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**A North American Experience:
the Inuit of Northern Canada and Development Projects.
A Community's Perspective:
Earning Mutual Social Trust Through Capacity Building.**

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Biographical Note

Robert Lanari has completed his Ph.D. studies in Anthropology at McGill University, Montreal, in 1974. Since then he has been involved with the Canadian government and with Makivik Corporation in assessment of social and environmental impacts of major development projects such as the construction of gas and oil pipelines, the transport of liquefied natural gas by sea going tankers in the Canadian north, the James Bay Hydroelectric Project and the Great-Whale-River Hydroelectric Complex, as well as in negotiations of Impacts and Benefits Agreements (IBA) related to such projects.

He is also active at the international level with participation at the International Association for Impact Assessment and symposium of the World Bank.

On behalf of Makivik Corporation, he is currently involved in the implementation of the Raglan (1995) Agreement and has undertaken a research project regarding the social impacts of the operation of the Raglan mine.

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ANNEX

The mining industry is also searching for ways to earn social trust. The following summary may prove useful in the designing of your own guidelines.

In 1992 the mines ministers of all Canadian provinces and of the federal government met in Whitehorse, Yukon, and agreed to become the co-sponsors in association with the Mining Association of Canada, of what has become to be known as the Whitehorse Mining Initiative. Representatives of five sectors of society agreed to participate: mining industry, governments, labor union, Aboriginal peoples, and the environmental community.

In 1994, after eighteen months of full-scale discussions the Parties signed a Leadership Council Accord. The Principles and Goals of the Accord pertains to:

- business climate or the need to attract capital;
- financing, the industry requires accessible investment capital on a globally competitive basis;
- taxation or a well designed tax system to support Canada's ability to attract investment;
- overlap and duplication regarding the elimination of unnecessary regulatory duplication and overlap;
- government services or to continue the provision of essential government services and products;
- environmental protection to ensure minimal environmental impact and responsible mining exploration, development and operations;
- planning and environmental assessment that are effective, efficient and well defined;
- use of information and science in environmental decision making so that sound environmental decisions are made during the life cycle of a mine;
- land use and land access is a fundamental requirement for the mining industry;
- protected areas are essential contributors to environmental health, biological diversity and ecological processes;
- certainty of mineral tenure is critical to mineral investments;
- attracting and retaining skilled workers;
- maximizing community benefits;
- aboriginal lands and resources;

- aboriginal involvement in the mining industry who are entitled to opportunities to participate fully at all stages;
 - open decision making processes.
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1- Introduction

This paper will examine the capacity building developed by the Inuit, review the present state of relationships with industries and discuss social trust for the near future. Indigenous Peoples want and insist to be part and parcel of the decision making processes related to energy production on their lands. Capacity building, or the ability to discuss face-to-face with the proponent on an equal basis, is a mean to achieve this and to develop a relationship of trust with the proponent.

To explore this key issue, this paper will first present an overview of the relations established over the years between Hydro-Québec and the Inuit of Nunavik in Canada. To achieve this goal, the agreements related to major developments and signed by the Inuit over the past 25 years will be reviewed. These are: the 1975 comprehensive land claims James Bay and Northern Quebec Agreement; the Kuujjuaq (1988) Agreement pertaining to the diversion of the Caniapiscou river and; the Kuujjuarapik Agreement-in-Principle (1993) Respecting the Great-Whale-River Complex.

Secondly, by focussing on the Great-Whale-River Hydroelectric Complex, we will examine the capacity building developed by the Inuit to participate in the decision making process related to such project. This will be done by presenting a brief history of the Great-Whale-River Complex; describing the two decision-making processes the Inuit were involved in, the environmental and social assessment process and the negotiations process and; explaining how the Inuit were involved and organized to participate in these processes.

Finally, the question of social trust will be discussed in the light of what has been done since then, more particularly the Raglan Nickel Mine Project and Hydro-Québec Strategic Plan for 1998-2002.

2- The Inuit

The circumpolar region of the world (Map 1) is a vast area of land sparsely inhabited. It is, as one Inuit leader judiciously put it, a “continent with an ocean in the middle”. The Canadian arctic is also a huge land mass, with a relatively small population consisting mostly of Indigenous Peoples.

Nunavik (Map 2), the Arctic region of Quebec which lies north of the 55th parallel, is inhabited by an almost exclusively Inuit population of some 8,000 living in 14 communities of between 120 and 1,700 people. (Japan population : 125,000,000)

With a land area in excess of 480,000 km², (Japan : 375,000 km²) Nunavik is an immense territory where there are no roads. It is linked to southern-Canada by air and the communities are linked with each other only through one regional airline. During the summer season, ships bring in goods of all kinds. Starting in the 1950s, the sedentarization process led to large changes within the Inuit society, driving transition from a subsistence economy, centered on hunting, fishing and trapping, to a mixed economy, with wage earning playing an increasing role.

The Inuit face tremendous challenges, with few alternatives. Given such a context of rapid, externally driven change, the implementation of hydroelectric and mining projects raises fundamental questions and widely shared concerns.

3- The James Bay Project

In 1971 the Government of Quebec decided to proceed with the James Bay hydroelectric project. At that time, there was neither public consultation nor environmental assessment, let alone negotiations. The Indigenous Peoples, as well as the entire population of Quebec, learned through the media that a megaproject was soon to be launched. In November 1972, the Indians of Quebec Association lodged a protest with the provincial Government, claiming aboriginal title to the land. The Cree Indians and the Inuit, the two indigenous groups directly affected, filed an injunction request, asking the court that all work be stopped, pending settlement of their land claims. In 1973 such a court order was obtained, but after one week, the provincial Court of Appeals overturned it.

Although the indigenous groups lost the judicial battle, they won a political victory, for the Government of Quebec agreed to undertake negotiations, which eventually (in 1975) led to the signing of a land claims settlement – the *James Bay and Northern Quebec Agreement* (JBNQA).

The JBNQA was a treaty within the terms of the Constitution of Canada, establishing an economic, political and legal framework for the James Bay and Nunavik territories. Under the JBNQA, in exchange of far reaching rights, the Crees and the Inuit surrendered their Native rights to the Land, obtained monetary compensations and a variety of

political and economic structures were set up, all of which were to be managed by and on behalf of the Indigenous Peoples.

The recognized rights pertained to : land, local and regional governments, health and social services, education, administration of justice, police, environment, economic and social development and finally hunting, fishing and trapping. To briefly summarized: 480,000 km² of land north of the 55th parallel was divided into 3 categories of land: Category 1, which covers an area of 8,417 km², was allocated in ownership to the Inuit; Category 2, is 81,107km² of land over which the Inuit exercise some form of controls and where they have exclusive rights of hunting and fishing. Finally, the rest of the region is Category 3 land where Inuit have year round hunting and fishing rights. Each of the 14 communities received about 776.7km² of Category 1 and 2,589km² plus 9.06km² per capita of Category 2.

A Landholding Corporation in each of the community manages these lands and each community has been constituted as a municipality with an elected mayor and Council. At the regional level, the entire Nunavik is under the jurisdiction of the Kativik Regional Government (KRG) with an elected Chairperson and Council. There is also a School Board that offers, through a network of schools in every community, up to high school education. The JBNQA provides for procedures to assess environmental and social impacts of any development project and contains provisions enabling the Inuit, the Crees and Hydro-Québec to conclude agreements on mitigate measures in relation to future development projects.

In short, there are rights on the land and on the wildlife and an array of administrative structures and committees were put into place amongst which is the Makivik Corporation.

4- Makivik Corporation

Following the signature of the JBNQA, Makivik Corporation was created in 1978, by provincial legislation, and it represents the Nunavik Inuit with respect to matters of a social, cultural, economic, and political nature including areas related to treaty amendments and negotiations, environmental impact assessments, negotiating impact and benefit agreements with developers, social and environmental research, renewable resource development and a variety of local and regional economic development activities.

The JBNQA set the stage, it created a broad context within which discussions with governments and proponents take place and build capacity by setting up Makivik which is a tool, a mean by which the Inuit can play a major role in the development of Nunavik. It is within this framework that we will analyze the Kuujjuaq (1998) Agreement and the Kuujjuarapik Agreement-in-Principle (1993) respecting the Great Whale River Complex.

5- The Agreements

A- The Kuujjuaq (1988) Agreement

In 1981, as part of the James Bay hydroelectric project, Hydro-Québec diverted the Caniapiscou river (Map 3) a major tributary of one of the most important salmon river in Nunavik: the Koksoak river, which is also an important river for accessing hunting and fishing territories. In order to assess the environmental impacts of such a diversion and to propose remedial measures, article 8.10 of the JBNQA provided for a Joint Study Group composed of aboriginal representatives, Hydro-Québec, SEBJ (a subsidiary of Hydro-Québec) and governments. From 1977 to 1988, numerous studies were conducted on the environment and the wildlife. At the same time discussions were going on between the Inuit and SEBJ as to remedial and compensatory measures for the social and environmental impacts of the diversion. These discussions were difficult and obviously there was no will on the part of SEBJ to carry out any major remedial measures. What was discussed at the time were minor works to be done to facilitate navigation on the Koksoak River. Moreover, SEBJ's mandate was coming to an end and Hydro-Québec was taking over the operation of the James Bay project.

In 1984, 10,000 caribou have drawn in the Caniapiscou River. This was the object of a huge controversy. Who was responsible for such a catastrophe? Was it an Act of God or was HQ responsible? Whoever was responsible is not the issue here. What it did, is that it put pressure on both the Inuit and Hydro-Québec to discuss the diversion of the Caniapiscou River, the impacts it may have on the Inuit and the wildlife. Hydro-Québec took over the operation of the project, a vice-president for Native Affairs was appointed, a negotiation team was set up and on October 1988 the Kuujjuaq Agreement was signed. The object of the Agreement was to satisfy the commitments of subsection 8.10 and 8.17 of the JBNQA by supplying funds to compensate the Inuit for any losses and to obtain appropriate releases.

As we can see, the Kuujjuaq Agreement was negotiated within the framework of the JBNQA as well as to satisfy articles of the Agreement. It was also done in the same spirit:

monetary compensations are given in return of a release of any further responsibilities. As we will see for other agreements, an entity was created to receive the \$48 million dollars monetary compensation and to continue research on the impacts of the diversion, more particularly on the salmon. This entity is controlled by the Inuit but HQ representatives are members of its Board of Directors (4 members from the community, 1 from Makivik and 2 from Hydro-Québec).

B- Kuujjuarapik Agreement-in-Principle (1993) Respecting the Great Whale River Complex.

As a follow-up to the James Bay project, Hydro-Québec undertook the 3,000 MW Great-Whale-River Hydroelectric Complex. Two separate periods must be considered: from 1976 to 1982 and from 1988 to 1994.

In 1976, Hydro-Québec set up a Task Force that was responsible for circulating information to the Crees and the Inuit of Kuujjuarapik. Since this Task Force had little efficiency, the Grand Council of the Crees (of Quebec) recommended three years later that Hydro-Quebec create a co-ordinating panel for the purpose of reviewing all hydroelectric development projects with potential impacts on the Cree population. The Inuit followed suit in 1980, with respect to all future projects north of the 55th parallel. The Great-Whale River Complex was of course part of the agenda. Discussions touched upon access strategies, road corridors, options for port facilities, airport locations and mitigative measures.

In 1982 the Great-Whale River Complex was postponed. Research work, consultations and discussions were stopped, the committees and co-ordinating panels thereby losing all-purpose.

Hydro-Québec revived the Great-Whale River Complex in 1988. The purpose of the rest of this section is to examine the Inuit involvement in the environmental assessment review set up by governments as well as in a negotiation process with Hydro-Québec, and to explain the structures put in place by the Inuit to accomplish this enormous task.

-Environmental Assessment

From the outset, Hydro-Québec submitted a tight schedule and proposed that the project be split up with a view of fast-tracking the environmental assessment process; work on roads and on the infrastructure would be assessed first, so that Hydro-Québec could go

ahead with road construction while proceeding with the second-phase assessment of dams and dykes.

This proposal raised much controversy; this was the time when the Crees and the Inuit became involved in the decision making process with respect to environmental assessment.

The Crees took legal action in the provincial Supreme Court, seeking to nullify the splitting-up of the project in order to enable environmental assessment. The Makivik Corporation followed suit, becoming party to the proceedings. The dispute was soon settled out of court, and Hydro-Québec announced that it would not split up the project. The question as to how the project as a whole would be assessed remained unclear.

The project was to be reviewed by five separate evaluating committees, a red tape monster that would have to be brought to heel. The parties – the Crees and the Inuit, Hydro-Québec and the two levels of jurisdiction – signed in January 1992 a Memorandum of Understanding, which included the following main provisions:

1. The five committees would co-ordinate their actions so as to undertake a single environmental assessment process;
2. The make-up of the committees would be better balanced and their members reduced from 27 (including 17 government representatives) to 21, including 10 representatives from the indigenous groups;
3. A fund of \$2 million (\$1,685,600 US) would be put at the stakeholders' disposal by the two governments, with the Inuit share amounting to \$666 666 (\$561,866 US);
4. Hydro-Québec agreed to add \$1.5 million (\$1,264,200 US) for the Inuit and to create a joint technical information exchange group with respect to project justification, with members from Hydro-Québec, the Inuit and the Crees.

The first task of the review committees was to draft guidelines for Hydro-Québec to be followed in its environmental impact study (EIS). Between January and March 1992, these committees held public hearings on the contents of the guidelines in the affected Inuit and Cree communities, as well as in Montreal, giving each stakeholder an opportunity to submit recommendations.

In every community, concerns, misgivings and fears were voiced in an impressive turnout. In March 1992, the Makivik Corporation submitted 87 recommendations on the contents of the guidelines. In April 1992 the review committees released Draft

Guidelines, and Makivik commented on them two months later. Final Guidelines were issued to the proponent in September 1992.

Almost a year later, on 31 August, 1993, Hydro-Québec filed its *Feasibility Study*, including the EIS; a summary in both Inuttitut and Cree languages followed in February 1994 and an audiovisual presentation was made two months later. Finally, during an additional round of public consultations regarding the Report on conformity with the EIS, Makivik submitted its own *Report on Conformity Analysis* in July 1994. Afterwards the review committees released their *Joint Report on the Conformity and Quality of the Environmental Impact Statement for the Proposed Great Whale River Hydroelectric Project*, in November 1994.

-Negotiations

Parallel to the environmental assessment process, the Inuit and Hydro-Québec initiated a negotiation process in 1990.

Although this negotiation process related to the same matters, it created an altogether different dynamics: it provided direct access to higher authorities at Hydro-Québec; it opened up an alternative channel for the Inuit to identify together the effective scope of project impacts and mitigation or minimization of potential impacts; and it allowed the Inuit to determine whether Hydro-Québec was ready to share the benefits flowing from the project, in a fair and equitable manner, with the Inuit from the communities most impacted by the project and the Nunavik population as a whole. By entering into negotiations in a formal setting, both parties avoided confrontational tactics, facilitating the exchange of data and views about project design and scheduling, social and environmental impacts, mitigative measures and financial compensation.

The negotiation process allowed the Inuit to scrutinize Hydro-Québec's plans and to recommend changes. For instance, the preferred scenarios of Hydro-Québec included diverting a major river (Map 4), but this scenario was abandoned, mostly because of Inuit opposition as expressed during frank and open talks. Finally, in April 1994, both parties signed an *Agreement-in-Principle*, in which they undertook to negotiate and to agree upon the terms of a Final Agreement regarding employment, training, mitigative measures, financial compensations and other related issues.

Here again, Hydro-Québec financed these negotiations up to 75% of costs encountered and the rest to be paid in a lump sum upon signature of an agreement.

6- The structures in place

Prior to the implementation of the processes of environmental assessment and negotiations, Hydro-Québec and the Inuit had already agreed, early in 1989, to create a working group including four Inuit representatives for the purpose of circulating information among the Inuit population and acquiring feedback from it. The Inuit perceived this working group as according an opportunity to update their knowledge and to ensure proper information of the people.

When negotiations between Hydro-Québec and the Inuit formally began in 1990, this working group was made part of the team designated for dealing with the proponent and participating in the environmental assessment process, in consultation with the people from the directly affected communities and the Nunavik population in general. This team was made up of Makivik representatives, members from the three affected communities, lawyers and consultants.

In conjunction with the other members of the team the 6 Inuit representatives and the 12 delegates, divided into three task groups (one for each community) undertook: (1) to make presentations at public hearings held in the communities; (2) to respond to the consultation document distributed by Hydro-Québec in each community; and (3) to submit the EIS to the appropriate level of scrutiny required in the context of the environmental and negotiation processes.

Also, as mentioned earlier, Makivik tabled a 200-page report in which the EIS was analyzed regarding its conformity with the Guidelines. Preparation of this document required contributions by some 20 experts and the involvement of the 18 Inuit members; comments and recommendations from technical consultants were incorporated in the input from the Inuit task groups. The resulting draft report was reviewed several times and the final document was tabled with the evaluating committees.

7- Conclusion

- Hydro-Québec and Social Trust

After 25 years, one major hydroelectric project build, a second one that was thoroughly discussed, 3 agreements, a stakeholder that has build capacity, and millions of dollars invested, do we have social trust?

There is no easy answer. Interpretations given to the JBNQA by both parties have quite often been very different: Hydro-Québec saw it as an open mandate to develop an almost uninhabited land in the northern part of the province of Québec, the Inuit took it to be a social contract with a government to jointly develop their own territory. Two point of views difficult to reconcile.

Over the years relationships with Hydro-Québec and industry in general have evolved considerably. As just mentioned, 25 years ago, Hydro-Québec was certain to have a mandate to develop the northern territory. The Aboriginal peoples had no entry at Hydro-Québec, except for the Public Relations people and of course the Legal Department. With the years a special department for native affairs was set up, an environment department was also put into place (a sensitive issue for Indigenous Peoples) and a line of communication was open.

As mentioned earlier, when Hydro-Québec revived the Great-Whale-River Hydroelectric Complex in 1988, our first official move was to take them to court. Nothing to build social trust upon. But with time, the Inuit participated in the environmental assessment process and concluded an agreement-in-principle. The Great-Whale-River project ended abruptly making it impossible to develop an on-going relationship.

Trust cannot be built on sporadic relationships. Nevertheless, Hydro-Québec operates on a project by project basis. When there is a project, the will and the money are there. Unfortunately, the reverse is also true: no project, no will, no money. The role of Hydro-Québec is larger that to just building projects. It has a social role to contend with. It is a public body and its social responsibilities are far reaching. When it undertook the James Bay Project and more recently the Great-Whale River Project the effects were province wide and the debate retained international attention. It became highly political. Issues of land, aboriginal rights, self-government and self-determination were at the forefront of the discussions.

Recently Hydro-Québec in its Strategic Plan for 1998-2002 has introduced the concept of partnerships. Native people will be able to participate, as partners, in hydro development projects on their respective territories. This is a new concept, not yet defined. It is vague, no agreements have been signed and it raises many questions.

To build a major hydro project on native land is not just another joint venture. It is not just another business deal. Call it partnerships, limited partnership or what have you, compensations for using the land, for damages, for the social, economic and environmental impacts will be there for a time to come.

This is still, however, within the project by project approach. A solid relationship requires a permanent basis. The Inuit as well as Hydro-Québec are fully aware that hydroelectric developments will eventually take place in Nunavik in 2, 5 or 10 years from now. Let's not wait until then. Let's build on what has been achieved over the years. The principle of open and continuous discussions has been accepted by Hydro-Québec. Some collaborative efforts have been made, and my participation at this seminar is one of them. An imaginative working relation will have to be developed if we want to earn **mutual** social trust. Not only Hydro-Québec earning social trust from the Inuit but also the Inuit earning social trust from Hydro-Québec. This is the challenge for the next millennium.

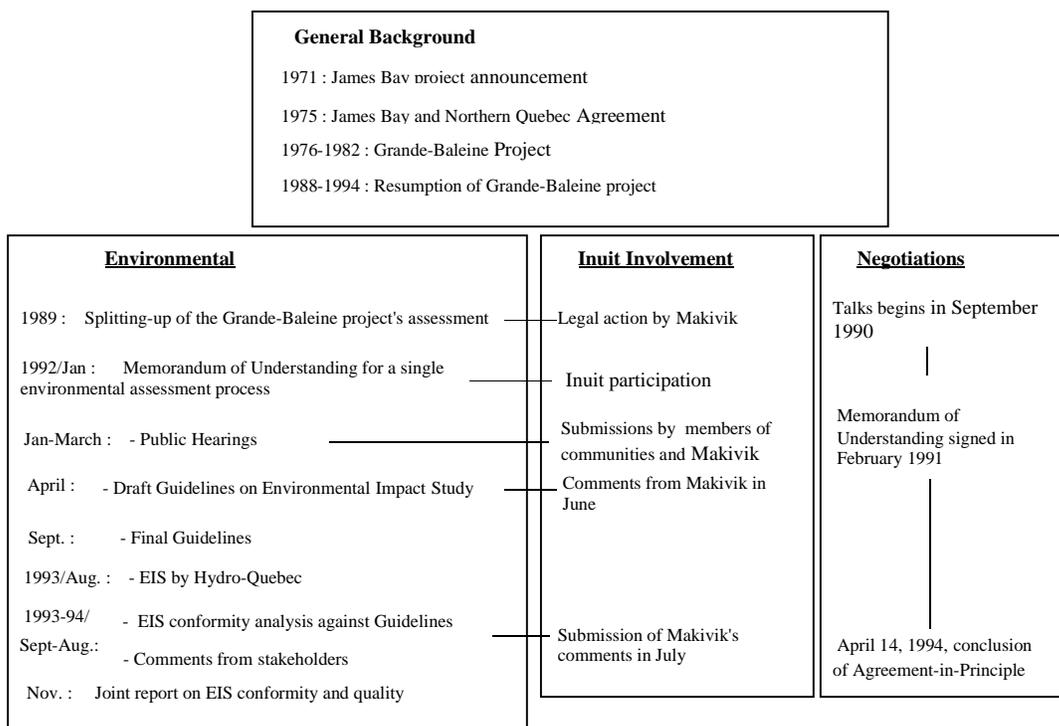
-Raglan Nickel Mine

Finally, to pursue further this line of thinking, I would like to use as example the on going Raglan Nickel Mine Project of Falconbridge Ltd (Map 5). In 1992, Makivik and Falconbridge undertook negotiations toward and Impact and Benefit Agreement and the Raglan (1995) Agreement was signed by the Parties in February of 1995.

Suffice to say for our purpose that in this Agreement a distinct change occurred: instead of just a lump sum of money or guaranteed payments for the life of the project as in the previous agreements discussed earlier, the concept of "profit-sharing" was introduced. It was thought that profit sharing would bring the Inuit and the company to work closely together. In other words the Inuit would have a vested interest to see the mine works.

It is somewhat early in the process to test the veracity of this concept. What can be said however is that a state-of-the-art agreement was reached. Falconbridge recognizes its social responsibilities. Not only in words to obtain consent before the project is built. Not only in hollow promises but by actions after the project has been built and exploitation is well underway. A Committee with sweeping powers, composed of 3 Inuit representatives and 3 Falconbridge upper echelon members, has been set up to oversee all relations between the mine and the Inuit population. Slowly but surely a good working relationship is being built and both sides are learning how to earn social trust.

Figure 1 - Great Whale River Complex Timeline of Events



**Figure 2 - Negotiations and Environmental Review
Makivik Internal Structure**

