

# GOOD PRACTICE

The newsletter of the International Council on Mining and Metals

Vol 9 Issue 2 November 2010

## ICMM

International Council  
on Mining & Metals

**Award winning miners**

**Indigenous Peoples:  
special report**

**Biodiversity in Borneo**

**NEW ROUTES TO  
ENGAGEMENT**

# GOOD PRACTICE



This issue of the newsletter takes its theme from the launch of ICMM's *Good Practice Guide: Indigenous Peoples and Mining*. It contains articles on some of the key issues facing Indigenous Peoples and the efforts being made to address them. Relations between mining operations and Indigenous Peoples are sometimes rocky and the Guide, as I note in its preface, is a milestone rather than an end point. We are learning our way forward and we welcome feedback on our work in this area.

A special report on Indigenous Peoples is found on Page 7. It highlights a number of innovative projects that local communities have been undertaking with ICMM member companies. A key message from these stories is one of partnership and shared responsibility – whether we are talking about support for a new business or simply taking the time to understand and respect a different culture.

All the stories featured in the special report demonstrate a long term commitment. The Nemangkawi Mining Institute in Indonesia, for example, (also Page 7) has trained more than 1,000 apprentices for Freeport and partner companies since its opening. At Rio Tinto's Argyle Diamond mine in NW Australia, Indigenous Peoples' employment is likely to be further boosted by new investment. These kinds of initiatives reflect a "slow burn" approach which allows cultural adjustment of all interests to ensure the greatest opportunity possible for a win-win.

We are also very pleased to have comment articles on Indigenous Peoples' issues from David Brereton (facing page) who headed up the Good Practice Guide consulting team and our own Aidan Davy (Page 11) who has considerable experience in this area. While David provides further context and

**"Our report on Indigenous Peoples highlights a number of innovative projects which local communities have been undertaking with ICMM member companies"**

background to the Guide, Aidan restates ICMM's position around the complex issue of Free, Prior and Informed Consent (FPIC). This issue is attracting growing debate and argument in different parts of the world.

Another welcome contribution comes from Rebecca Adamson, founder of the NGO First Peoples Worldwide (FPW). FPW seeks greater collaboration between Indigenous Peoples and business, recognizing the need to find common ground when different values are at play. Rebecca notes the

importance of real listening in order to improve mutual understanding and share both the benefits and responsibilities of development. The stories in our special report provide evidence that this is happening more and more, though we recognize that the path ahead may not always be smooth.

Aside from our Indigenous Peoples theme, we also highlight biodiversity in the wake of the international summit in Nagoya, Japan. ICMM has published a new compendium of biodiversity case studies (Page 6) and we include a summary of the biodiversity-related initiatives of BHP Billiton in Indonesia (Page 12).

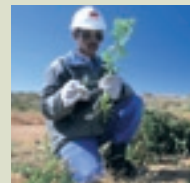
**Anthony Hodge**, President, ICMM

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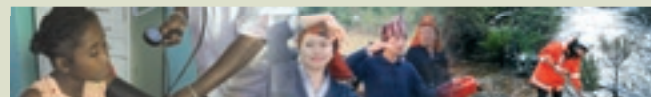
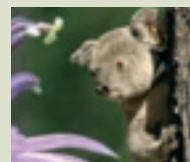
ICMM is continuing to have a major impact on the mining sector according to a recent survey by the opinion research consultancy GlobeScan.



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#### Biodiversity case studies

ICMM has published a new collection of case studies to coincide with the recent International Convention on Biodiversity in Nagoya, Japan.



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#### Indigenous Peoples report

The report has examples of how Indigenous Peoples and ICMM members are working together in different parts of the world. Topics include education, employment and traditional culture.



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#### ICMM's position on FPIC

Aidan Davy provides an overview on the issue of Free, Prior and Informed Consent (FPIC), summarizing its history and restating ICMM's position.

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#### Conservation with staying power

From orangutans to biodiversity offsets, BHP Billiton's IndoMet Coal Project (IMC) is providing long term support to biodiversity in Indonesia.

Cover picture: Aboriginal dancers from the East Kimberly region, Western Australia  
Reproduced by kind permission of Rio Tinto Diamonds

#### To subscribe

*Good Practice* is the newsletter of the International Council on Mining and Metals (ICMM).

ICMM comprises many of the world's leading mining and metals companies as well as regional, national and commodity associations, all of which are committed to improving their sustainable development performance and to the responsible production of the mineral and metal resources society needs.

To receive future issues and updates on ICMM activities, please email [info@icmm.com](mailto:info@icmm.com) or subscribe at [www.icmm.com/mailling-list](http://www.icmm.com/mailling-list).

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# Indigenous Peoples: a new blueprint for engagement

After a lengthy process ICMM has published a new *Good Practice Guide: Indigenous Peoples and Mining*. Below David Brereton\* puts the publication in context

Around the world, an increasing amount of mining activity is taking place on or near the traditional lands of Indigenous Peoples. At the same time, there is an expanding focus internationally on indigenous rights and a growth in legislative activity at the national level. Combined, these developments have provided a powerful business driver for forward-thinking mining companies to improve the way in which they engage with Indigenous Peoples.

There is now ample evidence that companies that have a poor reputation for engaging with Indigenous Peoples, or lack experience in this area, are more likely to encounter delays and difficulties in negotiating and finalizing agreements. Companies that fail to respect Indigenous Peoples' rights and interests are also more likely to become embroiled in local and regional disputes and conflicts. Apart from jeopardizing the future of individual projects, this can lead to substantial reputational damage for a company nationally and internationally.

## Navigation aid

*The Good Practice Guide: Indigenous Peoples and Mining* has been developed against this backdrop, to help companies navigate the cultural, social, economic and political complexities associated with developing, operating and closing projects that are on or near indigenous land. The Guide commences by providing a brief overview of the development of international rights



for Indigenous Peoples, addressing the difficult issue of defining who are Indigenous Peoples, and outlining the various ways in which such groups may be connected to mining-related activities.

The balance of the document is organized under five main headings:

- engagement and indigenous participation
- laying the groundwork
- agreements
- managing impacts and sharing benefits
- dealing with grievances.

Each of these substantive sections includes case studies demonstrating good practice, plus examples of where developers have got it wrong. Highlighting instances of poor and problematic practice is unusual for a document of this nature, but was done on the basis that challenges could provide as many useful lessons as success stories. In selecting case studies for inclusion, we also tried to provide a good geographical spread

[although, inevitably, some regions figure more prominently than others].

## Distinctive issues

Much of what is in the guide is commonsense advice which applies equally to company interactions with indigenous and non-indigenous groups alike. However, there are some distinctive issues and challenges that arise in relation to engaging with Indigenous Peoples and which justify the preparation of a stand-alone guide. For example, such groups often have cultural characteristics, governance structures and traditional ways of interacting and making decisions that require the use of tailored forms of engagement. Indigenous Peoples also often hold special and distinct rights through their connection with the land which puts them in a different position to most other potentially affected groups: specifically, they become rights holders, rather than just another

group of stakeholders.

The Guide was developed by a team from the Centre for Social Responsibility in Mining at The University of Queensland in Australia, and a UK-based group, Synergy Global Consulting.

A working group of representatives of ICMM member companies reviewed each of the drafts, and an independent perspective was provided by a five member Indigenous Peoples' Advisory Group, representing a diversity of geographies and backgrounds.

In addition, the second draft of the Guide was circulated to a wide range of representative and advocacy organizations, many of whom provided detailed and constructive comments. While these consultative processes may have added to the time taken to complete the Guide, they have significantly enhanced the quality and utility of the final product. ■

**To request printed copies of the Guide, please email [info@icmm.com](mailto:info@icmm.com) or see [www.icmm.com/library](http://www.icmm.com/library)**



\*David Brereton is Professor and Director of the Centre for Social Responsibility in Mining, Sustainable Minerals Institute, The University of Queensland. He led the team which developed the Guide.

# Survey highlights progress

ICMM is continuing to play a significant role in creating a more sustainable mining sector according to a recent survey by the international opinion research consultancy GlobeScan. The 2010 Stakeholders' Views of Mining and Sustainable Development Survey reveals that ICMM is having a major impact on the sector's progress and, according to 92% of those questioned, is helping to raise standards in the industry.

"ICMM is regarded unusually highly in terms of effectiveness and influence in raising the standards and performance of both its members and its industry," says Rob Kerr, vice president of Globe Scan. Over 800 respondents in 80 countries drawn from the private sector, public sector, institutions, academia, non-governmental organizations, and the media participated in the survey.

The responses show a strong consensus of opinion across a



Mine rehabilitation at Anglo American's Namakwa Sands mine in South Africa

disparate group of stakeholders, from NGOs to mining companies, both in terms of industry priorities and ICMM's positive role in facilitating improved performance.

The report also reveals that ICMM still faces a number of challenges in helping its members and the industry achieve better performance on specific issues such as transparency and health

and safety.

The survey shows that, in terms of the mining and metals stakeholder community, the most serious issues facing the industry over the next three years are: environmental concerns (39% of respondents); social and community issues (28%) and governance and regulation matters (27%).

Notably, respondents in the private sector, including a number of mining companies, considered improving revenue management and transparency, and reducing CO2 emissions, as less important than other stakeholders. The strongest message from the survey, however, is the increased legitimacy and weight that ICMM carries across the diverse cohort of stakeholder respondents.

"The results of the stakeholder survey are encouraging," commented ICMM President Anthony Hodge. "The work we are doing with our member companies to improve sustainable development performance is being recognized. However, this does not mean we should be complacent; our stakeholders are rightly telling us to keep improving our efforts to promote transparency, listen to stakeholders, address community needs and manage our environmental impacts."

## Xstrata scoops reporting award

Xstrata has been awarded the *2010 Building Public Trust Award for Sustainability Reporting* in the FTSE 100, by accounting firm PricewaterhouseCoopers.

The award analyzes the depth and relevance of sustainability reporting offered based on publicly available information.

It recognizes the integration of sustainable development considerations into the business model, wider market and governance structures, as well as the development of relevant indicators and systematic performance monitoring.

As a member of ICMM, Xstrata has committed to ICMM's Sustainable Development Framework, which comprises a commitment to public reporting and independent third party assurance in line with the Global Reporting Initiative.

For more information about the award, visit <http://www.bptawards.com/index.htm>.

## Keeping good company

ICMM members Lonmin and Anglo Platinum have been recognized for their environmental contribution in the recently published Good Companies Guide. The guide is produced by financial analysts at Co-operative Asset Management (CAM) and examines which FTSE 350 companies have the most sustainable business models. It observes that some minerals, particularly platinum, have a significant use in solving environmental challenges.

John Reizenstein, chair of CAM, said of the study: "This study is different in setting aside the

usual ethical question of 'who are the best corporate citizens?'. Instead, it looks at the long-term trends in the environment and society and offers a view on which companies will have a sustainable business model in a world tested by pollution, resource depletion and demographic change."



Anglo Platinum provides training in horticultural and land use techniques in South Africa

# Barrick leads on carbon disclosure

ICMM member Barrick has been recognized as a carbon disclosure leader in an annual global survey of companies conducted by the Carbon Disclosure Project.

Barrick was listed on the Toronto Stock Exchange as the most prepared, involved, and transparent in their initiatives to address climate change.

ICMM has released a formal policy on climate change which commits members to take positive action.

Members of ICMM must also commit to principles of public reporting and independent assurance in line with the Global Reporting Initiative's framework.

"We are very pleased to be recognized by the Carbon Disclosure Project for our public reporting practices and management strategy," said Bill Williams, Barrick's Vice President



Barrick's 2MW wind turbine near the high altitude Veladero mine in Argentina

Environment. "We will continue to report on the progress we are making, as we pursue opportunities to reduce energy consumption and greenhouse gas emissions and adopt renewable energy projects at our operations."

The Carbon Disclosure Project is the only global climate change

reporting system that asks companies to disclose their greenhouse gas emissions and climate change strategies. The survey asks companies to set reduction targets and make performance improvements that mitigate their impact on the environment

## ICMM comments on new IFC performance standards

ICMM has formally submitted comments on the revised IFC Performance Standards and related policies that were published for public comment in May 2010.

The Performance Standards outline the IFC's guidelines on corporate responsibility and form the requirements for receiving and retaining IFC support. They cover issues such as labour standards, Indigenous Peoples, biodiversity and pollution - and include two related policies on disclosure and social and environmental sustainability.

Overall, ICMM welcomed the proposed changes which it felt had strengthened the policies and performance standards. The ICMM submission

contained two overarching suggestions which it felt would be important in enhancing sustainable development outcomes.

The first was about balancing the do-no-harm focus of the standards with a stronger emphasis on the broader contribution of private sector investment to social and economic development. ICMM's second suggestion was about finding opportunities in the standards to emphasize the importance of fostering collaborative engagement between governments, development agencies and civil society. ICMM also provided detailed comments on each individual policy and Performance Standard. For more information visit the IFC's website.

### IN BRIEF

**Kathryn McPhail** will attend the World Economic Forum's *Summit on the Global Agenda* in Dubai from 29 November to 1 December. She will join business leaders from around the world to help set the agenda for next year's Davos event.

**Anne-Marie Fleury** will present on water and mining at the *Water and Business Conference* in London on the 8-9 December. The event on sustainable water management is being organized by Ethical Corporation.

**ICMM** convened its third *Materials Stewardship Roundtable* to help drive forward its policy on life cycle and supply chain management. Attendees included representatives from the electronics and leather industries.

**Anne-Marie Fleury** and Mark Holmes attended the *COP10 Biodiversity Summit* in Nagoya, Japan. The event culminated in the Nagoya Protocol for the protection of international biodiversity.

**Anthony Hodge** attended the *Merrill Lynch Investor Forum* in Johannesburg where he gave a presentation on sustainability in mining.

**Ben Peachey** spoke at a seminar arranged by the European Investment Bank in Luxembourg. He presented on a panel on mining and sustainable development sponsored by the bank.

# Iron out the human error

The vast majority of mining accidents are caused by human error, ICMM president Anthony Hodge told the BBC World Service in a recent interview. Speaking against a backdrop of the dramatic Chilean mine rescue, Anthony Hodge pointed out that “Ninety percent of injuries and fatalities are caused by human error. It comes down to a commitment to live by a culture of safety,” he told Jonny Dymond from BBC Business Daily.

In the interview he discussed the dangers of coal mining and whether or not he would go down a Chinese mine. “There are good guys and there are shysters,” said Anthony Hodge. “For the good operators in China – in the coal side of things



HUGO INFANTE/GOVERNMENT OF CHILE

as much as any other – I would have no problem going down their mines.” He stressed that safety is not linked to the size of a company

or the type of mineral extraction, but to commitment and investment in expertise, technology and safety systems.

## IN BRIEF

**Andrew Mackenzie** presented on mining and climate change at the *Intergovernmental Forum* in Geneva. Ben Peachey also attended the event at which ICMM hosted a drinks reception for Forum members.

**Casilda Malagón** attended the *Argentina Mining Convention* in San Juan where she spoke about the importance of stakeholder engagement and partnerships.

**Aidan Davy** and Claire White participated in a workshop in Lima to mark the launch of a pilot testing project on human rights grievance mechanisms. Eight ICMM members are taking part in the pilot.

**Kathryn McPhail** participated in the *Fifth Columbia International Investment Conference* in New York. The high level roundtable event was moderated by Jeffrey Sachs to discuss actions for public private partnerships in the extractive industries.

**Richard Taylor** represented ICMM at Asia’s largest mining event, the annual *China Mining Conference* in Tianjin.

**Newmont** has been selected for the Dow Jones Sustainability Index rankings for its fourth consecutive year. The company also recently climbed to number 15 on the Justmeans Global 1000 Sustainable Performance Leaders.

## COP10: Case studies on mining and biodiversity available to download

ICMM released a new set of case studies on mining and biodiversity to coincide with the recent meeting of the governing body for the Convention on Biological Diversity (COP10) in Nagoya, Japan.

*Mining and Biodiversity: A collection of case studies – 2010 edition* is a snapshot of how field experience and good practices have developed since ICMM first started working on biodiversity. Examples range from ICMM’s engagement with the International Union for Conservation of Nature (IUCN) to the 2006 release of *Good Practice Guidance for Mining and Biodiversity*.

The 2010 case studies indicate that growing attention to biodiversity by ICMM members – and by the industry as a whole – is accompanied by the appearance of increasingly structured approaches to managing company impacts. “It is our hope that these case studies will inspire companies, communities, governments, NGOs and scientists to co-operate in developing more avenues for integrating mining



and biodiversity conservation,” said Anthony Hodge, ICMM President.

The COP10 meeting in Nagoya adopted the Nagoya Protocol covering access to genetic resources as well as the distribution of profits derived from the use of these resources. COP10 also established targets to prevent biodiversity loss through 20 specific goals, including a call for preserving at least 17% of the world’s terrestrial and inland water areas and 10% of coastal and marine areas as biodiversity protection zones. ICMM’s Anne-Marie Fleury and Mark Holmes attended the meeting to contribute to discussions surrounding mining and biodiversity.

Nagoya was also marked by the launch of *A-Z Areas of Biodiversity Importance*, an online resource on biodiversity which has been developed by UNEP World Conservation Monitoring Centre (UNEP-WCMC) with the support of ICMM. A one-stop information source, the facility provides detailed factsheets for all of the main types of recognized systems to assign and protect areas of biodiversity importance and is accessible at [www.biodiversityA-Z.org](http://www.biodiversityA-Z.org).



# Mutual respect

ICMM's engagement with Indigenous Peoples takes many different forms. This four page special report looks at latest initiatives and achievements

Learning, employment, cultural awareness and entrepreneurship are some of the key examples of engagement which feature across the pages of this Indigenous Peoples special report. Mining companies may sometimes have got it wrong in the past but there is undoubtedly now a more positive story to tell and it is finding an echo across some of the world's

major mining projects.

The report particularly highlights the ability of mining to make a difference while at the same time respecting traditional rights. ICMM members would be the first to admit that this can be a delicate balancing act with the need to take time to really listen to the local community in order to understand their priorities. This can be

as true for respecting aspects such as local customs and tribal dress as it is for supporting new businesses. The need for a sensitive, slow burn approach, leading to better understanding on both sides is evident from the articles in this report and case studies in ICMM's Good Practice Guide which is the basis for our Indigenous Peoples theme in this issue of the newsletter.

## The language of trust

Reaching out to an individual or group by making an effort to communicate in their language is always a good starting point for a relationship and this has formed part of the approach adopted by Anglo American in northern Fennoscandia. The region where Anglo began exploring in 1999 is traditionally inhabited by the Sámi people, the Indigenous Peoples of Norway, Finland, Russia and Sweden, and respect has been shown by always ensuring that local people had access to a company contact who could speak the national language – in this case with the immediate Anglo contact always carrying cards with the relevant contact details.

Because of the unique and different cultures of the Sámi people,

Anglo American has adopted a tailored approach for each group within the community, language being one factor while another has been trying to ensure that the same representatives visit communities as part of efforts to build long term relationships and respond to local needs.

Despite setting out to respond to the different cultures and land affiliations of the Sámi, Anglo has also applied proven engagement principles of treating indigenous communities respectfully and honestly, building relationships slowly and responding to the diversity of communities. A number of good practice procedures were identified on this basis – for example the approach to national languages.



# Institutional learning

Several thousand indigenous Papuans have benefited from education and training at the Nemangkawi Mining Institute which was established by Freeport-McMoRan Copper and Gold's Indonesian affiliate in 2003. Since its inception, the institute has set out to provide world-class education, competency training and employment priority to communities nearest to Freeport's project area in the region.

The Papuan province is one of Indonesia's most remote regions, without a history of advanced educational programs. Given what was a long-standing lack of opportunity in the area, the enrolment priority at Nemangkawi has been weighted towards the locally based Amungme and Kamoro communities from the start. Graduates of the program can accept employment anywhere they like, but most seek jobs at the Freeport operations. Since the institute opened, more than 1000 apprentices have been hired as employees of PT Freeport Indonesia or partner companies.

In addition to its original focus on industrial and technical skills, the institute is also addressing the need for advanced professional development. In partnership with PT Freeport Indonesia and the prestigious Bandung Institute of Technology (ITB), Nemangkawi offers a Master of Business Administration degree program, with classes designed around participants' work schedules. The first 40 graduates of the program received diplomas in 2009.



# MMG promotes cultural awareness

MMG has put cross-cultural awareness at the heart of its community engagement in the Southern Murchison gold fields of Western Australia. In late 2008 MMG Golden Grove engaged local indigenous Traditional Owners from the Badimia Group and an indigenous-owned consultancy to plan, develop and reconfigure cross cultural awareness and competency programs for their base and precious metals operation in the region.

The result has been a holistic course including a welcome to country and traditional

smoking ceremony, introductions to indigenous social organization, history, ways of knowing, interactive local language, cultural orientation and awareness exercises.

The course introduces participants to Golden Grove's cultural heritage responsibilities. It exposes participants to local heritage sites and the cultural understandings, relationships and responsibilities that exist at such sites for local custodians. Operational personnel are given first hand experience of the unique social and cultural perspectives of local Badimia custodians.

Additional benefits from the program have included a revival of traditional economic activity, the encouragement of native title rights and the collection and manufacture of traditional artefacts. According to the company, the whole process has proved therapeutic to a traditional owner who has suffered from government removal policies in the past.

The program supports Australian State/Federal 'Closing the Gap' commitments on indigenous affairs by supporting both a sustainable indigenous and non-indigenous workforce.



## Making self-sufficiency pay

By liaising with the local community and making every effort to understand their particular needs and priorities, Xstrata has used its Los Bambas copper project to improve self-sufficiency in the Cotabambas and Grau provinces of Peru.

The first step for Xstrata was to take an economic profile of the region which revealed, amongst other things, that the local economy was based on barter, and that the main form of livelihood was subsistence farming based on a limited area of productive soil. Next came the company's initial engagement led by a community relations team comprising Quechua speakers.

Extensive consultation took place through community workshops with NGOs, local mayors, community leaders and schools. Workshops involved visioning exercises where the local community graphically

represented the future improvements it would like to see. Nutrition, health, domestic violence and communications were all identified as areas of concern.

As a result, action plans were drawn up and projects included improving the area's irrigation infrastructure. The company worked with the local community to implement an irrigation and hydroponics scheme to improve grasslands and strengthen agricultural management. As noted above, a key objective was to improve self-sufficiency, in particular by supporting income-generating activities and improving both nutrition and education.

Finally, to support the project going forward and ensure it continues to meet community needs, an independent advisory group comprising social and economic development experts has been established.

## Argyle looks to the future

Rio Tinto's recent announcement that it will invest U\$803 million in an underground Argyle Diamond Mine in Western Australia is significant news for the company but also good news for the region where 70% of the workforce live and one in four of them are Indigenous Peoples. The relationship built up slowly on trust and mutual understanding over the last 20 plus years looks set to prosper well into the future.

Aside from its economic benefits to the local community, the Argyle Diamond Mine is located in an area of major spiritual significance for traditional landowners of the region. This was recognized in 2001 as Rio Tinto sought to engage a wider set of indigenous communities and both sides sought a more formal relationship.

In fact, many of the early meetings were informal in nature, a factor which encouraged Argyle Diamonds personnel to spend time listening to Traditional Owners and apologizing for mistakes of the past. The power imbalance between the company and the communities was compensated for by undertaking communication in terms that were clearly understood by the Traditional Owners.

Local and Indigenous Peoples employment at the mine has grown dramatically in recent years and this has partly been fostered by greater trust and understanding. As part of the early engagement members of the communities were taken on site tours, including the underground mine. Visual aids were also used to explain the impact of mining on the surrounding area and translators were used to ensure that everyone could follow and participate in negotiations over shared benefits. By the same token the Traditional Owners provided the company with information about their customs and performed ceremonies to ensure that the mining operation could be conducted safely and free from interruption by ancestral spirits.

Once in production the underground operation will extend the life of the mine to at least 2018.



A powerful example of Aboriginal hand painting



# Barrick supports the Diaguita

Barrick has played an important part in recognizing the indigeneity of the Diaguita people who have inhabited the Huasco Valley along the foothills of the Andes Mountains in Chile for more than 1,000 years. Barrick was the first company to explicitly recognize the Diaguita as a distinct indigenous group in an Environment Impact Assessment (EIA) filed in 2001 for the Pascua-Lama project which has proven and probable reserves of 17.8 million ounces of gold. In 2006, the Chilean government granted the Diaguita legal status as a distinct group. Barrick provided free legal services to help people acquire legal status to become eligible for government benefits.



With a population of only about 600, it has been challenging to preserve the Diaguita's customs and traditions to pass onto future generations. Barrick's Pascua-Lama project is located 45 kilometres away from the nearest Diaguita settlement, making them the company's closest neighbour. Barrick and the Diaguita people have worked together on many successful projects to enhance cultural awareness and support for their traditional way of life.

Agriculture is an important part of Diaguita culture and tradition. In 2006, Barrick set up the Agro-Forestry Assistance Program in the Huasco Valley to help the Diaguita with the challenges of working the land,

particularly during the dry season that hits the region each year. Over 100 farmers have participated in the farming assistance program where they received specialized training in animal health, crops, cattle vaccines and seeds to improve agricultural productivity.

The Diaguita pass down artisanal traditions through the generations. Barrick engaged Diaguita artisans, mostly women, to hold workshops to teach a new generation pottery, weaving and other forms of traditional

artistry. Over 100 Diaguita have learned techniques to produce and sell artwork.

To increase awareness about Diaguita culture, Barrick sponsored the writing of *Etnia Diaguita*, a book about the known history of the Diaguita. The book is now used in over 200 schools in the Atacama Region and elsewhere to teach the next generation about the distinct Diaguita culture. Barrick also sponsored a documentary film featuring first-person accounts from Diaguita from all walks of life.

This year, Barrick signed an agreement with the town of Alto del Carmen to invest in tourism, which will help to create a market for Diaguita artwork. For example, the town's public square will undergo significant improvements to create a focal point for concerts, fairs, fresh food markets, art shows and religious festivals where these works can be displayed.

## A stitch in time

In the early 19<sup>th</sup> century the great Dingiswayo, chief of the Mthethwa people, groomed a chief for the profound role he would play in the history of southern Africa. Shaka brought many tribes under his sway, creating the mighty Zulu nation in what is today the province of KwaZulu-Natal.

In 2008, Chief MD Mthethwa died, to be succeeded by his son, TB Mthethwa who is a modern traditional leader proud of his links to the great Dingiswayo. Chief Mthethwa's domain, the Madabukela Tribal Authority, includes the town of Piet Retief and covers an area of some 200 km<sup>2</sup>, home to at least 140,000 people. Forestry and agriculture are the mainstays of the region but the inhabitants are mostly poor. The new chief set out to create sustainable employment to complement other training and development schemes provided for emerging farmers in the area.

This goal has been realized through the ARM BBEE (Broad-based Economic Empowerment) Trust, which in turn has created five rural upliftment trusts. Nkosi Mthethwa was identified as one of the traditional leaders who would become a trustee of the Mpumalanga/Northern Cape Rural Upliftment Trust.

In March 2010, Nkosi Mthethwa, his wife Phumzile and the tribal council launched the Imvelo Yamama Sewing Project, recruiting 35 women aged

between 22 and 60 to undergo training by an experienced sewing trainer. The ARM BBEE Trust investigated Imvelo Yamama's viability and decided that it was worth supporting. A prefabricated room was erected, sewing and embroidery were purchased, the building was wired and a vegetable garden prepared. The ARM Trust's total contribution was around R300,000 (US\$44,000).



A further 30 women were recruited to receive similar training on a nearby farm and by August 2010, 15 of the women were able to cut and stitch a school tracksuit. It is hoped that, by January 2011, this number will have risen to 50 and the project will be ready to go into full production and to undertake a proper marketing drive. The project recently received a request from the Mondi factory outside town to give it a sample outfit for potential use for its 200 employees. Nkosi Mthethwa estimated that there were 20 schools in the area, all of whom were potential clients.

"The most important thing," Nkosi Mthethwa said, "will be to make sure that we can meet and exceed our clients' expectations in terms of quality. If we can get a reputation for excellence, the sky's the limit."

# ICMM's position on FPIC

Irrespective of whether national laws require Indigenous Peoples to be involved in decision-making, Free Prior and Informed Consent (FPIC) is often raised when a proposed mine is on or near indigenous lands. Senior program director Aidan Davy outlines ICMM's position

The term Free, Prior and Informed Consent (FPIC) was initially used in the field of medicine. It guarantees patients the right to fully understand the inherent risks of a medical treatment or drug therapy and to give their written consent before proceeding. The pursuit of FPIC as a right by indigenous groups was in part a response to forced sterilization programs targeting indigenous women in the US during the 1970's. FPIC has since become synonymous with the efforts of Indigenous Peoples to secure rights to lands, territories and self-determination.

## Decision-making processes

FPIC is of particular concern to Indigenous Peoples for a number of reasons, not least because they have often been excluded from decision-making processes historically, with detrimental effects on their well-being. FPIC has also been mandated or recommended in a number of UN documents, notably in the International Labour Organization Convention 169 on Indigenous and Tribal Peoples (ILO 169) and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).

## Understanding consent

At present very few countries have enacted laws that provide Indigenous Peoples with FPIC. While there is wide consensus on the need for Indigenous Peoples involvement in decision-making to be free, prior and informed, the issue of consent remains the most contested element of FPIC – and one which governments are often



Aidan Davy

reluctant to apply, due to concerns that it might undermine their sovereign right to make decisions regarding the development of natural resources.

The legal status of the UN instrument varies. Conventions are legally-binding for those states that ratify or accede to them. Since coming into force in 1989, 20 countries have ratified ILO 169 and are required to implement the provisions of the convention in good faith. For example, ILO 169 specifies that Indigenous and Tribal Peoples should not be removed from lands except where necessary as an exceptional measure and with their free and informed consent.

“FPIC has become synonymous with Indigenous Peoples efforts to secure rights to lands, territories and self-determination”

## The basic elements of Free, Prior and Informed Consent (FPIC)

### The components of FPIC are as follows:

**Free** – people are able to freely make decisions without coercion, intimidation or manipulation

**Prior** – sufficient time is allocated for people to be involved in the decision-making process before key project decisions are made and impacts occur

**Informed** – people are fully informed about the project and its potential impacts and benefits,

and the various perspectives regarding the project (both positive and negative)

**Consent** – there are effective processes for affected Indigenous Peoples to approve or withhold their consent, consistent with their decision-making processes, and that their decisions are respected and upheld.

*Source: Adapted from UN Permanent Forum on Indigenous Interests (UNPFII), the Tebtebba Foundation, the International Indian Treaty Council and others.*

If consent cannot be obtained, the convention stipulates that relocation should only occur in compliance with due legal process.

UN declarations, such as UNDRIP, have no binding legal effect. So while it is sometimes claimed that UNDRIP specifies legally binding requirements to be applied by all UN member states, in practice this is not the case. The declaration does set out rights that countries should aspire to recognize, guarantee and implement. In that sense, it establishes a framework for discussion and dialogue between Indigenous Peoples and states.

### Valuable resource

Where states have enshrined FPIC in national laws, ICMM's *Indigenous Peoples and Mining Guide* will be a valuable resource to companies in complying with such laws. Where governments have not

fully embraced FPIC, companies cannot endorse it unilaterally. In such situations however, and in situations where governments may not even recognize indigeneity, the Guide will support ICMM members to deliver on the progressive commitments outlined in ICMM's Position Statement on Mining and Indigenous Peoples (see [www.icmm.com/library](http://www.icmm.com/library)). This recognizes that in some instances where legal licence to mine is not matched by a social licence to operate, a decision may be made not to proceed with mining.

### Milestone

The recent publication of the *Good Practice Guide: Indigenous Peoples and Mining* represents a milestone rather than an end point. It will form part of ICMM's ongoing engagement on these issues – including on FPIC – and will be reviewed in light of practical experience.



Protecting Indonesian biodiversity: the Black-Spotted Rock Frog

# Conservation with staying power

**B**HP Billiton's IndoMet Coal Project (IMC) has developed a number of ground breaking initiatives in Kalimantan, Indonesia, designed to deliver a positive impact on biodiversity. Operating in Borneo, which is renowned for its high biodiversity, IMC is engaging with NGOs in initiatives which include the conservation of the Bornean orangutan, the improvement of sustainable land use planning and biodiversity offsets.

Since 2000, IMC has commissioned seven biodiversity surveys in the region. IMC comprises seven coal leases (Contracts of Work) covering a total of 355,000 hectares of high ecological variation and biodiversity. IMC has been guided in this aim by the BHP Billiton Charter, Sustainable Development Policy and other fundamental principles.

The high profile Borneo orangutan was highlighted as a species which would benefit from IMC help. In 2007, at the Bali climate conference, the Indonesian President, Susilo Bambang Yudhoyono, launched the National Orangutan Conservation Strategy and Action Plan stipulating that all orangutans held in rehabilitation centres should be released to the wild by 2015. IMC has been working with the Borneo Orangutan Survival Foundation (BOSF) since 2006, helping to identify potential release sites and providing appropriate support. As a result a total of 149 rescued orangutans were released back into the wild.

More widely, IMC has been contributing to biodiversity conservation through the development of a regional conservation and sustainable land use strategy. The initiative focuses on improving government land use planning capacity and identifying conservation options (such as offsets) in sustainably managed forests. In 2008, IMC with the help of BHP Billiton teamed up with Fauna and Flora International (FFI), a leading NGO which has been active in Indonesia for 15 years. The first phase of the project (2008-2009) set out to improve understanding of high conservation value (HCV) areas within the Maruwai Basin, encompassing two million hectares where the IMC resource is located. This has resulted in the first district-wide assessment of conservation values using the HCV method.

Another key IMC initiative has involved assessing potential for using biodiversity and environmental offset in the region. This would involve IMC offsetting its impacts by supporting the management of areas for forest and habitat restoration. Options have been discussed at workshops involving NGOs and conservation experts. BHP Billiton has recently signed a follow-on two year contract with FFI to ensure that findings from the previous program are used to develop a regional conservation strategy.

## 60 SECOND PROFILE



**Real listening to the concerns of Indigenous Peoples is a key challenge for the mining sector says Rebecca Adamson**



### How would you sum up the mission of First Peoples Worldwide (FPW)?

To build a sustainable future for all on a foundation of indigenous values. By supporting indigenous communities and engaging key political, social and economic institutions, together we innovate solutions that demonstrate the best indigenous and contemporary practices.

### What motivates you personally in this work?

My mother was Eastern Cherokee and my father was the son of Swedish immigrants. I grew up in two worlds, maybe three if you count cultural differences. The richness of my background underscored the wealth of knowledge, traditions and values across cultures. Challenges such as the climate crisis requires all of humanity's wisdom.

### How does FPW interact with business, including the mining sector?

By taking what we hear from indigenous communities and sharing this information with business and government to improve engagement. FPW has a formal community engagement program and has worked with ICMM and its members attending the 2008 roundtable conversation between indigenous organizations and miners in Sydney, and through two-years of work on the GRI Mining and Metals Sector Supplement team.

### What do you feel are the most important challenges for business in its relationship with Indigenous Peoples?

The biggest challenge is real listening because you believe that the project has something to gain from including the ideas and concerns of Indigenous Peoples. Too often company representatives listen only to fulfill a regulatory requirement to engage.

### What particular challenges does the mining sector face?

Issues of footprint and impact are the most significant challenges. Also how developers respond when the community says no. The principle of free, prior and informed consent will continue to expand around the world.

### Do you see progress in the way mining engages with Indigenous Peoples?

We see the mining sector as leading other extractive industries in modeling new ways of engagement. Efforts to move from a transactional model of community engagement, to one based on deeper relationships and co-management of projects with indigenous communities is promising.

### Is the new ICMM Good Practice Guide a useful addition in this area?

Yes, not only to mining companies but to industry in general. We are particularly pleased that you have chosen good practices over best practices, which suggests a journey, never a destination.

### What are two key FPW priorities over the next six months?

We are working hard to expand our Indigenous Practitioners Network, increasing the ways that leaders in indigenous community development can share information. We are also trying to launch a new micro-grants fund, The Indigenous Peoples Climate Action Fund, which would channel funding directly to indigenous communities.

### If you weren't doing your present job what do you think you'd be doing?

Still working across cultures but probably doing more writing to help amplify different voices and better listening across cultures.

### How do you unwind from the pressures of work?

Stretching exercises, long walks with the dogs, reading and gardening.

*Rebecca Adamson is the founder of First Peoples Worldwide which seeks to develop and implement solutions for indigenous communities' issues.*