

**Mining Association of Canada  
Towards Sustainable Mining**

**Draft Summary Report**

**11<sup>th</sup> Meeting of the  
Community of Interest Advisory Panel**

**March 3-4, 2009  
Toronto, ON**

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## 1 Introduction

This report presents a summary of discussions from the March 3-4, 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
Follow-up with AFN about replacements for Chief Jim Boucher and former Chief Darren Taylor.	Stratos	April 2009
Follow-up with MAC about a memento for outgoing and previous COI Panel members	Stratos	May 2009
Revise the Panel Terms of Reference based on decisions taken at the meeting	Stratos	May 2009 (using the March meeting minutes)
Prepare a Communications Protocol as part of the Panel Terms of Reference	Stratos for Panel review	September 2009 meeting
Post-verification review working group: <ul style="list-style-type: none"> <li>Prepare a set of standard guidelines for companies undergoing post-verification review</li> <li>Finalize guidelines</li> <li>Selected companies (IAMGOLD, BHP Billiton – Ekati) to provide requested background information</li> <li>Formulate more specific questions for the companies</li> <li>Companies to submit their post verification presentation and supporting information</li> </ul>	Stratos to submit to working group for comment  Stratos and working group  Companies  Working group  Companies	April 17, 2009  May 15, 2009  May 31, 2009  June 30, 2009  August 30, 2009
Distribute the electronic version of the TSM update deck to the Panel.	Stratos	March 2009
Alan Penn and Dan Benoit will be invited to participate in the working group that is drafting the biodiversity protocol.	Julie Gelfand	Ongoing
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
Inform Panel members whether the North Slave Métis	Julie Gelfand	May 2009

ITEM	RESPONSIBILITY	TIMELINE
Association was invited to the Yellowknife Aboriginal and Mining Forum		
Distribute the web link to the field test version of the <i>Energy and GHG Emissions Management Guidance Document</i> .	Stratos	March 2009
COI Panel Outreach Working Group to advise the TSM Governance Team and MAC Board on TSM communications strategy, including a new approach to TSM reporting	Ginger Gibson, Alan Young, Stephen Kibsey, Doug Horswill, Julie Gelfand, Stratos	First meeting April 2009
Make clarifications to the Panel Terms of Reference as per the feedback provided by Panel members at the meeting.	Stratos	March 2009
Distribute a TSM update to the Panel three times/year, including the schedule of TSM activities.	Julie Gelfand	March, June and November
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 March 2009 meeting report
Create a shared space on the MAC website for posting meeting materials, etc.	Julie Gelfand	Late 2009
Submit comments on the draft <i>Safety and Health Framework</i> to Stratos at <a href="mailto:kheath@stratos-sts.com">kheath@stratos-sts.com</a> .	Panel	April 2009
MAC to present to the appropriate AFN, ITC and MNC committees on TSM, the <i>Mining and Aboriginal Relations Framework</i> , and the proposed approach for determining how the framework will be implemented.	Julie Gelfand	MAC to be invited to present
Next meeting of the Panel		September 23, 2009 in Toronto

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### **3 Welcome and Approval of September 2008 Panel Meeting Report**

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#### **3.1 Welcome**

The facilitator welcomed Panel members to the 11<sup>th</sup> Panel meeting and introduced Julie Gelfand, MAC's new Vice President, Sustainable Development.

The facilitator introduced three new Panel members in attendance at the meeting:

- Craig Ford, Inmet
- Stephen Kibsey, Caisse de dépôt et placement du Québec
- Alan Young, Canadian Boreal Initiative

A fourth new Panel member, Marina Biasutti-Brown, Nunatsiavut Region, was unable to attend the meeting. Ms. Biasutti-Brown is the new ITK regional representative and replaces George Hakongak.

The facilitator also informed the Panel that three Panel members have decided to step down:

- Chief Jim Boucher, Fort McKay First Nation
- Elizabeth May, Green Party of Canada
- Former Chief Darren Taylor, Tr'ondek Hwech'in First Nation

A process is underway at the AFN to determine replacements for Chief Boucher and former Chief Taylor. In the interim, Judy Whiteduck of the AFN will attend COI Panel meetings.

Lastly, the facilitator welcomed two observers to the meeting: Anne-Marie Fleury from the International Council on Mining and Metals (ICMM), and Michael van Aanhout from Stratos.

#### **3.2 Approval of September 2008 Panel Meeting Report**

Panel members approved the September 2008 report with the amendments submitted by members and shown in the revised draft meeting report in the Panel briefing book.

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### **4 Panel Renewal**

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Larry Haber reported on the activities of the Panel Renewal Working Group since the September 2008 meeting. At the September 2008 meeting, the Panel requested that:

1. Stephen Kibsey be approached to replace David Scott under the investment community category on the Panel.
2. Elizabeth May be contacted to determine her willingness and ability to continue on the Panel.
3. Jim Boucher be contacted to determine his willingness and ability to continue on the Panel, and that AFN be contacted regarding the filling of its Regional representative position on the Panel

4. The Panel Renewal Working Group consider options for strengthening environmental group representation on the Panel.

The Panel Renewal Working Group, with the assistance of the Facilitator, took the following actions with the following results:

Action Taken	Panel Membership Result
1. Stephen Kibsey was approached to replace David Scott and agreed to join the Panel in the category of the investment community.	Stephen Kibsey (Caisse de dépôt et placement du Québec) will join the Panel as of March 2009. Doug Horswill has briefed him.
2. A process was put in place by ITK to find a replacement for the current ITK regional representative.	Marina Biasutti-Brown (Department of Lands and Natural Resources, Nunatsiavut Region) is the new ITK regional representative and replaces George Hakongak.
3. Chief Jim Boucher was contacted and stated that while he remains interested in the Panel he is not able to schedule his participation in meetings, and therefore is stepping down.	Jim Boucher has decided to step down from the Panel. The AFN has been contacted to determine a replacement for the regional chief position on the Panel. AFN is also reviewing the national First Nation position on the Panel, a seat previously held by former Chief Darren Taylor.
4. Elizabeth May was contacted and stated that she cannot control her agenda, and therefore is stepping down. She stated that it is appropriate to have another environmental voice on the Panel.	Elizabeth May has decided to step down from the Panel. Alan Young is recommended by the Panel Renewal Working Group to replace Elizabeth, and was approved by the Panel via email.

Larry also noted that three amendments were made to the Panel Terms of Reference as per the Panel's advice at the September 2008 meeting:

- Added reference to the new mentorship role of the Panel for in-coming members.
- Added a clause that COI Panel members may be asked to step down based on low attendance.
- Added a clause that clarifies that the Panel consists of assigned/representative and individual seats.

Panel members agreed with these amendments.

The COI Panel proposed that, in addition to a letter of recognition from MAC, resigning Panel members be presented with a memento as a token of appreciation. It was also suggested that past members should also be acknowledged in some way.

In the spirit of Panel renewal, George Greene announced his intention to step down as facilitator of the Panel, and proposed that Michael van Aanhout of Stratos could serve as the new facilitator.

George recognized that the facilitator operates with the confidence of the Panel, and that MAC and the Panel will need to make the final decision on a new facilitator. Many Panel members expressed their confidence in George and their wish for him to remain on as Panel facilitator. It was suggested that to ensure a smooth transfer of facilitation activities it may be appropriate for George and Michael to co-facilitate one or more Panel meetings.

## 5 COI Panel 2008 Post-Verification Review

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Due to logistical constraints, Xstrata Zinc Canada had been unable to attend the Panel's post-verification review in September 2008, so their review was postponed to the current meeting. The results of the Panel's post-verification review of Xstrata Zinc Canada are provided in a separate report.

The Panel discussed potential 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. A working group was formed to refine the COI Panel's post-verification review process. The members are Brenda Kelley, Alan Penn, Stephen Kibsey and Craig Ford (+Julie Gelfand and Stratos). The group will:

- Prepare a set of standard guidelines for companies undergoing post-verification review, including a menu of the background information that the COI Panel is looking for (e.g. descriptions of the company and its facilities, the surrounding environment, local communities and the company's relations with them) and other information that the Panel expects to be presented, which may include:
  - Examples of community engagement, IBAs, etc.
  - Challenges the company faced and how they responded.
  - Whether TSM is driving performance improvement in the company and is integrated into its management approaches and business practices.
  - The level of resources required to conduct the TSM self-assessments and verification.
  - The benefits and value gained by the company from TSM performance measurement and verification.

The Panel requested Stratos to prepare a first draft for working group review and circulation to the Panel.

The process for the September 2009 post verification review will be as follows:

- Stratos to submit a draft set of guidelines to the working group by April 17
- Guidelines finalized by May 15
- Provide the guidelines and request for background information to the selected companies by May 31.
- Formulate more specific questions for the two companies by June 30.
- Request the companies to submit their post verification presentation and supporting information by August 30 in time to be included in the Panel meeting materials.



The Panel selected IAMGOLD and BHP Billiton Diamonds (Ekati) for the September 2009 post verification review from the list of three companies planning to undergo TSM verification in 2009 (the third is Inmet).

There was some discussion about the need to address audit fatigue, overlap with other reporting systems and reporting time frames within the companies. This issue will be considered by the Outreach Working Group.

## 6 TSM Implementation

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### 6.1 TSM Update

Julie Gelfand provided a TSM update, including on indicator development, Aboriginal relations, energy use and GHG management, progress on new TSM issues, the external verification schedule for 2009, the TSM communications strategy, and the TSM work plan for 2009. These items are discussed below.

*Closure Framework:* The MAC Board approved the *Closure Framework* in November 2008. This year the Initiative Leaders (ILs) will assess the need to develop performance indicators, after reviewing the ICMM closure toolkit and other tools to ensure that potential closure indicators are aligned with existing tools and duplication is avoided. A Panel member cautioned that mine closure needs to be considered in the context of the current economic situation where mines are being shut down very quickly, with the consequent implications on the affected communities. It was noted that mines will plan for closure, whether scheduled or unscheduled, in the same way.

*Biodiversity Framework and Protocol:* The MAC Board approved the *Biodiversity Framework* in June 2007, and a draft protocol has been developed and is currently being finalized as a draft for testing by selected MAC members in 2009. Alan Penn and Dan Benoit expressed an interest and MAC agreed that they will be invited to participate in the working group that is drafting the protocol. The protocol will be ready for field testing in April 2009 for the 2008 reporting year by selected companies. A lessons-learned workshop will be held in the fall 2009 to further refine the protocol, followed by self-assessment in 2010 for the 2009 reporting year for internal reporting only. Public reporting on the biodiversity protocol will begin in 2011 for the 2010 reporting year.

*Safety and Health Framework and Protocol:* A draft *Safety and Health Framework* will be presented to the Governance Team (GT) on March 5, 2009, and a refined version will be put to the GT for approval in June 2009. The COI Panel was requested by MAC to provide initial input on the framework at this meeting and to send written comments to Karla Heath for the IL working group to consider. A draft *Safety and Health Protocol* should also be available in time for the GT meeting in June. A Panel member asked whether throughout the course of this work any link has been made to health and safety specialists in the labour movement. Julie indicated that she was not aware of any such links, and suggested that this Panel member provide her with names.

*Aboriginal Relations Framework:* The MAC Board approved the *Mining and Aboriginal Peoples Framework* in November 2008. The ILs have developed a three-point approach for exploring implementation of the framework: a review of legal issues around the duty to consult, a review of the Progressive Aboriginal Relations (PAR) program for its possible application to TSM; and a

review and revision of the existing *External Outreach Protocol* to see if it can be adjusted to apply the framework.

There was some discussion among Panel members about what level of information they are allowed to divulge to their communities of interest. For example, how much, if any, of the content of a draft framework or measurement protocol can be shared? When should Panel members speak in general terms about initiatives underway, and when can details be provided? It was agreed that the Panel needs some guidance from MAC on this issue. MAC offered to prepare such guidance for review by the Panel.

*AFN MOU:* The AFN MOU has been approved by the MAC Board and by the AFN Chief's Committee on Economic Development. Final approval is pending from the AFN Executive Committee Chiefs. The AFN-MAC action plan is ongoing and being reviewed bimonthly.

*Aboriginal Mining Forum:* In January 2009 25 Aboriginal and industry participants took part in the first Aboriginal Mining Forum in Yellowknife. The objective of the forum is to increase Aboriginal participation in the mining industry. At the forum, mining was recognized as improving local economies, quality of life and community development. It was also recognized that Aboriginal communities would like to have greater input into decision-making on how mining progresses in their territories. The next steps related to the forum will be for a working group to develop official terms of reference and process. A Panel member cautioned against the use of the term "Aboriginal" if all Aboriginal groups are not represented. Another Panel member was disappointed that she was not invited to participate in the forum, being a Yellowknife resident. Another Panel member asked if the North Slave Métis Association had been invited. MAC agreed to get back to the Panel with this information. It was noted that COI Panel members would appreciate being invited to key MAC events that highlight activities within TSM.

*Energy Use and GHG Emissions Management:* A new *Energy and GHG Emissions Management Guidance Document* was issued to MAC members as a field test version in December 2008. Users will provide comments on the guide to MAC by April 30, 2009. A pilot training workshop was held in Toronto in January 2009, and a French language workshop is planned for April 2009. The field test version of the guide is available on MAC's website at [www.mining.ca/www/media\\_lib/Energy/2008/Guidance\\_Document.pdf](http://www.mining.ca/www/media_lib/Energy/2008/Guidance_Document.pdf).

*Progress on New TSM Issues:*

Water: MAC will prepare a scoping paper on issues related to water and the mining industry, drawing on sources such as ICMM's scoping study, the results of a recent NRTEE scoping workshop for its water programme, and other initiatives and studies. This scoping paper will be presented to the MAC Science Committee, ILs, GT, and COI Panel. MAC will then explore acting on the recommendations in the scoping paper regarding water as an issue to be addressed under TSM (e.g. the need for a framework and/or protocol, etc.)

International application: The GT is working on a white paper on the international application of TSM.

*External Verification:* Three companies will undergo external verification of their 2008 TSM results: BHP Diamonds EKATI Mine, IAMGOLD, and Inmet. ILs are developing an external verification

schedule for 2009-2013 so companies will know when they are expected to verify during the 3-year rolling cycle for TSM verification.

*TSM Communications Strategy:* MAC's Public Affairs Committee led the development of an options paper on communications strategies for TSM. ILs will be completing a review of how and where they refer to TSM within their company's communications, and what materials would be useful to improve their communications and the benefit they receive from TSM. The results of this review will be provided to the Public Affairs Committee as an input to a TSM communications strategy.

The Panel discussed various aspects of a TSM communications strategy and the impact of TSM, such as:

- How to measure whether the performance of non-MAC members is being impacted by the performance of MAC members that participate in TSM through peer pressure or encouragement.
- How to get key stakeholders (e.g. communities, NGOs, capital markets, etc.) to recognize strong TSM performers vs. non-performers and recognize, promote or endorse TSM.
- Concerns and challenges related to non-MAC members potentially (mis)using the TSM brand.

An Outreach Working Group was formed to advise the GT and Board on a TSM communications strategy. The working group consists of Ginger Gibson, Alan Young, Stephen Kibsey and Doug Horswill (+Julie Gelfand and Stratos). The group will investigate issues such as:

- Who are the significant target audiences for TSM
- The idea of third party endorsements
- How to demonstrate whether and how TSM is raising the performance of the entire industry or only MAC members
- How TSM can be used to recruit new members
- How TSM can be used by companies in their relations with the financial industry/capital markets.

The Working Group will also propose a new approach to TSM reporting.

*TSM 2009 Work Plan:* The TSM 2009 work plan consists of the following activities:

- Two COI Advisory Panel Meetings (March and September)
- TSM Progress Report
- One TSM self-assessment workshop for MAC member companies
- One VSP workshop for new verifiers (on a cost recovery basis)
- Field testing of biodiversity indicators and lessons learned workshop
- Development of indicators related to the *Safety and Health Framework*
- Assessment of the need for indicators related to the *Closure Framework*
- Implementation approach for the *Mining and Aboriginal Peoples Framework* and work on the Aboriginal-Industry Mining Forum
- Preliminary work on international application and water as new issues under TSM
- TSM Communications Strategy
- Ongoing communications through trade shows

## 7 Panel Terms of Reference

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### 7.1 Implications of the Lobbyist Registration Act for Panel Communications

#### ***Background***

At the March 2008 Panel meeting, the Panel agreed to the preparation of a joint COI Panel-MAC letter to the Ministers of Environment and Fisheries and Oceans on the Metal Mining Effluent Regulations (MMER), raising common issues of process such as transparency and adequacy of consultation, and seeking clarification by the regulators on aspects of implementation.

At the September 2008 Panel meeting, the issue was raised of the COI Panel and its status under the Lobbyist Registration Act, and whether the COI Panel sending such a letter would be in contravention of this Act since the COI Panel is not a lobbyist organization. MAC agreed to look into this issue, and in December 2008 sent a letter to the COI Panel facilitator regarding the interpretation of this activity under the Act, and potential issues/questions that arise. In January 2009 the facilitator responded in a letter to the Panel indicating his understanding of the implications of the Lobbyist Registration Act requirements for the work of the Panel. Both of these letters were included in the briefing binders for the meeting. The facilitator proposed in his letter that this matter be referred back to the Panel to allow the Panel members and the MAC representatives to reach a common view on what types of activities are appropriate to the Panel Terms of Reference, particularly with regard to communications to public officials arising from the work of the Panel, and how best to ensure that the Panel activities do not raise concerns regarding the Act.

#### ***Discussion***

The Panel agreed that it is not nor does it wish to become a lobbyist organization. While it is important that the Panel freely discuss issues of concern related to mining and sustainability, the Panel needs to be careful about what it does in terms of external communications on issues that address regulation and policy or government policy or regulatory review processes. Therefore the Panel agreed with the facilitator's written advice to not prepare joint Panel/MAC letters to governments on regulatory or policy matters.

It was agreed that in areas in which the Panel wishes to make a formal statement or provide advice (such as the MMER) the Panel could write a letter to MAC. If MAC intended to use the letter or the Panel's advice for its participation in regulatory or policy processes, including in government consultations, MAC will formally seek Panel approval for how a Panel letter or its advice is to be used.

### 7.2 Clarifying the Panel Terms of Reference

With regard to the issue discussed above, it was agreed that the Panel needs to keep abreast of and raise and discuss new and emerging issues that relate to the mining industry and could affect TSM. The Panel decided that the existing terms of reference are clear enough in this regard. The Panel's advice on sustainability issues can be taken back to their constituencies and can be provided to MAC members to use in other processes, subject to Panel approval.

The Panel made a number of suggestions for improvements to its terms of reference:

- Add a communications protocol (Stratos to prepare initial draft from meeting notes for Panel review and approval).
- Evaluation of the COI Panel will be done periodically on a frequency that the Panel members agree, as opposed to a set frequency (e.g. every two years).
- Add development interests to the list of other possible categories of COIs that can be involved in the Panel on an as-needed basis through means other than direct membership.
- Recognizing that the list of other possible categories of COIs is not exhaustive, add "among others" to the end of the list.

MAC members on the Panel requested clarification on their participation in the COI Panel including number of representatives and their role. The discussion resulted in the following understandings and revisions to the Panel terms of reference:

- The Panel agreed to revise the Panel terms of reference from "5 or 6 MAC Board/TSM GT members" to "four MAC Board members, a representative of the PDAC, and the MAC President".
- MAC members and external members agreed that MAC participants at the Panel are there to listen, participate in the discussions, and to take the Panel's advice back to the broader MAC membership, the MAC Governance Team and Board of Directors, and their own companies. The role of the MAC members is not to influence the decisions of the Panel nor the advice it provides to MAC. Based on this understanding, some language was suggested to clarify the role of MAC members on the Panel: "Industry representatives participate in the COI Panel on an ex-officio basis. The role of ex-officio members is to listen and be part of the dialogue, but not to be part of decision making."

The Panel also made some suggestions in terms of Panel operation:

- The Panel would appreciate more regular communications/updates. Julie Gelfand agreed to distribute to the COI Panel the same TSM update that goes to the Board, which happens three times a year.
- The Panel could also benefit from a schedule of TSM activities.
- The Panel will continue to use working groups and conference calls to advance activities in between meetings.
- Meeting evaluation summaries should be provided in the meeting minutes. This will be prepared from 1) evaluation forms submitted by Panel members at the end of the meeting, 2) phone calls to a few Panel members by Stratos after each meeting, and 3) comments submitted to Stratos by Panel members via email.
- The Panel would benefit from a shared space on MAC's website for posting meeting materials, etc.

## 8 MMER

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At the September 2008 Panel meeting, some Panel members raised the issue of whether MAC's implementation of the *Biodiversity Framework* and the use of lakes for tailings deposition are consistent.

A Panel member expressed concern over an increase in the number of operations that are being permitted by the federal government to use lakes for tailings deposition, and questioned how biodiversity can be protected as per MAC's *Biodiversity Framework* when a natural water body is used in this manner. Concern was also raised about the validity of biodiversity offsets, and the opinion was expressed that destroying habitat in one place is not made justifiable by protecting habitat in another.

MAC reiterated its commitment to biodiversity conservation and referred to the TSM Guiding Principles, one of which is to seek to minimize the impacts of operations on the environment and biodiversity. MAC also noted that the *Biodiversity Framework* integrates the importance of biodiversity conservation and includes considering the option of not proceeding with a project. Each case is judged on a site-specific basis, and each time a company proposes to use a lake for tailings deposition they have to prove that it is the best environmental, social and economic option, as compared to numerous other options. MAC does not perceive a conflict or inconsistency between the occasional site-specific deposition of tailings in a lake and the *Biodiversity Framework*.

In a roundtable discussion, Panel members expressed the following points and opinions on this issue:

- It was recognized that while it is difficult to understand why we do not have the capacity to deal with tailings in another way, in limited cases the deposition of tailings in lakes might be the most environmentally, socially and economically-appropriate option that results in the least and most temporary environmental impact.
- The decision to use a natural water body for tailings deposition must not be made solely on a financial or cost-saving basis.
- It seems to be a fundamental principle that natural water bodies should not be used as repositories for industrial waste. However, putting this principle aside, the next biggest concern is around effective consent and consultation mechanisms. Consultation on the use of lakes for tailings deposition must be a rigorous process, and it must be recognized that the most significant issues raised might not be related to the environment or biodiversity but to cultural or spiritual values. The industry needs to better understand and have greater respect for these views.
- Biodiversity offsets should not be used as a means to get away with mediocre practices. A lot more work needs to be done on offsets and accommodation to more substantially mitigate what is being lost. It was noted that the Canadian Boreal Initiative (CBI) has published a report on conservation and biodiversity offsets in Alberta's boreal forest, which explores under what conditions biodiversity offsets would be feasible.
- The public is rarely afforded the opportunity to review and comment on tailings disposal options. The public should be privy to exploring the range of alternative and the full cost associated with them, and help make decisions.

- The existing process involving public consultation regarding Schedule 2 of the MMER could be improved by providing capacity (financial or otherwise) or granting intervenor status that would facilitate the participation of non-industry representatives.
- Issues and concerns related to tailings management – whether on land, underground, or in water – will vary from site to site and depend on local geographic and social factors.
- 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.
- Decisions on the method and location of tailings deposition must consider the full costs and externalities of the related impacts. The inherent problem is that it may not be possible to judge the appropriateness or efficacy of a decision for decades or centuries. Nevertheless, once a decision has been made and carried out, tests should be performed as soon as possible to see if the best result was achieved, which could help inform future decisions. There are flaws and uncertainties in the analyses that are being used to justify the use of lakes for tailings deposition, and that future generations will have to deal with the impacts of the precedent that it is acceptable to use lakes for tailings
- The consultation processes on Schedule 2 amendments are flawed and inadequate.

MAC participants in the Panel made the following comments:

- Mining alters the environment, and the key is to minimize that impact. There is the potential for impact with any type of tailings disposal. In some cases, using lakes for tailings deposition might represent the best option, but there should be solid evidence as well as full consultation and transparency in reaching this decision.
- There are a few key phrases in the biodiversity framework that support what is being discussed here relative to consultation and minimizing impacts, such as “MAC members will work with key communities of interest to develop and implement responsible policies and practices to...” and “avoid, minimize, mitigate and/or compensate”.

MAC noted that since the September 2008 Panel meeting, Environment Canada has drafted guidelines to address some of the process issues that MAC and the COI Panel identified in their joint draft letter. The guidelines are an attempt to streamline the processes of an upfront environmental assessment within an application for listing on Schedule 2 of the MMER. Intervenor funding will now occur in the upfront consultation under the environmental assessment. There has always been consultation around MMER and environmental assessment, but now the two processes are being brought together in the hopes that there will be more transparency and a clearer process that will ensure more funding for public involvement and consultation and more consistency for all parties involved.

### **Summary**

1. Consultation is key. Processes are being improved to allow for informed decision making and input at the community/public level, but there is concern whether this will be adequate.
2. Decisions must consider full-cost accounting, and integrate all social, environmental and economic impacts in order to make the best decision, which is not necessarily the easiest or cheapest decision.



3. MAC's *Biodiversity Framework* addresses the right subjects: the key will be putting them into action. Dealing with tradeoffs/offsets and accommodation will be a particular challenge.

The Facilitator noted that implementation of MMER has two tracks – ongoing improvement (or not) of process by the Federal government, and individual decisions on projects. There has been substantial discussion of MMER over several meetings. While there is not agreement among Panel members on the substantive issues raised by the current regulation, there is agreement at the Panel on the process issues. The Panel cannot weigh in on individual decisions on projects. Therefore the Panel has taken its discussion of MMER as far as it can.

Regarding the Biodiversity Conservation Framework, however, the facilitator noted concerns among some Panel members about whether the draft Protocol is specific enough with regard to decision making which may impact biodiversity. He suggested that the Panel give MAC some time to implement the framework through field-testing of the protocol this year, and determine whether improvements are needed to the framework or protocol once results are in. This can be discussed at a future meeting. The Panel will also have an opportunity to comment on the draft protocol.

## **9 Safety and Health Framework**

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The Panel provided brief comments on an early draft *Safety and Health Framework*. Recognizing the challenge of standardized safety and health metrics across jurisdictions, the framework is focused at the management system level, and companies will be asked to report on the indicators that are most appropriate to their operation and in their jurisdiction.

Two Panel members noted that the framework should mention the prevention of occupational disease and managing the disease once it has manifested. It was also recommended that the phrase "fatalities eliminated" be retained in the first bullet, and that the fourth bullet is "soft". A Panel member indicated that the public will require clarity and help in understanding the different safety and health metrics companies will use. Another Panel member noted that there will be linguistic issues about policies on safety and health where Aboriginals are employed. Lastly, it was recommended that MAC should seek input from health and safety specialists in the labour movement to inform the framework.

COI Panel members were asked to send their comments on the draft *Safety and Health Framework* to Stratos ([kheath@stratos-sts.com](mailto:kheath@stratos-sts.com)), who will send them on to Craig Ford.

## **10 Implementation Options for the MAC Aboriginal Relations Framework**

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The COI Panel discussed the proposed approach for implementation of the Aboriginal Peoples Framework put forward by the ILs, which comprises:

- Better understanding the implications of Supreme Court decisions that are helping to define expectations in the area of Aboriginal Peoples duty to consult and accommodate. ILs will share and discuss results of legal reviews conducted by several members in this



area to further their common understanding of these decisions and their implications for new and existing developments.

- Learning more about the Progressive Aboriginal Relations (PAR) program for possible application to TSMMAC member companies who participate in PAR will make a presentation to ILs on the program and its key elements.
- Conducting a review of the TSM External Outreach Protocol to determine how best to integrate engagement and dialogue with Aboriginal Peoples within the protocol. ILs have formed a working group to conduct this review and report back to ILs later in 2009.

A Panel member noted that while the Crown always has a duty to consult, companies can still collect information and do good corporate consultation that can feed into the accommodation package. Another Panel member commented that it would be useful for MAC and the Panel separate the duty to consult and duty to accommodate in considerations for implementation of the framework.

Representatives of the AFN, ITC and MNC agreed that it would be helpful if the leadership of their respective organizations was more fully informed about TSM, the *Mining and Aboriginal Relations Framework*, and the proposed approach for determining how the framework will be implemented. It was suggested that this information be presented by MAC to each of the three organizations to facilitate their capacity to comment on how the framework should be implemented. It was noted that the MNC has a consultation and accommodation guide that outlines Métis expectations.

Some Panel members stressed the need for case study material on Aboriginal relations. One Panel member suggested that the ILs take a look at the recent case study *Implementing the Troilus Agreement: A Joint Study of Cree Employment and Service Contracts in the Mining Sector*, which puts some meaning around the implementation of an agreement between a company and a community, and provides insights into workplace issues that arise in the course of the operation of a mine. Some members advised MAC to explore a case study approach to implementing the framework vs. the use of indicators, with a sense that the former may be a better tool.

It was noted that MAC needs to look at the full range of expertise required to develop an appropriate implementation approach for the framework, and must keep in mind that circumstances vary greatly and play out in different ways in different jurisdictions and for each mining property and each Aboriginal community. The regulatory context around duty to consult keeps changing with new provincial guidelines and work of the federal government.

There was a brief discussion on the social and economic opportunities and challenges related to Aboriginal peoples' involvement in the mining sector. The AFN's Corporate Challenge is a rigorous process that in some cases has resulted in the development of MOUs between the AFN and specific industry associations or companies. The AFN-MAC MOU addresses four elements: partnerships, investment, procurement and employment as well as respect for resources, consultation and accommodation. At the MNC and ITC, approaches are more regionally-based.

Panel members requested MAC to be kept informed of the results of the ILs review of implications of duty to consult and accommodate as it affects companies, the presentation on the PAR program, and the further development of the external outreach protocol to implement the framework. It was suggested that if the ILs see value in the PAR program, then a presentation on PAR would be useful to the Panel.

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## 11 Improvements to the 2008 TSM Progress Report

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The Panel discussed possible improvements to the 2008 TSM Progress Report and several ideas that merit further exploration:

*Report approach:*

- Some work should be done on defining the report's target audiences, pre-testing the report with these audiences to determine whether it serves their needs, and ensuring full and effective dissemination, the method for which may vary depending on the target audience. The use of new technology and social networking tools such as Facebook should be explored.
- Due to a low return rate, stop using feedback cards.

*Report content:*

- The report should discuss innovations, investments, and learnings, and should include case studies that support these points. However, as an association-level report it needs to be recognized that companies are limited in the storyline and case studies they can tell in the TSM report versus their own sustainability reports. The report needs to strike an appropriate balance.
- The report should be able to describe how TSM has made a difference, and whether it has been integrated into the values and management of MAC members.
- The report needs to present performance information more clearly and in way which is meaningful for its audiences
- Some audiences will want to see facility-specific data, and others will be more interested in overall performance and trends. All of these different performance data should be made available.
- The report should effectively communicate the value of the TSM brand.
- Company profiles should be improved.
- Consider creating a one-page fact sheet for each facility.

Overall, the Panel recognized the need for a layered, flexible and more targeted reporting approach that differentiates information for different audiences and in different electronic and printed formats.

The COI Panel Outreach Working Group (described above) will consider the above points in its work.

The Panel was also presented with various options for presenting aggregate, trend, and facility-level TSM performance data. The Panel supported the presentation of aggregate and trend data as a percent of facilities achieving Level 3 or higher (as proposed by the ILs), but agreed that the facility level performance data is best presented as it has been in the past.

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## 12 Information Items

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There was no report on information items.

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## 13 Future Agenda Items

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

- Safety and health framework and protocol
- Post-verification review of EKATI and IAMGOLD
- Further development of the implementation approach for the Aboriginal framework
- TSM Communication and Outreach

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## 14 Next Panel Meeting

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The next COI Panel meeting is scheduled for September 23, 2009 in Toronto. Details will follow closer to the meeting date.

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## 15 Meeting Evaluation

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

- Submission of Meeting Evaluation Form (7 members)
- Submission of post-meeting written comments to the facilitator (2 members)
- Post-meeting telephone interview by the facilitator (3 members).

### Panel Member Evaluation of the Meeting

All respondents save one, stated that the meeting had met or exceeded their expectations; and that the meeting had been very well organized, managed and facilitated. One respondent stated that the preparatory materials were excellent. Another commented that the agenda had been sent late. Another said that the inter-meeting working group preparations were good and on time. Another said the discussions could be better informed by Panel members speaking more clearly to the expectations of the communities of interest they represent. Another stated that there is a need for more time for the Panel meetings and that 1.5 day meetings would help. One panel member stated that expectations for Panel meetings need to be increasingly around discussion of substantive issues beyond TSM implementation.

The majority of respondents stated that MAC participants at the meeting are adequately responding to Panel member input and it was noted that they listen carefully, are open in their participation, and make adjustments in their responses which incorporate Panel input. Some improvements to MAC member participation were suggested: 1) less passive and more participative communication and raising of their concerns with Panel members; 2) more active leading of parts of the meeting by MAC member representatives rather than by the facilitator; 3) better reporting back of how MAC and MAC members take the Panel's advice; and 4) make specific requests to Panel members for their input.

## Areas for Improvement

1. More time for substantive and in-depth conversation around specific subjects
2. More sub-committees to “do some of the heavy lifting” between meetings
3. Addressing how the TSM performance indicators can be used by Panel members themselves within their own constituencies
4. Moving beyond a focus on the TSM indicators into more substantive discussions on the issues they address – the indicators focus constrained by the boundaries around the indicators
5. More substantive treatment of issues which arise from communities of interest and have or could have an impact on the mining industry or its reputation, but are not directly part of TSM design and implementation. This could help better inform MAC policy and positions.

## Appendix 1: List of Participants

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### COI Panel Members

Gordon Ball, Syncrude Canada Ltd.  
Dan Benoit, Métis National Council  
Richard Briggs, Canadian Auto Workers  
Craig Ford, Inmet (new member)  
Ginger Gibson  
Jim Gowans, De Beers Canada Inc.  
Larry Haber  
Doug Horswill, Teck Cominco Limited  
Brenda Kelley, Canadian Environmental Network (Bathurst Sustainable Development)  
Stephen Kibsey, Caisse de dépôt et placement du Québec (new member)  
Soha Kneen, Inuit Tapiriit Kanatami  
David Mackenzie, United Steelworkers of America  
Alan Penn, Cree Regional Authority  
Judy Whiteduck, Assembly of First Nations  
Alan Young, Canadian Boreal Initiative (new member)

### Other Attendees

Paul Deveau, Xstrata Zinc  
Dianne Rubinoff, Rubinoff Environmental

Julie Gelfand, Mining Association of Canada  
Maggie Papoulias, Mining Association of Canada  
Elizabeth Gardiner, Mining Association of Canada  
Anne-Marie Fleury, International Council on Mining and Metals (ICMM)

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

### Regrets

Marina Biasutti-Brown, Nunatsiavut Region (new member)  
Christy Marinig, Timmins Economic Development Corporation  
Gordon Peeling, Mining Association of Canada  
Eira Thomas, Stornoway Diamond Corporation