

(28) - 1

SUBMISSION OF THE INNU COUNCIL OF NITASSINAN
Regarding Free Prior and Informed Consent and Indigenous Peoples
Geneva – 21 July 2005
Me Armand McKenzie, (Innu Council of Nitassinan)

1. The Innu Council of Nitassinan welcomes the opportunity to make a comment on item 5 a) and to give an example of the application of the principle of FPIC at the national level that I already communicated to the authors of document considered under this agenda item. I would reiterate the author

2. We would like to share with participants of this Working group a market-tested partnership between governments, transnational corporations and Indigenous Peoples.

3. The Voisey's Bay Agreements are four agreements consisting among others of:

- An Impact Benefit Agreement (IBA) between the Innu Nation & Voisey's Bay Nickel Company (VBNC);
- A Memorandum of Agreement (MOA) between the Innu Nation and the Province of Newfoundland and Labrador;
- A Voisey's Bay Chapter of Innu Rights Agreement between the Innu Nation, Canada, and the Province of Newfoundland and Labrador;
- An Environmental Management Agreement between the Innu Nation, Canada, and the Province of Newfoundland and Labrador.

4. The Voisey's Bay Agreement is not a Treaty but is nevertheless a legal and binding contract between VBNC and Innu Nation about the Voisey's Bay Mining Project. It is called an Impacts and Benefits Agreement or IBA. The IBA set out benefits to the Innu People and how possible impacts will be reduced or eliminated.

5. The underlining principles are:

- that the company agrees the Innu have constitutionally protected rights in the land;
- that a mine would have negative impacts on the Innu;
- and **that the mine can only go ahead if the Innu people give consent.**

6. In order to give a practical application to these principles, the Agreement proposes to address various issues, including, among others, the following:

- A project description;
- Education and Training for the Innu;
- Employment of Innu;
- Workplace conditions;
- Business Opportunities;
- Financial provisions and revenue-sharing for the Innu;
- Environmental Protection;
- Social and Cultural Protection;
- Implementation of the Agreement;
- Information and Communication.

7. An interesting aspect of the Voisey's Bay Agreements includes as well ***an undertaking from the Government of the Province of Newfoundland and Labrador, within a Memorandum of Understanding between the Innu Nation and the Province of Newfoundland and Labrador that the Voisey's Bay Mine Project is not to be allowed to go ahead, with all the legislative authorizations and permits, until all agreements are finalized between the Company and the Innu.***

8. As a far as details are needed, we are please to report some general components of the IBA that might be of some interest for our Indigenous colleagues in the room.

Education & Training

9. Provisions of the Agreement on that matter provide aims at helping Innu get training and education so that they can get and keep long term jobs on the Mine Project; to help Innu do those jobs well; to help Innu get better jobs as they learn more; and to help Innu contribute to the well being of their communities.

10. To achieve these goals, the Company agrees to contribute to and take part in school programs aimed at helping Innu stay in school, career counselling, provide awards to Innu students, scholarship in order to help Innu get more education or training after high school, an undertaking that 1/3 of all summer jobs will go to Innu students etc...

Innu Business Opportunities

11. Provision of the Agreement dealing with Innu Business Opportunities is to ensure that Innu communities, individuals and businesses have an opportunity to benefit from the Project by providing products and services during both the construction and ongoing operation of the mine. In order to help Innu Businesses take advantage of these opportunities, programs and services are put in place to

(28) 3

help Innu business skills and to give access to funding required to start Innu Businesses, such as the establishment of an Innu Business Centre and the creation of an Innu Business Development Fund.

The bottom line is that there are Business Participation Objectives targeted so that Innu can do the work and benefit from it.

Financial provisions

12. Of course, without disclosing the full range of financial arrangements between the Innu Nation and VBNC, suffice to say that the Company and the Government of Newfoundland and Labrador will make financial payments to compensate Innu for use of land.

Information and Communications

13. Ratification by the People of whatever kind of agreement is crucial in issues related to FPIC. The section of the Voisey Bay Agreement on Information and Communications tries to address this important issue. Nevertheless, it is difficult to come up to a consensus when Indigenous communities have to deal with major developments that have an enormous impact on them and derogate from their *worldview*. As a core principle on FPIC, our organization believe that both sides (pros and cons) have an equal opportunity to debate a proposed agreement/or project. An "equal opportunity" would mean for parties to have equally access to financial, human and material resources in order for communities to fully and meaningfully debate, in indigenous languages or through any other means, any agreement or project that will have or might have an impact (whether positive or negative) on their development as distinct societies, or an impact on their rights to their lands and natural resources.

14. The Innu Council of Nitassinan should stress that all of the above would have not been possible without a good number of factors, just to name a few: it took civil disobedience by the grass-root people – especially Innu women - intervention both in the judicial and political arena, use of the public opinion and a clear message to the business community that Partnership with Indigenous Peoples is clearly in their best interest.

15. The Innu Council of Nitassinan hopes to develop more on this important issue for all Indigenous Peoples and contribute in a substantial and positive manner, by giving other examples of our relationships with and experiences of other industries such as hydro-developments, and forestry to any discussions in the next Seminar on Indigenous Peoples and Extractive Industries organized by the High Commission Office on Human Rights.