

**Mining Association of Canada
Towards Sustainable Mining**

Summary Report

**12th Meeting of the
Community of Interest Advisory Panel**

**September 23, 2009
Toronto, ON**



**Towards Sustainable Mining
Vers le développement minier durable**

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1 Introduction

This report presents a summary of discussions from the September 23, 2009 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.

2 Summary of Items for Follow-up

ITEM	RESPONSIBILITY	TIMELINE	STATUS
Follow-up with MAC about a memento for outgoing and previous COI Panel members.	Stratos	May 2009	Done – outgoing and previous MAC members have been sent a Miners’ Lamp as a thank you for participation in the Panel
Guidance from MAC to the Panel on what level of information Panel members are allowed to divulge to their communities of interest.	Julie Gelfand	July 2009	Done – this is addressed through the Communications and Reporting Protocol added to the Panel Terms of Reference
Inform Panel members whether the North Slave Métis Association was invited to the Yellowknife Aboriginal and Mining Forum.	Julie Gelfand	May 2009	Yes, the North Slave Métis Association was invited to the Yellowknife Aboriginal and Mining Forum held January 2009.
Distribute the electronic version of the TSM update deck to the Panel.	Stratos	October 2009	Done – emailed February 2010
Include meeting evaluation summaries and results of the facilitator’s follow up calls with selected Panel members in the meeting minutes.	Stratos	Evaluation summaries in September 2009 meeting report	Done in the September 2009 meeting report
Create a shared space on the MAC website for posting meeting materials, etc.	Julie Gelfand	Late 2009	Julie will update the Panel on this at the March 2010 meeting
Distribute a TSM update to the Panel three times/year, including the schedule of TSM activities.	Julie Gelfand	March, June and November	Done December 2009
Send ICMM comparison to the Panel.	Julie Gelfand	October 2009	Done – emailed February 2010

ITEM	RESPONSIBILITY	TIMELINE	STATUS
COI Panel to select 2-3 companies for post-verification review in September 2010.		March 2010 Panel meeting	To be done at March 2010 meeting
Share ICMM water scoping study with ILs and COI Panel.	Julie Gelfand	October 2009	ICMM water scoping study is not completed yet
Put in place Panel working group to scope out a proposed approach to addressing water.	Dan Benoit, Alan Penn, Larry Haber, Gord Ball, Julie Gelfand	TBD	MAC to convene working group
Provide alternate wording for the second paragraph in the purpose statement of Indicator #2: Effective COI Engagement and Dialogue (Aboriginal and Community Outreach Protocol).	Dan Benoit	September 2009	Done September 2009
Issue letters requesting/offering meetings with the appropriate AFN, MNC and ITK committees to present on TSM, the <i>Mining and Aboriginal Relations Framework</i> , and the approach for implementing the framework.	Julie Gelfand	February 2010	Julie to draft and distribute in February 2010
Check the Biodiversity Conservation Framework to ensure that the concepts of no net loss and mitigation hierarchy are addressed.	Julie Gelfand	January 2010	Julie will update the Panel on this at the March 2010 meeting
Circulate the summary report Challenges to Communications and Critical Success Factors from Teck Resources Ltd.	Stratos	October 2009	Done – emailed February 2010
Determine next steps for the COI Panel Outreach Working Group.	Ginger Gibson, Alan Young, Stephen Kibsey, Doug Horswill, Julie Gelfand	February 2010	Julie to reconvene working group to provide comments on draft MAC Communications Plan
Edits to the Panel Terms of Reference and Communications Protocol as per COI Panel input.	Stratos	November 2009	Done – emailed February 2010
Follow-up with AFN about replacements for Chief Jim Boucher and former Chief Darren Taylor.	Stratos	Ongoing	Ongoing
Next meeting of the Panel.		March 2010	NA

3 Welcome and Approval of March 2009 Panel Meeting Report

3.1 Welcome

The facilitator welcomed Panel members to the 12th Panel meeting, and introduced three alternates in attendance at the meeting:

- Barry Ford, Makivik Corporation (alternate for Marina Biasutti-Brown, Nunatsiavut Region)
- Robert Calhoun, Timmins Economic Development Corporation (alternate for Christy Marinig, Timmins Economic Development Corporation)
- Jonathan Fowler, DeBeers Canada Inc. (alternate for Jim Gowans, DeBeers Canada Inc.)

3.2 Approval of March 2009 Panel Meeting Report

A Panel member suggested improvement to the wording of the third bullet on page 12 of the March 2009 meeting report. The sentence "*There is concern about the nature of the approvals process and consistency in provincial jurisdictions – for example, Department of Fisheries and Oceans (DFO) and Environment Canada (EC) cannot dictate to the Government of Quebec*" was replaced with "*There is also concern about the consistency of certain federal and provincial procedures for project approvals and the need for coordination or harmonization of these procedures*".

Panel members approved the March 2009 report without additional amendments.

4 TSM Implementation

4.1 TSM Update

Julie Gelfand provided a TSM update, including the work of the Initiative Leaders (ILs); work related to energy use and GHG management, water, mine closure, and international application of TSM; the external verification schedule for 2010; and the results of the Governance Team (GT) / IL strategy session held in June 2009. These items are summarized below.

Initiative Leaders Update: Since the last Panel meeting, the ILs have had five webinars (March, April, May, July, and September), and one in-person meeting in June (with the Governance Team). Another in-person meeting scheduled for October. There have been several changes at the IL level within different MAC member companies. MAC also noted that there have been a few changes in MAC membership, with Anvil Mining no longer a member and Anglo American on track to join the association.

Energy Use and GHG Emissions: The [Energy and GHG Emissions Management Guidance Document](#) was released as a final version in July 2009. A corresponding training workshop was held in Sept Îles in April 2009, and another workshop will be held in Vancouver in November 2009.

Water: Water was identified as a new area of concern at the June 2009 GT/IL strategy session. The International Council on Mining and Metals (ICMM) is currently completing a scoping study on issues related to water in the mining industry. MAC is waiting to review the results of that study before assessing options for its approach to water.

Mine Closure: The MAC Board approved the Mine Closure Framework last year. A working group will prepare a scoping document and make recommendations on next steps for a TSM approach related to mine closure in late 2009.

International Application of TSM: The discussion and debate on the international application of TSM continues, and more work needs to be done on TSM equivalency and integration relative to other international frameworks that members are applying or required to apply to their international operations. In 2010, MAC hopes to form a member-based committee that will look at these issues, and make a recommendation on the international application of TSM. All MAC member companies are increasingly faced with a plethora of corporate social responsibility (CSR) frameworks, programs and initiatives. MAC needs to address the issues of duplication and work towards equivalency recognition with other frameworks and programs, where applicable and practicable.

2010 TSM Self-Assessments: MAC is exploring an online data capture system for companies to submit their TSM results as well as online TSM self-assessment training.

External Verification: BHP Billiton Diamond Mines Inc. (EKATI Diamond Mine), IAMGOLD and Inmet Mining Corporation externally verified their 2008 TSM results. Companies to verify their 2009 results in 2010 include:

- Diavik Diamond Mines Inc.
- HudBay Minerals Inc.
- Iron Ore Company of Canada
- Shell Canada Energy
- Suncor Energy Inc.
- Teck Resources Ltd.
- Vale Inco

At their next Panel meeting in March 2010, the COI Panel will select 2 or 3 of these companies to undergo a post-verification review in September 2010.

GT/IL Strategy Session: In June 2009, GT and IL representatives attended a TSM strategy session in Saskatoon. The objectives of the meeting were to discuss elements and process for the TSM strategic plan; conduct a situational analysis; conduct a SWOT (strength, weakness, opportunity, threats) analysis; and to identify TSM priorities for 2009-2012.

Four main priorities were identified:

- Analyze three-year TSM performance data and trends
- Achieve some alignment with other CSR frameworks
- Improve communications (joint MAC member and MAC responsibility)
- Complete protocol development in new areas of work (biodiversity, Aboriginal relations, safety and health)

A MAC member of the Panel noted that MAC wants to ensure that TSM remains relevant and useful, and asked the Panel a number of questions, such as:

- Do the current and forthcoming protocols align with what is important to the industry's stakeholders?
- What are community expectations, and what does MAC and its members need to do to meet them?
- Does the Panel agree that achieving a "Level 3" in the indicators can be considered a good level of performance?
- The financial community has suggesting translating the TSM scores into a bond rating metric – does this resonate?

The Panel discussed the latter question at some length. A Panel member noted that the financial industry needs a verified third-party mechanism such as TSM to understand how companies are doing on sustainability, and needs that mechanism to apply across all of a company's operations. The current lack of international application of TSM aside, the TSM scoring system of Level 1 through 5 poses a challenge for the financial industry as analysts and investors will be tempted to add up or average the scores. Translating the numeric levels to an A-B-C rating would provide a system that the investor community can better understand. A MAC member of the Panel indicated that a key incentive for companies to implement TSM and drive for continuous improvement would be if access to capital was affected by TSM performance.

Another Panel member expressed concern about TSM results being used by the financial community, and questioned whether a company's TSM performance should be linked to financial gain and investor confidence. It was also noted that the TSM criteria would have to stand up to greater scrutiny and be less subjective in order to be used in this way. Other Panel members recognized that while a decision to apply TSM performance information to financial decisions should not be taken lightly, it would give more relevance to the initiative and encourage companies to further improve their performance.

4.2 Draft TSM 2010 Work Plan

The draft 2010 TSM Work Plan includes:

- Self-assessment against the new protocols for biodiversity, safety and health, and Aboriginal and community outreach
- Exploring an approach to implement the Mine Closure Framework
- Exploring an approach to address water
- Analysis of TSM performance trends over time by indicator by company
- TSM communications
- Work on international application and equivalency

5 Post-Verification Review

At its March 2009 meeting, the Panel discussed improvements to the post-verification review process that would benefit both the Panel and the companies undergoing the review by providing clearer terms for the review, more specific questions and more timely requests for information. The Panel agreed to improvements in both the content and the process (timing of steps) for the September 2009 review, including:

- Using a set of standard guidelines for companies undergoing post-verification review, including a menu of the background information for the Panel;
- Providing the guidelines and request for background information to the selected companies;
- Formulating more specific questions for the companies to use in preparing their post-verification review presentations; and
- Requesting the companies to submit their post verification presentation and supporting information in time to be included in the Panel meeting materials.

The companies chosen for this year's review were BHP Billiton Diamonds Inc. (EKATI Diamond Mine) and IAMGOLD. Due to logistical challenges, IAMGOLD was unable to attend the meeting, and will be invited to a post-verification review at the Panel's March 2010 meeting.

The Panel Post-Verification Review Working Group prepared guidelines for background information which were submitted to BHP Billiton Diamonds Inc. Its written response to the guidelines for background information was circulated to Panel members and was also included in the briefing book. Panel members did not respond to a request to identify more specific questions for the September 2009 post-verification review.

The results of the post-verification review are provided in a separate report that will be sent to Panel members and posted on the MAC TSM website.

6 Safety and Health

The Panel provided comments on the latest versions of the Safety and Health Framework and Protocol.

6.1 Safety and Health Framework

The version of the framework presented to the Panel is ready to go to the GT and Board for approval. It was noted that this version of the framework is less detailed and more systems-focused, and the detail has been moved to the protocol.

There was some discussion about the intent and interpretation of the framework regarding "nearby communities". A MAC member of the Panel noted that the framework relates mostly to occupational injury and disease, and raised the concern about how a mining company's responsibility to community health might be interpreted. Another Panel member suggested that the reference to communities could remain in the framework, and that the real test will be

whether the community perspective can be integrated into the protocol. It was also commented that defining community as employee state of health beyond the gates might be a simpler way of integrating the community dimension.

A Panel member questioned whether the framework will require mining facilities to acknowledge liability and responsibility for their human health impacts not just on employees but also on nearby communities. It was noted that legal issues related to liability and responsibility were not intended to be addressed in the framework. A Panel member commented that the general public would expect the existing framework to address human health impacts, and suggested that either the existing framework should define "communities" more specifically, or there should be another framework for community human health impacts. A MAC member of the Panel agreed, and suggested that the human health impacts should be addressed through the media-specific frameworks (e.g. water). Another MAC member of the Panel commented that it is the mining companies' social responsibility to improve the health and safety practices in communities, and that the framework should focus on their ability to have a positive impact, not their negative impacts.

A Panel member suggested several wording changes to the framework to ensure that the terminology used is consistent with that of the health and safety activist community, e.g. "return to work programs" not "rehabilitation programs"; "health and safety" not "safety and health". Another Panel member commented that the framework needs a reasonably broad definition of health in order to capture social and psychological factors (e.g. social issues related to remote camps, etc.). It was also noted that bullet #6 should not group together employees and governments, and that nowhere in the framework are the existing health and safety demands placed on the industry acknowledged.

Lastly, there was still some concern that the mention of labour needs to be more explicit.

6.2 Safety and Health Protocol

The Safety and Health Protocol is based on a management system approach and five levels of performance for each indicator, the same as the existing TSM protocols. The protocol is currently being reviewed for alignment with the ICMM health and safety work program, and there is still some work to be done fine-tuning levels 4 and 5 as well as Indicator #5: Performance.

A Panel member suggested that the protocol include a brief preamble on the health and safety regulatory context at the provincial level in Canada, and that the protocol should also reflect some of the current debates in the health and safety field (e.g. behaviour-based safety and health programs are controversial in the activist community right now because of the evidence that they discourage accurate reporting).

The Panel discussed whether the results of the protocol will provide a measure of success of protecting safety and health (e.g. metrics such as sick days, lost time injuries, etc.). There was some discussion of the challenge of developing a common set of health and safety metrics across the industry, since the metrics used and how they are defined varies across jurisdictions. It was commented that the focus of the protocol is on how health and safety is managed. However, it was suggested that companies could be encouraged to provide their safety and health metrics as additional evidence for Indicator #5: Performance.

7 Scoping a Panel Discussion on Mining and Water

In the evaluation of the March 2009 Panel meeting, members suggested that the Panel could usefully spend more time on specific subjects and have more substantive discussion on key issues related to performance of the industry. Such in-depth discussions could allow the Panel to better understand policy development by MAC on key sustainability and performance issues.

In undertaking such discussions on specific issues, it would be inappropriate for the Panel to become involved in specific matters which are the subject of other multi-stakeholder forums or specific regulatory processes through which stakeholders can and do engage with government. Nonetheless, Panel members and MAC representatives at the Panel may find mutual benefit in identifying and discussing sustainability issues which the industry is facing, or will face, in the future. Further, Panel members may find it useful to be kept up to date and briefed on government environmental management initiatives which affect the mining industry and may inform TSM.

Individual Panel members suggested a number of substantive issues such as the impacts of waste management activities on ecosystems and the potential for water issues to affect the public understanding of and reputation of the industry. The Panel was informed that the MAC Governance Team has identified water as a new issue for scoping.

The Panel facilitator asked a MAC representative to provide the Panel with an update on the water initiatives that MAC is aware of or involved with, followed by a roundtable of Panel comments on mining and water and a discussion of next steps.

7.1 MAC Update on Mining and Water Initiatives

Elizabeth Gardiner provided the Panel with an update on the international and Canadian water initiatives that MAC is aware of or involved with.

INTERNATIONAL:

- International Council of Mining and Metals (ICMM): For the past couple of years MAC has been part of the ICMM water committee that was working on a scoping study on water issues in the mining sector. The study is now completed and will be posted online soon. The study provides an overview of the water initiatives underway at various organizations and identifies the priority water issues for the mining industry around the world. ICMM is not going to disseminate the study widely soon since it is not doing any immediate follow-up on any of the recommendations, but is going ahead with a study on water accounting and reporting. However, the study can probably be shared with ILs and the COI Panel at this time.
- Minerals Council of Australia (MCA): The MCA is leading the development of The Water Accounting Framework, with partners the New South Wales Minerals Council and the Sustainable Minerals Institute. This represents the first attempt by any industry in Australia to accurately and consistently measure and account for water use (see www.wateraccounting.net.au). The MCA is also working on a paper on strategic water management.

- International Finance Corporation (IFC): The IFC is one of the founding partners of the Water Footprint Network, whose mission is to promote the transition towards sustainable, fair and efficient use of fresh water resources worldwide by:
 - Advancing the concept of the 'water footprint', a spatially and temporally explicit indicator of direct and indirect water use of consumers and producers;
 - Increasing the water footprint awareness of communities, government bodies and businesses and their understanding of how consumption of goods and services and production chains relate to water use and impacts on fresh-water systems; and
 - Encouraging forms of water governance that reduce the negative ecological and social impacts of the water footprints of communities, countries and businesses (www.waterfootprint.org/?page=files/WFN-mission).

The ICMM water committee will be conducting a desktop comparison of the MCA work and the IFC work to see what the key differences are, and how the mining industry can best learn from both initiatives. This desktop exercise will be followed by a pilot project on water accounting.

CANADA:

- Statistics Canada (StatsCan): All operating mines in Canada provide data for StatsCan's industrial water surveys.
- National Roundtable on the Environment and the Economy (NRTEE): In early 2009 the NRTEE launched its Program on Water and Canada's Resource Sectors that looks at water use in mining, forestry, energy (including oil and gas) and agriculture. NRTEE will be holding sector-specific workshops to discuss water issues in each sector, and will draft sector-specific reports that will feed into a single report to be released in spring 2010 that will include recommendations to governments and industry to help the resource sectors value their water use and move towards sustainability (policy tools and approaches, economic instruments, technical instruments, etc.).
- Mines in Canada: Several mines in Canada have comprehensive water management programs in place that include specific objectives and targets and link to environmental policies.
- Other: There are several provincial initiatives on water use and management, as well as the Green Mining Initiative and Canada Mining Innovation Council that will both be dealing with water. The Centre for Excellence in Mining Innovation (CEMI) has also done some work on scoping water issues. Some of the water-related issues that these initiatives are dealing with include water quantity and efficiency; water access; mine closure; groundwater; climate change; acid rock drainage; quality vs. quantity; long-term supply; COI engagement; legislation and policy development; predictive models.

7.2 Roundtable on Mining and Water

In the roundtable on mining and water, Panel members raised the following issues of concern. Issues are presented according to the general frequency with which they were raised.

- Water quality
 - A Panel member commented that the quality of water being discharged into the environment is strongly regulated, and may be of higher quality when it is discharged than when it was extracted from the environment.
 - Impacts on surface water as well as groundwater (e.g. mines located in aquifer recharge zones).
 - Industry has to reconcile quality results that meet regulatory requirements but don't meet community expectations.
- Water access, availability and equity/sharing
 - Access as viewed from several perspectives – industry, community, human rights, Aboriginal rights.
 - From an investor perspective, water access can be a key business risk (e.g. if the mine cannot access [sufficient] water).
 - Impact and implications of water privatization on access and equity.
- Water quantity/conservation
 - Water quantity is particularly an issue in the oil sands.
- Water contamination/legacy and treatment
- Water valuation and best use (e.g. bottled water vs. industry use)
- Subaqueous storage and containment / schedule 2 exemptions
- Interrelationship of quality and quantity
- Training and employment opportunities in local communities
 - Aboriginal involvement in water monitoring
- Regulatory confusion, overlap and competition, difference between federal and provincial regulatory policies and how to reconcile them
- Spiritual qualities
 - One Panel member commented that some Aboriginal peoples hold the belief that once something is touched by industry it isn't wild or pure anymore, regardless of the discharge quality.
- Climate change
- Impact on fisheries, traditional and commercial food supplies
- Water as a development issue
- Health issues
- Liability and a precautionary/preventative approach
 - Those who don't manage water well will incur massive costs and liability later.

Overall, Panel members noted that water management and strong performance on water-related issues is essential to the industry's social licence to operate. The notion of inherent or expected water rights was also emphasized, as was the notion that quantity and quality cannot be considered in isolation of one another. A Panel member commented that there appears to be a correlation between a company doing something well and having community buy-in (e.g. strong water management practices in place at Raglan, where there is an Impact Benefit Agreement (IBA) in place).

7.3 Next Steps

MAC members of the Panel agreed that water must be an essential part of TSM in order to demonstrate good water management practices that meet the needs of COIs. MAC will proceed to address water issues with the input of the COI Panel, and will also be informed by other existing processes, as described by Elizabeth Gardiner earlier in the discussion.

There was some discussion about the need to avoid duplication with other initiatives and processes, and to seek to integrate a TSM approach to water with some of the existing water initiatives in which MAC is involved. It was suggested that MAC may be able to involve some Panel members in the NRTEE work. However, a MAC representative also expressed the opinion that MAC should still move forward with its own approach to water, despite what is happening in these other initiatives.

The Panel had some discussion on whether water should be the next priority issue to be addressed by TSM, the implications of “fast-tracking” water ahead of other existing issues that are currently being worked through, and the interrelationship between water and biodiversity and closure (a protocol is being developed for the former, and a framework is in place for the latter). Also, it was noted that MAC’s capacity to deal with an increasing number of issues at the same time is becoming very limited.

Overall, the Panel agreed that TSM needs to address water issues. The decision now rests with the MAC Board to determine if water is an immediate priority for TSM. The Panel facilitator suggested that a Panel working group could be put in place to scope out a proposed approach to addressing water if the Board agrees that water is a priority issue for TSM. Dan Benoit, Alan Penn, Larry Haber, and Gord Ball volunteered to be a part of this working group.

8 Aboriginal Relations

Julie Gelfand provided an update on the three elements of the ILs work plan on Aboriginal relations, specifically:

- *Understanding the implications of the Supreme Court Decisions on duty to consult and accommodate Aboriginal peoples through discussion of the results of legal reviews prepared by MAC member companies:* Syncrude and Cameco agreed to circulate the work they commissioned on this topic; Cameco has provided its information, and MAC is still waiting for information from Syncrude.
- *Learning about the Progressive Aboriginal Relations (PAR) program for possible application to TSM:* Clint Davis, President and CEO of the Canadian Council for Aboriginal Business, will be giving a presentation on the PAR program to the ILs on October 7th.
- *Review and revision of the TSM External Outreach Protocol to determine how best to integrate engagement and dialogue with Aboriginal Peoples within the protocol:* The existing external outreach protocol has been revised to incorporate Aboriginal relations. This effort was undertaken by a working group consisting of representatives from BHP Billiton Diamonds Inc. – EKATI Diamond Mine, Cameco Corporation, Syncrude Canada Ltd., and Teck Resources Ltd. The protocol will go to the GT and Board for approval in November 2009.

- *MAC presentations to AFN, MNC and ITK:* MAC will issue letters requesting/offering meetings with the appropriate AFN, MNC and ITK committees to present on TSM, the *Mining and Aboriginal Relations Framework*, and the approach for implementing the framework.

The Panel was asked for comments on the revised Aboriginal and Community Outreach Protocol. Julie noted that the intent is not to review the entire protocol, which is based on the previous External Outreach Protocol, but only the elements that have been added or changed to incorporate requirements related to Aboriginal relations.

Panel members discussed the purpose statement of Indicator #2: Effective COI Engagement and Dialogue, specifically the use of the term "Duty to Consult" in the second paragraph. Since only governments have a formal "Duty to Consult", and since "Duty to Consult" is discussed in a Canadian context, several Panel members thought that the purpose statement should steer away from using terms such as "Duty to Consult" and "consulted", and focus on the role of industry in engagement and dialogue in a manner that would apply to jurisdictions world-wide. Caution was also advised in the use of the word "accommodate". Dan Benoit agreed to provide alternate wording for the second paragraph in the purpose statement of Indicator #2: Effective COI Engagement and Dialogue.

A Panel member commented on the inclusion of the definition of "indigenous person". Though it was understood that the term was included in the event that the protocol will be applied internationally ("indigenous person" is used in the international context and "Aboriginal person" in the Canadian context), it was noted that unlike "Aboriginal person", this term does not include people of mixed-ancestry. It was suggested that the protocol clarify that "Aboriginal person" relates to Canada and "indigenous person" relates to outside Canada.

Other suggestions include:

- Consistent use of terminology (e.g. Aboriginal communities, Aboriginal organizations, Aboriginal peoples, etc.)
- Consider addressing economic engagement and development (local employment, etc.)
 - It was noted that economic engagement and development was scoped out of this protocol, which focuses strictly on the engagement process.

9 Biodiversity Conservation

A conference call to discuss the results of the pilot testing of the Biodiversity Conservation Protocol was held on September 14, 2009. The protocol was pilot tested by BHP Billiton Diamonds Inc. – EKATI Diamond Mine, Iron Ore Company of Canada, North American Palladium, Suncor, and Xstrata Zinc. Only Suncor was unable to participate in the conference call. Dan Benoit and Alan Penn also participated in the call, as did several associate MAC members. All companies found the protocol to be workable and had few comments or questions. A representative from EKATI indicated that levels 4 and 5 were not enough of a stretch, and proposed revised wording that is currently being reviewed.

A MAC member of the Panel asked whether the concepts of no net loss and mitigation hierarchy (from avoidance to offsets) are included in the protocols. It was determined that these two concepts belong in the Biodiversity Conservation Framework. Copies of the framework were not available at the time of the meeting, and MAC agreed to check the framework to ensure that these two concepts are included.

A Panel member also recommended that the protocol elaborate on how biodiversity relates to the different aspects of mine planning, operation and closure. A MAC representative indicated that this information is already provided in the ICMM Good Practice Guidance for Mining and Biodiversity.

10 TSM Communications and Outreach

10.1 TSM Progress Report

Julie Gelfand presented the 2009 TSM Progress Report to the COI Panel. Some key changes to the report include calling it a 2009 report (for the year it was released) instead of a 2008 report (for the year of data it includes); an article on what TSM is and how it works; no MAC case studies; and company TSM results being provided next to the company profiles. Julie noted that MAC is rethinking the report format for next year, and will also revise how the data are represented by including graphs on the percent of facilities that have achieved level 3 or higher on the indicators, instead of the number of facilities at each level.

Overall, Panel members thought the report was readable with a good combination of graphs, photos and text and the right level of detail. A Panel member commented that the more context a company can provide in its profile, the easier it is to properly interpret their TSM results. Another Panel member suggested that MAC move to a web-based reporting format to reflect the changing ways in which people want to search for and receive information. A Panel member replied that having hard copies of the report will still be important for those who may not have internet access.

10.2 Outreach and Communications

The COI Panel Outreach Working Group (Ginger Gibson, Stephen Kibsey, Alan Young, Doug Horswill, Julie Gelfand) met by conference call on April 6th and June 9th. The following activities were undertaken:

- 1) Responded to a survey by Ginger on the goals of TSM communications, methods of communications and target audiences
- 2) Held a focus group with the financial community, hosted by Stephen Kibsey in Ottawa
- 3) Researched a few branding experiences of other certification systems, including Responsible Care®, the Kimberley Process, and the Forest Stewardship Council
- 4) Gathered a MAC member employee perspective on TSM communications and needs

This information is feeding into the development of a TSM communications plan that is being developed by the MAC Public Affairs Committee over the course of the next few months.

A summary of the working group's activities to date is provided in the Report to the COI Panel from the Outreach Working Group, September 2009 (included in the COI Panel briefing binder)

and the summary report *Challenges to Communications and Critical Success Factors from Teck Resources Ltd.* (circulated electronically after the meeting).

A Panel member raised concerns about the financial community's suggestion to change the TSM 1-5 rating system to an alphabetical rating system similar to that for bond ratings (e.g. AAA, AA, A, B, C) since it may misrepresent the intent and meaning of the 1-5 ranking. A MAC member of the Panel recognized this concern and indicated that this issue will be brought to the GT for discussion. A commitment was made to follow up with the COI Panel again before a final decision is made about altering the rating system.

10.3 TSM 101 – A Primer

Julie Gelfand introduced "TSM 101 – A Primer", a document that describes TSM, where it came from, what it is and how it works. The document was developed for new MAC staff, new MAC members, and new COI Panel members. Once approved, it will be posted online. Julie welcomed COI Panel comments on the document.

11 Panel Operations

11.1 Terms of Reference

The Panel reviewed the revised Terms of Reference, and suggested a few additional changes:

- Page 2: change "but not be part of decision making" to "but not normally be part of decisions on the Panel's advice to MAC (except on procedural or administrative matters)"
- Page 3: change "development interests" to "development organizations and interests"

11.2 Communications and Reporting Protocol

A Communications and Reporting Protocol has been added to the Panel Terms of Reference to ensure clarity on external communications related to the work and results of the work of the Panel, and to ensure an appropriate balance of transparency with confidentiality of discussions, where appropriate.

A Panel member expressed concern about situations in which MAC would reference TSM, such as leveraging an individual company's participation in TSM when speaking to regulators or investors in a manner that would make it easier for a company to obtain permits or funding. The concern was also raised about MAC referencing the work of the Panel without the Panel's permission. A MAC representative noted that MAC does not intervene on company or project-specific situations, and noted that the protocol addresses how MAC can make reference to the Panel or its advice to MAC. A Panel member noted that this protocol specifically relates to the COI Panel, and does not govern MAC's activities outside those that relate to the Panel.

There was also some discussion on the meaning of "confidential", and it was suggested that Panel members should clearly indicate when they are sharing information that is considered confidential. It was also suggested that a bullet should be added to specifically address the confidentiality of written documents.

A Panel member asked whether a clause should be added to the protocol that addresses communications with non-government officials. It was noted that the clause pertaining to communications with government officials was included to clearly distinguish between regulatory processes and the work of the COI Panel, and that communications with non-government officials is captured in the general content of the protocol.

11.3 AFN Replacements

Judy Whiteduck, AFN, reported that the process to replace Chief Jim Boucher and former Chief Darren Taylor on the Panel is still ongoing. In the interim, Judy will participate in Panel meetings.

11.4 Cycle of Panel Meetings

The Panel facilitator noted that there is an inherent cycle to the biannual TSM meetings, and proposed a more formal adherence to this cycle. For example, fall meetings could be used to reflect back on the past year, comment on TSM performance – including the TSM report and the post-verification review – and provide feedback to inform MAC's work plan for the next year. Spring meetings could be working meetings, used to engage the Panel on specific issues and to get feedback on items such as frameworks and protocols under development. No decision was made regarding this approach.

12 Information Items

There was no report on information items.

13 Future Agenda Items

Possible future agenda items identified during the meeting for consideration by the Panel included:

- Update on government initiatives (e.g. NPRI, Environmental Code of Practice for Metal Mines) and information on the regulatory context in which the industry is operating.
- Experience and lessons learned from Company – Aboriginal community agreements.
- Presentation from Outreach Working Group to scope out next steps on outreach and communications.
- GT could consider areas in which it would appreciate advice from the Panel, and the Panel could identify areas in which it could provide the most significant contribution, in order to better focus the discussions.

14 Next Panel Meeting

The next COI Panel meeting is scheduled for March 10, 2010 in Toronto. Details will follow closer to the meeting date.

15 Meeting Evaluation

Panel members provided evaluation of the Panel Meeting through three mechanisms:

- Submission of Meeting Evaluation Form (5 members)
- Submission of post-meeting written comments to the facilitator (1 member)
- Post-meeting telephone interview by the facilitator (2 members).

Panel Member Evaluation of the Meeting

All of the Panel members who evaluated the meeting stated that the meeting met or exceeded their expectations, and that the meeting was well organized and facilitated. One Panel member raised the concern that the Panel does not have time or opportunity to delve reasonably deeply or thoroughly into individual topics, and that there are practical limits to what can be accomplished usefully in a one day meeting. A couple of Panel members commented that extending the meeting to 1.5-2 days would help alleviate time pressure, and suggested having short conference calls between regular meetings.

Other comments raised include:

Process:

- Industry representatives on the Panel seem to be genuinely listening, but the level of engagement within companies is less clear.
- It takes a while for panel members to come up to speed, to understand the culture of the group and where one fits in. The current mentoring program may need to be adjusted to better help new Panel members.
- There needs to be more structure and accountability around working groups.
- It would be great if the panel could meet at a mine and discuss TSM and related issues with a mine manager and staff once every couple of years. While this would be costly, it would generate good value for the COI Panel as well as for MAC and its members.
- MAC should ensure that there are sceptics at the table if it wants to get value from TSM.

Substance:

- The Panel needs to strike a balance between dealing with TSM indicators and other issues, and to consider how far and in what depth to go in both cases.
- The post-verification review process does not provide sufficient opportunity to probe communities of interest issues, and it is difficult to grasp the practical difficulties faced by the companies.
- There is a wide range of levels of comfort with the different TSM indicators, and the Panel does not have a clear sense of what is seen as workable, useful (or not so), or problematic.
- It is hard to find reference to “workers” in TSM.
- Many of the areas of interest to the Panel members involve questions of policy. It is unclear why a consensus-based conclusion – at the level of the Panel as a whole – cannot be communicated to the body responsible for the issue in question. The fact that the Panel cannot effectively communicate with the right people is an operating constraint, and it must be possible to draw attention to important policy-related issues without incurring the charge of ‘lobbying’.

Appendix 1: List of Participants

COI Panel Members

Gordon Ball, Syncrude Canada Ltd.
Dan Benoit, Métis National Council
Robert Calhoun, Timmins Economic Development Corporation (alternate for Christy Marinig, TEDC)
Barry Ford, Makivik Corporation (alternate for Marina Biasutti-Brown, Nunatsiavut Region)
Craig Ford, Inmet
Jonathan Fowler, DeBeers Canada Inc. (alternate for Jim Gowans, DeBeers Canada Inc.)
Larry Haber
Doug Horswill, Teck Cominco Limited
Brenda Kelley, Canadian Environmental Network (Bathurst Sustainable Development) (phone)
Stephen Kibsey, Caisse de dépôt et placement du Québec
Soha Kneen, Inuit Tapiriit Kanatami
David Mackenzie, United Steelworkers of America
Gordon Peeling, Mining Association of Canada
Alan Penn, Cree Regional Authority
Eira Thomas, Stornoway Diamond Corporation (phone)
Judy Whiteduck, Assembly of First Nations
Alan Young, Canadian Boreal Initiative

Other Attendees

Eric Denholm, BHP Billiton Diamonds Inc., EKATI Diamond Mine
Karl Schubert, BHP Billiton Diamonds Inc., EKATI Diamond Mine

Julie Gelfand, Mining Association of Canada
Elizabeth Gardiner, Mining Association of Canada (phone)

George Greene, Stratos Inc. (Facilitator)
Karla Heath, Stratos Inc. (Rapporteur)
Michael van Aanhout, Stratos Inc. (Observer)

Regrets

Marina Biasutti-Brown, Nunatsiavut Region
Richard Briggs, Canadian Auto Workers
Ginger Gibson
Jim Gowans, De Beers Canada Inc.
Christy Marinig, Timmins Economic Development Corporation