

SECTION 5

Implementing Agreements and Maintaining Relationships

Introduction..... 178

Implementing Agreements 179

 Factors Internal to the Agreement.....180

 Clear Goals.....180

 Institutional Arrangements for Implementation180

 Clear Commitments and Responsibilities 182

 Adequacy of Funds and Other Resources for Implementation..... 183

 Penalties and Incentives.....184

 Monitoring184

 Institutional Arrangements for Review 185

 Amendment of Provisions..... 185

 Factors External to the Agreement 187

 Political Agency..... 187

 Support of Key Actors and Groups 187

 Change in Policy or Government 187

 Rivalry Between Government Departments 188

 Lack of Information on Agreements and Related Policy and Legislation 188

 Project Viability and Margins 188

Ongoing Relationships.....189

 Using the Agreement to Build a Relationship189

 Building Trust and Tackling Barriers 191

Summary of Section 5 192

Notes for Section 5..... 193

Implementing Agreements and Maintaining Relationships

The benefits promised by agreements do not flow automatically once they are signed. A great deal of planning, action and commitment of resources is required to make sure agreements are actually implemented or put into effect, to ensure, for instance, that employment targets specified by agreements are actually achieved or that systems designed to protect cultural heritage work are put in practice.

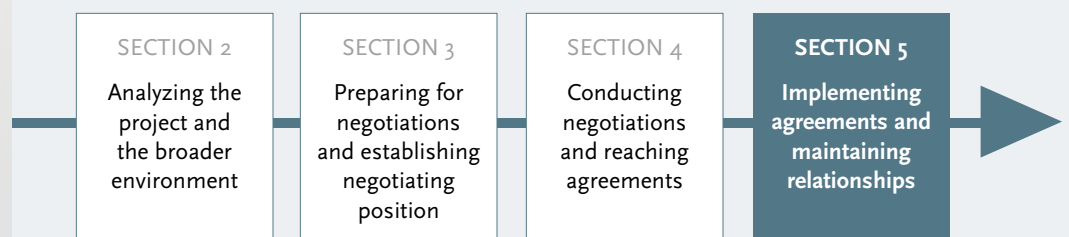
This section covers the challenges of implementing agreements, and identifies keys to effective implementation. Effective implementation is essential if the community is to reap the benefits of all its hard work in planning for and negotiating an IBA, and implementation must be maintained throughout project life. It marks a new relationship among the parties that involves fulfilling the many obligations each party has assumed.

Despite its obvious importance, implementation has typically been the weak element of agreement making.

This section will allow you to:

- Implement agreements in a way that ensures the intent of the parties is being met; and
- Guarantee that agreements will be living documents, with monitoring, reporting and adaptive management used to ensure they remain relevant and continue to meet the needs of the parties.

Structure of the Toolkit



Implementing Agreements

The conclusion of a negotiation with a signed agreement does not automatically bring the outcomes the agreement provides for. This is something that has been learned in the implementation of land claims and self-government agreements, and is illustrated, for example, by a report by the Canadian Auditor General on the implementation of the Inuvialuit Final Agreement.¹ It found that, many years after the agreement was signed, the federal government had not yet developed a strategy for how Canada would deliver on its responsibilities.

Some agreements are working well and have generated substantial benefits,² but it cannot be taken for granted that the conclusion of an agreement will ensure the outcome intended by both parties. In some cases agreements have been entered into from completely different perspectives. While the Aboriginal parties are seeking an ongoing and daily relationship, the corporation sometimes treats the attainment of an agreement as the conclusion of the relationship.

What is it that holds an agreement back from being implemented? What issues should be planned for? There are a range of barriers and obstacles to implementation discussed in this section.

One of the most common obstacles is a failure to communicate. Without formal communication protocols and informal and constant communication between project managers and community leaders, agreements are very unlikely to succeed.

Before discussing obstacles and specific strategies for overcoming them, three key concepts need to be kept in mind when discussing implementation:

- Implementation includes the initiatives and activities required to give effect to the provisions of the agreement;
- Monitoring is the ongoing collection and analysis of information regarding implementation or non-implementation; and
- Review is the periodic analysis of relevant information to establish the extent of implementation, and to consider the appropriateness of implementation initiatives and of relevant provisions of agreements.³

These concepts are linked. Monitoring helps establish whether an agreement is being implemented. Monitoring can track things like achievement of employment targets or educational goals. If review is built into the process, then analysis can go much deeper and establish the reasons for achievement (or non-achievement) of agreement goals. Through review, parties can also assess the appropriateness of goals, and the need to modify them.



While the Aboriginal parties are seeking an ongoing and daily relationship, the corporation sometimes treats the attainment of an agreement as the conclusion of the relationship.

There are two broad factors that can impact on whether agreements are implemented:

- The presence or absence of factors internal to the agreement that are essential to effective implementation; and
- Factors external to the agreement (for example certain government policies), which cannot be provided for in the agreement, but are essential to its success.

Factors Internal to the Agreement

Clear Goals

The goals for the agreement need to be clearly and precisely identified. This was discussed in Section 4 (see page 121), where it was suggested that “slippery” language such as “where feasible” and “if possible” should be avoided. As the agreement is being drafted and again prior to signing the final document, key questions to ask are:

- Are goals and intended outcomes clear?
- Is there ambiguity? Could different interpretations be reached regarding what has been agreed?
- What are the consequences of any possible difference in interpretation?
- Would people with no involvement at all in the negotiation be able to understand what was intended from the text of the agreement?
- Is language clear and precise?⁴



Implementation units are most effective when they are specifically provided for in an agreement, with relevant clauses dealing with issues such as representation from both parties, and selection criteria for committee members.

Institutional Arrangements for Implementation

Specific institutional structures need to be established to manage the relationship over time. Sometimes only one implementation structure is identified, with (possibly equal) representation from both the company and the community. In other cases there are structures internal to the community as well as this joint committee.

If there is a community-based implementation unit, it can be vulnerable because of pressure to divert resources away to meet other demands. Often, if there are limited resources, the work of implementation may be managed by a staff member with multiple responsibilities, making effective implementation difficult. However, many recent agreements include resources and funds for an implementation officer. Implementation units are most effective when they are specifically provided for in an agreement, with relevant clauses dealing with issues such as representation from both parties, and selection criteria for committee members.

De Beers and some communities have established an environmental management committee (EMC), with equal representation for each party, to jointly look at issues, and to arrive at decisions by consensus. Among other things, the EMC considers draft applications for environmental authorizations prior to these being submitted to the regulatory authorities so that the issues and concerns of the community can be addressed prior to submission of the application. According to the company, this has

worked very well, and certainly made obtaining many permits and licences for project construction a lot less onerous than it might have been.

Three examples of implementation committees are:

- The Tłı̨chǫ Nation appointed a community-based mining committee with two representatives from each of the four Tłı̨chǫ communities, so selection was based on equal geographic representation. Company-community meetings included only two delegates from this mining committee, and two from the mining company. With time this has changed, so the mining committee has been dismantled and an implementation officer manages relationships daily, while the political leadership meets with the company on a regular basis.
- In the case of the Kitikmeot Inuit, there have been two community and two company representatives on the implementation committee. Other experts are brought in as needed. When disputes have arisen that can't be managed at the committee level, they have been “bumped up” to senior leadership on both sides.
- Members of the coordinating committee established by an agreement in Western Cape York Communities in Australia were chosen using culturally-specific processes within traditional owner groups, where it was recognized that younger generations of traditional owners were sometimes “better placed to assume such roles.”⁵

Other aspects of implementation committees that are often negotiated include:

- Information requirements and information management, for example to track whether commitments are being met. Implementation committee meetings will happen two to four times a year for up to 20 years, and information management will be important so that reviews can tap an archive of historical data and earlier decisions. Meeting minutes will need to be archived, as well as any amendments to the agreements or other crucial documents.
- Schedule of meetings and a timeframe for a first meeting, as well as how often meetings are held, where they are held, and what constitutes a quorum.
- Who is to act as a chairperson, or whether there will be a rotating chair.
- The terms of members and a process for changing them.
- Meeting procedure and rules of order.
- Whether there will be liaison with third parties, for example government agencies.
- Management of costs, administration of budgets, annual reporting, and auditing procedures.
- Decision making arrangements, including the nature of decisions that can be made.
- Responsibilities of any subcommittees and how they are formed (e.g., environmental issues, cultural heritage protection, employment and training, communication).
- Review and recommendation on reports (for example on training, employment, or social impacts).



GAR LUNNEY / NATIONAL FILM BOARD OF CANADA

Implementation committee meetings will happen two to four times a year for up to 20 years, and information management will be important so that reviews can tap an archive of historical data and earlier decisions.

Clear Commitments and Responsibilities

Implementation often fails because of the lack of definition of team member responsibility and of managerial accountability.⁶ In a review of an agreement in Australia, implementation failure was found to be a result of poor understanding on the part of the company leadership of the need to assume personal and line accountability for implementing the agreement. Responsibilities need to be spelled out clearly, and authority vested in senior managers of both the company and the communities in order to fulfil obligations in an agreement.

Another way to support implementation might be a requirement for senior decision-makers to be involved in regular implementation reviews and/or to attend a minimum number of implementation committee meetings each year. Some agreements specifically prohibit delegation of these functions to more junior personnel. A study of the implementation of one agreement found a tendency for line managers and employees to pass responsibility to human resource and community relations departments, which fundamentally limited the success of implementation efforts.⁷ Operational managers failed to take responsibility for implementing provisions of the agreement relevant to their work area, leaving all of the work to one department.

It is essential to have both company and community champions of the agreement to maintain momentum for successful implementation. Staff in both organizations can make implementation of the agreement their primary focus. If there is an individual from within the community who exerts pressure on the company, more attention will be paid to key issues. This outside voice needs to be matched internally by a champion of the agreement. The insider needs to be backed by senior staff and to understand the internal culture of the company in order to raise implementation issues appropriately. The two voices together can help ensure constant attention to implementation.

Questions to ask to ensure clarity of responsibilities are:

- Is the responsibility for each action or initiative clear?
- Do both parties agree about who is responsible?
- Do those with the responsibility to implement have the legal, regulatory, or policy mandate to carry out the actions they are responsible for?
- Are there senior decision-makers responsible for implementation or at least oversight of implementation?
- Are lines of responsibility clear within many operational units of the company, or are they likely to be passed off to a human resources or community relations department?

It is essential to have both company and community champions of the agreement to maintain momentum for successful implementation. Staff in both organizations can make implementation of the agreement their primary focus.

Adequacy of Funds and Other Resources for Implementation

Resources must be allocated specifically to implementation. This is in addition to resources that are allocated to fund program activity, such as scholarships. It is very important to have an implementation budget in place in advance of the agreement being signed so that both parties have the same expectations about costs over time.

- **FUNDS** will be needed throughout implementation, for example to hire technical experts to review environmental reports and monitoring plans, for staff to administer the agreement and programs identified within it, and for legal or consulting fees. Funds for ongoing consultation and communication with implementation committees and the community will be required for meetings, managing disputes, human resources, and environmental monitoring. As well, funds should be allocated to general administrative functions.
- **RESOURCES** may include staff, as well as access to experts or information that may be required during implementation.
- **TRAINING AND CAPACITY-BUILDING** are needed to engage in the policy work or implementation of the agreement.

The company itself may also lack skills and capacity in critical areas, such as cross-cultural engagement. For example, senior staff can make comments or act in ways that cause negative reactions among indigenous people, which can affect implementation.⁸

Questions to pose on company skills and capacity may include:

- What skills will be required to implement the agreement?
- What programs, policies or procedures might be needed?
- What training or courses might be required internally to build capacity, or for the company to orient staff to the local context so that implementation can occur smoothly?

Questions to help identify the adequacy of funds and other resources for effective implementation include:

- What are the resources required to support implementation? Do the resources exist now?
- What funds will be required and who will provide them?
- What skills will be needed on both sides of the agreement?
- How long will these resources need to be available?
- What information is required to ensure that commitments are being met?
- If resources are not available, how are they going to be mobilized by the time implementation is due to occur?
- Will these resources continue to be available in the future? With what frequency will they arrive, and how will they be managed?
- What mechanisms are needed to ensure adequate funds are made available?



Funds will be needed throughout implementation, for example to hire technical experts to review environmental reports and monitoring plans, for staff to administer the agreement and programs identified within it, and for legal or consulting fees.

Agreements should, where possible, creative incentives for success and provide for automatic penalties if implementation is slow or is failing.

Penalties and Incentives

Agreements should, where possible, creative incentives for success and provide for automatic penalties if implementation is slow or is failing.

For example, under some Australian agreements companies have to spend more on indigenous employment and training programs if employment falls below agreed targets. The greater the gap between actual and target employment, the steeper the increase in company spending.

This type of adaptive management is important. It is not about blaming the company, but about ensuring an appropriate response if the intent of the agreement is not being met. At a more strategic level, adaptive management will involve using agreement reviews to understand the underlying factors that are leading to ineffective implementation, and then structuring responses to deal with those causal factors first.

Monitoring

It is critical that monitoring of key indicators for implementation performance be developed from the start and maintained throughout project life. If this is not done, it is very difficult to know the extent of implementation success or failure, or to develop strategies to deal with implementation problems. Monitoring can be both quantitative (using close-ended survey questions, monitoring targets and other numeric commitments) and qualitative (using data gained through open-ended survey questions, interviews, focus groups, meetings or discussions).

Some of the monitoring provisions will be obvious, and will be based on targets that are established in the agreement. So, for example, an employment target of 25 per cent indigenous employees will either be achieved, or not. However, it is important to look beyond obvious indicators. Just because a company achieves the target does not guarantee a strong relationship is in place or that people have worthwhile jobs. There may, for example, be a very high hiring rate that allows the company to meet targets, but turnover rates may be just as high. In an implementation review of the Troilus mine, the authors note that a “more structured approach to tracking the employment experience is needed and that a close (and sustained) working relationship between the community and the company is ... essential.”⁹

Provisions for monitoring often indicate:

- How often reports will be made.
- What variables (e.g., criteria and indicators like employment, retention, and turnover rates) will be tracked.
- How results will be used. For example, where monitoring results indicate implementation failure, there may be a requirement for the parties to meet and plan how to address the problem.

Institutional Arrangements for Review

Review involves the periodic analysis of relevant information to establish the extent of implementation, and to consider the appropriateness of implementation initiatives and of relevant provisions of agreements. Many agreements include provisions for regular review of the agreement, such as this one:

Three (3) years after the Effective Date, the Parties shall in good faith consider whether the terms of this Agreement are appropriate in light of circumstances of the [project] at the time and, if either Party is of the view that such terms are not appropriate, the Parties will in good faith negotiate adjustments. The Parties agree to provide such disclosure of information as is required to address the negotiation of any adjustments.

Critical questions will be:

- When will reviews happen?
- Who will conduct them?
- Who will pay for them?
- What will be done with the findings? (i.e., Will there be agreed upon thresholds that will trigger commitment of additional funds?).

Amendment of Provisions

The requirements for amendment should not be too onerous, or problems with agreements will not be addressed. Companies can be extremely risk averse in this area and in some cases insist on sticking with the original terms of the agreement because they see changing any part of the agreement as opening up a Pandora's box.

Some recent agreements in Australia have avoided the complexities (perceived or real) of amending agreements by having fundamental issues and the overall working relationship and principles between the parties set out in a core agreement that is not easily amended. Separate management plans are attached to the core agreement and deal with issues such as employment, training, cultural heritage, and environmental management. A much simpler procedure is set out for amending the management plans.

Amendments can be important for a few reasons. First, the relationship between the company and community is dynamic, which can result in unanticipated situations that need to be addressed through amendment of certain provisions. Failure to do so can undermine the trust and confidence of parties with each other. Second, the body of knowledge, understanding and approaches to IBAs is changing as more and more IBAs are negotiated and more participants continue to hone the approaches used.¹⁰ Finally, the alternative to amendment may often be dispute resolution, which can be expensive and disruptive of relationships.¹¹ Revisiting and revising sections of the IBA is a proactive way to avoid the need for formal dispute resolution, and the potential for erosion of the relationship.

Amendments can be important for a few reasons. First, the relationship between the company and community is dynamic, which can result in unanticipated situations that need to be addressed through amendment of certain provisions. Failure to do so can undermine the trust and confidence of parties with each other.

Some examples of clauses that have been amended include:

- Changes to start-up times and skills training. If it becomes apparent that construction delays will change the start-up date or there are changes to the businesses or skills needed, training or business development commitments can be revised to meet new operating conditions, and potentially to trade some post-construction benefits for other benefits.¹²
- Significant expansion of the project or development of a new project in the same geographic area. For example, one agreement provides that, “This Agreement shall be renegotiated if the proven and probable ore reserves on the [project] claim block increase to a level equal to, or in excess of, [a threshold quantity]. Proven and probable ore reserves, for the purposes of this Agreement, will be defined in accordance with [mining company] corporate policy, which may change from time to time.”¹³
- The establishment of terms or conditions through the regulatory processes that are either inconsistent with the IBA or make it desirable for the parties to rethink certain provisions in the agreement.¹⁴ This possibility would arise if the agreement is concluded before the start of the environmental assessment or permitting process. One IBA negotiated under the Nunavut Land Claims Agreement has a renegotiation clause as follows: “the parties recognize the final environmental review and approvals of the [mining project] will be subject to the environmental assessment process of the Nunavut Impact Review Board... The parties agree that they will, if necessary, renegotiate this Agreement in order to ensure that it is consistent with the terms and conditions of final project approvals.”¹⁵
- Contractual details, such as when a company changes its name, or when the indigenous group gains extensive new expertise and wishes to change business development clauses.



Factors External to the Agreement

There are many factors outside of the agreement that can impact on success. For example, if the general education system is not working effectively, getting Aboriginal people into skilled jobs can be tough. Or, if housing in the region of the mine is poor and overcrowded, there may be pressure on families to leave the area. It may not be possible to manage these wider issues through an IBA, but they can be recognized as possible barriers to implementation, and the parties can agree to work jointly to minimize their negative effects on implementation.

Some general external factors that can impact on implementation are discussed below.

Political Agency

Implementation mechanisms often fail to recognize indigenous political agency and so fail to engage indigenous political actors in the design of institutions. As a result, even though agreement provisions exist on paper, they do not become a reality. Implementation mechanisms may be designed by non-indigenous people and be modelled on similar structures at other projects or in different contexts. They may not take shape in the way intended or have the intended effect because they have no organizational fit with local cultural values and governance norms.

For example, the negotiation and consultation model of the corporation can be inappropriate if the social unit in which people organize and identify is through the family, the clan, or the church.¹⁶ The result is a failure to engage with Aboriginal political actors to achieve a mutually acceptable approach to implementation issues,¹⁷ a lack of transparency, an exclusion of indigenous people from decision-making, and a less effective relationship.

Support of Key Actors and Groups

It may take the political support of many different groups to effectively implement agreements. At the Troilus Mine in Quebec, the support of the Cree Nation of Mistissini through active promotion of employment in the mining industry is cited as one of the key factors in achieving success.¹⁸ In one case in northern Canada, the failure of an Aboriginal executive to work as a team led to neglect of implementation meetings for more than two years. If the provincial government is responsible for training and education changes priorities, and no longer supports capacity building, this can also impact on success.

Change in Policy or Government

Government policy shifts can also erode the basis for an agreement. For example, new administrations can dismantle legislation or institutional apparatus critical to effective implementation of agreements.

It may not be possible to manage these wider issues through an IBA, but they can be recognized as possible barriers to implementation, and the parties can agree to work jointly to minimize their negative effects on implementation.

Two First Nations have created their own policies on exploration and mining. In the NWT, the Akaitcho have developed a “Mineral Exploration in the Akaitcho Territory: Guidelines for respect” document (contact 867-370-3217). In BC, the Taku River Tlingit First Nation has created a “Mining Policy” (<http://trtfn.yikesite.com/downloads/mining-policy.pdf>). These two policies create the framework for mineral exploration and development, and give certainty to developers on how they should consult and engage in the specific regions.

Rivalry Between Government Departments

In some cases, many government departments end up having some responsibility for training or education. As a result, considerable turf protection and jockeying can occur that interferes with the implementation of the agreement.¹⁹

Lack of Information on Agreements and Related Policy and Legislation

If there is rapid turnover in organizations of people knowledgeable about and critical to the implementation of the agreement, the history, spirit, and intent of agreements and any related or relevant legislation can be lost. Agreements are often established with legislative or policy frameworks that support their implementation, but a lack of information in place to familiarize staff with these frameworks can lead to actions inconsistent with the goals of the parties. (For strategies, see *Build Mechanisms to Deal with Staff Turnover* on page 191).

The community may also need to develop policies on mineral exploration, development, or closure (or traditional knowledge and so on) in order to clarify expectations in the region on particular topics. Also, if more than one project is operating or is likely to operate in the region, there may be a need to develop programs and procedures for managing licenses or research applications, engaging in environmental monitoring, or other issues.

Further, the community may need to engage in legal and regulatory processes as changes occur in the region or nationally, and staff and capacity may need to be developed in order to do so. Also, the community will need administrative support in order to track funds and manage the agreement.

Project Viability and Margins

Expectations about implementation may not be met if the project doesn't start on time, is mothballed or closed for an extended period, or if low commodity prices or other factors reduce operating margins.

While some protections against these problems can be built into agreements through the type of royalty chosen and provisions for minimum annual payments, problems with project viability will minimize the upside potential for revenue streams to support implementation, may affect the ability to meet employment and training goals, and can interfere with the priority given to implementation of the IBA.



Ongoing Relationships

This section discusses ongoing relationships for parties to the agreement, focusing on three key questions:

- How do you actually use the agreement to build a relationship?
- How is trust built between the parties?
- What are major barriers to maintenance of trust over time?

Using the Agreement to Build a Relationship

Often companies and communities can pay close attention to agreements in the first few years of operation, but then steadily decrease their attention to implementation as the project becomes well established or towards closure. Attention to the following areas helps maintain agreements as living documents, with adaptations made as needed.

- Keep communication alive. Communication channels need to be constantly reinforced, so that informal contacts and formal meetings are taking place.
- Maintain careful records of meetings, discussions, correspondence, reports, and data, such as the tracking of commitments.
- Commit to quick and ongoing action on issues that arise before they become disputes. A fundamental goal of the agreement should be to solve problems as early as possible through effective communication and early warning systems. It is important to support this goal with training for employees in dispute management.²⁰
- If disputes do occur, companies and communities should train their personnel to view them as a source of valuable information that can lead to improved operations, reduced risk, and a supportive relationship within the community.²¹
- Build implementation plans. Even if plans are developed only internally, they can guide people in their commitments over time.

Table 5.1 on page 190 provides an example of how one organization tracks some of the commitments from an IBA. This organization goes through a yearly review of every item of the IBA in order to track actions, status, and timing commitments. This kind of planning (either joint or separately) can include identification of the obligations of the parties, activities, and schedules. Implementation management often includes a plan, the creation of accompanying documents (e.g., financial transfer agreements), and a description of how the new relationship should operate.

Keep communication alive. Communication channels need to be constantly reinforced, so that informal contacts and formal meetings are taking place.

Table 5.1: Sample Yearly Review of an IBA

Section	Requirement	Action	Status	Timing
Schedule A: Implementation Committee	<i>Membership of the Committee:</i> Four members with two being appointed by [the company] and two appointed by [the community].	Consider using senior rep and/or outside support. Arrange for orientation of committee reps and staff.	Workshop to orientate reps and staff on agreement and roles and responsibilities.	Orientation workshop – Fall.
Schedule B: Company-Community Liaison	<i>Intent:</i> [company] will employ a Liaison Officer. The Liaison will assist with implementation of the agreement (from the company perspective) and may sit on the Implementation Committee.	Hire Liaison Officer in the fall, and orient to the agreement.	Advertise position in local papers and on radio.	Monitor.
Schedule C: Agreement Coordinator	<i>Intent:</i> [The community] will hire and/or appoint a Coordinator within 30 days of a [mining] Project Construction Decision. The Coordinator will assist with implementation of the Agreement (from the community's perspective).	Hire Agreement Coordinator. Consider role of Coordinator vis-à-vis overall requirements (e.g., coordinator could be responsible for culture and community development programs only).	Consider use of senior (community) officials or external support to fulfil other aspects.	Coordinator position currently out for competition.
Schedule D: Training and Education Opportunities	<i>Training – General:</i> use training and education fund to provide with training and education opportunities in the mining sector (i.e., scholarships, pre-trades training, etc.), with [company] and other agencies.	Develop a training strategy to assist the [community] with decisions relating to training.	Workshop on training.	Monitor and encourage [company] participation in on-site training initiatives.
Schedule E: Employment Opportunities	<i>Employment Support System:</i> [The company] will implement a support system comprised of: drug and alcohol rehab, money management, etc; cross-cultural training; Family Assistance Program; serve country foods; prohibit alcohol and drugs; on-site communication services at its cost (for employees to maintain contact with home).	Inform communities and workers, and provide guidance to the company on access to country foods and elders for cross-cultural orientations.	Family Assistance Program and other similar provisions are provided in conjunction with other agencies in the region. It will be important for employees to know they have access to these programs.	Ongoing.
Schedule F: Business and Contracting Opportunities	<i>Application:</i> Provisions of this schedule apply to all contracts except an explosives contract and drilling contract.	Monitor.	All other contracts will be available to [company] businesses on a bid basis.	Ongoing – monitor.
Schedule I: Abandonment and Reclamation	<i>Intent:</i> To provide for progressive reclamation activities for the [mining] project throughout the life of the project consistent with terms of licenses, permits, etc.	Inform [community] lands department of provisions.	Workshop for lands department on provisions.	Ongoing – monitor.

Building Trust and Tackling Barriers

- **COMMUNICATE AND REACH OUT.** A major barrier to effective implementation is the failure to communicate, and to build a strong relationship. For example, the Tłı̨chǫ Nation invites mining staff out on the land on annual canoe trips, hunts, and other community gatherings to familiarize senior staff with their culture.
- **BUILD MECHANISMS TO DEAL WITH STAFF TURNOVER.** As staff leave, there is a loss of institutional knowledge and familiarity with the agreement or legislation, and there is also an absence of policy learning. High turnover makes it difficult to establish and maintain relationships. There is a need for education of new personnel in the company and the community. *It is difficult to overestimate this point.* Vital knowledge can be lost if responsibilities are not clearly defined when transitions occur. The company and community will need to implement strategies such as mentorship, job shadowing, cross-training, and requiring that all new senior managers undertake an orientation on the agreement. Furthermore, indigenous groups can design policies or organizational procedures that describe the relationships and protocols in place. This can ensure there is continuity built in for new staff.
- **BUILD STRONG RELATIONS BETWEEN PEOPLE WITH SIMILAR RESPONSIBILITIES** within the company and the community, for example between employment and training officers in the company and community liaison officers, or between company environmental staff and community environmental monitors or advisors.
- **EDUCATE LOCAL PEOPLE AND THE COMPANY ABOUT THE AGREEMENT.** This is an essential and ongoing responsibility. Develop briefing sessions to educate company employees, community staff, and contractors about the nature of the agreement. Briefing sessions can focus on:
 - Why the agreement is in place, including its goals, benefits, achievements and how it operates;
 - Roles and expectations of employees and contractors; and
 - The constructive role of community criticisms of project operations, as complaints and opposition can be a source of valuable information.²²
- **USE DATA FOR ADAPTIVE MANAGEMENT.** Successful relationship building requires that attention be paid to changes both in the project itself, in the wider environment, and in the interaction between the two. A key issue here involves collecting data and figuring out how to use it. For example, data on safety, wellness, hiring, and promotion are often collected but not effectively used to make changes. Collection of reliable and appropriate data is one matter, but following up on it is critical.
- **CONSIDER CUMULATIVE INSTITUTIONAL FATIGUE,** especially if there are multiple projects in the region (e.g., Snap Lake, Diavik and EKATI diamond mines in the NWT). With three operating diamond mines, and a separate environmental management board for each mine, people are burdened with many commitments. This reflects a lack of adaptive management in the region, because the social institutions to manage the mines become carved in stone, with no possibility of institutional change as new mines emerge. The lack of coordination between the three environmental bodies is marked, as is the lack of any effective cumulative-effects assessment regime for impacts on either the biophysical or human environment.



Successful relationship building requires that attention be paid to changes both in the project itself, in the wider environment, and in the interaction between the two.

Summary of Section 5

- Establish clear goals for implementation of the agreement;
- Build strong institutional structures for implementation, based in culturally appropriate models;
- Develop implementation plans and review them often;
- Define who is responsible for implementing parts of the agreement;
- Build in transition plans for turnover of employees;
- Ensure there are strong community champions of the agreement who are matched inside the company by equally influential corporate champions;
- Negotiate resources for implementation of the agreement, including funds, access to expertise, and staff or information resources;
- Anticipate staffing, program, and policy needs and start to build the capacity for them;
- Build in penalties and incentives and then use them to motivate action;
- Develop a system for monitoring implementation of the agreement;
- Build in an easy-to-use system for amending parts of the agreement that are most likely to be affected by changing circumstances;
- Anticipate external factors that can influence implementation success and then plan to deal with them;
- Use the agreement to build a strong relationship; and
- Involve the company in local activities in order to build trust.

SECTION 5

Notes

- 1 Office of the Auditor General of Canada 2007.
- 2 O'Faircheallaigh 2002.
- 3 O'Faircheallaigh 2003a, 6.
- 4 Ibid, 19.
- 5 Crooke et al. 2006, 14.
- 6 Crooke et al. 2006.
- 7 Ibid, 12.
- 8 O'Faircheallaigh 2003c, 9.
- 9 Penn and Croquet 2008, 22.
- 10 Diges 2008.
- 11 Ibid, 5.
- 12 Adapted from Diges 2008.
- 13 Kennett 1999, 97.
- 14 Kennett 1999.
- 15 Ibid, 98.
- 16 Gibson and Kemp 2008.
- 17 O'Faircheallaigh 2003.
- 18 Penn and Croquet 2008.
- 19 O'Faircheallaigh 2003a, 7.
- 20 CAO 2008.
- 21 Ibid.
- 22 Adapted from CAO 2008, 53.

A complete list of references is available in the final section of the toolkit, which can be downloaded at www.ibacommunitytoolkit.ca