

**Mining Association of Canada
Towards Sustainable Mining**

Summary Report

**17th Meeting of the
Community of Interest Advisory Panel**

**March 7, 2012
Toronto, ON**



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Introduction

This report presents a summary of discussions from the March 7, 2012 meeting of the TSM Community of Interest (COI) Advisory Panel ("the Panel"), including decisions on the work of the Panel and recommendations to the Mining Association of Canada (MAC). Any dissenting views have been identified and recorded. Meeting presentations are appended to this report; content contained in meeting presentations is not duplicated in the body of this report.

Summary of Action Items

Below is a summary of new and outstanding action items. New action items are underlined throughout the report. Action items are documented until they have been reported "complete".

ACTION ITEMS					
#	ITEM	LINK TO REPORT	RESPONSIBLE	TIMELINE	STATUS
#6-March-11	MAC to provide an update on how MAC membership changes once annually.	Section 2	MAC	Annual presentation	Complete
#7-March-11	MAC to provide a list of all member companies with the following information included: <ul style="list-style-type: none"> - Name of company; - Where the company operates; - Where the company is in the TSM process; and - Type(s) of commodities mined. 	Section 2	MAC	Annual presentation	Complete
#15-March-11	COI Panel members to put forward the names and bios of 2-3 candidates.	Section 5	Panel members	June 10, 2011	In Progress
#16-March-11	MAC and Stratos to continue to adapt the methods and mechanisms for seeking feedback from the COI Panel.	Section 9	MAC / Stratos	May 31, 2011	Complete
#1-Sept-11	Reconstitute a design team (similar to the one that created the Panel) to develop a set of recommendations and revise the COI Panel Terms of Reference as necessary	Section 2	MAC / Stratos	ASAP	Complete
#1-March-12	Circulate Nathan Lemphers' CV to the Panel.	Section 1	Brenda Kelley	ASAP	Complete
#2-March-12	Develop and communicate a transition plan for Panel renewal that builds in contingency in case new members are not available to attend fall 2012 meeting.	Section 1	MAC / Stratos	ASAP	Complete
#3-March-12	Examine crisis management and planning results to understand the plateau in company performance and report back on this analysis at a future meeting.	Section 2	MAC	Fall 2012	

ACTION ITEMS					
#	ITEM	LINK TO REPORT	RESPONSIBLE	TIMELINE	STATUS
#4-March-12	Provide input and suggestions to MAC on how to use its TSM awards program to raise the profile of TSM.	Section 2	Panel members	2012	
#5-March-12	Raise the possibility of creating a package (to engage with non-MAC members in regional hot spots) to support these companies in building their management systems with the initiative leaders.	Section 2	MAC	2012	
#6-March-12	Inform Cameco and Inmet that they have been selected for post-verification review at the fall 2012 meeting.	Section 2	Stratos	March 2012	Complete
#7-March-12	Invite Panel members to participate in the next MAC biodiversity workshop.	Section 4	MAC	March 2012	Complete
#8-March-12	Circulate revised and new meeting presentations to Panel members following the meeting.	Section 7	Stratos	March 2012	Complete

Welcome and Approval of September 2011 Panel Meeting Report

The Panel facilitator welcomed COI Panel members to the 17th Panel meeting and provided an update on Panel members that were unable to attend the meeting: Roger Augustine, Richard Briggs, Soha Kneen, David Mackenzie, Christy Marinig and Eric Morris. Chief Earl Klyne of the Seine River First Nation participated as an alternate for Chief Eric Morris, and Manon Beauchemin of the Iron Ore Company of Canada participated as an observer.

Two Mining Association of Canada staff members, who were participating in their first COI Panel meeting, introduced themselves:

- Ben Chalmers, Vice President of Sustainable Development: Ben began this role in November of 2011 and had previously been with the Mining Association of British Columbia. Ben also worked for Breakwater Resources at the Myra Falls mine. Ben is responsible for Towards Sustainable Mining, international social responsibility and biodiversity at the Mining Association of Canada.
- Tara Shea, Manager of Towards Sustainable Mining: Tara is the newly promoted Manager of TSM and has been working on TSM implementation for over a year with the Mining Association of Canada.

The Panel approved the September 2011 meeting report without additional amendments. The Panel also approved the 2011 post-verification review report with the following amendment:

- Under the "List of Companies that Verified their TSM Results" the following correction was made:
 - Suncor Energy Inc. did not verify its results in 2010; and
 - Both Suncor Energy Inc. and Inmet Mining Corporation participated in a pilot post-verification review process (i.e., a "pre-verification review") in 2006.

1 COI Panel Updates

1.1 Panel Renewal

Vicky Weekes provided a short update on Panel renewal activities that have taken place since the September 2011 meeting (see presentation in Appendix B). A COI Panel renewal design team was reconstituted in the fall of 2011 to review the Panel's role and composition and produce a revised Terms of Reference for the Panel. As part of the renewal process, five Panel members have offered to step down: Richard Briggs, Ginger Gibson, Larry Haber, Brenda Kelley and Christy Marinig. The design team identified new "core categories" that would define the composition of the Panel. As a result of the Panel members that are stepping down and new interests that were identified by the design team, gaps in composition will be filled over time to represent the core categories. The design team also identified that expert categories would be needed to provide expertise on certain issues for which the Panel had less experience. The Panel will select the expert categories to be filled on the basis of an annual strategic issue setting exercise at the last meeting of the Panel each year. Panel members from expert categories will serve a one-two year term.

Comments on Panel Composition

One Panel member suggested that new Panel membership and expertise should reflect priority issues that the Panel will explore in the future. One design team representative commented that the new composition is meant to do this with the core categories creating stability in the Panel, and the expert categories creating flexibility and dynamism.

One Panel member raised some concerns/questions about Aboriginal representation on the Panel, specifically whether the Terms of Reference have set aside three seats for Aboriginal groups (First Nations, Inuit and Métis), and that participation may be a challenge if these individuals can only serve a maximum number of terms, as other participants may not be available. The new Terms of Reference do set aside three seats for Aboriginal participants representing First Nations, Inuit and Métis. The Terms of Reference were also revised based on COI Panel comments to address capacity and renewal:

"In unique circumstances, Panel members may serve more than two terms (e.g., to avoid gaps in core categories or to continue providing particularly relevant expertise)."

One Panel member noted that the Panel primarily has a social focus and that individuals with technical, ecological or traditional knowledge are not represented on the Panel and that this is a gap that may need to be filled in the future. Another Panel member suggested that one of the Panel's strengths is in receiving and bridging technical information with broader societal interests through discussion and interpretation.

Brenda Kelley informed the Panel that the Canadian Environmental Network (CEN) would like to see CEN represented in the Panel going forward. The CEN is putting forward Nathan Lemphers (Senior Policy Analyst, Pembina Institute) as a prospective candidate. Brenda will circulate Nathan's CV to the Panel following the meeting. Pierre Gratton noted that MAC will continue to work with organizations that have had representatives on the Panel in the past where the commitment and relationships are working (even though the new Panel Terms of Reference specify that membership will now be individual, rather than organizational). MAC's previous and current relationship with CEN is working well.

Comments on Panel Renewal Process

Two industry representatives commented that a large number of Panel members are stepping down and that it will be important to ensure that new members are in place for the September 2012 meeting. A recommendation was made to develop and communicate a transition plan for Panel renewal that builds in a contingency plan in case new members are not available (e.g., inviting the Panel members who are stepping down to participate in one additional meeting).

One industry representative asked if the COI Panel honorarium is sufficient. One of the design team members indicated that they did not address this issue in their work.

1.2 Information Item: Potential environmental legislative changes and possible implications to the mining industry

Dan Benoit briefly introduced the topic of potential environmental legislative changes and possible implications to the mining industry. He has been hearing through the grapevine that the federal government is planning to scale back environmental assessment processes under the *Canadian Environmental Assessment Act* (e.g., eliminate screenings, etc.) and is wondering how this will affect the mining industry and Aboriginal consultation and accommodation. If activities under environmental assessment are cut, there could be a large gap in the information collected, which has been an important input for government consultation with communities. The Crown is unlikely to be able to accept Impact Benefit Agreements as part of accommodation, because they are confidential.

Pierre Gratton indicated that mining projects are subject to comprehensive studies or Panel reviews, so mining projects do not fall into screenings categories. If screenings are cut, this won't affect the mining industry. Former Auditor General Sheila Fraser wrote a report in 2009 that criticized the federal government for excluding stimulus fund projects from environmental assessment, which may have provided the impetus for looking at this issue more closely now. It is unclear whether any changes by the federal government will address all screenings, or only federal screenings or only private sector industrial screenings. The idea is that eliminating low level impact reviews could provide more resources to support high impact reviews.

Building on this discussion, Panel members provided comments and suggestions on how this topic could be explored by the Panel in the future:

- Regulatory uncertainty is not helpful given the development pressures in Canada (particularly in the North). While federal budgeting might cause the government to tinker with the environmental assessment process, it may do so without getting at issues core to industry and communities. As a future topic, the Panel might consider exploring the strengths, weaknesses and principles around successful projects from a regional environmental assessment perspective (e.g., Ring of Fire or Northern BC). There are many lessons which have been learned, that are not being applied, and there is a surprising amount of agreement on problems and principles.
- There is an interesting link between social impact assessments and impact benefit agreements (i.e., who can make decisions on social impact assessments and how this affects the development of impact benefit agreements). Also, *Canadian Environmental Assessment Act* analysis is focused on the *Fisheries Act*, but federal departments typically defer to provinces (which have complicated regulatory regimes). The Panel could explore the issue of addressing environmental assessment across jurisdictions.

- The federal government has stumbling blocks to processing projects because of provincial requirements. The government is trying to streamline regulatory processes, and industry is onside with streamlining, if it results in good process and doesn't just result in cutting activities. It would be useful to understand the environmental impact assessment landscape from the industry perspective.
- Once changes have been proposed, the Panel could have a closer look at these changes and bring in some external expertise to have a discussion about the implications of these new rules.

1.3 Information Item: Recent and emerging community issues affecting the northern mining industry

Alan Penn briefly introduced the topic of recent and emerging community issues affecting the northern mining industry, following the media attention given to the Attawapiskat First Nation. Alan provided a short briefing note to the Panel exploring the question of what the industry needs to understand about remote communities in general (and Aboriginal communities in particular). The Panel might explore issues that must be considered if industry wants to build closer and multi-functional relationships with communities. Broader social and cultural constraints warrant documentation and discussion and a broader look, not simply on a project-by-project basis which misses the regional perspective. Case studies could be used to explore this topic. Communities vary in size, geographical diversity, capacity, etc. It would be interesting to look at what has happened to communities outside of land claim agreements (i.e., those that were part of treaty processes, such as in Northern Ontario).

Building on this introduction, Panel members provided general comments and suggestions on how this topic could be explored by the Panel in the future:

- Two additional Panel members commented that case studies are very valuable, even if they are not solvable.
- Dialogue based on experience (rather than interest-based dialogue) could be useful. "Elder dialogues" with Aboriginal and company elders could be a useful way to cast back and cast forward to encourage learning.
- Experts in a particular region could join a Panel meeting to help open a broader discussion (i.e., what issues are not being discussed by companies and communities? what sources of information exist? what gaps exist in practice?).
- Investors want to invest in companies that operate in locations where they are welcome. Investors hear that companies are engaging with communities, but then agreements are developed and are confidential. Investors don't have information to assess and understand practices and there is no forum for other stakeholders (outside of communities and companies) to engage. Who can provide a forum for a variety of stakeholders to get involved?
- Learning could be drawn from the results of individual projects and agreements about topics such as employment, training, literacy, etc. (e.g., diamond mines in the NWT).
- The industry needs to look at what's on the horizon and how to respond. E.g., an enormous labour gap is anticipated in British Columbia in the future. A few companies (across industries) are currently exploring the idea of collaborative BC Aboriginal training program that involves the federal government, the province, Aboriginal communities,

companies and educational institutions. This issue could be addressed nationally or regionally, but requires readiness on the part of all of the groups involved to seize the opportunity.

- Treaties exist between Aboriginal peoples and Canada. Aboriginal people are keepers of the land, and environment is the top priority. Communities' main concern with a mine is the closure plan (long-term, 50 years from now) and what is going to be left when the mine closes. In the past, mines have come in and left a mess that governments don't know how to clean up. Issues are of interest at a watershed level. Elders are a guiding force. Elder support is required to work with industry, and sometimes elders take a long time to make decisions. One Panel member indicated that his community began conducting environmental scans to produce a baseline assessment. The baseline study indicated that mine was leaking contaminants, and communities and municipalities in that area have 10 times the rate of heart disease and obesity.
- The industry's international operations deal with the same kinds of issues (capacity in communities). This is a big issue that the Panel could address - building human capacity and capital is something that all mining companies struggle with.
- With impact benefit agreements (IBAs), there are a few good ones, but many weak ones (which are not implemented or not fair). Because agreements are confidential, it makes them hard to study. IBAs are leveling tools and are used to strengthen measures in the public regulatory process. However, there is a lot that mining companies need to know about communities and understanding community structure, composition and dynamics is challenging.
- Aboriginal communities are looking at how mining fits into community economic development and there is a desire for a flow of revenue, not tied to IBAs, to influence health, etc. Discussing benefit flows creates significant social, community and family tension when negotiating impact benefit agreements. Companies are not flowing charitable dollars to the communities from which the resources are mined. Resources are only provided through impact benefit agreements. The topic of charity could be explored further. Potable water and housing are emerging issues where investments could be made.

2 TSM Implementation

Ben Chalmers provided an update on TSM implementation including: the 2012 TSM work plan, preliminary 2011 TSM results, changes to the GHG and Energy Emissions Management protocol, status on the Mine Closure protocol, online training and companies undergoing external verification in 2012 (see presentation in Appendix C).

TSM Work Plan: Key activities in the 2012 work plan include:

1. Strengthening outreach and communications around TSM with provincial associations, provincial and federal regulators, and the financial sector (Export Development Canada recently expressed an interest in exploring how it might incorporate TSM into its risk management process for lending practices with respect to mining projects);
2. COI Panel renewal;
3. Improving performance in key areas (i.e., biodiversity and energy use and GHG emissions management); and

4. Engaging on or reviewing protocols (i.e., safety and health – outreach with partners, and crisis management – protocol review).
 - o In response to the comments on the safety and health protocol, one industry representative noted that risk-based and behavioural-based management are complimentary and both are needed for good safety and health performance.

Preliminary TSM Results: 28 facilities have reported 2011 TSM results. Early results point to the following trends:

- Improvements have occurred on all Tailings Management indicators (due to focused attention and workshops);
- Results remain strong on Aboriginal and Community Outreach;
- Small improvements have been made on Energy Use and GHG Emissions Management, but overall results are still weak and MAC is addressing this in 2012;
- Results are preliminary for Safety and Health and Biodiversity Conservation Management, as these are in early implementation; and
- Crisis management results are consistent with previous years.
 - o One Panel member asked whether MAC should be concerned that only 65% of companies and facilities responded “yes” to all three crisis management indicators. MAC suggested that it could examine the results to understand this trend and report back on this analysis at a future meeting.

One Panel member asked whether legislative requirements influence performance on protocols (i.e., tailings management is regulated, but not crisis management). Another Panel member suggested that incentives may be required to influence companies to make the leap to perform better (e.g., an annual award for going up a level). MAC indicated that it provides an award to companies that obtain a Level A or higher on a protocol and a special leadership award to companies that obtain a Level A or higher on all protocols in a given year. Currently, awards are only provided to companies that are externally verified in a given year. MAC had its first public awards reception in November 2011. MAC is open to ideas from the Panel on its awards program. Local media coverage was recommended as a complement to the awards reception. One industry representative noted that Barrick’s Hemlo facility received local media coverage when it received a leadership award this year.

Energy Use and GHG Emissions Management Protocol: Concerns had been raised that this protocol is dated, doesn’t reflect current thinking and that it is duplicative, so MAC reconstituted its Energy Task Force to review the protocol. A number of changes were proposed and MAC had the Pembina Institute review a revised draft of the protocol. Key changes to the protocol include:

- Combining energy use and GHG emissions indicators;
- Incorporating the principle of materiality (i.e., companies should manage and allocate resources to issues that are material) – i.e., establishing a threshold for reporting on specific indicators and prioritizing efforts on fuel types;
- Allowing for Business Unit reductions – i.e., targets can now be set at the business unit level or the facility level (rather than just at the facility level); and

- Providing flexibility with targets – i.e., targets can be volume-based, intensity-based, multi-year, and can include offsets to meet targets.

In response to the proposed changes, Panel members offered the following comments and questions:

- There is a difference between managing energy use and GHG emission. Every operation should consider energy input as material, and this is separate from GHG emission.
- How do companies address hydro?
 - Hydro is factored in as a fuel type; emission factors are specified by province.
- The security exchange requires companies to disclose material risk; is there a guidance document on materiality and how to apply the term?
 - A panel member responded that the Canadian Institute of Chartered Accountants (CICA) has published guidance on this.
- Given the number of initiatives (e.g., Carbon Disclosure Project) there is saturation on initiatives and they can't all be addressed.
 - The MAC protocol aligns with federal and provincial requirements, ISO 50000 and ICMM.
- The UN is moving towards making decisions about projects that are good or bad, and climate change is still seen as important.
- Outside of Quebec, how does grid hook up work and who pays?
 - Utility providers determine the cost of hydro. Based on this cost, companies can make decisions about energy sources.
- Mines get deeper and farther from the mill with every year of operation; energy costs will increase over time and there is only so much that a company can do, so performance may not get better. In addition, companies must make decisions about trade-offs between environmental management initiatives. At some facilities, recycling and reclaiming e-waste is a priority which reduces the need to landfill but increases energy use. Significant effort may be required to maintain energy performance in the future.
- Communities are interested in seeing changes that result in reduced human health risk exposure.
 - Protecting health may require more energy, but companies try to work on both objectives. There is immense pressure to reduce GHG emissions, but this has health impacts too. The industry is always trying to reduce and use less, but it is challenging because only certain processes exist currently.
- It would be useful to understand the context that motivates or influences performance improvements for energy sources (e.g., using propane for heating in winter months, expansion, etc.)

Mine Closure: MAC anticipates the Mine Closure protocol will be finalized in 2013 (i.e., presented to the COI Panel in fall 2012 and approved by the MAC Board in the first half of 2013).

TSM Online Training: The TSM 101 module is available and free for anyone to access on the MAC website. Other modules require users to pay a small fee to access.

- One Panel member suggested that the user fee might be an impediment for members to use the training. MAC indicated that the cost is limited and that members would have to pay one way or another (either through MAC membership fees or a user fee). MAC will ensure that COI Panel members can access training modules at no cost, upon request.
- Another Panel member suggested that a link to the TSM 101 module should be included in the introductory package for new COI Panel members.

New MAC Members: One Panel member requested an update on the status of new or prospective MAC members. MAC reported that it is pursuing conversations with several companies, including oil and gas and mining companies from several different sectors including metal and coal. MAC's associate membership is also changing over time. The following comments, questions and answers were provided on the topic of MAC membership:

- One MAC member has no Canadian operations, so is not subject to any reporting requirements. However, if the company had a problem, this would affect all MAC members.
- Is MAC reaching out to companies that are not yet operational, such as those in the Labrador trough?
 - MAC has three members that are not operational and the MAC Board has had to amend its bylaws to allow for more Board seats. One company left MAC this year because it didn't have capacity to address TSM, which is a condition of membership.
- There are a number of small lithium and rare earth mining companies in northwestern Quebec that are not MAC members.
 - Few junior companies become MAC members and MAC does not have the capacity to pursue them, especially given the uncertainty as to which projects will move into construction and production.
 - One industry representative reflected that there is an opportunity for MAC to create a package (to engage with non-MAC members in regional hot spots) to support these companies in building their management systems. This kind of investment by MAC would be a relatively cheap enabler.
 - Industry representatives agreed that TSM is applicable regardless of the size of company and can be of even greater value to small and mid-sized companies.
- If a company is implementing TSM, some investors would find it much easier to support that company. The burden of implementing TSM is unclear. How much does it actually cost to implement TSM?
- Some Aboriginal negotiators require TSM as a condition of impact benefit agreements.
 - This requirement should come from companies.
 - It is good to hear that some communities know about TSM.

Post-Verification Review: The Panel reviewed the list of companies undergoing external verification in 2012 and selected Cameco and Inmet to participate in post-verification reviews at the fall 2012 COI Panel meeting.

3 MAC Regulatory Activities Update

Ben Chalmers provided two short presentations (see Appendix C) on the status, industry concerns and MAC messages related to two pieces of environmental legislation: the *Fisheries Act* and the Metal Mining Effluent Regulations; and the *Species at Risk Act* and caribou management.

Mining and Fisheries Act: The *Fisheries Act* contains a regulation called the Metal Mining Effluent Regulations (MMER) which deals with the quality and environmental effects of effluent discharge from mines as well as the disposal of tailings to natural water bodies. Currently the regulation only applies to metal mines and does not apply to other sectors such as oil sands, coal or diamonds. Industry concerns include: poor and inconsistent implementation of MMER / Environmental Effects Monitoring, creating an uneven playing field for metal and non-metal mines; and inconsistent interpretation of terms. Industry would like to see MMER cover all mining operations (not just metal mines); improved implementation and administration of the Act and clarity around what is expected of companies. The current regulatory process can take up to two years, so given the length of time and complexity of process, mines may explore alternatives to disposing of tailings in lakes that make less environmental sense.

- One Panel member requested that MAC share comments that it has submitted to the government on this topic and the government response.
- One Panel member offered that the public perspective is that mines are trying to avoid the Schedule 2 process and that it would be interesting to discuss the risks and benefits of pursuing alternatives to disposing of tailings in lakes.

Species at Risk and Caribou: MAC partnered with the Saskatchewan Mining Association, Cameco, and the Nunavut Chamber of Mines to draft comments in response to the proposed Boreal Caribou Recovery Strategy. MAC is now waiting for the next iteration of the recovery strategy from Environment Canada that addresses comments. Woodland caribou habitat spans about one third of Canada and there are varying degrees of habitat disturbance across the country. The issue is coming to a head in Saskatchewan where disturbance is created by fire and the province's policy is to let forest fires burn, rather than fight the fires. A "one size fits all" strategy across the country is inappropriate – not all boreal forest is the same. The Prospectors and Developers Association of Canada (PDAC) commissioned work from an Ontario perspective, and the issues were quite different than those in Saskatchewan.

- One Panel member commented that the terminology is applied differently across provinces (e.g., critical habitat). The regional complexities in Saskatchewan are interesting. Some NGOs are looking carefully at how to respect the fundamental provisions of the recovery strategy, while allowing for appropriate regional intervention. The question is whether the federal governmental will be okay with a flexible, regional approach.
- One Panel member suggested that there is a real opportunity in Saskatchewan and the NWT at the facility level to explore recovery through an Aboriginal line of inquiry (i.e., through harvesting and subsistence endpoints) and to consider cumulative effects.
- A few Panel members reflected that there is an opportunity to make use of university research – some companies and some communities are already partnering with universities around these kinds of issues.

- One Panel member commented that studies completed in other regions (and that are sometimes used in environmental assessments) are not applicable and do not reflect community perspectives.
- One Panel member commented that in Manitoba, most of the at risk herds are associated with the Thompson nickel belt, the Red Lake / Bissett gold belt and the HudBay nickel / zinc near Flin Flon.

4 Biodiversity Conservation Management

Ben Chalmers provided a short presentation (see Appendix D) on MAC's progress in applying the Biodiversity Conservation Management protocol. Some companies are reporting results on a voluntary basis, and the preliminary results are weak. Consequently, the Initiative Leaders instructed MAC to hold a lessons learned workshop, which it did in February 2012 in partnership with the Canadian Business and Biodiversity Council. Following from the workshop, four next steps were proposed:

1. Make minor changes to the protocol;
2. Enhance online training for biodiversity with case studies;
3. Develop and conduct a webinar on biodiversity targets and objectives; and
4. Establish cost and scope for training workshops and guidance document – decide to implement based on next year's results.

In response to this presentation, Panel members had the following comments and questions:

- How do companies interpret the word biodiversity in specific geographical contexts (i.e., what do companies feel they are responsible for managing)? There is a link between mine closure and biodiversity.
 - Geographies in which mines operate are quite different, but the protocol is sufficiently flexible to allow companies to apply it in different contexts.
- How are biodiversity and enhancement differentiated? Biodiversity should reflect added value, whereas enhancement usually means mitigation. These are things of interest to the public which can be communicated through case studies (not TSM scores).
- Establishing a baseline before activity occurs is critical. In New Caledonia, two new species were identified (that had never been found before) because of mining activity. A mapping / land use program was established with local communities which will determine where parks will be created (i.e., areas that won't be mined to ensure biodiversity). This initiative is driven by industry and communities, with government tagging along. However, in other areas such as in Sudbury, biodiversity was destroyed, and now companies are trying to reestablish biodiversity and spend a lot of effort on how to restore and enhance the area.
- Partnering with civil society organizations is an important element that allows companies define biodiversity approaches.
- As MAC members consider objective and target setting, they can consider a few different angles: at the species level (i.e., monitoring and species at risk); at the ecosystem level (i.e., planning and regional issues); and the nature of input (e.g., traditional knowledge – i.e., what lens are you using to measure biodiversity?)

- MAC should be cautious about how it interprets that only 10% of voluntary reporting members have achieved Level A or higher on this protocol. Level A requires that biodiversity conservation is built into accountability and facility level training – this is something that companies will aspire to, but we shouldn't be concerned that we aren't there now.
- Some communities have completed baseline studies and are now looking at options for addressing species at risk. This kind of planning needs to occur early in the mine life, should be built into agreements with communities and should look at ecosystems as a whole (rather than be defined by artificial borders).
- Regulatory agencies may not have adequate information, but companies can help to fill the gap in information.
- Companies should be looking to create a net positive impact, starting at a high level to address issues as a company, and then drilling down into details as you go.
- Biodiversity is a great way to interface with other TSM objectives (e.g., community engagement) – there is tremendous potential to work on this issue.
 - The mining industry has struggled with how to engage on biodiversity issues given opposition from conservation groups, but this is what local people care about and this creates a good opportunity.
 - The public sees destruction with mining, but an early focus on biodiversity upfront (e.g., baseline studies, plans, etc.) helps communities understand a company's intention to restore.
 - Addressing issues around the mine (and not just at the mine site) is also important and will give comfort to communities.
 - Incorporating adaptive management is important for mining industry and is of interest to regulators.
 - Biodiversity can't be separated from community development.
- The topic of biodiversity brings up difficult issues (e.g., land use). There will be impacts from mining, but we should identify and understand mutual benefit and move forward. Government should be at the table to help define a path forward.

Following the discussion, Craig Ford offered that Inmet could give a presentation to the Panel on the work it is undertaking in Panama (a biodiversity rich area), where it is conserving almost 300,000 hectares outside of a 6,000 hectare mine footprint. Alan Penn and Alan Young indicated that they would be interested in participating in the next MAC biodiversity workshop.

5 International Social Responsibility

Ben Chalmers provided a short presentation (see Appendix E¹) describing the mandate of MAC's International Social Responsibility Committee (ISR Committee) and four research projects that the Committee commissioned in 2011:

¹ While many topics were listed in the presentation, there was not enough time to discuss all topics. Discussion was primarily focused on the four ISR Committee research topics.

1. **National Round Tables on CSR and the Canadian Extractive Industry in Developing Countries:** Review, identify and understand the actions taken by government and other actors to implement the recommendations arising from the National Roundtables (2007) on Corporate Social Responsibility and the Canadian Extractive Industry in Developing Countries. [*Report published and provided in Panel briefing materials*]
2. **Accountability mechanisms:** Identify existing accountability mechanisms (i.e., statutes, laws and regulations) in Canada and other select countries, and identify weaknesses and gaps of these mechanisms. [*Research complete*]
 - o Findings from this research suggest that laws in other countries are comparable to the laws in Canada, but enforcement and implementation of the laws need work.
3. **Transparency:** Analyze how companies can better demonstrate transparency and improve their disclosure practices to meet basic compliance and good reporting practices, as well as emerging expectations in four areas: payments to governments, human rights, community and broader economic benefit and consultation with Indigenous peoples. [*Research underway*]
 - o The Extractive Industries Transparency Initiative (EITI) is a globally developed standard that promotes revenue transparency at the local level. All ICMM member companies are required to report on mineral revenue payments in participating countries. Canada endorsed the standard as a supporting country in 2007, but is not an implementing country. Other initiatives are also aimed at transparency and accountability reporting, such as an emerging private members bill and the *Dodd-Frank Act* in the USA. MAC is interested in constructively contributing to this topic, without being duplicative of other initiatives.
4. **Application of the principle of Free, Prior and Informed Consent:** Review and understand the state of the art application of Free Informed and Prior Consent (FPIC), globally. [*Research underway*]
 - o Key questions include: Who do you get FPIC from? How do companies know when they have FPIC? (Answers are needed to the: who? what? when? where? how? of FPIC.)

The ISR Committee selected the Round Table theme and three topical issues that create challenges for MAC members as quick entry points into exploring international issues. The ISR Committee reports directly to the MAC Board. In the spirit of COI Panel redesign, and based on MAC's need of and greater comfort with the COI Panel, MAC is looking to engage the Panel earlier on in the process with these kinds of issues.

General Comments

- How many countries are MAC members operating in?
 - o MAC would need to pull this information together, but the ISR Committee has representation from Canadian-based companies with international operations and multinational companies with Canadian and other operations.
 - o However, there is no clear definition about what it means to be "Canadian". E.g., Iron Ore Company of Canada is listed in Canada, but its headquarters are in London, England and it has operations in other countries. It is listed as Canadian, because it is listed on the Toronto Stock Exchange.

- When revenues of Canadian companies are examined by geography, less than 50% of revenue comes from Canada.

Comments on Round Table Recommendations Research

- Page 71 of the On Common Ground report references “consultation fatigue”; however, there is a recommendation in the report that MAC continue to advance multi-stakeholder dialogue.
 - While there isn’t a need to revisit previous Round Table dialogue conversations, there is a need to identify strategic priorities to move conversations forward (i.e., determining how to remove minor obstacles in order to address specific topics).
 - In the aftermath of Round Table dialogues, there is greater polarization in opinions and conversations aren’t happening as much.
 - It is a good for MAC to sponsor thought pieces and research, and MAC could use these reports to create space to hold useful dialogue. E.g., MAC could bring together all of the pieces of work currently underway on FPIC together to hold dialogue on developing on-the-ground guidance in how to apply FPIC. The same model could be used to explore transparency and EITI through a national, web-based dialogue.

Comments on Free, Prior and Informed Consent Research

- The Canadian Boreal Initiative is currently working with corporate partners (TD, Suncor, NEI Investments and Treaty 8 First Nations of Alberta) to understand the current status around FPIC and how operators should understand and apply it on the ground. This report will be released in a month and has been largely driven by the Banks with an interest in trying to establish common language. FPIC will be the “topic of the year”.
- There is also a group of mining companies and NGOs that will be having a conversation in next couple of months to understand current practice and lessons on FPIC from company / civil society perspectives.
- The International Finance Corporation is also undertaking an exercise to start to build FPIC into its guidance documents.

Comments on Transparency of Payments Research

- With EITI, both companies and governments are required to be transparent. Why isn’t Canada an implementing member?
 - Canada believes that it has enough transparency in place and it can’t decide to implement EITI on its own; it would have to partner with provinces and territories. Because Canada is often assumed to not have corruption, the conversation tends to stop here. It has legitimate payments (i.e., taxes and royalties) going into national and provincial revenues.
 - The assumption that Canada is not corrupt is incorrect – there have been provincial and territorial examples that illustrate that this is false.
- It can be dangerous to report on a slice of transparency (rather than the entire “cake” of money) and it will lead to more questions than answers. It is better to report all slices publicly.

- One company noted that only 7% of its revenue stream goes to shareholders.
 - Another industry representative cited the example of Imperial Metals which has never paid a dividend and over 50% of its revenue goes to various levels of government once all sources are tabulated.
 - The focus in EITI is on royalties, but if you simply compare royalties, you don't see the entire picture which might point to a different conclusion. E.g., Royalty payments are higher for conventional oil and gas than for mining, because there is less upfront capital and ongoing economic activity and a higher return. It is in the best interest of mining companies to disclose the entire picture.
 - The intent of EITI is to deal with bad actors, but it is important to create the right mechanisms. Government regulation could potentially put good industry players in a bad position if the wrong mechanism is used.
- It is important for communities where mining occurs to access revenue. In the case of the Sullivan Mine, \$20 billion is estimated to have left Kimberley in metals, but Kimberley couldn't access any of this revenue directly.
 - While addressing issues of corruption is important, there may be unintended consequences of applying EITI in Canada. There are rumblings about its application to payments to Aboriginal and municipal communities. However, whenever Aboriginal Affairs and Northern Development Canada (AANDC) becomes aware of payments to communities (such as those in impact benefit agreements), it scales back its payments to communities. Applying EITI could result in the most impoverished people in Canada losing money. Good analysis in support of transparency initiatives is needed.
 - If government is involved in impact benefit agreements, then "claw back" of payments can be avoided. The Northern Flood Agreement (between Manitoba, Manitoba Hydro, AANDC and Aboriginal communities) provides a good precedent to examine.

6 Big, Bold Initiative

Ben Chalmers provided a short presentation (see Appendix E) describing MAC's International Social Responsibility Committee (ISR Committee) objectives and progress to date on pursuing a "big bold initiative" as part of its ongoing work plan. The intent of the "big bold initiative" is to demonstrate the commitment of MAC members to leadership and excellence and raise the bar on performance in the field of international corporate social responsibility. One industry representative commented that significant opportunity exists to explore collective industry interests, while setting aside individual company interests, and that this is a goal of the ISR Committee (like with TSM).

In pursuit of a big, bold initiative, several ideas were brainstormed and subsequently prioritized by the ISR Committee. Initiatives that focused on human rights were clustered at the top of the prioritized list:

1. Developing a MAC Human Rights policy statement, framework or performance protocol;
2. Creating a mechanism to help shareholders value good social performance;
3. Creating a balanced score card for CSR to differentiate good performers; and

4. Exploring the possibility of creating a dispute resolution mechanism that resembles the ombudsman recommendation from the National Round Tables on CSR.

MAC is very early on in scoping this initiative and is bringing this topic to the COI Panel for early input. Panel members were invited to comment on the initiatives and ideas presented, including providing input on whether the initiatives sound “big and bold”, a potential focus on human rights and whether any ideas have been missed.

Comments on initiatives and whether they are “big and bold”

One Panel member commented that off the cuff, none of the topics presented seemed big and bold. Another Panel member stated that initiatives 2 and 3 would be paper exercises that drive good performance, but was not convinced that they would be big and bold. A focus on “reporting requirements” through this initiative can only drive the industry so far; more investment is needed in good face-to-face dialogue on real issues to demonstrate development work. Building on this idea and the intent of a balanced scorecard, one Panel member suggested that MAC could explore what success looks like at the operational level through dialogue on a regional basis or at a community level (i.e., not through ticking boxes). Another Panel member indicated that this could be supported through retrospective case studies, organized by the companies themselves, to understand the transformative effect that companies have.

One Panel member thought that a commitment to independent conflict resolution (through an ombudsman) would be the boldest initiative. Two Panel members acknowledged that this initiative would address critics’ interests, but could be risky setting up something that is credible enough to address these interests and safe enough to be meaningful to companies. In addition, the Round Table recommendation was meant to have a government-lead ombudsman, which might prevent this initiative from being perceived as independent. Further, one industry representative stated that ICMM is proceeding with developing an ombudsman approach. One Panel member suggested that there is an opportunity to look at other grievance mechanisms (outside of an ombudsman), such as those that occur at the facility and company level.

“Boldness” comes from transparency around an initiative like this (i.e., through addressing the hardest questions with the public, while committing to be as open as possible). While “bold” is good, the initiative also needs to be “big”, so MAC should consider alliances with other organizations, rather than acting in parallel to other initiatives. MAC believes that reputational gains come from improving performance, so this can’t simply be about communication. One industry representative stated that MAC needs an initiative, not a set of tasks, that looks at how to raise the performance bar (influencing the performance of the worst performers).

Comments on the suitability of a focus on human rights

One Panel member thought that a focus on human rights could help industry performance internationally and another Panel member thought that this focus would go nicely with international application of TSM. One Panel member has trouble with the term “human rights” which is broader than what companies can deliver. Companies deliver a promise of integrity, not human rights. The same Panel member recommended that MAC try to be more specific and focus on issue over the next five years (e.g., water).

To provide further context on how human rights have been examined recently, one industry representative noted that John Ruggie completed a multi-year examination on the role of the

private sector in protecting human rights for the UN. The topic of human rights seems to be dominating recent conversations and private members bills. Ruggie provides a frame for responsibilities, but hasn't told companies "how to do it", (i.e., what systems companies should put in place to protect human rights; e.g., to address behaviour of security personnel: sexual assault and murder). Another industry representative indicated that a big, bold initiative has the opportunity to shape Canada as a leader. Canada needs a different way to operate in an economy where Asia dominates over the next 50 years. Operating internationally can be extremely tough due to the instability in many countries and it is a very bold step to take on the issue of human rights.

One industry representative thought it would be difficult to focus on the security aspect of human rights; one Panel member thought that FPIC and transparency about decisions of "charity" (i.e., philanthropy²) could be explored under human rights; and several Panel members thought that water might be a suitable focus or frame to explore human rights (e.g., how to fix the issue of a human right to clean water; water quantity and quality issues that aren't captured by science; water issues as they relate to treaty rights). Water is a proxy for relationships with communities, institutions and the environment. Some First Nation treaty areas have water declarations and partners to these communities (the UN and China) want to know if Canada is respecting treaty rights. One Panel member cautioned that a focus on water might become too technical and scientific and this issue would need to be framed correctly.

Comments on missing elements

One Panel member indicated that the practice of using company stakeholder panels is an idea that is missing from the big, bold initiative. Great opportunities exist to merge stakeholder panels with this initiative, as few companies currently have panels in place and governance is a big part of sustainability. Some companies use stakeholder panels to seek input on sustainability report content and structure, but other companies use stakeholder panels to seek input on all sustainability initiatives or practices. While stakeholder panels do not have decision-making power, this is an excellent way for companies to obtain advice. Panels can be used at the corporate level or the facility level, but to be effective, companies must listen and respond to advice. Another Panel member stated that she thought companies were already using stakeholder panels as a requirement of TSM and this practice could be embedded in an existing protocol.

Another Panel member suggested creating a protocol on Impact Benefit Agreements. Another Panel member noted that opportunities also exist to support university initiatives and research.

Conclusion

Panel members were very pleased to be engaged early on this initiative to influence the direction of the initiative. Understanding real-life company examples is useful for Panel context and welcomed at future meetings. Regardless of the topic pursued, the idea of creating dialogue to explore an issue is supported by several Panel members.

7 Meeting Summary

Key points of discussion and actions coming out of the meeting are summarized below:

² One industry representative clarified that philanthropy is different from community development and that community development should not be lumped under the topic of "charity".

- MAC is going to proceed with Panel renewal and will develop a plan to ensure a smooth transition to the new terms of reference and integration of new members;
- The Panel continues to be interested in dialogue and case studies around community development;
- The Panel is interested to understand why performance in the Crisis Management Area has reached a plateau;
- There was an interesting discussion of the trade-offs that companies face when making decisions concerning reducing greenhouse gas emissions;
- It was recommended that MAC consider reaching out to new companies that are operating in areas of active mineral development and inform them about TSM and its benefits;
- During the discussion of biodiversity a number of key points were stressed: the linkage between mine closure and biodiversity, the linkage to regional planning, the value of traditional ecological knowledge, the role of partnerships, and the value of case studies;
- It was requested that Cameco and Inmet prepare for the next round of post-verification reviews and present at the next panel meeting;
- The Panel provided positive feedback to MAC and the ISR Committee on the open approach to their work, and looks forward to the results of the various research projects underway;
- The Panel appreciated the opportunity to comment on MAC's potential "Big Bold Initiative" and provide both feedback on ideas presented as well as a number of suggestions for consideration; and
- MAC and members of the Panel bid farewell and thank you to a number of departing members.

8 Closing

Panel members requested that revised and new meeting presentations be circulated to Panel members following the meeting.

8.1 Future Panel Meetings

The date of the next COI Panel meeting was tentatively set for October 3–4, 2012 in Alberta. Anne Marie Toutant offered that Suncor could host the next meeting in Calgary and Fort McMurray with an opportunity to meet in Calgary on Wednesday, October 3, and participate in site visits and community engagement in Fort McMurray on Thursday, October 4. A few specific activities were proposed for consideration:

- Guest speaker from Canada's Oil Sands Innovation Alliance (COSIA) (Wednesday, Calgary)
- Engagement in with Aboriginal groups (Thursday, Fort McMurray)
- Site visits and discussion on regional experience with Suncor and Syncrude (Thursday, Fort McMurray)

One Panel member also recommended that an aerial tour would be a valuable experience if the opportunity presented itself.

The Panel facilitator reminded the Panel that while the September 2011 meeting in Cranbrook (which included a mine tour and community engagement on the second day) was very well received, there was limited Panel participation on the second day. In order to justify the effort needed to organize a regional meeting, sufficient participation by the Panel is required. One of the industry representatives also noted that this type of meeting may not be the most suitable structure given that this will be the first meeting for a significant number of new Panel members.

A suggestion was made to develop a Plan A and Plan B for the September 2012 meeting: Plan A (proceed with the Plan described above); and Plan B (convene a one-day meeting in a central location). The selection of the plan will be informed by the number of new Panel members that will be attending the meeting and the total number of Panel members that would be available to participate in a full two-day meeting.

One Panel member commented that if Plan A is selected, Aboriginal communities would require sufficient advanced notice to participate.

8.2 Future Meeting Topics

A number of ideas were raised throughout the meeting for consideration on future Panel meeting agendas. These topics include:

- As a future topic, the Panel might consider exploring the strengths, weaknesses and principles around successful projects from a regional environmental assessment perspective (e.g., ring of fire or northern BC).
- The Panel could explore the issue of addressing environmental assessment across jurisdictions.
- It would be useful to understand the EIA landscape from the industry perspective.
- Recent and emerging community issues affecting the northern mining industry could be explored through examination of case studies (e.g., looking at individual project agreements), exploration of existing or emerging challenges (e.g., building human capacity and capital or benefits flows to communities), and further discussion and dialogue (e.g., elder dialogues, engagement with regional experts or engagement with additional stakeholder groups such as investors).
- To further the discussion on biodiversity, Inmet offered to give a presentation to the Panel on the work it is undertaking in Panama (a biodiversity rich area), where it is conserving almost 300,000 hectares outside of a 600,000 mine footprint.
- External presenters (e.g., John Ruggie and Liz Dowdeswell) could be invited to the Panel to discuss the international context facing Canadian mining companies.

8.3 Farewell to Panel Members

Doug Horswill and Pierre Gratton thanked Richard Briggs, Larry Haber, Ginger Gibson and Brenda Kelley for their contributions to the Panel over the eight years that the Panel has been operating. These Panel members will be stepping down from the Panel and were presented with a gift from the Mining Association of Canada. Christy Marinig will also be stepping down from the Panel, but was not in attendance at this meeting.

9 Meeting Evaluation

Panel members evaluated the Panel Meeting through three mechanisms:

- Completion of meeting evaluation forms (5 members)
- Submission of post-meeting written comments (1 member); and
- Provision of comments during the COI Panel meeting (as required).

Comments specific to various components of the meeting include:

- **Panel Operation:** Several Panel members indicated that the new mode of operation for the Panel (as framed through the COI Panel redesign exercise) is a great improvement which allows for richer discussion on issues that the industry had been unwilling to broach in the past. Panel members appreciate the opportunity for frank dialogue. Critical discussion will be needed to identify and select discussion topics of value to MAC and for which Panel members can make a tangible contribution in the future. In the past, some Panel members have requested greater continuity between meetings; one Panel member believes that this will be even more important as Panel discussions grow beyond TSM and that background work may be needed between meetings. Background work could most usefully be done on a collegial basis, although invitations to prepare working papers (by individuals, or small groups of individuals) may be an alternative.
- **Panel Participation:** One Panel member stated a concern about the absence of a fairly significant number of Panel members at the meeting. Another Panel member reflected that it will be important to recruit the right participants to fill gaps on the Panel through the Panel renewal exercise. One Panel member anticipates that there will be some challenges in maintaining continuity of the Panel as it undergoes renewal and that mentoring will be an important part of facilitating the transition and involvement of new members. Introducing expert categories to provide additional expertise to the Panel is welcomed, but careful planning will be needed to recruit and support these members.
- **Meeting Topics and Discussion:** A few Panel members commented on how much they appreciated MAC engaging on substantive topics and initiatives (e.g., international social responsibility topics and the big, bold initiative), early on in MAC's process of addressing these issues. One Panel member also noted that the discussion on the *Fisheries Act* was well received. One Panel member commented that additional focus on environmental issues in the future would be welcome, but that discussions should avoid covering old ground (i.e., TSM reporting difficulties) and seek to take discussions to a higher level and focus on issues where MAC members feel that the industry would benefit from some external perspective.
- **Meeting Facilitation:** Several Panel members commented that the meeting was well facilitated. One Panel member recommended that closer facilitation of timing and rules would be helpful and suggested that rules could be posted on the wall. Another Panel member recommended that the Panel facilitator could play a more active intervener role, but that generally balance in discussions is achieved.

- **Meeting Organization:** Several Panel members commented that the meeting was well organized. One Panel member recommended that context-setting presentations be kept short to allow greater time for discussion. The same Panel member also suggested that rather than presenting data in its presentations, MAC could focus on the messages or implications the data create and how MAC members are responding.

Appendix A: List of Participants

NAME	TITLE AND ORGANIZATION
Dan Benoit	Métis National Council
Barrie Ford	Makivik Corporation
Ginger Gibson	Individual member
Larry Haber	Executive Director, Kimberley Community Development Society
Brenda Kelley	Community Development Coordinator, Bathurst Sustainable Development
Stephen Kibsey	Senior Portfolio Manager, Caisse de Dépôt et Placement du Québec
Alan Penn	Lands and Environment Science Advisor, Cree Regional Authority
Alan Young	Executive Director, Canadian Boreal Initiative
Craig Ford	Vice President, People and Environment, Inmet Mining Corporation
Pierre Gratton	President and CEO, Mining Association of Canada
Doug Horswill	Senior Vice President, Environment and Corporate Affairs, Teck Resources Limited
Ian Pearce	CEO, Xstrata Nickel
Anne Marie Toutant	Vice President, Mining, Suncor Energy Inc.
REGRETS	
Roger Augustine	Assembly of First Nations, Regional Chief, NB/PEI
Soha Kneen	Inuit Tapiriit Kanatami
David Mackenzie	United Steelworkers of America
Eric Morris	Assembly of First Nations, Regional Chief, Yukon
Richard Briggs	President, Mining Council, Canadian Auto Workers
Christy Marinig	CEO, Timmins Economic Development Corporation
OTHER ATTENDEES	
Earl Klyne	Chief, Seine River First Nation
Manon Beauchemin	VP, External Relations & Corporate Affairs, Iron Ore Company of Canada
Ben Chalmers	Vice President, Sustainable Development, Mining Association of Canada
Tara Shea	Manager, Towards Sustainable Mining, Mining Association of Canada
Michael van Aanhout	President, Stratos Inc.
Vicky Weekes	Senior Consultant, Stratos Inc.