

HUMAN RIGHTS IMPACT ASSESSMENT OF THE MARY RIVER MINE NUNAVUT, CANADA

EXECUTIVE SUMMARY

Mary River Mine

The Mary River Mine is an open pit iron mine on North Baffin Island on Inuit owned lands in the Qikiqtaaluk Region of Nunavut, located mid-way between the Inuit communities of Pond Inlet and Igloolik.

The iron ore deposit was discovered in 1962, but due to current high commodity prices it only has become economically viable to develop the mine. Climate change is also making the Arctic region more accessible for natural resource extraction.

The iron ore from Mary River is very high quality and does not require further processing, so it can be shipped immediately to European customers.

The Mary River Mine is owned by the Baffinland Iron Mine Corporation, a private company headquartered in Toronto, Canada. The company is jointly owned: 50% by ArcelorMittal (the world's largest steel-maker headquartered in Luxembourg) and 50% by Iron Ore Holdings LP (backed by a U.S.-based private equity firm).

The Baffinland company began exploration and early mining activities in the Mary River region in 2004. They submitted the original proposal for the Mine to the Nunavut Impact Review Board (NIRB) in 2008. The proposal included construction of an all-year shipping port at Steensby Inlet, and a 150 km. railway between port and mine.

After a long and important review process by the NIRB, including public hearings in the summer of 2012, the company's proposal for the mine was approved by Canada's Minister of Aboriginal Affairs and Northern Development in December 2012.

Shortly afterwards, however, the company submitted a proposal to change the project by adding an "Early Revenue Phase" for the mine. The company is postponing its plans to build the railway and new port, and wants to start hauling iron ore by truck to the Milne Inlet port, stock-pile, and ship to Europe during the open-water season.

The Baffinland company has submitted a new Environmental Impact Statement for the "Early Revenue Phase" at the end of June 2013. Afterwards, NIRB is conducting a reconsideration process to see if the mine's certificate needs to be changed to protect Inuit from impacts on environment and communities. Additional public hearings will be held in the late summer or fall of 2013.

The Mary River Mine is an unprecedented mining development for Nunavut—and for the Arctic region in general.

That the mine will be developed more slowly now because of the “Early Revenue Phase” has some positive aspects from a human rights perspective. For example, there will be more opportunities for formal consultation with the affected peoples through the NIRB process; earlier opportunities for jobs and training for Inuit who want to work at the mine; and, more time to complete studies and prepare monitoring programmes related to the environmental impacts of the railway and shipping route out of Steensby Inlet.

There will inevitably be other changes over the mine’s lifespan, and therefore Inuit need to be informed and consulted on an on-going basis if they are going to participate successfully in the development of the mine.

Mining in Nunavut

The Mary River mine is not the first mine to developed in Nunavut, nor will it be the last. There have been a number of previous mines, although smaller in scale than Mary River. In the public hearings, some elders spoke about their experiences as workers at the Nanisivik and Rankin Inlet mines.

Currently, there is one operating gold mine at Baker Lake and there are other deposits being explored and developed. In a 2012 publication, the *Mining Journal* called Nunavut “an emerging force in Canadian exploration and mining,” where billions of dollars will be invested in the next decade.

There are many challenges and high costs for mining in Nunavut because of its northern climate and remote location. Nonetheless, mining projects in Nunavut are becoming increasingly feasible from a technological and economic point of view. Climate change will make mining and resource development more attractive and accessible.

All levels of government are generally supportive of mining development: the Government of Canada sees the development of mines and other natural resource projects as part of its northern strategy for greater sovereignty and development in the arctic region; the Government of Nunavut sees mining as an important contribution to the economy of the territory in a context where there are few alternatives for economic growth; and, the Designated Inuit Organizations also see mining projects as providing opportunities for individual and collective benefits for Inuit.

The Nunavut Land Claims Agreement provides important protections for Inuit rights in the context of mining, including their right to benefit from the exploitation of natural resources on their lands and territories:

- Some portions of the territory have been designated as Inuit-Owned Lands, meaning that Inuit own the sub-surface mineral rights and receive the royalties when the minerals are extracted. The main deposit at Mary River is on Inuit-Owned Lands.
- The Nunavut Impact Review Board was created to conduct reviews, public hearings and make recommendations about measures to protect Inuit and Nunavummiut from adverse environmental and social impacts of mining projects. The review of the Mary River mine began in 2008 and will continue this summer and fall with respect to the Early Revenue Phase.
- There is a requirement that all major development projects are subject to Inuit Impact Benefit Agreements, which are negotiated between the regional Designated Inuit Organization and the developer of a mine. The Qikiqtani Inuit Association is currently in negotiation of an IIBA with the Baffinland company.

Despite these protections in the Nunavut Land Claims Agreement, there are some concerns about the future of mining in Nunavut:

- As the Government of Canada works to streamline environmental and social review processes, will the NIRB be able to conduct as rigorous impact assessments for future mining projects as it did for the Mary River mine?
- If there are numerous projects that are developed at the same time, will the NIRB have the capacity to conduct simultaneous reviews—while also fulfilling its responsibilities to monitor the implementation of the Mary River project certificate?
- As Mary River and other mines begin to generate revenues and profits, how will the economic and other benefits be allocated at the community level?

The context of mining in Nunavut helps to remind us that the success of the Mary River project is not just the responsibility of the Baffinland company. It includes the different levels of government and the Designated Inuit Organizations. In our human rights impact assessment, we provide recommendations for all of these actors to ensure that the mine respects human rights.

Human Rights in Canada

The assessment of the human rights situation for the Mary River mine begins with a review of how government protects human rights in Canada. According to the UN Guiding Principles on Business and Human Rights, governments must protect against human rights abuse within their territory, including by companies. This requires taking steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication.

Canada is a signatory to most international human rights treaties. Even though it was initially opposed to the UN Declaration on the Rights of Indigenous Peoples, it now supports it. Canada also supports international human rights standards related to business and human rights. At the same time, Canada is aggressively pursuing resource development (in Canada and around the world) as part of its economic strategy. Canada needs to ensure that its resource development strategy does not contradict human rights.

Within Canada, human rights are protected by the Constitution, the Charter of Rights and Freedoms, and provincial or territorial human rights laws. Furthermore, the Canadian Constitution and modern land claims agreements provide a strong protection of aboriginal rights in Canada.

In Nunavut, the protection of collective Inuit rights is assured by the Nunavut Land Claims Agreement. There is also a Nunavut Human Rights Act that protects Nunavummiut against discrimination and creates the Nunavut Human Rights Tribunal. In a recent report to the Government of Nunavut, it was recommended that it create a new human rights commission to provide better protection for and education about human rights in Nunavut.

While there are strong legal protections for human rights in Canada, important challenges remain with respect to implementation of both Inuit and human rights in Nunavut, including:

- Poverty and lack of economic and employment opportunities affect the realization of economic and social rights in Inuit communities.
- The remote location, lack of infrastructure and high cost of food and services affect the right to food, the right to housing and the right to health of many individuals and families.
- The territorial and local governments lack resources to fully implement their human rights obligations.
- There are gaps in terms of access to remedies as Nunavut does not have a human rights commission, and there are significant barriers for Inuit using the legal system.

It is against this backdrop that the Baffinland company must ensure that its operations do not harm the human rights of Nunavummiut.

Human Rights and the Baffinland Iron Mines Corporation

International human rights standards require companies to respect human rights. This implies having a human rights policy, an on-going process to prevent adverse impacts on human rights, and an effective operational-level grievance mechanism. These standards are contained in the UN Guiding Principles on Business and Human Rights that were unanimously adopted by all Member States of the United Nations in 2011.

While the Government of Canada supports the UN Guiding Principles on Business and Human Rights, there is no legal requirement for the Baffinland Iron Mine Corporation to explicitly address international human rights at the Mary River mine.

The Baffinland company states that “we respect human rights and the dignity of others” in its Sustainability Policy. However, it does not have a human rights policy or specific human rights procedures that meet international standards.

Many leading mining companies and industry associations have begun to develop human rights policies and procedures. One of these companies is Baffinland’s parent company, ArcelorMittal.

ArcelorMittal developed a detailed Human Rights Policy in 2010 that is derived from “International Human Rights Declarations” and contains specific commitments to employees, business partners and local communities. These commitments cover: health and safety; labour rights; and, respect for indigenous peoples’ rights.

The Human Rights Policy applies to the employees of all ArcelorMittal’s subsidiaries, affiliates, subcontractors and supply chain worldwide. This policy should therefore apply to Baffinland, its contractors and supply chain. However, ArcelorMittal’s Human Rights Policy has not yet been explicitly integrated into the plans and management systems for the Mary River mine—at least as presented in the initial environmental impact statement for the Mary River mine.

Although there is no legal requirement for Baffinland to explicitly address human rights at the Mary River mine, the company should develop a human rights policy and procedures in order to meet international standards for the mining industry, the corporate policy commitments of ArcelorMittal, and the expectations of its stakeholders.

As human rights were not explicitly addressed and integrated into the FEIS for the Mary River project, Baffinland should consider undertaking a stand-alone human rights impact assessment at an appropriate moment in the future in order to assess actual impacts of its operations—for instance, at the end of the “Early Revenue Phase” or at the end of the construction of the railway and port.

Inuit Rights to Consultation and Consent

On-going consultation with Inuit and other stakeholders is a critical component of respecting human rights.

The concept of Free, Prior and Informed Consent (FPIC) has not been formally recognized in Canadian law or in the corporate policies of Baffinland and its parent companies. However, there is a strong legal framework for consultation with Inuit in Nunavut. Inuit rights have largely been protected to date as a result of the requirements of the Canadian Constitution and the Nunavut Lands Claim Agreement. A key

component has been the impact review process by the Nunavut Impact Review Board that provided a process for informed discussion and community input.

The Baffinland company began its stakeholder engagement in 2006. There have been numerous consultation opportunities as part of the NIRB process that began in 2008 and included public hearings in the summer of 2012. The NIRB has announced new consultations as part of the reconsideration process for the Early Revenue Phase.

Consultation about the Mary River Mine has included Designated Inuit Organizations and Inuit from affected communities, as well as numerous federal and territorial government departments, other organizations and intervenors with mandates related to supporting Inuit.

During the public hearings, the Qikiqtani Inuit Association and Nunavut Tunngavik Incorporated expressed support for the Mary River Project, while raising some concerns and providing recommendations to the NIRB.

Elders and other Inuk expressed many concerns and expectations about different aspects of the Mary River Mine throughout the public hearings. However, very few of these individuals said that the mine should not go ahead. Most individuals stressed the need for jobs and benefits for Inuit and strong protections for the environment and communities.

It was important and useful that Inuit participated in the NIRB process. The NIRB Final Hearing Report includes over 180 terms and conditions in response to community concerns and Parties' recommendations. A number of the terms and conditions address on-going consultation with Inuit and other stakeholders. The Minister accepted all these terms and conditions, so there will be on-going mechanisms and processes for consultation with Inuit.

Consultation and consent should not be viewed as a "one-time event" in the context of obtaining the project certificate, but rather as a continuous process of building and maintaining trust and respecting the rights of Inuit and other stakeholders.

Consultation processes are by their nature complex and imperfect. Their success requires the sustained efforts of many parties over a long period of time. They can always be improved. For instance, the timing of public hearings or consultation meetings during periods when Inuit want to be on the land for traditional activities may hamper full participation. Translation of information about the mine into Inuktitut is important to ensure that all community members understand what is happening, as well as to respect Inuit culture and rights.

Workers' Rights at the Mary River Mine

Workers' rights are one of the areas that the Baffinland company has the greatest amount of control over its impacts. It is also an area where the Inuit have expressed hope and expectations for positive benefits in terms of job opportunities—which can be understood

in terms of the right to work and other labour rights. One of the biggest challenges for Baffinland will be non-discrimination in the workplace, especially in terms of hiring, promoting and retaining Inuit and female employees at the Mary River mine.

Labour rights are a central issue in all human rights impact assessments. This is because labour rights are protected by international law (the International Covenant on Economic, Social and Cultural Rights, the ILO Declaration on Fundamental Principles and Rights at Work, as well as by the UN Declaration on Indigenous Peoples Rights), and because companies have control over how their workers are treated. Companies should also make sure that their suppliers and contractors respect their workers.

The key issues that need to be monitored from a human rights perspective include:

- Non-discrimination in employment. This means that Inuit workers and female workers should have equal chances to get hired and promoted at the mine. They should also be protected against harassment at work. This has sometimes been a challenge at other mines in Canada. Baffinland's training activities such as the Work Ready Program are positive steps to give Inuit opportunities for jobs. Training and apprenticeships for Inuit promote the right to work and the right to education. The government and the DIOs should collaborate to provide strong training programmes to allow Inuit to take advantage of the opportunities at the Mary River mine and for future mining projects in Nunavut.
- Safe and healthy working conditions. Modern mines in Canada have good safety records and Baffinland says that safety is its number one priority. However, there are many health and safety risks related to the different aspects of the Mary River mine, so on-going training, monitoring and inspection will be very important. Particular care and counseling should be provided to support mental health at the mine in relation to potential issues related to the fly-in/fly-out working arrangements and potential substance abuse problems.
- Just and favourable working conditions. Modern mines in Canada provide excellent wages and benefits and Baffinland is expected to be an employer of choice in Nunavut. By providing just and favourable working conditions for its employees, Baffinland also provides opportunities for families and communities to enhance other human rights such as food, health and education. As many Inuit are not accustomed to working in the formal economy, they may need support to ensure that generous wages and benefits turn into positive human rights outcomes. Government, DIOs and local communities all have a role to play.
- Freedom of association and collective bargaining. It is important that workers can discuss workplace issues and concerns with management. Some mines in Canada have unions and others do not. What is important is that Baffinland allows workers to meet together and to raise individual and collective issues such as health, safety, wages and benefits.

- Preventing forced labour and child labour. It is extremely unlikely that there will be forced labour or child labour issues at the Mary River mine. However, given the school drop-out rates in some Inuit communities, attention should be paid to child labour issues for local businesses that provide services to the mine.

Baffinland has presented a detailed Human Resources policy in the Final Environmental Impact Statement that addresses many of these workers' rights issues. Implementing and monitoring this policy should be a priority as it presents many opportunities for positive impacts on human rights.

Human Rights and the Environment

The history, culture, traditional activities and livelihoods of Inuit are intimately connected with the environment and wildlife. In general, there is uncertainty and concern about the Arctic environment as a result of climate change. There is also uncertainty about the potential impacts of the Mary River project on the environment and wildlife, mainly related to the proposed railway and all-year shipping from Steensby Inlet.

In the public hearings for the Mary River project, many of the concerns of Inuit related to the environment. At the same time, the different actors including the company, different government departments and the QIA have been taking these concerns very seriously in the environmental and socio-economic impact review process overseen by the NIRB.

There are some human rights related to the environment:

- There are potential impacts on the right to food related to the potential effects of mining operations on wildlife, which is the main source of the “country food” and traditional diet of Inuit. The concerns about wildlife also have implications for Inuit rights to traditional livelihoods and occupations. The ability of Inuit to practice their traditional occupations is closely tied to other rights related to the maintenance of Inuit cultures, languages and traditional knowledge, and their right to self-determination. The greatest risks to wildlife are related to the proposed railway and all-year shipping from Steensby Inlet. Because of the Early Revenue Phase, there are several more years for the different actors to complete baseline studies and design mitigation measures to prevent adverse impacts on wildlife and respect the related human rights.
- There are potential impacts on the right to health related to the interaction of the mining operations. Because the Mary River mine is in a remote location far away from the nearest communities, and the mine does not require any chemical processing, the risks to the right to health for community members are relatively small. The health risks of employees are part of the discussion of labour rights.
- There are also potential long-term impacts on the environment related to the closure of the mine. Because the Mary River mine does not involve chemical processing and the accumulation of tailings, there are less environmental risks for closure than for

other types of mines. Furthermore, closure is many years away and the time frame for closure may be extended if other ore deposits are developed. The company's plans include a 4-year closure period with a commitment to post-closure monitoring for as long as is required. There are also important conditions in the mine's certificate related to closure. The involvement of Inuit in closure planning and post-closure monitoring provides an important opportunity to respect human rights related to the environment.

From a human rights perspective, one of the most important issues for Baffinland relates to providing information about, and opportunities for participation in, the environmental monitoring programmes for the Mary River mine. Baffinland has made commitments to train and hire Inuit for various jobs related to environmental monitoring in its operations. The QIA is advancing a proposal for an Environmental Monitoring Group that will involve Inuit and other actors. These initiatives should be encouraged and supported as mechanisms to respect human rights related to the environment, as well as Inuit rights to on-going consultation and information about the Mary River project.

Human Rights and Communities

The Baffinland company will make a number of direct and indirect contributions to the Inuit communities through taxes, royalties, impact benefit payments and voluntary contributions to social programmes. These socio-economic contributions have the potential to make a very important positive contribution to human rights for more than a generation and to have a transformative effect on communities. However, it is very important that there is consultation, planning, coordination and monitoring by all stakeholders to ensure that the money is invested with a long-term strategy. From a human rights perspective, the predictable negative social impacts that mining communities experience should be addressed in a pro-active manner.

The first question is about the taxes, royalties and other payments that Baffinland makes to governments and the Designated Inuit Organizations. The government should spend this money in a way that protect, respects and fulfils human rights. For example, government spending on medical clinics in the communities should enhance the right to health; and, contributions by the DIOs to training programmes should promote the right to education and the right to work. The key to understanding whether taxes, royalties and other payments are having positive impacts on human rights is the transparency of the different revenue flows from the Mary River mine.

One potential issue to monitor is the misalignment between the government departments that receive increased revenues from the mine and those that will have to address the predictable negative social impacts related to mining. For example, the government of Nunavut, the municipality of Iqaluit and the hamlet councils will be on the front-line for rising demands on local infrastructure and services, but will not receive the majority of the economic flows from the mine. Coordination and framework agreements between different levels of government, the DIOs and the communities are important to ensure that there is not a gap in funding to address negative human rights impacts.

The second question is about Baffinland's direct contributions to communities. Baffinland has already made significant voluntary contributions in communities and it has pledged to make further contributions to local development funding initiatives. These initiatives can have important positive impacts on human rights. For example, providing computers for school children contributes to the right to education and enhances future opportunities for the right to work. Including beneficiaries in the on-going consultation about and monitoring of Baffinland's voluntary contribution programs can maximize their results in terms of human rights.

Beyond its voluntary contributions, Baffinland must address the negative human rights impacts that are related to the mine's operations. In the public hearing, the RCMP talked about some problems about crime, violence, alcohol and gambling that other northern mining communities have experienced. These problems can have negative impacts on the right to health and the right to security of the person. Other concerns expressed relate to potential negative impacts on the right to housing, the right to food, and the right to traditional livelihoods and culture. These social issues have many causes, but the responsibility to respect human rights implies that Baffinland should work with communities, governments and other stakeholders to proactively address them. These are the issues that should be prioritized by Baffinland's development funding initiatives.

Transparency

Mining companies are expected to do more to be transparent about the money and gifts they give to governments in order to fight corruption and improve the governance and benefits of mining projects. Access to information and transparency are also important human rights based principles. The implementation of strong transparency policies and procedures for the Mary River Mine can help improve human rights impacts because there will be less opportunity for inappropriate spending and more accountability and incentives for positive contributions.

The Government of Canada just announced that it is going to make new disclosure rules that will apply to Canadian mining companies. The Mining Association of Canada has helped developed a framework for these new disclosure rules. ArcelorMittal also has strong disclosure and anti-corruption policies. The standards for transparency and disclosure for Baffinland are going to be increasingly stringent over the coming years.

All parties that administer the economic benefits that will flow from the mine should also set a good example about transparency and anti-corruption. This is needed to reinforce public confidence in the contribution of the mine to sustainable development and good governance. Greater disclosure and access to information about economic payments also helps monitoring and assessment of positive human rights impacts from the mine

Concerns have been raised in the public hearings about how much of the IIBA benefits will flow to communities. Last summer, some questions were raised about members of the QIA accepting travel to the London Olympics at Baffinland's expense. Given their

important role in administering royalties and IIBA payments, the Designated Inuit Organizations should develop their own policies about transparency and anti-corruption that takes into account their special status. This is an important piece of the puzzle for ensuring that the Mary River Mine and future mining projects in Nunavut make strong contributions to sustainable development and human rights.

Access to Remedies

The government and Baffinland must provide access to remedies for employees and community members whose human rights have been harmed by the Mary River Mine. There are many different mechanisms for individuals and groups to raise their concerns, but the best ones should operate at the mine site and community level and resolve issues through dialogue or mediation.

Access to remedies is a key component of the international framework for business and human rights. States have an obligation to provide judicial and non-judicial channels for the harms done by companies to human rights. While the rule of law is strong in Canada, access to courts and human rights institutions in Nunavut is very difficult due to the barriers of distance, costs and cultural traditions. In a recent report to the legislature in Nunavut, the absence of a human rights commission was highlighted as an important gap in the protection of Nunavummiut.

The Nunavut Land Claims Agreement provides a framework for access to remedies for Inuit, including through the enforcement of the project certificate by the NIRB and the enforcement of the IIBA by the QIA. These mechanisms are best suited for addressing collective issues. Specific concerns of individuals will likely need to be channeled through formal representatives and monitoring groups.

Companies are encouraged to establish operational-level grievance mechanisms in order to respect human rights. These should have credible, effective and culturally appropriate channels for employees and community members to raise concerns and have them taken seriously. This does not mean that every complaint is correct, but there should be a fair, transparent and independent process to investigate and decide upon the issues raised. These mechanisms should support continuous learning and help companies address patterns of complaints.

ArcelorMittal has committed to establishing operational grievance mechanisms for stakeholders in its Human Rights Policy. Baffinland has also committed to establishing a concerns procedure for employees in its Human Resources Plan. These procedures should be established and formalized at the earliest possible stage of the development of the Mary River Mine so that they can begin to address concerns proactively and before they escalate into more serious or formal complaints.

HRIA METHODOLOGY

This section provides information about the methodology of the HRIA of the Mary River mine that has been undertaken in partnership between Lloyd Lipsett, a human rights lawyer, and IsumaTV's Digital Indigenous Democracy project.

At the time of writing, the NIRB has decided that a reconsideration process is necessary in order to review the recently-proposed Early Revenue Phase for the mine. Therefore, a full and final assessment of the Mary River mine's potential human rights impacts cannot be completed until the NIRB reconsideration process has been completed. Consequently, the preliminary information and assessment is presented as an Interim HRIA Report with the objective to contribute to further understanding and dialogue about human rights as the NIRB's technical review and formal consultations proceed in the fall of 2013.

Overview of the HRIA

Human rights impact assessments (HRIAs) are tools that allow stakeholders of a proposed business operation and investment to understand the potential positive and negative impacts in terms of human rights.

This HRIA examines the Mary River mine and focuses on the potential impacts on Inuit and other individuals as potential employees of the mine; as members of project-affected communities; and, as potential suppliers or business associates of the mine. The HRIA also examines the responsibilities of the government and the Baffinland company to protect, respect and remedy potential human rights impacts, as defined by international human rights law and compared with good practices for the mining industry.

More specifically, the HRIA's objectives are:

- To assess the risks (potential negative impacts) and opportunities (potential positive impacts) for human rights for the Mary River project.
- To highlight the current gaps between Baffinland's policies and procedures, as well as the government's legal and regulatory framework, and current international human rights standards and guidance.
- To provide additional information and resources about human rights issues. Given that the HRIA is undertaken in collaboration with the Digital Indigenous Democracy project—which features engagement with Inuit in oral Inuktitut through radio and social media—additional information about the views of the affected communities is provided to supplement the on-going formal consultation processes about the proposed mine.
- To document some baseline human rights information that can contribute to the monitoring, assessment and remediation of actual human rights impacts over the life-span of the Mary River mine.

To appreciate the relevance and justification of HRIAs for mining projects anywhere in the world, including in Nunavut, it is important to understand that there have been important international developments related to business and human rights over the past six or seven years. When Baffinland began exploration activities related to the Mary River project around 2004, and even when the NIRB began its review process in 2008, there was no clear international consensus about the responsibilities of businesses with respect to human rights; however, it is now impossible to deny that an international consensus exists and is gaining significant momentum.

The new international consensus about business and human rights is related to the work of John Ruggie in his role as UN Special Representative on Business and Human Rights from 2005 to 2011. The key milestones in his work were the UN Human Rights Council welcoming the Protect, Respect and Remedy Framework in 2008 and endorsing the UN Guiding Principles on Business and Human Rights in 2011. The key points related to the UN Guiding Principles are outlined in the different sections of this report.

A forward-looking HRIA

To date, the majority of HRIAs of mining projects have been undertaken after operations have begun—often when human rights violations have been alleged and/or social conflict has emerged. This frequently can result in a degree of tension and suspicion around the HRIA between different stakeholders.

The HRIA of the Mary River mine was undertaken prior to the approval of the Project Certificate and the construction of the mine (i.e. *ex ante* rather than *ex post* assessment). Throughout the assessment, stakeholders expressed their points of view, expectations and concerns about future impacts rather than current or historical impacts. Apart from the issue of prior consultation with indigenous peoples, the vast majority of the human rights issues discussed in the HRIA are discussed in a forward-looking manner. Care has been taken to not make allegations about violations of human rights. Rather, the HRIA seeks to identify areas of human rights risk and opportunities for improvements to human rights.

The working premise of a forward-looking HRIA is that addressing human rights issues proactively and in dialogue with all the relevant parties and stakeholders is the most effective way to prevent negative human rights impacts from occurring in the future.

Engagement in the NIRB review process

As the experience demonstrates, *ex ante* HRIAs can provide some additional advantages to *ex post* assessments. In particular, this HRIA has benefitted immensely from the opportunity to engage in the formal environmental and social impact review process conducted by the Nunavut Impact Review Board (NIRB).

As noted in the HRIA timeline, Lloyd Lipsett and Zacharias Kunuk were granted formal intervenor status by the NIRB and participated in their final hearings in Iqaluit, Igloolik and Pond Inlet. This allowed the intervenors to provide observations and recommendations to the NIRB on the record. It also permitted the intervenors to hear the presentations, questions and answers of all the parties and a wide spectrum of stakeholders who participated in the community roundtables. The parties and formal intervenors in the NIRB proceedings provided their information under oath and were subject to questions from the other participants. The proceedings were recorded and a transcript has been prepared. IsumaTV filmed the hearings and excerpts have been uploaded to their website. Engagement in the NIRB review process provided clarification of the detailed technical information about the mine's plans, as well as to hear the full range of points of view about the proposed mine.

Using multi-media tools to enhance Inuit information and consultation

The assessment has been undertaken through a participatory process where all stakeholders were invited to present their views. The HRIA benefited from formal participation in the NIRB public hearings and audio and video clips of these hearings are included as multimedia resources on the HRIA website.

Given the partnership between the HRIA and Isuma TV's Digital Indigenous Democracy project, digital media, video and radio was used as much as possible in order to provide information about the Mary River mine and relevant human rights issues, as well as to encourage broad participation in the NIRB public hearings. The basic premise is that audio and video can enhance communication and help respect the language, oral tradition and cultural rights of the Inuit.

Some of the use of multimedia tools in the conduct of the HRIA include:

- A series of “inform and consult” radio shows hosted by Lloyd Lipsett and Zacharias Kunuk and featuring presentations by the NIRB, the QIA and various experts and a call-in segment for community members.
- Video interviews with elders in Igloolik.
- “My Father's Land”: multimedia submission by Lloyd Lipsett and Zacharias Kunuk to the NIRB.
- Filming the public hearings in Iqaluit and Igloolik.
- Broadcasting the public hearings in Igloolik and Pond Inlet on the community radio and over the Internet.
- Community radio updates about the public hearings in Iqaluit and Pond Inlet.

- Video presentation by Zacharias Kunuk for closing remarks at the public hearing in Pond Inlet.

Many of these multimedia resources are referenced throughout the HRIA. Moreover, the publication of the final HRIA report on the Internet in a multimedia format is designed to enhance the transparency of the assessment's methodology, findings and recommendations.

The use of multimedia tools for on-going information and consultation with Inuit communities over the lifespan of the Mary River mine was one of the main recommendations made by Lloyd Lipsett and Zacharias Kunuk in their submissions to the NIRB. The NIRB discussed this in its Final Hearing Report and addressed this with one of the terms and conditions in the Project Certificate. As discussed in the submission to the NIRB hearings, IsumaTV offers its media expertise and network of community media players and radio stations for future efforts to enhance consultation about the mine.

Rights-based assessment methodologies emphasize the importance of participation of affected stakeholders, as well as transparency and accountability. While this was a limited example, the use of multimedia in the conduct of the assessment was an experiment in ways that stakeholder participation can be enhanced. In the context of Nunavut, the use of audio and video media provided additional possibilities to address the challenges and complexities of translation and respecting the oral tradition and language rights of Inuit.

At the same time, the accessibility and cost of the necessary Internet technologies remain a barrier to their effective and systematic use throughout Nunavut (and in other indigenous communities). It is hoped that the Mary River mine will contribute directly and indirectly to the development of improved internet services and communications infrastructure in the Baffinland region that will be useful for the mine but also accessible for communities. This can be one of the immediate and lasting benefits as the mine is developed.

HRIAs and environmental and social impact assessments

The NIRB review process is focused on the Environmental Impact Statement prepared by the Baffinland company (and now on the Addendum to the Final Environmental Impact Statement for the Early Revenue Phase). These are a very detailed document that contains the company's policies, management plans and mitigation measures to address risks to the environment and to communities.

HRIAs have evolved out of the methodologies and established practice for environmental and social impact assessment (ESIA) since the 1970s. However, HRIAs differ from environmental and social impact assessments as they explicitly focus on international human rights standards, and stress the importance of rights-based methodologies for the conduct of the assessment. For instance, many of the issues covered in the FEIS and the Addendum are relevant to human rights, but are not expressed in human rights terms. In

particular, the term “human rights” only appears 3 times in the thousands of pages of materials contained in the FEIS.

Currently, the question seems not whether or not human rights are relevant to ESIA, but rather whether human rights should be integrated into existing environmental and social assessment and risk management processes, or should be undertaken as “stand-alone” HRIAs.

This issue is also explored in the recently released (March 2012) guide by the International Council on Mining and Metals entitled “Integrating Human Rights into Corporate Risk Management Processes.” After discussing the necessity for mining companies to consider human rights as part of their risk management processes, including the conduct of ESIA, the ICMM considers that there are three basic options that can be pursued: (1) build human rights into the ESIA; (2) conduct a separate assessment focused on a particular human rights issue or set of issues that have been identified as significant in previous assessments; or (3) conduct a stand-alone human rights impact assessment (HRIA).

Going forward, from the perspective of the mining industry, it seems preferable to integrate human rights into ESIA: “while it is generally preferable that human rights due diligence procedures be integrated into a company’s internal control systems rather than being stand-alone exercises (albeit depending on the project circumstances), the key objectives [for mining companies and industry associations] is to ensure that their risk management frameworks adequately address human rights concerns. With the universal endorsement of the UN Guiding Principles and their mainstreaming into other international and domestic standards, the expectations of adequate human rights due diligence have been clearly established.”

This approach of including human rights within environmental and social impact assessment processes is also endorsed by ArcelorMittal in its Human Rights Policy, which should be implemented at the Baffinland mine.

The guidelines for the preparation of the Mary River FEIS precede ArcelorMittal’s Human Rights Policy and some of the international standards about business and human rights; and, therefore, it is understandable that human rights were not addressed more explicitly in the FEIS. Consequently, one of the main recommendations of the HRIA is that Baffinland should implement a formal human rights policy and due diligence measures on a going-forward basis. Similarly, it is recommended that the NIRB include human rights in its project review guidelines for future mining projects in Nunavut so that project developers will address human rights more proactively and explicitly.

HRIA issues compared to FEIS issues

As noted above, many human rights issues have been given attention in the NIRB review process *implicitly* in relation to social, economic, environmental and governance issues discussed in the FEIS, the submission of the various Parties and the NIRB’s Final

Hearing Report). However, by applying a human rights lens—including through the application of human rights impact and compliance assessment tools—there are additional issues that merit further attention, including some of which will likely increase in importance when construction and operations begin at the mine.

HRIA issues	Coverage in FEIS, NIRB Final Hearing Report, Project Certificate
<i>Corporate governance / human rights management</i>	
Human rights due diligence	Human rights not explicitly addressed to date, except in submissions of Lipsett/Kunuk.
Anti-corruption	Anti-corruption not explicitly addressed to date.
Transparency	Commitments to public reporting on various environmental, social and other project components. Transparency about management of economic benefits addressed in the submissions of Lipsett/Kunuk and in NIRB Final Hearing Report.
<i>Consultation</i>	
Free, prior and informed consultation and consent of Inuit	Although there is no direct mention of free, prior and informed consultation and consent, Baffinland has policies and procedures related to consultation with Inuit. NLCA provides mechanisms for consultation and consent of Inuit, notably through the NIRB review process and requirement of an IIBA. The FEIS was subject to consultation with the QIA and Inuit as part of the NIRB review process and public hearings. An IIBA is currently being negotiated...
On-going consultation with Inuit and all stakeholders	Baffinland has policies and procedures related to consultation with stakeholders, including the Stakeholder Engagement Plan contained in the FEIS. The NIRB Final Hearing Report contains a number of terms and conditions and additional commitments by Baffinland to ongoing consultation.
<i>Labour Rights</i>	
Right to work and non-discrimination	Baffinland has policies and procedures related to non-discrimination and promoting local and Inuit employment. Job opportunities for Inuit is a priority issue in the communities and received substantial treatment in the FEIS, including in the Human Resources Plan, as well as in the NIRB Final Hearing Report’s recommendations, terms and conditions. Some discussion of a specific strategy for employment of women at the mine.
Just and favourable working conditions	Some aspects of just and favourable working conditions are covered in Baffinland’s Human Resource Plan and some issues received attention in the NIRB review process (e.g. fly-in/fly-out), but other issues have not yet received much attention. Working conditions will increase in importance when hiring begins.
Safe and healthy working conditions	Although this issue did not receive much attention in the NIRB review process, a detailed EHS policy and plan was included the FEIS. It is expected that

HRIA issues	Coverage in FEIS, NIRB Final Hearing Report, Project Certificate
	safety and health will be priority operational issues during construction and operations.
Freedom of association and collective bargaining	This issue was not addressed in the FEIS or NIRB review process. It may be addressed in IIBA negotiations, but most likely will become more of an issue once large numbers of employees are hired for construction and operations.
Communications and complaints mechanisms for workers	There is a communications and complaints mechanism included in Baffinland's Human Resource Plan. This issue did not receive much attention in the NIRB review process.
<i>Social and Economic Impacts</i>	
Direct economic benefits	Potential economic benefits were a priority issue and received significant attention in the FEIS and during the NIRB review process. Presumably they are also a key issue in the IIBA negotiations. The link to transparency of management of economic benefits was not made, except in submission by Kunuk/Lipsett and recommendation in the NIRB Final Hearing Report
Programs to address negative social impacts	Potential negative social impacts were addressed in the FEIS, but often the impact was predicted as minimal or none. Negative social impacts received significant attention in the NIRB review process and public hearings. The focus currently is on creating monitoring groups, but details of specific programs involving different actors still need to be developed.
Contributions to social development projects	Baffinland has already made some contributions to projects in the communities, and has made further commitments in the FEIS. Presumably, this will be a subject of importance in the IIBA negotiations.
<i>Environmental Impacts</i>	
Potential impacts on human health	This was a major focus of FEIS and NIRB review process and public hearings. Environmental impacts are subject to various mitigation plans and measures and proposed monitoring groups.
Potential impact on livelihood and food	This also was a major focus of FEIS and NIRB review process and public hearings. Environmental impacts are subject to various mitigation plans and measures and proposed monitoring groups.
Post-closure impacts	Post-closure impacts are addressed in the FEIS and the NIRB review process. Post-closure impacts are the subject of a preliminary plan [and closure bonds]
Climate change	Minor discussion of climate change in the FEIS and the NIRB review process. This is a major issue for the Arctic and Inuit and has the potential to cause significant operational challenges for the Mary River Project.
<i>Access to Remedies</i>	
On-going monitoring	On-going monitoring, including through the creation of multi-stakeholder monitoring groups, has been a strong focus of the NIRB Final Hearing Report's recommendations, terms and conditions.

HRIA issues	Coverage in FEIS, NIRB Final Hearing Report, Project Certificate
	Presumably also a focus of the IIBA negotiations.
Company-based remedies	Beyond the stakeholder engagement plan and communications / complaints procedure for workers, there has been no mention of a formal grievance mechanism for community members.
State-based remedies	The terms of the IIBA can be legally enforced as a contract. The terms and conditions of the license can be enforced by the NIRB. However, it is unclear what standing individuals or communities have to raise issues; and, there are serious barriers to access for legal proceedings in Nunavut. Lack of a human rights commission is also a gap in protection in Nunavut.

Preliminary review of human rights issues and indicators

The HRIA made use of a number of human rights impact assessment tools to conduct the preliminary analysis of human rights issues and to identify relevant indicators for assessment and monitoring. In particular, the HRIA applied the Danish Institute for Human Rights’ “Human Rights Compliance Assessment Quick Check” tool and Rights & Democracy’s “Getting it Right” guide.

The following table presents an overview of this part of the HRIA process. Further information about the various human rights issues can be found in the other sections of the HRIA.

Community concerns	Human rights issues	Human rights questions and indicators
Shipping and port and impact on marine wildlife	<ul style="list-style-type: none"> • Right to food • Right to health • Right to adequate standard of living • Indigenous peoples rights to lands and natural resources • Right to self-determination (R&D) • Right to participate in cultural life (R&D) • Right to freedom of movement (R&D) 	<ul style="list-style-type: none"> • DIHR, B.2.1, 2.3 & 2.4: Land Management • DIHR, B.3.1 & 3.2: Environmental Health and Safety • R&D, Right to self-determination (Community: Q24 -28, Q31, Q32; Government: Q26-30; Company: Q8-19) • R&D, Right to participate in cultural life (Community: Q10, 11, 12, 15; Government: Q3, Q4-8, Q15; Company: Q1-10) • R&D, Right to freedom of movement (Community: Q6-8, Q12 -15; Government: Q3, 4, 9; Company: Q1-7)
Railroad and impact on wildlife	<ul style="list-style-type: none"> • Right to food • Right to health • Right to adequate standard of living • Indigenous peoples rights to lands and natural resources 	<ul style="list-style-type: none"> • DIHR, B.2.1, 2.3 & 2.4: Land Management • DIHR, B.3.1 & 3.2: Environmental Health and Safety • R&D, Right to self-determination (Community: Q24 -28, Q31, Q32; Government: Q26-30; Company: Q8-

	<ul style="list-style-type: none"> • Right to self-determination (R&D) • Right to participate in cultural life (R&D) • Right to freedom of movement (R&D) 	<ul style="list-style-type: none"> • 19) • R&D, Right to participate in cultural life (Community: Q10, 11, 12, 15; Government: Q3, Q4-8, Q15; Company: Q1-10) • R&D, Right to freedom of movement (Community: Q 6-8, Q12 -15; Government: Q3, 4, 9; Company: Q1-7)
Employment and training for Inuit	<ul style="list-style-type: none"> • Non-discrimination • Right to work • Right to just and favourable conditions of work • Right to education • Right to participate in cultural life (R&D) • Right to liberty and security of persons (R&D) • Right to peaceful assembly (R&D) 	<ul style="list-style-type: none"> • DIHR, A.3.1, 3.2: Non-discrimination • DIHR, A.6.1: Just and favourable conditions of work • R&D, Right to participate in cultural life (Community: Q9,13, 14; Company: Q5) • R&D, Right to liberty and security of persons (Government: Q6; Company: Q2 -3) • R&D, Right to peaceful assembly (Community: Q4-7; Government: Q3-4; Company: Q2 -6).
Community consultation	<ul style="list-style-type: none"> • Indigenous peoples rights to free, prior and informed consultation and consent • Freedom of expression / access to information • Right to self-determination (R&D) 	<ul style="list-style-type: none"> • DIHR, B.2.1, B.3.2 • R&D, Right to self-determination (Community:Q4, 9, 10, 17 -19, 21 ; Government: Q17, 18, 20, 21; Company: Q10, 11, 12, 13)
Anti-corruption / transparency	<ul style="list-style-type: none"> • Transversal issue affecting all human rights 	<ul style="list-style-type: none"> • DIHR, B.4.1: Corruption and bribery • DIHR, C.1: Relation with suppliers and contractors

Additional Information and Resources

Danish Institute for Human Rights “Human Rights Compliance Assessment Quick Check”:
http://www.humanrightsbusiness.org/files/Country%20Portal/quick_check_august_2006.pdf

HRCA Slide Show:
<http://www.humanrightsbusiness.org/files/HRCA/HRCA%20presentation%20-%20Website%20version%20-%20070513.pdf>

Rights & Democracy “Getting it Right”: <http://equalit.ie/content/human-rights-impact-assessment-tool>

IFC Human Rights Impact Assessment and Management:
http://www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/Guide+to+Human+Rights+Impact+Assessment+and+Management

ICMM, “Integrating Human Rights into Corporate Risk Management Processes”:
<http://www.icmm.com/page/75929/integrating-human-rights-due-diligence-into-corporate-risk->

SECTION ONE: FULL FINDINGS ON THE MARY RIVER MINE

Key message

The Mary River Mine is a massive and unprecedented mining development for Nunavut (and the Arctic region in general). On the one hand, it represents a major opportunity for potential benefits to workers and their families, to Inuit communities and designated Inuit organizations, as well as to the territorial and federal governments. On the other hand, there are risks of negative impacts related to the environment, socio-economic conditions and human rights. Therefore, all of the relevant actors should have strong and shared interests that the Mary River Mine will become a good example of responsible and rights-respecting northern development.

Overview of the Mary River Mine

The Mary River Mine is an open pit iron mine on North Baffin Island on Inuit owned lands in the Qikiqtaaluk Region of Nunavut. The grade of the iron ore is very high quality and does not require any further chemical processing or tailings. It can be shipped away as soon as it has been taken out of the ground.

The iron ore deposit was discovered in 1962, but only in recent years has it become economically viable to develop the mine due to high commodity prices. Climate change is also making the Arctic region more accessible for natural resource extraction.

The Mary River Mine is owned by the Baffinland Iron Mine Corporation (BIMC), a private company headquartered in Toronto, Ontario. BIMC is jointly owned: 50% by ArcelorMittal, the world's largest steel-maker, and 50% by Iron Ore Holdings LP, a U.S.-based private equity firm.

The initial project for the Mary River Mine was submitted to the Nunavut Impact Review Board (NIRB) in 2008. After a lengthy and rigorous review process by the NIRB, including public hearings in the summer of 2012, the proposed mine was approved by the Minister of Aboriginal Affairs and Northern Development on December 3, 2012.

However, shortly afterwards, BIMC submitted a proposal to change the project and include an "Early Revenue Phase" for the mine. BIMC submitted a new Environmental Impact Statement for this "Early Revenue Phase" at the end of June 2013 and the NIRB will be conducting a reconsideration process to determine whether the Project Certificate needs to be modified to address potential new impacts on the environment and on communities. Additional public hearings will take place in the late summer or fall of 2013.

Information on Baffinland Iron Mines Corporation (BIMC)

BIMC ownership

50% by ArcelorMittal

- ArcelorMittal is the world's largest steel company with operations in 60 countries
- Headquarters are in Luxembourg
- 245,000 employees worldwide
- Publicly traded on the stock exchanges of New York, Amsterdam, Paris, Luxembourg, Barcelona, Bilbao, Madrid and Valencia
- Mr. Lakshmi Mittal is the CEO and owns 40% of the shares and voting shares in the company

50% by Iron Ore Holdings LP

- Incorporated according to the laws of Delaware, U.S.A.
- Backed by the Energy and Minerals Group, a \$2 billion private equity firm based in Houston, U.S.A.

Brief corporate history

- 2004: BIMC goes public to raise funds for exploration. It is listed on the Toronto stock exchange (TSX).
- 2010-2011: Bidding war between different investors to gain control of BIMC.
- 2011: ArcelorMittal and Iron Ore Holdings LP join forces to acquire all the shares of BIMC for \$590 million. BIMC is “taken private,” meaning that it is no longer listed on the Toronto stock exchange. At the time, ArcelorMittal owns 70% and Iron Ore Holdings LP owns 30% of BIMC.
- 2012: Ontario Securities Commission begins a proceeding alleging insider trading against former BIMC consultant:
http://www.osc.gov.on.ca/en/Proceedings_soa_20120109_waheed-walter.htm
- 2012: ArcelorMittal sells 20% of its interest in BIMC to Iron Ore Holdings LP, so they currently each own 50% of BIMC.

Senior management

- Tom Paddon, President & Chief Executive Officer
- Michael Anderson, Vice-President, Operations
- Stephanie Anderson, Chief Financial Officer
- Ronald Hampton, Vice-President and Project Director
- Erik Madsen, Vice President, Sustainable Development Health, Safety & Environment
- Richard (Dick) Matthews, Vice President, Technical Services
- Greg Missal, Vice President, Corporate Affairs
- Michael T. Zurowski, Executive Vice President
- Biographies of senior management team: <http://www.baffinland.com/about-us/leadership/?lang=en>

Original proposal for Mary River Mine

The following description of the Mary River Mine is taken from the NIRB Final Hearing Report:

The Mary River Project Proposal consists of the proposed construction, operation, closure, and reclamation of an open pit mine and associated infrastructure for the extraction, transportation and shipment of high grade iron ore from a deposit located on the North Baffin Island, in the Qikiqtaaluk Region of Nunavut. The proposed mine site would be 280 kilometres from Arctic Bay, 415 kilometres from Clyde River, 192 kilometres from Hall Beach, 155 kilometres from Igloolik, 1000 kilometres from Iqaluit and 160 kilometres from Pond Inlet. The Proponent of the Mary River Project is Baffinland Iron Mines Corporation (the Proponent or Baffinland).

The iron ore deposit, Deposit No. 1 consists of an estimated 365 Mt (million tonnes) of direct shipping iron ore with an average iron grade of 64.66%. The Project would involve the production and shipment of an estimated 18 million tonnes-per-annum (Mt/a) of high grade iron ore from Deposit No. 1. The Proposal indicates that the high grade iron ore from this deposit is suitable for shipment to international markets after crushing and screening with no requirement for additional processing. Deposit No. 1 is estimated to be sufficient to meet the production design for an operating period of 21 years.

After crushing and screening, the Proponent proposes to transport the iron ore from the mine via a 150 kilometre Railway that would be constructed between the mine site and an all season deep water port to be located at Steensby Inlet. Upon reaching Steensby Port, the iron ore would be loaded from the rail cars into purpose-built ore carrying vessels with ice-breaking capabilities for shipment to European customers.

During the construction period, material, equipment and supplies required for the construction at the mine site and the northern portion of the Railway would be received via a port site at Milne Inlet. A freight dock would be constructed at Milne Port. At the onset of the Project, much of the construction material and supplies, fuel and mining equipment would be received at Milne Port during the open water season. Milne Port and the existing Milne Inlet Tote Road linking the mine site to Milne Port would be upgraded to improve access from the Milne Port to the mine site. It is proposed that Milne Port would operate during the open water season while Steensby Port would operate year round. Once Steensby Port is operational, Milne Port would only be used occasionally for the delivery of oversized equipment to the mine site.

The Project would include the following major phases:

- Construction, which is projected to take four years;
- Operations, which is projected to last approximately 21 years;
- Closure, which is projected to take 3 years and Post-Closure Monitoring, which is projected to last for 5 years, and if closure objectives are not met, could extend beyond 5 years.

Early Revenue Phase

The following summary of the Early Revenue Phase (ERP) is taken from the Popular Summary of the Addendum to the FEIS submitted to the NIRB by Baffinland:

With the introduction of the ERP, the Mary River Project consists of mining iron ore from the reserve at Deposit No. 1 at a production rate of 21.5 Million tonnes per year (Mt/a). Initially, for the Early Revenue Phase, 3.5 Mtpa of iron ore will be mined, transported by trucks to Milne Port and shipped to markets from Milne Port during the open water season. As global markets improve for the prices of iron ore, the Company intends to proceed with the construction and operation of the larger Approved Project which includes the construction, operation, closure, and reclamation of a large scale mining operation (open-pit mine) and associated infrastructure for extraction, a railway link for the transportation of ore to Steensby Port, and, the construction and operation of a year around port facilities on Steensby Inlet for the shipment of iron ore.

There are 3 main project locations for the Early Revenue Phase (ERP) – the mine site, Milne Port north of the mine site, and the Tote Road which connects the Mine Site to Milne Port. Only limited development will occur at the Mine Site, sufficient to support the mining of 3.5 Mtpa of iron ore. The Tote Road will be upgraded to enable safe and efficient transportation of ore by truck from the Mine site to Milne Port. Milne Port will be fully developed and will accommodate a 3.5 million tonnes ore stockpile, an ore dock, maintenance facility and associated infrastructure for the operation of the port facilities.

Concluding observations

This overview of the Mary River Mine defines the corporate and operational context for the human rights analysis in the following sections of the HRIA report.

Some key questions and issues that the corporate and operational context raises are:

- Now that ArcelorMittal and Iron Ore Holdings LP are 50% partners, what are the implications for Baffinland’s policies? Will it continue to implement ArcelorMittal’s strong policies and procedures—including its Human Rights Policies—as it would have when ArcelorMittal was a majority owner (70%)?
- The high grade of the iron ore at Mary River is an important consideration, especially as it means that there is no processing or tailings required at the mine site. This significantly reduces the human rights risks related to the environment, employees’ health and to closure.
- The fact that the mine will be developed more slowly now because of the “Early Revenue Phase” presents some positive aspects from a human rights perspective: there will be more opportunities for formal consultation with the affected peoples through the NIRB process; earlier opportunities for jobs and training for Inuit who want to work at the mine; and, more time to complete studies and prepare monitoring

programmes related to the environmental impacts of the railway and shipping route out of Steensby Inlet.

- There will inevitably be other changes over the mine's lifespan, and therefore Inuit need to be informed and consulted on an on-going basis if they are going to participate successfully in the development of the mine.

Additional Information

BIMC website: <http://baffinland.com>

ArcelorMittal website: <http://www.arcelormittal.com/corp/>

Profile on Mr. Lakshmi: http://en.wikipedia.org/wiki/Lakshmi_Mittal

Energy and Metals Group website: <http://www.emgtx.com/>

Further information on the original proposal for the Mary River mine is available on the NIRB website (see, in particular, the Final Environmental Impact Assessment submitted by BIMC):

<ftp://ftp.nirb.ca/02-REVIEWS/ACTIVE%20REVIEWS/08MN053-BAFFINLAND%20MARY%20RIVER/1-SCREENING/01-APPLICATION/080320-08MN053-Development%20Proposal%20for%20the%20Mary%20River%20Project.pdf>

Further information about the Early Revenue Phase is available on the NIRB website (see in particular the Addendum to the Final Environmental Impact Assessment):

<http://ftp.nirb.ca/03-MONITORING/08MN053-MARY%20RIVER%20IRON%20MINE/01-PROJECT%20CERTIFICATE/04-AMENDMENTS/>

A good summary of the revised project, including the Early Revenue Phase, is included in the correspondence between Baffinland and the Nunavut Planning Commission:

<http://ftp.nirb.ca/03-MONITORING/08MN053-MARY%20RIVER%20IRON%20MINE/01-PROJECT%20CERTIFICATE/04-AMENDMENTS/2012%20EARLY%20REVENUE%20PHASE/01-CORRESPONDENCE/>

SECTION TWO - FULL FINDINGS ON MINING IN NUNAVUT

Key message

The Mary River mine is not the first mine to developed in Nunavut, nor will it be the last. Mining projects in Nunavut are becoming increasingly feasible from a technological and economic point of view. Climate change will make mining and resource development more attractive and accessible. The Nunavut Land Claims Agreement provides important protections for Inuit rights in the context of mining, including their right to benefit from the exploitation of natural resources on their lands and territories. The context of mining in Nunavut helps to remind us that the success of the Mary River project is not just the responsibility of the Baffinland company. It includes the different levels of government and the Designated Inuit Organizations.

Overview of mining activity in Nunavut

Historic and current mines in Nunavut	Potential mines in Nunavut
Rankin Nickel Mine (1957 – 1962): nickel, copper and platinum, Rankin Inlet	Areva: uranium, Kiggavik
Nanisivik Mine (1976 – 2002): lead and zinc, Nanisivik	Minmetals Resources Ltd. Izok Lake and High Lake: copper, zinc, lead, silver and gold
Lupin Mine (1982 – 2005): gold, Contwoyto Lake	Newmont Mining Corp.: gold, Hope Bay
Polaris Mine (1982 – 2002): lead and zinc, Little Cornwallis Island	Peregrine Diamonds: diamonds, Chidliak
Jericho Diamond Mine (2006 – 2008); diamonds, north of Yellowknife	Xinxing Ductile Iron Pipes / Advanced Explorations Inc.: iron, Roche Bay
Doris North Gold Mine (2008 – 2010); gold, near Omingmaktok	Xstrata: zinc and silver, Hackett River
Meadowbank Mine (2010 – present); gold, near Baker Lake	

[Insert visual map from page 3 of Baffinland introductory powerpoint that shows the Mary River project and other mines in Nunavut]

Nunavut: A “Rising Star” in Mining

According to the Mining Journal, Nunavut is a “Rising Star” in the mining sector:

Mining holds great promise to help pave the way to Nunavut’s economic self-reliance. Mineral production from its first mine already accounts for nearly a fifth of the gross domestic product. More than C\$395 million was spent on exploration and development in 2011. With additional investments in mineral exploration, the Nunavut mining industry boosted real GDP by 3.3% in 2011. In comparison, the public sector grew moderately by only 1.9%, despite making up over 40% of the economy.

These investments present significant training and employment opportunities. It is estimated several thousand jobs will emerge over the coming years, making the mining industry Nunavut’s largest private-sector employer. As well, the government recognises

the substantial role that the minerals industry plays in developing Nunavut's infrastructure. With new transportation networks such as roads, port facilities, and airstrips, Nunavut will be able to provide easier and cheaper access to not only support expanding exploration programmes and new mining development, but also lower the cost of living for communities.

Source: http://www.mining-journal.com/_data/assets/supplement_file_attachment/0005/324149/Nunavut2012scr.pdf

Legal regime for mining

In Canada, surface rights and mineral rights came with the purchase of land until some time in the early 1900s, depending on the jurisdiction. Since then, mineral rights have been government-owned and cannot be purchased, but only leased, by individuals or companies. As a result, the mineral rights on more than 90% of Canada's land are currently owned by governments.

Where mineral rights are privately owned, they can be sold independently of surface rights, so that surface and mineral rights on the same property can be held by different owners.

As per the Canadian Constitution, the regulation of mining activities on publicly owned mineral leases falls under provincial/territorial government jurisdiction. Thus, there is separate mining rights legislation for each of the thirteen Canadian jurisdictions except Nunavut.

Nunavut mining and exploration activities are regulated by the Department of Aboriginal Affairs and Northern Development. However, as part of the Nunavut Land Claims Agreement, the mineral rights for about 10% of Nunavut have been turned over to the Inuit community. These lands comprise large blocks that scatter throughout Nunavut. The Inuit community set the rules and regulations in those blocks that are not under federal jurisdiction.

The Mary River Mine is one of the blocks that have been turned over to the Inuit as part of the Nunavut Land Claims Agreement.

Source: General mineral rights regime in Canada: <http://www.nrcan.gc.ca/minerals-metals/policy/legislation-regulations/3707>

Mining as part of Canada's Northern Strategy

The priorities of Canada's Northern Strategy, released in 2009, include:

- Exercising our Arctic sovereignty
- Promoting social and economic development
- Protecting our environmental heritage

- Improving and devolving northern governance

The Government of Canada is introducing measures to ensure that regulatory systems across the North protect the environment in a predictable, effective and efficient manner. Efforts such as the Northern Regulatory Improvement Initiative are helping resolve the complex approval process for development projects, to ensure new projects can get up and running quickly and efficiently.

Mining activities and major projects such as the Mackenzie Gas Project are the cornerstones of sustained economic activity in the North and the key to building prosperous Aboriginal and Northern communities. Diamond mining in the North is now a \$2-billion-per-year industry, which is about half of the economy of the Northwest Territories. The Mackenzie Gas Project – now estimated at over \$16 billion – will provide direct benefits to Aboriginal communities through the development of a new model for Aboriginal participation.

The Aboriginal Pipeline Group will provide for Aboriginal participation in the developing economy, notably through an ownership position in the Project. In addition to on-shore exploration and development there is renewed interest in the off-shore, including a new era of oil and gas exploration in the deeper waters of the Beaufort Sea. Canada will continue to support the sustainable development of these strategic resource endowments.

The large-scale projects already underway barely scratch the surface of the North's immense store of mineral, petroleum, hydro and ocean resources. However, the full extent of the natural resources potential in the Arctic is still unknown. The Government of Canada announced a significant new geo-mapping effort – Geo-Mapping for energy and Minerals – that will combine the latest technology and geoscientific analysis methods to build our understanding of the geology of Canada's North, including in the Canadian Arctic Archipelago. The results of this work will highlight areas of mineral and petroleum potential, lead to more effective private sector exploration investment and create employment opportunities in the North.

Source: Government of Canada Northern Strategy (2009):

<http://www.northernstrategy.gc.ca/cns/cns.pdf>

Changes to Regulatory Regimes

There have been changes to the regulatory regimes that affect resource development across Canada.

In particular significant public attention was given to revisions to the Canada Environmental Assessment Act, 2012 aimed at streamlining environmental impact review processes.

While these changes do not directly affect the impact review process of the Mary River Mine, which began in 2008, they do signal a larger shift in approach to regulation of major resource development projects.

In the north, there has been another on-going initiative to streamline regulatory processes for resource development called the “Northern Regulatory Improvement Initiative.” This regulatory reform process is leading to changes to the policies and timeframes under which future mining projects will be reviewed and approved.

For Nunavut, specific changes were introduced in Bill C-47 in November 2012, which included the Nunavut Planning and Project Assessment Act.

Nunavut Land Claims Agreement

The Nunavut Land Claims Agreement provides important protections for Inuit rights in the context of mining, including their right to benefit from the exploitation of natural resources on their lands and territories:

- Some portions of the territory have been designated as Inuit-Owned Lands, meaning that Inuit own the sub-surface mineral rights and receive the royalties when the minerals are extracted. The main deposit at Mary River is on Inuit-Owned Lands.
- The Nunavut Impact Review Board was created to conduct reviews, public hearings and make recommendations about measures to protect Inuit and Nunavummiut from adverse environmental and social impacts of mining projects. The review of the Mary River mine began in 2008 and will continue this summer and fall with respect to the Early Revenue Phase.
- There is a requirement that all major development projects are subject to Inuit Impact Benefit Agreements, which are negotiated between the regional Designated Inuit Organization and the developer of a mine. The Qikiqtani Inuit Association is currently in negotiation of an IIBA with the Baffinland company.

“Inuit were once on the outside of the mining industry looking in. The signing of the [Nunavut Land Claims] Agreement changed all that. Now, for many reasons, we feel we can be considered part of the mining industry and that we are no longer on the outside. Here are some of the reasons I say that:

- Inuit hold land with both surface and mineral rights;
- Inuit make agreements with exploration and mining companies and individuals for mineral rights to some of the most prospective land in Nunavut;
- Inuit sit on boards which screen and review projects;
- Inuit collect royalties from any mining project;

- Inuit enter into Impact and Benefit Agreements for all major developments on Inuit Owned Lands or consult on benefit plans for developments on Crown land;
- Inuit development corporations provide goods and services for exploration and mining projects; and, finally,
- many Inuit work directly on projects or for businesses which provide goods and services to the projects.”

Nunavut Impact Review Board

The Nunavut Impact Review Board is an environmental assessment agency, established under Articles 10 and 12 of the Nunavut Land Claims Agreement. The Board determines whether development projects proposed for the Nunavut Settlement Area (NSA) should proceed and, if so, under what terms and conditions. The primary objectives of the Board are to protect and promote the existing and future well being of the residents and communities of the NSA, and to protect the ecosystem integrity of the settlement area. The Minister of Indian Affairs and Northern Development has the overriding authority to approve or reject projects in national or regional interest.

The Board consists of nine members, including a Chair. In consultation with the Government of Nunavut, the Minister appoints the Chair from nominations agreed to and provided by the members. Nunavut Tunngavik Incorporated nominates four members for appointment by the Minister. One or more federal ministers appoints two members. The Government of Nunavut appoints two members directly to the Board.

Source: <http://www.aadnc-aandc.gc.ca/eng/1100100011174/1100100011175>

Nunavut Tunngavik Inc.’s Mining Policy

The objectives of NTI’s mining policy are to:

- **Minimize The Negative Impacts:** Ensure that exploration and mining will be planned and carried out in a way which will have the least possible impact on the environment, wildlife, habitat, and on the lives and culture of Inuit.
- **Maximize The Benefits Of Mining To Inuit:** Ensure that to the greatest extent possible, the benefits of mining will remain in Nunavut, both in Nunavut as a whole and in the local communities that are impacted.
- **Attract Mining Investment:** Promote the development of a political and economic climate which will encourage the mining industry to invest.
- **Resolve Land Use Conflicts:** Promote certainty and clarify for land access and resolve land use conflicts.

- Improve Consultation and Clarify Decision Making: Improve communications, consultation and coordination among all of the stakeholders and clarify the decision-making process

Source: <http://ntilands.tunnjavik.com/minerals-oil-and-gas-management/mining-policy/>

Concluding Observations

Despite these protections in the Nunavut Land Claims Agreement, there are some concerns about the future of mining in Nunavut:

- As the Government of Canada works to streamline environmental and social review processes, will the NIRB be able to conduct as rigorous impact assessments for future mining projects as it did for the Mary River mine?
- If there are numerous projects that are developed at the same time, will the NIRB have the capacity to conduct simultaneous reviews—while also fulfilling its responsibilities to monitor the implementation of the Mary River project certificate?
- As Mary River and other mines begin to generate revenues and profits, how will the economic and other benefits be allocated at the community level?

The context of mining in Nunavut helps to remind us that the success of the Mary River project is not just the responsibility of the Baffinland company. It includes the different levels of government and the Designated Inuit Organizations. In our human rights impact assessment, we provide recommendations for all of these actors to ensure that the mine respects human rights.

Resources

Mining Journal, Supplement on Nunavut, “Canada’s Rising Star” (2012):
http://www.mining-journal.com/_data/assets/supplement_file_attachment/0005/324149/Nunavut2012scr.pdf

General mineral rights regime in Canada: <http://www.nrcan.gc.ca/minerals-metals/policy/legislation-regulations/3707>

Government of Canada Mineral and Metals Policy (1996):
<http://www.nrcan.gc.ca/minerals-metals/policy/bulletin/minerals-metals-policy/2928>

Government of Canada Northern Strategy (2009):
<http://www.northernstrategy.gc.ca/cns/cns.pdf>

Revision to Canada’s Environmental Assessment Act: <http://www.ceaa-acee.gc.ca/default.asp?lang=En&n=16254939-1>

Presentation on the Northern Regulatory Improvement Initiative:

<http://www.nunavutminingsymposium.ca/wp-content/uploads/2009/06/steven-trainer-330pm.pdf>

NTI Mining Policy: <http://ntilands.tunngavik.com/minerals-oil-and-gas-management/mining-policy/>

Government of Nunavut's uranium mining policy statement:

<http://www.uranium.gov.nu.ca/>

Mining Association of Canada press release about Bill C-47 and the Nunavut Planning and Project Assessment Act:

http://www.mining.ca/www/media_lib/MAC_News/2012/NR_NUPPAA_Final.pdf

SECTION THREE: FULL FINDINGS ON HUMAN RIGHTS IN CANADA

Key message

The assessment of the human rights situation for the Mary River mine begins with a review of how government protects human rights in Canada. According to the UN Guiding Principles on Business and Human Rights, governments must protect against human rights abuse within their territory, including by companies. This requires taking steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication.

Canada is a signatory to most international human rights treaties. Even though it was initially opposed to the UN Declaration on the Rights of Indigenous Peoples, it now supports it. Canada also supports international human rights standards related to business and human rights. At the same time, Canada is aggressively pursuing resource development (in Canada and around the world) as part of its economic strategy. Canada needs to ensure that its resource development strategy does not contradict human rights.

Within Canada, human rights are protected by the Constitution, the Charter of Rights and Freedoms, and provincial or territorial human rights laws. Furthermore, the Canadian Constitution and modern land claims agreements provide a strong protection of aboriginal rights in Canada.

In Nunavut, the protection of collective Inuit rights is assured by the Nunavut Land Claims Agreement. There is also a Nunavut Human Rights Act that protects Nunavummiut against discrimination and creates the Nunavut Human Rights Tribunal. In a recent report to the Government of Nunavut, it was recommended that it create a new human rights commission to provide better protection for and education about human rights in Nunavut.

While there are strong legal protections for human rights in Canada, important challenges remain with respect to implementation of both Inuit and human rights in Nunavut, including:

- Poverty and lack of economic and employment opportunities affect the realization of economic and social rights in Inuit communities.
- The remote location, lack of infrastructure and high cost of food and services affect the right to food, the right to housing and the right to health of many individuals and families.
- The territorial and local governments lack resources to fully implement their human rights obligations.
- There are gaps in terms of access to remedies as Nunavut does not have a human rights commission, and there are significant barriers for Inuit using the legal system.

It is against this backdrop that the Baffinland company must ensure that its operations do not harm the human rights of Nunavummiut.

International Standards: State obligation to protect human rights in accordance with the UN Guiding Principles on Business and Human Rights

1. States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication.

Commentary

States' international human rights law obligations require that they respect, protect and fulfil the human rights of individuals within their territory and/ or jurisdiction. This includes the duty to protect against human rights abuse by third parties, including business enterprises.

The State duty to protect is a standard of conduct. Therefore, States are not per se responsible for human rights abuse by private actors. However, States may breach their international human rights law obligations where such abuse can be attributed to them, or where they fail to take appropriate steps to prevent, investigate, punish and redress private actors' abuse. While States generally have discretion in deciding upon these steps, they should consider the full range of permissible preventative and remedial measures, including policies, legislation, regulations and adjudication. States also have the duty to protect and promote the rule of law, including by taking measures to ensure equality before the law, fairness in its application, and by providing for adequate accountability, legal certainty, and procedural and legal transparency.

2. States should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations.

Commentary

At present States are not generally required under international human rights law to regulate the extraterritorial activities of businesses domiciled in their territory and/or jurisdiction. Nor are they generally prohibited from doing so, provided there is a recognized jurisdictional basis. Within these parameters some human rights treaty bodies recommend that home States take steps to prevent abuse abroad by business enterprises within their jurisdiction.

There are strong policy reasons for home States to set out clearly the expectation that businesses respect human rights abroad, especially where the State itself is involved in or supports those businesses. The reasons include ensuring predictability for business

enterprises by providing coherent and consistent messages, and preserving the State's own reputation.

States have adopted a range of approaches in this regard. Some are domestic measures with extraterritorial implications. Examples include requirements on “parent” companies to report on the global operations of the entire enterprise; multilateral soft-law instruments such as the Guidelines for Multinational Enterprises of the Organisation for Economic Co-operation and Development; and performance standards required by institutions that support overseas investments. Other approaches amount to direct extraterritorial legislation and enforcement. This includes criminal regimes that allow for prosecutions based on the nationality of the perpetrator no matter where the offence occurs. Various factors may contribute to the perceived and actual reasonableness of States' actions, for example whether they are grounded in multilateral agreement.

3. In meeting their duty to protect, States should:

- (a) Enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights, and periodically to assess the adequacy of such laws and address any gaps;
- (b) Ensure that other laws and policies governing the creation and ongoing operation of business enterprises, such as corporate law, do not constrain but enable business respect for human rights;
- (c) Provide effective guidance to business enterprises on how to respect human rights throughout their operations;
- (d) Encourage, and where appropriate require, business enterprises to communicate how they address their human rights impacts.

Commentary

States should not assume that businesses invariably prefer, or benefit from, State inaction, and they should consider a smart mix of measures – national and international, mandatory and voluntary – to foster business respect for human rights.

The failure to enforce existing laws that directly or indirectly regulate business respect for human rights is often a significant legal gap in State practice. Such laws might range from non-discrimination and labour laws to environmental, property, privacy and anti-bribery laws. Therefore, it is important for States to consider whether such laws are currently being enforced effectively, and if not, why this is the case and what measures may reasonably correct the situation.

It is equally important for States to review whether these laws provide the necessary coverage in light of evolving circumstances and whether, together with relevant policies, they provide an environment conducive to business respect for human rights. For example, greater clarity in some areas of law and policy, such as those governing access to land, including entitlements in relation to ownership or use of land, is often necessary to protect both rights-holders and business enterprises.

Laws and policies that govern the creation and ongoing operation of business enterprises, such as corporate and securities laws, directly shape business behaviour. Yet their implications for human rights remain poorly understood. For example, there is a lack of clarity in corporate and securities law regarding what companies and their officers are permitted, let alone required, to do regarding human rights. Laws and policies in this area should provide sufficient guidance to enable enterprises to respect human rights, with due regard to the role of existing governance structures such as corporate boards.

Guidance to business enterprises on respecting human rights should indicate expected outcomes and help share best practices. It should advise on appropriate methods, including human rights due diligence, and how to consider effectively issues of gender, vulnerability and/or marginalization, recognizing the specific challenges that may be faced by indigenous peoples, women, national or ethnic minorities, religious and linguistic minorities, children, persons with disabilities, and migrant workers and their families.

National human rights institutions that comply with the Paris Principles have an important role to play in helping States identify whether relevant laws are aligned with their human rights obligations and are being effectively enforced, and in providing guidance on human rights also to business enterprises and other non-State actors.

Communication by business enterprises on how they address their human rights impacts can range from informal engagement with affected stakeholders to formal public reporting. State encouragement of, or where appropriate requirements for, such communication are important in fostering respect for human rights by business enterprises. Incentives to communicate adequate information could include provisions to give weight to such self-reporting in the event of any judicial or administrative proceeding. A requirement to communicate can be particularly appropriate where the nature of business operations or operating contexts pose a significant risk to human rights. Policies or laws in this area can usefully clarify what and how businesses should communicate, helping to ensure both the accessibility and accuracy of communications. Any stipulation of what would constitute adequate communication should take into account risks that it may pose to the safety and security of individuals and facilities; legitimate requirements of commercial confidentiality; and variations in companies' size and structures.

Financial reporting requirements should clarify that human rights impacts in some instances may be “material” or “significant” to the economic performance of the business enterprise.

Human Rights Protections in Canada

The following table outlines some of the main human rights protections in Canada in relation to the main issues addressed in HRIA methodologies. Additional information about priority issues is provided in the other key findings.

<p>Child Labour</p>	<p>School attendance is compulsory in Canada until age 16. However, depending on the province, the legal minimum age to obtain work can be as low as 12 under certain conditions.</p> <p>Canadian Labour Standards Regulations set the minimum age for admission to hazardous work at 17 years, but prohibited types of hazardous work have not been defined nationally.</p> <p>Federal and provincial regulations protect children from abuse, overwork, and discrimination and penalise perpetrators of such offences.</p> <p>Legislators in Canada have also recognized the fact that due to various factors, such as lack of experience, young workers are at greater risk in the workplace than other workers, and for this reason have set a minimum age for working in certain more hazardous occupations or environments. Provisions prohibiting the employment of persons under 18 years of age in an underground mine are a notable example. In some jurisdictions persons who are less than 16 years old face further restrictions which prohibit their employment in a mining plant or surface mine. Other provisions appearing in several jurisdictions specify a minimum age for working with dangerous materials, such as explosives, or for working in an environment where there may be exposure to radiation (training is generally allowed even if the young person has not reached the minimum age for working in that field). Many jurisdictions also prohibit the employment of young persons in the construction industry. Moreover, in a majority of provinces and territories, persons under 16 years of age cannot become apprentices in designated trades.</p> <p>According to labour organizations, "Compared to most other countries, child labour is not a significant problem in Canada."</p> <p>Canada Labour Code and Regulations</p> <ul style="list-style-type: none"> • under 17 - May be employed only if not required to be at school under provincial legislation and the work involved falls outside excluded categories (e.g. underground work in a mine) and is unlikely to endanger health or safety. Never between 11 p.m. and 6 a.m. s. 179 (Act); s. 10 (Reg.) <p>Explosives Act and Regulations:</p> <ul style="list-style-type: none"> • under 16 - Cannot be employed in or enter an explosives factory or magazine, or in a magazine for fireworks, except in the presence and under the supervision of a responsible person over 21. ss. 80, 101, 114 (Reg.) • under 18 - Cannot be in charge of and drive a land vehicle transporting explosives, or look after a vehicle containing explosives that is parked overnight if this is required by the Regulations. If a land vehicle transports more than 2 000 kg of explosives, cannot be a helper or drive a following vehicle. ss. 63(r), (s), (s.1), 65 (Reg.) • under 21 Cannot be employed to drive a land vehicle transporting more than 2 000 kg of explosives. s. 65 (Reg.)
<p>Force Labour</p>	<p>The Canadian Charter of Rights and Freedoms, s.7: "Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice."</p> <p>Forced or compulsory labour (FCL) is not defined in national law, but such practices are prohibited under various Criminal Code provisions. Trafficking in persons, including for forced labour, is prohibited under Canada's Immigration and Refugee Protection Act.</p> <p>In Canada, most forced-labour cases concern bonded labour, especially in agriculture.</p>

	<p>The Temporary Foreign Worker program allows migrants to enter the country with visas printed with the name of their employers, who make it known to them that their employment and tenure in Canada can be terminated with little right to appeal. Some employers take advantage of temporary foreign workers.</p>
<p>Right to safe and healthy working conditions</p>	<p>In Canada, occupational health and safety is protected by provincial legislation and regulations. Key features of such legislation include obligations to:</p> <ul style="list-style-type: none"> • Provide a healthy and safe workplace and ensure that systems, policies and procedures are current and followed. • Ensure that equipment, materials and protective devices are provided and used properly. • Ensure the safe use, handling, storage and transport of articles and substances. • Provide the instruction, training and supervision needed to protect workers. • Ensure that all serious illnesses and injuries are reported and investigated immediately. • Establish Occupational Health and Safety Committees that permit employees to participate in health and safety related decisions; <p>Other laws, regulations and guidelines govern specific health and safety issues, such as WHMIS (Workplace Hazardous Material Information System).</p>
<p>Freedom of Association</p>	<p><u>Canadian Charter of Rights & Freedoms</u></p> <p>2. Everyone has the following fundamental freedoms: ... (d) freedom of association.</p> <p><u>Nunavut</u></p> <p>Employees in the Northwest Territories fall under federal labour law, i.e. the Canada Labour Code. The rights and procedures for establishing a trade union are provided in Part I of the Canada Labour Code.</p> <p>The Nunavut Human Rights Act Human Rights Act protects individuals against discrimination by employees' organizations or occupational associations.</p>
<p>Conditions of Employment and Work: Salary, Benefits, Holidays and Hours</p>	<p>Wages - current minimum wage is \$13.00 / hour</p> <p>Hours - Standard work hours are eight hours a day, 40 hours a week. Overtime is no less than 1.5 times the employee's regular rate of pay. Overtime is payable when an employee works more than the standard work hours. Managers are not entitled to overtime. A permit is required from the Labour Standards Officer if an employer wants his or her employees to work irregular hours on a frequent basis and not pay overtime. The hours of work may then be averaged, meaning the employee may receive less overtime and the employer's costs could be lowered.</p> <p>Vacations - The Labour Standards Act provides for two weeks vacation with pay for each completed year of employment. Once an employee has worked six years, he or she is then entitled to three weeks vacation. Vacation pay accumulates at the rate of 4% of the</p>

	<p>employee's gross earnings, including overtime, during the first five years of employment with the same employer, and a rate of 6% after that. When an employee quits, is laid off or fired, he or she is entitled to receive whatever vacation pay has accumulated but has not already been paid. All employees are entitled to be paid vacation pay, regardless of length of employment. The Labour Standards Act establishes ten general holidays in the Northwest Territories.</p> <p>Maternity leave - An employee must be employed by the same employer for at least 12 continuous months to be eligible for unpaid pregnancy or parental leave. An eligible employee must give his or her employer a written request for leave, four weeks before the leave begins. An employee is entitled to a maximum of 52 weeks of combined pregnancy and parental leave. Fathers and adoptive parents are entitled to 37 weeks of parental leave. The employee can not be discriminated against because of the pregnancy, leave taken, or requested leave. A woman who has not worked long enough to qualify for pregnancy leave must be given enough unpaid time off to satisfy her physical needs caused by the pregnancy and birth.</p>
<p>Conditions of Employment and Work: Non-Discrimination and Promotion of Aboriginal Employment</p>	<p>Equality and non-discrimination are strongly protected in Canadian federal and provincial human rights legislation.</p> <p><u>Canadian Charter of Rights & Freedoms</u></p> <p>Equality before and under law and equal protection and benefit of law</p> <p>15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.</p> <p>Affirmative action programs</p> <p>(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.</p> <p>Mobility Rights</p> <p>6. (2) Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right</p> <p>(a) to move to and take up residence in any province; and</p> <p>(b) to pursue the gaining of a livelihood in any province.</p> <p>Limitation</p> <p>(3) The rights specified in subsection (2) are subject to</p> <p>(a) any laws or practices of general application in force in a province other than those that discriminate among persons primarily on the basis of province of present or previous residence; and</p> <p>(b) any laws providing for reasonable residency requirements as a qualification for the receipt of publicly provided social services.</p> <p>Affirmative action programs</p> <p>(4) Subsections (2) and (3) do not preclude any law, program or activity that has as its object the amelioration in a province of conditions of individuals in that province who are</p>

	socially or economically disadvantaged if the rate of employment in that province is below the rate of employment in Canada.
Conditions of Employment and Work: Protection Against Harassment	<p>Workplace harassment is often considered as an example of discrimination and falls within the non-discrimination provisions in federal and provincial human rights legislation.</p> <p>Recently, some Canadian jurisdictions have been passing more specific laws or regulations aimed at preventing and protecting against workplace harassment.</p>
Conditions of Employment and Work: Privacy	<p><u>Canadian privacy legislation</u></p> <p>There are a number of “fair information principles” included in the Personal Information Protection and Electronic Documents Act (PIPEDA), Canada’s private-sector privacy law:</p> <p>Principle 1 — Accountability An organization is responsible for personal information under its control and shall designate an individual or individuals who are accountable for the organization’s compliance with the following principles.</p> <p>Principle 2 — Identifying Purposes The purposes for which personal information is collected shall be identified by the organization at or before the time the information is collected.</p> <p>Principle 3 — Consent The knowledge and consent of the individual are required for the collection, use, or disclosure of personal information, except where inappropriate.</p> <p>Principle 4 — Limiting Collection The collection of personal information shall be limited to that which is necessary for the purposes identified by the organization. Information shall be collected by fair and lawful means.</p> <p>Principle 5 — Limiting Use, Disclosure, and Retention Personal information shall not be used or disclosed for purposes other than those for which it was collected, except with the consent of the individual or as required by law. Personal information shall be retained only as long as necessary for the fulfilment of those purposes.</p> <p>Principle 6 — Accuracy Personal information shall be as accurate, complete, and up-to-date as is necessary for the purposes for which it is to be used.</p> <p>Principle 7 — Safeguards Personal information shall be protected by security safeguards appropriate to the sensitivity of the information.</p> <p>Principle 8 — Openness An organization shall make readily available to individuals specific information about its policies and practices relating to the management of personal information.</p> <p>Principle 9 — Individual Access Upon request, an individual shall be informed of the existence, use, and disclosure of his or her personal information and shall be given access to that information. An individual shall be able to challenge the accuracy and completeness of the information and have it</p>

	<p>amended as appropriate.</p> <p>Principle 10 — Challenging Compliance An individual shall be able to address a challenge concerning compliance with the above principles to the designated individual or individuals accountable for the organization’s compliance.</p> <p><u>Video Surveillance</u></p> <p>Federal privacy law also governs the collection, use and disclosure of information about an identifiable individual. In the private sector, surveillance through a video camera is subject to privacy laws.</p> <p>According to the Guidance of the Office of the Privacy Commissioner of Canada, the following are 10 things to do when considering, planning and using overt video surveillance:</p> <ol style="list-style-type: none"> 1. Determine whether a less privacy-invasive alternative to video surveillance would meet your needs. 2. Establish the business reason for conducting video surveillance and use video surveillance only for that reason. 3. Develop a policy on the use of video surveillance. 4. Limit the use and viewing range of cameras as much as possible. 5. Inform the public that video surveillance is taking place. 6. Store any recorded images in a secure location, with limited access, and destroy them when they are no longer required for business purposes. 7. Be ready to answer questions from the public. Individuals have the right to know who is watching them and why, what information is being captured, and what is being done with recorded images. 8. Give individuals access to information about themselves. This includes video images. 9. Educate camera operators on the obligation to protect the privacy of individuals. 10. Periodically evaluate the need for video surveillance. <p>There is also Office of the Privacy Commissioner Guidance for the use of covert video surveillance in the private sector.</p>
Security	<p><u>Canadian Charter of Rights & Freedoms</u></p> <p>7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice. Search or seizure</p> <p>8. Everyone has the right to be secure against unreasonable search or seizure. Detention or imprisonment</p> <p>9. Everyone has the right not to be arbitrarily detained or imprisoned.</p> <p>Private security personnel work for clients who pay them for services rendered. Their jurisdiction is the protection of their client and/or their client's property and it is the interests of the client that determine the duties of private security personnel. Private security personnel have the same powers of arrest, search and detention as an ordinary citizen does and these are outlined in section 494 of the Criminal Code.</p> <p>Private investigators and security guards working for a private investigation or security agency must be licensed by the province/territory. Each province/territory, with the</p>

	<p>exception of the Northwest Territories, has its own Act dealing with private investigators and security guards which stipulates the requirements to obtain a license and the regulations. The basic requirements to obtain a licence are: 18 years of age or older (may vary slightly in some provinces), no criminal record for the past five years, and Canadian citizenship. There are two provinces, British Columbia and Newfoundland, which also have minimum training requirements in order to receive a licence. Licences must be renewed annually and can be revoked if the person does not comply with the requirements of the act or the regulations for a licence.</p> <p>Canada is also an "Engaged Government" in the Voluntary Principles on Security and Human Rights and supports the implementation of these principles for mining projects (notably for Canadian companies operating overseas).</p>
<p>Environmental health and safety</p>	<p><u>Canada</u></p> <p>In Canada, the federal government, as well as provincial, territorial and Aboriginal governments, share responsibility for protecting the environment -- an approach that calls for close collaboration as governments work to support the well-being of Canadians.</p> <p>The cornerstone of the Government of Canada's environmental legislation, Canadian Environmental Protection Act, 1999, is aimed at preventing pollution and protecting the environment and human health.</p> <p>One of CEPA 1999's major thrusts is the prevention and management of risks posed by harmful substances. As well, CEPA 1999 provides for the assessment and/or management of the environmental and human health impacts of new and existing substances. This includes products of biotechnology, marine pollution, disposal at sea, vehicle, engine and equipment emissions, fuels, hazardous wastes, environmental emergencies and other sources of pollution.</p> <p>Work carried out under CEPA 1999 is complemented by other federal Acts administered (fully or partially) by the Minister of the Environment for example, the Fisheries Act, the Canada Water Act, the Species at Risk Act, the Canada Wildlife Act, and the Canadian Environmental Assessment Act.</p> <p>CEPA 1999 Guiding Principles establish the fundamental approach to environmental protection under law, and including the following: Sustainable development, Pollution prevention, Virtual elimination, Ecosystem approach, Precautionary principle, intergovernmental cooperation, Polluter-pays principle, and Science-based decision making.</p>
<p>Land Management (Relocation, Compensation and Customary Use)</p>	<p>Individual property rights are not included in the Canadian Charter of Rights and Freedoms; there were proposals to entrench such rights in the Charter in the debates leading up to its signature in 1982; however, these proposals were defeated as part of the Parliamentary and inter-provincial debates. According to the Canadian Constitution, property rights are within provincial jurisdiction.</p> <p>The Canadian Charter of Rights of Freedoms, however, protects the rights of aboriginal people in section 25, including customary usage rights over traditional lands. In addition, many aboriginal communities have treaty rights or reserve areas that provide them with specific rights to land. This is the case in Nunavut, pursuant to the terms of the Nunavut Land Claims Agreement.</p>
<p>Consultation</p>	<p>The Canadian Charter of Rights and Freedoms protects freedom of expression, which is a component of prior and on-going consultation with all stakeholders. Federal access to</p>

	<p>information legislation applies to government departments and public institutions, but not to companies. However, public consultation requirements are included in federal and provincial laws and regulations, including for environmental assessment processes. Moreover, there are public disclosure requirements for companies related to listings on stock exchanges in Canada.</p> <p>The Canadian Charter of Rights and Freedoms protects the rights of aboriginal people in section 25. This section of the Charter has led to the development of Supreme Court jurisprudence (judge-made law) that provides that the Crown (i.e. the federal and/or provincial government) has a "duty to consult" with aboriginal people in the context of development of natural resources affecting their interests, including with respect to their customary use of lands. In terms of consultation with aboriginal communities, the federal Consultation and Accommodation Guidelines for Federal Officials to Fulfil the Duty to Consult were updated in 2011.</p>
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SECTION FOUR: HUMAN RIGHTS AND THE BAFFINLAND IRON MINE CORPORATION

Key message

International standards require companies to respect human rights. This implies having a human rights policy, an on-going process to prevent adverse impacts on human rights, and an effective operational-level grievance mechanism. Many leading mining companies and industry associations have begun to develop detailed human rights policies and procedures. One of these companies is Baffinland's parent company, ArcelorMittal. While there is no legal requirement for Baffinland to explicitly address human rights at the Mary River mine, the company should develop a human rights policy and procedures in order to meet international standards for the mining industry, the corporate policy commitments of ArcelorMittal, and the expectations of its stakeholders.

International standards for business and human rights

International human rights standards require companies to respect human rights. This implies having a human rights policy, an on-going human rights due diligence process, and an effective operational-level grievance mechanism.

These standards are contained in the UN Guiding Principles on Business and Human Rights that were unanimously adopted by all the Member States of the United Nations in 2011.

The UN Guiding Principles on Human Rights

The corporate responsibility to respect human rights

A. Foundational principles

11. Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.

12. The responsibility of business enterprises to respect human rights refers to internationally recognized human rights – understood, at a minimum, as those expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work.

13. The responsibility to respect human rights requires that business enterprises:
(a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur;
(b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.

14. The responsibility of business enterprises to respect human rights applies to all enterprises regardless of their size, sector, operational context, ownership and structure. Nevertheless, the scale and complexity of the means through which enterprises meet that responsibility may vary according to these factors and with the severity of the enterprise’s adverse human rights impacts.

15. In order to meet their responsibility to respect human rights, business enterprises should have in place policies and processes appropriate to their size and circumstances, including:
(a) A policy commitment to meet their responsibility to respect human rights;
(b) A human rights due-diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights;
(c) Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute.

Human rights responsibilities are being integrated into other key international standards that are relevant to the mining industry, including the UN Global Compact, the Organization for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises, the International Finance Corporation (IFC) Performance Standards and International Standards Organization (ISO) 26000: Guidance for Social Responsibility.

For the mining industry, it is important to note that the International Council on Mining and Metals (ICMM)—an industry association that brings together 22 of the world’s biggest mining and metals companies as well as 34 national and regional mining associations and global commodity associations—has released guidance for their members on management and best practices to respect human rights. Human rights are also referenced in a number of Canadian standards for the mining sector, including the Prospector and Developer’s Association of Canada, “E3 Plus: A Framework for Responsible Exploration,” and the Government of Canada’s International CSR strategy, “Building the Canadian Advantage: A Corporate Social Responsibility Strategy for the Canadian International Extractive Sector.”

While the Government of Canada supports the UN Guiding Principles on Business and Human Rights, there is no strict legal requirement for the Baffinland Iron Mine Corporation to explicitly address international human rights at the Mary River mine.

Overview of international standards relevant to Mary River Project

International Standard	Status	Relevance to Mary River Project
UN Guiding Principles on Business and Human Rights	Non-binding soft law principles unanimously endorsed by the UN Human Rights Council; the work and mandate leading towards the UN Guiding Principles was actively supported by Canada, as noted in its CSR Strategy for the Canadian International Extractive Sector.	The UN Guiding Principles mark an emerging international consensus about business and human rights, which should frame any discussion about human rights for the Mary River Project. When Baffinland states that it “respects human rights,” the Guiding Principles provides details about the on-going due diligence that is required to “know and show” that respect.
International human rights covenants and treaties	All the main UN human rights covenants and treaties, including labour rights conventions, have been signed and ratified by Canada and are binding international law	The main UN human rights treaties are included in ArcelorMittal’s human rights policy
UN Declaration on the Rights of Indigenous Peoples (UNDRIP)	Non-binding international declaration; nonetheless, it signals a high-level political commitment by States to work towards its implementation. Canada endorsed the UNDRIP in 2010.	The UNDRIP shapes the expectations of many indigenous peoples and other stakeholders. It is influential for future trends in law and policy related to the interaction between indigenous peoples and resource companies. ArcelorMittal’s human rights policy states that it respects the rights of Indigenous Peoples “as defined by applicable national and emerging international standards.”
UN Global Compact	Voluntary corporate commitment to 10 principles related to human rights, labour rights, environment	ArcelorMittal has adhered to the UN Global Compact since 2003. It submits an annual self-assessment

International Standard	Status	Relevance to Mary River Project
	and anti-corruption. UN Global Compact commitments may go beyond the UN Guiding Principles insofar as they commit companies to some positive human rights outcomes through their sustainable development practices.	on its implementation of these principles across its operations. ¹
OECD Guidelines on Multinational Enterprises	Voluntary performance standard for corporate social responsibility that apply to multinational enterprises based or operating in OECD member countries	One of the main international corporate social responsibility standards promoted by Canada (and Luxembourg), recently revised to include a specific chapter on human rights. It also provides guidance for compliance with OECD conventions, such as on anti-corruption. Canada supports the OECD Guidelines in its CSR Policy for the Canadian International Extractive Industry and has established a National Contact Point to address complaints.
ISO 26000	Voluntary performance standard for social responsibility for companies	An influential international standard relating to social responsibility promoted by the International Standards Organization, respected for its work on other standards (e.g. ISO 14000 on environmental management). ISO 26000 features an explicit component on human rights. Baffinland committed to develop its corporate governance in conformity with ISO 26000 in the FEIS.
IFC Performance Standards	Performance standards for companies receiving financing from the International Finance Corporation or Equator Principles banks.	Baffinland is not currently subjected to the IFC Performance Standards, but potentially could be in the future if there are changes in its ownership and/or financing. Nonetheless, the IFC Performance Standards are influential for the mining industry and will drive good practices, including with respect to indigenous peoples rights. Performance Standard 7 of Indigenous Peoples includes the recognition of “free, prior and informed consent” in certain circumstances. Canada supports the IFC Performance Standards in its CSR Policy for the Canadian International Extractive

¹ See, for example, the 2011 Communication on Progress, in which ArcelorMittal gives itself a score of 72% coverage on human rights; 94% on labour; 89% on environment; and 95% on anti-corruption: <http://www.unglobalcompact.org/COPs/detail/17667>

International Standard	Status	Relevance to Mary River Project
ArcelorMittal Human Rights Policy (and related group-wide policies)	Corporate human rights policy that applies to all employees of ArcelorMittal subsidiaries and affiliates worldwide. The ArcelorMittal Human Rights Policy complements and brings together the human rights aspects from other Company policies and guidelines. These include the Code of Business Conduct, the Health & Safety, Environment and Human Resources policies and the Anti-Corruption guidelines.	Industry. The ArcelorMittal human rights policy applies to all Baffinland employees and contractors operating at the Mary River Project. Its principles should also be promoted to sub-contractors. Human rights performance and implementation of the policy is expected to strengthen over time as ArcelorMittal develops operational procedures, integrates human rights into impact assessments, and shares lessons between sites on rights-respecting grievance mechanisms. It also reports publicly on company-wide human rights performance in its annual CSR report.
Extractive Industry Transparency Initiative	EITI is a multi-stakeholder initiative that provides standards and guidance for the prudent use of natural resources, transparency, accountability, and stakeholder dialogue. Canada is a supporting government of the EITI (but not yet an implementing government)	ArcelorMittal has been a supporter of the EITI since 2009. Canada is also a supporter of the EITI and has recently announced that it will develop disclosure standards in line with EITI that will apply to all Canadian mining companies by 2014.
Mining Association of Canada “Towards Sustainable Mining”	A set of guiding principles, frameworks and protocols for international and Canadian mining companies operating in Canada relevant to a number of sustainability and human rights issues.	As a member of MAC, Baffinland has committed to implement the TSM framework and protocols, including periodic public reporting and assurance on its implementation.

Baffinland’s policy on human rights

The Baffinland company states that “we respect human rights and the dignity of others” in section 3.0 of its Sustainability Policy. However, it does not have a more specific human rights policy or detailed human rights procedures that would meet the international standards referenced above. As discussed elsewhere in the HRIA, a number of Baffinland’s other policies and procedures address important aspects of human rights.

Many leading mining companies and industry associations have begun to develop human rights policies and due diligence processes. One of these companies is Baffinland’s parent company, ArcelorMittal. Baffinland’s other parent company, Iron Ore Holdings LP, does not have a human rights policy.

ArcelorMittal's Human Rights Policy

ArcelorMittal developed a detailed [Human Rights Policy](#) in 2010 that is derived from “International Human Rights Declarations” and contains specific commitments to employees, business partners and local communities. These commitments cover health and safety; labour rights; and, respect for indigenous peoples rights.

The Human Rights Policy applies to the employees of all ArcelorMittal's subsidiaries, affiliates, subcontractors and supply chain worldwide. This policy should therefore apply to Baffinland, its contractors and supply chain.

ArcelorMittal states that “where our Policy, procedures and external commitments are more stringent than local laws, we operate in accordance with our standards.” Therefore, the Human Rights Policy should be applied at Mary River, especially where there are gaps between international standards and the local law.

ArcelorMittal's Human Rights Policy has not yet been explicitly integrated into the plans and management systems for the Mary River mine—at least as presented in the initial FEIS for the Mary River mine. Part of the reason for this is that the Human Rights Policy dates from 2010 and human rights were not part of the NIRB guidelines for the FEIS issued in 2009.

ArcelorMittal promises that its Human Rights Policy should be integrated progressively into operations. It says: “the Policy and associated practices are expected to strengthen over time as the Company gains a better understanding of and becomes more experienced in promoting human rights. In support of this Policy we will develop operating procedures to create an environment where human rights are respected, and to also help ensure that we do not engage in activities that directly or indirectly violate human rights.”

It also states: “[t]he Company's implementation of this Human Rights Policy is expected to strengthen over time as risk assessments and due diligence procedures will increasingly take into account human rights aspects. Human Rights will also be integrated into social impact assessments, with separate human rights impact assessments completed where required.”

In a 2011 “Communication on Progress” report to the UN Global Compact, ArcelorMittal gave itself a score of 72% on integrating human rights principles into its operations. Its next report is due by the end of July 2013.

In section 1.2.2 of the FEIS, Baffinland has committed to develop its Corporate Social Responsibility governance structures and policies consistent with the group-level commitments of ArcelorMittal. Presumably, this will include the implementation of the ArcelorMittal Human Rights Policy at Mary River.

Baffinland has made additional commitments to conduct due diligence on human rights when it says that it “embraces the principle of Social Responsibility as outlined by the emerging voluntary International Standard, ISO 26000, Guidance for Social Responsibility.” As mentioned above, this ISO standard includes due diligence for human rights according to the UN Guiding Principles on Business and Human Rights.

It is therefore expected that these various international standards will be operationalized at the Mary River Project through strong corporate governance and appropriate human rights policies and due diligence by Baffinland.

Concluding Observations: What can Baffinland do to respect human rights?

1. In furtherance of its commitments to social responsibility and to implement ArcelorMittal’s policies, Baffinland should develop and implement an explicit human rights policy and operating procedures in accordance with the UN Guiding Principles on Business and Human Rights and the emerging best practices of the mining industry.
2. As human rights were not explicitly addressed and integrated into the FEIS for the Mary River project, Baffinland should consider undertaking a stand-alone human rights impact assessment at an appropriate moment in the future (e.g. at the end of the “Early Revenue Phase”) in order to assess actual impacts of its operations.

Related Resources and Links

Baffinland Sustainable Development Policy: <http://www.international.gc.ca/trade-agreements-accords-commerciaux/ds/csr-strategy-rse-strategie.aspx?view=d>.

ArcelorMittal corporate responsibility human rights performance 2012:
<http://www.arcelormittal.com/corp/corporate-responsibility/governance-and-ethics/human-rights/performance>

ArcelorMittal corporate responsibility 2012 report (human rights section pp.7-8):
<http://www.arcelormittal.com/corp/~media/Files/A/ArcelorMittal/corporate-responsibility/publications-and-reports/archive/global-corp-resp-reports/ArcelorMittal-CR-Report-2012singlev2.pdf>

The UN Guiding Principles on Business and Human Rights:
http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

OHCHR, Corporate Responsibility to Respect Human Rights: An Interpretive Guide:
<http://www.ohchr.org/Documents/Issues/Business/RtRInterpretativeGuide.pdf>

OHCHR, Guide on How to Develop a Human Rights Policy:
http://www.ohchr.org/Documents/Publications/DevelopHumanRightsPolicy_en.pdf

The Business and Human Rights Resource Centre has launched a Portal dedicated to the UN Guiding Principles, which includes Commentaries; Implementation and Uses of the Guiding Principles; Events; History of the Guiding Principles; and Additional Materials: <http://www.business-humanrights.org/Documents/UNGuidingPrinciples>

OECD Guidelines on Multinational Enterprises, including provisions relating to human rights due diligence, were adopted by OECD Member States on May 25, 2011: http://www.oecd.org/document/19/0,3746,en_21571361_44315115_48029523_1_1_1_1_00.html

ISO 26000: Social Responsibility includes commitments to human rights, labour practices, environment, fair operating practices, consumer issues and community involvement and development: http://www.iso.org/iso/iso_catalogue/management_and_leadership_standards/social_responsibility/sr_discovering_iso26000.htm

The revised IFC Sustainability Framework and Performance Standards, including acknowledgement of business responsibility for human rights (and recommendation of human rights due diligence for high risk projects) came into effect on January 1, 2012. See the IFC fact sheet with information about the revised framework and standards: [http://www.ifc.org/ifcext/policyreview.nsf/AttachmentsByTitle/Updated_SustainabilityFramework_Fact-sheet/\\$FILE/Updated_SustainabilityFramework_Fact-sheet.pdf](http://www.ifc.org/ifcext/policyreview.nsf/AttachmentsByTitle/Updated_SustainabilityFramework_Fact-sheet/$FILE/Updated_SustainabilityFramework_Fact-sheet.pdf)

International Council on Mining and Metals (ICMM): “Human Rights in the Mining and Metals Industry: Overview, Management Approach and Issues,” (2009) ICMM, “Human Rights in the Mining and Metals Industry: Resolving Local Level Concerns and Grievances,” (2010); ICMM, “Integrating Human Rights into Corporate Risk Management Processes,” (2012). See: <http://www.icmm.com/page/84154/our-work/projects/articles/business-and-human-rights>

Government of Canada’s International CSR strategy, “Building the Canadian Advantage: A Corporate Social Responsibility Strategy for the Canadian International Extractive Sector”: <http://www.international.gc.ca/trade-agreements-accords-commerciaux/ds/csr-strategy-rse-strategie.aspx?view=d>.

SECTION FIVE: INUIT RIGHTS TO CONSULTATION AND CONSENT

Key message

On-going consultation with Inuit and other stakeholders is a critical component of respecting human rights. The concept of Free, Prior and Informed Consent (FPIC) has not been formally recognized in Canadian law or in the corporate policies of Baffinland and its parent companies. However, there is a strong legal framework for consultation with Inuit in Nunavut. Inuit rights have largely been protected to date as a result of the requirements of the Canadian Constitution and the Nunavut Lands Claim Agreement. A key aspect has been the impact review process by the Nunavut Impact Review Board that provided a process for informed discussion and community input. The requirement for Baffinland to negotiate an Inuit Impact Benefit Agreement with the Qikiqtani Inuit Association also provides a process for Inuit to provide their consent about how the mine will be developed.

International standards for consultation with Inuit

Consultation is a fundamental human rights principle and a leading indicator for respecting a wide range of human rights. In addition, free, prior and informed consultation and consent are fundamental components of indigenous peoples rights, including their right to self-determination and their right to participate in the exploration and exploitation of natural resources on their lands and territories.

Principles relating to good faith consultation with indigenous peoples have been a feature of international law and policy for many years. However, since the adoption of the United Nations Declaration of the Rights of Indigenous Peoples in 2007, the principle of free, prior and informed consent (FPIC) is increasingly recognized by governments and business enterprises as an emerging international standard. For instance, the International Finance Corporation's Performance Standards (governing private-sector loans from the International Finance Corporation and Equator Principles banks) were revised in 2011 to make explicit reference to FPIC.

Elements of Free, Prior and Informed Consent

- **Free** should imply no coercion, intimidation or manipulation.
- **Prior** should imply consent has been sought sufficiently in advance of any authorization or commencement of activities and respect time requirements of indigenous consultation/consensus processes.
- **Informed** should imply that information is provided that covers (at least) the following aspects:
 - the nature, size, pace, reversibility and scope of any proposed project
 - the reasons or purpose of the project
 - the duration of the project
 - the locality of areas that will be affected
 - a preliminary assessment of the likely economic, social, cultural and environmental impact, including potential risks and fair and equitable benefit sharing in a context that respects the precautionary principle
 - personnel likely to be involved in the execution of the proposed project (including indigenous peoples, private sector staff, research institutions, government employees and others)
 - procedures that the project may entail.
- **Consent:** Consultation and participation are crucial components of a consent process. Consultation should be undertaken in good faith. The parties should establish a dialogue allowing them to find appropriate solutions in an atmosphere of mutual respect in good faith, and full and equitable participation. Consultation requires time and an effective system for communicating among interest holders. Indigenous peoples should be able to participate through their own freely chosen representatives and customary or other institutions. The inclusion of a gender perspective and the participation of women is essential, as well as participation of children and youth as appropriate. This process may include the option of withholding consent. Consent to any agreement should be interpreted as indigenous peoples have reasonably understood it.

Source: UN Development Group (2008)

Recent and convergent interpretations of international law suggest that FPIC does not necessarily require unanimous consensus, but also that majority support may also not be adequate in some circumstances.² FPIC does not give indigenous peoples a veto, but they also have “the right not to consent to extracting resources as an exercise of their sovereignty.”³ There are some situations in which it may be mandatory to obtain indigenous peoples’ consent (e.g. in the case of forced relocation); other situations where the context may require consent (e.g. where there are impacts on cultural heritage); and,

² UN Expert Mechanism, Advice No. 4 (2012), para 18.

³ See paragraph 45 of UN Expert Mechanism, Advice No. 4.

other situations where the requirement of consent is set out in treaties with indigenous peoples.⁴

Free, Prior and Informed Consent in Canada

As a distinctive legal concept and international standard, FPIC finds its main expression in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). Canada initially voted against the UNDRIP at the UN General Assembly, citing concerns about FPIC being used as a veto (amongst other concerns). However, Canada later endorsed the UNDRIP through a Statement of Support issued in November 2010, stating: “[w]e are now confident that Canada can interpret the principles expressed in the Declaration in a manner that is consistent with our Constitution and legal framework.”⁵

Furthermore, FPIC is now part of the revised IFC Performance Standards, an important international standard for companies operating in developing countries that require substantial financial investments.⁶ Canada supports the IFC Performance Standards, both as a member of the World Bank, and as one of the corporate social responsibility performance guidelines in “Building the Canadian Advantage: A Corporate Social Responsibility (CSR) Strategy for the Canadian International Extractive Sector.”⁷

It should be highlighted that these international standards containing the principle of FPIC are not legally binding upon Canada: the UNDRIP is a Declaration rather than an international treaty that Canada has signed and ratified; and, the IFC Performance Standards are binding on companies, through the terms of their project financing, rather than on governments.

Therefore, while Canada recognizes and supports the principle of FPIC at an international level, it is necessary to look at how analogous concepts have been embedded in Canadian laws and policies. There are important legal protections for aboriginal peoples rights in Canada, including with respect to the Crown’s “duty to consult and accommodate” that is contained in section 35 of the Constitution and the well-developed constitutional common law jurisprudence of Canadian courts.

Beginning with a series of Supreme Court of Canada decisions in 2004 and 2005,⁸ it has been clarified that the Crown has a duty to consult and, where appropriate, accommodate when the Crown contemplates conduct that might have adverse impacts on aboriginal or treaty rights. The duty to consult and accommodate is a key part of preserving the “honour of the Crown” and fulfilling the objective of reconciliation between the Crown

⁴ UN Expert Mechanism, Advice No. 4 (2012), paras 20 to 29.

⁵ <http://www.aadnc-aandc.gc.ca/eng/1309374407406/1309374458958>

⁶ The IFC Performance Standards apply to projects financed by the World Bank’s International Finance Corporation and to banks that have adopted the Equator Principles. It is estimated that 80 percent of global project financing for extractive sector projects is provided through financial institutions that are signatories to the Equator Principles.

⁷ <http://www.international.gc.ca/trade-agreements-accords-commerciaux/ds/csr-strategy-rse-strategie.aspx?view=d#3>

⁸ Haida, Taku River and the Mikisew Cree decisions.

and Aboriginal peoples other societal interests. The federal government has published aboriginal consultation and accommodation guidelines that include a series of guiding principles and consultation directives, a step-by-step guide and a discussion of the roles and responsibilities of different actors: federal departments, agencies and boards; provinces and territories; project proponents; and, aboriginal groups.⁹

As was stated in a recent legal article, “[a]lthough FPIC and the Canadian duty to consult originate from different sources and use different language, they have both evolved in such a way that they reach the same results in practice. If the Canadian government abides by its Constitution and the *Indian Act*, and meets the criteria for consultation established [by the Supreme Court of Canada], it will, in most cases, fulfill the requirements for FPIC in international law.”¹⁰

Free, prior and informed consent in Nunavut

For the purposes of a discussion about FPIC in Nunavut, the constitutional common law “duty to consult and accommodate” in Canada provides an important backdrop; however, it is also important to examine the terms of the Nunavut Land Claims Agreement.¹¹ In the context of resource development on Inuit lands, the NLCA is a modern land claims agreement that provides a number of institutions and mechanisms that help fulfill the requirements of FPIC, notably through the creation of the Nunavut Impact Review Board (NIRB) and the requirement that major development projects cannot commence without the negotiation of an Inuit Impact Benefit Agreements (IIBA).

Public consultation with Inuit (and other stakeholders) is part of the requirements for the review of the ecosystemic and socio-economic impacts of project proposals by the NIRB in accordance with Article 12 of the NLCA. The NIRB is an institution of public government whose members are responsible for its operations; and, a plurality of NIRB members are nominated by Designated Inuit Organizations (DIOs).¹² The NIRB has developed rules of procedure and procedural guides to govern consultation with Inuit and the general public about proposed projects in Nunavut.¹³

⁹ Aboriginal Consultation and Accommodation: Updated Guidelines for Federal Officials to Fulfill the Duty to Consult,” March 2011: http://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/intgui_1100100014665_eng.pdf

¹⁰ O’Callahan and Prado at p. 38.

¹¹ The consultation obligations of the Crown may be supplemented by the terms of land claims agreements and treaties. The Supreme Court has held that the terms of such agreements should be examined first before applying the common law duty to consult and accommodate. In addition, the UN Expert Mechanism has identified treaties as one of the sources for FPIC in international law.

¹² Of the nine members, four are appointed on the nomination by the Designated Inuit Organization, two are appointed by federal Ministers, two are appointed by territorial Ministers, and the Chairperson is appointed by the Minister responsible for Northern Affairs in consultation with the territorial government from nominees agreed upon by the DIO, federal and territorial governments.

¹³ NIRB Rules of Procedure; Guide 6a: Guide to NIRB’s Public Awareness and Participation Programs: The Review Process; Guide 6b: A Proponent’s Guide to Conducting Public Consultation for the NIRB Environmental Assessment Process, available at <http://www.nirb.ca/NIRBGuides.html>

As discussed below, the NIRB conducted a detailed review process for the Mary River Project for more than four years, with numerous opportunities for formal and informal consultation.¹⁴ This included the participation of Baffinland, various federal and territorial government departments and DIOs as formal Parties throughout the entire review process. There were opportunities for public consultation, notably at a series of public hearings in July 2012 that also included community roundtables. Lloyd Lipsett and Dr. Zacharias Kunuk were granted formal intervenor status for these public hearings, and made submissions about the importance of addressing the human rights impacts of the Mary River Project. Furthermore, the NIRB Final Hearing Report contains a number of specific recommendations, terms and conditions for on-going consultation with respect to different aspects of the project; in addition, the report underscores the voluntary commitments that Baffinland made with respect to consultation during the public hearings.

In terms of consent, Article 26 of the NLCA stipulates that no “Major Development Project”¹⁵ may commence until an Inuit Impact and Benefit Agreement is finalized. This means that, in Nunavut, there is a requirement that a certain form of consent is obtained from the relevant DIOs through the IIBA negotiation process. In addition, the NCLA includes a list of topics that are appropriate for IIBA negotiations, many of which are relevant to the protection and promotion of Inuit collective and individual human rights.¹⁶

Not only is this legal provision significant in ensuring the consultation and consent of Inuit, it also entrenches the good practice of obtaining and documenting FPIC through impact benefit and other agreements. Furthermore, as the IIBA can be enforced according to the common law of contract (according to Article 26.9.1), the relevant Designated Inuit Organization has an additional mechanism to ensure that project proponent lives up to its commitments.

According to the most recent reports, the Qikiqtani Inuit Association and Baffinland are in advanced negotiations about the terms of an IIBA. At this stage, the terms of the IIBA are confidential. In 2009, the QIA and Baffinland negotiated a Memorandum of Understanding (MOU) that deals with some of the matters that may be covered by an IIBA.

¹⁴ The NIRB Final Hearing Report contains an overview of the procedural history (pp. 5-7) and a description of consultation opportunities during the project design phase (p. 38).

¹⁵ "Major Development Project" includes any private sector project involving development or exploitation, but not exploration, of resources wholly or partly under Inuit Owned Lands, and either entails, within the Nunavut Settlement Area during any five-year period, more than 200 person years of employment, or entails capital costs in excess of thirty-five million dollars (\$35,000,000), in constant 1986 dollars.

¹⁶ Schedule 26-1 of the NLCA.

Questions to consider about the IIBA

Will the QIA undertake an information and “ratification” procedure to ensure that members of the affected communities understand and agree to the terms of the IIBA? If the IIBA is to be evidence of the consent of the Inuit, it is important that it reflects a broad acceptance of the affected communities that extends beyond their formal representatives and the legal advisors that took part in the negotiation of the IIBA.

Will the terms of the IIBA be made public? In an era where transparency about the revenue flows from extractive industry projects is increasingly the norm, the confidentiality of the terms of Impact Benefit Agreements is becoming problematic. Greater transparency about the terms of IIBAs can reinforce the accountability of the parties to fulfilling their terms, as well as the confidence of the public and communities in the benefits of natural resource projects.

How will the terms of the IIBA be integrated into the overall framework for monitoring and reporting? A number of monitoring groups and processes are going to be established pursuant to the terms and conditions in the Project Certificate issued by the Nunavut Impact Review Board. It is important that the additional requirements for the implementation of the IIBA reinforces the overall monitoring and reporting framework, and does not create a parallel and duplicate system.

What is Baffinland doing to respect Inuit rights to consultation?

According to international human rights standards, governments have the primary duty to protect indigenous peoples rights to consultation, consent and participation. However, businesses also have a responsibility to respect these rights as well. Similarly, in Canadian law, while there are many aspects of consultation and accommodation of aboriginal people that will fall upon project developers, the ultimate duty to consult and accommodate resides with the Crown.¹⁷

Given the complex interplay between the roles and responsibilities of governments, businesses and indigenous peoples to design and implement a successful and rights-respecting consultation and consent processes, this is an increasingly important issue for business enterprises, particularly in relation to resource development. There are allegations of extractive industry companies infringing indigenous peoples rights as a result of their consultation practices (or lack thereof), particularly in countries where there are inadequate laws, regulations and mechanisms for free, prior and informed consultation and consent. Moreover, infringements of FPIC are often connected to infringements of other human rights, as well as to social conflicts and/or costly legal cases.

¹⁷ Similarly, in Canada, the Crown duty to consult and accommodate cannot be delegated to companies, although it can rely upon their efforts for the procedural aspects.

UN Expert Mechanism Advice to Extractive Industry

New performance standards and guidance for business enterprises are seeking to address issues related to FPIC more explicitly and proactively (e.g. IFC Performance Standard #7). Given the importance and complexity of this issue, it is worth citing a recent report of the UN Expert Mechanism about its “Advice to the Extractive Industries”:

40. States retain the primary obligation to ensure indigenous peoples’ right to participate is respected; nevertheless, to meet their own responsibility to respect human rights, extractive businesses should ensure, and make their own assessment as to, compliance with the right of indigenous peoples to participate in decision-making. Indeed, positive experience illustrates that extractive industries should work in partnership with States and indigenous peoples at all planning and implementation stages of extractive activities that might impact on indigenous peoples’ interests.

41. Enterprises in extractive industries should, together with indigenous peoples, assess the risks and actual impacts on the rights of indigenous peoples arising from their activities and business relationships. Commitment to respecting the rights of indigenous peoples should be reflected in the business enterprise’s policies and processes; such policies and processes should be put in place by the enterprise in order to meet its responsibility to respect human rights. Enterprises are advised to assess company compliance with indigenous peoples’ rights and establish a company policy on how best to meet their responsibility to respect such rights, where possible by including indigenous peoples affected by their operations. When activities may affect indigenous peoples, the business enterprise must take adequate steps to ensure meaningful and effective engagement with indigenous peoples. As part of implementing their responsibility, business enterprises engaged in extractive activities must ensure that employees have an understanding of the content of indigenous peoples’ rights, including their right to participate in decision-making.

42. The Special Rapporteur on the rights of indigenous peoples notes that companies must exercise due diligence by identifying, prior to commencing their activities, various matters relating to the basic rights of indigenous peoples, and by paying adequate attention to those matters as the activities are being carried out. Such matters include recognition of the existence of indigenous peoples and of their own social and political structures; indigenous possession and use of land, territory and natural resources; exercise by the State of its duty to consult indigenous peoples in relation to activities that might affect them, and the related responsibility of business; impact studies and mitigation measures; and benefit sharing with indigenous peoples.

43. Extractive industries are encouraged to support, including financially, mechanisms to ensure that the right of indigenous peoples to participate in decision-making is respected.

This can include:

- (a) Devoting human and financial resources to appropriate consultation mechanisms;
- (b) Establishing partnerships with indigenous peoples;
- (c) Ensuring that corporate boards or board advisory panels include indigenous peoples’ representation and effective participation in order to promote human rights accountability at the corporate level.

Baffinland and (its parent company) ArcelorMittal’s policies do not explicitly address the issue of FPIC. However, they both have a number of policies and procedures that are relevant to the consultation, consent and participation of Inuit.

Baffinland’s Sustainability Policy includes the following statement in section 3.0: “[w]e honour our commitments by being sensitive to local needs and priorities through engagement with local communities, governments, employees and the public. We work in active partnership to create a shared understanding of relevant social, economic and environmental issues, and take their views into consideration when making decisions.” Furthermore, Baffinland has prepared a Stakeholder Engagement Plan in the FEIS that provides detailed objectives for its overall consultation efforts with Inuit and other stakeholders, as well as specific goals and activities for the construction and operational phases of the Mary River Project.¹⁸

ArcelorMittal’s Human Rights Policy also contains the following commitment to dialogue with local communities: “We seek to respect human rights and to develop an understanding of the cultures, customs and values that prevail in our local communities by developing an inclusive and open dialogue with the people affected by our operations. The ArcelorMittal Community Engagement Standard requires us to conduct an open and inclusive dialogue with local communities, including engaging with often under-represented groups such as women and Indigenous Peoples.” It is supported by an External Stakeholder Engagement Procedure that provides additional guidance.¹⁹

As a member of the Mining Association of Canada, Baffinland has also committed to the Towards Sustainable Mining guiding principles and an Aboriginal and Community Outreach Framework and Protocols.²⁰

In terms of its practices, Baffinland’s record of community engagement and the progress in negotiating an IIBA are summarized in section 1.2.4 and 1.2.5 of the FEIS:

1.2.4 Baffinland’s Record of Community Engagement

Baffinland has been proactively engaged in consultation with local communities, increasing the scope of its consultation activities progressively since 2004. In 2007, Baffinland established liaison offices in the five North Baffin communities closest to the Project and in Iqaluit staffed by local Baffinland Liaison Officers. Due to financial constraints and a scaling back of operations in late 2008, the number of liaison offices was reduced to two from five but this number is being increased back to 5 for the beginning of 2012. With the exception of 2009, Baffinland has carried out bi-annual public meetings in the five North Baffin communities of Arctic Bay, Clyde River, Hall Beach, Igloolik, and Pond Inlet and, starting in 2010, Cape Dorset and Kimmirut. Details of the Company’s past consultation activities are provided in Volume 2, Section 1, and the Company’s Stakeholders Involvement Plan is included in Appendix 10F-1. The Stakeholders

¹⁸ Appendix 10-F, Stakeholder Engagement Plan.

¹⁹ Available at: <http://www.arcelormittal.com/corp/corporate-responsibility/communities/stakeholder-engagement>

²⁰ The Aboriginal and Community Outreach Protocol includes four performance indicators related to (1) Community of Interest (COI) Identification; (2) Effective COI Engagement and Dialogue; (3) COI Response Mechanism and (4) Reporting.

Involvement Plan and the Company's engagement activities have been aligned with ArcelorMittal's Community Engagement Standard included in Appendix 10F-1.

1.2.5 Negotiating an Inuit Impact and Benefit Agreement

Baffinland started discussions with the QIA in 2006 on the development of a future Inuit Impact and Benefit Agreement (IIBA). In March 2009 the two organizations reached an agreement-in-principle on the economic provisions of a future IIBA through the signing of a Memorandum of Understanding (MOU). Additional sections of the IIBA have also been successfully negotiated, and the Company and the QIA expect to complete a signed Agreement-in-Principle in the coming months. In a November 24, 2011, letter to the NIRB, the QIA indicated that it is close to completing negotiations with Baffinland on an IIBA for the overall project and anticipate having a final draft agreement by the end of January 2012.

Furthermore, since it submitted its project proposal for the Mary River Project to the NIRB in March 2008, Baffinland has naturally been the key participant in all the consultation opportunities provided for by the NIRB review process. This involved the preparation of and refinement of the FEIS, including providing responses to numerous Requests for Information and technical workshops with the Parties, including DIOs, as well as public hearings involving Inuit and other stakeholders. Numerous Baffinland executives, staff and advisors participated in the public hearings and made detailed presentations and responded to questions and concerns about different aspects of the Mary River Project.

In addition to the terms and conditions placed on the Mary River Project, the NIRB Final Hearing Report also documents the various commitments that Baffinland made during the public hearings in relation to questions or concerns raised by community members.²¹ A significant number of these terms, conditions and commitments relate to on-going consultation with Inuit and other stakeholders.

Further consultation efforts have been part of the development of the Addendum to the FEIS for the Early Revenue Phase; and, Baffinland and the other parties and stakeholders will participate in public hearings related to the NIRB's forthcoming review of the Early Revenue Phase.

Company commitments and NIRB conditions related to on-going consultation

Arcelor Mittal External Stakeholder Engagement Procedure

iii) Information disclosure

- Disseminate Company information in a format and language(s) that is accessible to stakeholders.
- Devise and publish an annual Stakeholder Engagement Plan.
- Publish an annual overview of the stakeholder engagement activity, through a local Corporate Responsibility report, website, stakeholder engagement plan or newsletter.
- Publish regular summaries of outcomes of stakeholder meetings, in a locally appropriate format.

²¹ See Appendix A of the NIRB Final Hearing Report.

Mary River FEIS commitments

Human Resource Management Plan – Appendix 10F3

Section 5.0 – Human Resources Information System

5.2 Employee Communication

Baffinland's HR Department will establish and administer formal and confidential (where necessary) procedures to deal with employee concerns, complaints, grievances, or suggestions. Baffinland will endeavour to resolve conflicts or employee concerns in a prompt and effective manner.

For general company policies and employment-related information, the primary means of communication with employees at the Project site will include (as appropriate) :

- Supervisors and the on-site HR team Baffinland
- website bulletin boards located at several locations in the camps,
- BLO offices, and
- Iqaluit office shift health and safety “toolbox” meetings

5.3 External Communication

As part of the Stakeholder Engagement Plan, Baffinland will communicate regularly with the communities of Arctic Bay, Clyde River, Hall Beach, Igloolik, and Pond Inlet.

Baffinland also recognises the value in engaging and collaborating with other agencies and government departments that have mandates related to human resources and entrepreneurial development. The Company will build on the initiatives it has started in order to strengthen this engagement. This may include groups such as:

Education and training entities:

- Department of Education
- Nunavut Arctic College
- Piqqusilirivvik Culture School Local educators, schools, District Education

Authorities

- Regional and territorial employment and training coalitions, Municipal Training Organization
- Kakivak Association labour and training programs

Health & wellbeing entities:

- Ilsaqsivik Society
- Department of Health and Social Services
- Department of Justice and Royal Canadian Mounted Police (RCMP) o Front line service providers such a social workers, community health representatives,
- Alcohol Education Committees

Business capacity-building entities:

- Local Community Economic Development Officers and Economic Development Committees
- Department of Economic Development & Transportation regional and headquarters offices
- Kakivak Association business development programs
- Baffin Regional Chamber of Commerce, Baffin Business Development Corporation, etc.

To further support relationship-building, public reports arising from socio-economic monitoring will be developed and made available as outlined in Section 13.

Stakeholder Engagement Plan (i.e. access to information)

Section 1- Introduction

Disclosure (p2)

Effective consultation includes culturally appropriate disclosure of information to stakeholders in a timely and ongoing fashion. Information disclosure is critical if stakeholders are to have meaningful input and participation in the decision-making process. The approach thus assumes that participation will enable stakeholders to identify their diverse objectives, flag problems and conflicts, and contribute to their resolution.

Stakeholder Engagement (p3)

The term “stakeholder engagement” is emerging as a means of describing a broader, more inclusive, and continuous process between a company and those potentially impacted that encompasses a range of activities and approaches and spans the entire life of a project. The growing use of this term reflects broader changes in the business and financial worlds, which increasingly recognize the business and reputational risks that come from poor stakeholder relations, and place a greater emphasis on corporate social responsibility, transparency and reporting.

Section 2 – Approach to Stakeholder Engagement

Section 2.7: Stakeholder Engagement Activities by project phase (p13)

Section 3 – Disclosure of Material

3.1 Guidelines for the preparation of disclosure material

All stakeholders value truth and transparency. These attributes are critical when dealing with both stakeholders who have no previous knowledge or understanding of the Project or associated processes, as well as for those who are already engaged in the processes. The following guidelines apply for the preparation of disclosure material:

- Understand the different needs and abilities of stakeholder groups to process information, and tailor materials accordingly;
- Do not assume that all stakeholders possess an understanding of business practices and protocols;
- Be clear and consistent in describing impacts and what the Project can deliver;
- Plan ahead and anticipate issues;
- Create robust procedures for developing disclosure materials;
- Make sure there is a “consistent message” in the materials disclosed;
- Get sign-off from managers on key facts and figures;
- Do not portray a more favourable situation than actually exists;
- Explain uncertainties and their limits (e.g., by describing “most likely,” “best” & “worst case” scenarios);
- Make information meaningful and accessible (culturally appropriate) and use images to assist in descriptions where appropriate;
- Release sensitive information in face-to-face meetings only (e.g. IIBA benefits); and
- Provide an avenue for affected people to get more information on topics that interest or concern them.

Section 4 – Engagement Phases (p17-23)

4.1. Objectives of the engagement program to date

Engagement provides for active involvement of stakeholders in the development of the Project, through regular collaboration with Project teams. To date, the focus of stakeholder engagement has been to:

- Identify and monitor key stakeholders and their interests and concerns;
- Identify patterns of interaction and utilize appropriate methods and tools to engage stakeholders, particularly local North Baffin communities;
- Allow for meaningful stakeholder input into final Project decision-making;
- Build long-term relationships between Baffinland and the local communities;
- Develop practical and locally acceptable mitigation strategies for unavoidable impacts (and maximize benefits), which includes the collection of IQ knowledge which was beneficial to program design;
- Give stakeholders access to information on Baffinland activities in a timely manner;
- Provide information that can be understood by everyone (written and spoken Inuktitut and English)
- Provide information on the Project, the company, or other relevant topics at locations which are accessible to all who want the information;
- Include women and vulnerable groups in the engagement process;
- Manage expectations among communities and other stakeholders;
- Establish clear mechanisms for managing stakeholders’ questions, concerns, and complaints/grievances and provide appropriate conflict resolution processes; and
- Document formal engagement activities, maintain a relevant database and implement a records

management system.

4.5. Project Development – Mid 2012 to 2015

Once the project is approved for construction by the various stakeholders, stakeholder engagement enters a new phase. The focus will be shifted from dissemination of project information and seeking public input to on-going stakeholder engagement during construction and into operations. This phase, and the construction portion in particular, will have the highest level of activity during the project. The focus will be to maintain stakeholder involvement and awareness of project activities, and ensure the grievance process is in place to manage complaints that may arise from project activities.

During the construction phase, the Project will move to formalize its stakeholder engagement program and make comprehensive plans for engaging with stakeholders during the busy construction period. A large construction workforce will be present throughout the period and large amounts of construction activity can be expected. The focus of the SEP during the construction phase will be to:

- Identify new issues, concerns or needs of stakeholders related to construction, and to resolve complaints in an expedited manner.
- Continue to build long-term relationships with stakeholders most affected by Project activities.
- Assess the effectiveness of environmental and social mitigation measures by using social monitoring in communities and direct feedback.
- Maximize Project benefits such as employment and procurement opportunities through effective engagement of stakeholders.
- Identify opportunities for Baffinland to make sustainable contributions to their host communities and the wider Nunavut region.

Disclosure Material

All general and typical handouts providing information about the Project and its effects on health, safety, environment, and community issues, all handouts answering “frequently asked questions,” the EIS summary, and possibly the NIRB Annual Reports will be disclosed in both Inuktitut and English.

While Baffinland recognizes the need to be in regular contact with local community stakeholders during construction, it is also conscious of the potential for ‘consultation fatigue’ and disruption to traditional livelihoods due to intensive engagement with the Project. The activities outlined above are indicative of the types of activities and methods that may be undertaken during the construction phase. Baffinland will test the planned engagement techniques before full implementation to see if they meet the needs of stakeholders. Modifications will be made accordingly based on these review processes.

4.6 Operations (2015 and beyond)

Throughout the operation and closure phases, the Communication Department based in Iqaluit and the Baffinland Liaison Officers will continue to be Baffinland's most valuable agents in disseminating Project related information to the affected communities.

As the construction phase winds down, there will be a transition in labour force requirements and the types of jobs available, and that transition will require specific stakeholder engagement, as well as adjustments to the focus of training programs.

Engagement in operations (and into closure) will focus on day-to-day operation of the mine, shipping of ore, railway, port and ancillary facilities and will also include progressive rehabilitation through to full closure. The main objectives of the engagement process during the operation and closure periods are as follows:

- Provide relevant stakeholders with information about the progress of the Project;
- Maintain and further develop constructive relationships with the local communities;
- Maintain broad support for the Project locally, regionally and nationally;
- Engage with communities on monitoring and evaluation of Project impacts;
- Maintain awareness and solicit feedback on social, environmental and safety issues that may be of concern to stakeholders;
- Identify opportunities for Baffinland to make sustainable contributions to the host communities and the wider regions of Nunavut;
- Maintain partnerships with local communities for ongoing participatory monitoring of the Project (e.g. for water, air quality, wildlife);
- Manage any concerns or complaints from stakeholders, including employees and local community members;
- Monitor community attitudes toward the Project; and
- Fulfill the requirements of the IIBA.

2. NIRB decision and conditions

NIRB conditions and recommendations

Term and Condition no 144 – Livelihood and Employment – Requirement for Employment

Term or Condition: The proponent is encouraged to make requirements for employment clear in its work-readiness and other public information programs and documentation, including but not limited to education levels, criminal records checks, policies relating to drug and alcohol use and testing, language abilities.

Term and Conditions no 152 -Economic Development and Self-Reliance, and Contracting and Business Opportunities

Term or condition:

QIA is encouraged to provide the board and the Qikiqtaaluk Socio-Economic Monitoring Committee with information regarding the effectiveness of any provisions within the IIBA which may require that larger contracts be broken down into smaller size in order

that they are reasonably managed by smaller businesses in the North Baffin region, while respecting any confidential or privileged information.

Term and Condition no 162 – Culture, Resources and Land Use – Public Consultation
Term or Condition: The Proponent should make all reasonable efforts to engage Elders and community members of the North Baffin communities in order to have community level input into its monitoring programs and mitigative measures, to ensure that these programs and measures have been informed by traditional activities, cultural resources and land use as such may be implicated or impacted by ongoing Project activities.

Term and Condition no 163 – Culture, Resources and Land Use – Public consultation
Term or condition: The Proponent shall continue to engage and consult with the communities of the North Baffin region in order to ensure that Nunavummiut are kept informed about Project activities, and more importantly, in order to have the Proponent's management and monitoring plans continue to evolve in an informed manner.

Term and Condition no 164 – Socio-Economic Impacts – Shipping notification
Term or condition: The Proponent is required to provide notification to communities regarding scheduled ship transits throughout the regional study area, real-time data regarding ships in transit and any changes to the proponent shipping schedule.

Term and Condition no 166 – Socio-Economic Impacts – Public Consultations
Term or condition: The Proponent should ensure through its consultation efforts and public awareness campaigns that the public have access to shipping operations personnel for transits into and out of both Steensby Inlet port and Milne Inlet port either via telephone or internet contact, in order that any questions regarding ice conditions or ship movements that could assist ice users in preparing for travel may be answered by Project staff in a timely fashion.

Term and Condition no. 169 – Governance and Leadership – Monitoring economic effects
Term or Condition: The Proponent provide annual monitoring summary to the NIRB on the monitoring data related to the regional and cumulative economic effects (positive and negative) associated with the Project and any proposed mitigation measures being considered necessary to mitigate the negative effects identified.

3. Stakeholders perspectives

Baffinland commitments to issues raised by stakeholders (Final Hearing Report) (Appendix A)

Issue raised by Baffinland (July 23, 2012) – Baffinland is committed to participating in ongoing initiatives, including working with stakeholders to address all issues related to the Mary River Project.

Issue raised by GN (July 23, 2012) - Baffinland is committed to collaborating with the Government of Nunavut on issues related to the Mary River Project for which both the GN and Baffinland have a stake.

Issue raised by Baffinland (July 18 2012) – Baffinland is committed to distributing information related to available employment at the Mary River project through its website, community newspapers and other methods of advertising.

Issue raised by Baffinland (July 17 2012) - Baffinland is committed to updating its management plans to reflect new information, new practices and changes to operating conditions.

Issue raised by NIRB (July 16 2012) – Baffinland is committed to contributing to regional monitoring and information gathering.

What roles and contributions can other actors make to consultation?

In keeping with the UN Guiding Principles on Business and Human Rights, the assessment framework for the HRIA focuses primarily on the role of the State in protecting human rights and business enterprises in respecting human rights. However, it is important to consider the roles and contributions of other actors to the consultation process for the Mary River Project.

- Pursuant to the NLCA, the Qikitani Inuit Association (QIA) is a key actor in protecting Inuit rights through its role as the Designated Inuit Organization (DIO) for Inuit in the Baffinland region.²² The QIA was an active participant in the NIRB review process: in addition to participating in all stages of the review and making detailed submissions, requests for information and recommendations, it also formed “Mary River Committees” to contribute to consultation efforts within the communities. Furthermore, as mentioned above, the QIA has the role and responsibility to negotiate the IIBA.
- As a territorial government, the Government of Nunavut shares the Crown’s duty to consult and accommodate Inuit.²³ The Government of Nunavut also was an active participant as a party in the NIRB review process, making detailed submissions,

²² In Canada, it is considered that aboriginal groups have a reciprocal duty to participate in reasonable processes and Crown efforts to consult and accommodate them See “Aboriginal Consultation and Accommodation Guidelines,” Guiding Principle and Directive #4 and discussion at p. 18. The UN Expert Mechanism, in Advice No. 4, provides the following advice to indigenous peoples: Indigenous peoples who choose to extract resources can continue to play a positive role in sustainable development by asserting their international human rights relating to extractive industries, with an emphasis on forming equal partnerships with States and business enterprises to engage in sustainable development where adequate environmental protections are in place. ... Given indigenous peoples’ permanent sovereignty over natural resources and the United Nations Declaration on the Rights of Indigenous Peoples, as set out in the international legal and policy framework of the present report, the right of indigenous peoples to participate in decision-making also includes the right not to consent to extracting resources as an exercise of their sovereignty.

²³ The Crown’s duty to consult applies to provincial and territorial governments. Some have instituted their own Crown consultation processes, policies and guidelines for projects within their jurisdictions. See: Aboriginal Consultation and Accommodation Guidelines, p. 17.

requests for information and recommendations from the perspective of various territorial government departments.

- A number of individuals participated in the community roundtable portions of the public hearings, primarily Inuit from the project-affected communities, including elders and some women and youth. Furthermore, a number of public officials and organizations made presentations during the community roundtables. For example, these included the mayors of Iqaluit, Igloolik and Pond Inlet, the Royal Canadian Mounted Police, and the World Wildlife Fund. According to the NIRB Rules of Procedure, it is also possible for Inuit and members of the general public to apply for formal intervenor status, which provides a more formal role in making presentations to the Board and posing questions to the other Parties during the public hearings. To make submissions related to the HRIA, Dr. Zacharias Kunuk and Lloyd Lipsett applied for intervenor status, which was granted. No other individuals applied for intervenor status.²⁴
- The media has a role in promoting informed consultation with Inuit. Local and national media outlets covered the public hearings, particularly the opening sessions in Iqaluit (some concern was expressed by community members in Pond Inlet where media was not present). IsumaTV used local radio to promote informed consultation and active participation of Inuit in advance of the public hearings; attended the hearings in Iqaluit and Igloolik; and, assisted in broadcasting the hearings in Igloolik and Pond Inlet on local radio and over the Internet.

Concluding observations about free, prior and informed consent

From the discussion above, it is clear that Inuit have been consulted about the Mary River Project. Baffinland began its consultation efforts in 2006 and there have been numerous opportunities for formal and informal consultation as part of the NIRB review process that began in 2008 and culminated with final public hearings in the summer of 2012. The consultation has been with Designated Inuit Organizations and Inuit (as well as federal and territorial government departments, other public representatives, organizations and intervenors with mandates related to protecting or supporting Inuit).

While the concept of “Free, Prior and Informed Consent” (FPIC) has not been formally recognized in Canadian law or in the corporate policies of Baffinland or ArcelorMittal, there is an appropriate legal and institutional framework for consultation with Inuit in the context of the Mary River Project. A number of factors point towards this preliminary conclusion: the constitutional common law “duty to consult and accommodate” in Canada; the terms of the Nunavut Land Claims Agreement that provide for the NIRB review process and the requirement to complete an IIBA for major development projects; and, the consultation and engagement practices of Baffinland to date.

In terms of “free” consultation, there was no conduct that would amount to intimidation, coercion or manipulation during the public hearings.

²⁴ The only other formal intervenor was Makivik Corporation, representing Inuit from Nunavik.

- Some community members expressed concern in private about the tense atmosphere that surrounded some portions of the public hearings; and, this may have affected their willingness to participate or express themselves fully at the hearings. However, the NIRB Board and staff made repeated efforts to encourage all participants to freely express their views, particularly during the community roundtables. Ultimately, a wide range of views on different issues was expressed throughout the community roundtables, often in colourful and/or forceful terms.
- The NIRB facilitated the participation of community representatives from 11 communities in the public hearings in Iqaluit, including representatives of women and youth.
- The participation of the Mary River Committees at the public hearings was also facilitated by the QIA.
- Participation in the public hearings was promoted through the local newspapers and IsumaTV's community radio programmes.
- All requests for intervenor status that were submitted according to the Rules of Procedure were accepted by the NIRB.²⁵ However, a single request for intervenor status was made by an individual (Dr. Zacharias Kunuk), so this avenue for participation was under-utilized.²⁶ Some potential reasons for this are: unfamiliarity with this procedure; reluctance to use formal and written procedures, especially when other opportunities to make oral presentations existed in the NIRB's Community Roundtables.

In terms of “**prior**” consultation, extensive consultation took place before the Mary River Project was approved and began construction.

- Consultation efforts of Baffinland began in 2006.
- The NIRB review process began in March 2008 and the Minister's approval of the Mary River Project was given in December 2012.
- There are still additional consultations that will take place in relation to the Early Revenue Phase.

In terms of “**informed**” consultation, there was extensive information provided in various forms throughout the NIRB review process.

²⁵ An application for intervenor status by the World Wildlife Fund was rejected because it was filed after the deadline. However, a representative of the WWF was present at the final hearings in Iqaluit and was provided the opportunity to make a statement to the Board.

²⁶ A discussion of the merits of applying for formal intervenor status will be discussed in the concluding reflections for the HRIA.

- The key documents in the review process were the draft and final Environmental Impact Statements, which contain very detailed information about environmental, social, economic and archaeological impacts that responded to the “EIS Guidelines” established by the NIRB.
- The information contained in the draft and final EIS goes far beyond the basic criteria enumerated by the UN Development Group.²⁷
- The information in the draft and final EIS, including about potential negative impacts, was probed and refined through a process of Requests for Information, technical meetings and questions to Baffinland and other parties in the final public hearings. If anything, the concern is that the information in such impact statements can be too voluminous and technical to be digested and understood by non-experts.
- In this regard, a popular summary of the FEIS was prepared and translated into Inuktitut, as were other presentation materials. Simultaneous translation between Inuktitut, English and French was provided throughout the public hearings. The challenges of translating and communicating the detailed and technical information in impact assessments are addressed elsewhere in this report.
- All of the written information pertaining to the Mary River Project was made available electronically on the NIRB website and through the distribution list for the Mary River project.
- Through Mary River Committees, IsumaTV’s community radio shows and other mechanisms, additional information was provided to communities about different aspects of the Mary River Project.

In terms of “**consultation and consent:**”

- At the final hearings, the Designated Inuit Organizations, QIA and NTI, expressed support for the Mary River Project, while raising some concerns and providing recommendations to the NIRB.
- Although it has a different legal status than DIOs, the majority of the constituents of the Government of Nunavut are Inuit. The Government of Nunavut also supported the project, while raising some concerns and providing recommendations to the NIRB.

²⁷ The nature, size, pace, reversibility and scope of any proposed project; the reasons or purpose of the project; the duration of the project; the locality of areas that will be affected; a preliminary assessment of the likely economic, social, cultural and environmental impact, including potential risks and fair and equitable benefit sharing in a context that respects the precautionary principle; personnel likely to be involved in the execution of the proposed project (including indigenous peoples, private sector staff, research institutions, government employees and others); and, procedures that the project may entail.

- Elders and other Inuk expressed many concerns and expectations about different aspects of the Mary River Project throughout the public hearings. However, it was quite rare that these individuals expressed the view that the project should not go ahead; rather most individuals emphasized the need for jobs and benefits for Inuit and strong protections for the environment and communities as the basis for the project proceeding.
- As mentioned above, a number of public officials and organizations made presentations during the community roundtables, raising new issues about potential social impacts and safety issues that would affect Inuit.
- The NIRB Final Hearing Report provides a detailed and balanced discussion of the issues and themes raised at the public hearings; and, has recommended over 180 terms and conditions in response to community concerns. It also has listed the commitments that Baffinland made during the hearings in Appendix A of its report.
- The Minister has accepted the Mary River Project based on the terms and conditions in the NIRB Final Hearing Report, so the consultation and input of Inuit will have an influence on the project's development and operation. A significant number of the terms and conditions address on-going consultation with Inuit and other stakeholders.
- Insert point about consent with respect to the final IIBA and any information, consultation and ratification with communities before its ratification.

Consultation processes are by their nature complex and imperfect. Their success requires the sustained efforts of many parties over a long period of time. They can always be improved.

Consultation and consent should not be viewed as a “one-time event,” but rather as a continuous process of building and maintaining trust and the social license to operate. The opportunities and successes of consultation through the NIRB review process and Baffinland's community engagement should be viewed as the foundation for on-going consultation over the lifespan of the mine.

Concluding Observations

1. **Conduct a survey about the consultation efforts to date to understand what has worked and what can be improved for on-going consultation with Inuit.** The current regulatory phase of the project is a good opportunity to conduct such an evaluation in order to design and refine consultation, engagement and monitoring mechanisms and procedures going forward. Some of the issues that could be addressed include: timing, format and duration of public hearings; preferred format and media for receiving information; how to enhance the participation of women and youth; role of company liaison offices and local committees; how to address consultation fatigue and information overload; etc. From a human rights perspective, the satisfaction of Inuit about consultation efforts and their belief that they have been

carried out in good faith are important issues. Periodic and independent review of consultation practices is suggested as an important rights-respecting practice.²⁸

2. **Make use of multimedia options to enhance on-going informed consultation.** Moving forward, there will be a wide variety of issues being discussed, reports being produced, and monitoring groups examining different aspects of the Mary River Project. It would be very useful to create an Internet platform where all this information can be compiled and accessed by Inuit and other stakeholders. Internet tools can also provide opportunities for comments and feedback. As is discussed elsewhere in the report, the Internet provides opportunities to use video and audio tools that can help address some of the challenges of translation into oral Inuktitut.
3. **Ensure the NIRB has the capacity and resources to oversee on-going consultation for Mary River and to ensure prior consultation for future mining projects in Nunavut.** As discussed above, the NIRB has played a critical role in protecting the consultation rights of Inuit throughout its review process, public hearings and terms and conditions in its Final Hearing Report. It will also play an important role in monitoring the Mary River Project, including the terms and conditions relating to on-going consultations. As the NIRB will likely be under increased pressure and workload given the predicted expansion of exploration and mining activity in Nunavut, as well as the government's desire to streamline and place time-limits on environmental review processes. If part of the social acceptability and approval of the Mary River Project relates to the strength of the NIRB review process, it is important that the NIRB have adequate resources to conduct rigorous reviews in the future.
4. **Baffinland should fully implement its Stakeholder Engagement Plan, as supplemented by the group-wide requirements of ArcelorMittal and the commitments undertaken as part of the Mining Association of Canada's Towards Sustainable Mining.** As with other recommendations about the implementation of corporate policies, effective oversight, periodic evaluation including stakeholder feedback, and public reporting are key elements.

Additional Resources

Free, Prior and Informed Consent

International Finance Corporation, Performance Standard 7 on Indigenous Peoples.

UN Global Compact, United Nations Declaration on the Rights of Indigenous Peoples: A Business Reference Guide.

UN Expert Mechanism on Indigenous Peoples Rights, Advice No. 4: Indigenous peoples and the right to participate in decision-making, with a focus on extractive industries.

²⁸ See UN Expert Mechanism, Advice No. 4 at para. 39 (d).

Boreal Leadership Council, Free Prior, and Informed Consent in Canada: Towards practical guidance for developers and Aboriginal communities.

“Making Free, Prior and Informed Consent a Reality: Indigenous Peoples and the Extractive Industry”

Impact Benefit Agreements

Nunavut Land Claims Agreement: <http://laws-lois.justice.gc.ca/eng/acts/n-28.7/>

What are Impact Benefit Agreements? <http://www.miningfacts.org/What-are-impact-benefit-agreements/>

Impact and Benefit Agreement Research Network: <http://www.impactandbenefit.com/>

IBA Community Toolkit: <http://www.ibacommunitytoolkit.ca/>

Gowlings’ webinar on Aboriginal Impact Benefit Agreements:
<http://m.gowlings.com/knowledgeCentre/publicationPDFs/IBA-January-11-Webinar.pdf>

SECTION SIX: WORKERS' RIGHTS AT THE MARY RIVER MINE

Key message

Workers' rights are one of the areas that the Baffinland company has the greatest amount of control over its impacts. It is also an area where the Inuit have expressed hope and expectations for positive benefits in terms of job opportunities—which can be understood in terms of the right to work and other labour rights. One of the biggest challenges for Baffinland will be non-discrimination in the workplace, especially in terms of hiring, promoting and retaining Inuit and female employees at the Mary River mine.

International Standards related to Workers' Rights

Labour rights are a central issue in all human rights impact assessments. This is because labour rights are protected by international law (the International Covenant on Economic, Social and Cultural Rights, the ILO Declaration on Fundamental Principles and Rights at Work, as well as by the UN Declaration on Indigenous Peoples Rights), and because companies have control over how their workers are treated. Companies should also make sure that their suppliers and contractors respect their workers.

Overview of workers' rights
<p>Equality and non-discrimination (articles 2 and 3 of the ICCPR and ICESCR)</p> <p>Non-discrimination is a fundamental and overarching principle of international human rights. Everyone is entitled to enjoy human rights irrespective of his or her colour, gender, religion, ethnic, social or national origin, political or other opinion, property, birth, or other status. The Human Rights Committee, which monitors and interprets the ICCPR, has further interpreted the principle of non-discrimination to include other grounds of discrimination such as age, nationality, disability and sexual orientation. Article 2(1) obliges States to prohibit any distinctions, exclusions, restrictions and limitations by both public authorities and private bodies on those grounds in the enjoyment of the rights set out in the ICCPR. This means that States have a responsibility to ensure that businesses carry out their activities and provide services in a non-discriminatory way. Reasonable and objective distinctions are permitted.</p> <p>States must ensure that all rights are enjoyed equally by men and women. States are allowed to adopt positive action to eliminate conditions that contribute to gender discrimination. Similarly, companies can have affirmative action policies for women and other vulnerable groups.</p> <p>Within indigenous communities, women, the elderly, youth and children and persons with disabilities may be particularly vulnerable, and accordingly Article 22 requires that, in implementing the UNDRIP, these groups are afforded special consideration. States have a duty to protect these groups from harm, violence, discrimination and any other activities or lack of actions that could compromise their well-being. Article 44 states that all rights and freedoms recognized in the UNDRIP are equally guaranteed to male and female individuals.</p>

In designing and implementing activities and engaging in business relationships with others that may impact indigenous peoples, and in engaging with indigenous peoples about such activities or business relationships, businesses must ensure that any particular vulnerabilities of these groups are identified and addressed within the due diligence process. This may require separate consultation with such groups.

Social security (article 9 of the ICESCR)

The right to social security encompasses the right to access and maintain benefits without discrimination. Governments are obliged to make available a system of social security. Such systems may involve contributory or insurance-based schemes, which normally entail compulsory contributions from the beneficiary and the beneficiary's employer (and sometimes the State), as well as universal or targeted schemes funded out of the public purpose. Social security benefits should be available to cover the following areas: health care and sickness, old age, unemployment, employment injury, family and child support, maternity, disability, and survivors and orphans. Social security systems should be affordable and sustainable, so as to provide for present and future generations, and should also provide for adequate benefits. The right is essential in combating poverty, given its redistributive character; its realisation can, for example, have a significant impact on the enjoyment of other related rights, such as the right to an adequate standard of living and the right to health.

The role of companies in relation to the right to social security will vary depending on the national context. Generally, companies have a basic duty to ensure that legally mandated contributions to the system, in addition to those deducted from employee salaries and wages, are paid promptly to ensure that the government's ability to deliver social security payments or services is not undermined. Increasingly, employment laws also create obligations on companies to provide income and benefits on maternity, injury and the like. If companies operate private social security schemes, they have the responsibility to do so in a non-discriminatory manner and they should not impose unreasonable eligibility conditions. Finally, if a company denied its workers their contractually agreed employment injury benefits, its actions would impact negatively on the workers' rights under Article 9.

Right to work (article 6 of the ICESCR)

The right to work recognises the right of everyone to the opportunity to make their living by work which they freely choose or accept. This implies that one should not be forced to engage in employment and that States develop a system designed to guarantee all workers access to employment. Workers should not be unfairly deprived of employment. Work as specified in Article 6 must be 'decent work', that is work that respects a person's human rights including workers' rights regarding conditions of remuneration and work safety. The right to work includes the prohibition of arbitrary dismissal.

A company that has significant activities as one of the 'main players' regarding the provision of employment, in areas where a government lacks the capacity or willingness to fulfil its commitments, may be expected by stakeholders to play a part in helping to secure fulfilment of

the right to work. Companies of all sizes and in all locations may impact on their workers' right to work if they arbitrarily or unfairly dismiss workers. Even where such practice may be legally permissible under local law, many stakeholders now expect companies to exhibit a higher standard of behaviour in line with international standards and good practice.

The right to work is closely linked to rights in Article 7 to just and favourable working conditions and trade union rights in Article 8. These rights are components of the overall right to work.

Right to just and favourable working conditions (article 7 of the ICESCR)

The right to enjoy just and favourable working conditions has various components, which are all highly relevant to the actions of companies as they concern the treatment of employees. This Article recognises that States must protect the right to remuneration that provides workers with fair wages and equal remuneration for work of equal value, and that women must be guaranteed conditions of work not inferior to those enjoyed by men. Remuneration must also be enough to provide workers with a decent living for themselves and their families. Article 7 furthermore comprises a right to healthy and safe conditions of work, a right to equality of opportunity for promotion, and a right to rest, leisure and holidays as part of conditions at work.

The interpretation of Article 7 is influenced by the corresponding International Labour Organization (ILO) Conventions, which elaborate in greater detail the labour standards set out in the Covenant:

- ILO standards generally prescribe that employees should not be required to work more than 48 hours per week, or ten hours a day, though these rules are subject to some exceptions.
- ILO conventions relating to the issue of rest and leisure are also relevant to the issue of working hours. For example, it is specified that there should be at least one day off in every seven, and that a minimum of three weeks' paid holiday (not including public holidays) be available for every year of full-time service.
- A minimum wage should be 'fair' and enable families to enjoy the right to a standard of living that includes adequate food, clothing and housing (Article 11 of the Covenant). This is reinforced by the corresponding ILO convention, which dictates that the setting of minimum wages should, for example, take into account issues such as the cost of living and the needs of workers and their families. Companies should at least comply with minimum wages mandated by government minimum wage legislation. Wages should be paid regularly and in full, without unauthorised deductions or restrictions.

With regard to all working conditions, States should require employers to co-operate with independent inspection services to ensure compliance with legal requirements.

Companies can have a significant impact on the enjoyment of the various rights in Article 7 in their capacity as employers.

Right to collective bargaining (a component of trade union rights in article 9 of the ICESCR)

This Article concerns the right of everyone to form trade unions and to join the trade union of

his or her choice, subject to the union's own membership rules. This right may only be restricted by States in circumstances that are set down in law and are necessary to protect national security, public order, or the rights and freedoms of others. Trade unions themselves have rights to establish national federations or confederations, and for the latter to form or join international trade union groupings. Trade unions are permitted to function freely, subject only to limitations that are lawful and necessary to protect national security, public order or the rights of others. Finally, the Article recognises a right to strike, which must be exercised in conformity with the reasonable requirements of a particular country's laws.

The core ILO Conventions governing freedom of association, the right to organise and collective bargaining complement the interpretation of this right. (See: ILO Convention 87 on Freedom of Association and Protection of Right to Organise (1948) and ILO Convention 98 on the Right to Organise and Collective Bargaining (1949)).

These Conventions dictate that workers should not be discriminated against because of trade union membership. Governments should implement measures and develop appropriate mechanisms to promote voluntary good faith negotiations between employers and employees' organisations, with a view to enabling them to work out collective agreements regarding the regulation of employment.

Company actions may impact on these rights if they prevent union membership and activity amongst employees or are in any way complicit in actions that restrict employees' rights to participate in union activity.

Related rights: freedom of association, right to work and the right to just and favourable conditions of work.

Freedom from Child labour (related to child protection in article 24 of the ICCPR)

Children may not be engaged to do work that is hazardous, arduous, and for which they are underpaid, or to work for the same number of hours as adults. Child labourers are frequently denied the opportunity to undertake education as a result of going to work, and their mental and physical health can suffer due to poor working conditions, long hours of work, and ill-treatment by employers.

The term "child labour" should not be confused with "youth employment" or "student work." Child labour is a form of exploitation that is a violation of a human right, and it is recognized and defined by international instruments. It is the declared policy of the international community and of almost all governments to abolish child labour.

While the term "child" covers all girls and boys under 18 years of age, not all under-18's must be removed from work: the basic rules under international standards distinguish what constitutes acceptable or unacceptable work for children at different ages and stages of their development. ILO conventions (Minimum Age Convention No. 138 and the Worst Forms of Child Labour Convention No. 182) provide the framework for national law to prescribe a minimum age for admission to employment or work that must not be less than the age for completing compulsory schooling, and in any case not less than 15 years. Lower ages are

permitted for transitional periods – in countries where economic and educational facilities are less well-developed the minimum age for regular work generally is 14 years, and 12 years for “light work”. The minimum age for hazardous work is higher, at 18 years for all countries.

If an occurrence of child labour is identified, the children need to be removed from the workplace and provided with viable alternatives. These measures often include enrolling the children in schools and offering income-generating alternatives for the parents or above-working age members of the family. Companies need to be aware that, without support, children may be forced into worse circumstances such as prostitution, and that, in some instances where children are the sole providers of income, their immediate removal from work may exacerbate rather than relieve the hardship.

Safe and healthy working conditions (related to the right to work and the right to just and favourable working conditions in Articles 6 and 7 of the ICESCR)

ILO standards require governments to adopt, in consultation with appropriate employer and employee organisations, a national occupational health and safety (OHS) policy aimed at reducing accidents and injuries to health arising in the course of employment, and to minimise the causes of inherent workplace hazards. That policy should address, for example, the provision of adequate OHS training regarding the use and maintenance of the ‘material elements of work’, including workplace environment, tools, machinery and equipment. Workers must be able to remove themselves from work situations where imminent and serious health dangers are reasonably perceived, without undue consequences.

With regard to all working conditions, States should require employers to co-operate with independent inspection services to ensure compliance with legal requirements.

See ILO Convention 155 Concerning Occupational Health and Safety and the Working Environment (1981), Articles 4, 5 and 13. See also ILO Convention 161 on Occupational Health Services (1985).

Right to education (articles 13 and 14 of the ICESCR)

The aim of the right to education is “the full development of the human personality and sense of dignity”. Articles 13 and 14 guarantee all children the right to free and compulsory primary education. The right also requires progressive steps from governments aimed at the provision of secondary and higher education, including the provision of ‘fundamental’ education for those who could not complete primary education. The right to education also includes the right of equal access to education and equal enjoyment of education facilities, the freedom of parents and children to choose the type of education the children receive, and the freedom to establish educational institutions (subject to minimum educational standards). Educational facilities should be available, accessible, culturally and ethically acceptable, and flexible so as to be able to adapt to society’s changing needs.

Companies have a vested interest in promoting the right to education for the development of skilled workforces. Companies may impact on the right to education where child labourers are

directly employed or operate in their supply chains in a way that prevents those children from attending school. This right is also relevant in the context of any commitments made by a company to provide education to the children of workers or others in the local community. Companies that organise or provide such education should respect equality of access to education. Companies may also impact on the enjoyment of the right if, for example, their involvement with heavy construction or infrastructure projects limits access to nearby schools or results in damage to, or the destruction of, educational facilities.

Freedom of association (article 22 of the ICCPR)

Article 22 protects the right to form or join all types of association such as political parties, religious societies, sporting and other recreational clubs, non-governmental organisations and trade unions. This right shall not be restricted, except by lawful regulation necessary to protect the interests of national security, public safety, public order, public health or morals, or the protection of the rights and freedoms of others.

Companies' activities are most likely to impact on the right insofar as it relates to trade unions and other employee representative bodies. Article 8 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) focuses on trade unions alone. Companies respect the right when they respect the right of workers to form trade unions or, when operating in countries where trade union activity is unlawful, they recognise legitimate employee associations with whom the company can enter into dialogue about workplace issues. Companies should also ensure that their activities do not undermine other legitimate organisations, such as political parties. Companies may also promote enjoyment of the right by speaking out in appropriate circumstances, publicly or privately, about laws that curtail the right.

Right to health (article 12 of the ICESCR)

This Article recognises the right to the highest attainable standard of physical and mental health. States must take measures to prevent, treat and control diseases, reduce infant mortality and provide for the healthy development of children, improve all aspects of industrial and environmental hygiene, and to create conditions that will ensure universal access to appropriate medical services and medical attention in the event of sickness. The right includes the right to control over one's health and body, including reproductive and sexual rights, and freedom from interference, such as freedom from non-consensual medical treatment and experimentation. People must have access to the underlying building blocks of good health, such as adequate nutrition, housing, safe and potable water, adequate sanitation, medical supplies, healthy working conditions and a healthy environment.

Company activities and products can impact on the right to health of employees, and are expected to ensure that their operations and products do not impact on the right to health of people, such as workers, consumers and local communities. Special consideration should be made in relation to vulnerable sectors of society, such as children and adolescents, women, disabled people and indigenous communities. Companies are expected to ensure compliance with national legislation (including occupational health and safety regulations, and consumer

and environmental legislation) and international standards where domestic laws are weak or poorly enforced. Even though informal workers are often not covered by domestic legislation, companies should take steps to ensure that any persons within their supply chains are not exposed to occupational health and safety dangers.

UNDRIP, article 24: Indigenous peoples have the right to maintain, control, protect and develop their traditional medicines and health practices, while retaining access to all health services, so that they may enjoy the highest attainable standard of physical and mental health. This right allows indigenous peoples to conserve and protect their medicinal plants, animals and minerals (and their knowledge in relation to these; see also Article 31 in relation to traditional knowledge), but also provides that they shall not be barred access to other social and health services.

The health of indigenous peoples is often significantly lower than that of the overall population. Factors such as proximity to health services, affordability and language proficiency are just a few reasons that contribute to this problem. In some instances, indigenous people may suffer from health risk factors such as poor nutrition, excessive alcohol consumption, smoking and the abuse of other drugs and substances. For this reason, protecting indigenous peoples' right to all social and health services is crucial to the survival of their communities and cultures, and their development opportunities.

Businesses should ensure that they do not access indigenous medicinal resources without consent, and do not adversely impact indigenous peoples' intellectual property rights through, for example, patenting their knowledge of traditional medicines without consent. Where companies are accessing indigenous medicinal resources, they must ensure that their activities do not damage stocks (of relevance to those conducting activities on lands occupied or used by indigenous peoples). Businesses should consider ways in which access to health services and products by indigenous peoples could be enhanced where it is insufficient (of relevance to companies in the health industry, and also those with appropriate distribution channels which could be used to assist in this respect). It is also important for companies to respect the health of indigenous employees, and provide them with the same health benefits (e.g., health insurance and workplace health programs) as all other employees.

There are several ways businesses can respect and support the health of indigenous peoples. Businesses that manufacture pharmaceuticals have the unique ability to provide indigenous peoples with access to medicines they produce. Businesses that work in areas with indigenous communities can assist in the creation and maintenance of health service facilities. Businesses that work in the areas with indigenous communities can also engage with them to assist in the preservation of their medicinal plants, animals and minerals.

Laws and institutions that protect workers' rights in Nunavut

- Canadian Charter of Rights and Freedoms, section 15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on

race, national or ethnic origin, colour, religion, sex, age or mental or physical disability. (2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

- Canadian Charter of Rights & Freedoms, section 2. Everyone has the following fundamental freedoms: (d) freedom of association.
- Canada Labour Code, Part One (Industrial Relations): The Canada Industrial Relations Board has jurisdiction in regard to some 800,000 employees engaged in federal jurisdiction industries, which include interprovincial transportation (air, land and water), broadcasting, banking, longshoring and grain handling, and to private sector employees in Nunavut, the Yukon, and the Northwest Territories.
- Nunavut Human Rights Act (2003), section 9: Employment: Prohibited grounds of discrimination and harassment
- Nunavut Labour Standards Act provides regulations for basic wage, overtime, holidays, maternity leave, etc.
- Workers' Safety and Compensation Board of NWT and Nunavut
- Mine Health and Safety Act (Nunavut), S.N.W.T. 1994, c. 25, in force December 15, 1995, as amended.
 - S. 2: Duties of owner to protect the health and safety of employees at the mine, etc.
 - S. 11: Occupational health and safety committee
 - S. 15: Duties of contractors
 - S. 17: Workers to comply with Act
 - S. 18: Right to refuse work
 - S. 19: Non-discrimination for refusal to work
 - S. 21 ss.: Investigation and inspection
 - S. 45: regulations
- Mine Health and Safety Regulations, R-125-95, as amended
- Explosives Use Act

ArcelorMittal Human Rights Policy

Eliminating Forced or Compulsory Labour: ArcelorMittal opposes the use of forced or compulsory labour. We will also work with our subcontractors and suppliers to avoid indirectly benefiting from or promoting such illegal practices.

Abolishing Child Labour: ArcelorMittal opposes the use of child labour. We will work in collaboration with subcontractors and suppliers to prevent and remove any instances of child labour in a manner that is consistent with the best interests of the child.

Eliminating Unlawful Discrimination in the Workplace: ArcelorMittal is committed to ensure that each employee and potential employee is treated with fairness and dignity. Accordingly, any unlawful discriminatory practice based on race, colour, gender, sexual orientation, age, religion, ethnicity, national or social origin, property, political or other opinion, disability, birth or any other basis will not be tolerated. The Company seeks to provide each employee with equal opportunity for advancement without discrimination.

Eliminating Harassment and Violence: ArcelorMittal is committed to promote a work environment free of any form of harassment, exploitation, abuse or violence as defined by the laws of each country in which we operate.

Providing Competitive Compensation and Remuneration: ArcelorMittal aims to pay competitive wages based on local market assessments and at a minimum seeks to provide a commensurate compensation for each employee.

Upholding Conditions of Employment: ArcelorMittal complies with all laws regarding conditions of employment including basic and over-time working hours, and will abide by agreements negotiated with our employee representatives.

Promoting Freedom of Association: ArcelorMittal upholds freedom of association and the effective recognition of the right to collective bargaining. We also work with our subcontractors and suppliers to promote the achievement of this principle.

ArcelorMittal Health and Safety Policy

Principles:

- All injuries and work related illnesses can and must be prevented.
- Management is accountable for the Health & Safety performance.
- Communication, involvement and training of all employees are essential in Health & Safety excellence.
- Everyone has a role to play in preventing injuries and illnesses.
- Excellence in Health & Safety supports excellent business results.
- Health & Safety must be integrated into all business management processes.
- Product Stewardship aiming at eliminating Health & Environmental impact for customers.

To achieve this we will:

- Identify, evaluate and eliminate Health & Safety risks to ensure that hazards are managed.
- Establish an effective process for preventing all injuries and work related illnesses.
- Build a supportive culture that requires visible Leadership with clear accountability.
- Provide everyone with effective training so that we are all able to work safely.

- Investigate all incidents in order to prevent a recurrence.
- Establish a culture where work will be stopped if it is unsafe.
- Establish measurable objectives to monitor progress through regular audits and reporting.
- Comply fully with all legal requirements and meet or exceed these expectations wherever we operate in the world.
- Update and test emergency procedures.

Source: <http://www.arcelormittal.com/corp/~media/Files/A/ArcelorMittal/corporate-responsibility/HealthAndSafetyPolicy.pdf>

ArcelorMittal Employee Relations Policy

1. To regard our employees as an important and highly valued resource to be cared for, empowered and rewarded.
2. To view trade unions as constructive role players in the organisation and to subscribe to the principle of freedom of association.
3. To establish structures through the organisation to proactively engage trade unions and employees with a view to create and strengthen constructive relationships. The competitive advantage of ArcelorMittal's business is dependant on our ability to harness and optimise the human capital within the organisation.
4. To implement and maintain non-discriminatory employee practices and internationally recognised employment standards.
5. To encourage the implementation of formal communication to all employees through the implementation of communication channels and systems in all of our operations. Regular interaction and consultations will take place with employee representatives.
6. To operate within and adhere to the legislative and collective bargaining framework of the countries in which it operates. Group operations will enter into Collective Agreements with any representative trade union. Nothing contained herein will prevent any of the Group operations to have dealings with other unions and non-union members.
7. To introduce procedures and structures at operations level to give expression to the need to institutionalise employee relations in a mutually beneficial way, with the aim to build productive relationships and to achieve business goals. The accountability for managing employee relations rests with the management teams of the each of the Group's operations. The Corporate Employee Relations has a specific role to establish policies and procedures, support operations by providing guidance on employee relations processes and procedures, facilitate relationship building, employee relations strategy development and build employee relations capacity.
8. To recognise the right of employees to lawfully withhold labour. This policy statement must be read within the context of the provisions of local legislation and the provisions of applicable Collective Labor Agreements that are in force.
9. Notwithstanding the above, to promote agreements on continuity of sensitive units like blast furnaces or coke ovens that by design should not stop under any circumstances.
10. To continuously develop the capacity of the various role players to effectively manage Employee relations, to provide applicable training programmes on

an ongoing basis. These programmes will include training in the application of processes, policies and procedures.

11. Corporate Employee Relations will regularly monitor and assess the application of the Group's Employee relations policy.

Source: <http://www.arcelormittal.com/corp/~media/Files/A/ArcelorMittal/corporate-responsibility/Employee-Relations-Policy.pdf>

Baffinland's Sustainability Policy

1.0 HEALTH AND SAFETY

We strive to achieve the safest workplace for our employees and contractors; free from occupational injury and illness from the very earliest of planning stages. Why? Because our people are our greatest asset. Nothing is as important as their health and safety. We report, manage and learn from injuries, illnesses and high potential incidents to foster a workplace culture focused on safety and the prevention of incidents.

We foster and maintain a positive culture of shared responsibility based on participation, behaviour and awareness. We allow our workers and contractors the right to stop any work if and when they see something that is not safe.

Baffinland's Human Resource Management Plan

- Section 2.0 – Human resources management principles
Baffinland's human resource policies and procedures are based on the following principles (P 4): promoting a safe, healthy and productive workplace; promoting a work environment of continuous improvement; supporting employees' efforts and aspirations to contribute at their full potential by promoting and rewarding workers based on merit and performance mutual trust, and providing transparent HR processes good corporate citizenship and responsibility
- Section 3.0 - Workplace preparedness
 - 3.1 cross-cultural recognition
 - 3.2. Inuit preparedness for the workplace
 - 3.3. Inuktitut in the workplace
 - 3.4. affirmative steps for attracting female employees
 - 3.5. employee and family assistance program
 - 3.6. availability of country food
 - 3.7. traditional activities
- Section 6.0 - Recruitment Program
 - 6.1. Project Human Resources Strategy
 - 6.5. Inuit Human Resources Strategy
 - 6.5.1. Inuit Recruitment and Selection Program
 - 6.5.2 Retention, advancement and career development

6.5.4 Inuit Women's Access to Employment

- Section 7.0 - Occupational Health and Safety
- Section 7.2. Medical program

- Section 8.0 - Education and Training
- List of training programs see Table 5.1. p 22).

- Section 9.0 – Employee Relations
- Section 9.3 – Employee benefits
- Section 10.0 - Contracting and Subcontracting

Baffinland Health and Safety Management Plan (FEIS - Appendix 10E)

Baffinland is committed to leadership and continuous improvement in environmental, health, and safety practices for the benefit of employees, contractors, and communities.

This will be accomplished by:

- Providing a safe and healthy workplace;
- Integrating environmentally sound practices in all processes;
- Complying with applicable laws, regulations, policies, and standards;
- Conserving natural resources and energy;
- Providing necessary resources to support environment, health, and safety goals and objectives; and
- Integrating environmental, health, and safety goals and objectives with overall business strategy.

Baffinland Environmental Health and Safety Committee Charter (appendix 10A-1)

To meet applicable legal requirements and operate at a best practices level, the EHS Committee is committed to undertake the following responsibilities with respect to the environment and health and safety of its employees:

Communicate to the company the importance of developing: (i) a culture of environmental responsibility and (ii) an awareness of the importance of health and safety.

Ensure adequate resources are available and systems in place for company management to implement appropriate environmental, and health and safety programs and request and obtain from the Chief Operating Officer periodic reports on such programs.

Establish policies, and provide oversight on development and implementation of management systems relating to environmental and health and safety matters.

Ensure management has implemented an Environmental, Health, and Safety Policy and Framework that includes defined standards and objectives, monitors effectiveness and, from time to time, reports to management any necessary improvements to such policy

and its framework of implementation.

Ensure management has implemented an environmental, health, and safety performance measurement system that can be used to provide a continuous measure of environmental and health and safety performance and continuous improvement of the company.

Use the environmental, health, and safety performance measurement system to monitor compliance with legal requirements and internal targets, as well as communicate a demonstrated commitment to the environment and employee health and safety to shareholders and stakeholders, including all members of the company.

Ensure that management has implemented an environmental and health and safety compliance audit program, request from the Chief Operating Officer periodic status reports on such program, and provide feedback on necessary improvement to the program.

Receive an annual report from management that includes any environmental, health, and safety issues of a material nature.

Report on its activities to the shareholders annually in the company's annual report or management information circular for the annual shareholders' meeting or other disclosure documents or on the company's website.

NIRB Terms and Conditions related to Workers' Rights

Term and Condition no. 135 - Education and Training / Work and Study

Objective: Recognizing the 12-hour work days inherent with work at the Project site, it is not clear how employees would successfully engage in a work/study program offered by the Proponent.

Term and Condition: The Proponent is encouraged to consider offering additional options for work/study programs available to Project employees (in addition to study programs at project sites that would be offered to employees when off shift).

Term and condition 136 - Education and training / transferable skills

Objective: Offering training which results in certifications that are valid for employment at more than one site or in different fields provides an investment in the long-term employability of Nunavummiut.

Terms or conditions: The Proponent is encouraged to work with training organizations and/or government departments offering mine-related or other training in order to provide additional opportunities for employees to gain meaningful and transferable skills, credentials and certifications especially where such training of employees offered by the Proponent remains valid only at the Mary River Project sites.

Term and Condition no 137 -Education and training/ transferable skills

Objective: Offering training which results in certifications that are valid for employment at more than one site or in different fields provides an investment in the long-term employability of Nunavummiut.

Term or condition: Prior to construction, the Proponent shall develop an easily referenced listing of formal certificates and licences that may be acquired via on-site training or training during employment at Mary River, such listing to indicate which of these certifications and licenses would be transferable to a similar job site within Nunavut. This listing should be updated on an annual basis, and is to be provided to the NIRB upon completion and whenever it is revised.

Term and condition no 138 - Education and training - Inuit employee training

Objective: Working together with the Qikiqtani Inuit Association to prepare effective training programs developed specifically for Inuit will assist in employee preparedness and may improve employee retention.

Term and condition: The Proponent is encouraged to work with the Qikiqtani Inuit Association to ensure the timely development of effective Inuit training and work-ready

Term and condition no 140 - Education and Training - Survey of Nunavummiut employees

Objective: Monitoring the number of employees who leave previous employment in their home communities or who leave some type of formal education in pursuit of employment with the Project is important to evaluate predictions made and the potential impacts to North Baffin communities and education rates.

Term or condition: The Proponent is encouraged to survey Nunavummiut employees as they are hired and specifically note the level of education obtained and whether the incoming employee resigned from a previous job placement or educational institution in order to take up employment with the Project.

Term and condition no 141 - Education and training - Training of Inuit

Objective: To ensure that effective training is available in a timely manner.

Term or condition: The Proponent is encouraged to work with the Qikiqtani Inuit Association prior to construction in order to prioritize the provision of training of Inuit to serve as employees in monitoring or other such capacities.

Term and condition no 142 - Livelihood and Employment - Employee cohesion

Objective: To promote cohesion between employees on site, and between employees and their families.

Term or condition: The Proponent is encouraged to address the potential direct and indirect effects that may result from Project employees' on-site use of various Inuktitut dialects as well as other spoken languages, specifically paying attention to the potential alienation of some employees that may occur as a result of language or other cultural barriers.

Term and condition no 143 - Livelihood and Employment - Employee family contact

Objective: To enable and foster connection and contact between employees and family members.

Term or condition: The Proponent is encouraged to consider the use of both existing and innovative technologies (e.g. community radio station call-in shows, cell phones, video-conferencing, Skype, etc.) as a way to ensure Project employees are able to keep in

contact with family and friends and to ward off the potential for feelings of homesickness and distance to impact on employee retention and family stability.

Term and condition no 144 - Livelihood and Employment - Requirement for employment

Objective: To ensure that the prerequisites and requirements for employment are clear and well known in work readiness program.

Term and condition: The Proponent is encouraged to make requirements for employment clear in its work-readiness and other public information programs and documentation, including but not limited to: education levels, criminal records checks, policies relating to drug and alcohol use and testing, language abilities.

Term and condition No 145 - Livelihood and Employment - Barriers to employment of women

Objective: To monitor and understand the existence of barriers to employment for women specifically relating to childcare availability and costs

Term or condition: The Proponent is encouraged to work with the Government of Nunavut and the Qikiqtaaluk Socio-Economic Monitoring Committee to monitor the barriers to employment for women, specifically with respect to childcare availability and costs.

Term and condition no 146 - livelihood and employment - Availability of childcare for project employees

Objective: To lessen the barriers to employment as relating to the availability of childcare.

Term or condition: The Government of Nunavut and the Qikiqtani Inuit Association are strongly encouraged to investigate the possibility for Project revenue streams to support initiatives or programs which offset or subsidize childcare for Project employees.

Term and condition no 147 - livelihood and employment - Affordability of housing
Objective: To lessen the barriers to maintaining employment as relating to the availability and costs of housing.

Term or condition: The Proponent is encouraged to work with the Government of Nunavut and the Nunavut Housing Corporation to investigate options and incentives which might enable and provide incentive for employees living in social housing to maintain employment as well as to negotiate for and obtain manageable rental rates.

Term and condition no 149 - Economic Development and Self-Reliance, and Contracting and Business Opportunities - Impacts of temporary closure

Objective: To further the understanding of how a temporary closure may impact on the well-being of the residents and businesses of the North Baffin region.

Term or condition: Prior to the commencement of operations, the Proponent is required to undertake an analysis of the risk of temporary mine closure, giving consideration to how communities in the North Baffin region may be affected by temporary and permanent closure of the mine, including economic, social and cultural effects.

Term and condition no 151 - Economic Development and Self-Reliance, and Contracting and Business Opportunities -Access to Housing

Objective: To investigate ways that economic development and self-reliance may improve access to housing by employees

Term or condition: The Proponent is encouraged to investigate measures and programs designed to assist Project employees with homeownership or access to affordable housing options.

Term and condition no 152 - Economic Development and Self-Reliance, and Contracting and Business Opportunities - IIBA contract requirements

Objective: To improve ability of small businesses to access Project contract and sub-contract opportunities.

Term or condition: The Qikiqtani Inuit Association is encouraged to provide the Board and the Qikiqtaaluk Socio-Economic Monitoring Committee with information regarding the effectiveness of any provisions within the Inuit Impact and Benefit Agreement which may require that larger contracts be broken down into smaller size in order that they are reasonably managed by smaller businesses in the North Baffin region, while respecting any confidential or privileged information

Term and condition no 153 - Human Health and Well-Being - Employee and family health and well-being

Objective: To provide adequate medical services on site, including those that contribute to the mental health and well-being of all employees.

Term or condition: The Proponent is encouraged to employ a mental health professional to provide counselling to Inuit and non-Inuit employees in order to positively contribute toward employee health and well-being.

Term and condition no 154 - Human Health and Well-being - Indirect impacts to health and well-being

Objective: To understand the indirect impacts of the Project upon health and well-being.

Term or condition: The Proponent shall work with the Government of Nunavut and the Qikiqtaaluk Socio-Economic Monitoring Committee to monitor potential indirect effects of the Project, including indicators such as the prevalence of substance abuse, gambling issues, family violence, marital problems, rates of sexually transmitted infections and other communicable diseases, rates of teenage pregnancy, high school completion rates, and others as deemed appropriate.

Term and condition no 155 - Human Health and Well-being - Employee cohesion

Objective: To encourage the on-site cohesion of employees through cultural-awareness and social programs.

Term or condition: The Proponent is strongly encouraged to provide the NIRB with an updated report on its development of mitigation measures and plans to deal with potential cultural conflicts which may occur at site as these may become needed.

Term and condition no. 156 - Human health and well-being - support initiatives

Objective: To assist with fostering well-being within point-of-hire communities.

Term and condition: The Proponent is encouraged to assist with the provision and/or support of recreation programs and opportunities within the potentially affected communities in order to mitigate potential impacts of employees' absences from home and community life.

Term and condition no 157. - Human health and well-being - Counselling and treatment programs

Objective: To make available, necessary treatment and counselling services for employee and family well-being.

Term and condition: The Proponent should consider providing counselling and access to treatment programs for substance and gambling addictions as well as which address domestic, parenting, and marital issues that affect employees and/or their families.

Concluding observations: key worker's rights issues to be monitored at the Mary River Mine

The key issues that need to be monitored from a human rights perspective include:

- Non-discrimination in employment. This means that Inuit workers and female workers should have equal chances to get hired and promoted at the mine. They should also be protected against harassment at work. This has sometimes been a challenge at other mines in Canada. Baffinland's training activities such as the Work Ready Program are positive steps to give Inuit opportunities for jobs. Training and apprenticeships for Inuit promote the right to work and the right to education. The government and the DIOs should collaborate to provide strong training programmes to allow Inuit to take advantage of the opportunities at the Mary River mine and for future mining projects in Nunavut.
- Safe and healthy working conditions. Modern mines in Canada have good safety records and Baffinland says that safety is its number one priority. However, there are many health and safety risks related to the different aspects of the Mary River mine, so on-going training, monitoring and inspection will be very important. Particular care and counseling should be provided to support mental health at the mine in relation to potential issues related to the fly-in/fly-out working arrangements and potential substance abuse problems.
- Just and favourable working conditions. Modern mines in Canada provide excellent wages and benefits and Baffinland is expected to be an employer of choice in Nunavut. By providing just and favourable working conditions for its employees, Baffinland also provides opportunities for families and communities to enhance other human rights such as food, health and education. As many Inuit are not accustomed to working in the formal economy, they may need support to ensure that generous wages and benefits turn into positive human rights outcomes. Government, DIOs and local communities all have a role to play.

- Freedom of association and collective bargaining. It is important that workers can discuss workplace issues and concerns with management. Some mines in Canada have unions and others do not. What is important is that Baffinland allows workers to meet together and to raise individual and collective issues such as health, safety, wages and benefits.
- Preventing forced labour and child labour. It is extremely unlikely that there will be forced labour or child labour issues at the Mary River mine. However, given the school drop-out rates in some Inuit communities, attention should be paid to child labour issues for local businesses that provide services to the mine.

SECTION SEVEN: HUMAN RIGHTS AND THE ENVIRONMENT

Key message

The history, culture, traditional activities and livelihoods of Inuit are intimately connected with the environment and wildlife. In general, there is uncertainty and concern about the Arctic environment as a result of climate change. There is also uncertainty about the potential impacts of the Mary River project on the environment and wildlife, mainly related to the proposed railway and all-year shipping from Steensby Inlet. From a human rights perspective, one of the most important issues for Baffinland relates to providing information about, and opportunities for participation in, the environmental monitoring programmes for the Mary River mine. Current initiatives to develop a multi-stakeholder Environmental Monitoring Committee should be supported.

International standards related to the environment

Universal Declaration of Human Rights, Article 25(1): Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family.

International Covenant on Economic, Social and Cultural Rights, Article 12:

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for: (b) The improvement of all aspects of environmental and industrial hygiene; (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases; (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

ILO Prevention of Major Industrial Accidents Convention C174; and, ILO Tripartite Declaration of principles concerning Multinational Enterprises and Social Policy, Articles 57 and 58.

UN Independent Expert on Human Rights and the Environment

All human beings depend on the environment in which we live. A safe, clean, healthy and sustainable environment is integral to the full enjoyment of a wide range of human rights, including the rights to life, health, food, water and sanitation. Without a healthy environment, we are unable to fulfil our aspirations or even live at a level commensurate with minimum standards of human dignity. At the same time, protecting human rights helps to protect the environment. When people are able to learn about, and participate in, the decisions that affect them, they can help to ensure that those decisions respect their need for a sustainable environment.

In recent years, the recognition of the links between human rights and the environment has greatly increased. The number and scope of international and domestic laws, judicial decisions, and academic studies on the relationship between human rights and the environment have grown rapidly.

Many States now incorporate a right to a healthy environment in their constitutions. Many questions about the relationship of human rights and the environment remain unresolved, however, and require further examination.

As a result, in March 2012 the Human Rights Council decided to establish a mandate on human rights and the environment, which will (among other tasks) study the human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, and promote best practices relating to the use of human rights in environmental policymaking.

Mr. John Knox was appointed in August 2012 to a three-year term as the first Independent Expert on human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment. He will submit his first report to the 22nd session of the Human Rights Council, in March 2013.

OECD Guidelines on Multinational Enterprises

General Policies:

1. Contribute to economic, environmental and social progress with a view to achieving sustainable development.
5. Refrain from seeking or accepting exemptions not contemplated in the statutory or regulatory framework related to human rights, environmental, health, safety, labour, taxation, financial incentives, or other issues.
10. Carry out risk-based due diligence, for example by incorporating it into their enterprise risk management systems, to identify, prevent and mitigate actual and potential adverse impacts as described in paragraphs 11 and 12, and account for how these impacts

are addressed. The nature and extent of due diligence depend on the circumstances of a particular situation.

VI. Environment

Enterprises should, within the framework of laws, regulations and administrative practices in the countries in which they operate, and in consideration of relevant international agreements, principles, objectives, and standards, take due account of the need to protect the environment, public health and safety, and generally to conduct their activities in a manner contributing to the wider goal of sustainable development. In particular, enterprises should:

1. Establish and maintain a system of environmental management appropriate to the enterprise, including:

a) collection and evaluation of adequate and timely information regarding the environmental, health, and safety impacts of their activities;

b) establishment of measurable objectives and, where appropriate, targets for improved environmental performance and resource utilisation, including periodically reviewing the continuing relevance of these objectives; where appropriate, targets should be consistent with relevant national policies and international environmental commitments; and

c) regular monitoring and verification of progress toward environmental, health, and safety objectives or targets.

2. Taking into account concerns about cost, business confidentiality, and the protection of intellectual property rights:

a) provide the public and workers with adequate, measureable and verifiable (where applicable) and timely information on the potential environment, health and safety impacts of the activities of the enterprise, which could include reporting on progress in improving environmental performance; and

b) engage in adequate and timely communication and consultation with the communities directly affected by the environmental, health and safety policies of the enterprise and by their implementation.

3. Assess, and address in decision-making, the foreseeable environmental, health, and safety-related impacts associated with the processes, goods and services of the enterprise over their full life cycle with a view to avoiding or, when unavoidable, mitigating them. Where these proposed activities may have significant environmental, health, or safety impacts, and where they are subject to a decision of a competent authority, prepare an appropriate environmental impact assessment.

4. Consistent with the scientific and technical understanding of the risks, where there are threats of serious damage to the environment, taking also into account human health and safety, not use the lack of full scientific certainty as a reason for postponing cost-effective measures to prevent or minimise such damage.

5. Maintain contingency plans for preventing, mitigating, and controlling serious environmental and health damage from their operations, including accidents and emergencies; and mechanisms for immediate reporting to the competent authorities.

6. Continually seek to improve corporate environmental performance, at the level of the enterprise and, where appropriate, of its supply chain, by encouraging such activities as:
a) adoption of technologies and operating procedures in all parts of the enterprise that reflect standards concerning environmental performance in the best performing part of the enterprise;

b) development and provision of products or services that have no undue environmental impacts; are safe in their intended use; reduce greenhouse gas emissions; are efficient in their consumption of energy and natural resources; can be reused, recycled, or disposed of safely;

c) promoting higher levels of awareness among customers of the environmental implications of using the products and services of the enterprise, including, by providing accurate information on their products (for example, on greenhouse gas emissions, biodiversity, resource efficiency, or other environmental issues); and

d) exploring and assessing ways of improving the environmental performance of the enterprise over the longer term, for instance by developing strategies for emission reduction, efficient resource utilisation and recycling, substitution or reduction of use of toxic substances, or strategies on biodiversity.

7. Provide adequate education and training to workers in environmental health and safety matters, including the handling of hazardous materials and the prevention of environmental accidents, as well as more general environmental management areas, such as environmental impact assessment procedures, public relations, and environmental technologies.

8. Contribute to the development of environmentally meaningful and economically efficient public policy, for example, by means of partnerships or initiatives that will enhance environmental awareness and protection.

Commentary on the Environment

60. The text of the Environment Chapter broadly reflects the principles and objectives contained in the Rio Declaration on Environment and Development, in Agenda 21 (within the Rio Declaration). It also takes into account the (Aarhus) Convention on Access to Information, Public Participation in Decision-making, and Access to Justice in

Environmental Matters and reflects standards contained in such instruments as the ISO Standard on Environmental Management Systems.

61. Sound environmental management is an important part of sustainable development, and is increasingly being seen as both a business responsibility and a business opportunity. Multinational enterprises have a role to play in both respects. Managers of these enterprises should therefore give appropriate attention to environmental issues within their business strategies. Improving environmental performance requires a commitment to a systematic approach and to continual improvement of the system. An environmental management system provides the internal framework necessary to control an enterprise's environmental impacts and to integrate environmental considerations into business operations. Having such a system in place should help to assure shareholders, employees and the community that the enterprise is actively working to protect the environment from the impacts of its activities.

62. In addition to improving environmental performance, instituting an environmental management system can provide economic benefits to companies through reduced operating and insurance costs, improved energy and resource conservation, reduced compliance and liability charges, improved access to capital and skills, improved customer satisfaction, and improved community and public relations.

63. In the context of these Guidelines, "sound environmental management" should be interpreted in its broadest sense, embodying activities aimed at controlling both direct and indirect environmental impacts of enterprise activities over the long-term, and involving both pollution control and resource management elements.

64. In most enterprises, an internal control system is needed to manage the enterprise's activities. The environmental part of this system may include such elements as targets for improved performance and regular monitoring of progress towards these targets.

65. Information about the activities of enterprises and about their relationships with sub-contractors and their suppliers, and associated environmental impacts is an important vehicle for building confidence with the public. This vehicle is most effective when information is provided in a transparent manner and when it encourages active consultation with stakeholders such as employees, customers, suppliers, contractors, local communities and with the public-at-large so as to promote a climate of long-term trust and understanding on environmental issues of mutual interest. Reporting and communication are particularly appropriate where scarce or at risk environmental assets are at stake either in a regional, national or international context; reporting standards such as the Global Reporting Initiative provide useful references.

66. In providing accurate information on their products, enterprises have several options such as voluntary labelling or certification schemes. In using these instruments enterprises should take due account of their social and economic effects on developing countries and of existing internationally recognised standards.

67. Normal business activity can involve the ex ante assessment of the potential environmental impacts associated with the enterprise's activities. Enterprises often carry out appropriate environmental impact assessments, even if they are not required by law. Environmental assessments made by the enterprise may contain a broad and forward-looking view of the potential impacts of an enterprise's activities and of activities of sub-contractors and suppliers, addressing relevant impacts and examining alternatives and mitigation measures to avoid or redress adverse impacts. The Guidelines also recognise that multinational enterprises have certain responsibilities in other parts of the product life cycle.

68. Several instruments already adopted by countries adhering to the Guidelines, including Principle 15 of the Rio Declaration on Environment and Development, enunciate a "precautionary approach". None of these instruments is explicitly addressed to enterprises, although enterprise contributions are implicit in all of them.

69. The basic premise of the Guidelines is that enterprises should act as soon as possible, and in a proactive way, to avoid, for instance, serious or irreversible environmental damages resulting from their activities. However, the fact that the Guidelines are addressed to enterprises means that no existing instrument is completely adequate for expressing this recommendation. The Guidelines therefore draw upon, but do not completely mirror, any existing instrument.

70. The Guidelines are not intended to reinterpret any existing instruments or to create new commitments or precedents on the part of governments – they are intended only to recommend how the precautionary approach should be implemented at the level of enterprises. Given the early stage of this process, it is recognised that some flexibility is needed in its application, based on the specific context in which it is carried out. It is also recognised that governments determine the basic framework in this field, and have the responsibility to consult periodically with stakeholders on the most appropriate ways forward.

71. The Guidelines also encourage enterprises to work to raise the level of environmental performance in all parts of their operations, even where this may not be formally required by existing practice in the countries in which they operate. In this regard, enterprises should take due account of their social and economic effects on developing countries.

72. For example, multinational enterprises often have access to existing and innovative technologies or operating procedures which could, if applied, help raise environmental performance overall. Multinational enterprises are frequently regarded as leaders in their respective fields, so the potential for a "demonstration effect" on other enterprises should not be overlooked. Ensuring that the environment of the countries in which multinational enterprises operate also benefit from available and innovative technologies and practices, is an important way of building support for international investment activities more generally.

73. Enterprises have an important role to play in the training and education of their employees with regard to environmental matters. They are encouraged to discharge this responsibility in as broad a manner as possible, especially in areas directly related to human health and safety.

UN Global Compact

Principle 7: Businesses should support a precautionary approach to environmental challenges.

What is the precautionary approach?

Introducing the precautionary approach, Principle 15 of the 1992 Rio Declaration states that “where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation”.

Precaution involves the systematic application of risk assessment (hazard identification, hazard characterization, appraisal of exposure and risk characterization), risk management and risk communication. When there is reasonable suspicion of harm and decision-makers need to apply precaution, they have to consider the degree of uncertainty that appears from scientific evaluation. Deciding on the "acceptable" level of risk involves not only scientific-technological evaluation and economic cost-benefit analysis, but also political considerations such as acceptability to the public. From a public policy view, precaution is applied as long as scientific information is incomplete or inconclusive and the associated risk is still considered too high to be imposed on society. The level of risk considered typically relates to standards of environment, health and safety.

Principle 8: Businesses should undertake initiatives to promote greater environmental responsibility.

What is environmental responsibility?

In Chapter 30 of Agenda 21, the 1992 Rio Earth Summit spelled out the role of business and industry in the sustainable development agenda as: "Business and industry should increase self regulation, guided by appropriate codes, charters and initiatives integrated into all elements of business planning and decision-making, and fostering openness and dialogue with employees and the public."

The relevant principle in the Rio Declaration says we have the responsibility to ensure that activities on our own yard should not cause harm to the environment of our neighbours. Society also expects business to be good neighbours. Business gains its legitimacy through meeting the needs of society, and increasingly society is expressing a clear need for more environmentally sustainable practices.

Canadian Legal Standards

In Canada, the federal government, as well as provincial, territorial and Aboriginal governments, share responsibility for protecting the environment -- an approach that calls for close collaboration as governments work to support the well-being of Canadians.

The cornerstone of the Government of Canada's environmental legislation, Canadian Environmental Protection Act, 1999, is aimed at preventing pollution and protecting the environment and human health.

One of CEPA 1999's major thrusts is the prevention and management of risks posed by harmful substances. As well, CEPA 1999 provides for the assessment and/or management of the environmental and human health impacts of new and existing substances. This includes products of biotechnology, marine pollution, disposal at sea, vehicle, engine and equipment emissions, fuels, hazardous wastes, environmental emergencies and other sources of pollution.

Work carried out under CEPA 1999 is complemented by other federal Acts administered (fully or partially) by the Minister of the Environment for example, the Fisheries Act, the Canada Water Act, the Species at Risk Act, the Canada Wildlife Act, and the Canadian Environmental Assessment Act.

CEPA 1999 Guiding Principles establish the fundamental approach to environmental protection under law, and including the following: Sustainable development, Pollution prevention, Virtual elimination, Ecosystem approach, Precautionary principle, intergovernmental cooperation, Polluter-pays principle, and Science-based decision making.

Mining Association of Canada, “Towards Sustainable Mining”

In addition to its Protocol on Health and Safety, the MAC has developed the following Protocols that are relevant to environmental protection.

- Crisis Management

MAC's Public Affairs Committee has developed performance indicators for crisis management planning to help companies leverage best practices and critically assess business performance. MAC has established three key performance indicators for this protocol: crisis management preparedness, review, and training.

- Energy and GHG Emissions Management

This protocol enables MAC members to evaluate their energy use and greenhouse gas (GHG) emissions management against TSM performance indicators. The resulting assessments help member companies develop capacity to monitor and improve performance as well as provide a basis for company assurance.

- Tailings Management (N.B. Not applicable at Mary River as there is not anticipated to be tailings)

MAC protocol for tailings management consists of five performance indicators: management policy and commitment; management system development; assigned accountability and responsibility; annual management review; and an operation, maintenance and surveillance (OMS) manual.

- Biodiversity Conservation Management

There are three performance indicators against which MAC members can measure their biodiversity and conservation management. They are: corporate biodiversity conservation policy, accountability and communications; facility-level biodiversity conservation planning and implementation; and biodiversity conservation reporting.

ArcelorMittal Environmental Policy

Our environmental policy

The group-wide policy applies to every aspect of our operations and is based on the following principles:

1. Implementation of environmental management systems including ISO 14001 certification for all production facilities;
2. Compliance with all relevant environmental laws and regulations, and other company commitments;
3. Continuous improvement in environmental performance, taking advantage of systematic monitoring and aiming at pollution prevention;
4. Development, improvement and application of low-impact, environmental production methods that make use of locally available raw materials;
5. Development and manufacture of environmentally-friendly products, focusing on their use and subsequent recycling;
6. Efficient use of natural resources, energy and land;
7. Management and reduction, where technically and economically feasible, of the CO₂ footprint of steel production;
8. Employee commitment and responsibility in environmental performance;
9. Supplier and contractor awareness and respect for ArcelorMittal's environmental policy;

10. Open communication and dialogue with all stakeholders affected by ArcelorMittal's operations.

Environmental Policy:

<http://www.arcelormittal.com/corp/~media/Files/A/ArcelorMittal/who-we-are/EnvironmentalPolicy.pdf>

Baffinland sustainability policy

2.0. ENVIRONMENT

- We employ a balance of the best scientific and traditional Inuit knowledge to safeguard the environment.
- We apply the principles of pollution prevention and continuous improvement to minimize ecosystem impacts, and facilitate biodiversity conservation.
- We continuously seek to use energy, raw materials and natural resources more efficiently and effectively. We strive to develop pioneering new processes and more sustainable practices.
- We understand the importance of closure planning. We ensure that an effective closure strategy is in place at all stages of project development and that progressive reclamation is undertaken as early as possible to reduce potential long-term environmental and community impacts.

Concluding observations about the environment

In the public hearings for the Mary River project, many of the concerns of Inuit related to the environment. At the same time, the different actors including the company, different government departments and the QIA have been taking these concerns very seriously in the environmental and socio-economic impact review process overseen by the NIRB.

There are some human rights related to the environment:

- There are potential impacts on the right to food related to the potential effects of mining operations on wildlife, which is the main source of the “country food” and traditional diet of Inuit. The concerns about wildlife also have implications for Inuit rights to traditional livelihoods and occupations. The ability of Inuit to practice their traditional occupations is closely tied to other rights related to the maintenance of Inuit cultures, languages and traditional knowledge, and their right to self-determination. The greatest risks to wildlife are related to the proposed railway and all-year shipping from Steensby Inlet. Because of the Early Revenue Phase, there are several more years for the different actors to complete baseline studies and design

mitigation measures to prevent adverse impacts on wildlife and respect the related human rights.

- There are potential impacts on the right to health related to the interaction of the mining operations. Because the Mary River mine is in a remote location far away from the nearest communities, and the mine does not require any chemical processing, the risks to the right to health for community members are relatively small. The health risks of employees are part of the discussion of labour rights.
- There are also potential long-term impacts on the environment related to the closure of the mine. Because the Mary River mine does not involve chemical processing and the accumulation of tailings, there are less environmental risks for closure than for other types of mines. Furthermore, closure is many years away and the time frame for closure may be extended if other ore deposits are developed. The company's plans include a 4-year closure period with a commitment to post-closure monitoring for as long as is required. There are also important conditions in the mine's certificate related to closure. The involvement of Inuit in closure planning and post-closure monitoring provides an important opportunity to respect human rights related to the environment.

From a human rights perspective, one of the most important issues for Baffinland relates to providing information about, and opportunities for participation in, the environmental monitoring programmes for the Mary River mine. Baffinland has made commitments to train and hire Inuit for various jobs related to environmental monitoring in its operations. The QIA is advancing a proposal for an Environmental Monitoring Group that will involve Inuit and other actors. These initiatives should be encouraged and supported as mechanisms to respect human rights related to the environment, as well as Inuit rights to on-going consultation and information about the Mary River project.

Additional Information and Resources

- ICMM Position Paper on Climate Change
- Good Practice Guidance for Mining and Biodiversity: <http://www.icmm.com/page/1182/good-practice-guidance-for-mining-and-biodiversity>
- Water Management in Mining: A Selection of Case Studies: <http://www.icmm.com/www.icmm.com/water-case-studies>
- Guidance Paper: Financial Assurance for Mine Closure and Reclamation: <http://www.icmm.com/page/1232/guidance-paper-financial-assurance-for-mine-closure-and-reclamation>
- Planning for Integrated Mine Closure: Toolkit: <http://www.icmm.com/our-work/projects/mineclosure>

SECTION EIGHT: KEY FINDINGS ON HUMAN RIGHTS AND COMMUNITIES

Key message

The Baffinland company will make a number of direct and indirect contributions to the Inuit communities through taxes, royalties, impact benefit payments and voluntary contributions to social programmes. These socio-economic contributions have the potential to make a very important positive contribution to human rights for more than a generation and to have a transformative effect on communities. However, it is very important that there is consultation, planning, coordination and monitoring by all stakeholders to ensure that the money is invested with a long-term strategy. From a human rights perspective, the predictable negative social impacts that mining communities experience should be addressed in a pro-active manner.

The first question is about the taxes, royalties and other payments that Baffinland makes to governments and the Designated Inuit Organizations. The government should spend this money in a way that protect, respects and fulfils human rights. For example, government spending on medical clinics in the communities should enhance the right to health; and, contributions by the DIOs to training programmes should promote the right to education and the right to work. The key to understanding whether taxes, royalties and other payments are having positive impacts on human rights is the transparency of the different revenue flows from the Mary River mine.

One potential issue to monitor is the misalignment between the government departments that receive increased revenues from the mine and those that will have to address the predictable negative social impacts related to mining. For example, the government of Nunavut, the municipality of Iqaluit and the hamlet councils will be on the front-line for rising demands on local infrastructure and services, but will not receive the majority of the economic flows from the mine. Coordination and framework agreements between different levels of government, the DIOs and the communities are important to ensure that there is not a gap in funding to address negative human rights impacts.

The second question is about Baffinland's direct contributions to communities. Baffinland has already made significant voluntary contributions in communities and it has pledged to make further contributions to local development funding initiatives. These initiatives can have important positive impacts on human rights. For example, providing computers for school children contributes to the right to education and enhances future opportunities for the right to work. Including beneficiaries in the on-going consultation about and monitoring of Baffinland's voluntary contribution programs can maximize their results in terms of human rights.

Beyond its voluntary contributions, Baffinland must address the negative human rights impacts that are related to the mine's operations. In the public hearing, the RCMP talked about some problems about crime, violence, alcohol and gambling that other northern mining communities have experienced. These problems can have negative impacts on

the right to health and the right to security of the person. Other concerns expressed relate to potential negative impacts on the right to housing, the right to food, and the right to traditional livelihoods and culture. These social issues have many causes, but the responsibility to respect human rights implies that Baffinland should work with communities, governments and other stakeholders to proactively address them. These are the issues that should be prioritized by Baffinland's development funding initiatives.

International Legal Standards

- Obligation of the State to promote economic, social and cultural rights.²⁹
 - Using the maximum available resources
 - Ensuring minimum levels of economic, social and cultural rights
 - Avoiding deliberately retrogressive measures
 - Ensuring non-discrimination and equality
 - Allowing for participation, transparency and accountability
- The general responsibility for companies with respect to human rights is to "do no harm;" therefore some social investments may be viewed as 'mandatory' in the sense that they address the negative impacts of a company's operations.
- Other social investments may be viewed as 'mandatory' because they are part of a formal commitment that a company made with a community, government or financial institution in order to obtain consent and approval to the project.
- Other social investments may be viewed as 'voluntary' because they are not addressing negative impacts or formal commitments; however, these still represent an opportunity to enhance various international human rights.
- Universal Declaration of Human Rights, Articles 23, 25, 26
- International Covenant on Economic, Social and Cultural Rights, Articles 6, 11, 12, 13
- OECD Guidelines for Multilateral Enterprises, General Policies #1
- ICMM Sustainable Development Framework, Principle 9; ICMM Position Statement on
- Mining and Partnerships for Development; and ICMM Position Statement on Indigenous Peoples, Commitment #7
- UN Global Compact and UNIFEM Women's Empowerment Principles #6

²⁹ See summary of human rights framework relevant to obligations of States in the Report of the Independent Expert on the question and extreme poverty, Magdalena Sepúlveda Carmona (A/HRC/17/34) of 17 March 2011 at paras. 11 to 28.

- UN Common Approach on Human-Rights Based Approaches to Development
- Indigenous peoples rights are focused on the ability of indigenous people to participate in the design, planning and implementation of development project that are supposed to benefit them. See UN DRIP, Article 32 and ILO 169, Article 15(2)

Economic contributions from Baffinland

- The mine's economic contributions to the State have the potential to contribute positively to the fulfilment of a range of human rights. For the purpose of this assessment, the main international human rights standards are those associated with the State's general obligation to progressively realize the economic, social, and cultural rights of its citizens. (International Covenant on Economic, Social and Cultural Rights)
- To the extent that Baffinland's economic flows contribute to specific social programs or infrastructure projects, there may be an enhancement of a range of human rights, such as rights to water, health, or education.
- Employment and the associated improved income can provide for enhancement of human rights, specifically the right to work and an adequate standard of living.
- Furthermore, the company's economic contributions are also part of providing indigenous peoples with benefits from the exploration and exploitation of mineral resources. Indigenous peoples are supposed to be consulted upon and participate in those benefits. (UNDRIP)
- There are fewer questions and indicators in the DIHR HRCA tool to assess the company's compliance in this area, but the international standards and guidelines for companies include:
 - Contributions to economic, social and environmental progress with a view to achieving sustainable development; (OECD Guidelines, General Policies 1, ICMM Principle 9)
 - Contributions to the public finances of host countries by making timely payment of tax liabilities; (OECD Guidelines, Chapter X on Taxation)
 - Payment of wages to local employees and contractors to enhance the economic, social and cultural rights of those individuals and their dependents, and also to provide an indirect benefit through spending in the community and contributions to public finances through taxation.
- The measures a company takes to combat corruption and promote transparency of its payments to governments are also important for supporting the human rights benefits and preventing injustice or impropriety. (ICMM, May 2009, Section 3.7; OECD Guidelines, Chapter VI on "Combating Bribery"; UN Global Compact, Principle 10; ICMM 2010, Principle 1; and GRI, SO2 to SO6).

Community investments by Baffinland

- Social investment and other development projects have the potential to enhance economic, social and cultural rights.
- They may also enhance civil and political rights through capacity-building that permits beneficiaries to develop the skills to participate more fully in democratic society.
- Social development programs are also a primary mechanism for delivering on UN Declaration on Indigenous Peoples Rights requirement that indigenous peoples participate in benefits of the exploration and exploitation of mineral resources on their lands.
- To the extent that social investment programmes prioritize health, education, economic development and micro-financing, the main international human rights standards relevant to this assessment are:
 - Right to health;
 - Right to education; and
 - Right to work and an adequate standard of living.
- More broadly, social investment projects contribute to the rights of indigenous peoples to participate in the benefits of the exploitation of natural resources pertaining to their land.
- Relevant international standards and good practice guidance for a company’s contributions to social investment projects include:
 - Contributions to economic, social and environmental progress with a view to achieving sustainable development;⁴²
 - Opportunities for culturally appropriate development benefits through a process of free, prior and informed consultation and the informed participation of the affected communities of indigenous peoples;⁴³
 - Developing an understanding of the social and economic contribution of the project, including an analysis of the barriers that might weaken this contribution;⁴⁴ and
 - Actively supporting partnerships or collaborations with other stakeholder groups, with the aim of ensuring the project’s full potential socio-economic contribution is realized.⁴⁵

Programmes to mitigate negative social or economic impacts funded by Baffinland

- The corporate responsibility to respect human rights requires companies to “do no harm” and to address all the negative impacts that arise from their operations. (Protect, Respect and Remedy, paragraph 24 and 25)

- Potentially, the full range of internationally-recognized human rights is at risk from a company's activities. The priority areas of risk and potential for negative impact for the Mary River mine are identified in the other sections of the assessment.
- In some cases, addressing negative impacts requires Baffinland to refrain from undertaking actions, notably in relation to civil and political rights (e.g. refrain from calling upon public security forces to address the risk of negative impact on the right to security of the person or freedom of association). In the area of economic, social and cultural rights, the primary mechanism for Montana to address the potential negative impacts of its operations is through social investments and development programs.
- There is also an obligation in the UNDRIP to provide compensation to indigenous peoples for any damages sustained as a result of mineral exploitation, as part of indigenous peoples right to participate in the development benefits of exploration and exploitation of natural resources.
- Furthermore, commitments to mitigate negative social and environmental impacts were also included in the FEIS as well as the NIRB report. As commitments and conditions are closely related to respecting human rights, these confer additional responsibilities for Baffinland from the point of view the "Protect, Respect and Remedy" framework (paragraph 24) as well as for compliance with the regulatory requirements of the project.
- This is reinforced by relevant industry standards and good practice guidance for addressing social and environmental impacts of projects. (IFC, 2006, Performance Standard 1, paras. 13-16, Performance Standard 7, para. 8; ICMM, 2010b, Principle 3; ICMM, May 2009, 3)

Canadian Legal Standards

- Apart from the contractual commitments undertaken in agreements with Designated Inuit Organization (e.g. IIBAs) or with NGOs to deliver social programs, there is no legal requirement for companies to make direct social investments in Canada. Nonetheless, social investments and corporate donations are encouraged through income tax measures and as part of many company's CSR strategies.
- In Nunavut, there is an obligation to negotiate an IIBA as part of the NLCA
- The s. 35 duty to consult and accommodate can require investments in measures that mitigate negative impacts.
- NIRB mandate for the Mary River Project includes socio-economic impacts

- N.B. the provisions in s. 24 of Bill C-47: “The Board is not authorized to establish, in the exercise of its powers or the performance of its duties, requirements relating to socio-economic benefits.”
- Obligation to pay various levels of taxes and royalties which may have an indirect impact on social and economic rights, depending on how these revenues are spent by governments and DIOs.

Mining Association of Canada, “Towards Sustainable Mining”

- TSM does not contain any performance measures related to contributions to sustainable development; however, recent MOU with PWYP Canada seeks to develop a reporting framework that includes comparable information about resource contributions of the Canadian mining industry. (Further discussed in section on transparency)

ICMM

- ICMM Sustainable Development Framework, Principle #9: “Contribute to the social, economic and institutional development of the communities in which we operate.”
- ICMM Position Statement, “Partnership for Development” (January 2010), that includes a number of recognition statements and commitments.
- ICMM, “Human rights, social development and the mining and metals sector” (June 2012)
 - The links between human rights, social development and the mining and metals sector
 - Recommendations for government and industry
- ICMM, “The role of mining in national economies” (October 2012)
 - Table 4: Main components of production value
 - Operating expenditures
 - Salaries and wages
 - Capital expenditures
 - Taxes
 - Financing Costs
 - Profit for shareholders
 - Finding #5: “Even in countries where mining and metals play a major role, there can be large discrepancies in the benefits that accrue at the national level and the benefits at the local level.”

Company policies and commitments

Arcelor Mittal (<http://www.arcelormittal.com/corp/corporate-responsibility/communities>)

At ArcelorMittal, we recognise that investing in a country goes beyond just running successful steel or mining operations. It involves engaging with and contributing to the development of local communities.

Education

In the field of education, we recognise our responsibility to share our technical expertise and build up the local skills base. This is why we invest in local training and education programmes, as well as building our own research and development centres. For example, we built specialist facilities for the Karaganda Metallurgical Institute in Kazakhstan, a specialist institution that has trained some of ArcelorMittal's most senior technical specialists.

Health

Health is a fundamental entitlement of every human being, and improving health facilities is at the core of our communities work. From Ukraine to Senegal, we have built new medical centres and polyclinics for employees, their families and the wider community.

Community development

At the heart of most communities are good family homes. In Ukraine, ArcelorMittal Kryviy Rih has provided its employees with free housing. There are further plans to build three more residential buildings in the city.

Arcelor External Stakeholder Engagement Procedure

(<http://www.arcelormittal.com/corp/~media/Files/A/ArcelorMittal/corporate-responsibility/external-stakeholder-engagement.pdf>)

1. Purpose

The ArcelorMittal External Stakeholder Engagement Procedure defines the minimum requirements for engaging with external stakeholders for all Company operations and subsidiaries. It is mandatory, and is to be reported at unit and corporate level as part of ArcelorMittal's commitment to transparent reporting.

2. Contents

A. Scope and objectives

The ArcelorMittal External Stakeholder Engagement Procedure provides guidelines for establishing and maintaining good relationships with local stakeholders including residents, nongovernmental organisations, local authorities, customers, suppliers, academia and other institutions.

This Procedure does not apply to engaging with ArcelorMittal employees, contractors, sub-contractors or Trade Unions, which is covered by the ArcelorMittal Employee Relations Policy.

External stakeholder engagement at ArcelorMittal has three objectives:

- To earn the trust and respect of our external stakeholders.

- Demonstrate active and visible leadership in stakeholder engagement.
- To build and protect our brand, reputation and safeguard our license to operate.

B. Minimum requirements

Each operating subsidiary must meet the following requirements.

i) Legal obligations

In implementing this Procedure, each site must comply with all applicable local laws and regulations on stakeholder engagement and community consultation, which must be incorporated into the basic design of a stakeholder engagement programme.

ii) Stakeholder identification, analysis and engagement

Develop an understanding of the Company's stakeholders and their concerns, including those stakeholders who may be vulnerable because of their age, race, ethnicity, gender, status

in the community or any other defining factor.

Undertake regular, at least quarterly, stakeholder and issue prioritisation and integrate the information into Company decision-making processes.

Have a dedicated, regular and inclusive programme for engaging stakeholders in a culturally appropriate manner through informal and formal events.

iii) Information disclosure

Disseminate Company information in a format and language(s) that is accessible to stakeholders.

Devise and publish an annual Stakeholder Engagement Plan.

Publish an annual overview of the stakeholder engagement activity, through a local Corporate Responsibility report, website, stakeholder engagement plan or newsletter.

Publish regular summaries of outcomes of stakeholder meetings, in a locally appropriate format.

iv) Grievance mechanism

- Establish an accessible grievance mechanism to handle complaints on Company activity in a systematic way and ensure that stakeholders are made aware of it and how it works.

- Ensure that the complainant, or other persons associated with the complaint can seek redress with a guarantee of protection from harassment, prosecution or any other form of reprisal or retaliation,

v) Management functions

Include stakeholder engagement in the Company's formal management structure with the appropriate human and financial resources, including at least one person to coordinate activities.

Record details of stakeholder engagement activity and prepare documentation for audit reviews.

Report to the CEO and the management board regularly on the activity.

Submit the annual Stakeholder Engagement Plan to the Group Corporate Responsibility Team.

Review the external stakeholder engagement activity annually.

Arcelor Mittal Human Rights Policy

http://www.arcelormittal.com/corp/~media/Files/A/ArcelorMittal/corporate-responsibility/ArceloSrMittal_HumanRightsPolicy.pdf

Scope:

Local communities: We seek to respect human rights and to develop an understanding of the cultures, customs and values that prevail in our local communities by developing an inclusive and open dialogue with the people affected by our operations. The ArcelorMittal Community Engagement Standard requires us to conduct an open and inclusive dialogue with local communities, including engaging with often under-represented groups such as women and Indigenous Peoples.

Specific Provisions:

Local Communities

Avoiding Involuntary Resettlements ArcelorMittal seeks to avoid involuntary resettlements. In situations where it is unavoidable, we commit to comply with the national government's or regional authorities' guidelines on resettlement and rehabilitation and also act in line with international human rights norms on this subject.

Respecting Indigenous Peoples' Rights ArcelorMittal respects the rights of Indigenous Peoples as defined by applicable national and emerging international standards.

Adopting Proportionate Security Arrangements ArcelorMittal aims to ensure that the provision of security to our operations and our engagement with public and private security

forces is consistent with the laws of the relevant country and relevant international standards and guidelines, such as the Voluntary Principles on Security and Human Rights. We will adapt

our security arrangements to balance the need for safety while respecting human rights.

Developing practices for Land and Water use ArcelorMittal works towards understanding and applying sound practices for land and water use consistent with emerging

international practices while respecting human rights, and in support of our Environment Policy.

Arcelor Mittal – Corporate Social Responsibility Report 2011

(<http://www.arcelormittal.com/corp/news-and-media/publications-and-reports/cr-report2011>)

Community engagement: Wherever we operate, we aim to contribute to the development of strong and sustainable communities. We conduct local assessments to define the key areas for engagement that help us to assign our resources and identify new issues for management. Our relationship with communities is important to us. We have a detailed external stakeholder engagement procedure (updated in January 2012), previously called the ArcelorMittal community engagement standard, that we expect all our sites to follow. Every major production site must identify their key stakeholders, their main issues of concern, and then devise a plan to engage with them. Each major

operation must also set up a grievance mechanism, so that local people can raise concerns, and be confident that they will be addressed. (p39)

Human rights in the community: Four of the 12 policy aspects covered by the ArcelorMittal human rights policy relate to our communities – ranging from topics such as access to land and water to resettlement. ArcelorMittal seeks to avoid involuntary resettlements. In situations where it is unavoidable, we commit to comply with the national or relevant regional authorities’ guidelines on resettlement and compensation and also act in line with international human rights norms. All resettlement activity is preceded by stakeholder consultation, to understand and inform how it could be done in a manner that would best benefit those affected and offer them a better quality of life as a result.

Our human rights policy asserts our commitment to respect Indigenous Peoples’ Rights. Currently our engagement centres around the Baffinland Project in the Arctic in Northern Canada, where we are preparing for a future mining project. The policy also requires us to develop practices for land and water use in reference to human rights concerns. Thus we aim to include human rights elements in our future environmental and social action plans wherever possible (p40).

ArcelorMittal Foundation: The ArcelorMittal Foundation was set up in 2007 to be a channel for the company’s community investment activities. It concentrates its work on the communities across the world where ArcelorMittal has a major presence, with the aim of making a positive contribution to the social and economic development of the areas around our operating sites (p40-42).

Baffinland sustainability policy

(<http://www.baffinland.com.vs2.korax.net/wp-content/themes/baffinland/images/SDPolicy%2011-09-09.pdf>)

3.0 Investing in our communities

We respect human rights and the dignity of others. We honour and respect the unique culture, values and traditions of the Inuit people.

We contribute to the social, cultural and economic development of sustainable communities adjacent to our operations.

We honour our commitments by being sensitive to local needs and priorities through engagement with local communities, governments, employees and the public. We work in active partnership to create a shared understanding of relevant social, economic and environmental issues, and take their views into consideration when making decisions.

Mary River FEIS commitments

Volume 4 – Human Environment

Revenues

Summary of revenues flowing to the territorial government

During the construction phase Project tax payments are estimated to total roughly \$12.5 million per year. This represents approximately 1 % total territorial revenue from all sources. It is noted, though, that this early revenue stream will account for over 10 % or more of the territorial government’s “own-source” revenues of \$89 million.

During operations, approximately \$17 million per year will flow to the territorial government through property tax and taxes on inputs such as fuel and labour. Taxes on net corporate income (“profits”) earned in Nunavut will also be paid to the territory. This is currently taxed at a rate of 12 %.(FEIS, volume 4: 232)

Significance Determination

The beneficial effect of Project revenues flowing to the territorial government is assessed to be significant over the life of the Project. During operations, taxes paid on property and on inputs of fuel and labour are expected to total nearly 20 % of the territory’s “own-source” revenues. Taxes paid on corporate profits will contribute further revenues to the government. The magnitude of this corporate profits tax is not estimated given the uncertainty and variability caused by factors outside the control of Baffinland, such as iron ore prices, fuel costs, exchange rates and interest rates. (FEIS, volume 4: 232)

Impact statements (FEIS, volume 4: 240-242) – socio-economic

14.1.1 Summary of Impact Statements for VSECs (value socio-economic component)

Impact Statement for the Population and Demographics VSEC

The Project will have multiple residual effects on the Population Demographics VSEC (Section 2.0) for some of the communities in the North Baffin LSA. These will affect individuals, families and communities, and may include positive as well as negative directions. The dynamic nature of human and community interactions makes it difficult to predict the overall direction (positive or negative) and magnitude of such changes. Mitigation measures implemented by Baffinland aim to enhance the positive residual effects of the Project on this VSEC. Based on the best available understanding of the dynamics involved in these decisions, there is moderate confidence that negative residual effects will have no significant effect on Population Demographics.

Impact Statement for the Education and Training VSEC

The assessment of the Project’s residual effects on life skills and on education and skills, combined with a consideration of the subjects of note, **concludes that the Project will have a significant positive effect on education and training.** This effect is expected to be confined to the LSA and should have sustained benefits that will be felt beyond the termination of the Project. Given the mitigation measures committed to, as described in the HRMP (Appendix 10F-3), confidence in this assessment is high.

Impact Statement for the Livelihood and Employment VSEC

The Project is assessed to have no significant adverse residual effects on the Livelihood and Employment VSEC (Section 4.0). With successful implementation of planned mitigation, it is assessed to have significant beneficial effects on this valued component.

Impact Statement for the Economic Development and Self-Reliance VSEC

The overall direction of the effects of the Project on the Economic Development and Self-Reliance VSEC are assessed, with a high level of confidence, to be positive. Direct and indirect economic expansion associated with the Project will create new opportunities for employment and business across the RSA, and particularly within the LSA. The Project will enhance labour force capacity and may increase Inuit business capacity. The assessment of

Project interactions on land and land use dimensions of this VSEC suggest that these effects will be multi-dimensional. No significant adverse effects on the underlying VECs are assessed. The integrated analysis of the combined effects of the Project does not lead to an assessment of adverse effects on harvesting. Considering the Project's interactions with these multiple dimensions related to Economic Development and Self-Reliance, the residual effects of the Project are assessed to be positive and significant.

Impact Statement for the Human Health and Well-Being VSEC

The positive residual effects of the Project on the Human Health and Well-being VSEC (Section 6.0) are assessed to be significant. Improved income is a major factor in this assessment, as it will improve the well-being of most children whose parents work at the mine. **Some negative residual effects are expected to occur in relation to the well-being of some children arising from absence of workers from the community.** These effects are not expected to reach levels that would cause significant adverse impacts on the VSEC, however. The Project will have positive and negative residual effects on substance abuse, but these are not assessed to be significant.

Impact Statement for the Community Infrastructure and Public Services VSEC

The assessment of the Project's residual effects on the Community Infrastructure and Public Services VSEC (Section 7.0), combined with a consideration of the subjects of note, **leads to a conclusion that the Project will have a significant positive impact this valued component.** This conclusion is based on an assessment of no significant adverse residual effects on community infrastructure and services arising from competition for skilled workers, and on an assessment of significant labour force capacity development.

Impact Statement for the Contracting and Business Opportunities VSEC

The direction of the effects of the Project on the Contracting and Business Opportunities VSEC are assessed, with a high level of confidence, to be positive. Baffinland, through the IIBA, is committed to work closely with the QIA and will fund an initiative for capacity building that will be administered by the QIA. The company is also committed to an Inuit contracting policy adapted to the capacity of Inuit firms.

The successful implementation of these mitigation measures, and the active participation of individuals in these programs, will largely determine the significance of the Project's residual effects on contracting and business opportunities. In light of the mitigation measures adopted by Baffinland, the residual effects are assessed to be positive and significant.

Impact Statement for the Cultural Resources VSEC

The Project will involve the avoidance, protection and mitigation of archaeological sites in accordance with an Archaeological Mitigation Plan approved by CLEY, and a protection plan to reduce the potential for unintentional destruction of archaeological sites. With the implementation of both the mitigation and protection plans, the Project is expected to have negligible residual effect on the disturbance or removal of archaeological sites, and on the cultural resources VSEC.

Impact Statement for the Resources and Land-use VSEC

The Project will interact with current land-use activities such as harvesting, travel and camping. Direct adverse residual effects on these activities are acknowledged. With planned mitigation described in the Key Indicator assessments these effects are predicted to be not significant. Concerns that Project effects on these Key Indicators along with other residual effects on relevant VECs and VSECs might combine to lead to adverse effects on Resources and Land-Use and on harvesting livelihoods were raised during the DEIS technical review. These concerns are

addressed in detail in this Volume, Section 4.3. The integrated analysis of the combined effects of the Project does not lead to an assessment of adverse effects on harvesting. The interactions are expected to be complex and highly inter-twinned with other factors affecting harvesting in the LSA. The potential for beneficial outcomes is equally or more highly anticipated than the potential for negative effects. An analytical framework developed for this assessment is carried forward into the monitoring framework of this Volume, Section 15.0.

Impact Statement for the Cultural Well-being VSEC

The Project will affect Inuit culture and its development through interactions with Inuit cultural values. To a large degree, these interactions will be positive. The opportunities for productive livelihoods based on self-reliance and sharing of resources, learning and sharing experience through supervisory and role-model functions, and for monitoring the environment are all relevant and supportive of these values. **This conclusion that productive employment is aligned with Inuit culture in the contemporary context is something that has also been expressed by Elders during community consultations.**

It is acknowledged, however, that culture has many facets. Different perspectives on industrial development and its effects on culture have been heard during community engagement. Some individuals have deep concerns about the effect of on-going economic development and expansion of the wage economy on Inuit culture. What may be a positive cultural effect for some—access to a job that enables one to provide for family and relatives—may be a negative cultural effect for someone else. For these reasons, Project effects on culture are considered to be diverse in their directions—neither positive nor negative. No significant impact is assessed.

Impact Statement for the Benefits, Royalty, and Taxation VSEC

Through its contributions made under the IIBA, as well as payments of royalty, rents, and taxes, the Project will have a significant beneficial effect on the Benefits, Royalties, and Taxation VSEC (Section 12.0). The Project is also expected to reduce social entitlement program expenditures while modestly increasing demands for discretionary social spending.

Impact Statement for the Government and Leadership VSEC

The Project is considered to fit well with the strategic priorities identified for both the RSA and the communities of the North Baffin LSA. An effective governance regime will be in place with the signing of an IIBA and, through partnership with the Q-SEMC, Baffinland will contribute to socio-economic monitoring important to the region's leadership. Therefore, the Project is considered to have a positive and significant effect on the Government and Leadership VSEC (Section 13.0).

14.1.2 Summary of Project Effects on Key Indicators

See: Table 4-14.1 presents a summary of the impact statements for each of the key indicators associated with the socio-economic VSECs (p243 -245)

**Socio-Economic Monitoring Framework
Section 15.0 (volume 4 FEIS, p246)**

This monitoring framework is designed to address how Baffinland's Mary River Project will be monitored to assess socio-economic effects and to support management decisions. The framework also addresses how Project monitoring will fit in with public monitoring activities and how it can contribute to advancing understanding of socio-economic processes in Nunavut. The framework has been prepared through a collaborative process involving BIM, QIA, GN, and AANDC participants. This included two informal meetings with these agencies in Iqaluit during October and November, 2011, along with two working sessions with the QIA socio-economic

advisor in Edmonton and Ottawa. This collaboration has been helpful in the development of this framework. Baffinland is, of course, solely responsible for the final product included in this FEIS. Baffinland recognises that collaboration in monitoring is necessary given the multiple sources of influence over socio-economic changes taking place across the territory. The expectation is that a collaborative approach to socio-economic monitoring will continue as the Project proceeds. The Mary River project socio-economic monitoring plan is designed specifically to address the following monitoring functions arising from internal and external needs for data:

- Monitor Inuit participation and IIBA implementation
- Provide data on indicators that affect Project performance
- Support community, regional and territorial monitoring initiatives
- Support Baffinland's management system and adaptive processes
- Contribute to understanding of socio-economic processes
- Support compliance monitoring

Section 16.0 - Conclusions

The Mary River Project represents important and significant socio-economic benefits to Nunavut. These benefits will apply at the level of North Baffin communities, the Baffin Region, and to the territory overall. These effects are expected to arise primarily from employment of local residents as well as the training and education benefits associated with these employment opportunities. **Increased human health and well-being, associated with the benefits of meaningful employment, increased self-reliance, and a reduction in poverty levels is anticipated. Other beneficial effects will arise from the Project's tax payments to government and from resource royalty and IIBA payments to Inuit organizations.** Beneficial effects are also expected to arise from procurement of goods and services from Inuit and northern businesses and from the associated capacity building within the business sector, both locally and on a regional level. **These benefits represent value both in their short-term contribution of income to households, enterprises, and organizations as well as over the long term through their positive contribution to the capacity of individuals, businesses, and organisations.**

An important consideration addressed in this Volume has been the question of the Project's interactions and overall effects on Inuit hunters. The outcome of the Project on harvesting and land-use activities will arise from the combined interactions of the Project on a wide range of factors that influence these activities. This includes effects on marine and terrestrial wildlife as well as effects on the human environment through interactions ranging from household income, rotational work, ability to travel across ice and land due to the Project's rail and shipping components. These effects have been considered throughout the FEIS and are summarized in this Volume. **The potential for beneficial outcomes on harvesting activities overall is equally or more highly anticipated than the potential for overall negative outcomes.** However, the range of interactions and the diversity of individual engagement in these activities mean that a wide diversity of responses will be experienced. Baffinland has heard the concerns raised by community residents and agencies, and acknowledges that some disruption will be caused by the Project. The detour around Steensby Inlet caused by the ship track is a specific example of the sort of disruption that is anticipated. **The Company has committed to on-going Inuit engagement and collaborative monitoring around this issue.**

The benefits represented by the Project will not come without a cost. In particular, the fly-in/fly-out lifestyle can be challenging for many families and children. Mitigation to support workers and their families will not remove the fact that workers will be away from their community for half the time. For families that succeed in adapting to this lifestyle the rewards may be considerable in a financial sense and from the increased mental well-being that often comes with economic self-

reliance and meaningful work. Additionally, increases in income will allow individuals to purchase expensive equipment for the pursuit of traditional activities such as hunting. Having two weeks off the job to spend with family and in other pursuits such as going out on the land, may be an added benefit. For those for whom the fly-in/fly-out lifestyle does not work so well, the hope is that local economic development stimulated by the Project will generate employment opportunities in the community. The reality is that such effects will require considerable planning and coordination amongst community leaders and territorial partners.

Other potential costs of the Project may arise from the increased affordability of illegal substances, potentially leading to greater substance abuse and lost opportunities. **The possibility that some young adults may choose work over school completion has also been noted as a potential negative outcome.** In both these situations, the Project is expected to alter the playing field for individuals faced with these decisions. **With this Project in place, the rewards will be substantially increased (from what they are under baseline conditions) for many of those who overcome addictions or who gain education. Simply introducing new opportunities for education, training and employment may have major beneficial effects on the outlook for the future for many young people.** These cost-benefit effects, however, rely on a sufficient number of individuals succeeding and being seen to succeed, in these areas of opportunity. This includes success in gaining life skills and maintaining employment, success in job promotions and career advancement, and success in business development related to the Project. In all these areas, early, recognizable success will act as a catalyst to encourage others to succeed.

Given the importance of on-going mitigation and partnership activities, monitoring of Project outcomes and changes generally taking place in the socio-economic environment will be critically important to support effective management response. **Maintaining close communication with residents and local leaders through on-going stakeholder engagement will be key to detecting successes and failures so that they can be built upon or addressed, as appropriate.** Gathering Project-generated data and participation in collaborative efforts to track broader socio-economic indicators will be useful in discussions with local leaders and others with community perspectives.

Human Resource Management Plan (Appendix 10F-3)

Section 11.0 – Support for communities (HRMP, p29)

Baffinland recognize that while the Project presents Inuit communities with substantial opportunities, it is also likely to create social and cultural impacts and stresses on these communities, including families and individuals. Because of the long duration of the Project needs and opportunities will evolve.

Mitigating existing and potential impacts, promoting community well being, and developing long-term individual and community capacity is a shared responsibility of Baffinland, the QIA and the Government of Nunavut. Baffinland will cooperate in efforts to address this challenge.

The communities must be engaged in the development and implementation of strategies to build the capacity necessary to enable communities to deal with existing and potential impacts and to maximize benefits from the Project and to sustain those benefits beyond the life of the Project.

It is very difficult to measure and predict social and cultural impacts in advance of construction and operations. **Baffinland will thus make proactive efforts to address impacts and to capitalize on benefits as they are identified over time. Efforts to address existing and potential social and cultural impacts must include capacity building and the well being of individuals, families and communities to sustain a productive workforce and build good relations with Inuit and Inuit communities.**

Baffinland's contributions to capacity building and long-term social development include its commitments to employment, training, contracting, and subcontracting. These provisions do not

impose any responsibility on Baffinland to assume the role of government or responsibility for social services and infrastructure.

Section 11.1. Ilagiiktunut Nunalinnullu Pivalliajutisait Kiinaujat (INPK fund)

To provide the required community support and capacity building, Baffinland will contribute to Ilagiiktunut Nunalinnullu Pivalliajutisait Kiinaujat (INPK) (administered by the QIA). The terms of Baffinland's participation in this fund are established by the signed IIBA. The INPK fund has the following objectives:

- creating opportunities for capacity building and synergy with existing capacity in the communities
- ensuring equity and fair distribution of impacts and benefits within and between communities and across generations
- maintaining consistency with community development goals
- ameliorating social and cultural consequences if a proposed mitigation or enhancement is unsuccessful or in the event that unanticipated impacts emerge
- promoting mutual understanding and learning
- ensuring transparency and accountability

Activities supported by the fund could include, but are not limited to:

- participation in community projects
- youth and Elder programs
- hunter support activities
- family and community-wide activities and programs
- cultural learning and revitalization programs
- social support programs for families and individuals
- individual and family financial planning
- educational incentives
- counselling and healing programs
- seed funding or operational funding for local charities and social organizations

Archaeological Mitigation Plan

Appendix 4D - Preliminary Archeological Mitigation Plan

NIRB conditions and recommendations

Term and Condition No. 129 – Population Demographics – Qikiqtaaluk Socio-Economic Monitoring Committee

Term or Condition: The Proponent is strongly encouraged to engage in the work of the Qikiqtaaluk Socio-Economic Monitoring Committee along with other agencies and affected communities, and it should endeavour to identify areas of mutual interest and priorities for inclusion into a collaborative monitoring framework that includes socio-economic priorities related to the Project, communities, and the North Baffin region as a whole.

Term and Condition no: 130 – Population Demographics – Project-specific monitoring

Term or Condition: The Proponent should consider establishing and coordinating with smaller socio-economic working groups to meet Project specific monitoring throughout the life of the Project.

Term and condition no 131: Population Demographics – Monitoring demographic changes
Term or Condition: The Qikiqtaaluk Socio-Economic Monitoring Committee is encouraged to engage in the monitoring of demographic changes including the movement of people into and out of the North Baffin communities and the territory as a whole. This information may be used in conjunction with monitoring data obtained by the Proponent from recent hires and/or out-going employees in order to assess the potential effect the Project has on migration

Term and condition no 132: Population Demographics – Training programs
Term or condition: The Proponent is encouraged to partner with other agencies such as Hamlet organizations in the North Baffin region, the Municipal Training Organization, and the Government of Nunavut in order to adapt pre-existing, or to develop new programs which encourage Inuit to continue living in their home communities while seeking ongoing and progressive training and development. Programs may include driver training programs offered within Hamlets, providing upgraded equipment to communities for use in municipal works, providing incentives for small businesses to remain operating out of their community of origin, or supplementing existing recreational facilities and programming in North Baffin communities.

Term and condition no 133: Population Demographics – Monitoring demographic changes
Term or condition: The Proponent is encouraged to work with the Qikiqtaaluk Socio-Economic Monitoring Committee and in collaboration with the Government of Nunavut's Department of Health and Social Services, the Nunavut Housing Corporation and other relevant stakeholders, design and implement a voluntary survey to be completed by its employees on an annual basis in order to identify changes of address, housing status (i.e. public/social, privately owned/rented, government, etc.), and migration intentions while respecting confidentiality of all persons involved. The survey should be designed in collaboration with the Government of Nunavut's Department of Health and Social Services, the Nunavut Housing Corporation and other relevant stakeholders. Non-confidential results of the survey are to be reported to the Government of Nunavut and the NIRB.

Term and condition no 143 - Livelihood and Employment – Employee family contact
Term or condition: The Proponent is encouraged to consider the use of both existing and innovative technologies (e.g. community radio station call-in shows, cell phones, video-conferencing, Skype, etc.) as a way to ensure Project employees are able to keep in contact with family and friends and to ward off the potential for feelings of homesickness and distance to impact on employee retention and family stability.

Term and condition no 148 - Economic Development and Self-Reliance, and Contracting and Business Opportunities – Food security
Term or condition: The Proponent is encouraged to undertake collaborative monitoring in conjunction with the Qikiqtaaluk Socio-Economic Monitoring Committee's monitoring program which addresses Project harvesting interactions and food security and which includes broad indicators of dietary habits.

Term and condition no 149 - Economic Development and Self-Reliance, and Contracting and Business Opportunities – Impacts of temporary closure
Term or condition: Prior to the commencement of operations, the Proponent is required to undertake an analysis of the risk of temporary mine closure, giving consideration to how communities in the North Baffin region may be affected by temporary and permanent closure of the mine, including economic, social and cultural effects.

Term and condition no 150 - Economic Development and Self-Reliance, and Contracting and Business Opportunities – Impacts to visitors of Sirmilik National Park

Term or condition: The Proponent will ensure the following:

- a. The Proponent will maintain, where possible, a minimum flying altitude of 2,000 feet over the park, except for approaches to land, take-off or for safety reasons.
- b. The Proponent will ensure that certification of noise compliance is current, where compliance is applicable.
- c. The Proponent is encouraged to provide Parks Canada with regular flight and shipping schedules that can be used to brief Park visitors.
- d. The Proponent is strongly encouraged to provide due consideration to wilderness experience during its operations in the open water season, especially during the month of August which is typically a time of high use by sea kayakers.

Term and condition no 152 – Economic Development and Self-Reliance, and Contracting and Business Opportunities – IIBA contract requirements

Term or condition: The Qikiqtani Inuit Association is encouraged to provide the Board and the Qikiqtaaluk Socio-Economic Monitoring Committee with information regarding the effectiveness of any provisions within the Inuit Impact and Benefit Agreement which may require that larger contracts be broken down into smaller size in order that they are reasonably managed by smaller businesses in the North Baffin region, while respecting any confidential or privileged information.

Term and condition no 154 - Human Health and Well-being – Indirect impacts to health and well-being

Term or condition: The Proponent shall work with the Government of Nunavut and the Qikiqtaaluk Socio-Economic Monitoring Committee to monitor potential indirect effects of the Project, including indicators such as the prevalence of substance abuse, gambling issues, family violence, marital problems, rates of sexually transmitted infections and other communicable diseases, rates of teenage pregnancy, high school completion rates, and others as deemed appropriate.

Term and condition no 156 – Human Health and Well-Being – Support initiatives

Term or condition: The Proponent is encouraged to assist with the provision and/or support of recreation programs and opportunities within the potentially affected communities in order to mitigate potential impacts of employees' absences from home and community life.

Term and condition no 157 – Human Health and Well-Being – Counseling and treatment programs.

Term or condition: The Proponent should consider providing counseling and access to treatment programs for substance and gambling addictions as well as which address domestic, parenting, and marital issues that affect employees and/or their families.

Term and condition no 158 - Community Infrastructure and Public Services – Impacts to health services

Term or condition: The Proponent is encouraged to work with the Government of Nunavut and other parties as deemed relevant in order to develop a Human Health Working Group which addresses and establishes monitoring functions relating to pressures upon existing services and costs to the health and social services provided by the Government of Nunavut as such may be impacted by Project-related in-migration of employees, to both the North Baffin region in general, and to the City of Iqaluit in particular.

Term and condition no 159 - Community Infrastructure and Public Services – Impacts to infrastructure

Term or condition: The Proponent is encouraged to work with the Government of Nunavut to develop an effects monitoring program that captures increased Project-related pressures to community infrastructure in the Local Study Area communities, and to airport infrastructure in all point-of-hire communities and in Iqaluit.

Term and condition no 160 - Community Infrastructure and Public Services – Distribution of benefits

Term or condition: The Government of Nunavut and the Qikiqtani Inuit Association are encouraged to cooperate to ensure in a broad sense, that Project benefits are distributed across impacted communities and across various demographic groups within these communities in a manner that best offsets any Project-related impacts to infrastructure or services.

Term and condition no 161 - Community Infrastructure and Public Services – Policing

Term or condition: The Government of Nunavut should be prepared for any potential increased need for policing, and ensure that the Royal Canadian Mounted Police is prepared to handle ongoing Project-related demographic changes and subsequent crime prevention that may be needed as a result of the development, operation, and closure of the Project.

Term and condition no 162 - Culture, Resources and Land Use – Public consultation

Term or condition: The Proponent should make all reasonable efforts to engage Elders and community members of the North Baffin communities in order to have community level input into its monitoring programs and mitigative measures, to ensure that these programs and measures have been informed by traditional activities, cultural resources, and land use as such may be implicated or impacted by ongoing Project activities.

Term and condition no 163 - Culture, Resources and Land Use – Public consultation

Term or condition: The Proponent shall continue to engage and consult with the communities of the North Baffin region in order to ensure that Nunavummiut are kept informed about the Project activities, and more importantly, in order that the Proponent's management and monitoring plans continue to evolve in an informed manner.

Term and condition no 164 – Socio-Economic Impacts – Shipping notification

Term or condition: The Proponent is required to provide notification to communities regarding scheduled ship transits throughout the regional study area, real-time data regarding ships in transit and any changes to the proposed shipping schedule.

Term and condition no 165 - Socio-Economic Impacts – Emergency shelters

Term or condition: The Proponent is strongly encouraged to provide buildings along the rail line and Milne Inlet Tote Road for emergency shelter purposes, and shall make these available for all employees and any land users travelling through the Project area. In the event that these buildings cannot, for safety or other reasons be open to the public, the Proponent shall set up emergency shelters (e.g. seacans outfitted for survival purposes) every 1 kilometre along the rail line and Milne Inlet Tote Road. These shelters must be placed along Tote Road and rail routing prior to operation of either piece of infrastructure, and must be maintained for the duration of project activities, including the closure phase.

Term and condition no 166 – Socio-Economic Impacts – Public Consultation

Term or condition: The Proponent should ensure through its consultation efforts and public awareness campaigns that the public have access to shipping operations personnel for transits into and out of both Steensby Inlet port and Milne Inlet port either via telephone or internet contact, in order that any questions regarding ice conditions or ship movements that could assist ice users in preparing for travel may be answered by Project staff in a timely fashion.

Term and condition no 167 - Benefits, Royalty and Taxation – Partnership Agreements

Term or condition: The Proponent and the Government of Nunavut are strongly encouraged to, as soon as practical following the issuance of the Project Certificate, enter into discussions to negotiate a Development Partnership Agreement

Term and condition no 168 – Governance and Leadership – Monitoring program

Term or condition: The specific socioeconomic variables as set out in Section 8 of the Board's Report, including data regarding population movement into and out of the North Baffin Communities and Nunavut as a whole, barriers to employment for women, project harvesting interactions and food security, and indirect Project effects such as substance abuse, gambling, rates of domestic violence, and education rates that are relevant to the Project, be included in the monitoring program adopted by the Qikiqtani Socio-Economic Monitoring Committee.

Term and condition no 169 - Governance and Leadership – Monitoring economic effects

Term or condition: The Proponent provide an annual monitoring summary to the NIRB on the monitoring data related to the regional and cumulative economic effects (positive and negative) associated with the Project and any proposed mitigation measures being considered necessary to mitigate the negative effects identified.

Baffinland commitments to issues raised by stakeholders (Final Hearing Report) (Appendix A)

Issue raised by Baffinland (July 23rd 2012): Baffinland is committed to participating in ongoing initiatives, including working with stakeholders, to address all issues related to the Mary River Project

Issue raised by Baffinland/ QIA (July 19th 2012): Baffinland is committed to establishing a working/ advisory group consisting of stakeholders of the Mary River Project to identify and address issues surrounding abandonment and restoration activities associated with the Mary River Project. The terms of reference, as well as information on all issues identified to be resolved by the working group, will be made available to the NIRB and interested persons for information and/or review purposes.

Issue raised by Baffinland (July 17th 2012): Baffinland is committed to participating in the Qikiqtani Socio-Economic Monitoring Committee (SEMC) working group to ensure that relevant effects of the Mary River Project are monitored.

Issue raised by Baffinland (July 16th 2012): Baffinland is committed to participating in formal, stakeholder working groups, such as terrestrial environment and marine environment working groups, as established within and/or outside of the scope of the IIBA, to gain input, insight, advice and oversight from stakeholders throughout the life of the project and to ensure that adaptive management principles are applied accordingly.

Issue raised by QIA (July 17th 2012): QIA is committed to explaining the contents of an IIBA for the Mary River Project to the GN once the IIBA has been finalized.

Issue raised by Baffinland (July 17th 2012): Baffinland is committed to contributing to overseeing the implementation of the IIBA including monitoring of the Project on a continuous basis to allow for ongoing Inuit input related to environmental and social impacts.

Issue raised by Baffinland (July 23rd 2012): Baffinland is committed to having Inuit Elders visit the Steensby site in 2012 to assist in identifying and ensuring that archaeological sites in the area not impacted by project activities.

Issue raised by NTI (July 17th 2012): Baffinland is committed to providing training to its employees regarding the protection of archeological resources within the project area.

Issue raised by NIRB (July 17th 2012): Baffinland is committed to implementing mitigation measures which offset the inconvenience and hardship created for Inuit hunters and travelers that have traditionally used the areas encompassed by the shipping route.

1. Analysis

- Government of Canada and Nunavut policies to develop the mining industry as a means of generating revenue and jobs: part of a policy objective that can support the realization of human rights, as
- Economic and social investment is an area where mining companies have the opportunity to enhance human rights. Furthermore, social investment plays a role in respecting indigenous peoples rights to participate in the benefits of the exploitation of natural resources on their lands. Commitments related to social investment serve as an incentive to obtain project approval from local communities. Increasingly, social investment is related to corporate social responsibility objectives. Given the corporate responsibility to “do no harm,” social investment also plays a critical role in addressing a project’s negative impacts on human rights. Provision of targeted social investment plans is often required as a condition for permitting or financing, and become a company commitment for the project.
- Mines provide direct economic benefits in the form of employment, services, and contracting, in the course of carrying out their principal activities. These benefits enhance the right to just and favourable conditions of work for the employees and contractors, and provides opportunities to enhance the right to an adequate standard of living for those who receive direct economic benefits. Mines also contribute new revenue streams to governments as taxes and royalty payments; these economic contributions have only an indirect relationship to the fulfilment of human rights by

the State, depending on how various levels of government use the additional resources.

- Increasingly, mining companies are also investing in social development and related programs in the zones where their operations are located. Social investment is normally intended to provide benefits to local populations; shortfalls in government capacity to provide basic services such as education or health care are often targeted, enhancing human rights in these areas.
- As such, social investment commitments may serve as an incentive from a mining company to obtain project acceptance from local communities, and plays a role in indigenous peoples rights to participate in the benefits of the exploitation of natural resources on their lands. Increasingly, social investment is a means for companies to fulfil corporate social responsibility objectives.
- Finally, social investment also plays a critical role in mitigating a project's negative impacts. Provision of targeted social investment plans is often required before permitting and become a regulatory commitment.

SECTION NINE: FULL FINDINGS ON TRANSPARENCY

Key message

Mining companies are expected to do more to be transparent about the money and gifts they give to governments in order to fight corruption and improve the governance and benefits of mining projects. Access to information and transparency are also important human rights based principles. The implementation of strong transparency policies and procedures for the Mary River Mine can help improve human rights impacts because there will be less opportunity for inappropriate spending and more accountability and incentives for positive contributions.

The Government of Canada just announced that it is going to make new disclosure rules that will apply to Canadian mining companies. The Mining Association of Canada has helped developed a framework for these new disclosure rules. ArcelorMittal also has strong disclosure and anti-corruption policies. The standards for transparency and disclosure for Baffinland are going to be increasingly stringent over the coming years.

All parties that administer the economic benefits that will flow from the mine should also set a good example about transparency and anti-corruption. This is needed to reinforce public confidence in the contribution of the mine to sustainable development and good governance. Greater disclosure and access to information about economic payments also helps monitoring and assessment of positive human rights impacts from the mine

Concerns have been raised in the public hearings about how much of the IIBA benefits will flow to communities. Last summer, some questions were raised about members of the QIA accepting travel to the London Olympics at Baffinland's expense. Given their important role in administering royalties and IIBA payments, the Designated Inuit Organizations should develop their own policies about transparency and anti-corruption that takes into account their special status. This is an important piece of the puzzle for ensuring that the Mary River Mine and future mining projects in Nunavut make strong contributions to sustainable development and human rights.

Human rights standards

Human rights standards related to transparency and access to information are derived from Article 19 of the Universal Declaration of Human Rights: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

The international human rights standards related to access to information and freedom of expression are also relevant to the issue of prior and on-going consultation with all stakeholders (discussed in Finding 5). Meaningful consultation is premised on the provision of adequate information and the respect of stakeholders' right to freely express their opinions and concerns. According to general human rights principles, transparency

and access to information is a component of and indicator for respecting the full range of all other international human rights.

Canadian Legal Standards

On June 12th 2013, Prime Minister Stephen Harper announced that the Government of Canada will be establishing new mandatory reporting standards for Canadian extractive companies with a view to enhancing transparency on the payments they make to governments.

The new reporting regime will be established with a view to: improving transparency; ensuring Canada's framework is consistent with existing international standards and aligned with other G-8 countries; ensuring a level playing field for companies operating domestically and abroad; enhancing investment certainty; helping reinforce the integrity of Canadian extractive companies; and, helping to ensure that citizens in resource-rich countries around the world are better informed and benefit from the natural resources in their country.

Over the coming months, the Government of Canada will consult closely with provincial and territorial counterparts, First Nations and Aboriginal groups, industry and civil society organizations on how to establish the most effective regime.

It is anticipated that the reporting regime will seek to enhance transparency and accountability around material payments by extractive companies to all levels of governments domestically and internationally, including taxes, license fees and other receipts.

The mandatory reporting initiative is in keeping with the United Kingdom's priority of transparency put forward at the G-8 Lough Erne Summit.

G8 Leader's Communiqué on Transparency in the Extractive Sector

34. Natural resources have the potential, if developed and managed responsibly, in line with internationally recognised environmental and social standards, to be a key driver of strong and sustainable growth, especially in developing countries with an abundance of natural resources. To illustrate, oil exports in 2010 from a single African country exceeded total net aid to sub-Saharan Africa. These resources offer a long term route out of poverty for many developing countries and an opportunity to reduce dependence on external assistance.

35. However, the lack of strong systems of transparency and accountability in the management of the extractive sector in some resource-rich countries has too often allowed revenues to be diverted from high-priority national needs. Raising global standards of transparency in the extractive sector and building the capacity of countries to manage their resources effectively will improve accountability, reduce the space for corruption and other illicit activities and ensure that citizens benefit fully from the extraction of natural resources.

36. The G8 will take action to raise global standards for extractives transparency and make progress towards common global reporting standards, both for countries with significant domestic extractive industries and the home countries of large multinational extractives corporations. Under such common standards companies would be required to report on extractives payments, governments would take steps to ensure disclosure compliance, and those governments that wish to move towards the Extractives Industries Transparency Initiative (EITI) standard will voluntarily report their revenues. This would reduce reporting burdens on businesses, help to fight corruption, and encourage more effective and efficient investment, including in developing countries.

G8 Lough Erne Leaders' Communiqué, paragraphs 34 to 42:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/207771/Lough_Erne_2013_G8_Leaders_Communique.pdf

Extractive Industry Transparency Initiative

The EITI Principles provide the cornerstone of the initiative. They are:

1. We share a belief that the prudent use of natural resource wealth should be an important engine for sustainable economic growth that contributes to sustainable development and poverty reduction, but if not managed properly, can create negative economic and social impacts.
2. We affirm that management of natural resource wealth for the benefit of a country's citizens is in the domain of sovereign governments to be exercised in the interests of their national development.
3. We recognise that the benefits of resource extraction occur as revenue streams over many years and can be highly price dependent.

4. We recognise that a public understanding of government revenues and expenditure over time could help public debate and inform choice of appropriate and realistic options for sustainable development.
5. We underline the importance of transparency by governments and companies in the extractive industries and the need to enhance public financial management and accountability.
6. We recognise that achievement of greater transparency must be set in the context of respect for contracts and laws.
7. We recognise the enhanced environment for domestic and foreign direct investment that financial transparency may bring.
8. We believe in the principle and practice of accountability by government to all citizens for the stewardship of revenue streams and public expenditure.
9. We are committed to encouraging high standards of transparency and accountability in public life, government operations and in business,
10. We believe that a broadly consistent and workable approach to the disclosure of payments and revenues is required, which is simple to undertake and to use.
11. We believe that payments' disclosure in a given country should involve all extractive industry companies operating in that country.
12. In seeking solutions, we believe that all stakeholders have important and relevant contributions to make – including governments and their agencies, extractive industry companies, service companies, multilateral organisations, financial organisations, investors, and non-governmental organisations.

Implementation of EITI must be consistent with the criteria below:

1. Regular publication of all material oil, gas and mining payments by companies to governments (“payments”) and all material revenues received by governments from oil, gas and mining companies (“revenues”) to a wide audience in a publicly accessible, comprehensive and comprehensible manner.
2. Where such audits do not already exist, payments and revenues are the subject of a credible, independent audit, applying international auditing standards.
3. Payments and revenues are reconciled by a credible, independent administrator, applying international auditing standards and with publication of the administrator’s opinion regarding that reconciliation including discrepancies, should any be identified.
4. This approach is extended to all companies including state-owned enterprises.
5. Civil society is actively engaged as a participant in the design, monitoring and evaluation of this process and contributes towards public debate.
6. A public, financially sustainable work plan for all the above is developed by the host government, with assistance from the international financial institutions where required, including measurable targets, a timetable for implementation, and an assessment of potential capacity constraints.

For further information about the EITI Requirements and Rules:

<http://eiti.org/eiti/requirements>

Mining Association of Canada

Mining Association of Canada is part of the Canadian Extractive Resource Revenue Transparency Working Group, along with the Prospectors and Developers Association of Canada (PDAC), Publish What You Pay (PWYP) Canada and the Revenue Watch Institute (RWI). The Working Group was formed to develop a framework for the mandatory disclosure of extractive company payments to governments where Canadian companies operate.

In June 2013, the Working Group released “Recommendations on Mandatory Disclosure of Payments from Canadian Mining Companies to Governments,” which state the following:

“The Working Group recommends disclosure requirements for Canadian mining companies be mandatory, not voluntary, to ensure that all relevant information is available and accessible to stakeholders, and that companies cannot opt out of compliance. After consideration of the most appropriate venue, or “home,” for Canadian disclosure requirements, the Working Group recommends the implementation of a mandatory disclosure framework through securities regulation with a strong equivalency provision to align with other jurisdictions such as the US and the EU. This recommendation aligns with the US model (where such disclosure is regulated by the US Securities and Exchange Commission (“SEC”) and recognizes the existing powers of Canadian securities administrators to regulate the disclosures of public entities in Canada.”

“A consequence of establishing a reporting regime in securities requirements is that disclosure will be mandatory only for public companies. However, the benefits of this approach are clear. Such a regime will take advantage of the experience of the Canadian securities administrators in receiving and managing disclosure filings, and likely require fewer start-up costs than a new reporting and compliance regime. In addition, the use of securities regulation would mean that the disclosure requirements recommended here would extend to foreign companies who seek to raise capital in Canadian markets.”

The approach suggested by the Working Group would mean that Baffinland (which is not a publicly-listed company) would not be covered by the mandatory disclosure requirements. However, it may still choose to voluntarily disclose its payments to different levels of government as a result of its corporate policies and commitments.

Company policies and commitments

Arcelor Mittal

From ArcelorMittal's statement of support to the EITI:

In 2009, ArcelorMittal formalised its support of the Extractive Industries Transparency Initiative (EITI), after being an active participant of the EITI in Liberia since May 2007.

The EITI's principles regarding the prudent use of natural resources, transparency, accountability, and stakeholder dialogue complement ArcelorMittal's own corporate values and corporate responsibility policies.

Baffinland sustainability policy

4.0 Transparent Governance

We will take steps to understand, evaluate and manage risks on a continuing basis, including those that impact the environment, employees, contractors, local communities, customers and shareholders.

We ensure that adequate resources are available and that systems are in place to implement risk-based management systems, including defined standards and objectives for continuous improvement.

We measure and review performance with respect to our environmental, safety, health, socio-economic commitments and set annual targets and objectives.

We conduct all activities in compliance with the highest applicable legal requirements and internal standards

We strive to employ our shareholder's capital effectively and efficiently. We demonstrate honesty and integrity by applying the highest standards of ethical conduct.

Additional Information and Resources:

Government of Canada press release "Canada commits to enhancing transparency in the extractive sector" and backgrounder: <http://pm.gc.ca/eng/media.asp?id=5525>

G8 Lough Erne Leaders' Communiqué, paragraphs 34 to 42:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/207771/Lough_Erne_2013_G8_Leaders_Communique.pdf

Resource Revenue Transparency Working Group (including Mining Association of Canada and Prospectors and Developers Association of Canada)

- Draft recommendations on mandatory reporting requirements:
http://www.mining.ca/www/media_lib/Press_Release/2013/RRTWGDraftforConsultationJune2013.pdf
- Backgrounder to draft recommendations:
http://www.mining.ca/www/media_lib/Press_Release/2013/RRTWGBackgrounderJune2013.pdf

ICMM 'Position Statement on Transparency of Mineral Revenues' that is supportive of EITI, but also considers the broader aspects of revenue transparency. See:

<http://www.icmm.com/page/14652/position-statement-on-transparency-of-mineral-revenues>

Extractives Industry Transparency Initiative requirements:

<http://eti.org/eti/requirements>

SECTION TEN: FULL FINDING ON ACCESS TO REMEDIES

Key message

The government and Baffinland must provide access to remedies for employees and community members whose human rights have been harmed by the Mary River Mine. There are many different mechanisms for individuals and groups to raise their concerns, but the best ones should operate at the mine site and community level and resolve issues through dialogue or mediation.

Access to remedies is a key component of the international framework for business and human rights. States have an obligation to provide judicial and non-judicial channels for the harms done by companies to human rights. While the rule of law is strong in Canada, access to courts and human rights institutions in Nunavut is very difficult due to the barriers of distance, costs and cultural traditions. In a recent report to the legislature in Nunavut, the absence of a human rights commission was highlighted as an important gap in the protection of Nunavummiut.

The Nunavut Land Claims Agreement provides a framework for access to remedies for Inuit, including through the enforcement of the project certificate by the NIRB and the enforcement of the IIBA by the QIA. These mechanisms are best suited for addressing collective issues. Specific concerns of individuals will likely need to be channeled through formal representatives and monitoring groups.

Companies are encouraged to establish operational-level grievance mechanisms in order to respect human rights. These should have credible, effective and culturally appropriate channels for employees and community members to raise concerns and have them taken seriously. This does not mean that every complaint is correct, but there should be a fair, transparent and independent process to investigate and decide upon the issues raised. These mechanisms should support continuous learning and help companies address patterns of complaints.

ArcelorMittal has committed to establishing operational grievance mechanisms for stakeholders in its Human Rights Policy. Baffinland has also committed to establishing a Concerns Procedure for employees in its Human Resources Plan, as well as a Complaints Management Procedure as part of its stakeholder engagement plan. These procedures should be formalized and promoted at the earliest possible stage of the development of the Mary River Mine so that they can begin to address concerns proactively and before they escalate into more serious or formal complaints.

International Legal Standards

Access to remedies is protected by the Universal Declaration of Human Rights, Article 8, as well as the International Covenant on Civil and Political Rights, article 2; the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, General Assembly resolution 40/34, Basic Principles and Guidelines on the Right to a

Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, General Assembly resolution 60/147.

The responsibility for States and companies to provide grievance mechanisms for rights-holders is an integral part of the UN "Protect, Respect and Remedy" framework for business and human rights.

The Guiding Principles for Business and Human Rights were recently adopted by the UN Human Rights Council, and contain the following principles related to State-based and company-based grievance mechanisms:

Guiding Principle 26: States should take appropriate steps to ensure the effectiveness of domestic judicial mechanisms when addressing business-related human rights abuses, including considering ways to reduce legal, practical and other relevant barriers that could lead to a denial of access to remedy.

Guiding Principle 27: States should provide effective and appropriate non-judicial grievance mechanisms, alongside judicial mechanisms, as part of a comprehensive State-based system for the remedy of business-related human rights abuse.

Guiding Principle 29: To make it possible for grievances to be addressed early and remediated directly, business enterprises should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted.

Commentary

Operational-level grievance mechanisms perform two key functions regarding the responsibility of business enterprises to respect human rights.

- First, they support the identification of adverse human rights impacts as a part of an enterprise's on-going human rights due diligence. They do so by providing a channel for those directly impacted by the enterprise's operations to raise concerns when they believe they are being or will be adversely impacted. By analyzing trends and patterns in complaints, business enterprises can also identify systemic problems and adapt their practices accordingly
- Second, these mechanisms make it possible for grievances, once identified, to be addressed and for adverse impacts to be remediated early and directly by the business enterprise, thereby preventing harms from compounding and grievances from escalating.

Such mechanisms need not require that a complaint or grievance amount to an alleged human rights abuse before it can be raised, but specifically aim to identify any legitimate concerns of those who may be adversely impacted. If those concerns are not identified

and addressed, they may over time escalate into more major disputes and human rights abuses.

General Principle 31: In order to ensure their effectiveness, non-judicial grievance mechanisms, both State- based and non-State-based, should be:

- (a) Legitimate: enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes;
- (b) Accessible: being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access;
- (c) Predictable: providing a clear and known procedure with an indicative timeframe for each stage, and clarity on the types of process and outcome available and means of monitoring implementation;
- (d) Equitable: seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;
- (e) Transparent: keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake;
- (f) Rights-compatible: ensuring that outcomes and remedies accord with internationally recognized human rights;
- (g) A source of continuous learning: drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms;

Operational-level mechanisms should also be:

- (h) Based on engagement and dialogue: consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances.

Canadian Legal Standards

Canada has numerous formal judicial and non-judicial mechanisms related to access to remedies. These include:

- The formal court system that operates in all provinces with jurisdiction over criminal, civil and commercial matters.
- Federal and provincial human rights commissions and tribunals that operate in most provinces and territories. However, the absence of a territorial human rights commission was recently highlighted in a report to the Nunavut legislature.
- Federal and provincial labour relations boards and tribunals with powers to investigate and hear complaints about working conditions and collective bargaining.
- Other specialized federal and provincial bodies that investigate and make findings related to specific human rights issues: e.g. Privacy Commissioners.

Internal grievance mechanisms for employees are provided in Canada under federal and provincial labour laws, particularly in relation to mechanisms provided to union members under collective agreements, as well as for raising health and safety concerns through OHS committees.

Company policies and commitments

Arcelor Mittal

Human Rights Policy

6. Implementation

ArcelorMittal will share best practices between our operating units on rights' based grievance mechanisms, with the aim of establishing effective channels for redress for local stakeholders in relation to this Policy.

External Stakeholder Engagement Procedure

iv) Grievance mechanism

- Establish an accessible grievance mechanism to handle complaints on Company activity in a systematic way and ensure that stakeholders are made aware of it and how it works.
- Ensure that the complainant, or other persons associated with the complaint can seek redress with a guarantee of protection from harassment, prosecution or any other form of reprisal or retaliation.

Baffinland sustainability policy

Section 4.0 – Transparent Governance

- We will take steps to understand, evaluate and manage risks on a continuing basis, including those that impact the environment, employees, contractors, local communities, customers and shareholders.

Section 9.0 – Employee Relations

- A concerns procedure will be developed to allow employees to raise concerns and have their issues addressed in a systematic fashion. The procedure will encourage employees to raise issues that affect them and guarantee responses to the issues in an environment free of threat. Elements of the procedure can be developed with employees as the mine develops. Establishment of employee committees on specific issues or responsibilities will also assist in addressing employee concerns.

Mary River FEIS commitments

Human Resource Management Plan – Appendix

5.2 – Employee Communication

- Baffinland’s HR Department will establish and administer formal and confidential (where necessary) procedures to deal with employee concerns, complaints, grievances, or suggestions. Baffinland will endeavour to resolve conflicts or employee concerns in a prompt and effective manner.

9.1 – Employee Concerns

- A concerns procedure will be developed to allow employees to raise concerns and have their issues addressed in a systematic fashion. The procedure will encourage employees to raise issues that affect them and guarantee responses to the issues in an environment free of threat. Elements of the procedure can be developed with employees as the mine develops. Establishment of employee committees on specific issues or responsibilities will also assist in addressing employee concerns.

Stakeholder Engagement Plan

Section 6.0. – Complaint Management Procedure

- As a means to document, assess, and respond to complaints that may arise, the positions responsible for implementing Baffinland’s complaints management process (see Table 5.1) will take practical measures to address all legitimate complaints to the satisfaction of complainants. The positions identified (i.e., Managers and Baffinland Liaison Officers) are collectively referred to as Complaints Officers (COs).
- It should be recognized that complainants will not distinguish between activities undertaken by Baffinland and its contractors, so all complaints will be directed to Baffinland. It is Baffinland’s responsibility to manage complaints against contractors and construction/operation activities as well as those against Baffinland. The Company can only resolve issues on which it has direct control. For issues outside of Baffinland’s control, the Company will endeavour to facilitate a resolution where possible.

6.1 – Complaints Procedures

Baffinland management will follow these procedures to manage complaints:

- Maintain the identity of all complainants and the complaints they raise as confidential;
- Assign a Complaints Number to all complaints;
- Document all complaints in a Complaints Register;

- Document all verbal complaints on a Complaints Form and indicate that it was submitted verbally;
- Screen out unfounded complaints and address legitimate complaints;
- Prioritize complaints according to magnitude (severity, geographic extent, number of people affected) of effect.
- Notify complainants of the proposed action(s) to rectify the complaint or the reasons why a complaint will not be acted upon;
- Consult with complainant for further explanation on complaint, when necessary;
- Involve organizations and/or community groups, where necessary, to manage complaints (i.e., Hamlets, Qikiqtani Inuit Association);
- Document the action(s) taken to address complaints and the dates when they were both initiated and addressed; and
- Document follow-up action with details including, why the need for follow-up, who will be responsible, what is expected from the follow-up and when follow-up reports are expected.

Examples of the Complaint Action Form, Complaint Follow-up Form and the Complaint Log are found in Appendices 1, 2 and 3.

NIRB Project Certificate

The Project Certificate issued by the NIRB provides an overall monitoring and enforcement framework for the Mary River mine. The Project Certificate was discussed at a workshop held in Iqaluit on December 18-19, 2012. The NIRB made the following points about the Project Certificate in its introductory presentation:

- Where it has been determined that a project should proceed, NIRB must issue a Project Certificate including any terms and conditions which have been accepted or varied by the Minister.
- The terms and conditions of NIRB Project Certificates must be implemented by all government departments and agencies in accordance with their authorities and jurisdictional responsibilities.
- The terms and conditions of NIRB Project Certificates must be incorporated into relevant permits, certificates, licences or other government approvals that the proponent may require.\
- Government departments and agencies shall discuss with NIRB how best to implement the terms and conditions of NIRB Project Certificates and may provide NIRB with drafts of permits, certificates, licences and other government approvals.
- A Project Certificate is a “post-decision” quality control mechanism.
 - It allows regulators and the NIRB to revisit the impact predictions and proposed mitigation measures from the EIS to ensure we got it right

- The focus of the Project Certificate terms and conditions can be more global than is generally the case with licences and permits.

13. A Project Certificate should:

- Provide the basis for inspection and surveillance
- Provide a mechanism for overall compliance and effects monitoring
- Support adaptive management
- Adopt audit and process evaluation measures

Additional References

ICMM, Human Rights and the Mining and Metals Industry: Handling and Resolving Local Level Concerns and Grievances: <http://www.icmm.com/page/15816/human-rights-in-the-mining-metals-sector-handling-and-resolving-local-level-concerns-grievances>

Business and Human Rights Resource Centre, web portal on grievance mechanisms: <http://www.business-humanrights.org/SpecialRepPortal/Home/Materialsbytopic/Grievancemechanismsnon-judicial>

Shift, “Mapping Grievance Mechanisms in the Business and Human Rights Arena”: <http://www.shiftproject.org/publication/mapping-grievance-mechanisms-business-and-human-rights-arena>

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RECOMMENDATIONS

Given the fact that the NIRB has announced a reconsideration process for the Early Revenue Phase of the Mary River mine, and some of the terms and conditions of the Project Certificate may be modified, it is premature to finalize the assessment for the HRIA. Nonetheless, some preliminary recommendations may be formulated based on the observations to date.

All mining operations will have impacts on the environment and communities, which can be positive or negative, and which will have implications for human rights. The Mary River mine has extra challenges associated with its operations in the Arctic environment and interaction with Inuit communities. However, there are a number of factors that should contribute the development of the mine in a manner that respects human rights. These include:

- The strong framework for protection of Inuit rights in the Nunavut Land Claims Agreement, particularly the rigorous environmental and social review process conducted by the NIRB, as well as the requirement that Baffinland negotiates an Inuit Impact Benefit Agreement with the QIA.
- The preparation of a very detailed Final Environmental Impact Statement and the associated management plans and mitigation measures by Baffinland, including the Addendum for the proposed Early Revenue Phase, which include commitments for adaptive management, environmental protection, human resources, community investments and stakeholder engagement.
- The involvement of the federal and territorial governments, as well as the Designated Inuit Organizations, in the NIRB process and their on-going role in monitoring and enforcement of the terms and conditions in the Project Certificate.
- The strong policies and procedures of ArcelorMittal, including a Human Rights Policy, which should be implemented at the Mary River mine.
- The collaborative spirit of the interaction between Baffinland and the other parties to the NIRB process to date, which bodes well for constructive dialogue and proactive problem-solving for issues that will arise over the lifespan of the mine.

At this stage, the overall HRIA conclusions and recommendations are also meant to be constructive and forward-looking. They are based on international standards for human rights that are supported by the Government of Canada, mining companies and industry associations. They are meant to ensure that the Mary River mine respects human rights and is a positive example of the contribution of mining to sustainable development in the Arctic region. They highlight areas where existing commitments can be leveraged to ensure positive human rights outcomes.

1. **Baffinland should initiate a human rights due diligence process based on the explicit recognition and implementation of ArcelorMittal's Human Rights Policy.** Baffinland should be commended for its commitment to develop further corporate social responsibility policies and procedures for the Mary River mine (e.g. based on ArcelorMittal's policies and ISO26000 which includes human rights). This should entail having a more explicit human rights policy; including more attention to human rights issues in on-going environmental and social impact monitoring; as well as a focus on ensuring there are effective grievance mechanisms for workers and communities at the operational level.
2. **All parties should continue their collaborative efforts to support on-going information and consultation with Inuit and other stakeholders.** This is a fundamental aspect of respecting human rights and has been a key factor in the current positive assessment of the Mary River project. On-going consultation and stakeholder engagement is complex and efforts should be evaluated from time to time to ensure they are effective. The conditions in the Project Certificate related to consultation should be fully implemented, and every effort to use multimedia options such as community radio and the Internet should be encouraged.
3. **All parties should continue their collaboration about capacity-building for Inuit.** There are many potential opportunities for Inuit as individual employees, business partners, but these require an on-going commitment to formal and on-the-job training. Current efforts should be commended and supported for the lifespan of the mine. In addition, local municipalities, the territorial government and Designated Inuit Organizations will require additional capacity to effectively fulfill their roles in monitoring and addressing some of the predictable negative social impacts that mining operations can induce. It will be important to ensure that these front-line organizations have adequate financial and human resources.
4. **All parties should support transparency about the economic benefits of the mine.** The Mary River mine will generate billions of dollars in economic benefits through taxes, royalties, community investments and IIBA payments. Transparency for extractive industry payments is the new global standards, supported by the Government of Canada, mining companies and industry associations. Transparency will help ensure greater accountability and public understanding of the positive contributions that the mine can make to Nunavut and local communities.
5. **The Nunavut Impact Review Board should encourage future mining projects to consider international human rights standards as they develop their management plans.** Proactive engagement on human rights issues prior to operations is the best way to avoid negative impacts and to ensure that appropriate due diligence mechanisms are integrated into the overall management plans for a mine. Through its project review guidelines, the NIRB has a strategic opportunity to encourage mining companies to address human rights in a proactive manner.

