms, above all, local claims of difference, using such concepts as treaty rights, regional autonomy and self-determination. The struggle for cultural and political affirmation aims to restore and reinforce ways of life based on personal ties of kinship, friendship, and obligation.
- Indigenous Peoples often use language and symbols of nation states, not to claim independence but to clarify their claims to self-determination as citizens, based on political integrity and autonomy of ancestors that existed before the formation and imposition of nation states in and around their traditional territories.
- They have embraced the universal vision of human rights as a way of protecting and developing their other sources of identity and power. (Niezen, 2003:216)

Definition of Indigenous Peoples

Indigenous Peoples enjoy the protection of general human rights and in addition have specific rights. Defining who Indigenous Peoples are, is quite complex, and there has been a number of discussions and criticism over it. However understanding the term “Indigenous Peoples” is important as it outlines the area where specific rights are applied. As a matter of fact, the controversy surrounding the international movement of Indigenous Peoples includes not just the
struggles over land, resources, recognition and sovereignty but also the complex issue of defining the term indigenous (Niezen, 2003). According to the generally accepted working definition defined by José Martinez Cobo and has been used at the UN level:

“Indigenous communities, peoples, nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing on those territories, or parts of them, they form at present non dominant sectors of society and are determined to preserve, develop, and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal system (Lenzerini, 2008:75 and Niezen, 2003:20).

However, despite the definition, it is not only pretentious, but dangerous to try to make general statements about Indigenous Peoples. For example, just in the Americas hundred of different languages, traditions, religions and art manifestations make the continent tremendously rich, and diverse that it is difficult to apprehend its complexity. However since the arrival of the Colonizers, Indigenous Peoples have common history. They all share an attachment to the land and the nature but the way they express this respect differs from one culture to another and in some case from generation to generation. -cited in the Yakye Axa case hearing at the Inter American Court of Human Rights (IACHR by Indigenous Peoples- (Citroni et al in Lenzerini, 2008: 318).

3.1.2 Indigenous Peoples’ Rights

Local and international indigenous organizations have developed rights based positions with respect to their lands, natural resources, and territories and with respect to the right to determine the type of development that take place on their lands. Indigenous Peoples have succeeded in obtaining recognition of their rights, which are outlined in numerous international law instruments and agreements such Agenda 21, Rio Declaration, the International labour organization (ILO) Convention 169, and the Declaration on the rights of Indigenous Peoples (see Appendix Table 11). The international instruments that protect Indigenous Peoples’ rights are drafted for states, which in turn have the responsibility to ratify these instruments by adopting them and implementing the standards in the national legislation. Although companies are not legally obliged to implement the international instruments, there is an emerging consensus that companies can be held responsible for certain violations, either through complicity in state actions or because the damages caused by companies were direct actions affecting local Indigenous Peoples. This requires understanding the state’s responsibility regarding Indigenous Peoples’ rights to avoid complicity (OHCHR, 2008).

The Declaration on the rights of Indigenous Peoples

The UN declaration on the rights of Indigenous Peoples was signed in 2007 after 20 years of negotiations (UN, 2007). It is considered as the most comprehensive and progressive international instrument dealing with Indigenous Peoples’ rights, as it includes, their rights to self determination, land, collective rights, cultural rights in various areas such as education, traditional knowledge, language, development, health and law, equality, compliance with treaties and political participation (Lenzerini, 2008) and the right to free prior informed consent. According to Lenzerini (2008), the recognition of Indigenous Peoples’ rights at the international level can be viewed as a form of reparation in its own rights. However it is important to point out that three out of four countries that voted against adoption of the UN declaration, Canada, Australia, United States not only have large indigenous populations, but are also the three major players in resource extraction in their country and abroad. On April 2008 Canada’s Federal Parliament passed a resolution calling on the government of Canada to implement the declaration and its standards (O’Faircheallaigh, 2008: 43).
In Bolivia, a country with large indigenous populations and a strong indigenous social movement, is the first country to have adopted the UN declaration as a national legislation. Philippines is one of the countries where the right to free prior informed consent is legislated. There are three areas of particular relevance to Indigenous Peoples when dealing with extractive companies on their lands:

- Land rights, including rights to natural resources on land
- Traditional knowledge and the right to intellectual property
- Participation, consultation and the right to free prior informed consent.

**Self determination**

The right to self determination is one of the sources of indigenous resistance to the centralizing tendencies of the states (Niezen, 2003), especially to existing notions and policy implications of indigenous rights, as defended by states. Every nation has its own perception of the term “self determination”, but a common concern that indigenous leaders have is the issue of sovereignty as other rights such as land; subsistence and health care depend on (Niezen, 2003). Elements of self determination elaborated in international instruments include, non discrimination, cultural integrity, self-government, and control over lands, resources, social welfare and development (Niezen, 2003). Ted Moses, a previous Grand Chief of Grand Council of the Crees stated: “when I think of self determination, I think of hunting, fishing, trapping. I think of the land, of the water. I think of the land we have lost” (cited in Niezen, 2003:146). One of the concerns expressed by elders in various international meetings is the loss and replacement of their peoples’ sovereignty by what they see as an alien and illegitimate state legal system. It does not mean that they reject the state legal system, but it indicates Indigenous Peoples’ awareness that the legal system controlled by states is what constitutes a new approach to indigenous resistance. Indigenous movement sees the use of written laws as new opportunities, and challenges state sovereignty by taking action within international system to press for reforms, uses the pluralistic force within states that pushes for rights to self determination within their rights as citizens of states (Niezen, 2003). Their prerogatives include as minimum, the right of Indigenous Peoples to live in, and retain ownership of, their traditional lands, the right to preserve their own identity and to enjoy, manifest, preserve, and transmit to future generations their own culture, the right to self government over their internal affairs according to their own customary law, and the right to effective participation at all decision making levels, in decisions which may affect them (Lenzerini, 2008:102).

### 3.1.3 Indigenous Culture and Social Identity

The effect of colonialism has been central to the disappearance of indigenous culture through destruction or assimilation. These policies and practices have had a particularly devastating impact on indigenous peoples as they consider culture and its manifestation as holistic, symbiotic, collective, and intergenerational in character (Vrdoljak in Lenzerini, 2008). According to the former chair person of the UN working Group on Indigenous Populations, Erica Irene Daes, there is a need to acknowledge “the colonial context for the loss of indigenous cultural heritage” (Vrdoljak in Lenzerini, 2008:197). The denial and limitation to the exercise of the right to self determination in respect of enjoyment and development of culture still continue today. While culture and cultural heritage have been defined by a number of instruments such as UNESCO, Indigenous Peoples’ culture is different in several key factors:

- It is holistic in nature: there is holistic conceptualization of culture, which covers land, immovable and movable heritage, tangible and intangible elements. The UN declaration incorporates following elements to cover culture: archaeological and historical sites, artefacts,
designs, ceremonies, spiritual and religious traditions, customs and ceremonies, religious and cultural sites, histories, languages, oral traditions, philosophies (UN declaration)

- The central significance of land resources, collective and intergenerational custodianship: culture is connected to their traditional lands and waters, which it is significant for Indigenous Peoples to maintain their way of life. The relationship with land goes beyond proprietorship and is primarily defined by its spiritual aspects
- The importance of customary law: another aspect is that protection of culture within the relevant indigenous community is already governed by its own customs and laws and practices (Lenzerini, 2008, Niezen, 2003).

### 3.2 Indigenous Peoples, the Mining Sector and Corporate Social Responsibility

This section explains the changes in relation between Indigenous Peoples and mining companies with a focus on the forms of Indigenous resistance, the nature of CSR initiatives and the two scenarios of corporate Aboriginal agreements

#### 3.2.1 The Nature and Extent of Corporate Social Responsibility (CSR) Initiatives

Corporate social responsibility, describes those activities other than a company’s commercial activities and beyond legally required behavior, that address social and environmental concerns of company “stakeholders” (Trebeck in O’Faircheallaigh et al, 2008). Corporate social responsibility in the context of Indigenous Peoples is often characterized by an acknowledgment of cultural respect and recognition of the past injustices. It is rare that this recognition takes the form of an apology unless the same company has been involved in past actions (Ali in O’Faircheallaigh et al, 2008). In broad terms, there are two factors when present, make companies be more responsive to social concerns:

- It must be in the company’s interest to respond, even if the interest is considered over the long term.
- Individuals within the company need to harness the “business case” to push for change in corporate community engagement strategies, perhaps combining their own moral reasons for CSR (Trebeck in O’Faircheallaigh et al, 2008:19).

There are four main foundations of CSR in the extractive sector:

- Human rights principles (which includes the right to clean environment, free prior informed consent for projects on indigenous lands)
- Sustainability (land issues, loss of income from traditional sources etc)
- Economic efficiency

There are three approaches to corporate social responsibility (CSR). The first is seen as a public relations exercise aimed at giving companies a good image in front of the government and citizens. It is considered cynical as it is designed to protect companies from public pressure to behave in a responsible way, and it usually involves spending as little as possible and focusing on marketing and publicity material such as glossy “sustainability reports” (O’Faircheallaigh et al,2008), using buzz words such as “green business”, “sustainable development”, and spending on more visible and tangible projects such as building constructions or charity sponsorship. The second approach sees
CSR as holistic and long term view of what is required for a company to survive and continue to generate wealth into the future (O’Faircheallaigh et al, 2008). This approach moves beyond public relations requiring a company to pay attention to societal values and on the short term miss profits in order to protect its “social license to operate” (O’Faircheallaigh et al, 2008). The holistic approach to CSR is part of an integrated business strategy to maximising profits over the long term and therefore there is also a self calculation of the corporate interest. The third approach emphasizes that CSR refers to a duty or obligation on corporations to create benefits for society in ways that go beyond what they cannot avoid doing because of legal obligations or what they would do in any case purely on the basis of economic self interest (O’Faircheallaigh et al, 2008). There are also critics of CSR who argue that there are risks that productivity will decline as firms fail to focus on efficiency, and that shareholders lose power on how the money is distributed. The third risk is more for society, as it is argued that large corporations already wield huge economic power, and with spreading CSR practices, these companies will accumulate social power as well, and intervene in social, cultural, and political affairs which are initially government responsibilities (O’Faircheallaigh, et al 2008). As Weitzner states (Cited in O’Faircheallaigh et al, 2008: 247): Corporate social responsibility should not be confused with or substituted for government social responsibility. Governments need to uphold and implement their national and international legal obligations to Indigenous Peoples, and strengthen legal, regulatory and judicial frameworks where these are weak”.

Despite these arguments, the reality is that most major companies’ websites operating in the extractive sectors show a clear widespread of CSR initiatives, the scale of activities and expenditures companies undertake to show their support for CSR and are joining different initiatives such as UN Global Compact and Global Reporting Initiative. A number of factors explain this occurrence:

- With global communication network the world has become connected, which makes people more aware of what is happening in the world where these companies may be operating, and the global technology supports in organising consumer boycotts across many markets, such as the case with Shell after it was accused of causing major pollution in Nigeria and being involved with the Nigerian government to suppress popular protests against their operations.
- At the local level, companies can face greater resistance from communities affected by mining operations. Communities are also partnering with NGOs, operating globally, which means that there is a capacity to bring cases to the international level or the companies home country, such as communities affected by BHP Ok Tedi mine in Papua New Guinea (O’Faircheallaigh et al, 2008).

3.2.2 Indigenous Peoples approaches to activism and resistance

Local opposition can lead to major delays to projects, temporary closure or their abandonment, and the cost can be high for companies and investors. There are a number of approaches that Indigenous Peoples undertake to increase their participation to decision making in mining, to stop mining development or require compensation for social and environmental damages. These forms of resistance or initiatives range from lawsuits, mobilization, forced resistance, protest to elaboration of community protocols, to negotiation and collaboration with industry (Whiteman et al, 2002). Specific forms of community response are highlighted below:

- Aboriginal guidelines and protocols: some communities have developed guidelines and protocol outlining in detail their environmental and cultural concerns and the steps that should be taken by companies interested in exploration on traditional lands. For example Guidelines developed by Innu Nation: Mineral Exploration in Nitassinan: a matter of respect: Innu Nation Guidelines for the Mining Industry
• Resource Development Committees: they represent one voice response to resource development proposals, provide protocols and develop expertise needed to negotiate agreements
• Aboriginalled dialogue with industry such as the Indigenous women and mining association
• Co-management
• Impact benefit agreements (IBA): see section on IBA
• Joint ventures and Aboriginalowned mines
• International fora: some communities use the international a as way to advance rights issues. For instance the Grand Council of the Cree enjoys a special status as non state member of the United Nations which has allowed the Cree in Canada to push their agenda on Aboriginalrights on the international level, but also on the national level and to strengthen their positions with regard to the corporate community (Hipwell et, 2006).

3.2.3 Corporate-Aboriginal agreements: a conceptual framework
The negotiation of legally binding agreements between Aboriginalpeoples and mining companies is becoming a common practice in settler societies such as USA, Australia, Canada, and are increasingly being adopted in developing countries (O'Faircheallaigh et al, 2008). While these agreements have been regarded as positive signs and brought some benefits they can have major implications for other strategies available to Aboriginalpeoples to maximise benefits from mineral development. Two scenarios are highlighted to identify the wider implications of corporate-Aboriginal agreement. The “counterfactual” scenario which refers to absence of corporate Aboriginal agreement and the second scenario is the “agreement” scenario. The comparison between the “counterfactual” and “agreement” scenarios highlights some major conceptual and practical issues raised by Aboriginalparticipation in agreements.

The counterfactual scenario: Access to judicial and regulatory systems
In the absence of an agreement Aboriginal people are not constrained to access to judicial and regulatory system and pursue their political strategies that are relevant to approval and management of a development project. They have access to political support through the media, build political alliances with NGOs, lobby the government and mobilise pressure on corporations and their shareholders (O'Faircheallaigh, 2008). This was the case of Innu and Inuit landowners in Labrador who used a number of these strategies to delay the development of Voisey’s Bay nickel project. The specific rights that Aboriginal people can exercise may allow them, for instance, to challenge the level of environmental assessment proposed for a project; to take legal action to prevent damage to Aboriginalcultural heritage or the environment; or to sue for compensation in case of any damages. Having access and using the legal and judiciary systems and political strategies helps Aboriginalgroups to influence the terms of contractual and regulatory instruments between the state and the developer (O'Faircheallaigh, 2008). Although Aboriginal peoples have in principle free access to legal system and political strategies to influence decisions in mining, in practice there are factors that may limit their capacity to do so: limited access to financial resources and expertise; limitations in legal recognition of Aboriginal rights. Political strategies and use of legal rights tend to be more effective at minimising potential negative cultural and environmental impacts than at maximising benefits for a number of factors:
• Legal processes are reactive and responsive to actions to prevent damages but not oriented to create opportunities
Processes for project approval such as environmental impact assessments (EIAs) tend to be biased towards minimising biophysical impacts of a project and does not properly address negative or positive economic and social impacts. It has been noted that only recently social aspects are being included in EIAs.

Political strategies and support are easier to obtain when it about environmental protection and opposing resource projects than ensuring Aboriginal people to obtain a share in the economic benefit.

Limited opportunity for Aboriginal people to be directly involved in the management of environmental and other impacts of projects on an ongoing basis (O’Faircheallaigh et al, 2008:69 – 71).

**Aboriginal-corporate agreement scenario**

When Aboriginal groups enter into an agreement with a mining company, certain relationships can change quite significantly. One of the most significant changes according to O’Faircheallaigh et al (2008) is the access of Aboriginal people to the judicial and regulatory systems. There are three relevant features of agreements:

- In countries such as Canada and Australia, agreements almost always involve project support or approval from Aboriginal groups. According to Kenneth (cited in O’Faircheallaigh et al, 2008) many agreements in Canada contain specific provisions that commit Aboriginal people to either support the project or to not oppose it in environmental assessment or regulatory processes.
- Some agreements contain provisions that refrain Aboriginal people from using specific legal and regulatory system available to them, such as objecting government approval of a project.
- Agreements may include dispute resolution processes that prevent the parties from initiating any legal actions to resolve disputes.
- Confidentiality clauses found in agreements prevents Aboriginal people to release any information publicly about negotiations and agreements, limiting their capacity to manoeuvre politically (O’Faircheallaigh et al, 2008).

**Relations with the state**

Entering into agreement with a mining company may limit the funding communities get on the basis that the latter now obtain revenues from companies. Another significant impact that may occur is the attempts of Aboriginal peoples to win legal recognition of their rights from the states. In Canada for example, certain Aboriginal groups negotiate comprehensive land claim agreements for the recognition of their native land title. Land tenure is a major focus of attention for the state notably with the discovery of mineral deposits on ancestral lands, and the pressure from companies to solve land issues before any investment can be made (O’Faircheallaigh 2009).

**Relations with the mining company**

- Legally binding agreements can offer Aboriginal communities opportunities to share the economic benefits generated by the project, which can take the form of for instance royalty.
• Benefits can support communities on the short term to meet most urgent needs to fund services such as housing, health and education and to increase Aboriginal incomes that are usually quite low.

• From a broader perspective, communities may become more autonomous and less dependent on the state, allowing them to establish their own priorities and a better bargaining power with the state in for instance service delivery, land title, and management, and governance.

• On the long run, income from mining creates the potential for communities to establish capital funds that will generate income into the future after the mining project has ended.

• Preferential access to training, employment, business opportunities for Aboriginal peoples. Access to such opportunities is crucial for Aboriginal groups as they tend to have considerably lower incomes, and higher unemployment rates than other communities.

• Communities can have opportunities to be involved proactively, and on an ongoing basis, in managing the cultural, social, and environmental impacts of resource extraction. For example under the Cape York agreement in Queensland Australia, Aboriginal traditional owners are funded to operate a cultural heritage protection system intended to avoid damages to sites of significance (O’Faircheallaigh 2009).

3.2.4 Impact of resource development on Indigenous Peoples

Mining presents communities with opportunities for economic and social development, as well as risks of negative social and environmental impacts. Potential benefits can include access to job opportunities, education, health care, sanitation. However it can also result in negative impacts on human health, local ecosystems, social structures, gender impacts, cultural traditions, physical displacement, demographic shifts, and rapid shift from subsistence economy to dependence on cash based economy. Abandoned mines are also major issues and at times their impacts are not well evaluated (Miningwatch, 2002). Mines also bring with them large industrial infrastructures such as roads, camps, communities, power generators paving the way for other possible development in the region that will have implications on the communities and the environment (see Appendix table 13 on impacts of resource development).

Employment in mining

The need for mines to maximise the benefits of employment to communities has been widely recognised in countries such as Canada and Australia. Governments and companies are increasingly setting up initiatives to increase indigenous employment. Impact benefit agreements tend to also include securing of jobs for indigenous communities. Several companies have set Indigenous employment targets and developed structured training and employment programs to develop the capacity and skills of Indigenous Peoples (Barker in O’Faircheallaigh et al 2008). This trend towards increasing Indigenous involvement in the mining industry raises questions about the consequences of employment, both for the indigenous workers and the communities they come from (Barker in O’Faircheallaigh et al 2008). The consequences include gender relation, health, income, culture and occupational skills. Training and skill development can be significant outcomes of mining employment. However, several studies have shown that indigenous employment continues to be mainly focusing on entry level and semi skilled jobs (Barker in O’Faircheallaigh et al 2008). There is evidence that the desire to retain cultural practices more generally can influence indigenous attitudes to employment and to even improve the retention of local employees at the mine. Work in mines requires long shift hours 12 hour shifts day and nights and rotational work 7 days on, 7 days
off. The consequences of long hours of work and rotation can have significant impacts on the Indigenous worker and the community:
- the long hours may conflict with the ability to maintain cultural practices such as traditional fishing, camping and ceremonies
- Extended absence from family and the impact on the ability to maintain kinship relations, this also includes the importance of extended families and the obligations this can entail.
- Two contributing factors for leaving the mine work include living away from home and rotational patterns.

Invisible impacts

According to Turner et al (2007), a rapid change, especially when it is enforced from outside, can have negative impacts on a community. The negatives consequences or losses can be invisible, not easily nor legitimately recognized and are rarely considered by companies. For indigenous peoples colonial and industrial history is filled with invisible losses, such as the loss of opportunity for intergenerational transmission through indigenous language, stories, ceremonies, participation. When it comes to resource management, a number of themes emerge when examining the losses incurred by Indigenous Peoples. The losses are often due to dramatic changes in the traditional use of a resource, e.g. loss of a wild salmon run, prohibition of access to the land, or significant changes in quality of traditional food source due to contamination.

Eight types of invisible losses are characterised:
- Culture and life style losses
- Loss of identity
- Health losses
- Loss of self determination and influence
- Emotional and psychological losses
- Loss of order in the world
- Knowledge losses
- Indirect economic losses and lost opportunities. (Turner et al, 2007)

3.3 Community Participation

Under this section, background and challenges of community participation are presented in addition to the meaning of empowerment and citizenship.

3.3.1 The meaning of participation

For the past twenty years, the concept of participation has been widely used in the discourse of development. A number of approaches of participation emerged out of recognition of the shortcomings of the state and the top down approaches to development (Cooke and Khotari, 2001) and has become a central pillar towards increased grassroots empowerment and control over development. (Weitzner, 2002). The aim of participation is to make “people” central to development by encouraging beneficiary involvement in interventions that affect them and over which they had limited control and influence in the past. Therefore its broad aim is “to increase the involvement of socially and economically marginalized peoples in decision making over their own lives” (Cooke and Khotari, 2001:5). In the World Bank Source book, it is stated as “the process by which the stakeholders influence and share control over priority setting, policymaking, resource
allocations, and/or program implementation (World Bank, 2000: 237). As Hamdi and Goethert explain (1997), participatory approach shifts away from the “providing”, the orthodox paradigm, towards more of an “enabling” approach, the alternative paradigm recognizing the support for greater involvement of “local” people’s perspectives, knowledge, priorities and skills. In other words participatory approaches are justified in terms of sustainability, relevance and empowerment. (Cooke and Khotari, 2001:5).

### 3.3.2 Levels of participation

There are different participatory approaches, and different levels to participation. Arnstein’s ladder of citizen participation (Arnstein, 1969) is perhaps one of the most commonly referred work in this area. The ladder of participation distinguishes between three main levels of participation: Non participation, tokenism, and citizen power.

#### Figure 1: Arnstein ladder of participation

![Arnstein's ladder of participation](image)

- **Non participatory**: it includes therapy and manipulation as their objective is to “cure” and to “educate” the participants instead of enabling them to participate in planning or conducting programs.

- **Tokenism**: participants may hear and be heard, but under these conditions they lack the power to insure that their views will be heeded by the powerful and there is no assurance of changing the status quo. Consultation which is widely used in the private sector including mining, is not true participation under this framework, but it is viewed as a tokenistic participation.

- **Citizen power**: Citizens are given more power. They can enter into partnership that enables them to negotiate and engage in trade-offs. At the top of citizen power, delegated power and citizen control citizens can obtain full managerial power. (Arnstein, 1969)

### 3.3.3 Challenges of participation

Since the mid 80s, participation moved unchecked about its performance from the margins to the mainstream development. However, the past decade has shown a growing criticism and backlash against the ways participation has been managed without enough evidence that participatory approaches were truly empowering and transformative for marginal peoples (Hickey et al, 2004). The key arguments against participation concern the obsession with local as opposed to the exclusion of wider structures of injustice and oppression (Hickey et al, 2004:11). Some argue that participation should start at the local level, in the arenas of everyday life in which people are able to resist power and construct their own voice, on the other hand, power is shifting to more globalized actors and struggles for participation (Hickey et al, 2004). Participatory development privileges “the community” as the site where empowerment is assumed to occur, however it is not enough to focus on the local level. The challenge is not only how to build participatory governance at different levels,
but how to promote the democratic and accountable links across actors and institutions at each level (Gaventa in Hickey et al, 2004:36).

The second argument is against the lack of understanding of how power operates and thus how empowerment occurs. The question asked is who is to be empowered? The individual, the community, or categories of people such as “women”, the “poor” or the socially excluded? (Cooke et al. 2001). Often, communities are considered as fixed, homogenous and idealized in terms of their content. By homogenizing communities and uncritically focusing on “the local” as the site for action, participation may ignore the repressive structures such as gender, class caste and ethnicity operating at the micro scale, and shifts away the attention from the macro level power relationships that frame the emerging local problems (Williams in Hickey et al, 2004). There is a stress that communities have solidaristic relations, but processes of conflict, negotiation inclusion and exclusion are often not properly investigated (Cooke et al 2001).

Furthermore, there is a lack of understanding of the non project nature of people’s lives. It is important to understand that the complex livelihood inter-linkages that make an impact in one area are likely to be felt in others including its consequences (Hickey et al, 2004). Moreover, as a result of the mainstreaming of participation and its depoliticization, there is a tendency to treat participation as a technical method for project based work rather than as political methodology for empowerment (Cooke et al, 2001). Community participation can also provide a strong basis for success of a project, as involving people has become the usual integrated practice in projects and monitoring. In projects, there may be quantifiable records of participation performance such as trainings, meetings; however there tends to be little information on the quality of the performance. The fact that there has been participation in a project can claim its success and good practice, but that claimed success did not depend upon field level verification for instance a landscape of well laid out wells, pumps and other activities could be taken to demonstrate achievement of donor goals of people participation. (Cooke et al, 2001)

3.3.4 The meaning of empowerment and citizenship

In order to overcome what is perceived as “tyranny” of localized project led approaches to participation and to provide the potential for transformation of inequitable relations at different levels, Hickey et al (2004) advocate reframing participation towards citizenship. Citizenship can be defined as… that set of practices (juridical, political, economic or cultural) which define a person as a competent member of society, and which as a consequence shape the flow of resources to persons and social groups (Hickey et al, 2004: 66). It is an essentially political perspective on participation. There is an agreement on the fact that politics does matter and understanding the ways in which participation relates to current power structures and political systems provides the basis for moving towards a more transformatory approach to development (Hickey et al, 2004). Increasingly the concept of participation is being related to rights of citizenship and governance. Citizenship provides a means of linking participation with the emerging “rights based” agenda (Hickey et al, 2004) for example realization of the right to health by exercising the right to participate in decision making on health services. Participation becomes a right, and as a freedom is not only the right to participate effectively in a given space, but the right to define and to shape that space (Gaventa in Hickey et al, 2004:31). As an element of citizenship, Henry in Hickey et al, 2004, defines participation in the social, cultural, political and economic affairs of communities, in a way that such social rights then become embedded in institutions and development practices.
Identity is important in the construction of citizenship. As it is suggested that the way people understand and view themselves as citizens differ from one location to another and their perspective has an impact on their perceptions of rights and responsibilities. The power relations within a community and households structure how people participate. As a consequence there are important implications for how to conceptualize the nature of community and who is expected to participate (Henry in Hickey et al, 2004). The gender implications are particularly important.

**Empowerment**

Empowerment means to give people control over the process from which they had traditionally been excluded, through their very participation in analysis, planning and action (Hickey et al, 2004: 104). Williams in Hickey et al (2004) states that empowerment should not be treated as a change in status created at a particular moment of time, but it should be seen as a process that is built within a long term frame. While steps are taken to increase the presence of more marginal people in participatory spaces, in order to provide necessary conditions for their formal involvement, they may not be enough to enable such actors to properly participate. Having a voice clearly depends on more than getting a seat at the table. For empowerment to occur, it cannot be given to a less powerful group by a more powerful one, but it has to be fought for. However it is not just a fight or group struggle, institutional capacities and alliance building, it is also about personal development around identity confidence (Waddington and Mohan in Hickey et al, 2004:222). Developing political consciousness and confidence, which is called “political literacy”, is inseparable from the institutional level and power structures governing access to it (Waddington and Mohan in Hickey et al, 2004). An example of this is Village Aid which attempted to move beyond the mainstreaming of participation by using local cultural practices to mediate as a link between the individual and the institutional.

**Case: Village Aid – REFLECT:**

Village Aid built innovative approaches to participation in its programs in West Africa, using methods that combine rights, political literacy and citizenship. The positive achievements made by Village Aid were through the exercise of citizenship and whenever possible via indigenous institutions. With the use of REFLECT a wide range of issues were addressed such as domestic violence, securing rights of vulnerable people in Cameroon etc. (Villageaid, 2009).

Political literacy: **at the local level, people need a clear understanding of what particular rights mean in terms of concrete entitlement in order to be able to claim them (Hickey et al,2004: 222).** The question of how to implement political literacy should be adapted to both local culture and the political economy. Waddington and Mohan refer to the use of REFLECT framework developed by Action Aid, which means that ‘through empowering community techniques’ the use of PRA tools, literacy can be generated from within the community instead of using externally imposed primers. The approach uses the participants’ own communication methods such as language and shared analysis of their problems in order for the communities’ voices to be heard and own local resources.

Towards locally meaningful participation: In Sierra Leone, Village Aid adopted an approach called Tabotsaneh, which starts from the premise that indigenous processes of facilitating participation, based on local values that people can easily relate to and make sense of. Tabstaneh a Temne word means ‘hanging of heads’ sitting around in a group and bending forwards to listen to each, speaking and guiding each other. (Waddington and Mohan in Hickey et al, 2004:224)
3.4 Free Prior Informed Consent (FPIC)

The section provides an explanation of Free Prior Informed Consent and how it is defined by the United Nations Permanent Forum on Indigenous Issues.

3.4.1 The meaning of FPIC

Free Prior informed consent means that consultation with indigenous communities should be done prior, during and following the development of private sector projects, it includes benefit sharing by indigenous communities in private sector activities and solving disputes. The term refers to the right of a local community to be informed about mining operations on a full and timely basis and to have a say as to approve a project before it starts. It includes participation in setting the conditions for addressing the economic, social and environmental impacts of all phases of mining including post closure of operations (Oxfam, 2007). Communities located close to mines have begun to assert their right to exercise some form of prior informed consent to mining exploration and operations, thereby setting their own priorities for development that has an impact on their lives, livelihoods and culture (ELI, 2004). Unlike in the traditional mining model, where a company would negotiate with the government on the needs of the company, the principle of prior informed consent focuses on the community needs and promotes partnership and dialogue. Although not all mining companies recognize the right to prior informed consent, there are companies that take the initiative to seek community consent for their project. Obtaining consent provides the company with a social licence to operate and improves the relationship with community reducing risks of costs due to resistance or conflict (see section on CSR). For instance, in April 2008 Talisman, a Canadian oil company, gave a clear written commitment to Achuar indigenous leaders from the Peruvian Amazon that the oil company would not attempt to operate on their land without community consent. In the letter the CEO stated: “Talisman will not work in Peru in areas in which it does not have an agreement with the community. We consider an agreement allowing Talisman to work would require a General Assembly with a positive vote of no less than two thirds of all the members of the community.” (Forestpeoples, 2008).

While FPIC is considered controversial for some in the industry and the government, there is no doubt that FPIC is reflected in international law. It is a concept that has become increasingly recognized by a number of international organisations and initiatives and is being incorporated in national legislation such as in Philippines, Australia and Canada. FPIC is considered a human rights approach to development and is rooted in international human rights law and international agreements (ELI, 2002, Mehta et al, 2001). Although the UN declaration that includes FPIC in non binding, the obligation to respect Indigenous Peoples right to FPIC to activities on their lands is upheld by other international instruments including the Convention on the Elimination of All Forms of Racial Discrimination, which many governments have ratified.

For Indigenous Peoples, the right of free prior informed consent is not only a procedure to be followed, it is a prerequisite, and a requirement to exercise their right to self determination, treaties, and their rights to lands, territories and natural resources (UNPFII, 2005). Indigenous Peoples consider themselves as rights holders with a strong link to their lands, resources and territories and should not be treated as another stakeholder (Forest peoples 2008, Weitzner, 2002). According to ICMM (2008) a number of UN bodies have pointed out that the principle cause of human rights violation against Indigenous Peoples is the failure of States and other parties such as companies to respect the right to self determination and FPIC. The meaning of free prior informed consent as commonly understood at United Nations Permanent Forum on Indigenous Issues:

- **Free** should imply no coercion, intimidation or manipulation.
• **Prior** should imply that consent has been sought sufficiently in advance of any authorization or commencement of activities and respect time requirements of indigenous consultation/consensus processes. For instance, in the case of Lutsel K’e Dene First Nation in Canada, they were given 60 days to decide on the agreement to negotiate. A period of time that was not enough, for a community that did not have much experience negotiating with mining (Weitzner, 2006).

• **Informed** implies that full disclosure of relevant aspects of the proposed project by the company and the authority in a way that is understandable and accessible to Indigenous Peoples. The information should at least cover the following aspects:
  - The nature, size, pace and scope of any project proposed
  - The purpose and duration of the project
  - Areas that will be affected
  - A preliminary assessment of the economic, social, cultural and environmental impacts
  - Personnel involved in the project (including government employees, Indigenous Peoples, private sector employees, research institutions and others)
  - Procedures that the project must follow.

• **Consent** meaningful participation and consultation are crucial components of a consent process. The parties should establish a dialogue that enables appropriate solutions in an environment of mutual respect, and full equitable participation. Indigenous Peoples should be able to choose their own representatives and customary or other institutions. The process may include the option to refuse to give consent (UNPFII, 2005:10, Oxfam, 2007). The gender dimension should also be included and the participation of indigenous women is essential, as well youth and children and if necessary should include special measures for vulnerable groups (UNPFII, 2005). For example, in Australia, under the Aboriginal Land Rights (Northern Territory) Act of 1976, Aboriginal people have the right to consent on explorations on their land, which includes the right to veto, as well as the right to negotiate agreements and timeframes for such exploration (ELI, 2004). The land Councils created under the Act to identify and represent interests of communities specifically require representation by women. The Northern Land Council for instance has five positions specially set aside for women (ELI, 2004). Consent can take the form of direct representation through a community vote. In Voisey Bay’s project in Canada, all members of Labrador Inuit Association and Innu tribes were allowed to vote on whether or not to approve the IBA negotiated (ELI, 2004).

### 3.5 Aboriginal participation, consultation in the mining sector

This sections presents a more specific background on participation in relation to Indigenous Peoples and the mining sector, and the perspective of Indigenous Peoples on how participation should be done.

Participation in natural resources management means sharing ownership, management and benefits, but it also means the right to prior informed consent (Whiteman et al, 2002). As mentioned earlier, Indigenous Peoples have the rights to participation and to FPIC in natural resource management and proposed mining projects. While the international law and in some cases the national law recognize these rights, the mining industry and other extractive industries tend to ignore them. To a certain level, participation of Indigenous Peoples in the mining industry has been increasingly recognized, where Indigenous Peoples should be involved in certain aspects of mining, such as
community development projects, social and environmental assessments. According to Parker et al (2008) effective engagement is iterative and should start at early stages and continue beyond the closing phase of a mining project. The stages of a mining project include: initial prospecting and staking of the mineral claim, exploration, development and operation, milling, refining, close out, post closure (Miningwatch, 2002). Nevertheless, the alternative approach in the mining sector often lacks true substance. If the participation as defined above, means the sharing of ownership, management and benefits, these achievements are rarely achieved (Whiteman et al, 2002). Furthermore very few communities have the power and the capacity to influence the decision on whether a mining development can proceed or not on their lands.

In recent findings of North South Institute research on Indigenous Peoples’ experiences of consultation in the mining sector, it has shown that a common feature among Indigenous Peoples included that they are not simply stakeholders but “right holders whose identity, autonomy and cultural survival is inextricably linked with their relationship to the land” (Weitzner, 2002:3). Other fundamental issues found was that the indigenous views of what constitutes appropriate development differ from Western views; lack of recognition of ancestral lands; and the conflict between state and indigenous positions with regard to ownership over sub surface resources on indigenous lands (Weitzner, 2002:3). Indigenous Peoples define consultation in two ways: external consultation with external groups such as governments, companies, and internal consultation, which is within the community, including with the spirit world and local ecology (as shown in figure 2). However there are conceptual issues: there is a challenge expressing internal/spiritual consultations, as they are based on unwritten language found in the local ecology. It is a challenge to articulate those concepts into the dominant language and have them protected by law.

The issue is what type of consultation. ‘Gilashin’, it means ‘asking oneself’. The problem is that internally one can get by quite well. But it’s toward the outside, the external, you invent it. The term ‘toward the outside’ has other specifications. For Indigenous Peoples it has to get to the bottom. They aren’t components, they aren’t written. No Indigenous law was written. The component is in the Earth, in the Mountains, in the water, in the sacred site. In other words, it’s very difficult. When it goes into Western law it doesn’t have any weight. It is difficult to translate. How do we guarantee it in law? When it gets to the operational part. We don’t have it in text, we have it in our territories, in our maps...how do we make that understood? – Arragoces Conchacala –Traditional Authority, Colombia. (Weitzner, 2002:28)

The common language used should be equal, in order for Indigenous Peoples to be able to better express their perspectives (Weitzner, 2002). A fundamental issue is the question of how to decolonize language, and the term “consultation”. Indigenous Peoples consider that the term itself is an imposed concept that does not properly reflect the customary laws or terms used in their own languages, and the term implies the power imbalance inherent in the process (Weitzner, 2002). Furthermore, Indigenous Peoples view their territory from a holistic perspective, and therefore the scope of consultations needs to be changed to include cumulative impacts of other projects on their lands. Findings have shown that in many cases, consultation processes have been destructive in and of themselves (Weitzner, 2002:4). This is because the company often interprets consultation with Indigenous Peoples as a validation for a project to go ahead, which leads to an attitude of formality, or simply of determining the negative impacts.

In other cases consultation can weaken and replace traditional leadership structures by imposing other forms of decision-making and conflict management. Furthermore, increased erosion of social cohesion through the creation and the triggering of internal conflicts and can contribute to increased substance abuse and violence (Weitzner, 2002). Often weak consultation processes are used by companies for public relations, which Indigenous Peoples frequently complain about in relation to
significance, substance and scope of corporate consultation processes (Weitzner, 2002). According to Whiteman (2002) Indigenous Peoples can participate in natural resources management and in the potential development and operation of mines on their lands, by being involved in mine operations and management, environmental management and other activities such as social investment programs. One example is the Whitehorse Mining Initiative, a multistakeholder process initiated in Canada by the Mining Association in the 90s. It was one of the first processes to recognize the need for meaningful participation of Indigenous Peoples in mining. Although the initiative ended up having little impact on the ground. In the Northwest Territories of Canada, the land claims agreement has provided for the co-management of environmental assessment, land use planning, land and water administration where Aboriginal governments appoint at least one half of the members of independent boards (Whiteman et al, 2002).

Whiteman et al (2002) outline basic principles and goals of consultations and FPIC in the context of Indigenous Peoples:

- Recognition of Indigenous Peoples rights to land, participation and FPIC
- A commitment to building strong consultation processes (See Appendix table 12 )
- A commitment to building long term participatory relationships with local Indigenous communities, including Indigenous women, elders and youth
- Identification of potential impacts and review of mitigation plans
- Community/ stakeholder education
- Company education: local politics, culture needs, concerns and development goals
- Access to information
- Flexibility and adaptability in consultation processes.

The goals and objectives of the consultation processes should be jointly agreed upon, and binding in order to hold companies accountable. Companies and indigenous communities have different objectives that may also vary depending on the project phase. However, the common concerns of Indigenous Peoples focus on whether or not a mining project should go ahead, protection of the environment, health, traditional ways of life, securing benefits, employment and business opportunities for the community.

**Internal community consultation**

Communities are not homogenous, therefore people have different beliefs, values, interests and objectives and support for a mining activity and may even lead to a divide within a community. The decision on whether or not to accept a mining project can be extremely difficult especially when the community has little experience or knowledge about mining. Discussions can also lead to tensions between potential for an improved economic situation and the arguments for environmental protection and impacts on livelihoods and indigenous way of life. Sometimes tension also rises when information is not well communicated due to misunderstandings of what is actually happening in a project or in a negotiation of an agreement. This was the case of Lutsel K’ee Dene when they negotiated an IBA with BHP mining company, tension increased and decisions were made without having enough information and due to misunderstandings (Weitzner, 2006). In order to facilitate a balanced decision making, the process should be fair, participatory and representative. The diversity of communities and their customary governance may require different types of decision making processes.
Corporate engagement with women

Until recently there has been limited recognition of women in mining, and little attention has been given to processes of exclusion and inclusion in mineral development, even though women have been involved in development activities and are family members and care providers to miners (Gibson et al in O’Faireheallaigh et al 2008). Women and gender issues have been slowly pushed high up on the international agenda (Whiteman et al, 2002). Article G 181 states that: “without the active participation of women and the incorporation of women’s perspective all levels of decision making, the goals of equality and development and peace cannot be achieved” (Cited in Whiteman et al, 2002: 12). Although there have been policy positions and initiatives to better understand impacts on Indigenous Peoples and how to improve their involvement, it is often the case that the gender dimension is not very explicit.

Figure 2: Main players in consultation

source: Whiteman et al, 2002

The reality is that the impact of mining on women has been intensified by the failure to identify women as a distinct group of stakeholders. However, there are several drivers that may push companies to pay more attention on indigenous women. For example the Global Reporting Initiative has recently proposed mandatory gender indicators for corporate social responsibility reports that all members of that initiative will have to follow. The change in the industry’s position on gender is also driven by social movement that focuses on gender issues, such as the International Women’s mining network. Women are becoming more active in community based opposition such as in the controversial Bougainville case. The Porgera Women’s Association in PNG managed to...
give voice to women’s concerns (Gibson et al in O’Faircheallaigh et al, 2008). The exclusion of indigenous women at a policy level can also be seen in practice. Three broad aspects of this exclusion have been identified:

- **Engagement during negotiations**: women are rarely represented or present in formal negotiations. Their inclusion on negotiation does not mean they are free to contribute equally. It is suggested that a corporate design for women’s organization fails because of the lack of understanding of non capitalist relations. Understanding the culturally defined importance of symbolic exchanges and power relations in and between men and women is important and in many cases failure to acknowledge it.

- **Environmental, social, economic and cultural impacts**: there are a number of dynamics at play; patriarchal customary practices and inadequate legal and market frameworks; exclusion from engagement in negotiations with mining companies contributes to inequitable outcomes for indigenous women. Women exclusion in the consultation phase can have significant gendered environmental impacts. The change from subsistence to cash based economy can lead to changes in the economic and cultural lives of indigenous communities and the employment mostly held by men in mining can show radical change and the renegotiation of gender roles, which are usually more negative impact on women (see Appendix table 13).

- **Distribution of labor and employment**: employment in mining is mainly directed to male, but there are some mining operations that employ small numbers of indigenous women. There are important factors that may be important to attract indigenous women: the opportunity to work with family and friends, pursue personal development, availability of study support, to be a role model to other Indigenous Peoples. However little is known about indigenous women’s career ambitions in mining (Gibson et al in O’Faircheallaigh et al, 2008).

### 3.6 Action planning

According to Hamdi and Goethert (1997), the orthodox planning is represented by the top down government control approach, which is centralized, hierarchal and promotes dependency. Furthermore major decisions are made at the national or international levels where power and money are found. It also relies heavily on external consultants and their control over the process and manipulation of information gathered and who also provide advice to representatives on the technical issues and solutions. In the orthodox planning model, community participation is consultative, and often it is only elected representatives who are consulted. The model’s process tends to be inflexible based on fixed rules, objectives, obligations, procedures and methods. The result is that little of the planning reaches the poor. Criticism against the top down approach has inspired experts to shifts the trend toward ‘enabling’ and away from ‘providing’ and is based on new pragmatism by involving the community and empowerment, promoting the appropriate technologies, and incremental projects (Hamdi et al, 1997).

The alternative approach is a planning process that ensures a stake in planning and governance for communities and community based organizations. Unlike the orthodox approach of planning first and acting later, this process favors acting and planning adaptively, simultaneously. Attention is given to stakeholder interest and to processes which are problem driven, community based, participatory, small in scale, fast and incremental with tangible and sustainable results. This kind of practice is called action planning. It is a practice whose purpose is inform policy from grassroots, whose goals emerge in action, and implementation relies on strategic progressive interventions from government and planners.
Some characteristics of action planning:

- It is problem driven
- Its objective is implementation – it intends to ensure that programs are tangible and needed by having stakeholders identify, prioritize and build on opportunities such as existing organizational structures, employment potentials or available skills
- It focuses on optimizing resource use in relation to actual conditions and existing constraints
- It encourages partnerships (Hamdi et al, 1997).

**Limitations of action planning**

- The lack of representation can be a serious limitation to the planning process: community action planning methods advocate a participatory process for reaching decisions. Where objectives do not match political ones those who count will not get involved.
- Whatever the conditions and circumstances, sometimes workshops can raise inadvertently expectations that cannot always be met.
- Risks of manipulative postures: Communities may have a lot of skepticism about official intentions due to their past experience and under these circumstances the question of ‘what do you need?’ may draw the response ‘what can we have?’.
- Some people may also conceal aspects of life, or needs may be expressed in terms of things which the project is perceived as being able to deliver.
- Fear of certain people to express their concerns in public and end up fall in line with the majority point of view. In this case appropriate methods and level of intervention are necessary (Hamdi et al, 1997).

It is important to point out that the process is evaluative and reformative based on experience and reflection rather than on a discrete phase of work (Hamdi et al, 2007). The objective of action planning is to channel lessons from the local level to strategic level institutions.

### 3.7 Livelihood approach

Livelihood approach was developed as a way to improve the understanding of the situation and actions of poor people. It is an approach that aims to put people and the households in the centre of the development process, starting with peoples’ assets and capabilities instead of problems like in the case of action planning. However, the situation of households is determined not just by their own resources but by the wider context of economic, social, political context in which they live (Rakodi, 2002). Livelihood is defined as comprising “…the capabilities, assets including material and social resources, and activities required for a means of living. It is sustainable when it can cope with and recover from shocks and stresses both now and in the future, while not undermining the natural resource base (Rakodi, 2002:3)”.

**Poverty, deprivation and well being**

Poverty is not defined only in terms of cash or low incomes, but it uses broader concepts of deprivation and insecurity and that any attempt to place a monetary value on theses aspects of personal, household and social deprivation involves so many arbitrary assumptions that are likely to be meaningless. Deprivation occurs when people are not able to reach a certain level of capability, functioning such as physical weaknesses, vulnerability, and insecurity. (Rakodi, 2002)
**Household strategies**

It is suggested that households have access to a portfolio of assets, both tangible such as cash store of food, resources such as land, skills and intangible assets such as access rights to services. Each household makes decisions on how the portfolio is used and adopts strategies aimed at coping and recovering from stress and shocks to maintain or enhance capability and assets and to provide sustainable livelihood opportunities for the next generation. The livelihood approach is a realistic recognition of many activities in which households engage to ensure their survival and improve their well being (Rakodi, 2002).

**Figure 3: Livelihood framework**

![Livelihood framework diagram]

**Assets**

In the livelihood approach it is vital to think in terms of strength and assets. Central to the approach is the need to recognize that although the poor may not have cash or other savings, they still have other material and non material assets such as their health, labour, knowledge, skills, friends and the natural resources surrounding them (Rakodi, 2002). The approach requires a realistic understanding of the assets in order to better identify the opportunities and the constraints.

The assets available in a household, community, are said to constitute a stock of capital that can be stored, exchanged, accumulated or depleted to be generate a flow of income or other benefits (Rakodi, 2002). As shown in the figure, assets are influenced by the context, which refers to the sources of vulnerability and insecurity. They are also influenced by policies, institutions and relationships between organizations and individuals. There are five types of capital:

- **Human capital**: both quantity and quality of labor resources available to households. Quantitative refers to the number of members and time available for work, whereas qualitative refers to education, skills, and health etc.
Social and political capital: the rules, norms, obligations, reciprocity and trust embedded in social relations, structures, institutions on which people rely on to achieve their objectives. Closely linked to social capital is the political capital, which is on access to the political and decision making processes. Levels of social capital and the ability to rely on social networks vary in space and time. They may break down because of repeated shocks, economic crisis, or physical insecurity.

Physical capital: basic infrastructure such as water, housing, and the production equipment to pursue their livelihoods.

Financial capital: financial resources available to people.

Natural capital: access to natural resources that are useful to livelihoods, such as land, water. (Rakodi, 2002:10-11).

The availability of the assets influences the scope for it to improve the wellbeing, directly or indirectly by increasing security or increasing people's ability to influence policies which govern access to assets and define livelihood options (Rakodi, 2002).

The adoption of livelihood approach has a number of implications for policy and action:

- It is a people centered approach: focus on what matters to people.
- It must be responsive and participatory: people must be the key actors in identifying and addressing livelihood priorities and to strengthen their social capital. Outsiders need processed to listen and to respond.
- It adopts a holistic perspective, due to the interdependence nature of factors affecting the livelihoods.
- It must be multi level: It is important to understand the macroeconomic context, and the significance of governance and delivery arrangements.
- Encourages partnerships (Rakodi, 2002).
4 Canada context
The section presents an overview of Aboriginal peoples’ human right situation under the Canadian context, the link between indigenous communities and mining industry in Quebec.

4.1 First Nations’ human right situation in Canada
Aboriginal peoples in Canada constitute around 4.4% of Canada’s total population of 33 million inhabitants. They comprise 52 nations or cultural groups, including 614 First Nation communities (UN, 2004:2). There are three distinct Aboriginal peoples who are constitutionally recognized by Canada: First Nations, Metis, and Inuit. The constitution Act 1982 recognizes their existing Aboriginal land treaty rights that have been subsequently reaffirmed by the courts. A number of recognized organizations represent Aboriginal peoples such as the Assembly of First Nations, the Metis National Council, the Native Women’s Association, regional and local chief councils etc. (UN, 2004).

Ever since Aboriginal peoples’ extensive contact with Europeans began over four centuries ago, the history of First Nations, Inuit, Metis people has been horrendous, filled with unimaginable suffering through violence, discrimination, territorial dispossession, exploitation, oppression of cultural practices and religious beliefs, denial of legitimate sovereignty held by their governments, the brutal experience of generations of children in church run residential schools as well as over representation in prisons and child welfare systems (Morse in Lenzerini, 2008). Even today, the Aboriginal peoples continue to have poorer living conditions than the average Canadian; they have shorter life spans, higher unemployment rates, poorer health conditions, lower educational levels and generally far poorer socio economic conditions (Morse in Lenzerini, 2008).

The current situation of Aboriginal peoples’ rights originate in modern time from a number of founding legal documents such as the Royal Proclamation of 1763, followed over a century later by the Indian Act of 1876 (UN, 2004). Under the Indian Act, the government assumed power to control all aspects of the lives of Indians living on reserves through a federally appointed resident Indian Agent, to the exception of self governing First Nations (UN, 2004). According to the United Nations’ report of the Special Rapporteur on the situation of human rights and fundamental freedoms of Indigenous Peoples (UN, 2004), the social and economic situation of Aboriginal people are among the most pressing issues facing Canada. What makes it challenging is the different geographical settings and the socio cultural diversity but also the complex power distribution in Canada since the country consists of both federal and provincial governments with extensive powers as well as governments under these (Allard, 2006). In recent years, there has been significant progress to improve the living conditions of Aboriginal peoples, and to negotiate agreements to redress historic injustices (Morse in Lenzerini, 2008). Nevertheless there is still a long way towards the reparations, to regain the trust and a sense of mutual respect.

Regaining traditional territory and economic capacity
Many Aboriginal communities have lost access to their traditional lands and resources which resulted in a decreasing land base and in conflicts with the Canadian government. In some parts of Canada, First Nations and Inuit peoples are legally recognized to have interest in their traditional lands such that land claims settlements have been reached in recent years or are under active negotiation (Morse in Lenzerini, 2008). In comparison with the position of Indigenous Peoples in many other countries,
the agreements reached in Canada look reasonably good (Morse in Lenzerini 2008). Currently there are four categories of Aboriginal lands in Canada:

- **Reserve lands**: Reserves are for the exclusive use and benefit of Indian Bands.
- **Provincial and Federal Crown lands**: they are held by the Crown in right of Canada, or province, where title is clear and unencumbered by Aboriginal titles and rights (Hipwell, 2002:5).
- **Settlement lands**: lands where Aboriginal title and rights have been settled through modern treaty making process, and comprehensive land claim agreements, which define a wide range of rights, responsibilities and benefits, including ownership of lands, harvesting and fishing rights, participation in land and resource management, financial compensation, sharing of revenues and economic development projects (UN, 2004:12). However there has been several instances of legal controversy and occasional confrontation over these claims. The benefits from the agreements are also influenced by relative bargaining strength of the parties, the quality of the leadership involved, national politics that determine the party in power, the natural resource and property value of the territory in question (Morse in Lenzerini, 2008, UN, 2004).
- **Un ceded Aboriginal lands**: Aboriginal titles and rights to their lands that have not been settled yet. (Hipwell et al, 2002).

In recent years, federal and provincial governments negotiate self government agreements with some communities to implement the fundamental right to control their lives. The right to self government in section 35 of the Constitution Act 1982 was recognized as an inherent right by the federal government in 1995 (Morse in Lenzerini, 2008: 311).

**Living conditions, the poverty gap and basic social services for Aboriginal peoples**

Among the 174 countries included in the UNDP human development report 2003, Canada ranked eighth. However, when the human development index is calculated for registered Indians, it shows a much lower score for this population, ranking it about 48th among the countries in the report (UN, 2004). Economic, social and human indicators of well being, quality of life and development are much lower among Aboriginal communities than other Canadians (see Figure 4). Racism and discrimination still prevail, and women are especially victims of discrimination. Aboriginal women face some of the most severe housing conditions in the country. Major issues affecting women are family and matrimonial property laws on reserves, overcrowding, violence and homelessness. Women lack protective legislation on and off reserves. They also face a higher rate of gender violence than non Aboriginal women, and racially motivated attacks carried in the larger society (UN, 2009).
Figure 4: Aboriginal Peoples’ living conditions in Canada:

Aboriginal Peoples’ living standards have improved in the past 50 years, but they do not come close to those of non Aboriginal people:
- Life expectancy is lower and illness is more common.
- Human problems, from family violence, suicide to alcohol abuse, are more common.
- Fewer children graduate from high school, far fewer go on to colleges and universities.
- The homes of Aboriginal people are more often flimsy, leaky and overcrowded.
- Water and sanitation systems in Aboriginal communities are more often inadequate.
- Health standards are lower.
- Infant mortality, gender violence, unemployment, criminality, suicide are also higher.

Source: UN, 2004

4.2 First Nations and mining

Canada possesses world class mineral deposits and is currently one of the world most attractive markets for mineral development. Canada’s political and administrative systems are complex. It is divided into three administrative governments, Federal (Crown), territorial, and provincial governments. Mining is primarily regulated by the provincial government, with the federal government having a lesser, albeit potentially still important role (Hipwell et al, 2002). Federal and territorial governments and Aboriginal organisations regulate mining in Canada’s territories. Due to the division of power under the constitution act 1867 and the Canadian constitution act 1982, which grants provincial governments the near exclusive power over natural resources, the federal level has a weak regulatory framework over mining (Hipwell et al, 2002). Nevertheless there are several federal departments that develop policies which affect mining activities to a certain level. The following table identifies some of the major players in the mining sector:

<table>
<thead>
<tr>
<th>Government</th>
<th>Aboriginal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provincial:</td>
<td>Community and Aboriginal nation level organizations:</td>
</tr>
<tr>
<td>- Ministry of Energy and Mines</td>
<td>- Aboriginal governments</td>
</tr>
<tr>
<td>- Ministries of Environment</td>
<td>- Aboriginal development corporations</td>
</tr>
<tr>
<td>Federal:</td>
<td>- Hunter and Trapper organisation etc.</td>
</tr>
<tr>
<td>- Environment Canada (CEEA)</td>
<td>National Aboriginal Associations:</td>
</tr>
<tr>
<td>- Indian and Northern Affairs Canada</td>
<td>- Assembly of First Nations</td>
</tr>
<tr>
<td>- Natural Resources Canada</td>
<td>- Inuit Tapirisat of Canada</td>
</tr>
<tr>
<td>Territorial Government</td>
<td>- Metis National Council</td>
</tr>
<tr>
<td></td>
<td>- Canadian Aboriginal Minerals Association</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Civil society</th>
<th>Industry</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Mining Watch</td>
<td>Mining companies</td>
</tr>
<tr>
<td>- Canadian Arctic Resources Committee</td>
<td>Mining associations:</td>
</tr>
</tbody>
</table>

Source: Hipwell et al, 2002

There is a close link between Aboriginal people and mining as it is estimated that approximately 1200 communities are located within 200 km of mineral and metal activities, and more than 36% of First Nations communities are located less than 50 km from one of the primary mines developed in Canada (Hipwell et al, 2002). The Crown’s legal duty to consult Aboriginal peoples may be in relation to Section 35 of the Constitution or to several Supreme Court decisions that clarify the
nature and scope of Aboriginal rights and the Crown’s requirements on consultation with Aboriginal Peoples:

- **Sparrow vs the Queen decision 1990:** the Supreme Court ruled that Aboriginal peoples have an inherent right to harvest resources for subsistence and that Section 35 of the Constitution Act 1982 must be read in favor of Aboriginal peoples. The Crown must consult in respect of any proposed infringement on Aboriginal rights.

- **Calder decision 1973:** Through this decision involving the Nisga’a nation of British Columbia, the existence of an Aboriginal title to the land, was recognized, pushing the government to establish the Office of Native Claims to negotiate land claims settlements with several First Nations.

- **Delgamuukw decision 1997:** the decision defines requirements for consultation especially in relation to infringement on Aboriginal title. Furthermore the Aboriginal title covers the exclusive right to use and occupy the land, a communal right protected by the constitution. Legal validity of oral traditions, narratives and traditional knowledge in decision-making processes (Hipwell et al, 2002:7).

- **Haida vs. BC and Taku River First Nation vs. BC decisions 2004:** led to increasing the role of First Nations in strategic planning and natural resources policy making (Houde, 2007).

In a broader sense, the court decisions on Aboriginal title mean that the Canadian government and industry should at least engage in meaningful consultation with Aboriginal peoples who occupy a land upon which mineral development is proposed (Hipwell et al, 2002). However according to Hipwell et al (2002) the courts have been inconsistent on whether consultation by private companies can fill the legal obligation of the crown regarding the duty to consult. Participation of Aboriginal Peoples in mining has become high in the agenda in Canada. A number of initiatives have been development by companies, governments and mining associations to move towards “sustainable business” and to improve the involvement of communities.

### 4.3 Mining in Québec

Mining is a major industry in Canada. It directly employed over 351 000 people in 2008 and contributed to $ 40 billion to Canada’s GDP (NRCan, 2009). Over half of the world’s exploration and mining companies is Canadian based. Before the economic downturn, Canada had about $110 billion of mining assets globally. Québec is a major producer of nickel, zinc, iron, and copper, precious metals such as gold, industrial minerals like chrysotile, ilmenite, mica, salt. Besides mines, Québec also has sand, gravel pits, quarries and peat bogs. In 2007, the investment reached $ 1.43 billion and exploration expenditures for that same year were $ 476 million (MRNF, 2009). With its cyclical nature the mineral industry is currently at a downturn due to the current financial crisis. The mineral industry is a major contributor to Québec’s economy and its international standing. It is an important source of employment, as there are around 18 000 jobs, the equivalent of the pharmaceutical sector and total shipments of $5.5 billion in 2007. (MRNF, 2009). Mines are found throughout Québec province, however the most promising regions that attract investment are in the North of Québec, Abitibi – Temiscamingue, and Cote-Nord. Québec occupies the first region in the world among the territories where conditions are the most favourable for mining industry (cyberpresse, 2009). Between 2002 and 2008 the mines have benefited from fiscal advantages of $624 million. During that same period the mining industry paid a provincial mining tax of $ 259 million, only 1.5 percent of the gross annual production value.
In 2009, Québec government released its mineral strategy that focuses on three policy directions:

- Creating wealth and preparing the future of the mineral sector
- Ensuring environment friendly mineral development
- Fostering integrated, community related mineral development (MRNF, 2009).

The strategy particularly favours competitiveness over responsibility and pushes the opening up of the North, and briefly mentions the involvement of Aboriginal communities in the development of the sector. Although the companies have welcomed the new strategy, the latter has been criticised by a number of other actors such as media, Miningwatch, and Aboriginal communities. The strategy to accelerate the mineral development leaves a question of what will happen after the mines are closed since Québec has secured $ 350 million for the coming 5 years in order to improve the infrastructure such as new roads and airports. There are serious concerns over the environmental impact on the North Québec' ecosystems and communities, which has been taken lightly by the strategy.

In the past, numerous exploration and mining sites were abandoned by their owners. The restoration of abandoned sites by mining companies will cost Québec $264 million. There are 345 sites to be restored, but Québec will not force the companies to decontaminate the sites. Instead it will be carried out with public funds (Radio-Canada, 2009), which has been criticised by the public and the media. The new strategy requires now that mining companies guarantee the rehabilitation of mine sites after exploitation. Improvements to procedures for ensuring mine site rehabilitation are needed to avoid having the government responsible for sites and rehabilitation costs. (Gouvernement du Québec, 2009). Nevertheless in the report of auditor General of Québec to the national assembly for 2008-2009, it was stated that the interventions seeking to ensure that mining companies comply with legal requirements during the various stages of a mines' life do not minimize the risk that the State may have to assume additional restoration costs (Verificateur General du Québec, 2009:10). The assessment of the rehabilitation and restoration plan and the resulting decision did not always occur. According to the report, the mining Act stipulates that Minister of Natural Resources shall approve the plan after consulting with the Ministry of Sustainable Development, Environment and Parcs (MDDEP). However 10 out 25 files analysed in auditing the plan was approved despite MDDEP’s notice on unfavourable, inconclusive conditions or absence of a notice. It has also found that the there is a lack of cooperation between MRNF and MDDEP (Verificateur General du Québec, 2009).

In a communiqué by the Secretariat of the assembly of First Nations of Québec and Labrador the Chief of the Assembly denounced in Canada and at the United Nations about Aboriginal concerns in North Québec about the Northern Development Plan. There are major concerns about the impacts of the mining rush in the North but also discontent over Québec government proceeding with due regards for the rights of the peoples in the North. First nations were not consulted nor did the strategy clarify the intention of ensuring First Nations’ involvement in the project. There are also questions about what is refered by First Nations’ involvement in the strategy and how Québec intends to recognize First Nations rights to the territories and resources promoted in the plan (AFNQL, 2009).
5 Case study

5.1 General Background

The case study is located in James Bay territory, in the North of Québec Province. The James Bay Cree region lies to the east and southeast of James Bay and southeast of Hudson Bay. It is more specifically located on the James Bay Cree territory, Eeyou Istchee, which means “the peoples’ land”. Eeyou Istchee is vast, spread across a land area of 344,854 square kilometers (GCC, 2002). It is inhabited by over 21,000 Jamesian and is home to approximately 150,000 Cree or Eeyoutch, who mostly live in nine communities: Whapmagoostui (Whale River), the only community inaccessible by road, on southeast Hudson Bay Chisasibi (Grand River), Wemindji (Berry Mountain), Eastmain, Waskaganish (Little House), Nemaska (Good Fishing Place), Waswanipi (Shimmering Water), Oujé-Bougoumou (The Water’s Source Lake)/ Where the people gather), and Mistissini (Big Rock) (GCC, 2002).

Figure 5: James Bay Territory

It is believed that Cree people have occupied boreal forests of northern Québec for at least 5000 years. The Cree language is originally Algonquin and has two distinct dialects. The Northern dialect is spoken by Whapmagoostui, Chisasibi and Wemindji. The Southern dialect is spoken by the other communities (Oblin, 2007). The Cree people have lived in James Bay territory a nomadic hunting and gathering lifestyle which is still practiced today. The vast land where they live in is extremely diverse in landscape. Although it is often described as “boreal forest”, the land embraces a wide range of environments, from the salt marshes and islands of the coastal zone to the upland areas far inland, and from the dense coniferous forests in the southern areas, to the sparsely treed forest-tundra in the north (Creeculture, 2009). It also includes a diverse wildlife, in addition to the lakes and rivers. The land and wildlife have sustained the Cree who in return recognize that they have the responsibility to protect the land (GCC, 2002).
Laila El Krekshi

**The first contact with Europeans and fur trade**

When the Europeans first came across the ocean, the fur trade was integrated into the Cree economy and activities. The trade had begun in the James Bay area by the 1670s, a time that revealed rich and complex histories of alliances, and partnerships (Feit et al, 2004). The fur trade was important for both English and the Cree who considered it as a means to receive supplies they needed to pursue their subsistence activities more efficiently. Without the consent or knowledge of the Cree, the King of England transferred the land to his cousin Prince Rupert in 1670. In 1868 the lands were transferred to the Government of Canada then to Québec in 1898 while the Cree continued to live their lives and no steps were taken by the Québec government nor Canada to enter into treaties with the Aboriginal peoples in the area. According to Oblin (2007), it was only in the 1920s that Québec intervened in the region as a result of a beaver crisis created by the white trappers. Throughout the years there have been differences in interpretation of the respective roles of the federal government, Québec and the Cree (Oblin, 2007:160). In the 1930s the Federal government enacted the Indian Act. The Department of Indian Affairs of Canada required one elected chief and council for each fur trading post. The system of government required by Canada was foreign to the Cree, and the previous Cree leadership was more egalitarian (Coon Come in Blaser et al, 2004).

By the 1950, 1960s, the Hudson Bay trading posts that were spread across the region, transformed into towns, that were mainly constituted of shacks, tents and houses. These new towns faced a number of challenges as more Cree started settling down year round in these communities, where there were no adequate infrastructure, such as proper water and sanitation services, to support their residents. The 20th Century also brought residential schools, which have had dramatic impact on the Cree, due to the assimilation and the abuses that occurred in the schools. The generation that attended the residential schools did not spend as much time in the bush, and therefore missed part of the traditional skills teaching. However this generation was opened up to the non native society. They learned French and English, and assumed key roles as chiefs, health workers, and owners of businesses when coming back to their communities (GCC, 2002). By the late 1960s and early 1970s the lands were increasingly targeted by forestry and mining companies and Hydro-Québec, the provincial electricity utility. At first forestry and mining provided supplementary income to some Cree who combined subsistence hunting with part-time employment in forestry or sometimes in mining and mining exploration. However, these activities also led to increased social tensions on the territory as the people who were the original inhabitants were increasingly treated as squatters in their own lands. (Coon Come in Blaser et al, 2004: 153).

**The Path of the Giant Beaver**

One Eeyou sacred story tells of a child who was born in an unnatural way and who eventually married a beaver and lived with the beavers, teaching them how to hide from humans. Later, his human brother found him and he was given a chance to live with the people, but to do so he had to observe a food taboo—never to eat the flesh of a female beaver. One day, someone made him eat that food without his knowing it, and so he left the people by jumping into the river, where he instantly became a giant beaver. All of the river ice broke as he swam downstream to escape, pursued by his brother. The trail of the chase led from Mistissini toward Oujé-Bougoumou and Waswanipi, down the Rupert River, out into James Bay and then up the coast to Hudson Bay, to the lands of the people of Whapmagoostui. In a metaphorical way, this story serves to define Eeyou Istchee. (GCC, 2002: 4)

**The traditional land management system and the role of the tallyman**

The Cree have developed a unique and refined land system of land and resource management. Cree organize their hunting activities on the land along families and kinship lines (GCC, 2002: 5). Each family or group return to the same hunting ground every year. However, other families are also
allowed to hunt but with the permission of the tallyman to access the area. The land is divided into traplines, and on each hunting territory, a senior hunter, called tallyman, is the head of the designated family hunting ground. Boundaries between hunting territories are rather estimates. According to Cree Nation of Mistissini et al (2008) these boundaries were often based on hydrographic systems such as lakes and rivers which played an important role in a fur trapping economy, and boundaries often followed the divides and the heights of land between river basins. The tallymen are the traditional leaders of this land and carry the Cree culture from generation to another; they are the stewards of the land (Awashish family member, fieldnotes). The tallyman has an important role in the Cree society, while he is considered as an “owner”, the Cree perspective of land ownership implies that “the tallyman is not really given the animals, but the responsibility for the distribution of the wealth of the land” (CTA cited in Whiteman, 1998: 3). In other words, the tallyman is a resource manager, who determines where, when, who, and how much one can harvest. Today Eeyou Istchee is divided into 320 extended family hunting territories or traplines, which vary in size from 200 to 600 square kilometers (GCC, 2002).

Figure 6: Cree Traplines

5.1.1 The legal framework: James Bay Agreement and Paix des Braves

Since the 1950s, the Cree traditional life became disrupted by the establishing presence of extractive and forestry companies on their lands. The full implication of the industrial development became more evident in 1971, when Québec government’s prime minister Bourassa announced, without consultation with the Cree, the construction of a large hydroelectric project on James Bay (GCC, 2005). The project and its infrastructure opened the territory to mining and extensive cutting of the forests. The announcement of the project led the young Cree leaders to oppose the project and to protect their rights and lands. The political and legal battles led by Cree leaders succeeded in the signing of
The James Bay and Northern Québec Agreement (JBNQA). The agreement recognized Cree people’s rights, land claim rights and a large compensation package was provided in return for the Cree approval of the hydro project (Whiteman, 2004). However, there has also been criticism about the Crees signing the agreement among their people but also outsiders as some viewed it as selling away Cree rights. The signing of the JBNQA was a crucial point in Cree history, one in which Crees were the first Aboriginal people in Canadian history to enter into a modern treaty relationship with the federal and provincial governments (Nationnews.ca, 2009). Throughout the years there have been disagreements over the implementation and interpretation of the agreement. The Cree made the best out of a inequitable and highly pressured situation and negotiated. “…Canada made it clear that if we (the Cree) did not proceed with the agreement process, unilateral legislation would have been imposed on us in any case” (Diamond, 1990 cited in Whiteman, 2004: 431).

The agreement is a complex and lengthy document; it sets out the administrative regime applicable to natural resources development, including hydro electricity, forestry, and mining (Cree Nation of Mistissini et al 2008: 15). It ensures that the Cree are fully involved in development projects. It covers the questions of hunting, fishing and trapping, land allocations and regimes, local and regional government, education, health services, economic and social development, justice administration, environmental protection, modifications to the James Bay hydroelectric project, compensation and eligibility. In each of those areas the agreement provided specific rights, benefits responsibilities of the parties and for the mechanisms thought necessary for successful exercise of those rights, benefits and responsibilities. Section 22 of the agreement includes environmental and social impact assessment and review procedure which is now part of the Provincial Environment Quality (Cree Nation of Mistissini et al, 2008).. The JBNQA also includes section 24 on wildlife management regime which is expected to give priority to Cree to use wildlife resources. According to Cree Nation of Mistissini et al (2008) section 24 is particularly relevant when it comes to planning of environmental impact assessment, and the management of fishing and hunting activities by the personnel involved in natural resource development in the region, including mining. Several Cree regional organisational structures were legally institutionalised under that agreement such as Grand Council of the Crees (GCC), the Cree Regional Authority (CRA), Cree Trappers Association (CTA).

**Land categorization**

Under the JBNQA agreement three land categories are defined:

- Land category I: the Cree retain full rights to category I, which is the site of all the villages and Band Council.
- Land Category II: the province of Québec has the right to mineral and forestry development
- Land Category III: the largest category, where exclusive rights to land and privileges are not granted for the Cree. However the Cree have the rights to pursue their activities fishing, hunting and trapping all year round. But in general the entire population has access to category III lands in accordance with the ordinary laws and regulations of Québec concerning public lands (Peters, 1999).

**Environmental impact assessment and review procedure under section 22 of JBNQA**

The section 22 under JBNQA provides a permanent, adapted and effective regime of social and environmental protection. The following section shows the bodies working under the section 22.
The environmental protection bodies under the agreement section 22

**Reviewing and formulating laws and regulations under for environmental protection:**
James Bay Advisory Committee on the Environment (JBACE) four representatives appointed by each of the cree Regional Authority, Canada, Québec, the chair of the Hunting, fishing and trapping Committee

**Setting guidelines for environmental and social impact assessment:**
Evaluating Committee (COMEV) two representatives appointed by each of the Cree Regional Authority, Québec, Canada

**Evaluating and reviewing impact assessments:**
Provincial Review Committee (COMEX) Two representatives appointed by the CRA, three by Québec
Federal Review Committee (FRC- South) Two representatives appointed by the CRA, three by Canada

*La Paix des Braves agreement*

Following the disagreements about the interpretation of the provisions in the JBNQA, a number of lawsuits resulted involving both Québec and the government of Canada. In the case of Québec, dispute resolutions and litigation resulted in the “Agreement concerning a new relationship between the Government of Québec and the Cree” or La Paix Des Braves, which took effect in 2002. The agreement led to approval of a second hydro project in return for compensation. It contains section 5 related to mining exploration in the region. The section in the agreement is short, but it affirms that mining projects will continue to be subject to environmental and social impact assessment procedure stipulated in the JBNQA (Paix des Braves, 2002). This means that some form of public review and consultation is required (Cree Nation of Mistissini et al, 2008:16). Although Québec was against the negotiation of the Troilus agreement, under La Paix Des Braves sub section 5.2 Québec seems to encourage and promote future agreements between mining companies and the Cree: “Québec will facilitate and encourage agreements between promoters and the Cree concerning remedial works, employment and contracts in respect to any future mining activities in the Territory, including exploration” (Paix Des Braves, 2002:26). Under section 5.3 Québec promotes and facilitates the participation of Cree in mineral exploration activities in the territory. Furthermore a Cree Mineral Exploration Board is set up with Québec providing yearly funding. The role of the Board is to facilitate Cree access and entry into the mineral exploration activities.

**5.2 Cree culture and values**

Today most of the Cree continue to practice some of the traditional skills spending a large part of their time of their hunting grounds. According to GCC (2002), about one third of the adults are dependent on the bush as their primary way of making a living and it is said that people who work in jobs today do it in order to support their hunting, as most of the time their thought and money goes towards that activity. Harvesting which refers to hunting, fishing, trapping and gathering is culturally and economically important to the Cree. Bush skills are passed on from generation to generation including the indigenous knowledge. Bush skills refers to the expertise and competencies involved in being self reliant and making a livelihood off the land (Ohmagari et al, 1997:2). The proportion of the population registered in the Income Security Programme (ISP) for hunters and trappers is one of
the more consistent indicators of the extent to which the Crees still participate in traditional land-based activities (CBHSSJB, 2005). The ISP requires participants to spend at least four months on the land annually.

**Figure 7: Walking out Ceremony in Mistissini**

The tallymen are the traditional leaders of the land and carry the Cree culture from generation to another; they are the stewards of the land. Their input in decisions is important and is respected which is why tallymen and Band council work together. The Cree identity is strong in the community, 97% of the population people speak Cree as a first language (CBHSSJB, 2005), and Cree values are made sure to be transmitted from one generation to another, such as how to survive in the bush, hunting, respecting the land, the elders. According to the member of Cree Trappers Association, harvesting and being on the land in the bush teaches the Cree the principles of sharing, respect, of being humble, courage and reciprocity. At the same time the youth are also changing and becoming more interested in the Western lifestyle and have tendencies to struggle to find the balance between the traditional life and the western way of living. The new generation spends less time in the bush than their elders due to changing educational environment and lifestyle. Healing is also passed on to the next generation, a number of people have been healed from physical and emotional illnesses. According to a Cree, his father, a highly respected tallyman used to say: “if you feel down, something worries you, go to your land to the bushes, and let the spirit of the forest speak to you…” Going to the bushes is crucial for spiritual uplifting. A number of people were taken to their land to stay with his family for healing. In certain families traditional medicine is also practiced although the younger generation is loosing the spiritual life and the knowledge of traditional medicine.

The Crees’ connection to the land is quite strong, it is a relation that cannot be separated. For example the “Cree” or “Innu” means living being, and Innu Istchee, living land. Innu and Innu Istchee are one. An elder once said: the land has life, has breath, but no voice to speak. Therefore the Innu the living being speaks for the land. (fieldnote). Cree in Ouje-Bougoumou: “This clearly shows the strong relationship, it is like my mother. Like a mother and child feeding the breast”. Women have a special link to the land that is different from the men. They know the traditional medicine location, berries, the walking out ceremony site etc. A Cree from Ouje-Bougoumou spoke about his mother who speaks differently of the land. His mother has always lived on the territory unlike his father who had to go to the residential school. His mother only speaks Cree. His parents have always lived on their trapline and still do. The mother’s connection to the land is so strong that when she speaks about it she has tears in her eyes. Women’s role in the past was much stronger, men and women had a partnership relation. But the arrival of the colons and missionaries a shift toward a more paternalistic and unequal social structure occurred in the Cree society. Today Native women’s associations are working on getting their position back and more women can be seen holding important positions in the communities.

**Cree beliefs and religion**

The pre Christian beliefs of the Cree, which is still part of the Cree culture, recognize the balance between the nature and how people fit into the spiritual and physical world. Their traditional laws of
nature and spirituality reveal their deep respect towards nature and maintaining good relationship with it. Christianity was introduced in the 19th Century, and today communities have congregations of Anglican, Pentecostal, and Evangelical Baptist faiths. All communities have people who follow the traditional religion (GCC, 2002).

**Education**
The population in James Bay territory is young, around 46% of its population is less than 20 years old (TransportCanada, 2005). Findings show that education and human capacity are major issues in Cree communities. The level of education is low and there is a high rate of drop outs. This year only 5 students graduated in Mistissini. A young Cree stated that the school focuses a lot on Cree culture which is good but it is not enough: “I needed more motivation so I decided to take the geology training course at Cree exploration board”. The low education level makes it difficult for young people to find jobs outside their communities. But many Cree parents are now sending their kids to Chibougamau a non Cree town.

### Table 4 The Cree school attendance in 2003

<table>
<thead>
<tr>
<th>School attendance (15 – 24 years)</th>
<th>Cree</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not attending school</td>
<td>59.1%</td>
</tr>
<tr>
<td>Attending school</td>
<td></td>
</tr>
<tr>
<td>Full time</td>
<td>40.7%</td>
</tr>
<tr>
<td>Part time</td>
<td>0.9%</td>
</tr>
</tbody>
</table>

Source: CHRD, 2005

**Violence**
- There is an increase in social problems related to alcohol, drug abuse and domestic violence. It is claimed that more and more women were victims of violence, and that alcohol abuse and unemployment were contributing to family tensions, child neglect, and injuries.

**Health**
- The diet of the Crees has changed radically over the past half-century. It has shifted from a heavy dependence on country food to a more “western” diet with strong reliance on store-bought goods.
- The change in diet has increased the proportion of overweight and obese adults.
- In the past, the Crees were known for their daily and seasonal mobility and physical endurance, but the changes into more sedentary lifestyle have affected the physical health.
- Smoking rates in the Cree Region are higher than the Canadian and Québec averages.
- After 1975 the use of alcohol seems to have increased. Eighty percent of adults reported that it was an issue. A majority of adults in the Cree Region also say that drug abuse is a problem in their community.
- Birth rates in the Cree Region are almost double the Québec average at 28.4 per 1,000 compared to 14.5 per 1,000. In 1996-2002, 20% of all births in the Cree Region were to teenage mothers (CBHSSJB, 2005).
6 Findings

Results from fieldwork in the community of Mistissini are presented in relation to Troilus mine. After that the community of Ouje-Bougoumou is presented in relation to the contamination case. It is followed by the results from the two communities together on the participation process and its mechanisms. At last the impacts of development are presented from both communities and the perspective of community members on how to move forward are highlighted. The data under findings is mainly from the fieldwork interviews however in relation to Troilus mine project some data was taken from the Cree Nation of Mistissini et al (2008) report on Troilus Case Study Implementation of Troilus Agreement. The following table shows the relevant stakeholders in both communities.

Table 5: Main players in mining

<table>
<thead>
<tr>
<th>Main Actors</th>
<th>Role</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grand Council of the Cree</td>
<td>Represents the Eeyou or the Cree in all matters affecting Cree status lands, rights and society.</td>
</tr>
<tr>
<td>Cree Regional Authority</td>
<td>The CRA is the administrative arm of the Cree government. It has responsibilities in respect to environmental protection, the hunting, fishing and trapping regime (Section 22), economic and community development, the Board of Compensation</td>
</tr>
<tr>
<td>The Band Council</td>
<td>Local authority at the community level</td>
</tr>
<tr>
<td>Cree Trappers’ Association</td>
<td>Protects and promote the interests of the Cree hunters and trappers, and generally support their wildlife harvesting activities.</td>
</tr>
<tr>
<td>Cree School Board</td>
<td>Provides education and training for youth and adults</td>
</tr>
<tr>
<td>Cree Exploration Board</td>
<td>Develops mineral exploration in James Bay Territory and promotes Cree involvement in activities related to natural resources development</td>
</tr>
<tr>
<td>Youth Council</td>
<td>Facilitates the development of the young Cree</td>
</tr>
<tr>
<td>Native Women’s Association</td>
<td>Addresses women’s issues such as violence and supporting women in the community. It also organizes events for women</td>
</tr>
<tr>
<td>CHRD</td>
<td>Provides skills development, training programs and services and employment insurance services in the Cree communities</td>
</tr>
<tr>
<td>Cree Health Board</td>
<td>Cree public health department, officially recognized by Québec.</td>
</tr>
<tr>
<td>Tallymen</td>
<td>Steward of the land</td>
</tr>
<tr>
<td>The James Bay Advisory Committee on the Environment</td>
<td>Advisor to Québec, Canada and the Cree Regional Authority and other authorities when drafting policies and regulations on environmental and social protection in the territory governed by JBNQA. Monitors application of Section 22 and supports supervises the evaluating Committee COMEV</td>
</tr>
<tr>
<td>Québec Government</td>
<td>Regulatory role</td>
</tr>
<tr>
<td>Canada Government</td>
<td>Regulatory role</td>
</tr>
</tbody>
</table>
6.1 Community of Mistissini

Mistissini is the largest Cree community and ranks among the largest First Nations communities in Canada. Its population comprises 3400 registered members, of which less than 5 percent is non-native. It is located on the shores of Lake Mistassini, the largest natural lake in Québec. The Mistissini people and neighbouring Cree hunting groups, the Nitcheqoun and the Neoweskauu people came together to comprise the Mistissini population in the 1930s. Furthermore people from Nemaska and Ouje-Bougoumou joined later for a period of time (GCC, 2009). Historically, Mistissini was a trading post for the regional fur trade, on the route between James Bay to the West and the Lac Saint Jean region to the southeast. It was only in the 1960s that government assistance was available to the Cree population. But since the services were limited, people depended upon their traditional activities to take care of their families. After the signing of the JBNQA, Mistissini and other communities had finally the opportunity to develop their respective communities.

Mistissini is one of the first communities accessible by road from the South. It is accessible by road from Chibougamau located an hour away from the community, and is 2.5 hours from the Troilus mine. Chibougamau, a non-native mine town is a major source of retail supplies, but also a number of Cree go to Chibougamau to school and for health care services. Mistissini has a large public sector, and is home to several entities Cree School Board head office, James Bay Cree Communications Society, Cree Health Board Inland Office and the Readaptation Centre for the Cree health board, and the human resources division of the Cree Regional Authority. (GCC, 2009:40).

6.1.1 Description of Troilus mine project

Troilus Mine project is owned by Inmet Mining Corporation, a company based in Toronto. The company produces copper, zinc and gold. It has operations in Ok Tedi (Papua New Guinea), Pyhäsalmi (Finland), Troilus (Canada), Cayeli (Turkey) and a development project in Cobre Panama. In relation to CSR, Inmet Corporation supports a number of key initiatives: Mining Association of Canada’s Towards sustainable mining (TSM), Global Reporting Initiative, UN Global Compact and Devonshire Initiative (Inmetmining, 2009).
Troilus Mine Project

It consists of two open pits of gold and copper mine, one is 310 meters deep and the other is 140 meters deep. The mine is located 120 km North of Chibougamau in Northern Québec. It began production in 1997 after a three-year construction period. Although it was planned to close in 2006, new ore discoveries allowed it to continue its operations until 2010.

Figure 10: The Lay Out of the Troilus Mine

Ore was initially extracted at a rate of 10,000 tonnes per day, but at a later stage it increased to 19,000 tonnes per day due to the expansion of mill capacity. By the end of 2005, 49 million tonnes of ore has been mined, yielding approximately 1.4 million ounces of gold and 50 thousand tones of copper. By that time, approximately 185 million tones of excavation had taken including 18.4 million tones of overburden, and 110.8 million tones of waste rock (Cree Nation of Mistissini et al, 2008: 19). The ore is milled on site and concentrate is transported by truck to Chibougamau and then shipped to Rouyn – Noranda for smelting by train (Inmet, 2007). During the first two years of operation, the company operated a cyanidation circuit at the mine, but it was terminated and removed in 1998 (Cree Nation of Mistissini et al, 2008).
The Troilus mine site location in the Cree territory

The Troilus mine is located on a territory, which is divided into Cree hunting territories. The area is known by the Cree as “Musk-uskwee-you” which means “Bear neck” and was known as a bear hunting ground (Cree Nation of Mistissini et al, 2008). The mine site and access road are situated on three Mistissini traplines – M34, M39, M40 (Cree Nation of Mistissini et al, 2008). The three families of tallymen on the traplines affected by the mine are the Awashish, Neeposh, and Petwabano families. Due to the location of the mine under Category 3 lands according to the James Bay Agreement, near the Mistissini Cree reserve, Inmet Corporation was subject to its terms and therefore had to reach an agreement with the Band Council before the mine could go into operation (Québecexploration, 2008).
**Authorisation of the Troilus project**

The authorisation for Troilus mine was given in 1994 by the Ministry of Sustainable Development, Environment and Parcs (MDDEP) of Québec. The mine was subject to the environmental and social impact assessment and review procedure under section 22 of JBNQA, Division II of Québec’s Environmental Quality Act and the authorisation is also pursuant to article 22 of the Environment Quality (Cree Nation of Mistissini et al, 2008). The procedure under Section 22, Cree representatives on the advisory committees which recommend the scope of the impact assessment, the project approval, and in cases where approval is recommended, the terms and conditions of the authorisation. The conditions include the involvement of the Cree in monitoring environmental impacts and in employment and other economic activities related to the operation and closure of the mine. The certificate of authorisation has been amended four times over the years to take into consideration changes in the mill capacity and in the layout of the mining operations (Cree Nation of Mistissini et al, 2008: 20).

6.1.2 The Corporate Aboriginal agreement- The Troilus Agreement

Troilus agreement was signed between the Cree of Mistissini and the Inmet Corporation in 1995, and has been in place for around 13 years. Troilus was the second agreement signed between a mining company and an Aboriginal community in Canada (Sub Committee of the Intergovernmental Working Group on the Mineral Industry cited in Cree Nation of Mistissini et al, 2008). From the Cree perspective the agreement signed with Inmet Corporation is the first bilateral agreement that involved training and employment, with service contracts, communication and environmental issues (MRNFP, 2007), and is often served as a model for other mining projects in the region.

The agreement was negotiated in a particular context that should be understood:

- The agreement is understood in relation to JBNQA prior to La Paix Des Braves
- The environmental impact assessment process had been completed and a number of consultations with the community had already been undertaken
- The government of Québec was opposed to the negotiation of the agreement, as it believed that the Cree had already been compensated for mining rights in the context of JBNQA
- At the time of negotiation, the Cree community in Mistissini had a high unemployment rate and was mainly interested in employment and training opportunities
- It is understood as an agreement that addresses Cree participation in a low grade gold and copper mining operations which was considered marginal and whose financial survival at the time of the negotiation was not assured. The Cree representatives involved in the negotiation of the agreement and its implementation understood the nature of the operation and took this into account
- Cree workers had a low level of education and training
- The Cree Nation needed a forum to address environmental issues related to the mine
- The impacted families occupying the traplines close to the mine site were willing to cooperate in return for local training and employment, and business contracting opportunities (Cree Nation of Mistissini et al, 2008).

Given the context, the main objectives and emphasis of the agreement were to provide employment and economic opportunities in addition to addressing environmental impacts (see Appendix 2 on Troilus Agreement for detailed objectives). Troilus agreement was the first corporate – Aboriginal
agreement in mining to have set an employment target for the Cree workforce which should reach 25 percent.

Motivations behind the Troilus Agreement

Prior to Inmet Corporation, a company from Vancouver called Metall was involved in the mine project. When setting the terms of references, other companies and the government were opposed to the agreement stating that the Cree had signed off their rights by signing JBNQA. According to O’reilly and Eacott (cited in Hipwell, 2002:37), “Québec Government has told companies that they do not need to enter into agreements with Aboriginal people in the James Bay area and has advised them to become cautious in their dealings with Aboriginal peoples to avoid setting a precedent for the mining industry in general”. Nevertheless, according to the previous Chief of Mistissini, “the Cree encouraged Metall at that time to continue negotiations. After 7 years Inmet came in and we made sure that they would respect the agreement”. The general manager at Inmet Corporation for Troilus mine stated that “the motivations behind involving the community was linked to James Bay agreement (JBNQA) which states that Cree should be involved in the development project”. According to an advisor to the Cree, the company’s objective was also to obtain the social licence to operate or as he stated “social peace”. He also added that it was an aspect of corporate policy at the international level, and the company has been involved in two controversial projects in Turkey and Papua New Guinea (email correspondence). It was in the company’s own benefit to ignore the resistance from Québec on this subject.

Impact Benefit Agreement (IBA) and confidentiality of the Troilus Agreement

Although the agreement has recently become public, throughout these years, the Troilus Agreement was kept confidential. It was stated that it was upon request from the Band Council, who preferred to not share the content of the agreement with other communities to avoid conflict or jealousy with other Cree communities. According to previous Chief of Mistissini it was the industry that wanted it to be confidential. Another source stated that the lawyers from the company and the Cree party are the ones who required it to be confidential. That way the lawyers earn more money as they retain the expertise they gain from such negotiations. According to previous Cree employment coordinator, Cree people complained because they had no information about what was happening nor about the implications of the agreement. When Cree businessmen came in to look at the agreement, to understand its content and the contract wording they were not able obtain that information. Similar comment was given at Ouje-Bougoumou, where a Cree official requested access to the agreement but he was surprised that it was confidential. Troilus agreement was considered an Impact Benefit Agreement (IBA) at the local level and at Inmet Corporation. However at the regional level some did not see it as an IBA as it did not include profit sharing and because it was in relation to JBNQA.

6.1.3 Participation of the community in the agreement

According to a report conducted by Cree of Mistissini, CRA and Inmet Company (Cree Nation of Mistissini et al, 2008) on the implementation of Troilus agreement, the community was to benefit from the agreement based on an overlay of concentric circles. In the centre of the circle were the impacted families, followed by their relatives, then the community of Mistissini and at last the Cree communities as a whole (Cree Nation of Mistissini et al, 2008). During the field work, the author raised questions on the concentric circle, and on the meaning of “community”, a term that was widely used in Cree Nation of Mistissini et al’ (2008) case study report and other sources. Findings showed that consultation and negotiations were mainly held between the Inmet company, the Band
Council of Mistissini, and the directly affected trappers which included the Awashish, Neeposh and Petwabano families. The Cree community as a whole was not involved in the negotiation of the agreement and was only informed when the agreement was signed. The Inmet Corporation sustainability report also shows that throughout these years the company did not achieve developing an engagement plan with the community.

**Figure 12: Troilus Mine Pit**

The General Director Inmet: “The company contacted the Band Council to inform about their activities. It took six years before the company managed to sign an agreement with the community representatives and the impacted families, and the exploration phase took 30 years. The company did not involve the whole community and throughout the process and the project cycle there has not been much contact with the community as a whole. The consultation involved mainly the impacted families or the heads of tallymen”.

Former chief of Mistissini: “Discussion and consultations with the Band Council and affected trappers, started during the feasibility stage and extended over more than two years project. The community as a whole was not involved in the negotiations of the agreement. The reason for that, is that there were concerns about members of the community that may have had a higher voice, and would have caused more conflict than anything else, and would have wanted more money”.

**Participation of Cree impacted families in the Troilus project**

Awashish, Neeposh and Petawabano are the three families who were directly impacted by Troilus project as the mine was located on their traplines. The Awashish family’s trapline M 34 was the most affected by mining infrastructures. The Neeposh and Petawabano families respectively on traplines M 39A and M40 have been mainly affected by the presence of Troilus access road (Cree Nation of Mistissini et al, 2008). As a result, the impacted families have benefited from priority of employment at the mine, contract awarding opportunities and from a variety of funds provided through the agreement (Cree Nation of Mistissini et al, 2008:104). Prior to signing of Troilus agreement, the impacted families were consulted and their main concerns regarding the project were: environmental protection, the ability to practice traditional activities, and priority of employment at the mine for the family members (Cree Nation of Mistissini et al, 2008). A member of the Neeposh family: “at the beginning, all of the impacted families were concerned about the mine and did not want it, but they told themselves since we can’t avoid it we better work with it” (cited in Cree Nation of Mistissini et al, 2008:104).

**Initial stages engaging with the Cree**

There were mixed answers in relation to how the Cree found out about the mine. according to Inmet Corporation, they first approached the Band Council, however the Cree stated otherwise. According to the Awashish family, the first time they found out about the mine, was when the company approached them for compensation. At that time the Band council was not aware of the mine and found out about it through the Late Sam Awashish the head of trapline. A member of Neeposh family recalls that they somehow found out either through newspaper or found the geologists on the land. Either way it was not through the official channels. Member of Neeposh
Laila El Krekshi

family: “We somehow found out that there were geologists on the land so we want and checked what they were doing, some shook hands but I didn’t shake hands with them. They showed them what they found and what they were doing there”.

During the fieldwork, the role of the late Sam Awashish was highlighted a number of times in relation to the negotiation of the agreement but also throughout the project. The late Sam Awashish was the key person who initiated the negotiation of agreement with Inmet Corporation. He was a highly respected tallyman, a healer, and a wise elder with strong personality and skills. The late Sam Awashish’s son explains the reasons for his father to be involved in the negotiation of the agreement:

“In the past and even today, many mining companies would be operating without proper consultation or involving Cree people in labour force. Inmet Corporation was the first company in Québec to approach the families of tallymen that are directly affected by the mine. My father did not have much choice, either to accept their presence on their land and work something out and the project will go ahead, or not accept and the project will go ahead without benefiting the community. When the company came to him he decided that it was time to stop being against the companies and that we should look at how we can work together in order to benefit the community. The company was first to approach the affected family, and offered my father monetary compensation. However he decided to not take the money but to sit down with the company to negotiate how his family and the community in Mistissini can benefit from the mining, notably in terms of economic opportunities. The Band Council was very sceptical about the success of reaching an agreement, and therefore was not much involved in the meetings... my father continued to push for a beneficial outcome. It was only when progress was made in the negotiation and when money was discussed that the Cree Council decided to step in.”

According to the member of Awashish family, they were frequently consulted by the mine, were kept informed about the progress and asked for their opinions before decisions were made. Since the late Sam Awashish was the key person to have built a direct relationship with the mine, whenever the company wanted to speak to the community, they would often go directly to him. He also played the role of a moderator and was able to mediate between the two parties during the negotiations. The Neeposh family was also involved in the negotiation and there concern was to be able to continue their traditional lifestyle and to obtain benefits. However discussions were not always easy, and the Cree had to use different channels to push for beneficial results.

Member of Neeposh family:

“...We knew they were here to stay, so if that was the case we had to agree on how the project will be done in a way that will not disrupt of traditional lifestyle. Basically we wanted to be sure that they leave us alone and not disturb our way of life and hunting... of course that was not easy...the agreement did benefit in terms of employment and generating businesses but we wanted more. We wanted royalties and storage gas. In the future that s how it should be, being able to get a share of the profit, to become partners. However they had to use different channels to be able to reach the decision makers of the company and to start a discussion. The band council had to use political process, business process with the company and the legal process by having the lawyers with them to strengthen the team. Without all this he believes it would have been difficult”.

Participation in the negotiation and implementation of the agreement was important even though one is not in favour of mining development as stated by Neeposh family member: “it was better to be involved, because they are going to do it anyway so better be part of it and make sure the environment is protected and that we can still hunt and pursue our traditional life”. Concerning women’s participation, they would be present in meetings however it was the tallyman who consults with his family and then provide
feedback to the Band Council. In terms of involvement of the community in environmental monitoring and mitigation measures the Implementation Committee was informed about the company’s environmental plans. In the beginning impacted families would also be involved as auditors or assist in taking samples. Nevertheless communication and feedback about environmental issues tend to be limited by the company. It has been stated that there is nervousness from the company as well as government agencies to openly discuss environmental issues with the Cree especially when there are cases of incidents.

6.1.4 Cree participation and meetings with Inmet Corporation

The role of the Implementation Committee (IC)

The implementation Committee that was set up to follow up the implementation of the agreement, is composed of six members, three members appointed by Inmet Corporation and three appointed by the Cree Nation of Mistissini. Decisions are made by consensus and require the approval of four representatives of the Committee. The meetings could be held in Chibougamou at Troilus offices, at the mine site or in Mistissini. However most meetings were held in Chibougamau as it was more convenient for all parties (Cree Nation of Mistissini et al, 2008). The agreement required meetings to be held at least once every three months. However the frequency has varied a lot over time but in the early 2000s there was one year period when communication had broken down between the two parties due to discussions related to lay off policy. Nowadays the Committee meets more and more infrequently. Table 6 shows the role of the IC during the different project phases.

The role of the Cree employment coordinator

The Cree employment Coordinator has played an important role in the hiring process for Cree workers and in maintaining the workforce at the mine:

- The position was considered essential for monitoring the Cree workforce.
- Cree employment coordinator would find himself wearing different hats from social therapist to employment councillor.
- Responsibility increased to integrating and maintaining the Cree workforce at the mine
- Involvement in the management of disciplinary issues Cree work (Cree Nation of Mistissini et al, 2008).

Challenges:

- At times he would be perceived by Cree workers as the reference person in case of work conflict with supervisors and he would have to intervene which causes some problems with supervisors.
- The role of the coordinator was not well understood by certain Cree workers, who believed that the coordinator could influence decisions made by a supervisor or management. This led to the disappointment of certain Crees.
- The ambiguous nature of his role contributed to unrealistic expectations on the part of Cree workers.
- The Cree employment coordinator position has shown a high turnover which is explained in part by the high expectations related to the job and also feeling pressures from all parts.
There was a case where one coordinator received threats regarding his hiring choices. (Cree Nation of Mistissini et al, 2008)

• Bringing more coordinators is not the solution, the coordinator is there to facilitate but not to implement the whole agreement.

During the operation phase, the company would meet once a month with the band council and the affected families and during production phase once every two years. But often the company would meet with the Head of the tallymen Sam Awashish. According to the member of Neeposh family the meetings got less as the project moved forward. Members of the Petawabano family also stated that it was difficult to stay informed about the implementation of the agreement, and that they have not been updated on what was happening at the mine for the last four years. Involvement would have been good as was the case in at the start of the mine operations. The family suggested that a yearly meeting with the mine management would be beneficial in addition to more information on the environmental aspects of the mine operation and how they are managed (Cree Nation of Mistissini et al, 2008). Impacted families were also invited to visit the mine site whenever it seemed necessary. The General Manager at Inmet Corporation noticed that the best approach to communicate with the Cree families is to give a visual presentation; for instance for the closure plan the group would be taken on site and explained what the process would be. Nevertheless, not everyone attended although they were invited. For example when the mill was built the Neeposh family member was invited to go visit the site but he refused. Member of Neeposh family: “I didn’t want to go, I didn’t see the point of going, it’s there anyway what can I do about it. I guess the company invited out of courtesy, or to inform us, or to show us how good they are, I don’t know”.

**Internal conflicts in the community**

During the fieldwork, findings showed that there were internal struggles between families and in the community of Mistissini mixed feelings were perceived as a result of the agreement. However due to the shortage of time and sensitivity of the issue, it was not possible to find out deeper about the internal family struggles that may have had implications on the participation and negotiation of the agreement. Nevertheless the findings obtained are shown below. Prior to the negotiation of the agreement there were internal struggles between the families. This was especially related to the boundaries between the hunting territories. Due to the unclear boundaries, neighbouring families to the impacted families from the mine believed that they should have been involved in the negotiation of the agreement. The conflicts that may have arisen among the families or the community were not considered to be within the company’s range of responsibility and preferred to not intervene. The company did not question whether the issues and concerns raised by community leaders were truly representing the community as a whole. The company needed a legal entity to sign the agreement and that was the Band Council, it would have not been able to sign a deal with only tallymen. A former Mistissini Councillor and former member of the implementation committee: The Troilus agreement was the first agreement in the Cree territory to provide specific compensation to the affected families. “This was perceived with mixed feelings in the community. Some people were against it others were for it”.

Laila El Krekshi
**Table 6: Project phases and role of Implementation Committee**

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<thead>
<tr>
<th>Phases</th>
<th>Meetings</th>
<th>Main Concerns</th>
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| Start up phase | IC: intensive sessions to tackle many issues. During the first two months meeting were often After two months, meetings were reduced to once a month | - Establish a relationship based on trust  
- Secure immediate Cree employment on site for the construction phase  
- Prepare Cree workers for jobs that would be available during operation phase  
- Awarding of contracts to Cree companies by tailoring contracts to enable Cree companies to participate in the bidding processes  
- Environmental issues discussed but no technical details  
- Adapting Cree job description which is aimed at eliminating artificial barriers due to Cree’s little schooling or lack of experience or skill required at the mine.  
- Language requirements were important issue  
- Identify the training needs for Cree manpower. Two courses set up: heavy machinery operation and off road truck driving  
- Set up the interview process, promotion of the project and employment opportunities |
| Operation phase | Frequency of the meetings was reduced                                   | - Similar issues to those during start up phase  
- Language issue re emerged: hostility and complaints about the usage of Cree language by Cree workers on the work site  
- Agreement that Cree can be used on the site unless it affected safety of workers  
- Challenges implementing the preferential hiring policy  
- The lay off policy introduced in 2002 was a source of tension because of the role played by seniority criteria  
- Decision that the IC would only deal with general issues and not day to day management  
- Challenges to encourage Cree to work at the mine due to income tax payment.  
- The signing of the QCNRA raised concerns on the impact of that agreement on Cree employment at Troilus |
| Closing phase | Meetings ongoing, but less and less frequent                            | - ongoing                                                                                                                                                                                                     |
It established a precedent that was applied to other projects subsequently. The same approach is now applied to forestry activities and it is promoted for mining exploration activities undertaken further in the North. (...). The amount obtained by affected families was publicly disclosed in the community, which he considered was a mistake. He would now prefer community rather than individual compensation. (Cree Nation of Mistissini et al, 2008:106). There was also a comment on the importance of the directly affected tallyman to get most of the benefits and as a second priority the community.

**The Troilus project closure phase and the sustainability of the agreement**

The project has reached its closure phase, and is currently implementing its layoff plans. Findings showed that there was no long-term strategy on how to support the Cree labour force that is being laid off. Interviews held on participation of the Cree with respect to the closure plan showed that there was no clear process to involve the Cree community. Although last March 2009, a meeting was held to discuss the plan with the families and the Band Council. The Implementation Committee is involved and there will be discussion on the subject but it is not clear what this will mean in practice. However, a final version of the plan is expected by September 2009. The main concerns for the families have been the rehabilitation of the site that the vegetation will grow back and animals would be able to safely come back as well, in addition to fish restoration and no contamination. According to Inmet Corporation, the monitoring program takes 5 years and every three months they will be a check on the site. Once Québec is satisfied with the result the site will be verified once or twice a year.

**Outcomes of the Troilus Agreement**

Overall, the findings show that Troilus project was a learning experience where benefits and opportunities for the Cree did occur however they have also been challenges and negative outcomes from the agreement. Inmet Corporation was able to achieve the objective of an overall 25% Cree employment level as set out in the agreement. However the achievement rate was only during the first two years of operations. The decline in employment is due to the several factors:

- Early departure of Cree employees
- The availability of relevant training programmes
- Personnel turnover at the management level
- In 2002 the GCC at a regional level signed the Paix des Braves agreement with Québec, which led to the renewed investment in hydro electric development. after 2002, the Eastmain -1 hydro electric plant construction site and the Eastmain 1 A/ Rupert Division have made a growing availability of employment to the Cree.

Employment of Cree labour was mainly in semi-skilled jobs. Employment rates were higher in mining operations than in the mill, due to available Cree employees with previous experience operating heavy equipment. The majority of the Cree employees are men. Participation of Cree female workers was quite limited. Findings from the Troilus Agreement case study showed that based on the four females interviewed, the working environment for women was good at the mine, while others stated that it was a male environment with a certain degree of chauvinism and that it was not appealing for women. Single women were subject to gossiping from other Cree workers and from people in their community (Cree Nation of Mistissini et al, 2008). Most women worked at the accounting department but no women have worked at the operations or mill departments.
However there seems to be interest among young women in the community to work as heavy machinery operators. The company did not have specific mechanism or strategy on the integration of women in the workforce.

Figure 13: Mine Truck Driven By A Cree

Cree employment and the implications of 25% of Cree participation

The 25% of Cree participation was also seen as a problem by certain Cree since the Implementation Committee would concentrate on the numbers, and did not pay attention to the quality of the implementation. According to previous Cree employment coordinator there was no proper long term strategy set up for the Cree participation to be employed at different departments. Advancement opportunity, and training were also limited. Previous human resource advisor: “Few people would push for skilled Cree to go up. The Implementation Committee looked at the 25% but didn’t question how to make it better for the employees in terms of quality of environment and the advancement opportunities”. The previous human resource advisor also mentioned the danger of such agreements by stating a 25% participation. “The reaction of one manager was: so now that we have the 25% of that” thing” (the Cree) we can now hire real people”. Based on the findings of the Cree Nation of Mistissini et al (2008) case study, many Cree individuals saw work as an opportunity to learn new skills. It was noted that they took pride in their work, and were conscious of the importance of maintaining productivity level. Work site experience and perceptions vary. Approximately one third of those interviewed for the case study research expressed some dissatisfaction. The discontent was related to relationships with staff, communications (including language related issues, and expectations with respect to training and promotion).

The following factors contributed to the successful integration of the Cree workforce at Troilus:
- The presence of a number of Cree workers with previous experience in heavy equipment operation
- The quality of training programmes provided to Cree workers at the mine, particularly during the early years
- The presence of a Cree employment coordinator (hiring, support of workers, increasing awareness about workplace regulation, avoidance and mitigation of training)
- A committed team at the human resources department during the first years of mine construction and operation (hiring, support of workers, promotion of training)
- Commitment of the Cree Nation of Mistissini (promotion of work opportunities, identification and selection of candidates, obtaining funding for training)
- The contribution of the implementation Committee (maintaining good relations between Inmet and Mistissini and following up on the implementation of the Agreement)
- Active support from Inmet’s head office in Toronto, particularly during the early years
- Active support of families on the affected traplines (support of workers and promotion of good relations between Crees and non Natives)
- Cultural awareness sessions and language lessons at the mine, particularly during the early years
- The 7/7 schedule enabled Cree workers to carry on traditional activities
- The funding available through Cree organisation (CLMB, CHRD) that provided for training in certain trades and funding for the training of Cree trainers

Source: Cree Nation of Mistissini, 2008:9
**Challenges**

- **Limited pool of Cree workforce:** The main challenge faced by the mine was the lack of high education, training and experience of the Cree workforce. Highly qualified Cree workers are limited and in high demand. Competition for scarce human resources became an issue especially after the launch of Eastmain 1 Hydro Electric Project in the region.

- **The personal income tax exemption:** Status Indians are entitled to have exemption from personal income tax provided that the income is earned in the community, for instance on the federal lands to which this exemption applies. Status Indians are also exempt from sales taxes (Cree Nation of Mistissini et al., 2008). The tax exemption is an issue that the mining industry is facing in terms of Aboriginal employment. In the case of Troilus, Cree workers had to pay taxes. Whereas the hydro electric project construction sites was income tax exempt. This gave more competitive advantage in hiring Cree workers.

- **Availability of training programs:** Training was considered important for the development of Cree workforce. In addition to that the capacity of the Cree organizations such as Cree Regional Human Resources Department developed through the experience in projects such as Troilus, but more effort is needed on building that capacity.

- **The change in management team:** At one point during the project, the change in the corporate team had some implications on the Cree employment and training, as a result of the low gold price the priority was on productivity. However the current management team is said to be more committed to the agreement.

- **Adaptation to the private sector work environment:** Local public sector is the biggest sector that the Cree are employed in. Shifting towards working in the private sector where certain standards must be met such as performance standards, employment schedules, health and safety can take time for a new employee to adapt.

- **Racism and discrimination:** According to a previous human resource advisor, racism and discrimination were present. Racism in some departments. When I said that I am looking at hiring Cree for one department, one non Cree worker even laughed. And at that same department, a skilled Cree was fired even though he was good, but the responsible just did not want him around he wanted him to leave and that is what happened”.

- **Misunderstanding of the role of IC:** Certain Cree workers would go directly to the Implementation Committee to complain. The role of the IC was not well understood in the community.

- **Language and cross cultural communication:** There were difficulties working across cultural and linguistic boundaries since the official working language in Québec province and at the mine is French and Cree workers are mostly English speakers. Among the 40 current and former Cree workers interviewed for the Cree Nation of Mistissini et al. (2008) case study, only 55% could communicate in French. Cree workers who did not speak French would communicate in English or in Cree among themselves. Evaluation of a Cree is difficult because they are shy and it is not part of the culture to for instance do a peer appraisal.

- **Preferential recruitment:** There was a preferential recruitment and priority was for the Cree, certain conditions were removed to make it easier for the Cree to be hired, but once they were hired it was important that the rules were the same to everyone. Previous Cree coordinator: “There was also a challenge in terms of disciplinary measures when sometimes they were not applied because someone was Cree. Disciplinary measures had to be applied to everyone, without favouritism”.

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The findings of the Cree Nation of Mistissini et al (2008) case study on the implementation of the agreement showed that most of the Cree workers were hired in semi-skilled jobs. This was due to the low education and experience levels, however, the question remained as to why there were mostly semi-skilled workers despite the training given in Troilus. The factors given:

- Supervisors don’t believe in advancement of the Crees
- Lack of interest from the Cree
- Urgency in production
- Justify with CHRD/ who receives funding from the government and therefore it’s a lot of bureaucracy to obtain funding. However there has been a decision from the government that it will no longer interfere with the funding. The money will be given to the Cree who will be responsible on how the funding is spent and allocated. According to the previous human resource advisor, this new approach will be good for companies since they will not lose time in bureaucracy and will be able to more focus on the training
- The reality is that private companies focus on profit and productivity and investing in its employees with training and development is considered costly. Nevertheless, the skilled workers who have been working in mines for years will soon be retiring and the best way for companies to have manpower in the region are to employ the Crees and immigrants. However, with the lack of skilled Cree labour, the retired workers could be useful for coaching the new workforce. One strategy that was pushed for, was to hire retired people to train the Crees.

**Contracting for services with Cree businesses**

Contracts from the Troilus project were mainly obtained by the Band Council of Mistissini, and the affected families who may have had a company or who was able to do the required work. According to a previous Cree employment coordinator local businesses and contractors thought it was unfair. Overall not that many business opportunities for the community came out. Mistissini at the time of negotiation went with good intentions but there were no real economic opportunities in the long term. One success has been the socio-economic fund, which received 50000 dollars each year for creating business opportunities in the impacted families. According to previous Cree employment coordinator every business opened in the community except for gas Esso was through the fund such as Cree Sport outdoor, outfitting, Petwabano videos, and the school bus.

Previous Cree employment coordinator:

“The Cree economy has always been an income based through fur trade. There was exchange of goods between nations and also trade with Hudson Bay company for fur. But when the fur price when down, it was no longer profitable to only pursue that kind of economy. Now there is a shift towards industrial economy. The entrepreneurial skills are there. But the community should put more effort. The community and representatives have to facilitate the sense of ownership. Ie the sense of ownership of the agreement”

One of the challenges with the businesses are obtaining the required papers. For a Cree company to do business outside the reserve is a big challenge because of the registration process. An interesting finding was that Cree businesses such as the Cree Construction Corporation, employs mostly non Cree workers. This is mainly due to the lack of skilled Cree labour. However some measures were taken to encourage more Cree recruitment and funding was received from CHRB for training. CHRB spent 2 million dollars for training janitors and cooks, and the Cree participation in that company went up from 15% to 70%. The Cree business leadership is also different. The Cree
business approach is quite political which is time consuming in a private sector. It was also stated that more business educated people are needed at the management board level. Decisions take a lot of time as all decisions go through the board and some employees have complained or left because their salaries were not paid on time or at all. There is a need to have more educated people in management.

6.2 Community of Ouje-Bougoumou

Ouje-Bougoumou is a community of 606 inhabitants (Canada census cited in Institut National du Sante Publique, 2008). It is located on the shores of Lake Opemiska. The history of the Oujej-Bougoumou Crees started as a sad story of abuse, dispossession, and neglect by the combined efforts of mining and forestry companies and successive governments at both the provincial and federal levels (Ouje, 2009). Over fifty years, as mining intensified, companies bulldozed the community 7 times, illegal mining towns were established on their lands, and Ouje-Bougoumou was politically and economically excluded. The community was denied band status and later was left out of the JBNQA. The people of Ouje-Bougoumou had to relocate to Mistissini if they wanted to get housing and services. Others got dispersed along forestry and mining roads. The situation at that time was comparable to third world countries, as people had no adequate housing, no access to sanitation or water, and children were not able to have adequate education. As a consequence many fell in crimes, drugs, and alcohol. Ouje-Bougoumou is a distinct group, they have been wanting to have their own community for a long time but according to Chief of Ouje-Bougoumou, the government’s strategy was to move the people away from their land in order to have the land for mining. Many people moved but they did not feel home. As a consequence they went back to their original land. In the mid 80s people gathered their strength to fight in order to get recognition of their rights to their traditional lands. In 1992 Ouje-Bougoumou and Canada signed the Ouje-Bougoumou/Canada Agreement which provided the means by which Canada would contribute financially toward the construction of the Ouje-Bougoumou village. However, at the same time the exploitation of the land continued. The new community has now been built with vision to re-create the well-being of their traditional way of life in a modern context. The new village was designed by renowned Aboriginal architect Douglas Cardinal who ensured that the Cree cultural heritage was reflected in the physical appearance. The successful design of the new village by the community has won recognition and awards at the international level for its modern concepts combining economic sustainability, environmental conservation and design (Ouje, 2009).

Figure 14: Ouje-Bougoumou

Figure 15: Ouje-Bougoumou Housing
6.2.1 Contamination case in Ouje-Bougoumou

In 2000, great concern was raised by trappers in Ouje-Bougoumou in particular by an Elder Albert Mianscum about diseased game harvested in Lake Obatagamou. The diseased fish was believed to be related to mine wastes originating from three mines (Tsuji et al, 2007). Based on an initial study by Covel, it indicated mobilization of toxic elements from mine tailings residues and impacts on human health. The findings of the report showed high levels of heavy metals such as arsenic, chromium, cyanide, and zinc that have serious impact on human health. (Covel associates, 2009). Furthermore two reports of Québec environment showed that there were concerns of local waterways to be contaminated by mines. the results of the reports were no surprise to the Crees who have been trying for a long time to raise the issue with their authorities and the government. What has made the Cree angry in this case is also the fact that Québec has been aware of the contamination since 1998 but never shared that information with the Cree of Ouje-Bougoumou. Nevertheless the assessment of the contamination is still ongoing, and questions are raised on who will be cleaning up the area.

La Paix des Braves and the contamination case in Ouje-Bougoumou

When the signing of La Paix des Braves and the Cree consent to Hydro electric development were announced in 2002, it was a big shock for the Cree community and for the Ministry of Natural Resources (MNR). The agreement was secretly negotiated and signed at the highest level between Québec and the Cree leaders, and from both sides people and MNR were not involved. According to the Cree chief of Ouje-Bougoumou the agreement affected the Cree people. In 2001 a high level of contamination by Christofer Campbell was found. When the report by Campbell came out, people already knew that something was wrong. This raised issues to the companies and Québec who gives permits. Some leaders were and are in favour of development, which has compromised the Cree values. It was stated in Ouje-Bougoumou that before signing the agreement the Crees from Ouje-Bougoumou were asked by their leaders not to speak about the contamination as it would have jeopardised the negotiation of the agreement. The contamination issue was put under the table, and people’s health was compromised and divided the nation. According to the Chief of Ouje-Bougoumou, ever since the signing of Jame Bay agreement there was no meaningful economic development. In terms of participation or consultation, it is still over sighted by Québec and the Cree leaders. The consultation is not good and often it takes the form of promotion such as the case with the PAix des Braves. In relation to mining, the agreement gives no provisions for protection especially for the exploration phase.

The participation in the contamination committee

In relation to the contamination case in Ouje-Bougoumou a steering committee has been set up to follow up the assessment of the level of contamination. Nevertheless people in Ouje-Bougoumou do not like the process as a result of their past experience with the government. The two main Cree negotiators who were involved in the negotiations of the Paix des Braves were on the Committee for contamination case. The community of Ouje-Bougoumou requested more neutral people and approved the local CRA of Ouje-Bougoumou to become involved in that committee. From Québec side the committee had a team of environmental experts. GCC intervened and appointed more experts to push forward for the clean up. There are concerns in Ouje-Bougoumou about the quality of governmental reports and to what extent true information is channelled to the Cree community. In the case of the contamination, the Chief of Ouje-Bougoumou stated that the study was not done where the hot spot of contamination was but more in general areas. The Cree want to be able to do
their own studies and believe that reports should be more independent or that there should be parallel studies done as well.

**Closure phase**

A number of mines around Ouje-Bougoumou that operated in the 50s have reached closure phase or been abandoned. The Cree do not have information on their closure plans, nor who fund them. The community in Ouje-Bougoumou was aware that some mines’ closure plans were refused by the government such as the contamination case however the company is now bankrupt. Since it is the government that provides consent there is scepticism on whether the mine closure process is done right.

### 6.3 Participation process in Mistissini and in Ouje-Bougoumou

This section gathers the findings on perspectives from both Mistissini and Ouje-Bougoumou on participation, FPIC processes and representation of Cree in negotiations with mining companies.

#### 6.3.1 Participation and consent

During the field work, Crees were interviewed in relation to how decisions are made, the roles of different entities and on whether there is a real meaningful participation and FPIC process. The findings show that the perspectives are mixed among the Crees from regional and local level, and that the process of participation is not very clear. The findings demonstrate that in the past there was no consent or participation process with mining companies. A Cree official stated: *Before there was no consent or participation process. There was only the mining act and the companies would follow that, to obtain licences. At that time people lived on the land and they would just be pushed on the side for exploration. There was no environmental impact assessment, as the office in Québec was not that good, a bit weak in authority it was a small office. Now the situation has changed especially with signing of JBNQA and Paix des Braves agreements.*

According to a member of Cree Trapper’s Association, although the Crown has the duty to consult, it is not doing it. One example is in a recent public hearing I attended concerning a land conflict between Innu and Cree that was due to an agreement signed by the Crown with the Innu. The Crown never consulted the Cree about their lands. It was clearly stated by Cree community members who attended the meeting that 38 years after the signing of James Bay agreement the government of Canada still does not recognize the rights of the people on their territory despite the agreement. In 2007 with the UN declaration on Indigenous Peoples’ rights, Canada did not want to ratify the Declaration. The Cree believe that the government did not want to recognize the rights of Indigenous Peoples because that would have been an obstacle to accessing the natural resources on their lands and would have not been able to reap the economic benefit. Cree official in Ouje-Bougoumou: *“Canada has been promoting human rights abroad but look at what it is doing in its own backyard”.*

The situation changed with the Troilus mine project, as Inmet Corporation was the first company to sign an agreement with the Cree Nation in Mistissini. Now, other companies are learning from the Troilus experience and approaching Cree communities.

**When should the participation process start?**

Cree would rather be consulted about any project that is planned to take place on their lands before the exploration phase and early in the process. However, companies are not obligated to consult with the Cree community before the exploration. The member of the Cree Trapper’s Association also added: *“We prefer right when exploration starts to see where they will be operating but it is not done”.*
Figure 16: Public Meeting in Mistissini

One resource person explained that the exploration phase is no longer as it used to be and the reason it has become a concern: “Before it was ok because the workers would set up tents and camps, that did not bother or disturb much. But now with the changes in labour law and standards, the exploration phase is totally different: the company build tunnel, there are major infrastructure: camp, trailers, toilets, road construction, heavy machinery now it is a concern and it really bothers”. By Cree community, it is meant that the Band Council informs the tallyman and makes sure to involve the latter for negotiation of the IBA. Others believe that a company should first approach the tallyman and then the Band Council. According to Deputy Chief in Mistissini, this has created confusion and miscommunication, which is why there is a need to set up an internal process. The Cree Chief in Ouje-Bougoumou added the need to be involved at a higher level not only at the local level. “There is a need to be involved at a higher level, to be part of the board up there. We are stakeholders. Shareholders need to understand better what is happening. At the moment there is no Cree company yet that can be a shareholder that can have a say”.

FPIC – the right to say “no”

According to a member of Cree Trapper’s Association (CTA) there are around 75 companies around Mistissini and only 5 companies have approached the community for consultation. A number of forestry companies are cutting on their lands without free prior informed consent. When it comes to companies operating in the territory, proper consultation and FPIC are not applied. Companies tend to follow the legal requirements set by the Canadian government under Mining act, but the Cree do not have a mining policy, and therefore companies do not see it as their duty to consult. Often it is only when the planning is done, and the construction phase is planned that the Company might come to consult with the community. For the Cree, the right approach to participation is to be involved during planning stage and throughout the project cycle. It is what the James Bay agreement (JBNQA) requires from the development projects that Cree are full participants in decision making. Cree member of CTA: “Before any exploration starts, the company should inform and obtain approval from the head of the hunting territory where it plans to explore. A tallymen should give consent, but often companies do not inform and there have been cases where camps were set up without any informed consent”.

The Cree do not say “no” to development projects. Instead, they want to be part of development, to set up partnerships and joint venture with a company specialised in a particular area in order to get learning expertise. The previous chief of Mistissini: “it is in a way a win win situation, as the Cree are the ticket for the business to enter the area but at the same time the Cree would benefit from learning, knowledge transfer from their business partner”. This concept has been transferred to hydro projects but it has to be meaningful and to be engaged. A Cree interviewed spoke about his father, who is a Cree elder and tallyman, used to say: “we (Cree) respect the non natives, their way of living ie. mining, but I also want to be respected and my way of life... It is important to know where they are so First Nations can be left at peace”. According to a Cree official, The GCC’s position is that consent must be given from them in order
to go ahead with the mining development. However the government of Québec still says that it does not need to obtain consent from GCC as that right was sold away by signing the JBNQA. They are in constant disagreement about what each meant by the JBNQA agreement. Québec thinks by signing the agreement that means they can go ahead with mining exploration. The form of consent that GCC is talking about is that it wants to be involved in every stage of the project and the approval to go ahead with a project or not. If that was not given, GCC made it clear it will be a major obstacle. There has been mixed statements on tallyman’s authority to provide consent or not. Some believed that a tallyman should have the right to say “no” about development on his trapline. However a Cree leader at the GCC believes otherwise: “The tallyman is a steward, and has no authority to decide about everything. For him to say no he must then have a very good reason for objecting to a development”. (More information under section on Tallymen’s participation).

6.3.2 Internal process for community participation and Cree representation

The findings show that the main representatives involved are the Band Council and the tallyman on the local, in addition to CRA. When the Indian Act came into effect, it institutionally changed Cree leadership structures. It was problematic because the distribution of power and authority did not reflect Cree political structure (Whiteman, 2004). Historically a chief was the leader who oversaw the summer settlement but the band throughout the year. Although the leader was granted certain powers and responsibilities, it was a role that dispersed with the hunters when they separated into smaller hunting groups (Salisbury cited in Whiteman, 2004: 430). Women also played an important role and traditionally it was a relation of equal partnership between a man and woman. However the leadership structure changed after the Indian Act, which required a permanent year round Chief and Band Council who were mostly men. The chiefs and councils received more authority under the new structure. It has been observed by Inmet Corporation that the band council has traditionalists and younger generation of leaders who may be easier to deal with during negotiations and discussions. Between these leaders there may be a challenge, to reach a consensus and therefore the process of decision making can be long sometimes (see table 5 on main players in mining).

The tallymen’s participation

Tallymen’s input and knowledge in decisions are important and respected which is why they play an important role in consultation, whether with the company, or with the Band Council. The Cree Chief of Ouje-Bougoumou stated: “The tallyman should be involved because he has the knowledge, which can also be beneficiary to companies. They know the interest sites, but if that particular site is on the mine site, then they (the tallymen) have no say… and that is a problem”. The question during the fieldwork was whether tallymen’s families and groups using traplines were informed about the mine. The member of the Cree Trapper’s Association explained the usual approach: “When the head of a trapline is informed about an exploration on his trapline, he will gather the hunting group members who hunt on his trapline, and the families in order to consult and decide on how to go on… The role of a woman is also important and has an advisory role in decisions. Her issues are also raised”. However the Cree official at GCC stated: “The tallyman is often the only one consulted, and it can be problematic because sometimes he makes a decision and provides feedback without necessarily consulting his family and the hunting groups on his land. This may also be one reason why the youth may not bother being involved because the may feel like their voices are not heard”. 

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Balancing collective and individual rights

Mines are located within a Cree hunting territory, or may involve activities in two or three territories depending on the scale of the mine operation and local geographical circumstances. The development project will most likely be on the lands associated with a specific Cree community (Penn, supplementary notes to the Review Committee, 2009). One of the major challenges for the Cree Nation is to determine how they can balance collective and local interests. In other words to determine the balance between interests at the level of the individual Cree hunting territory, interests at the level of the community, and interests at the level of Cree society as a whole (Penn, supplementary notes to the Review Committee, 2009). Questions concerning collective and individual rights were raised by community members in both Mistissini and Ouje-Bougoumou especially tallyman’s rights. According to a Cree leader at GCC “There is no individual right in the Cree culture. The culture is based on sharing, and to start having everyone coming to have his own right is not the way. The tallyman is a steward, and has no authority to decide about everything. For him to say no be will then have to have a very good reason for objecting to a development”. However certain Cree emphasised that the tallymen have rights too and that improvement is needed on individual right versus collective rights of the Cree people. The Chief of Ouje-Bougoumou stated: “He (the tallyman) should have the right to say no. But what happens is that companies ask for EIAs to be done before refusing a project. When an EIA is done it gives the advantage to the company to go ahead with the mine”. In the past, the consultation was autocratic dealing only with leaders, the tallyman was not involved. The resource person explained the case of his father a tallyman who was seriously impacted from mine contamination around Ouje-Bougoumou. He even found out that the band council was negotiating with the company without even informing his father. He felt it was a violation of his right from the company and the Cree leadership. According to the resource person: “Before, the leadership would say that you elected us so we take care of everything, we don’t need to consult with you…However my father had concerns he wanted to speak directly to the company… Speak to the leadership: it is important to include the tallymen. The mentality is slowly changing. It is important to be part of the planning and issues that affect them”. What strengthened the tallymen to be included in the decisions was the Paix des Braves agreement as it was the first time that the traplines were recognized. Tallymen have rights in the forestry, but the hunters and trappers situation is not the same for the mining as the process was not clear under Paix des Braves. According to resource person in Ouje-Bougoumou, Mistissini has shown good practice to other communities: “Consultation in Mistissini has been more democratic and we are learning from it. The Band Council automatically takes the tallymen to negotiations and forms a committee from early stages. They ensure that the family benefits”.

The role of consultants and lawyers

The GCC is using a number of advisors, and lawyers who are non Cree. Many of them have been involved for around 30 years. The use of external consultants and advisors has been widely criticised on the local level. A Cree leader at GCC argued that while people in the government of Canada and Québec change, the positive side with GCC is that the organisation has a solid corporate memory. The question raised was how do these people eventually share their knowledge so that the future generation will be able to take their positions? According to the Cree negotiator, “the youth must be encouraged to study, finance, engineering and work in the industry and gain the knowledge and what is happening there”. In Ouje-Bougoumou concerns about the external consultants and lawyers were also raised: “We rely on the top and on external expertise. An improvement is needed on that, the local community should be more involved”. A Cree in Ouje-Bougoumou stated: “GCC has for many years been hiring external experts who are non Cree. It is problematic. They keep the knowledge to themselves, they are consulted they come up with policies, and GCC approves them. But these experts don’t think and understand fully our way.”
Another Cree in Mistissini also stated: “The concern from my perspective, is that First Nations are not looking at where they want to be in the future but at what they want now. Mining companies are changing somewhat but First Nations are still where they were 10 years ago... That is because they are still listening to consultants and lawyers, and paying a lot of money to them and few Cree are also benefiting. These consultants and lawyers almost make decisions for the Cree and that is frustrating”...It is almost a new version of an Indian Agent... In GCC in Montreal we have a lot of people who act like that and decide for the Indians. They come here from time to time think they know it all, and make their decisions from Montreal...Consultants and lawyers should be the electrician and plumbers that set the basis for your house, and then you should be able to build the rest of your house, but in their case, the build the house for you and they move in with you!”

The Cree First Nations are moving towards a self-governed territory. The Indigenous governance was briefly discussed and believed to be the ideal governance approach for the coming self-government, but there are concerns about the role of the non-native advisors. A Cree official in Ouje-Bougoumou said: “Who defines the system of governance, the constitution it should come from the hearts of the people... There should be more community consultations...It is meaningless if there is a nation to nation agreement and policies are set up separately... GCC members are community chiefs. Advisors are non native and they have different perspective on governance and view of the land... the best ones who understand the land and have knowledge are the elders. They should become advisors... that's when life begins... To have a council of elders, men and women for GCC as advisors, and retain or reduce the role of experts. Elders know how they constructed themselves, it is about sharing the land...Assembly of First Nations is structured that way. It has the Elders council. They have the knowledge of values and customs”.

Consultation and participation mechanisms in the community

The mechanisms used in Mistissini and in other communities to involve the community to participate are through public hearings. They are held to inform about the activities related to the mine project, and a mine is likely to involve at least a public hearing at the stage of environmental review. The public hearings are usually held in English and Cree with translations whenever that is necessary. People are informed through the radio, the newspaper, or letters are sent to those who may be specifically impacted by mining or any other development. Public hearings are held at the Band Council office. According to the Deputy Chief in Mistissini women are quite present in public meetings and are very active during those meetings sharing their opinions and concerns. There are no special mechanisms to improve the participation of women and youth. The Cree official at GCC: “It's the way it is, we have the public hearings”. Findings also showed that the public hearings are not always held during times that can allow the majority of the community members to attend. For instance recently the Mistissini Band Council, the Canadian Nuclear Safety Commission (CNSC) and Strateco resources, which finalised its EIA on a Matoush project an Uranium mine, planned a public meeting without considering the schedule of the majority of the Cree community members. The meeting was held in the afternoon of moose hunting season for the Cree, while people were either at work or moose hunting season as a consequence only few people managed to be present (Nationnews, 2009)

The language has been identified as a problem; it can be a barrier to do consultation with the community. A resource person stated: “The language is very crucial. Experts do not speak Cree, and English is very influential language even when it’s not in accordance. When you hear an elder Cree speak in Cree, he knows exactly what he wants to say and what to point out.” It has been stated that communication in the community is not always very good. People don’t always know what is going on and some believe
that more consultation with the community is needed. A Cree person stated: “People don’t always understand everything and it will be good if the CRA and the Band Council would have a mechanism to explain what the implications of mining are and the laws…” In Wemnidji another Cree community, is doing exploratory work in the participation mechanisms, and had been holding workshops/conferences in relation to a mining project called Eleonore. Nevertheless, there were questions on whether it can be referred to it as an “engagement plan”.

Cree Youth participation

According to the GCC official, youth don’t get much involved, maybe due to lack of interest, or awareness, or the fact that they rely on their leaders to do the job. He also added that perhaps it is also because the tallyman does not always consult his family. The Cree Chief in Ouje-Bougoumou believes that there is a need to raise awareness with the youth, they are the future of the community. A Cree member of the Youth Council in Mistissini shared his views on youth participation. The youth voice is better than before but often it is the older generation who still plays an influential role on major outcomes. Young people do not attend that many public hearings, sometimes it is out of interest but some also feel that although there voices are heard their concerns are not really taken into consideration. Often there are more elders in public hearings and they tend to play a major role. A young Cree woman stated that she usually does not go to public hearings, but if she does it will be related to her family’s hunting territory. The Cree youth believes that there is a need to set up participation measures in each community, to look at employment opportunities and education support. However young people need to create their own identity and to be strong against the feeling of discrimination that they face when they leave their community. On the other hand, a number of Cree send their kids to Chibougamau a non native town for school, which helps with the exchange of cultures. In terms of citizen participation, the Cree member of the youth council observed that there is less and less involvement of people which makes it difficult. Voting every term decreases and barely 30% vote out of the eligible. It is the same case with GCC who also has low vote rate and there are doubts on efficiency of the current democratic approach. This is due to the short time allocated for touring communities, debate and public hearings.

Young Cree concerns

• Concerns are mainly social and capacity issues: Not enough is done for immediate concerns; some issues that were supposed to be solved still come up, this is especially linked to the social and health issue in the community.
• The young Cree also added: “There is a need to have more activities for the young people, only 10 – 15% of youth are regionally involved in programs organized by youth council. The physical infrastructure is there, like youth centre and the arena but there are no activities organised, it needs to be filled with soul”.
• Certain youth are also aware of environmental changes; there are concerns about the development projects in the territory, hydro, forestry, flooding, loss of lands, mining.
• There are concerns about prospectors who come in without warning, and they think it is GCC responsibility to inform the community. The youth also believes that community approval is needed for development projects.
• There is a belief that things move along but it is a slow process. In the future the young Cree hopes to see more youth involved in decision making.
• Certain policies should be changed and more actions must be taken. The young Cree commented that “GCC need to be more involved than just hosting events from time to time. There is a need to be more involved on a continuous basis”.

• Youth Council needs to be more action prone instead of a political body. “The council can go for months without having any projects happening…not enough initiatives from GCC and Youth Council… too much politics and not enough actions”.

The main strength in the community is the sense of belonging with what other youth is going through. There is a sense of pride as nobody denies where they are from, the traditions are strong. The young Cree: “There is a need to think about where we want to be and how to make our community self sustainable not only in terms of jobs but also education and well being.

Cree Women participation

One interesting trend is that more women are now leaving their families to pursue further education in the south and this is going to be an interesting change in dynamics in the future as they will probably hold more important positions. During the fieldwork, one could notice that women did hold important positions in the Band Council. For instance, the deputy chief in Mistissini, and the chief in Ouje-Bougoumou are both women. The deputy chief in Mistissini also added that the traditional partnership role of the Cree woman that was lost due to the Indian Act and that caused the change in Cree leadership structure is slowly coming back. More women are now working at the Band Council. Women are quite present and active in public meetings. Their major concerns tend to relate to social issues as well as environmental. In the past women were more reluctant to speak out about issues that relate to them such as violence, sexual abuse, but now this is changing. Nevertheless there are no special mechanisms to involve women, but it was stated that it could be beneficial to have that set up.

Women have a special link to the land that differs from the man. In Ouje-Bougoumou, there is awareness of the importance of involving women to voice their concerns. A different approach has been initiated by gathering women to participate and include them in monitoring of for example a wildlife protection cutting blocks as a result of some companies who would build roads that might cut across the wildlife area. However in general, findings show that there has been little attention to gender issues, and no measures are taken to minimise impacts of mining on women from the mining industry (See Appendix table 13). Furthermore women constitute only small percentage of the labour force in mining. Crees interviewed believe that this has been related to the fact that women are busy setting up families, one Cree stated: “For a Cree woman to have kids is important, and when you get married it is normal to have kids”. Others believed that it may have been for cultural reasons, as it was not seen appropriate for a Cree woman to work at the mine. Furthermore, women entrepreneurship is not that much present in the mining industry or in general in the community. However the Native Women’s Association did mention that they plan to look at how to support women into setting up businesses.

Participation in environmental impact assessments and monitoring

Companies operating on the Cree territory have to abide with section 22 on environment under JBNQA. The Cree are members of the evaluation team. Therefore they assess the EIAs prior the commencement of a project and do the monitoring. The Cree representatives are a minority on the
Review Committee; they have two seats out five. In principle they can be outvoted, but that almost never happens. A Cree resource person questioned to what degree does the Cree have the right to say no under the review process? According to an advisor to the Cree, “Québec is anxious to seek consensus before a recommendation goes to the deputy minister, not least because there are instructions to avoid court cases”. The problem arises more often at the Evaluating Committee stage, where discussions on whether a project is subject to impact assessment or not. This has rarely happened in mining, despite the uncertainty surrounding the categorization of exploration activities (email correspondence). Cree members in the committee make recommendations after reviewing the EIA. The challenge has been that it is only covering hydro electric projects, on forestry, mainly the roads, the mining is slowly on its way. The way information is channelled to the community level is through the CRA officer. On the community level, a CRA officer is appointed in the community who works with the local environment officer, provides information on what happens at the review committee. The CRA then reports back to the committee on the feedback received at the community level. However the Review committee still has to come to the community for consultation and the tallymen. Once an EIA is finalised by a company the regulation stipulates that in 45 days, a company must present the project and the conclusions of the environmental impact study at a public hearing. After a presentation has been made in the community, the public and residents have 30 days to comment on the Environmental Impact Study (Strateco, 2009).

According to the Cree member of CTA, The integration of traditional knowledge is crucial and is a way the Cree want to participate as they have the knowledge about the land, the sensitive areas and habitats, which must be protected. All the Crees interviewed emphasised the importance of impact assessments. On the other hand findings show that there are scepticisms on the approach of conducting impact assessments studies, and about the implementation and monitoring of environmental issues. This has especially been the case in Ouje-Bougoumou whose people seem to have less trust in the studies and results that come out of assessment reports. The implementation of the EIA is lacking once it is approved and there is a need for better monitoring. According to Cree official there is a plan for setting up sub committees to improve the communication on the community level, where information on the company and the environmental monitoring will be provided. Cree leader: “When EIA is done there is limited contribution for tallymen. The focus is more on showing interest areas but more participation and stronger standards are needed. Right now there are only government standards...Tallymen should be involved and there should be a more hands on approach to EIA process, the more the tallyman is involved the better he would know and understand what issues are covered and can do the monitoring. But often they don’t know what is covered”.

Social impact assessment was also discussed during interviews, and many found that social issues were not properly addressed. In case of Troilus mine, the author observed that the report was limited to general socio economic data on communities. In other words there was no proper social impact assessment done. A GCC official also agreed that social issues may have been put on the side, and the consequences can be seen in the communities (see section 6.5.2 on social impacts). A Cree social worker in Mistissini has not seen studies on social impact assessment but added that she would like to see such studies done as it will be beneficial for the Cree people.

Participation in new corporate Aboriginal agreements and the role of Grand Council of the Crees (GCC) in negotiations

As mentioned earlier, a number of companies are now approaching Cree communities to negotiate new agreements that are called impact benefit agreements. This is mainly due to the experience of
Troilus project, which has paved a way for a new business approach. During the negotiations of Troilus agreement the GCC was less involved perhaps due to the fact that Troilus was a marginal project operating under geological constraints. However with new projects in the region such as Goldcorp in Wemindji, GCC and Wemindji Band Council have come together now to negotiate a collaboration contract with Goldcorp. The GCC took the lessons learned from Troilus and is now working on a larger contract, which covers employment, environment, training and profit sharing. The negotiating team constitutes of a community representative, GCC, legal advisor, tallymen and financial advisor. With the shortage of labour in Québec, GCC agreed it will provide the company with Cree labour, education and training in return for profit sharing: this is a way to obtain support and consent from GCC. Furthermore as stated by the former human resource advisor at Troilus: “Crees are nomads: they like movement which is a great asset for companies”. There is also a plan to set up joint committee for employment and environmental issues.

**Resources needed for the Cree for negotiation of agreements**

For the Cree to be able to negotiate efficiently, certain resources are needed such as, information from the company about the mine feasibility and outcomes. According to the Cree official, the GCC brings in different specialist, such as a financial analyst who will make an economic analysis on the feasibility of the mine, once they know what they are dealing with, the GCC knows what to ask for. The Cree leader: “While negotiating, we prepare the community to get in… we have always had to wait for funding from government but now it has changed we have the resources”. In the case of Troilus project, the Cree workers were mostly holding semi skilled positions, however in the next agreement the GCC is also negotiating for opportunities to get to the management level. The way the GCC sees its role in negotiating the agreement: “We set the tone, and show the way but it s then up to the people to get in”. Comments were made about the risk or the tendency of benefit agreements to focus more on the project life span and not what happens after that. The issue of sustainability of the agreements was also questioned. According to the Chief in Ouje-Bougoumou, “IBAs should not only look at the project span. There is a need to create a fund, and the earnings received from the agreement should be used to develop community based project to ensure there is continuity of employment of people.” For the next agreement investment in sustainable livelihoods for local communities has been considered by GCC in terms of economic diversification.

Cree leader and negotiator:
“One of the objective coming out of the next agreement is to establish a fund for diversifying the economy that comes from resource development. In the past years we have been struggling to get our rights and basic necessity such as housing. In terms of the money coming from the development and how to allocate that for sustainable living, we’re not there yet but there is a need to develop a plan. The population growth in the territory is 3% three times higher than in Québec and it is going to be difficult to sustain those lives. Most likely 20 percent will have jobs, 30 percent will still hunt, and the rest will have to get out of their communities to look for jobs.”

The involvement of GCC in the negotiation of future agreements has been criticised on the local level. Having GCC involved is seen as politicising the negotiation process. In the case of Goldcorp project which is much larger than Troilus, the negotiation process is very long and heavy. The GCC was also criticised for its top down approach and for interfering with local issues in addition to its heavy reliance on non Cree consultants and advisors (See section on consultants). A Neeposh family member stated: “It is also important that companies deal with us on the local level. We are not always happy with our politicians. They make decisions on top and then we are not able to follow. There has to be a bottom up approach, build the capacity on the local level, like business, there should be business development on the local level and between..."
communities. It should not start at the regional level. If we want to self sufficient we need to set the economic base at the grassroots level and then walk our way up to the regional level. If we want to be self governed, self determined we need to be self sufficient, create venture ie clothing, food, services, all this comes from outside. We are on our way to become a self government, and it’s a process but we’re hopefully getting there”.

6.4 Impacts of mine development and implications of the Troilus Agreement on the Cree Nation

This section gathers the findings of mine development impacts from both Ouje-Bougoumou and Mistissini, and the implications of Troilus agreement on the Cree.

6.4.1 Economic

- Increase in income.
- Difficulty managing finances: there is an inclination for spending money quite fast i.e. buying cars, boats etc.
- Approximately three million dollars came in to the community through the Troilus Agreement, shifting away from the reliance on government funds.
- Employment, entrepreneurial opportunities and training.
- Some of the former Cree workers at Troilus are now moving to other Cree communities to train future Cree workers in mining.
- Local business is not big enough to supply the mine; more support is needed from company to share their expertise.
- The community has to learn to manage the money. There has been too much reliance on welfare. The band council used to give guarantees for businesses such as grants and loans. Since guarantees have been removed, there is less business, but those that stay, thrive.

6.4.2 Social and cultural

- Family breakdown, neglect of family and children.
- Family and violence against women.
- Health issues, such as sexually transmitted diseases, increase in use of substances and drugs.
- Jealousy and lack of trust between couples and sometimes in the community.
- There is a problem with marginalisation, and not much social activities and integration.

<table>
<thead>
<tr>
<th></th>
<th>Number of workers</th>
<th>Share of answers (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Positive impact</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>6</td>
<td>15</td>
</tr>
<tr>
<td>Family is used to it</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>Good and bad</td>
<td>1</td>
<td>2.5</td>
</tr>
<tr>
<td><strong>Negative impact</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>20</td>
<td>50</td>
</tr>
<tr>
<td><strong>No impact</strong></td>
<td>10</td>
<td>25</td>
</tr>
<tr>
<td><strong>No answer</strong></td>
<td>1</td>
<td>2.5</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>40</td>
<td>100</td>
</tr>
</tbody>
</table>

Source: Cree Nation of Mistissini et al, 2008 :59

- Fifteen percent of the Cree interviewed for the Troilus agreement case study report considered that Troilus had positive impacts on their family life as it provided them...
Laila El Krekshi

money to support their family and that by working at the mine gave a good example for their children.

- Lack of support from Troilus when they had personal and family problems. Health and social services in the community were also criticized for lack of support.
- The challenge of catching up. The pressure is high as it is happening very fast.
- A lot of people in Ouje-Bougoumou would prefer to stay in the community trying to look at the people to work during the day and go home at night.

Cree worker: “it is incredible how much being away from their family crushes Cree workers! Working far away is rough, especially for the ones staying at home. “Sometimes I would hear my wife cry on the phone because she was tired.” the first year he worked at Troilus he would do many hours. Once he did many hours in a week. “I came back burnt out and I was blamed for it”. He had two children when he was working at Troilus and he missed all their first steps (…). At Eastmain 1 or at Troilus, “some workers feel free, as if they have no obligation”. He considers that employment in the mining industry demands a lot of commitments from the worker and that if people are not up to it they should not go there. (Cree Nation of Mistissini et al, 2008: 59)

When it comes to impacts many people tend to find someone to blame and this time it is Troilus. People say alcohol, drugs it’s all because of Troilus. But we have seen these problems since we are kids and at that time there was no Troilus... it is easy to blame it on someone else. It is important to understand the community has changed, not Troilus. Previous Cree employment coordinator

- Housing a big issue. Overcrowding of houses can increase social problems.
- Emotional losses.
- A number of Cree mine workers that were at Troilus lost the family bond. This has led to emotional losses and other consequences.

There is also a less transparent loss that companies and governments don’t look at, and that it the emotional loss of tallymen. It is not understood, the loss of land is so intimate. Tallymen have the land close to their heart, when they see it being destroyed it hurts them too. It hurts them when the fish and food they bring out of the land are polluted from the mines and that they will feed them to their children. The land is the only thing they can leave for their children. Chief of Ouje-Bougoumou

6.4.3 Environmental

- Loss of resources.
- Noise pollution.
- Cyanide spill from Troilus mine (the spill has been cleaned up).
- Land, water and animals are being destroyed.
- Deformed fish were found in Ouje-Bougoumou.
- Destruction of their livelihoods.
- Contamination of the land such as the case in Ouje-Bougoumou.
- In the past, people in Ouje-Bougoumou witnessed dumping, in many cases they found in their traditional fishing nets, food clothing, dynamites.

Land use and infrastructure

- Impacts of road access on the camp and trapper’s family, as access road brings in new people, who will build summer house, or fish and hunt.
Illegal mining towns like Chibougamou and chapais, for mining development and forestry. Private ownership programs have been set up in both communities. This has helped take people out of the reliance on the government funding and to gain ownership of their houses. In Mistissini, 25% in private housing was reached. Now Troilus employees are able to build their houses and provide for their families. People are slowly feeling the sense of ownership.

The consequences of the development of housing and the growing population in Mistissini, there is a need to plan for a sustainable approach to planning in the community. Landscape planning is needed in the community; there are no trees and construction company removes everything to build houses. The community development is currently working on a management plan.

Figure 17: New Housing Development in Mistissini

Figure 18: Consequences of Housing Development

6.5 The way forward from the Cree Perspective:

A number of Crees interviewed pointed out that Cree society is currently going through a learning process.

In the future it is important to give ownership of the agreement to the people. The Cree need to question themselves not what do you want? But where do you want to be? With the growing population at an exponential pace the land cannot sustain all the people, there is a need to think about a more long term strategy.

Econom diversification: at the moment mining is a good opportunity but there is a need to look further than that.

The CRA does not have a link or a key person to speak to mining companies. A point of contact or resource persons are needed to support, inform and explain the procedure for doing business on their lands. The challenge of understanding the process is especially unclear for international companies coming to operate in James Bay. Furthermore provide information of different businesses in the region that could help develop partnerships.

Sustainable development is coming into play.

Special mechanisms must be set up to reach and attract the youth. Nowadays young people are users of computers and internet, and the best way to reach them is to set up websites where they can voice in their concerns and to go speak to them in schools through public
Laila El Krekshi

• The Band Council should leave a space for one or two young people who could represent the youth and bring their issues in.

• Companies need to talk to youth council as well, create a venture with them, and set aside a privilege for training and employment.

• The role of Cree Mineral Board is considered important especially for improving the process of consent. It recently reported 300 companies operating on the Cree territory. The task is to find a way to register before going in and to create a database.

• What kinds of changes are needed for a better process?
  • One must agree on methodology
  • Need to listen
  • Split sampling process in order to build trust.
  • Monitoring should be done jointly and more often to ensure compliance
  • Tallymen can get involved in the planning of the mine.
  • Co-management.

• The Cree mining policy: at the regional level, GCC is currently working on the mining policy but it is unclear whether it may be able to enforce it. A Cree interviewed believes that the policy should be jointly developed with Québec to be more enforceable, and since there is a nation to nation agreement, GCC should not exclude itself. The mining policy is planned include the following:
  • Message sent to the government and the companies: what the expectations are from the Cree and to explain the process. For instance, when there is a claim, the project will be subject to an environmental review. While being reviewed a comprehensive agreement will be looked at.
  • The process in doing business. Clarify who the company negotiates with (tallymen, the band council, or GCC?).
  • Maximise opportunities and contracts for business.
  • Internal agreements to clarify how the Cree will work together.

Additional observations about the context for setting up a Cree mining policy

There is a need to have a closer look at the number of corporate codes of practice and CSR initiatives that are on the corporate and national levels, and how they relate to the regulatory environment in which mines operate. Examples given by the advisor to the Cree but not limited to: International council on Metals and Mining (ICMM), the Whitehorse Initiative, the recent policy produced by the Prospectors and Developers of Canada (PDAC), the cyanide code (Penn, 2009).

Towards Sustainable Mining (TSM)

The Mining Association of Canada (MAC) which includes Canada’s major mining companies, has shown interest in corporate social responsibility and been working on developing such policy for the Canadian mining industry. An important program in this respect is “towards sustainable mining” which Inmet Corporation is a member. The program has a set of indicator that covers a number of relevant issues to mining such as biodiversity conservation and tailings management etc. Recently there were discussion on including an indicator for community relations. Members of such initiatives are required to report on their achievements. As a result, it will be relevant for the Cree to familiarise with such initiatives and follow them up (Penn, 2009).
Gender

The gender implications of the mine and the integration of women in the workforce and in creating their own businesses were not properly considered in the Troilus mine. According to an advisor to the Cree gender equity requires a closer consideration in developing a strategy for future involvement of the Cree in the mine industry.

Mine close out

Clear objectives need to be set and how to reach them for mine close out. There is acknowledgment of the importance of including close out in the development of a Cree mining policy, but there has been limited practical experience so far in this area. The advisor believes that the Cree involvement in mine closure is seen as an important issue at a political level, but no concrete action has been taken.

Environmental policy for mining

Environmental policy for mining is needed, as EIA procedures are not always clear for mining. The meaning of monitoring and purposes also must be clarified (Penn, 2009). Identifying clear environmental objectives for mining will require the building of capacity to meet those objectives.
Discussion

The discussion is based on the analysis of the findings from the fieldwork and the theoretical framework. The following represents the benchmarks for evaluating the achievements that have been made at the project and community level and whether they are in accordance with the principles of participation and FPIC under the UN Declaration of Indigenous Peoples rights. Reference is also made to the table found in the Appendix on Characteristics of Strong and Weak Consultation Processes in Mining by Whiteman et al (2002). The framework of benchmarks extracted from the latter is divided as follows: FPIC, involvement and active participation of the local community, procedures for conflict management, corporate Aboriginal agreement, capacity building and mechanisms.

The Cree First Nation has benefited from a strong leadership that pushed for the protection of their rights at the international and national levels. Despite internal disagreements and conflicts on the process and outcomes of agreements such as JBNQA and Paix des Braves, the Cree have been able to stand together as a Nation in front of external threats. With the compensation received from these agreements, the Cree leaders are working hard to set up their own institutions and manage their own issues such as health, education, housing and to be involved in every stage of development project planning. Ever since the first battle against the hydro project in the seventies, the Cree leaders have created a political force that governments and companies cannot easily ignore. As Ali points out in OFairchealleigh et al 2008, conflicts and fractures have formed within the indigenous movement as they attempt to harness this force and define an agenda that represents the diversity of peoples it includes. The Cree use different channels and are active on national and international levels to ensure that their rights are respected. They have a permanent seat at the UNPFII, and nowadays have the resources and the capacity to represent themselves with lawyers and consultants who have a strong corporate memory at the GCC, and with the Cree leaders and negotiators. The Cree First Nation has been in a constant battle as a response to loss of land and natural resources, forced relocation, environmental impact, lack of respect for human rights and violation of community participation. Despite the commitment of companies to adhere to CSR standards, they are often ignored or applied on a case by case basis. The job opportunities that mining may offer to the Cree communities may violate other rights, such as the right to a clean environment and the right to participation could explain the resistance of communities to allow extractive industries on their lands, and explain the lack of trust and the disappointment in the dialogue process.
<table>
<thead>
<tr>
<th>Principles</th>
<th>Criteria</th>
<th>Mistissini and Troilus project</th>
<th>Troilus Agreement</th>
<th>Ouje-Bougoumou and other mining projects</th>
<th>Mistissini and other projects</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>FPIC</td>
<td>Free of coercion, intimidation or manipulation</td>
<td>According to findings there was no intimidation or manipulation</td>
<td>According to findings there was no intimidation or manipulation</td>
<td>The community has experienced forced relocation in the past. However the situation is changing</td>
<td>There is pressure on the community to go through EIA reports since it is only 30 days</td>
<td>Not enough time is given for consultation</td>
</tr>
<tr>
<td></td>
<td>Prior consent sought sufficiently in advance of any authorization or commencement of activities</td>
<td>The first contact with the Cree was when the Cree families found mining workers on their traplines</td>
<td>Negotiation was ongoing with the Cree representatives and the impacted families but not with the community</td>
<td>Consent is often not sought</td>
<td>Consent is often not sought</td>
<td>Consent is sought through the Section 22 process, but whether there is real consent from the community is questionable</td>
</tr>
<tr>
<td></td>
<td>Full disclosure of the intent and scope of the activity</td>
<td>The community did not have full information on the activities but the impacted families did to a certain extent.</td>
<td>The agreement was kept confidential</td>
<td>Public meetings are held in relation to EIA but in general, obtaining information is a challenge</td>
<td>Public meetings are held in relation to EIA but in general obtaining information is a challenge</td>
<td>Environmental information limited and not properly communicated</td>
</tr>
<tr>
<td></td>
<td>Decision is made in language and process understandable to</td>
<td>The negotiation was understood</td>
<td>The content and implication of the</td>
<td>People do not always understand the implications of mining</td>
<td>People do not always understand the implications of mining</td>
<td>Language is considered to be an issue and the decision process is not always clear</td>
</tr>
<tr>
<td>Involvement and participation of local community</td>
<td>Establish local organization</td>
<td>A number of Cree organisations are involved in mining such as band councils, CRA</td>
<td>A number of Cree organisations are involved in mining such as band councils, CRA</td>
<td>Official organisations are involved in mining</td>
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<tr>
<td>Active participation of community members</td>
<td>Participation in employment but not in decision making</td>
<td>Only impacted families were involved</td>
<td>Employment public hearings are held</td>
<td>Employment public hearings are held</td>
<td>In the case of Troilus, only impacted families were involved. Public hearings are organized in communities but they are not considered active participation</td>
<td></td>
</tr>
<tr>
<td>Representation of target groups</td>
<td>Special groups such as women and youth are not represented</td>
<td>Special groups such as women and youth are not represented</td>
<td>General representation</td>
<td>General representation</td>
<td>The Band Council represents the community in general but no special representation of target groups such as women</td>
<td></td>
</tr>
<tr>
<td><strong>Particular attention to ensuring effective participation of youth, women</strong></td>
<td>No special mechanisms for women and youth</td>
<td>No special mechanisms for women and youth</td>
<td>No special mechanisms for women and youth, but there is awareness about the issue and initiatives have been taken by the CRA officer</td>
<td>No special mechanisms for women and youth</td>
<td>Women are actively present in public hearings but there is not much information on how their concerns are integrated in decisions. Special mechanisms for youth and women would be beneficial to set up</td>
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<tr>
<td><strong>Decision making is made by consensus</strong></td>
<td>Decisions are often made by consensus</td>
<td>Decisions are often made by consensus</td>
<td>Decisions are often made by consensus</td>
<td>Decisions are often made by consensus</td>
<td>Decisions are often made by consensus</td>
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<tr>
<td><strong>Establish a productive dialogue between main actors</strong></td>
<td>Efforts were made to have a productive dialogue between Inmet and the representatives of Mistissini but at times that fell short</td>
<td>Efforts were made to have a productive dialogue between Inmet and the representatives of Mistissini but at times that fell short</td>
<td>There is increasing awareness by companies on the need to establish dialogue with Cree authorities</td>
<td>There is increasing awareness by companies on the need to establish dialogue with Cree authorities</td>
<td>Company – Cree representative dialogue is improving in certain cases however the Cree actors need to improve their communication in the community</td>
<td></td>
</tr>
<tr>
<td><strong>Procedures for conflict management within communities</strong></td>
<td>Decisions were reached by all parties through negotiation</td>
<td>Decisions were reached by all parties through negotiation</td>
<td>Companies are approaching the Cree Band Council for negotiation of IBA</td>
<td>Companies are approaching the Cree Band Council for negotiation of IBA</td>
<td>Parties are the company and the representatives</td>
<td></td>
</tr>
<tr>
<td><strong>Differences and conflicts within communities recognized</strong></td>
<td>No – there is sensitivity with the issue of conflict management</td>
<td>No - there is sensitivity with the issue</td>
<td>Ouje-Bougoumou has been more open about its internal issues to a certain extent</td>
<td>There is an increase in criticism on the internal challenges by the community</td>
<td>In Mistissini, internal conflicts were more sensitive, whereas in Ouje-Bougoumou issues were spoken about more openly</td>
<td></td>
</tr>
<tr>
<td>Corporate Aboriginal agreement</td>
<td>The process should not cause or exacerbate conflicts within communities</td>
<td>The process caused conflict between families and the community</td>
<td>The process caused conflict between families and the community</td>
<td>The conflict caused a divide within the nation and lack of trust</td>
<td>Disagreements within the community are frequent</td>
<td>Communication need to be improved in the communities. Companies should be careful about the impact of their engagement approaches on the Cree.</td>
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</tr>
<tr>
<td>Share of economic benefits from the project with Aboriginal community</td>
<td>No but an economic fund was established instead</td>
<td>No but an economic fund was established instead</td>
<td>No but an economic fund was established instead</td>
<td>No but an economic fund was established instead</td>
<td>No but an economic fund was established instead</td>
<td>Future agreements are being negotiated that will include profit sharing</td>
</tr>
<tr>
<td>Short term support for urgent needs of the community</td>
<td>Employment opportunities for impacted families and communities</td>
<td>Employment opportunities for impacted families and communities</td>
<td>Employment opportunities for the community</td>
<td>Employment opportunities for the community</td>
<td>Employment opportunities for the community</td>
<td>Social issues are not well integrated. Employment opportunities and contracting are provided which helps with the high unemployment rates</td>
</tr>
<tr>
<td>Autonomous and less dependent on state</td>
<td>The Cree First Nation is less dependent on the state than before.</td>
<td>The Cree First Nation is less dependent on the state than before.</td>
<td>The Cree First Nation is less dependent on the state than before.</td>
<td>The Cree First Nation is less dependent on the state than before.</td>
<td>The Cree First Nation is less dependent on the state than before.</td>
<td>Less dependent is also in relation to JBNQA and on the way to self government</td>
</tr>
<tr>
<td>Preferential access to training, employment, business</td>
<td>Preferential access to training, employment, and training is provided</td>
<td>Preferential access to training, employment, and training is provided</td>
<td>Preferential access to employment and training is provided</td>
<td>Preferential access to employment and training is provided</td>
<td>Preferential access to employment and training is provided</td>
<td>In the two last sections the preferential access to training and employment will be included in future agreements</td>
</tr>
<tr>
<td>Community’s proactive involvement on an ongoing basis in managing cultural, social and</td>
<td>The community is not involved on an ongoing basis</td>
<td>The community is not involved on an ongoing basis</td>
<td>The community is not involved on an ongoing basis</td>
<td>The community is not involved on an ongoing basis</td>
<td>The community is not involved on an ongoing basis</td>
<td>The community is not involved in monitoring of impacts. Although to a certain extent the impacted families were following changes on the land</td>
</tr>
<tr>
<td>Capacity building</td>
<td>Provision of adequate resources for effective participation</td>
<td>Mechanisms</td>
<td></td>
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</tr>
<tr>
<td>Time allowed for capacity building</td>
<td>Resources were present for the implementation committee but not for the community</td>
<td><strong>Strong stakeholder identification</strong> Stakeholders were not properly identified</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Not enough time was allowed for capacity building. Partially due to the marginal project</td>
<td>Resources were present for the implementation committee but not for the community</td>
<td>Stakeholders are not properly identified</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Not enough time was allowed for capacity building. Partially due to the marginal project</td>
<td>There are no resources provided for effective participation of the community</td>
<td>Stakeholder not fully represented at discussion forums. Biased selection</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Capacity building is a challenge but has not been addressed yet</td>
<td>There are no resources provided for effective participation of the community</td>
<td></td>
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<tr>
<td>Capacity building is a challenge but has not been addressed yet</td>
<td>Time and adequate resources are needed for effective participation and capacity building</td>
<td></td>
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<tr>
<td>The resources are there but not properly allocated to empower the community</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Provision of adequate resources for effective participation</th>
<th>Mechanisms</th>
<th>Senior board commitment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resources were present for the implementation committee but not for the community</td>
<td><strong>Strong stakeholder identification</strong> Stakeholders were not properly identified</td>
<td>Senior management was involved in negotiation</td>
</tr>
<tr>
<td>Resources were present for the implementation committee but not for the community</td>
<td>Stakeholders are not properly identified</td>
<td>Senior management was involved in negotiation</td>
</tr>
<tr>
<td>There are no resources provided for effective participation of the community</td>
<td>Stakeholder not fully represented at discussion forums. Biased selection</td>
<td>Senior management may be involved at initial stages</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Senior management may be involved at initial stages</td>
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<td>Senior management is often involved especially for negotiating contracts</td>
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<table>
<thead>
<tr>
<th>Mechanisms</th>
<th>Senior board commitment</th>
<th>Use of a variety of participation mechanisms</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Strong stakeholder identification</strong> Stakeholders were not properly identified</td>
<td><strong>Use of a variety of participation mechanisms</strong> Only public hearings and meetings with IC and at times with the impacted families</td>
<td>Senior management was involved in negotiation</td>
</tr>
<tr>
<td>Stakeholders are not properly identified</td>
<td>Only public hearings and meetings with IC and at times with the impacted families</td>
<td>Senior management may be involved at initial stages</td>
</tr>
<tr>
<td>Stakeholder not fully represented at discussion forums. Biased selection</td>
<td>Only public hearings</td>
<td>Senior management is often involved especially for negotiating contracts</td>
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- Time and adequate resources are needed for effective participation and capacity building.
- Stakeholder not fully represented at discussion forums. Biased selection.
- Public hearings are the only approach.
- Senior management is often involved especially for negotiating contracts.

- Strong stakeholder identification.
- Use of a variety of participation mechanisms.
- Senior board commitment.
Active local Participation

In the case of the Troilus mine, it can be noted that what made the project successful in terms of “community relations” is the signing of the agreement with the Cree community of Mistissini and the main outcomes of the agreement which provided economic opportunities, such as preferential access to employment to the Cree and business contracts to the impacted families and other Cree communities. Nevertheless, the participation of the Cree community of Mistissini was initially not clear as the question during the fieldwork was what was meant by “community” and as what Cooke et al (2001) argue on the question of who exactly is empowered or involved when speaking about community participation? The women, the leaders, the youth? The community in this case was referred to as the representatives of the Mistissini and the directly impacted families. The initial stages of the project showed that there were intense discussions and negotiations to reach an agreement. The project established a productive dialogue between the company, the local band and the impacted families but not much with the local community. However, the company did not set up a community engagement plan throughout the years of its operation and did not involve the community as a whole. Therefore, what can be called a meaningful participation did not occur throughout the project cycle with the community. There has also been a tendency to look at a Cree community as a homogenous group and that dealing with representatives and impacted families was enough to consider the process to be participatory and consultative. Furthermore, not enough time is allocated to understanding the concerns of the people in the community, nor how mining activities could have impacted the community from a social and cultural point of view.

In the context of the Cree Mistissini and Ouje-Bougoumou, a community can be referred to as the official boundary of a place, however, it was observed that a number of Crees still live nomadic lifestyles and are often on their hunting territories which are located in remote regions. Considering a project to be successful, partially due to the participation of the community, can be misleading especially when there is little information on the quality of performance and who exactly the involved stakeholders are. Nevertheless, it is important to also point out that the experience with Troilus is also a positive step forward, considering that in the past no company would approach the Cree community or negotiate an agreement from which the Crees could benefit. For the Cree it was another step forward to move away from government funding and the public sector and to provide employment for the exponentially growing population with a high unemployment rate. A positive outcome and experience is the partnership and mutual respect that were built between the Inmet Corporation and the Cree representatives and that could be considered a start, even if it did not include the community. The fact that the company ignored the opposition of the Québec provincial government, at the time of negotiation, shows that companies do have the power and the possibility to engage with First Nations despite the government opposition. The Troilus experience has also helped the government to change its position on that matter and is itself promoting the experience and encouraging other companies in the region to follow Inmet Corporation’s example.

The motivations behind the negotiation agreement show, as was highlighted by Ali in O’Faircheallaigh et al, 2008, that there are two factors present that make companies more responsive. Firstly, it is in the company’s own interest to be responsive even if the interest is long term, and secondly, individuals within the company need to build a business case to push for a change in corporate community engagement strategies. Furthermore, the four main foundations of CSR in the extractive sector by Anguelovski (2008) support the discussion on the motivation of Inmet to enter into agreement with the Cree. Findings show that it was in their interest to engage with the Cree and it was also linked to their previous experiences in other countries, such as in Turkey and the Ok Tedi...
mine in Papua New Guinea. The issues faced by the company in those regions may have raised their awareness of the importance to obtain social licence to operate and to avoid opposition. In this case, the social licence to operate was obtained from the leaders and the directly impacted families.

The interpersonal domain and personal relations are also believed to have played a role in initiating discussions and negotiations. The role of late Sam Awashish was crucial in relations between the Cree and Inmet and that was highlighted a number of times. The commitment of the company’s senior managers to make this work, was also important especially at the initial stages. But, the priority of the implementation of the agreement changed at some point with the change of the management team. The role of the personal domain may have provided a basis for engagement and space to improve the continued building of intercultural relations.

The Human Rights Impacts Assessment and the sustainability of the agreement were not properly addressed in this context, despite the fact that Inmet Corporation is a member of the UN Global Compact and the Global Reporting Initiative which both require a human rights component in a mining project assessment. The agreement and partnership built between Inmet and the Cree representatives did provide a basis for success of the project from the “community relations” point of view, or, what in Canada has been promoted as Aboriginal participation. The fact that there has been participation in a project can be recognized as being successful and as following good practices but that claimed success did not depend upon verification on the ground level until recently, when the case study report came out. However, a continuous reporting of the implementation of the agreement should have been done throughout the project.

**Corporate Aboriginal agreement: The Troilus Agreement**

The issue of whether the agreement is an IBA is questionable from a theoretical point of view. Apart from the fact that it was confidential, it does not fall under the criteria of IBA. The agreement has no provisions restricting the Cree’s access to judicial and regulatory systems. The participation of the Cree was limited to economic opportunities in employment and business opportunities. However, economic spin offs were not generated in Mistissini in the long run. The Cree community in Mistissini was not proactively involved in environmental and social monitoring on an ongoing basis, it was mainly consulted in public hearings in relation to the EIA. The impacted families on the traplines affected by the mine, would monitor their changes on their land, as part of the responsibility of tallymen to manage their hunting territories, however, there was no mechanism set up to integrate them into the decision making. This is unlike the example given on the Cape York agreement in Australia where traditional, Aboriginal owners are funded to operate a cultural heritage protection system.

For future agreements, findings showed signs of moving towards a higher level of participation which, based on the Arnstein level of participation, would be citizen empowerment. The future agreements will include benefits sharing, partnership and co-management with the Cree in mining projects. The question remains as to whether in practice, the participation will stay at the representative level (GCC, CRA and Band Council) and the tallymen or whether the community will be more proactive in those issues affecting them. The representatives for the signing of the agreement were not selected by the community as it made more sense to include the Band Council as the legal entity for the signing of the agreement, through the official channels. The gender dimension and the involvement of the youth were not included during the negotiation, nor during the role of the implementation committee.
Participation of the Cree in the workforce and sustainability of the agreement

Cree First Nations are strongly attached to their Cree identity and culture and consider hunting, fishing and trapping crucial values of their society. On the other hand, there are people in the community who want to be part of development that is happening on their territory despite the implications that it may have on their traditional way of living. The Cree population is growing at a fast pace and unemployment rates are quite high. Mining projects and other development in the territory offer job opportunities, bringing hope to community members who view these projects as a possibility and a solution to the high unemployment rates among young Cree. As stated by Barker (2008), the quality of the employment, including the suitability and work conditions, training and development opportunities, are to be considered, but it has also been shown that the focus of employment in mining is on entry level and semi-skilled jobs. Furthermore, from a cultural point of view, it may be difficult to reconcile employment in mining camps with a traditional lifestyle that maintains the sharing of responsibilities at family homes. Additionally, a growing concern is what will happen to employment opportunities after the closure of a mine. The measures taken by Inmet Corporation to hire a Cree labor force have helped in recruiting Cree people and integrating them into a private sector workforce. However, it can be noted that the workforce has mainly consisted of semi-skilled workers. Although training was given to Cree employees it was mainly focused on short-term development and not many of the Cree moved their way up in the company. One of the positive initiatives that Inmet implemented to better integrate the Cree workforce, has been the hiring of a Cree employment coordinator. Integration of cultural practices was also encouraged, such as the possibility for the Cree employee to go hunting during free time, and allowing breaks during hunting seasons; activities which are important to Cree culture. Nevertheless, the integration of the Cree workforce has been challenging.

Despite the requirement made by the Cree about preferential access to employment in mining companies, it is interesting to observe that the Cree businesses do not follow that requirement and hire non-Cree workers due to once again the lack of skilled Cree labourers. Cree businesses are going through a learning process gaining the experience and the capacity to compete with other companies for contracts, however, Cree empowerment must come from its own people and it is also part of the responsibility of Cree businesses to provide jobs and training to their fellow Crees.

In the Troilus Agreement there was no plan to ensure the continuity of the outcomes of the agreement and the distribution of the benefits generated from the project after the mine closure. The economic fund that received annual funding from Inmet Corporation will stop when the mine closes and there is no plan as to what will happen afterwards. Furthermore, the Cree employees are being reduced for the closure phase and no measures were set up to support the unemployed Cree. The sustainability could have been reached by enhancing the stakeholders’, such as the Cree community, and the managers sense of ownership by making information available and building local capacities. It has been noted that some of the tools for enhancing public participation have not been introduced to achieve sustainability. The aim of participation should not be limited to job opportunities at the project, but to enhance the community profile, to improve the local skills and capacity and to establish organization for a take over of responsibility and to sustain the development that was brought by the project.
Participation and representation

Indigenous Peoples consider that it is essential for them to participate in decisions related to mining development. As stated by Weitzner (2002), the consultation does not reflect the customary laws or terms used in their own languages, and the term implies a power imbalance. In the Cree culture, sharing, and respect are important values. These are the values they seek in the processes, where there is a possibility to work together as partners, to respect each other and to reach a shared level of participation. However, findings show that the Cree were forced to change their traditional structure to set up Band Councils based on the Indian Act which changed the traditional governance structure of their nation. In both Ouje-Bougoumou and Mistissini, there are challenges related to the broad community engagement in the dialogue processes. There is a clear dissatisfaction of the way that Cree leaders on the local and regional levels are dealing with certain issues and the extent to which they involve their own people in the decision making processes. There is discontent of previous agreements such as Paix des Braves, and the way the leaders have dealt with the contamination case in Ouje-Bougoumou. The frustration has also been towards the government who tends to not respect the commitments made in the JBNQA, and Paix des Braves. Cooke et al (2001) and Hickey et al (2004) agree and argue that participation should be a political process, but in the case of the Cree, the politicisation of the process by the involvement of the GCC in negotiation of corporate Aboriginal agreements has turned the process into becoming heavy and bureaucratic which companies and local Cree authorities and certain community members did not appreciate. The latter see themselves being by-passed by their own leaders by taking the issues and opportunities up to the regional level instead of building the process from the grass-root level.

The absence of a meaningful consultation cannot be put only under a company’s responsibility; it is also the responsibility of the Cree leaders and other organizations active in the region such as the Cree Women’s Association and JBACE, the Committees under section 22 to create that space for women, youth, elders, tallymen and men to be involved in all stages of mining. Findings show that a social Cree elite class has emerged who tend to benefit from the development projects and seem to be involved in decision making that may not necessarily reflect the concerns of the community as a whole. The current understanding of participation often results in Indigenous communities being forced to respond to a process that has already been set in motion, instead of playing the role in the construction of overall development planning.

Best practices and CSR initiatives such as the Whitehorse initiative and TSM and legal agreements, give legitimacy to the demands of the indigenous communities who want to make sure that resource extraction will be done after their input and consent. Monitoring mechanisms need to be put in place in order to ensure that these practices are actually being followed where companies claim to be committed or being implemented. For example, Inmet Corporation is a member of the Global Reporting Rnitiative and TSM. The government of Canada also has a duty to consult and encourage companies to consult with the Aboriginalcommunities. In addition, there is a legislation and agreement between Canada, Québec and the Cree to involve the Cree First Nations in all decisions that may affect them and their lands. However, it can be seen that the parties don’t always work in the best interest of the local communities.
Table 9: Stakeholders in Mistissini and Ouje-Bougoumou

<table>
<thead>
<tr>
<th>Stakeholder Organisation or Individual</th>
<th>Stakeholder Type</th>
<th>Motivation (Issues of Concern or Interest Related to the project)</th>
<th>Function &amp; Interests of the Individual or Group</th>
<th>Involvement in Mining</th>
<th>Importanc e of Stakeholder to the Project (High, Medium, Low)</th>
<th>Influence of Stakeholder (High, Medium, Low)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grand Council of the Cree</td>
<td>Political representation</td>
<td>Protection of Cree traditional way of life and Cree rights</td>
<td>Represents the Eeyou or the Cree in all matters affecting Cree status, lands, rights and society</td>
<td>Currently negotiating new corporate Aboriginal agreements in the region. Involved in developing a Cree mining policy</td>
<td></td>
<td>H</td>
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<tr>
<td>Cree Regional Authority</td>
<td>Regional authority</td>
<td>Environment, hunting, fishing and trapping protection, economic and community development</td>
<td>Administration of the Cree government. It has responsibilities with respect to Section 22, economic and community development, and the Board of Compensation</td>
<td>Involved in the environment review committee under section 22 which applies to mining projects</td>
<td></td>
<td>H</td>
</tr>
<tr>
<td>The Band Council</td>
<td>Local government</td>
<td>Protection of Cree way of life and rights. Benefits of the mine project to the Cree</td>
<td>Local authority at the community level. Administration, economic, community development, environment</td>
<td>Involved in negotiations of corporate-Aboriginal agreements. Consultations with the community and tallymen</td>
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<td>H</td>
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<tr>
<td>Cree Trappers' Association</td>
<td>Representative of hunters and trappers</td>
<td>Cree trappers and tallymen</td>
<td>Created at the time of the JBNQA. The purpose is to protect and promote the interests of the Cree hunters and trappers, and support their wildlife harvesting activities</td>
<td>Represents hunters and trappers. Proposes recommendations with respect to development projects and how they might affect the land and the trappers. Their work is relevant to the implementation of JBNQA, and Section 22</td>
<td></td>
<td>M</td>
</tr>
<tr>
<td>Organization</td>
<td>Role</td>
<td>Activities</td>
<td>Responsibilities</td>
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<tr>
<td>Cree School Board</td>
<td>Cree body</td>
<td>Provides education and training for youth and adults</td>
<td>Education department of Adult education has invested in training initiatives for development often negotiated with mine companies</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Cree Exploration Board</td>
<td>Local authority</td>
<td>Mine exploration in the region and traplines</td>
<td>To develop mineral exploration in the region and promote involvement of Cree in natural resource development and mineral exploration opportunities. Assist the Cree in accessing mineral exploration opportunities</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Québec Government</td>
<td>Government</td>
<td>Environment, natural resource management, mining development, land claims, Aboriginal participation</td>
<td>Regulatory role and member of Committees under Section 22</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Canadian government</td>
<td>Government</td>
<td>Environment, mining development, land claims, Aboriginal participation</td>
<td>Regulatory role and member of Committees under Section 23</td>
<td></td>
<td></td>
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</tr>
<tr>
<td><strong>The James Bay Advisory Committee on the Environment (JBACE)</strong></td>
<td>Advisory role</td>
<td>Enviornmental and social protection under Section 22 of JBNQA</td>
<td>Advises the government of Québec, Canada and the Cree Regional Authority and other authorities when drafting policies and regulations on environmental and social protection in the territory governed by the James Bay and Northern Québec Agreement (JBNQA). monitors the the application of Chapter 22 of the JBNQA and is responsible for the administrative support and supervision of the evaluating Committee COMEV</td>
<td>Advisor under section 22</td>
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<tr>
<td><strong>Native Women's Association</strong></td>
<td>NGO</td>
<td>Cree women's rights and well being</td>
<td>Association involved in addressing women’s issues such as violence against women and supporting women in the community. It also organizes events for women. Implementation of programs aimed at meeting the needs of indigenous women and their children. It facilitates educational programs and stimulates gender awareness and communication between women’s groups</td>
<td>No involvement in mining</td>
<td>M</td>
<td>L</td>
</tr>
<tr>
<td><strong>Cree Youth Council</strong></td>
<td>Advisory</td>
<td>Youth well-being, development and empowerment</td>
<td>Facilitates the development of the young Cree.</td>
<td>No involvement in mining</td>
<td>M</td>
<td>L</td>
</tr>
<tr>
<td><strong>Tallymen</strong></td>
<td>Individual</td>
<td>Environment, hunting territories</td>
<td>Steward of the land</td>
<td>Involved in meetings, consulted on EIA</td>
<td>H</td>
<td>M</td>
</tr>
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**Representation of the Cree community**

The findings show that there are clearly a number of important stakeholders that want their voices to be heard and want to be part of the decision making processes (see table 9 on stakeholder analysis). However, the public hearing mechanisms may not be enough for these voices to be heard. As mentioned earlier, the presence of marginalized people in a participatory space does not mean it is enough to enable such actors to properly participate. At the same time, there may be challenges to motivate people to be involved and present in meetings. Results from the field investigation show that there can be a lack of interest, or lack of awareness of the events occurring in the region. The issue of empowerment, as mentioned by Cooke et al (2001), is that it cannot be given from a powerful to a marginal person, and that having a voice or seat at a negotiation table or being in a public hearing does not mean that it is enough to properly participate. The issue of empowerment is a process that is to be built within a long-term frame. One of the challenges that Cree have experienced, is the strong role of lawyers and non-Cree consultants on decisions related to their lives. This form of involvement is what Hamdi and Goethert (1997) referred to as being part of the orthodox model where consultants plan and communities receive. According to Hamdi and Goethert (1997), for a community to have the opportunity to participate at a sharing level, experts should interact as far as possible and only support when needed. The human and institutional capacities are challenges the Cree are facing but it is preferable to start with personal development around identity confidence. Findings also show that Cree individuals tend to lack the knowledge about their rights and also lack motivation in being involved, which may also be affected by the different social issues found in Cree communities. Therefore, the exercise of good citizenship and the meaning of it for individuals may be lacking and it will be necessary to develop that consciousness and confidence and, whenever possible, via their own institutions. Citizen participation means that people participate in their social, cultural, political and economic affairs in a way that such social rights become embedded in institutions and development practices (Hickey et al, 2004).

The community has been considered as fixed homogenous and as the local site for engagement. More specifically, the impacted families on the hunting territories were looked at as the local site for action but other structures and aspects of life outside the project were not properly investigated. As was stated by Hickey et al (2004), it is important to understand that the complex livelihood interlinkages that make an impact in one area are likely to be felt in others including its consequences. Weitzner (2002) also mentions the holistic perspective of their territory, which was observed during the fieldwork. The Cree often spoke about the impacts of other projects such as hydro and forestry projects, and as a consequence, the scope of consultations needs to be changed to include the cumulative impacts of other projects on the Cree lands.

The company and the Cree leaders should consider adopting approaches towards locally, meaningful, participatory processes, developed by community members, that can facilitate participation by using local cultural practices to mediate as a link between the individual Cree institution and the mining company. The support and commitment given to participatory processes allows the appropriate channels of communication and the allocation of resources needed to promote it from the beginning. In this context, people need to be highly motivated to be part of the participatory processes but that is not always the case, such as among the youth, who feel that their voices are not heard. It will be important to mobilize those people who are hesitant to participate. Identification of the level of participation among different target groups: women, youth, elders, men, and tallymen, is necessary in order to decide on the most appropriate tools required to increase the shared level of participation. According to Hamdi and Goethert (1997), the most difficult task is not
only to initiate community participation but also to assure the continuity. The challenge is to sustain
the initiatives taken.

The visible actions that have an immediate impact on living standards are the most successful of the
project processes. It is the tangible improvements that stimulate people's enthusiasms towards long-
term goals. A tangible result, for instance, is what came out of the Troilus Agreement. The Cree who
obtained work at Troilus and took that as an opportunity to develop their skills have experienced it
as being positive and some of them managed to move forward after finishing their work at Troilus
even though the agreement itself did not ensure that continuity. In terms of community
participation, as defined in by Hamdi and Goethert (1997) and Hickey et al (2004), the company
should know the community type and understand its structure so as to determine the appropriate
level of community participation for the various stage of the project and the role of the “outsiders”.

**Participation mechanism in the community**

Public hearing is the only approach used in Cree communities for consultation. It is not the most
efficient way for participation, as it often requires a gathering of a large group of people. As a result
it becomes difficult to maintain effective interaction between the community members and the
decision makers. Focusing on smaller group discussions is more effective which, unlike the large
groups with numerous subjects to discuss, will not shift the level of participation from “sharing” to
tokenistic or to a consultative level. It is not clear how information and views of the community,
that comes out of the meeting, are integrated into the decision making process. Additionally, public
hearings with company representatives, are no more than a box to be ticked in order to obtain
approval of the project. and do not necessarily consider the schedule and availability of the
community members.

**Participation in environmental issues**

At the regional level, the Cree participate as members of the committees that are involved in the
decision making process under Section 22 of JBNQA and consultations are made with the local level
communities and tallymen are consulted. There is awareness, especially in Ouje-Bougoumou, about
the need to improve the EIA process and the participation of tallymen in the EIA and
environmental monitoring. The time given for the community is not sufficient to understand the
content of the study and the full implications of a project leave the community with a number of
questions and concerns. The process under section 22, to approve a project or not, is to be
improved in order to better channel the information to the community and to make sure that views
and concerns of the people are integrated in to the decision making process. A more tailored
participatory process needs to be developed for the Cree, in addition to the scope of the EIA and
the inclusion of a social impact assessment which tends to be put on the side. There is often no
consideration of the cumulative impacts of several projects in one area, as can be seen in the James
Bay territory where forestry, hydro and mining projects are present. Finally, the guidelines for
assessing and mitigating social and cultural impacts remain vague and ineffective.

**Gender dimension**

As mentioned in the section on community participation, until recently there has been limited
recognition of women in mining. The participation of women in the mining workforce was limited
and there were no special mechanisms for women to be involved in decision making. Despite the
active presence of women in some of the meetings, their inclusion in the negotiations does not mean that they are well understood. As the findings show, Cree women have special concerns and a special link to the land that differs from Cree men. The absence of acknowledging women as an important stakeholder can have serious impacts on women and their families, which can be observed in both communities.

**Free Prior Informed Consent (FPIC)**

Cree rights in the Section 22 of JBNQA include the right for a special status whereby they are present and involved in the environmental, impact assessment procedure and the Cree consent is needed for any changes. Some of the Cree officials at the local level question to what extent these rights are applied and also to what extent the Cree can refuse a project. The consent is approved at the regional level, and at the local level public hearings are held as a part of that process. However, at the local level it is not prior consent that is sought but consultation. The time required for the community to provide feedback on an environmental impact study is quite limited, considering that the Cree communities do not necessarily have the knowledge capacity to fully understand a technical report in such a short period of time as 30 days. The process of participation in decisions related to mining projects is not very clear, due to the lack of communication among the Crees and also with external parties. Findings showed that exploration phases are carried out without free, prior informed consent from the Cree communities who would rather be informed at an early stage about the project plans. The right to free, prior informed consent as defined in section 3.4 is not always respected. The unclear process also creates confusion for the Cree authorities who often find out through the tallymen that there are exploration works happening on their territories, as companies often talk directly to tallymen for compensation.

There are differences on whether a tallyman has the right to say no to a project between the Cree community at the local level and Cree officials at the regional level. Nevertheless, in practice, it may not be easy to refuse a project and there are concerns about the fact that going ahead with an environmental impact assessment may be seen as a form of consent and that only modifications to the study can be done. Either way, a project is still believed to be moving ahead. The right to reject a project is not necessarily taken at the community level and for the latter to oppose a project they would most likely have to use other methods of resistance in order to be heard. The signing of an agreement is seen as an opportunity to become partners and being involved in decisions that may affect the Cree. However, on the local level, whether the Cree has the power to veto a project in practice can be difficult and often the project will go ahead without the community or the tallyman’s consent. As a consequence, some see the legally binding agreement as a possibility to be part of development and to be able to gain some benefits. The signing of an agreement may be a way to also ensure that there will be a mechanism set up for FPIC process throughout the mine project. It is important to point out that the right to FPIC is not a one-off event.

Although there have been discussions on a global level about the challenge of the right to FPIC to be applied, because of the need to consider the collective rights of the society, it is interesting to observe that the matter of collective interest is already an issue within the community itself. As a nation, there is a challenge to balance regional and local interests and stakeholders interests, those, within the community, who favour development and those who don’t. The findings clearly showed how a community is not homogenous and that even internally there are different interests among the representatives and communities that should be identified and dealt with.
Challenges with language and access to information

Weitzner (2002) explained the issue of language during consultation with the Indigenous Peoples, especially the challenge of expressing the internal/spiritual consultation. The Cree have raised the issue of language, as often the public hearings are held in English and translated into Cree to make sure that all the attendants understand. Although the majority of the Cree speak Cree and English, the latter does not properly reflect their views and culture. When a Cree speaks in his native language, their views are much stronger and precise, however, in English, the meaning and intensity is lost at a certain level. EIAAs are also not always understood at the community level, and findings have also shown that there is a decimation of information and a lack of transparency on health and environmental risks of proposed projects on traditional lands of the Cree. The technical language used by government or company representatives is not always understood, which makes it challenging for communities to have a clear view of the implications of a particular mining project. As the meetings are more consultative, it is a one-way communication, and it is unclear how the views and concerns of the community and the tallymen are integrated in a project. Free access to information for a community member can be difficult, as was the case for Cree businesses, which wanted to have access to the Troilus Agreement. Information related to environmental issues was not openly shared with the community in Troilus.

Environmental justices that have occurred in the region arise from the lack of access to transparent information, such as in the contamination case in Ouje-Bougoumou, and their community’s forced relocation, in the past, due to the extractive industry. They are linked to the lack of reaction of the Québec government to violations of mining standards and human rights and to the general lack of attention. In the case of the contamination, the details and sources of health risks from the contamination and the extent to which it has extended are still being investigated but there is a clear lack of trust among the stakeholders because of potential accidents and risks around mines. Despite community members’ awareness and concerns about the contamination from the mine, it took considerable time to convince the Cree leaders to raise the issue with the provincial government of Québec. According to the findings there were political motives, since, at that time, la Paix des Braves negotiations were ongoing and bringing up the contamination case would have affected the negotiation process between the two parties. As a consequence this has created criticism and distrust towards their own leadership. After seven years, the contamination in Ouje-Bougoumou has not been solved to the community’s satisfaction who has been concerned by the lack of improvements of practices and cleanup of environmental damages, despite the creation of the committee for the contamination case.

Awareness of the Troilus project

According to the case study on implementation of the Troilus Agreement by GCC, the community of Mistissini was not much aware of the Troilus mine and some even thought that the mine had already closed, which shows the lack of the company’s presence in the community. Prior to the signing of the agreement, the people in Mistissini were not informed about the negotiations since only the band council of Mistissini and the impacted families were involved. Owing to the distant location of the mine from Mistissini the Cree community did not directly feel the impacts of the project. The choice of excluding the community as a whole from the negotiation process of the agreement was made in order to avoid conflict and power struggles among certain members. On the other hand, this led to the lack of understanding and ownership of the agreement by the community. By looking at both sides of the coin, it is important, in the long-run, to build that sense of
ownership and to empower the Cree people. Acknowledging and managing conflict within a community is normal and part of the participatory process. As was mentioned by William in Hickey et al (2004), communities have solidaristic relations but processes of conflict negotiation, inclusion and exclusion, are not properly investigated. There is also a lack of understanding of non-project nature of peoples’ lives. It can be noted that the social and livelihood aspects were not properly taken into consideration in impact assessments. Findings showed that in Mistissini there was already internal conflict within one of the impacted families and between the other families. The agreement negotiation process with Inmet Corporation exacerbated this conflict to a certain extent, in addition to creating dissatisfaction among community members. However, the company did not consider it within their sphere of influence to intervene. For the implementation of the agreement in Troilus, the role of the Implementation Committee was important. At the same time, the Implementation Committee tended to be a closed group and there was a lack of effective communication between Cree members on the Committee and non-participating members. The information and decisions made during the meetings were not necessarily channeled to the community, except occasionally to the three, impacted families. Nevertheless, the impacted families also complained that communication with the company decreased as the project moved forward. The Band Council may have been too busy to inform the community, but the Committee’s closed sessions resulted in the community not being informed about the mechanisms, and the progress of the implementation of the agreement.

**Threat to livelihoods and changes to Cree cultural identity and way of life**

As mentioned by Vrdoljak in Lenzerini 2008, colonialism and its effect has been central to the disappearance of Indigenous culture through destruction and assimilation. Although these policies did not succeed in destroying the Cree First Nations who have been able to keep their strong culture and identity, they have left deep wounds inside the people who are seeking ways for healing and, at the same time, work hard to keep their culture and identity alive. While the experience of colonialism increased the Crees’ ability to adapt and to resist shock and crises in some ways, its devastating effects have also weakened their resilience and capacity. The living situation of Aboriginal communities in Canada can be compared to living conditions in third world countries. As stated by the UN rapporteur, the human rights and fundamental freedoms are among the most pressing issues facing Canada. The devastating impacts of those policies and the lack of respect of promises and agreements, have accumulated into other impacts that are linked to the extractive sector. As mentioned by a Cree during the fieldwork, the alcohol and drugs were already present before Inmet Corporation came. However, the rapid changes that have occurred since the opening of the North to commercial activities, such as forestry, hydro and mining, have exacerbated the previous problems and caused even more impacts affecting the Cree livelihoods.

Indigenous Peoples have a holistic view of their lands and territory. There is a challenge to protect the land and the Cree way of life and, at the same time, try to benefit from the development projects. Although a number of Cree would rather live off the land, the reality is that the land cannot sustain the exponentially growing population. In addition, the rush for mining and other development projects in the region make it difficult to continue a traditional way of life. The table identifies the assets that Ouje-Bougoumou and Mistissini have, followed by linking the impacts of mining and other development to the livelihood assets. Table 10 below, shows that social, environmental and economic impacts have generally weakened the assets, although some benefits and strengthening in human capital can also be seen in terms of employment and business opportunities, at the same time that vulnerability has increased.
During the fieldwork, the author had the opportunity to go through the EIA for Troilus. The study focused mainly on the physical environment whereas the social component was weak and covered general socio-economic data of the communities. The studies have also been criticized by the communities who would prefer a more holistic approach to the impact studies. Despite the many problems and needs in the communities, it is important to also focus on the strengths and assets the Cree have, to address their priorities and to strengthen their capital. A key challenge for mining companies and Cree leaders will be to develop adequate strategies that provide livelihood benefits to local communities while protecting indigenous cultures and environments. In the future, impact assessment should be improved towards a more structured, integrated assessment approach to assess the impacts of development on the Cree. Developing a livelihood approach will also benefit the Cree in prioritizing and setting up strategies that will support achieving their goals in a participatory and sustainable manner, taking into consideration the external context, institutions, and policies that may cause vulnerability and shock in Cree communities.
Table 10: Overview of Community Livelihood Assets and Impact Assessment

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<tr>
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<tbody>
<tr>
<td>Community of Mistissini (C1)</td>
<td>Strong identity in the community, the ability to relate to other community members’ issues. Community volunteering. Strong sense of community and collectivity, although it may be slowly changing towards more individualistic behaviors. Values of sharing, respect, survival, slowly changing among the youth. Ability to form organizations with potential to negotiate resources and support especially to ensure their rights to access and manage their traditional lands, and control infrastructure and services (Cree controlled health and education services)</td>
<td>Strong levels of overcrowding. Housing situation and infrastructure in some areas are in bad conditions but the situation has improved. Better quality and more secure housing areas with good infrastructure have been built through private funding. Access to other infrastructure and services are limited. Access to poor health and education. Access to traditional healing. Access to land, camps, to private owned cars, boats but no public transport.</td>
<td>Access to credit, such as for private housing. Tax exemption in the community. Reliance on government support. IPS. Difficulty to obtain credit outside the Cree community.</td>
<td>Access to diverse natural resources, forest land, water, wildlife, traditional medicine. Land as a healing place.</td>
</tr>
<tr>
<td>Strong links based on kinship and ties. Nomadic asset: mobility with family. Stewardship, and the relationship between the human and the environment.</td>
<td>High levels of overcrowding. Housing situation and infrastructure in some areas are in bad conditions but the situation has improved. Better quality and more secure housing areas with good infrastructure have been built through private funding. Access to other infrastructure and services are limited. Access to poor health and education. Access to traditional healing. Access to land, camps, to private owned cars, boats but no public transport.</td>
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Children are often absent from schools. The education level is low, a lot of drop outs. A number of kids are sent to schools outside Cree communities for better education which also helps with cross cultural exchange between Cree and non-Cree youth. Labour force: mainly unskilled/lack of experienced labor. Limited business and entrepreneurship opportunities. Bureaucratic challenges for Cree businesses wanting to operate in non-native towns. Jobs mainly in the public sector in addition to traditional subsistence, mining, hydro projects and tourism. Bush skills: education and knowledge gained from the bush, hunting and trapping. Major health issues in the community: obesity, diabetes, cancer, alcoholism, drugs.
| Community of Ouje-Bougoumou (C2) | Same as community of Mistissini | Housing situation has improved but overcrowded houses are still major issues. Infrastructure built based on sustainable innovation, such as sustainable planning of the village and alternative energy | Same as Mistissini | Lack of access to natural resources and the full range of their traditional land i.e. illegal towns such as Chibougamau have been built on their land without consent. Land as a healing place. | Same as Mistissini |

### Linkage of Impacts to Livelihood Assets

<table>
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<tr>
<th>Social impacts from development projects</th>
<th>C1</th>
<th>C2</th>
<th>C1</th>
<th>C2</th>
<th>C1</th>
<th>C2</th>
<th>C1</th>
<th>C2</th>
<th>C1</th>
<th>C2</th>
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<tr>
<td>Destruction of trust and cooperation between couples and sometimes in the community</td>
<td>Destruction of trust and cooperation</td>
<td>Lack of care of the community space</td>
<td>Losses due to crimes and money are put into substances</td>
<td>Land as a healing place</td>
<td>School drop outs, increased injury rates, emotional losses. Increase in health issues i.e. sexually transmitted diseases, use of substances</td>
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<tr>
<td>Limited access to land</td>
<td>Limited access to land</td>
<td>Limited access to land</td>
<td>Loss of ISP and resources</td>
<td>Loss of traditional knowledge in the bush. Decreased ability to act as environmental care takers, men and women</td>
<td>Loss of traditional knowledge in the bush.</td>
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<tr>
<th>Environmental impacts from development projects</th>
<th>C1</th>
<th>C2</th>
<th>C1</th>
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<th>C2</th>
<th>C1</th>
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<tbody>
<tr>
<td>The strong link to the land and specific animals due to the loss of resources</td>
<td>The strong link to the land and specific animals due to the loss of resources; loss of sacred sites; loss of sacred sites; Emotional loss</td>
<td>Limited access to land</td>
<td>Limited access to land</td>
<td>Loss of ISP and resources</td>
<td>Loss of traditional knowledge in the bush.</td>
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<tr>
<td>Loss of sacred sites; Emotional loss</td>
<td>Emotional loss</td>
<td>Loss of ISP and resources</td>
<td>Threats of water supplies, fisheries, forest, hunting because of pollution and contamination. Limited access to clean</td>
<td>Loss of resources and contaminati on of the land</td>
<td>Loss of traditional knowledge in the bush. Increased health conditions due to contamination from mining, forestry and hydro</td>
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<tr>
<th>Economic impacts from development projects</th>
<th>C1</th>
<th>C2</th>
<th>C1</th>
<th>C2</th>
<th>C1</th>
<th>C2</th>
<th>C1</th>
<th>C2</th>
<th>traditional food and medicine</th>
<th>projects Loss of traditional food and medicine.</th>
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<tr>
<td>Individualistic behaviour</td>
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<td>Loss of traditional food and medicine.</td>
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<tr>
<td>Extended absence from family and friends.</td>
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<td></td>
<td>Loss of traditional food and medicine.</td>
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<tr>
<td>Inability to keep kinship and ties</td>
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<td></td>
<td>Loss of traditional food and medicine.</td>
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<tr>
<td>Improved housing areas, private ownership and infrastructure, but no sustainable planning and green areas in the community. Increase in new equipment for hunting, boats, snowmobiles, guns</td>
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<td>Loss of resources</td>
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<tr>
<td>Improved housing areas and private ownership, Increase in new equipment for hunting, boats, snowmobile and guns</td>
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<td>Loss of resources</td>
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<td>Increased access to cash. Difficulty to manage and save in the long-run</td>
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<td>Increased access to cash. Difficulty to manage and save in the long-run</td>
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<td>Loss of resources</td>
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<td></td>
<td>Increased access to cash. Difficulty to manage and save in the long-run</td>
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<tr>
<td>Increased employment and business opportunities. Establishment of a fund for business support during the Troilus project, and training opportunities; gender economic inequalities</td>
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<td>Increased employment and business opportunities. Establishment of a fund for business support during the Troilus project, and training opportunities; gender economic inequalities</td>
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8 Recommendation

The recommendations below are based on the findings, the theory and the analysis that came out of the research, to suggest ways to improve the conditions for a meaningful, participatory and FPIC process. The recommendation also complements and supports the suggestions expressed by the Cree on the way forward found at the end of the findings.

Community participation and FPIC

- Set up a framework for a clear participation process to be developed by the community
- Identify the assets of the community and how they can be strengthened with clear and concrete steps. The livelihood approach and action planning can be approaches for reference.
- Special participation mechanisms for youth and women, i.e. workshops, meetings, gatherings, and church mass. In the future, female and youth representatives appointed by the community are advised to be involved in committees.
- The community and not only representatives should be able to be involved in environmental assessment and follow-up the measures taken. Community based committees are suggested to monitor environmental and social issues and to inform their own community members on an ongoing basis.
- Proactive involvement of tallymen in natural resource management and environmental protection throughout the project cycle.
- Reduction of the usage of non Cree consultants, and in the case of usage set up mentoring programs where Cree youth can be part of consultants projects and learn from their long experience working for the Cree.
- Short term and long term Indicators that are most concern to the Cree to be developed by and with the community.
- Reach consensus with all the communities overall mining and participation strategy and communication before effectively entering into partnership with companies.
- In order to prevent divisiveness within a network, a formal process in which each party plays a specified role needs to be developed.
- Community based assessment of a selected area using a “now”, “soon”, “later” model and designing/ implementing “now” actions.
- Monitoring the impacts of mining and other development projects on the communities’ livelihoods.
- The three parties Canada, Québec and the Cree will need to work together to find a balance between extractive exploration and development in the North and the protection of the territory and the lives of the Cree. With the Northern Plan strategy, there is an urgent need to control and set up limitations on the extractive activities if the Cree want to still continue living their way of life in the future, and also for the protection of the local and global environment.
- The communities need to maintain open lines of communication with each other and the higher levels. Traditional indigenous knowledge and governance structures to ensure that their interests are represented in all phases of resource extraction.
- A comprehensive and independent participatory impact assessment should be undertaken.
**Information sharing and capacity building**

- Follow-up and reporting of the participation process related to the mine project throughout its life cycle.
- Set up a network to share the experiences with other Cree community members.
- Build the community’s capacity and increase the awareness and understanding of mines’ implications on Cree lives what can be done and what their rights are as citizens.
- Capacity building and strengthening community based organization ie youth council, women’s association.
- Education for change support children to keep them in school, to organize activities, to guide and focus on the youth to help them to expect a different life ie sports, study circles etc.
- Establish a resource centre where community can have access to information on mining and for companies to be able to have a point of contact at the community that can advise on the different partnership opportunities and workforce and businesses available.

**CSR initiative and monitoring**

- The Cree need to familiarize with different CSR initiatives promoted on the global level and consider requiring the reporting of mining activities and their impacts on the community from companies.
- Human rights, and social impact assessments of the mine should be conducted.

**Economic development**

- Supporting enterprises identification of a range of business and employment opportunities for men and women.
- Develop proposals that take the interests of other stakeholders into account, and create projects that contribute to the economic growth of their communities while maintaining the cultural social and environmental integrity.
- Explore the alternative development schemes that can offer a sense of ownership to the community and contribute to the economic diversification of the Cree region.

**Corporate-Aboriginal agreements**

- Future committees in relation to implementation of agreements or any activities related to mining should strengthen the organizational capacity of local organizations and ensure the communication of information on the committee to their wider constituencies.
- Committees should not only include Cree leaders but also members from local social organizations and representation of all target groups.
- Ensure the continuity of the agreement by creating sustainable economic spin offs.
- Clarify the role of each party and the level of participation for each stage of the project.
- Although it is important to involve top management and leaders in negotiations it is also essential that managers are also aware and involved in that process, as it will be their responsibility to implement the agreement.
- Consent of the agreement should be ensured in a way that it represents the affected community and its factions.
9 Conclusion

The implications of the mine projects on these communities and their lands are tremendous, bearing in mind the cumulative impacts that have come out from other large scale projects in the region. At the same time, in certain cases economic opportunities have also been ripped out of mine projects especially when there has been a corporate Aboriginal agreement put in place committing the company and the Band Council to work together and build a partnership. The study results have been filled with rich testimony from the Cree about both the memories and the current realities of traditional way of life. They have spoken powerfully and some emotionally about living and being on the land but they have also expressed their concerns and hopes for the Cree future considering the mining rush occurring in their region. The main conclusions from this study are:

- For a company to be willing to engage with a community may depend on the latter’s bargaining power and the ability to stand together as a nation.
- There is a need to better clarify what is meant by Aboriginal participation at the project level and to monitor its quality and performance. The meaning of “participation” can be misleading as it was shown in the results, Aboriginal participation was limited to Cree representatives and directly impacted families.
- Although Indigenous Peoples’ rights to participation and FPIC are outlined in the international and national laws, there is still a challenge in implementing efficient approaches for meaningful participation. The Cree were univocal on the fact that participation and consultation must start very early before exploration and that they should be involved during all stages of the project.
- Corporate Aboriginal agreements have provided with benefits and drawbacks to the communities however the objectives of the agreement in this case has been short term and its sustainability was not ensured.
- It is important to point out that internal participation process in the community exists and should not be ignored by companies. There is a need to look closer at that process to better understand the dynamics in the community.
- There is a clear disagreement in the community at the local and regional levels on who should be involved in the consent process.
- All community members should have the opportunity to participate in consultation. The process should be open and based on local values and culture. This is especially for women, who are often put aside and excluded from political and economic discussions and negotiations, yet they tend to be the ones bearing the negative consequences.
- The environmental and social impacts of mining on Indigenous communities are not properly addressed. Monitoring of these impacts are lacking on the ground. This is specially the case for social impacts.
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11 APPENDICES

Appendix 1: Checklist Questions

Values and vision:

The section intends to gain a general understanding of the Cree culture, what makes them a community, their lifestyle, their values and skills that support Cree lives.

1. Mistissini is in an area of wonderful natural resources such as forests, lakes and rivers. They are valued by the people for the many benefits that they provide., what do you think are the most important benefits that the land and waters provide to you?
2. What activities do you most enjoy doing? What makes these activities so meaningful for you?
3. Can you think of a time when the bond between people in the community was closest?
4. The Cree First Nation have made many remarkable achievements. Can you remember one that really stands out in your mind?
5. The Cree are known for their skills and their respect for the land. How is this respect built? What skills do you think are most important to a strong and close community?
6. What kinds of traditional activities are kept and practiced in the community?
7. What is your main work or way of making a living in your family?
8. Family means different things to different people. Can you tell what family means to you?
9. If you had to choose, what kind of lifestyle would you want to have: working on a wage job, or harvesting your own food, or both?
10. How is the health situation? Is there a proper health service in the community?
11. Is traditional medicine and healing still common in your community?
12. Have you experienced any alcohol or drug problems in your life or in your family?
13. Are you satisfied with the quality of the housing?
14. What kind of cultural activities do you have in Mistissini? How often do you participate?
15. How knowledgeable would you say you are about politics and your rights in general?
16. Which problems do you think that the politicians should deal with first?
17. What kind of strengths does your community have? And how should they be developed?
18. What kind of activities and customs that may be important to maintaining your Cree identity?
19. Are Cree spiritual beliefs part of your life?
20. What is the highest level of training and education you have completed?

Community Representation:

The purpose of this section is to gain a better understanding of the current and traditional representations of the community. This part looks at the role of the Cree council and the local authority in Mistissini in decisions related to the mining project, the means and the extent to which they involve the community as a whole. It also examines the role of Tallymen as traditional leader and land managers under the new regime (JBNQA). Previously tallymen had the cultural right to make decision about the natural resource management on their own traplines.

1. How was the Grand Cree Council set up? What are the skills required for becoming a chief and how is he/she selected?
2. Do First Nation control whether a mining development should proceed and how it should proceed?
3. Prior to the creation of the Grand Council of the Cree, what kind of leadership was in place?
4. What is the role of Tallymen and their traditional decision making power? How are they legally recognized?
5. What is the role of tallymen in the representation of the community? And how are they integrated in the decision making progress?
6. How has the JBNQA and the categorization of lands affected the tallymen’s management and leadership control? Is the management and leadership function shared with the Council?
7. How are all community entities represented? Ie women, youth, elders?
8. What kind of plans or vision does the Cree Council in Mistissini have for the community in terms of development and the well being of the population? Long term, short term plans?
9. How is the income generated from mining used to invest in sustainable livelihoods for local communities?
10. Can you identify or remember exemplary experiences involving collaboration with stakeholder groups (such as company, or government) and explain the values and factors that contributed to these successes?
11. How well informed are the people about their rights? The impacts and benefits of development projects on their lands?
12. What kind of engagement plan is set up for community participation by the representatives?

The Mining Company:

**Troilus project has been in operation since 1994. This sections examines the process set by the company to engage with the community and the local authority, lessons learned. Since the mine is at the closure stage, this part focuses on the mechanism set up for community participation at the last stages of the project cycle.**

1. Who are the key persons in Troilus involved in community participation?
2. How does a company obtain a licence to start exploration on the territory?
3. What kind of tools/approach was used to engage with the community and to ensure that their issues were integrated in the project planning?
4. What kind of information did Troilus Project share with the community? Who was involved?
5. What kind of challenges did the company experience from negotiating and engaging with community? Any lessons learned?
6. Did the company provide enough time prior to the start of the project for the community to consider the benefits and challenges with the mining project?
7. Have outcomes with Troilus project mine been culturally appropriate?
8. Has there been a plan put in place for ensuring that adequate resources will be put for post closure phase in a way that enhances community well being?
9. Who was involved in the assessment? Any community members? Who is making sure that it is being implemented?

The Corporate – Aboriginal agreement:

**Inmet Corporation and the Cree Nation of Mistissini entered into an agreement in 1994. Troilus Agreement is understood in relation to JBNQA prior to QCNRA. This section looks at the implication of the agreement on the community and participation of the latter in the agreement**

1. Are you aware of the Troilus agreement? What is your opinion on the agreement?
2. Were you properly consulted about the agreement before your leaders entered into negotiations with Inmet? Were all members of the community consulted or only affected families?
3. How often were you consulted about the agreement? What kinds of issues were discussed?
4. Do you think the issues raised in the community were well included in the agreement?
5. Did you receive feedback on the outcomes of the agreement? How?
6. Do you think that more agreements should be negotiated in the future?
7. From your experience, what kind of issues/priorities should be covered in future agreements?
8. How much has the government been involved in negotiations? Is it important? Why was the government not keen on having an agreement signed?
9. Has there been any strategy set up for capacity building of Cree contractors?
10. Has Troilus Project been involved in building capacity of Cree businesses to generate local spin offs?
11. Has Troilus project indirectly benefited the development of new businesses in the area?

Implementation Committee for Troilus Agreement:
12. What has been the role of the implementation Committee?
13. What kind of framework was set up for effective cooperation?
14. What kind of issues were discussed on the committee?
15. How were the members selected? Did they represent the community as a whole?
16. In Troilus Agreement what kind of decisions were made independently and which were made jointly? Was the community involved?
17. How often did the implementation committee consult the community (Youth, trappers, households, elders, women) and how did the committee provide feedback to the community?
18. Did Troilus Project provide with effective mechanism to protect the Cree way of life and the traditional activities?
19. What kind of measures were set up for discussions on environmental mitigations?

Community Participation – FPIC:

This section focuses on the participation process and the mechanisms set up by the representatives and the company to engage with the community. It looks at the community’s perspective on the process, channels of communication and the type of shared information, whether these have been efficient and fair and if improvements need to be made. The target groups include: men, women, elders, tallmen, youth and the Cree Council

1. What does it mean to you to have the right to participate in decisions on mining projects?
2. When does the participation process start? Is at the project level? Or before decision on exploration is made? How is the community involved?
3. When did the Cree Council and Troilus Project approach the community to discuss potential development project on their land?
4. Was there an agreement between the community – representatives and the company on how the consultation should proceed and on the planning process?
5. What constitutes effective consultation and collaboration of Cree community in decision making?
6. What are the barriers to effective involvement? Do you think there are policies that need to be reviewed?
7. Who participate in public hearings? And how are decisions made during the meetings?
8. What is the level of influence of the local community on the project process and the Cree Council decisions?
9. What kind of special mechanism is used to enhance the participation of vulnerable groups: ie women, elders, youth?
10. Which areas in the project are planned for active local community participation?
11. What contribution has been made by the local community to participate in the project, in terms of human and financial resources?
12. How can invisible concerns be made transparent and in turn be given a central place in decisions that affect the lives of Cree Nation?
13. Throughout the consultation process with Troilus mine has there been a comprehensive assessment of local resources, skills and capacities? Or has it been more focused on issue and problem mapping?
14. Who are the parties involved in the environmental and social impacts and in decision on whether the proposed development can proceed or not?
Laila El Krekshi

15. During the years of Troilus mine being in operation, did you have continuous follow up on the issues? Who do you think should keep you informed?
16. Has FPIC been ongoing throughout the different stages of the project and what kind of structures have ensured monitoring?
17. What are the key elements of an effective right to Free Prior Informed Consent (FPIC)?
18. Who has the right to give or not give consent? What forms does this consent take?
19. Considering the traditional leadership role of tallymen, does the latter have the right to give consent on a project or in any particular issues related to the project?
20. How are the Cree Council and the community involved in the planning closure and post closure?

Impacts:

The Troilus project has inevitably had impacts on the Cree community. This section aims to provide an overview of the impacts and changes the community members (youth, elders, women, tallymen and men) see affecting or benefiting their daily lives and their lands. The impacts covered are social, economic and environmental.

1. What are the impacts that you see from the project that are positively and negatively affecting you and your family?
2. Has the project brought changes from an economic point of view and on the level of infrastructure and services in the community?
3. Has the project had any impact on health and safety aspects in the community?
4. What was the impact of the concentric circle on the community as a whole once the agreement was implemented? Did conflict arise from compensation and prioritization on affected families instead of the community as a whole? Did that lead to a divide in the community?
5. What were the achievements of the fund from socio-economic point of view?
6. What are the obstacles for Cree companies/entrepreneurs to thrive?
7. Who mainly benefited from the contracting opportunities arising from the Troilus Project?
8. What is the future of the Socio economic fund after the mine closure?
9. What kind of strategy has been set up for encouraging women entrepreneurship?
10. Has Mining employment affected the ability to practise the skills associated with traditional economy? (women, youth, elders, mine workers)
11. Do you think mining/ other development projects should contribute more in social development? In activities or community development that is not directly linked to mining but that can be useful and empowering from community perspective? How?
12. What kinds of changes are seen on the traplines? How has it affected your daily life and your family?
13. How are women workers perceived by their families and community?
Appendix 2: The Troilus Agreement

AGREEMENT

BETWEEN

THE MISTISSINI BAND, duly constituted under the Cree-Naskapi (of Quebec) Act herein acting and represented by Mr. William Mianscum, its Chief, duly authorized to execute this Agreement,

hereinafter referred to as the "Mistissini Band"

AND

METALL MINING CORPORATION, a duly incorporated corporation having its head office in Toronto, Ontario, Canada, herein acting and represented by Mr. W.K. Seidler, its Vice-President Operations, duly authorized to execute this Agreement,

hereinafter referred to as "Metall"

WHEREAS Metall wishes to commence building and operate an open-pit gold, copper and silver mining operation in an area immediately north-east of Lake Troilus;

WHEREAS this proposed open-pit gold, copper and silver mining operation will have impacts on the existing natural and socio-economic environment as well as on certain of the hunting, fishing and trapping grounds of the Cree and will affect the Cree of Mistissini, their traditional economies and the wildlife resources upon which they depend;

WHEREAS this proposed open-pit gold, copper and silver mining operation is subject to the environmental and social protection regime provided in Section 22 of the James Bay and Northern Quebec Agreement;

WHEREAS the parties hereto agree upon certain measures to ensure that the Troilus Project imparts positive social and economic benefits and where negative impacts occur that measures are taken to mitigate these social and economic impacts on the immediate environment and the Cree of Mistissini.

NOW THEREFORE THE PARTIES HERETO AGREE AS FOLLOWS:

CHAPTER 1 - DEFINITIONS

1.1 "Band Council" or "Mistissini Band Council": the band council of the Mistissini Band.

1.2 "Cree" or "Cree Beneficiary": the persons entitled to be enrolled as Beneficiaries under paragraphs 3.2.1, 3.2.2 and 3.2.3 of the JBNQA.

1.3 "Cree of Mistissini": the Cree Beneficiaries entitled to be enrolled on the Cree community list of the Mistissini Band pursuant to paragraph 3.5.4 of the JBNQA.

1.4 "Environmental regime": the environmental and social protection regime contemplated by Section 22 of the JBNQA.

1.5 "Implementation Committee" or "Committee": the committee established pursuant to Chapter 9 hereof.

1.6 "James Bay and Northern Quebec Agreement" or "JBNQA": the Agreement signed on November 11, 1975 and approved, given effect to and declared valid by Chapter 32 of the Statutes of Canada 1976-77 and Chapter 46 of the Statutes of Quebec 1976, as this agreement has been amended to date.

1.7 "Metall": the Metall Mining Corporation - Corporation Minière Metall.

1.8 "Mistissini" or "Mistissini Band": the Mistissini Band, one of the bands under Section 12 of the Cree-Naskapi (of Quebec) Act 1983-1984 Statutes of Canada c. 18.

1.9 "Traditional activities" the activities contemplated in Section 24 of the JBNQA including hunting, fishing and trapping.

1.10 "Troilus Project": the open-pit gold, copper and silver mining operation as described in Chapter 3 hereof.

CHAPTER 2 - OBJECTIVES

2.1 The objectives of this Agreement are:

a) to define a working relationship between the parties;

b) to provide effective mechanisms to ensure that the Troilus Project provides positive social and economic impacts on the Cree and particularly the Cree of Mistissini, and where negative social and economic impacts are determined, that they be mitigated;

c) to provide for a mechanism of discussions for environmental and mitigating measures in respect to the Troilus Project that complements the process as defined by Section 22 of the JBNQA;

d) to provide for effective measures to ensure the employment of Cree at the Troilus Project;

e) to provide effective measures to ensure that the Cree benefit from economic spin-offs from the Troilus Project;

f) to provide for measures to protect the Cree way of life and the Cree traditional activities on the land affected by the Troilus Project and to ensure that the area of lands directly affected is minimized;

g) to provide an efficient framework for cooperation between the Cree of Mistissini and Metall in respect to the Troilus Project;

h) to provide effective mechanisms for the proper implementation of this Agreement.
CHAPTER 3: DESCRIPTION OF THE TROLLUS PROJECT

3.1 The Trollus Project will be located in an area immediately north-east of Lake Trollus in the northeast corner of Metall's North Trollus claim group which is located approximately 135 km north of Chibougamau. It calls for an open-pit gold, copper and silver mining operation, which necessitates the digging of two pits, the 87/87S zone and the 84 zone, as well as the roads, power line, processing plant and accommodation facilities needed to operate as described in the attached plates. According to the projected rate of extraction (10,000 tons of ore per day), the pits will be mined for a period of approximately 14 years. The ore will be ground, concentrated on-site in the contemplated processing plant and then shipped by road to an off-site smelting plant.

The total workforce need projected by Metall to keep the mine in operation amounts to approximately 200 persons.

The mining operation also requires that a 161 kV capacity power line be built from the Obelski station in Chibougamau. The power line project includes a sub-station on-site to transform 161 kV to 25 kV.

Access to the site will be ensured by the construction and maintenance of a road equivalent to class III MER. With the Route du Nord as its starting point, the new road will measure approximately 45 km in length and will in large part replace an existing path.

List of plates for the Trollus Project:

Plate 1: Location Plan including access road and power line;
Plate 2: Mine site facilities.

The Trollus Project as described herein corresponds to the project as approved under the environmental and social protection regime contemplated in Section 22 of the JENGA.

CHAPTER 4: EMPLOYMENT

Cree employment objective

4.1 Metall hereby undertakes to set as its objective the hiring of Cree Beneficiaries to fill 26% of its positions at the Trollus Project calculated on an equivalent full-time basis. To meet this objective the following employment related measures will be applied and enforced by Metall in regard to the Trollus Project.

4.2 The Mississini Band Council supports this employment objective and will assist Metall in achieving it by encouraging Cree to apply for positions and by ensuring a proper dialogue with Metall to resolve problems encountered in achieving this objective.

Cree employment coordinator

4.3 Metall will, on a priority basis and in any case within 90 days of the execution of this Agreement, hire on a regular and full-time basis a Cree Employment Coordinator having a working knowledge of the Cree language. Metall will define the position in a manner consistent with this Agreement and will solicit and select a candidate acceptable to the Mississini Band Council which shall reply to Metall within fifteen (15) days on the acceptability of Metall’s recommended choice. The Cree Employment Coordinator will coordinate the recruitment of Cree personnel for the Trollus Project. For this purpose the said coordinator will ensure proper communications between the Cree and Metall as concerns employment directly with Metall and employment through contract opportunities related to the Trollus Project, and will assist in ensuring that barriers to employment of Cree at this project (other than bona fide employment qualifications) are eliminated. The individual occupying the Cree Employment Coordinator position may be replaced by Metall but the individual to be appointed as the new Cree Employment Coordinator must be approved by the Mississini Band Council.

Postings and recruitment

4.4 In the initial stage of employment prior to production and each time a new position is created or the terms of an existing position is materially amended, Metall will inform, at least 30 days in advance, the Implementation Committee of each and all of its employment needs for the Trollus Project. This information will be provided in writing in both English and French and will include a brief description of each job as well as the requirements for the job, the hours of work, pay rates, benefits, general conditions of employment and indicate where candidates should be addressed as well as the time frame in which candidates should apply.

4.5 Metall will ensure that all employment needs for the Trollus Project are posted in conspicuous places in the community of Mississini and that those employment opportunities are advertised in Cree newspapers and magazines. The Mississini Band Council will be responsible for identifying, preparing and maintaining these conspicuous places and protecting them from overposting and vandalism.

4.6 Metall will ensure that all Cree candidates may submit their employment applications related to the Trollus Project in either one of the official languages of Canada. Employment Interviews of Cree candidates will be carried out at the choice of the candidate in either such language. For those Cree candidates who have no working knowledge of either official language, Metall will take appropriate steps with the Cree employment coordinator to allow these individuals to carry out meaningful employment interviews in the Cree language.

The Implementation Committee will review on a regular basis the employment needs of Metall for the Trollus Project as well as the recruitment process and promotion process as regards Cree employment and it will be entitled to make specific recommendations to Metall management staff as regards the elimination of barriers which may impede the hiring or promotion of Cree in sufficient numbers to achieve the objective described in Section 4.1. Metall undertakes to review these recommendations and, should it decide not to implement such recommendations, to respond in writing within 60 days as to the reasons for which it cannot implement the recommendations.
Employment Priority

4.8 Metall will offer employment to, and employ up to the level set out in Section 4.1 these individuals who answer its requirements at the Troilus Project according to the following priorities:

a) the Cree trappers whose trapper's licenses are directly affected by the Project and their families;

b) Cree Beneficiaries of Mistissini;

c) Cree Beneficiaries generally.

Should Metall be unable to fill a position within a reasonable time period, it may then proceed to hire workers who are not directly affected by this priority.

The application of this employment priority will be reviewed by the Implementation Committee which may, if satisfied, recommend an extension of its application to the parties.

Work environment

4.9 Metall undertakes to review yearly its employment practices at the Troilus Project to determine the desirability of these practices to the social, linguistic and cultural particularities of the workforce. Metall agrees to submit once a year to the Implementation Committee the results of this review and to seek comments from the Committee on this matter.

4.10 Metall agrees that insofar as practical and compatible with the health and safety of its workforce, it will not require its employees to work in a language other than French. Metall will ensure that the French language is available in the supervision staff so as to not imposeThis action will not affect any positions which require communications with the public.

In recognition of the fact that Mistissini Cree are generally capable of working in English as a second language to Cree, Metall will ensure that this capability is available in the supervision staff so as to not impose this restriction on the workforce at the Troilus Project. Metall will ensure that Cree employees are able to communicate adequately with their immediate supervisors in the official languages of Canada.

Metall will be responsible for translating into Cree the important general notices of Metall to its workforce at the Troilus Project. Neither party to this agreement interprets this to mean translation in Cree of technical, maintenance and training reports or manuals is intended.

4.11 Metall will organize the work schedules of its workforce at the Troilus Project so as to allow Cree employees who so desire to use their vacation entitlements to take up to three (3) consecutive weeks off (including normal rotational off periods) during periods of traditional Cree activities and particularly during the goose hunt and moose hunt period. In recognition of the need to organize this in a way that permits continued efficient operation of the mine, Cree employees wishing to schedule their vacations during these periods must submit their request in writing at least thirty (30) days in advance. The Implementation Committee shall review the efficiency of this arrangement annually and make recommendations if better mechanisms of achieving the intent of this clause are determined.

4.12 Metall will organize an information campaign addressed to the Cree of Mistissini and concerning the Troilus Project and the employment opportunities available. This may include video presentations and public meetings in Mistissini interviewing potential Mistissini Cree candidates and organizing mine visits for these potential candidates.

Training

4.13 Metall will provide to its Cree employees the same training and upgrading it provides to its non-Cree workforce at the Troilus Project in equivalent jobs. Such training will be provided in either official language of Canada should the Cree employee request.

4.14 In addition to its regular training and upgrading and when considered appropriate by Metall after consulting the Implementation Committee, Metall will provide to its Cree workforce special training at sites in Canada where the mining and operating conditions are similar to those planned at the Troilus Project. The duration of these programs will vary depending on the individual and job specifics, but will, in any case, be a minimum of two (2) weeks.

4.15 It is recognized that some Cree candidates may require training or upgrading to occupy positions at the Troilus Project additional to the training or upgrading provided by Metall. It is also recognized by the Mississini Band that such additional training and upgrading is not normally the responsibility of Metall. Metall agrees however to collaborate with any public or private program which may exist or be established to provide such additional training or upgrading to Cree candidates. The modalities of such collaboration will be discussed, if need be, within the framework of the Implementation Committee, but will not include an additional direct financial contribution of Metall, unless the company agrees.

Final provisions

4.16 The measures described in this Chapter 4 do not oblige Metall to hire Cree individuals who do not meet the bona fide employment requirements of Metall. However Metall will not impose employment requirements which create arbitrary barriers to Cree employment. The Implementation Committee will review periodically Metall’s employment requirements in order to make appropriate recommendations in this matter.
4.17 Metall will take the required measures to ensure that the provisions of this Chapter 4 will be fully compatible with and will not be rendered ineffective by the working conditions arrangements or agreements which may be applicable from time to time to the employees of the Troilus Project.

4.18 As a specific additional undertaking, Metall will take out at least three full page ads in the Cree magazine “The Nation” outlining the employment opportunities at the Troilus Project and inviting Cree candidates to submit applications for these positions.

4.19 The provisions of this Chapter 4 shall not apply to the initial hiring for the following positions which are already filled or whose hiring process is about to be completed: General Manager, Construction Manager, Environmental Coordinator, Personnel Superintendent, Health and Safety Supervisor, Chief Geologist, Mine Superintendent, Mine Superintendent, Chief Mine Accountant, Chief Mine Engineer.

CHAPTER 5 - BUSINESS OPPORTUNITIES

Principle

5.1 The Troilus Project will generate numerous business opportunities both in its construction phase and in its operations phase. Metall agrees that the Cree and particularly the Mistissini Cree should have access to these business opportunities.

Information

5.2 Metall agrees to inform the Implementation Committee and the Mistissini Band Council and the Cree employment coordinator of all its contract needs for the Troilus Project at least thirty (30) days before actually issuing a contract without tender or before proceeding to tender for such a contract, with the exception of those contracts listed in Schedule I for which prior bidding and negotiation and the priority of advancing the Project in the fall of 1994 makes this provision impractical and economically penalizing to Metall. Such information will be in writing and will include a brief description of the work to be carried out and of the manpower and equipment needed, as well as an indication of how and where proposals can be made, as well as the time frame in which such proposals should be made.

5.3 The Mistissini Band Council will, from time to time, provide Metall with a list of Mistissini Cree enterprises and Cree enterprises it is aware of, along with their qualifications and experience.

Tailoring contracts

5.4 Metall agrees to review its contract needs for the Troilus Project both during the construction phase and the operation phase of the project with a view of tailoring its contracts, where feasible, to the needs abilities, qualifications and work experience of Cree Enterprises, and particularly Mistissini Cree Enterprises, so as to allow these enterprises to submit competitive proposals which meet the business objectives of Metall. In this matter Metall will seek

the recommendations and advice of the Implementation Committee and of the Mistissini Band Council.

5.5 Metall undertakes to provide Mistissini Cree Enterprises with a right to negotiate first for selected contracts on the Troilus Project. This right will obligate Metall to negotiate with Mistissini Cree Enterprises for the said contracts before Metall addressed itself to other enterprises or proceeds to public or invitational tender for such contracts. Metall can only award a contract to another enterprise which would carry out the work for an amount less than what was previously offered by a qualified Mistissini Cree enterprise. The selected contracts subject to this Section 5.5 are listed in Schedule II. This list will be reviewed from time to time by the Implementation Committee to take into account changes in the availability and capabilities of the Mistissini Cree Enterprises.

Contractors

5.6 Metall also undertakes to inform all its contractors of its policy to favour local employment, including the employment of Cree and particularly Mistissini Cree for its Troilus Project. Furthermore, insofar as two (2) or more contract proposals are essentially equivalent, Metall undertakes to favour those contractors who undertake to use Cree labour in a significant proportion to carry out their contracts for the Troilus Project.

Report

5.7 Metall agrees to submit once a year to the Implementation Committee a report describing the contracts awarded to Cree enterprises in the last year and reviewing various additional business opportunities which may benefit Cree enterprises in the following year. The Implementation Committee may make comments and recommendations in this matter to Metall.

Definitions

5.8 For the purposes hereof,

a) "Cree enterprise" is a business, partnership or corporation the majority voting and equity interest of which is directly or indirectly owned by Cree beneficiaries and/or the Mistissini Band and/or Cree regional organizations such as the Cree Regional Authority or its Board of Compensation;

b) "Mistissini Cree enterprise" is a business, partnership or corporation the majority voting and equity interest of which is directly or indirectly owned by Mistissini Cree and/or the Mistissini Band.
5.9 The contracts listed in Schedule II hereto have already been awarded to CN enterprises by Metall and are listed herein as a matter of record.

CHAPTER 8 - REMEDIAL AND MITIGATING MEASURES

Impacts

6.1 The parties hereto acknowledge that there will be impacts from the construction and operation of the Trollius Project. The parties acknowledge that this project will have impacts upon the traditional activities of certain Crees, particularly in the area of the project. In order to promote Cree traditional activities and to mitigate the negative impacts of the project thereon, the parties agree to the following measures.

Archaeological and burial sites

6.2 The Implementation Committee will give to Metall the names of Cree elders capable of identifying Cree archaeological and burial sites in the area affected by the Trollius Project. Metall agrees to employ up to three (3) such elders for a period of at least one (1) month to survey the territory and to indicate Metall the location of such sites, if any.

6.3 For these identifiable archaeological and burial sites, as well as for all such sites which may be found during the construction and operation of the Trollius Project, Metall agrees to notify the Implementation Committee of its intention in relation to such sites at least thirty (30) days before proceeding with activities which may affect detrimentally such sites.

6.4 Metall agrees not to affect significant archaeological sites. Should such a site be found in the immediate work area and open pit area of the Trollius Project, it will be surveyed by Metall and displaced according to the rules that are applicable in such circumstances. Archaeological sites will be surveyed and protected where necessary by Metall. Archaeologists who propose to use Cree labour for this purpose will be favoured.

6.5 Cree burial sites will not be affected by Metall unless this is absolutely necessary to carry out the Trollius Project. In such necessary cases Metall agrees to displace at its expense all affected Cree burial sites so as to allow the remains to be treated with dignity and respect. If the family of the deceased can be identified, then Metall will consult the family as to the location of a new burial site for the remains. The family of the deceased may agree to other arrangements related to these burial sites. Such arrangements will be subject to review by the Implementation Committee before being carried out.

Use of project facilities and services

6.6 The parties recognize that traditional activities may still be carried out in the vicinity but outside the immediate area of the Trollius Project. Metall undertakes not to take any measures to impede such activities except for safety measures which are necessary for the normal operations of the Trollius Project. The Implementation Committee will identify reasonable safe working limits.

6.7 Moreover, Metall will allow reasonable use and access for the affected Cree trappers and their families to some of the facilities and services available at the Trollius Project site, including use of the access road, controlled access to the project site, gasoline pump, company store if it exists, limited access to cafeteria and emergency use of the warehouse. In this matter, the Implementation Committee will establish reasonable guidelines to be followed by both Metall and the concerned trappers and their families in order to ensure an orderly and safe operation of the mine.

Information to workforce

6.8 Metall undertakes to inform in writing its workforce at least once a year of a) the fact that traditional activities are being carried out around the Trollius Project site and b) the provisions of the special hunting, fishing and trapping regime applicable to the Trollius Project site area. In addition, Metall will instruct its workforce not to use any cabins or equipment of the affected Cree trappers, nor to displace any of their traps or other equipment. Metall will also encourage its workforce to restrain hunting and fishing activities to specific areas and lakes determined in consultation with the Implementation Committee and the affected Cree trappers.

Control of access road

6.9 In order to reduce the influx of outsiders into the affected trapping and hunting territories, Metall will take reasonable measures to limit the use of the access road to business related activities and to the affected trappers and their families.

Special Economic opportunities

6.10 The parties recognize that the Trollius Project will affect economically certain Cree trappers and their families, particularly those pursuing traditional activities in or around the project site, including its access road and transmission line sites. To allow these individuals to benefit from certain economic replacement alternatives, Metall undertakes to identify with the Implementation Committee certain business opportunities resulting from the Trollius Project and which could be reasonably carried out by these trappers or members of their families. In particular, the access road maintenance and snow removal contracts estimated at a value of one hundred fifty thousand dollars ($150,000.00) yearly will be so provided by Metall if the families decide to pursue such opportunities.
CHAPTER 7 - SOCIO-ECONOMIC DEVELOPMENT AND REMEDIAL FUND

7.1 A socio-economic development and remedial fund (the “Fund”) shall be created and funded by Metall for the use of the Cree of Missisini. The Fund shall be used in order to promote Cree traditional activities, mitigate the negative impacts of the Troilus Project on the Cree of Missisini and to facilitate employment, contracts and other economic spin-off benefits to the Cree of Missisini from the Troilus Project.

In particular the Fund may be used for the following types of works, services, contributions, projects and programs:
- Additional special training and education to facilitate employment;
- Financing contract bids;
- Funding of business enterprises including business plans and advice, acquisition of equipment, developmental work, seed funding and business assistance;
- Trapper cabins: new cabins, renovations, improvement, infrastructure, maintenance, relocation, power (energy sources);
- Communications: radios, satellite hook up;
- Trufline management: wildlife monitoring, harvesting monitoring, relocation of animals;
- Transportation: bush planes, roads and skidoos, trails, petroleum products, shelter subsidy, airport docking areas, reconnaissance visits;
- Traditional activity enhancement: improvement of habitats, waterfowl management, goose ponds, landing areas, parking areas, navigation equipment, equipment acquisition and repairs;
- Other works and programs or replacement for loss of traditional activities: road maintenance equipment, snow removal equipment, various commercial equipment, garage facilities, storage sheds, shoreline cleaning, facilities for the amokong of fish and the sanitary handling of fish and transformation (freezing, refrigeration), cold storage and food preservation facilities, outfitting facilities;
- Any other use of the Fund determined by the Missisini Band Council related to socio-economic development or remedial measures.

7.2 The Fund shall be held “in trust” by the Missisini Band or by the institution designated by the Missisini Band Council. The specific uses of the moneys in the Fund shall be determined, from time to time, by the Missisini Band Council after having consulted the Implementation Committee on this matter.

7.3 Metall shall pay into the Fund an amount of $500,000 (five hundred thousand dollars) thirty (30) days after achievement of the Certificate of authorization issued by the appropriate provincial authorities for the Troilus Project or the first draw down on the Troilus Project Bank financing facility, whichever is later. Thereafter Metall shall pay $50,000 (fifty thousand dollars) per year into the Fund, starting four years after the beginning of commercial production date and until the final production year of the Troilus Project.

CHAPTER 8 - ENVIRONMENTAL MEASURES AND REMEDIAL WORKS

8.1 The parties recognize that the measures provided for in this Agreement do not replace nor diminish in any way the environmental measures and remedial works which may be required under any Certificate of authorization or permit or licence issued in relation to the Troilus Project.

8.2 Metall agrees to consult the Implementation Committee before proceeding to any environmental mitigating or remedial works in relation to the Troilus Project. The purpose of such consultation will be to seek and obtain advice as to the most proper way to carry out such works and to determine the involvement of Cree individuals and enterprises in these works.

8.3 The Missisini Band will be involved by Metall in any on-going environmental monitoring of the Troilus Project. This monitoring is prescribed by the project certificates, permits and licences and is augmented by Metall’s internal programs and audits designed to ensure compliance with all environmental regulations and to minimize the project’s impact on the environment. Metall will provide the Implementation Committee with all results and notification as well as invite representatives of the Missisini Band to witness and participate in the taking of samples and measurements. Where outside expertise is required, Metall will give preference to qualified Cree enterprises to carry out the studies.

CHAPTER 9 - IMPLEMENTATION COMMITTEE

9.1 Forthwith upon the execution of this Agreement, the parties will establish an Implementation Committee of six (6) members of whom three (3) will be appointed by Metall and three (3) will be appointed by the Missisini Band Council.

9.2 Any decision or recommendation of the Implementation Committee requires the approval of at least one (1) representative of the Missisini Band Council and of at least one representative of Metall to be effective.

9.3 The Implementation Committee shall meet as often as required but must meet at least once every three (3) months. The Implementation Committee shall also schedule meetings for timely response to submissions as per the provisions of this agreement.

9.4 The Implementation Committee may adopt its own internal rules of operation.

9.5 The meetings of the Implementation Committee will be held in Missisini, Chibougamau, at the Mine site or at any other place mutually agreed to by its members. The costs of travel, meals and lodging of the members of the Implementation Committee shall be assumed by Metall according to its normal travel policy for its own management staff. However, the remuneration of the members appointed by the Missisini Band Council shall be paid by Missisini; the Socio-Economic Development Fund may be used for such purpose.

9.6 The Implementation Committee shall oversee the application of this Agreement and shall carry out all other tasks entrusted to it under the provisions of this Agreement or by mutual consent of the parties.
CHAPTER 10 - FURTHER DISCUSSIONS

10.1 The parties agree to pursue bona fide but non binding discussions relating to the participation of the Cree of Mistissini in the equity of the Troilus Project based on a possible mutually acceptable commercial arrangement. These discussions will commence within fifteen (15) days of the execution of this Agreement and will terminate one hundred and twenty (120) days thereafter unless the parties mutually agree to extend this delay. Metall offers the participation contingent upon the understanding that any equity participation shall not result in Metall taking a loss on the transaction.

10.2 Should Metall promote another project in its claim area described in plat number 3 (Map of Troilus North and Troilus South claims) or, subject to clause 10.3, modify substantially the existing Troilus Project in the said claim area requiring in either case submission to the impact assessment and review procedures set out in Section 22 of the JIBNA, then both Metall and the Mistissini Band agree to initiate discussions in good faith in order to enter into an agreement to establish reasonable mitigating measures required to minimize the additional negative socio-economic impacts of such a project or of any substantial amendment to the Troilus Project on the Cree of Mistissini should such project or amended project eventually be authorized by the appropriate authorities.

10.3 It is understood that should an amendment to the Troilus Project within Metall's above described claim area involve expansion of the proposed pit or development of new ore deposits which do not require any substantial new infrastructures (such as new power lines, roads other than access road to the new deposit, or separate processing facilities) and causes no substantial additional socio-economic impacts, the present Agreement will be extended automatically by the parties to cover such amendment to the Troilus Project, subject to appropriate adaptations.

CHAPTER 11 - PARTICULAR UNDERTAKINGS

11.1 Subject to this Agreement, the Mistissini Band will support the approval of the Troilus Project pursuant to Section 22 of the JIBNA.

11.2 The provisions of this Agreement can in no way be interpreted or used to restrict or prejudice in any way any claims, discussions or proceedings which any Cree party and the Government of either Quebec or Canada are involved.

CHAPTER 12 - FINAL PROVISIONS

12.1 This Agreement will be binding upon the successors of the parties.

12.2 The parties have requested that this Agreement be drafted in the English and French languages.

12.3 This Agreement shall come into force on the date of its execution by all of the parties hereto.

12.4 This Agreement may be amended only by a written instrument signed by the parties hereto.
SCHEDULE I

i) Mine Access Road - Section I
ii) Mine Access Road - Section II
iii) Power Line Access Roads
iv) Power Line Equipment Supplies and Materials

SCHEDULE II

i) Road Maintenance Contract - Route du Nord intersection to Minesite
ii) Concentrate Haul Contract - Minesite to Smelter or Port
iii) Fuel Delivery Contract - Oil Company Bulk Storage to Minesite
iv) Construction Period Camp Catering and Maintenance Contract
   (including office cleaning)
v) Operation Period Camp Catering and Maintenance Contract
   (including office cleaning)
vii) Freight Consolidation and Delivery Contract - Operation period only
viii) Employee Transportation (Bus) Contract
viii) Power Line Slashing (one or two sections)

SCHEDULE III

i) Mine Access Road - Section I - Cree Construction/Mistco Ventures
ii) Mine Access Road - Section II - Cree Construction/Mistco Ventures

PLATES

Plate 1: Location Plan including access road and power line
Plate 2: Mine site facilities
Plate 3: Map of Troilus North and Troilus South claims
Appendix 3: The Inuit Tapirisat Research Principles

The Inuit Tapirisat of Canada has produced a useful list of principles based on existing ethical guidelines and the concerns expressed by members of Inuit communities. Mining companies wishing to undertake consultations could benefit from adhering to such principles.

1. Informed consent should be obtained from the community and from any individuals involved in research.
2. In seeking informed consent the researcher should at least explain the purpose of the research; sponsors of research; the person in charge; potential benefits and possible problems associated with the research for people and the environment; research methodology; participation of or contact with residents of the community.
3. Anonymity and confidentiality must be offered and, if accepted, guaranteed except where this is legally precluded.
4. Ongoing communication of research objectives, methods, findings and interpretation from inception to completion of project should occur.
5. If, during the research, the community decides the research is unacceptable, the research should be suspended.
6. Serious efforts must be made to include local and traditional knowledge in all stages of research including problem identification.
7. Research must avoid social disruption.
8. Research must respect the privacy, dignity, cultures, traditions and rights of Aboriginal people.
9. Written information should be available in the appropriate language(s).
10. The peer review process must be communicated to the communities, and their advice and/or participation sought in the process.
11. Aboriginal people should have access to research data, not just receive summaries and research reports. The extent of data accessibility that participants and communities can expect should be clearly stated and agreed upon as part of any approval process.
## Appendix 4

**Table 11: Review of key international agreements relating to Indigenous Peoples and natural resource management**

<table>
<thead>
<tr>
<th>Dimensions</th>
<th>Agenda 21</th>
<th>Rio Declaration</th>
<th>CBD</th>
<th>CERD</th>
<th>ICCPR</th>
<th>ICESCR</th>
<th>ILO 169</th>
<th>UN Declaration on rights of IP</th>
<th>OAS Declaration on rights of IP</th>
<th>UN Charter</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parties should recognize/promote Indigenous identity and interests</td>
<td></td>
<td>X X X</td>
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<tr>
<td>recognize IP rights to self determination or self government</td>
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<td>X X X</td>
<td>X X X</td>
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<tr>
<td>Recognize/ promote indigenous land rights</td>
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<tr>
<td>recognize/ promote traditional resource management</td>
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<tr>
<td>recognize/ promote equal rights to participation in public affairs</td>
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<tr>
<td>recognize the role of IP in sustainable development and environmental management</td>
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<tr>
<td>improve/ recognize rights to Indigenous participation in resource management</td>
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<tr>
<td>promote indigenous capacity building</td>
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<tr>
<td>Protect IP knowledge, innovations, practices/ culture</td>
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<tr>
<td>Protect IP lands from culturally/ environmentally unsound activities</td>
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<tr>
<td>Strengthen IP policies, legislation at national level, IP participation</td>
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<tr>
<td>strengthen national dispute resolution mechanisms to settle land / resources management concerns</td>
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<tr>
<td>achieve informed consent of IP prior to decisions affecting their rights/ interests</td>
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<tr>
<td>IP rights to participation in decisions that affect them/ informed consent</td>
<td></td>
<td>X X X</td>
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<tr>
<td>Compensation, restoration from deprived lands</td>
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<tr>
<td>Government duty to consult IP on resource development</td>
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<td>X X</td>
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<tr>
<td>IP right to participation and compensation on mineral activities</td>
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</tbody>
</table>

Source: (Whiteman et al, 2002:5)
## Appendix 5

### Table 12: Characteristics of strong and weak consultation processes in mining

<table>
<thead>
<tr>
<th>Strong Consultation Process</th>
<th>Weak consultation process</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Principles/ Values</strong></td>
<td></td>
</tr>
<tr>
<td>Recognition of Indigenous peoples’ rights to consultation and participation in NRM, and the right to FPIC</td>
<td>No recognition of these international rights</td>
</tr>
<tr>
<td>Adherence to principles of mutual respect, accountability, transparency, flexibility</td>
<td>Principles may be stated, but not implemented</td>
</tr>
<tr>
<td><strong>Goals and objectives</strong></td>
<td></td>
</tr>
<tr>
<td>Jointly developed goals by Indigenous Peoples and companies prior to consultation. Goals are binding</td>
<td>Unbinding Goals are developed by companies</td>
</tr>
<tr>
<td>Possible goals: increased level of understanding of mutual concerns and goals; to achieve informed consent; to establish co-management regimes; to pursue sustainable development objectives including the protection of the environment and indigenous culture and land rights, to reduce conflict</td>
<td>Possible goals: to obtain community consent (at times, through manipulation or partial presentation of the facts); to reduce opposition; to educate people about benefits to project; to fulfill financing obligations</td>
</tr>
<tr>
<td><strong>Mechanisms</strong></td>
<td></td>
</tr>
<tr>
<td>Senior management/ board commitment</td>
<td>No senior management/ board commitment</td>
</tr>
<tr>
<td>Government involvement, particularly if land rights are unrecognized</td>
<td>No government involvement, biased involvement</td>
</tr>
<tr>
<td>Detailed pre-consultation planning of mechanisms undertaken jointly with Indigenous community</td>
<td>No pre-consultation planning mechanisms, or plan is developed by company without Indigenous Peoples involvement</td>
</tr>
<tr>
<td>Strong stakeholder identification process, with adequate representation of all stakeholders, including perspectives from women, elders, children and other minority groups</td>
<td>Stakeholders not fully represented at discussion table, biased selection of stakeholders</td>
</tr>
<tr>
<td>Consultation process and topics jointly defined, tailored to the local context including TEK where appropriate</td>
<td>Top down consultation plan and agenda imposed using a standard corporate process</td>
</tr>
<tr>
<td>Evidence of shared decision making power between company and community</td>
<td>Power issues not addressed: entrenched power differential between company who are in control and communities who have little control</td>
</tr>
<tr>
<td>Education on the part of all parties/ mutual capacity</td>
<td>One way learning with indigenous communities perceived as &quot;ignorant&quot;</td>
</tr>
</tbody>
</table>
Use of variety of different methodologies for public participation and consultation | Use of only a few narrow methodologies for public participation and consultation
---|---
Two-way dialogue, with open and transparent communication using local languages | Domination by information transfer, one way communication
Concrete mechanisms in place to incorporate stakeholder/community feedback into decision making; implementation of feedback occurs in plenty of time to affect decision making | Lip service, feedback may be solicited after decision have effectively been made
Community-based problem, joint decision-making processes | Corporate problem-solving and decision making
Measures in place for dispute resolution and for managing disengagement | No dispute resolution or disengagement mechanisms
Timing: consultation process is ongoing and covers a variety of different stages of minerals development | Timing: consultation process is discrete occurs once or twice
Post consultation follow up evaluation and reporting procedures | Little follow up or evaluation. No reporting
Meaningful consultation | Tokenistic consultation

Source: (Whiteman et al, 2002)

Table 13: Social and environmental impacts of mining

<table>
<thead>
<tr>
<th>Environmental damage</th>
<th>Health impacts</th>
<th>Human rights abuse/ infringement of indigenous rights</th>
<th>Socio cultural impacts</th>
<th>Gender impacts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Negative impacts on:</td>
<td>-Cancer</td>
<td>Violence against Indigenous Peoples:</td>
<td>-Little follow up or monitoring of cultural impacts</td>
<td>Health and well being:</td>
</tr>
<tr>
<td>-Habitat</td>
<td>-Asbestosis</td>
<td>-murder</td>
<td>-STDs</td>
<td></td>
</tr>
<tr>
<td>-Vegetation</td>
<td>-Mercury poisoning</td>
<td>-Assault</td>
<td>-Sexual harassment</td>
<td></td>
</tr>
<tr>
<td>-Biodiversity</td>
<td>-Skin rashes</td>
<td>-Rape</td>
<td>-Sex work</td>
<td></td>
</tr>
<tr>
<td>-Groundwater</td>
<td>-Diarrhoea</td>
<td>-War / violent conflicts</td>
<td>-Sexual, physical and emotional abuses</td>
<td></td>
</tr>
<tr>
<td>-Surface water</td>
<td>-Respiratory problems</td>
<td>-Arrest</td>
<td>-Domestic violence</td>
<td></td>
</tr>
<tr>
<td>-Animal, bird and aquatic life</td>
<td>-Tuberculosis</td>
<td>-Theft</td>
<td>-Divorce</td>
<td></td>
</tr>
<tr>
<td>-Atmosphere</td>
<td>-Malaria</td>
<td>-Cultural genocide</td>
<td>-Abandonment</td>
<td></td>
</tr>
<tr>
<td></td>
<td>-HIV/Aids, STDs</td>
<td></td>
<td>-Dislocation and social alienation</td>
<td></td>
</tr>
</tbody>
</table>
| Key problem areas: | Increased infant mortality  
- Drug and alcohol abuse | Infringement of indigenous rights  
- Land rights  
- Rights to consultation and participation | Loss of traditional lifestyle  
- Loss of land for hunting, trapping, fishing, and farming  
- Rapid cultural change  
- Increased dependence in external world and cash economy  
- Devastation of traditional subsistence economy  
- Roads open traditional lands up to greater development and influx of non indigenous workers  
- Forced resettlement  
- Emigration of Indigenous Peoples to cities | Negative impact on women’s rights and traditional roles:  
- Attrition of women’s land rights in matrilineal societies  
- Introduction of patriarchy and sexism  
- Decreased ability to act as environmental caretakers  
- Loss of female traditional knowledge  
- Decreased ability to provide food and clean water | Economic inequalities:  
- Exclusion from economic benefits of mining  
- Exclusion from education and employment opportunities  
- Loss of economic and social independence  
- Inequality in wages |
| Changes in landscape  
- Dumping of untreated tailings  
- Accidental spills (e.g, cyanide, mercury, etc)  
- Acid mine drainage  
- Waste rock  
- Mine remediation | Increased violence:  
- Murder  
- Assault  
- Suicide  
- Abuse | | | | | | Loss of traditional lifestyle  
- Loss of land for hunting, trapping, fishing, and farming  
- Rapid cultural change  
- Increased dependence in external world and cash economy  
- Devastation of traditional subsistence economy  
- Roads open traditional lands up to greater development and influx of non indigenous workers  
- Forced resettlement  
- Emigration of Indigenous Peoples to cities | | | | | | Other deteriorations:  
Large mines bring few substantial employment opportunities  
Lucrative processing and refining are not located on indigenous lands  
Most jobs go to outsiders  
Mine closure can bring additional socio economic difficulties  
Royalties or compensation payments can create inequality and increase social tension if not evenly distributed  
Employment in mining:  
Long working hours with rotational work  
- May conflict with Inidgenous cultural practices (traditional fishing, camping, ceremonies)  
extended absence from family and impact on the ability to keep kinship relations | | | | | | Economic inequalities:  
- Exclusion from economic benefits of mining  
- Exclusion from education and employment opportunities  
- Loss of economic and social independence  
- Inequality in wages | | | | | |
Laila El Krekshi