

**CASE STUDY****CANADA:  
NATIONAL CAPACITY****SUPPORTING INDIGENOUS PEOPLES'  
CAPACITY DEVELOPMENT THROUGH  
JOINT VENTURES****OVERVIEW****LEVEL OF OPERATION:**

National and provincial for law/principles,  
company/project level for implementation

**GOVERNMENT ROLE:**

Legislative and regulatory

**LINK TO POLICY ADOPTED:**

A list of relevant resources in the [e-library on Impact and Benefit Agreements \(IBAs\)](#) of the Canadian Business Ethics Research Network

**KEY COMMODITIES:**

Gold, copper, potash, iron ore, coal<sup>1</sup>

**TOTAL NATURAL RESOURCE RENTS  
(AS % OF GDP) (2015):**

0.9 per cent<sup>2</sup>

**NATIONAL EXTRACTIVES COMPANY:**

No federally owned mining companies

**UNDP HUMAN DEVELOPMENT INDEX VALUE (2016):**

0.920 (Global Rank 10)<sup>3</sup>

Canada is one of the largest mining countries in the world, producing more than 60 minerals, including 26 metals, 22 non-metals and five industrial mineral commodities from about 250 mines and 3,000 stone, sand and gravel operations.<sup>4</sup> In 2013, the mining sector accounted for close to 20 per cent of the country's total exports, and 8 per cent of GDP. However, mining plays a much larger role in certain areas, particularly the remote Northern Territories. Mining regulation falls under provincial jurisdiction, and as such there are separate mining rights legislation for each of the 13 Canadian jurisdictions except Nunavut. Joint ventures (JVs) between mining companies and Indigenous groups, developing partly as a means

<sup>1</sup> Natural Resources Canada. (2017). *Canadian Mineral Production Information Bulletin, March 2017*. Retrieved from <http://www.nrcan.gc.ca/mining-materials/publications/17722>

<sup>2</sup> World Bank Group. (2017). *Total natural resource rents (% of GDP)*. Washington, DC. Retrieved from <https://data.worldbank.org/indicator/NY.GDP.TOTL.RT.ZS>

<sup>3</sup> United Nations Development Program. (2016). *Human Development Reports: Canada*. Geneva, Switzerland. Retrieved from <http://hdr.undp.org/en/countries/profiles/CHL>

<sup>4</sup> Organisation for Economic Co-operation and Development. (2017). *Local content policies in minerals-exporting countries: Case studies*. Working Party of the Trade Committee.



to uphold the rights recognized to these groups, offer a model targeting capacity development directly in the communities impacted by mining.

## THE RIGHTS OF FIRST NATIONS, INUIT AND MÉTIS

Until the recent past, Canada's Indigenous people—First Nations, Inuit and Métis—had no say in decision making about mining activities on or near their ancestral lands. Mining rights are held by the provinces, which can lease them to miners to develop the resources.

In 1982, the Constitution Act (Section 35) recognized and affirmed the existing Aboriginal and Treaty rights of the Indigenous peoples of Canada. Federal and provincial governments thereby have a general duty to guarantee consultation of any group whose asserted or established rights may be affected by the granting of permits or licenses relating to mining activity. This led to a proliferation of mechanisms (e.g., community councils, task forces, round tables) for including Indigenous peoples' perspectives in decision making and increasing their active participation in the opportunities.<sup>5</sup>

Impact and Benefit Agreements (IBAs) came to be used to take a holistic approach to mining development. While there is no boilerplate model for IBAs, they typically contain provisions for employment and training, business opportunities through set-aside contracts and joint ventures, social and cultural considerations, environmental monitoring and funding arrangements.<sup>6</sup>

## JOINT VENTURES TO CREATE LONG-TERM CAPACITY AND COMMUNITY ECONOMIC DEVELOPMENT

Joint ventures are contractual arrangements that allow businesses to work together for mutual benefit without surrendering ownership. This is often a preferred model for local development in Canada, as it allows local communities to leverage the expertise and resources of established companies to increase their own capacity.<sup>7</sup> In Saskatchewan, for example, there are more than 45 examples of Indigenous communities working in partnership with mining companies.

**Until the recent past, Canada's Indigenous people had no say in decision making about mining activities on or near their ancestral lands.**

Among the most common business organizations for Indigenous groups are Aboriginal Economic Development Corporations (AEDCs), which range in size from 5 to 100 employees and are often formed because of an IBA agreement. An AEDC is the economic and business development arm of an Indigenous government and controls, invests in, or manages subsidiary businesses for the benefit of the community members who are its shareholders. Examples include Nupqu Economic Development Corporation in Cranbrook, BC, and the Nunatsiavut Group of Companies in Nain, Newfoundland.<sup>8</sup>

<sup>5</sup> Hipwell, W., Mamen, V., & Weitzner, V. (2002). *Aboriginal peoples and mining in Canada: Consultation, participation and prospects for change* (The North-South Institute: Working Discussion Paper). Retrieved from <http://caid.ca/MiningCons2002.pdf>

<sup>6</sup> Natural Resources Canada. (2012). *Aboriginal participation in mining*. Retrieved from [https://www.nrcan.gc.ca/sites/www.nrcan.gc.ca/files/mineralsmetals/files/pdf/abor-auto/mining\\_infosheet\\_eng.pdf](https://www.nrcan.gc.ca/sites/www.nrcan.gc.ca/files/mineralsmetals/files/pdf/abor-auto/mining_infosheet_eng.pdf)

<sup>7</sup> Canadian Council for Aboriginal Business. (2016). *Partnerships in procurement: Understanding Aboriginal business engagement in the Canadian mining industry*. Retrieved from [https://www.ccab.com/wp-content/uploads/2016/08/CCAB-EWB-print\\_final-1.pdf](https://www.ccab.com/wp-content/uploads/2016/08/CCAB-EWB-print_final-1.pdf)

<sup>8</sup> Ibid.



Most of the JVs focus on participation in the mining supply chain—the IBAs deal with participation in overall mining investment, and one of the easiest entry points is often as a supplier. For example, the English River First Nation and Peter Ballantyne Cree Nation acquired 30 per cent of JNE Welding, a company that manufactures steel vessels for mining companies.

the agreement allows them to secure their social licence to operate, and working directly with the Muskowekwan First Nation as rights and land owners reduces length of permitting time and potentially the length of time to production (as they only have to deal with their partners and the Aboriginal Affairs and Northern Development Canada for permitting).<sup>10</sup>

**In northern Saskatchewan 47 per cent of all mine-site workers are recruited from the local area and 42 per cent of all workers are of First Nation heritage.**

Overall, JVs have had some success. Part of their success lies their inclusion in the wider IBA model which has been successfully implemented in several projects. In terms of outcome, for example, in northern Saskatchewan 47 per cent of all mine-site workers are recruited from the local area and 42 per cent of all workers

are of First Nation heritage; in addition, northern businesses and joint ventures in the mining supply chain earned CAD 624 million, or 40 per cent of total goods and services expenditures of mines in 2012.<sup>11</sup> The IBAs have tended to evolve over time as government, mining firms, communities and NGOs gain a better understanding of approaches that achieve the desired results. Several constraints remain: Indigenous companies often lack the organizational capacity to plan, secure financing and grow their businesses;<sup>12</sup> banks are often reluctant to fund AEDCs or other Indigenous businesses; and assets located on a reserve are often not acknowledged by banks.<sup>13</sup>

However, there are also cases of using a JV to conduct mining operations. In 2014 Muskowekwan First Nation and Encanto, a Vancouver-based junior mining company, announced that they were undertaking a JV to develop the first on-reserve potash mine in Canada. The project was to generate 2.8 million tons of potash annually and create approximately 1,000 jobs.<sup>9</sup> Through the agreement Muskowekwan Resources, the wholly-owned operating company of Muskowekwan First Nation, will receive 3 per cent of profits, common shares plus share purchase warrants, employment, environmental oversight (at a stricter level than legislative requirements), preferential service contracts, and appointments to the Management Committee which oversees the JV. This agreement allows the community to become more self-reliant (reducing its dependence on government funding) and build capacity through participation in the mining project. For the miner,

are of First Nation heritage; in addition, northern businesses and joint ventures in the mining supply chain earned CAD 624 million, or 40 per cent of total goods and services expenditures of mines in 2012.<sup>11</sup> The IBAs have tended to evolve over time as government, mining firms, communities and NGOs gain a better understanding of approaches that achieve the desired results. Several constraints remain: Indigenous companies often lack the organizational capacity to plan, secure financing and grow their businesses;<sup>12</sup> banks are often reluctant to fund AEDCs or other Indigenous businesses; and assets located on a reserve are often not acknowledged by banks.<sup>13</sup>

<sup>9</sup> Fraser Institute. (2016). *Mining and First Nations collaboration thriving in the land of living skies*. Retrieved from <https://www.fraserinstitute.org/article/mining-and-first-nations-collaboration-thriving-in-the-land-of-living-skies>

<sup>10</sup> Encanto. (2017). *Who is Encanto Potash*. Retrieved from <http://www.encantopotash.com/english/default.aspx>

<sup>11</sup> Energy and Mines Ministers' Conference. (2014). *Good practices in community engagement and readiness compendium of case studies from Canada's minerals and metals sector*. Retrieved from [https://www.nrcan.gc.ca/sites/www.nrcan.gc.ca/files/www/pdf/publications/emmc/GoodPracticeCompendium\\_e.pdf](https://www.nrcan.gc.ca/sites/www.nrcan.gc.ca/files/www/pdf/publications/emmc/GoodPracticeCompendium_e.pdf)

<sup>12</sup> Canadian Council for Aboriginal Business. (2016), Id. note 10.

<sup>13</sup> Lori Ann Roness Consulting. (2010). *Examining partnership arrangements between Aboriginal and non-Aboriginal businesses*. The Atlantic Aboriginal Economic Development Integrated Research Program. Retrieved from <http://www.apcfnc.ca/images/uploads/FinalReport-BusinessPartnershipArrangements.pdf>



## KEY LESSONS

- In Canada, local development obligations are imposed on mining companies, but mechanisms for achieving this are left to negotiation by the company and communities. While this allows firms and indigenous peoples the scope to take local realities into account, it can also create uncertainty and result in uneven implementation.
- Joint ventures can be an effective mechanism to build local capacities and to help local communities participate in the project beyond simply the provision of labour.
- Joint venture negotiations and operation will require community organization and negotiation skills which may not be present in the local community.
- In addition, a minimum level of capacity within the local community at the outset may also be needed to participate in the mining project, rendering replication of this model difficult in certain environments.



### FOR MORE INFORMATION CONTACT

Secretariat@IGFMining.org  
1100-220 Laurier Avenue W.  
Ottawa, Ontario  
K1P 5Z9 Canada

[IGFMining.org](http://IGFMining.org)  
 [@IGFMining](https://twitter.com/IGFMining)
 [@IGFMining](https://facebook.com/IGFMining)

Written by Martin Odendaal and Somine Dolo

Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development (IGF). (2018). *Canada: National capacity—Supporting Indigenous Peoples' capacity development through joint ventures* (Case Study). IGF Guidance for Governments: Leveraging Local Content Decisions for Sustainable Development. Winnipeg: IISD.

Secretariat hosted by:



Secretariat funded by:

