

Determining our Future, Asserting our Rights: Indigenous Peoples and Mining in West Suriname

Synthesis Report: Suriname Pilot Project



**A collaborative project between
The Association of Indigenous Leaders in Suriname (VIDS) and
The North-South Institute (NSI)**

**Funded by the International Development Research Centre (IDRC),
Ottawa, Canada**

*By Viviane Weitzner
The North-South Institute*

January 2007

The **Vereniging van Inheemse Dorpshoofden in Suriname** (VIDS) is an association of Indigenous village leaders from every Indigenous village in Suriname. It was established in 1992 in the aftermath of the internal armed conflict in Suriname. Its goals and objectives are to promote and defend the rights of Indigenous Peoples, to speak for Indigenous Peoples on the national and international levels and to support sustainable development in Suriname. The VIDS has taken a leading role in promoting Indigenous rights, sustainable development and environmental protection in Suriname. It believes that all three are interrelated and all must be supported and monitored. In 2001, the VIDS established Stichting Bureau VIDS as its full-time secretariat.

The North-South Institute (NSI) is a charitable corporation established in 1976 to provide professional, policy-relevant research on relations between industrialized and developing countries. The results of this research are made available to policy-makers, interested groups, and the general public to help generate greater understanding and informed discussion of development questions. The Institute is independent and cooperates with a wide range of Canadian and international organizations working in related activities.

The contents of this study represent the views and the findings of the author alone and not necessarily those of The North-South Institute's directors, sponsors, or supporters or those consulted during its preparation.

Available at: www.nsi-ins.ca

Layout: Iana Saavedra Ouellette (iana@maqex.com)

Photo Caption: The future generation, children from Section, West Suriname.
Photo Credit: Viviane Weitzner



The North-South Institute
L'Institut Nord-Sud



Association of Indigenous
Village Leaders in Suriname

© The North-South Institute and the Association of Indigenous Village Leaders in Suriname, 2007.

Table of Contents

List of Abbreviations:	iii
Acknowledgements	v
Foreword	1
Executive Summary	2
Section 1: Introduction	7
Objectives of VIDS/NSI Project.....	9
Organization of Report.....	9
Section 2: Project Process, Activities and Methodologies	10
Project Scope and Indigenous Steering Committee.....	10
The VIDS/NSI Project Team.....	10
Methodologies and Project Activities.....	11
Project Documents.....	16
Section 3: General Context: Regulatory and Legal Framework, Mining and Indigenous Peoples in Suriname	17
Economic Importance of the Mining Sector.....	17
Surinamese Legislation and Policy around Mining, the Environment and Indigenous Peoples.....	18
<i>Mining Legislation and Policy</i>	18
<i>Environmental Legislation</i>	20
<i>Indigenous and Tribal Peoples</i>	24
<i>International obligations and actions</i>	25
Policy and Role of Government.....	27
Section 4: The Bakuys and Kabalebo Projects: Impacts and Indigenous Peoples' Concerns	29
Background: An Integrated Project for the West.....	29
In Brief: Apoera, Section, Washabo and Wanapan.....	30
The Bakuys Project.....	35
The Kabalebo Project.....	46
Bakuys and Kabalebo: Likely Impacts.....	49
Other Pressures on West Suriname Indigenous Communities.....	54
Conclusion: Cumulative Effects.....	58
Section 5: Conclusion: Implications for Policy and Practice and Recommendations	59
Implications for Policy and Practice.....	59
Rebalancing Asymmetry.....	60
<i>Project Results</i>	60
<i>Project Challenges</i>	61

Key Recommendations	62
<i>For Affected Indigenous and Tribal Communities</i> <i>(including those who did not participate in this study):</i>	62
<i>For the Government of Suriname</i>	63
<i>For BHP Billiton/Alcoa</i>	64
Concluding Thoughts: A Turning Point?	65
References	66
Appendix 1: List of Formal Interviews/Meetings in Paramaribo	70
Appendix 2: News Articles Related to this Project	71
Appendix 3: Summary of CERD’s Decisions and Recommendations to Suriname	73
Appendix 4: De Beers’ Policies on Exploration	75
Appendix 5: Agreement between the Indigenous Peoples of West Suriname and BHP/Billiton and Suralco NV (Draft 2006)	82
Appendix 6: Policy and Regulations on Consultation and Consent Processes Adopted by the Indigenous Peoples of West Suriname (2006 Draft)	85
Endnotes	87

List of Abbreviations:

ACT:	Amazon Conservation Team
ADS:	Adjunct District Secretaris (Adjunct District Secretary)
ATM:	Ministerie van Arbeid, Technologische Ontwikkeling en Milieu (Ministry of Labour Environment and Technology)
BHPB:	Broken Hill Proprietary & Billiton Corporation
BMS:	NV BHP Billiton Maatschappij Suriname
BO:	Bestuurs Opzichers
CBD:	Convention on Biological Diversity
CERD:	UN Committee on the Elimination of Racial Discrimination
CI:	Conservation International
CNEC:	CNEC Engenharia S.A.
CSR:	Corporate Social Responsibility
DC:	District Commissioner
EBS:	Suriname's Energy Bureau
ESIA:	Environmental and Social Impact Assessment
FPP:	Forest Peoples Programme
FPIC:	Free Prior Informed Consent
GDP:	Gross Domestic Product
GPS:	Global Positioning System
GMD:	Geologische Mijnbouwkundige Dienst (Geological mining department)
ha:	Hectares
HSEC:	Health, Safety, Environment and Community
IACHR:	Inter-American Court on Human Rights
ICMM:	International Council on Mining & Metals
IMF:	International Monetary Fund
IDB:	Inter-American Development Bank
IDRC:	International Development Research Centre of Canada
IFC:	International Finance Corporation
IIRSA:	Regional Infrastructure Integration in South America/Integración de la Infraestructura Regional en Sur América
IUCN:	International Union for the Conservation of Nature
Kg:	kilograms
Km:	kilometres
MARPOL:	International Convention for the Prevention of Pollution from Ships
MNR:	Ministry of Natural Resources
MoU:	Memorandum of Understanding
MW:	Megawatt
NGOs:	Non-governmental organizations
NIMOS:	Nationaal Instituut voor Milieu en Ontwikkeling in Suriname
NMR:	Nationale Milieu Raad (National Council for the Environment)
NSI:	The North-South Institute, Canada
OP:	Operational Policy
PCLR:	Presidential Committee on Land Rights
POS:	SRK's Aug '05 'Plan of Study' for the Bakhuis ESA
RR:	Ressortraad (Council)
SOLAS:	International Convention for the Safety of Life at Sea

SRK: SRK Consulting

STINASU: Stichting Natuurbehoud Suriname (Foundation for Nature Conservation in Suriname)

Suralco: Suriname Aluminum Company LLC

UNCLOS: United Nations Convention on the Law of the Seas

VIDS: Vereniging van Inheemse Dorpshoofden in Suriname (Association of Indigenous Village Leaders in Suriname)

WWF: World Wildlife Fund

Acknowledgements

This project has its genesis in a request from the communities of Apoera, Section, Washabo and Wanapan to the Association of Indigenous Village Leaders in Suriname (VIDS) for support in dealing with proposed large-scale bauxite mining, hydroelectricity and related developments affecting their ancestral territories. VIDS then turned to The North-South Institute (NSI) for technical assistance. The rich collaboration that ensued is thanks to the communities of West Suriname.

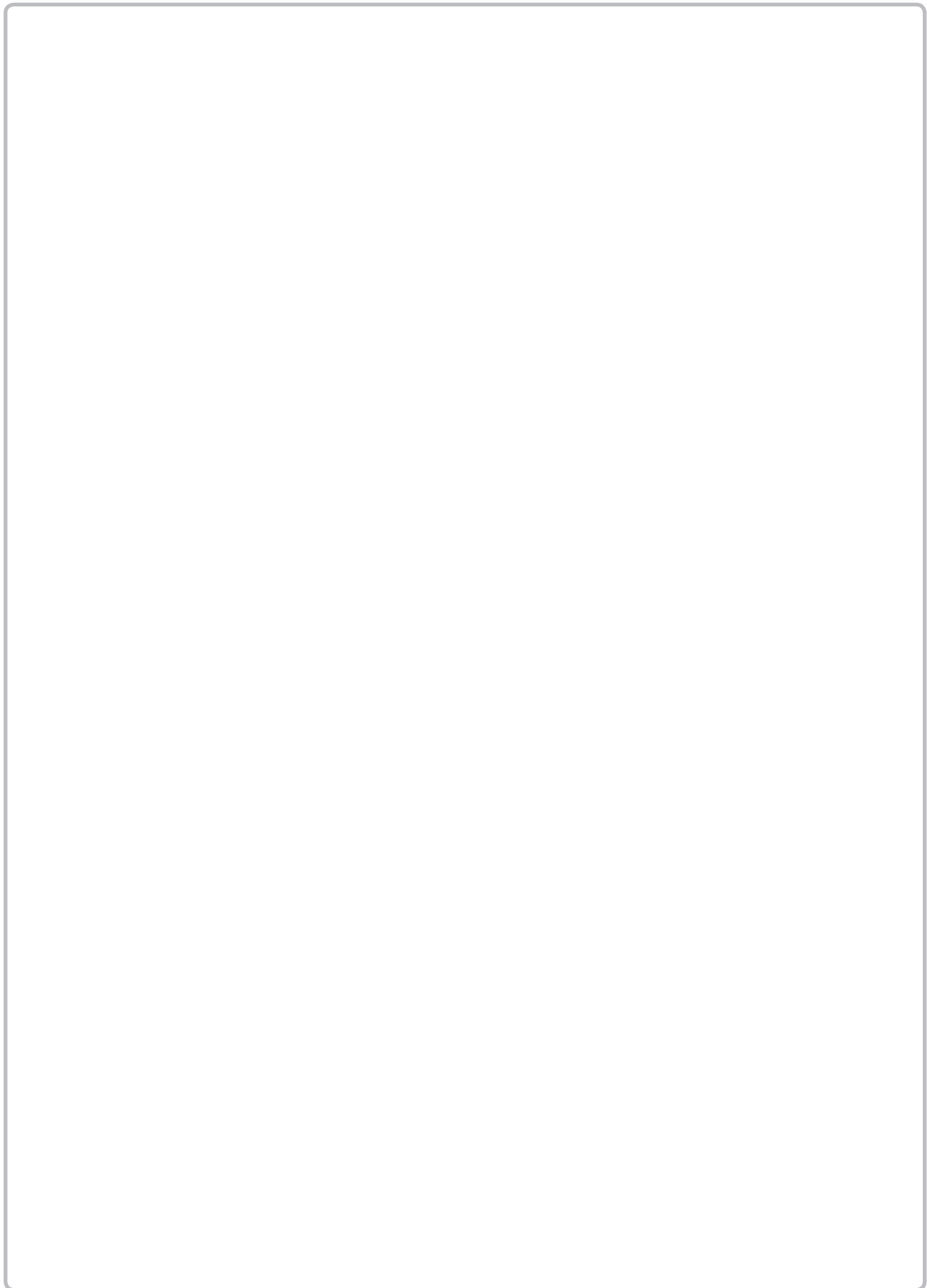
In particular, I would like to acknowledge the important role of Chief Ricardo Mac-Intosh of Washabo and his assistants; Chief Nado Aroepa of Section and his assistants; and Chief Carlo Lewis of Apoera and his assistants in guiding this project. Chief Alapate of Wanapan and his assistant's participation were also central. At Bureau VIDS, Loreen Jubitana provided excellent coordination and leadership, and Jacqueline Jubithana expert legal advice. Josee Artist and Carla Madsian were the principal researchers and field workers, and their experience, skills – and humour – provided the critical backbone to this project. Thank you to Ellen-Rose Kambel and Robert Goodland for bringing to this project your vast knowledge of Indigenous rights and environmental and social impact assessment, respectively, your critical analysis, and your passion for social justice. Fergus MacKay of the Forest Peoples Programme also provided invaluable feedback throughout, as did Caroline de Jong.

I owe deep gratitude to Lutsel K'e Dene First Nation of Canada for agreeing to partner with us on this project. The knowledge and experience that Florence Catholique and Delphine Enzoë shared on negotiating and community-based monitoring will no doubt be drawn upon by the communities of West Suriname for years to come. At The North-South Institute, thanks to Bente Molenaar, Marcelo Saavedra and Ann Weston for your feedback and support. And to Gisèle Morin-Labatut and Merle Faminow of the International Development Research Centre of Canada, warmest thanks for your appreciation of the timeliness of this project, and Gisèle, your enthusiasm and thoughtful participation in field events.

To everyone who participated in this project, from the communities, companies, government and NGOs, thank you for sharing your time and perspectives.

Last but not least, thank you to Tineke and Emro Kambel for so graciously hosting my daughter Saskia and me.

This project was funded through a grant from the International Development Research Centre, Ottawa, Canada.



Foreword

In April of 2001, we, the village leaders of Apoera, Section and Washabo, were paid a visit by a delegation consisting of the District Commissioner of Sipaliwini and representatives from BHP Billiton and Suralco, the joint venture (JV) partners proposing the Bakhuys bauxite mine.

They had come to inform us that the JV partners were interested in exploring bauxite in the Bakhuys Mountains. The request for a permit to explore the area had been submitted, and as soon as the Memorandum of Understanding (MoU) was signed with the government, the JV partners would return to us, the village councils, to explain their plans.

It was 2003 before we heard from media outlets that the MoU had been signed, and in August of that year a delegation from BHP Billiton along with two contractors came to explain and to recruit workers. We found their process extremely faulty. Considering that we know what happened in the 1970s with our parents when there was a proposal to mine bauxite in the same areas to bring so-called 'development' to West-Suriname, we were very concerned about the current situation. We don't want a repeat! We decided to contact Stichting Bureau VIDS (The Association of Indigenous Village Leaders in Suriname) to ask them to provide advice and support that we would require, especially in the area of land rights and other traditional rights that exist in national and international law. This is how the Suriname Pilot Project financed by the International Development Research Centre (IDRC) of Canada came about.

The project has resulted in a number of positive developments in our communities. We had just undertaken preliminary mapping of our traditional lands as this project was beginning. With this project we have become much more aware of our position with regard to land rights. We have not achieved any changes at the national level, as our collective rights are still not recognized. Now that we know how our rights are understood at the national level we can take this into consideration. We know which road we must take in order to get the government to recognize our rights. We understand that this will not be easy. In addition, the training and workshops undertaken in this project have resulted in the local population becoming more aware and clearer on where we stand in relation to the companies. We therefore demand that the international bauxite companies operating in West Suriname respect our traditional Indigenous rights – and particularly our land rights – and insist that the companies follow the highest international standards, as they themselves say they are committed to doing. Our new friend Robert Goodland, who conducted much needed research on the proposed projects in West Suriname, has made a significant contribution in raising our awareness of potential impacts.

This project is a very important foundation for us, and it is extremely important that there be follow-up. We can say that we are in a better position now than our parents were in the 1970s. The JV partners have noticed that we won't be pushed over. Despite this, we are still not where we should be. We notice we are getting stronger and are improving our position. The regular meetings with government and the JV partners contribute to this. On the other hand, it is through these same meetings that we time and time again realize we are not there yet. We realize we need all the support we can get and in this respect we want to continue our comfortable and very good relationship with The North-South Institute (Canada), and especially Viviane Weitzner.

Danki da bong! (Lokono)

David Carlo Lewis
Village Chief, Apoera

Nado Aroepa
Village Chief, Section

Ricardo Mac-Intosh
Village Chief, Washabo

Executive Summary

Suriname is the only country in the Western hemisphere that does not recognize – to any extent – its Indigenous Peoples’ ownership rights to their ancestral territories. There is also no comprehensive legislative framework in place to regulate the environmental and social impacts of activities taking place in the country, nor governmental capacity or resources to monitor these. In this context, Indigenous communities caught in the proposed path of development and conservation projects face an up-hill battle with regard to ensuring their voices, aspirations and internationally recognized rights to appropriate participation and consent procedures – among other fundamental rights – are respected.

This report details the outcomes of a project developed by the Association of Indigenous Village Leaders in Suriname (VIDS) in collaboration with The North-South Institute (NSI) of Canada in response to requests by four Indigenous communities in West Suriname that will be affected by the proposed large-scale bauxite mining, hydroelectric development and related projects by BHP Billiton and Suralco (the Surinamese subsidiary of US-based Alcoa). At the time the VIDS/NSI project was developed, the communities had not been informed about company activities and no consultation had taken place. However, BHP Billiton had approached VIDS to act as intermediaries, signalling it wanted to interact with the communities in “the right way”.

Among the objectives of the VIDS/NSI project was to engage in preliminary research and capacity-building to enable VIDS and the affected communities to develop and begin implementing a plan for dialogue and interaction with the mining companies involved in Western Suriname, as well as with the government, with a view to catalyzing changes in policy and practice to better align them with Indigenous processes, rights and aspirations. The two-year project used a variety of participatory methodologies and engaged in several capacity-building activities, guided by the leadership of the participating communities. It also provided forums for information sharing and interactions between members of the affected communities, company representatives and government officials.

The VIDS/NSI project found, among other things, that so far company actions have failed to meet their own policies with regard to assessing impacts at all stages of the mining cycle (no Environmental and Social Impact Assessment, ESIA, was done for advanced exploration in 2,800 ha of primary forest); involving affected communities at the earliest stage of ESIA (the communities were not involved in the initial mine site scoping stage); and respecting the traditional rights of Indigenous communities (the companies have so far refused to negotiate with the communities protocols for respecting traditional rights and free, prior and informed consent, noting there is no legislative framework in Suriname to protect Indigenous rights, and back-peddling on a public commitment that a protocol on free, prior and informed consent [FPIC] would be negotiated). Moreover, the companies have failed to meet some of the best practices the Government of Suriname recommends in its draft guidelines for ESIA, such as expert panels to guide the ESIA for the proposed developments.

The VIDS/NSI project questions the value of voluntary company policies and international commitments (such as those BHP Billiton and Alcoa make as members of the International Council on Metals and Mining, ICMM), particularly in the context of weak governance, as in Suriname. It also highlights problems with current company practices of raising or lowering their bar with regard to recognizing and implementing human rights, depending on the country in which they operate. This project report documents the likely impacts of the proposed developments on the participating communities, and includes concrete recommendations for affected communities, the companies and the Government of Suriname.

Key recommendations for affected Indigenous and Tribal communities include:

- Develop your own vision for what you want in the future and then see if the project proposals **fit** with this vision.
- Develop and articulate *in writing* the process by which you expect to be consulted by outsiders, and who can negotiate, make agreements and give consent on behalf of the community.
- Identify what *the internal process* should be to come to collective decisions to inform the person(s) representing the communities in negotiations.
- Consider developing a Working Group to address these issues and provide recommendations to the community leadership.
- Do not lose sight or stop working on your long-term community goals, especially land rights.
- Strengthen community leadership and decision-making processes, and communication with all groups in the community (radio, meetings, etc.) and with neighbouring affected communities.
- Continue to form alliances with other national and international groups, and consider actively encouraging Oxfam Australia’s ombudsperson for mining to open communications with BHP Billiton’s head office, and possibly to do a site visit to Bakhuys.
- Request that Joji Cariño, former Commissioner of the World Commission on Dams and expert on the Convention on Biological Diversity, come to visit.
- Request that the Government of Suriname invite Rodolfo Stavenhagen, UN Special Rapporteur on the Situation of Indigenous Peoples, to conduct an on-site visit to West Suriname to provide advice to the government, companies and Indigenous and Tribal Peoples.

Recommendations for BHP Billiton and Alcoa include:

- Implement BHP Billiton’s public commitment to negotiating protocols for FPIC and recognition of traditional rights to be in place for the life of the project, from environmental assessment through to closure (should the project proceed). This will enable:
 - ♦ Fulfillment of Indigenous and Tribal Peoples’ human rights;
 - ♦ Reduction of corporate risk should the communities seek recourse to national and international tribunals to protect their rights;
 - ♦ Fulfillment of BHP’s Sustainable Development Policy to “understand, promote and uphold fundamental human rights within our sphere of influence, respecting the traditional rights of Indigenous peoples and valuing cultural heritage.”
- In keeping with the UN CERD’s recommendations, persuade the Government of Suriname to make progress in settling the land rights issues related to the areas that will be affected by the mining- and dam-related developments prior to the mining operations and dam construction. This is a pre-requisite to fulfilling:
 - ♦ The companies’ Sustainable Development Charter commitments;
 - ♦ The Government of Suriname’s national policy on rights-based development and its international commitments;
 - ♦ The communities’ policies, rights and aspirations.
- Negotiate Impact Benefit Agreements (IBAs) with affected Indigenous and Tribal communities. Key elements of the IBA should be revenue-sharing, training and employment of Indigenous and Tribal Peoples, monitoring of socio-environmental impacts using traditional knowledge, appropriate communication and dispute resolution mechanisms, and implementation committees and review processes, among other elements.

- Study the environmental and social impacts of the exploration activities at Bakhuijs already suffered by the affected Indigenous and Tribal communities, and duly compensate these people through good faith negotiations.
- Commit publicly that the companies will not engage in advanced exploration activities in Suriname without first engaging in exploration ESIA's with meaningful participation by affected communities. This should include negotiating legally binding agreements around compensation for any impacts to people's livelihoods on account of exploration activities, and the terms of Indigenous and Tribal Peoples' participation in the exploration activities.

Recommendations for the Government of Suriname include:

- Urgently implement all UN Committee for the Elimination of Racial Discrimination (CERD) recommendations for Suriname (March 2004, reiterated in March and August 2005), among others:
 - ♦ Ensure legal acknowledgement of the rights of Indigenous and Tribal Peoples to possess, develop, control and use their communal lands and to participate in the exploitation, management and conservation of the associated natural resources;
 - ♦ Ensure the compliance of the revised draft Mining Act with the International Convention on the Elimination of All Forms of Racial Discrimination, as well as with the Committee's 2004 recommendations. For example:
 - Ensure that Indigenous and Tribal Peoples are granted the right of appeal to the courts, or any independent body specially created for that purpose, in order to uphold their traditional rights and their right to be consulted before concessions are granted and to be fairly compensated for any damage.
 - Elaborate a framework law on the rights of Indigenous and Tribal Peoples with the technical assistance from the Office of the United Nations High Commissioner for Human Rights.
- Implement Inter-American Commission and Court of Human Rights jurisprudence that upholds the right of Indigenous and Tribal Peoples *to give or withhold their free, prior and informed consent* to any activity that affects that traditionally owned lands, territories and resources.
- Develop appropriate information systems that allow identification of which Indigenous or Tribal communities may be affected by a given project in order to consult with them and seek their agreement prior to issuing a concession or exploration permit (collate existing maps; undertake sketch mapping for other areas).
- Commence discussions with West Suriname Indigenous communities about the establishment of an Indigenous-owned protected area at Kaboriekreek. This is consistent with:
 - ♦ Indigenous Peoples' rights in international law;
 - ♦ Suriname's obligation under the Convention on Biological Diversity;
 - ♦ The new IUCN protected areas categories.

This should not be seen as a substitute for addressing the wider land rights issues in West Suriname or nationally, but rather as a confidence building measure and a means of avoiding conflict.

- Only consider approving the projects and negotiating agreements with the companies and communities when:
 - ♦ The government and affected communities have received and understood a full set of satisfactory environmental and social impact studies, and agree with mitigation measures proposed;

- ♦ The affected Indigenous and Tribal Peoples and their communities have given their free, prior and informed consent for these projects to go ahead, using appropriate consultation and consent procedures designed by legitimate representatives of each of the communities.
- Require from the companies environmental liability insurance to ensure that in the case of environmental or social damage, sufficient monies are available to cover the harm fully, and in the worst-case scenario.
- Ensure that there are effective, prompt and culturally appropriate grievance mechanisms in place to address and resolve any complaints raised by Indigenous and Tribal Peoples and their communities. These mechanisms must be established both at the level of the operating companies and at the national level.
- For the Bakhuis transportation and refinery ESIA's and the Kabalebo and Tapanohony River/Jai Kreek projects:
 - ♦ Establish an independent advisory committee of experts to guide the ESIA process, as allowed for under NIMOS guidelines, including appointees named by affected Indigenous and Tribal communities.

“Looking at your presentation and where the reservoir will be... I am afraid I am going to die. I am Indigenous. I don't have a store; the forest is my supermarket. I can find meat, fish, everything else that I use... I am going to go back to my community to tell them what I have heard.”

**– Captain Alapate of Wanapan, to Warren Pedersen,
Managing Director of Suralco (2005)**

“Why don't the companies use money in a different way instead of destroying the environment? When I hear these things, I can't sleep well...my heart is thumping. I am very sad. The kids will be affected. It's paradise here now...but if this comes, it won't be paradise anymore.”

– Lokono woman (2005)

“I sit here in panic. As an Amerindian I love the land. I'm glad somebody is here to help us, we [as Amerindians] are not counted. We need our rights, especially for our culture. At our age, we are so much concerned about our culture. I'm grieving about the developments. My children won't miss it, they're used to what they get from the store. But I love my fish, my meat, my farm. I don't like what the government gives us. If we have our land, we protect it. The mining company is good, because we get benefits. But they must not interfere with our things. If we can own our land, then they can come...”

– Lokono woman, Apoera (in Kambel 2004)

Section 1: Introduction

Indigenous and Maroon Peoples¹ in Suriname are facing increasing development pressures from a variety of natural resource activities taking place on their ancestral territories, ranging from bauxite and gold mining to logging and conservation projects. The potential for conflict between these communities and project proponents is exacerbated by the governance, policy and legislative vacuum that exists in terms of protection of Indigenous rights and the environment. Suriname is the only country in the Western hemisphere that does not recognize – at least to some extent – its Indigenous Peoples’ ownership rights to their ancestral lands and territories. There is also no comprehensive legislative framework in place to regulate the environmental and social impacts of activities taking place in the country, nor governmental capacity or resources to monitor these. In this context, Indigenous and Maroon communities caught in the proposed path of development and conservation projects face an enormous up-hill battle with regard to ensuring their voices, aspirations and internationally recognized rights to appropriate participation and consent procedures – among other fundamental rights – are respected.

This report details the outcomes of a project developed by the Association of Indigenous Village Leaders in Suriname (VIDS)² in collaboration with The North-South Institute (NSI)³ of Canada in response to requests by four Indigenous communities in West Suriname – three Lokono communities (Apoera, Section Washabo) and one Trio community (Wanapan) – that will be affected by a proposed large-scale bauxite mining, hydroelectric development and related projects by BHP Billiton and Suralco (the Surinamese subsidiary of US-based Alcoa).

As with all Indigenous communities in Suriname, these communities have no formal title to their lands and their traditional ownership or other rights are not recognized. At the time the VIDS/NSI project was developed, none of the affected communities had been consulted about the mining and hydroelectric plans, and they were deeply concerned about the proposed developments’ threats to the integrity of their ancestral territories and their subsistence livelihoods, especially the threat of forcible relocation for at least one of the communities. They had very little information about the projects aside from rumours, what they heard in the media, and any information VIDS could provide them.

VIDS in turn received its information from NGOs and concerned persons in Paramaribo. Prior to this project, it also had several meetings with government officials, but received little concrete information about the development projects. A preliminary meeting was also held with BHP Billiton.

A key point to highlight is that in February 2003, BHP Billiton specifically requested that VIDS act as a partner in its consultations with the communities and stressed that it wanted to interact with the communities *in the ‘right’ way*.⁴ BHP signalled that Suralco would also be involved once the VIDS had agreed to hold talks. Suralco’s involvement is key not only because it owns 55 per cent of the joint venture with BHP Billiton for the proposed Bakhuyts bauxite mine, but it has also signed a separate agreement with the government for hydroelectric activities in the west of the country.

This VIDS/NSI project and the resulting negotiations and actions are therefore important opportunities for BHP Billiton and Suralco to demonstrate their commitment to interacting in the ‘right’ way, and to fulfilling their stated values and principles regarding Indigenous Peoples (see Box 1).

Box 1: Excerpts from Company Policies

From ICMM Principles and Sustainable Development Framework (BHP Billiton and Alcoa are ICMM members)

Principle 3: Uphold fundamental human rights and respect cultures, customs and values in dealings with employees and others who are affected by our activities.

- Ensure that all relevant staff, including security personnel, are provided with appropriate cultural and human rights training and guidance
- Minimise involuntary resettlement, and compensate fairly for adverse effects on the community where they cannot be avoided
- Respect the culture and heritage of local communities, including indigenous peoples

Principle 6: Seek continual improvement of our environmental performance

- Assess the positive and negative, the direct and indirect, and the cumulative environmental impacts of new projects – from exploration through closure

Principle 9: Contribute to the social, economic and institutional development of the communities in which we operate

- Engage at the earliest practical stage with likely affected parties to discuss and respond to issues and conflicts concerning the management of social impacts
- Ensure that appropriate systems are in place for ongoing interaction with affected parties, making sure that minorities and other marginalised groups have equitable and culturally appropriate means of engagement

Principle 10: Implement effective and transparent engagement, communication and independently verified reporting arrangements with our stakeholders

- Report on our economic, social and environmental performance and contribution to sustainable development
- Provide information that is timely, accurate and relevant
- Engage with and respond to stakeholders through open consultation processes.

From ICMM Draft Position Statement on Mining and Indigenous Peoples Issues (March 2006)

Interactions between mining and metals industry representatives and Indigenous Peoples should follow the same general principles for engagement as apply to our dealings with all communities. They should also be guided by national policies and legislative frameworks already in place, preferably legal frameworks developed in consultation with Indigenous Peoples which have equitable and clear processes, including processes in which Indigenous Peoples have the opportunity to participate in decisions which affect their lives. *Where these do not exist ICMM members reaffirm their commitment to the ICMM Sustainable Development Framework and this position statement.* (emphasis added).

From BHP Billiton's Sustainable Development Policy (September 2005)

We aspire to Zero Harm to people, our host communities and the environment and strive to achieve leading industry practice....Wherever we operate, we will develop, implement and maintain management systems for sustainable development that drive continual improvement and ensure we:

- Understand, promote and uphold fundamental human rights within our sphere of influence, respecting the traditional rights of Indigenous peoples and valuing cultural heritage.

From N.V. BHP Billiton's Maatschappij Suriname Community Policy (August 2005)

At N.V. BHP Billiton Maatschappij Suriname, we work with communities to develop and nurture positive relationships built on mutual understanding and respect... To achieve this we:

- Value and respect human rights....

Objectives of VIDS/NSI Project

The VIDS/NSI project (October 2004 - 2006) was designed to respond to community requests for information, capacity-building, and technical and legal support.⁵ Another key community request – mapping of traditional lands – was undertaken under a separate project funded by the Netherlands Committee for IUCN.⁶ The general objective underpinning all these activities is to help ensure the communities' rights are recognized and respected, and that they are able to make informed choices about the difficult decisions facing them. Without this assistance, the communities – who are largely isolated from the rest of Suriname – would be left on their own to deal with the government and two very large and powerful multinational corporations.

The **general objective** of the VIDS/NSI project was therefore to engage in preliminary research and capacity-building to enable VIDS to develop (and begin implementing) a plan for dialogue and interaction with the government and mining companies involved in Western Suriname. The work was conducted with a view to catalyzing changes in policy and practice so these are more aligned with Indigenous processes, rights and aspirations; and to become full partners in a multi-country project coordinated by The North-South Institute⁷.

Specific objectives were to:

1. Research and document the situation concerning mining and Indigenous Peoples' rights in Suriname with an emphasis on West Suriname;
2. Build capacities to support and prepare VIDS and affected communities for dialogue and negotiations with the mining companies and government through, among other things, linking them with Canadian Aboriginal People with experience in this area;
3. Collect information about the mining companies' plans and performance in Suriname and other parts of the world, and disseminate this to the potentially affected communities;
4. Provide legal advice on available options to challenge relocation and other rights violations.

Organization of Report

This report details the outcomes of the project. It is organized as follows:

- Section 2 describes the project governance, team and activities.
- Section 3 provides a brief overview of mining and Indigenous Peoples in Suriname.
- Section 4 focuses on West Suriname and briefly presents the West Suriname Indigenous communities participating in the VIDS/NSI project, and the proposed Bakhuy's bauxite mine and Kabalebo hydroelectric projects. It describes the outcomes of fieldwork, particularly focusing on concerns expressed by community members and the social and environmental impacts the affected communities are already experiencing on account of the projects.
- Section 5 concludes with a series of recommendations for policy and practice. It also identifies research gaps and next steps.

Section 2: Project Process, Activities and Methodologies

Project Scope and Indigenous Steering Committee

Originally, this project was to include communities from both East and West. In the East, the Lawa area has been severely affected by environmental and social impacts from small-scale mining, as well as community conflict related to gold mining concessions in the Wayana area. An Indigenous Steering Committee was established to help guide the project process and methodologies, and included members from East and West.⁸

As the project progressed, however, communication with the Lawa communities and their Steering Committee member became extremely difficult, and the project team concluded that these communities were not yet ready to participate in this research. Consequently, the project shifted to focus only on the developments proposed for West Suriname.

In part because of this shift in project focus, it became evident that the original members of the Steering Committee were not the appropriate ones to guide the project. Instead, throughout the project process, the VIDS/NSI project team consulted with the Chiefs (also known as Captains) and *Basjas* (Chief's assistants) of the villages in West Suriname⁹ who became the *de facto* Indigenous Steering Committee for the project:

- Ricardo Mac-Intosh, Village Chief, Washabo; Washabo Assistants;
- Nado Aroepa, Village Chief, Section; Section Assistants;
- Carlo Lewis, Village Chief Apoera; Apoera Assistants.

Aside from providing guidance with regard to methodologies and timing of events, members of this *de facto* Steering Committee accompanied project activities and verified the information and recommendations from this project.

Nonetheless, the original Committee did meet twice, and provided valuable input that helped to strengthen project documents.

The VIDS/NSI Project Team

The VIDS project team included:

- Loreen Jubitana, Project Coordinator and Executive Director of VIDS;
- Josee Artist, Community Development Officer at VIDS;
- Carla Madsian, Researcher;
- Captain Carlo Lewis of Apoera, West Suriname fieldwork coordinator and a member of the VIDS Board.

The project team also drew on the expertise of other members of Bureau VIDS and its advisors.

A team of community members (17 in total) was also trained and hired to help support fieldwork activities, specifically the provision of house-to-house information about Bakhuys and Kabalebo and the administration of a short questionnaire.

Technical support was provided by:

- Robert Goodland, specialist in environmental and social impact assessment;
- Ellen-Rose Kambel, specialist in Indigenous rights;
- Viviane Weitzner, specialist in community-based natural resources management.

Methodologies and Project Activities

A large variety of activities took place throughout the project process (see Box 2 below), involving several types of methodologies. Among these were:

- Literature searches and background information gathering from a variety of sources including relevant agencies within Suriname to feed into the project reports.
- Site visits by affected community members and the project team to: the Coermotibo mine in East Suriname, with a visit to the Ndjuka Maroon community of Adjumakondre that is surrounded by bauxite mining activities¹⁰; the Afobaka dam and reservoir, with a visit to Tapoeripa, a displaced Maroon community; and the Bakhuy's camp and exploration site. Discussions at these sites took place to identify social and environmental impacts and to better understand what the process of bauxite mining and generation of hydroelectricity entails. In addition, at Bakhuy's interviews were held with the mine manager and with Indigenous employees.
- Convening information-sharing meetings in Paramaribo so members of the potentially affected communities could hear first-hand updates from BHP, Alcoa and relevant government departments regarding plans in the West, ask questions, and share concerns. These meetings took place in May and September 2005, with the companies calling a meeting in Paramaribo in November 2005, and delivering community presentations in February 2006 following repeated requests by the captains of these communities. A meeting was held with all key players in Paramaribo in June 2006, where the leadership and other community members from West Suriname presented the preliminary results of this IDRC project, and companies and their consultants provided further updates. Several additional meetings took place throughout this project between the companies and VIDS, as well as in the communities, largely to discuss potential community development projects.
- Interviews and information-sharing meetings with several key actors throughout the project process, including: Nationaal Instituut voor Milieu en Ontwikkeling in Suriname (National Institute for Environment and Development in Suriname), Ministry of Natural Resources (GMD, Conservation Division, Energy), the Bauxite Institute, UNDP, IDB, CI, Prof. Ouboter, Mr. Harold Jap-a-Joe (formerly with PAS in West Suriname). Meetings were requested on several occasions with World Wildlife Fund and Amazon Conservation Team, but have not yet taken place. A full list of interviewees is included in Appendix 1.
- An exchange with Canadian Indigenous People with experience negotiating with mining companies, including BHP Billiton. In May 2005, two members of Lutsel K'e Dene First Nation of Canada travelled to Suriname, one a seasoned negotiator and the other a youth representative with experience monitoring environmental and social impacts of mining. They shared information in Paramaribo and West Suriname about Indigenous rights in Canada, social and environmental impacts monitoring, as well as their experience negotiating with large multinational mining companies. The Canadians joined the site visit to Coermotibo and Adjumakondre, and also briefly visited the Bakhuy's camp. They also participated in the first formal exchange with BHP Billiton, Alcoa and NIMOS in May 2005. See Appendix 2 for a news article highlighting this visit.

- A variety of fieldwork activities in West Suriname, including:
 - ♦ A SWOT analysis of strengths, weaknesses, opportunities, threats in each of the four villages in West Suriname.
 - ♦ Participatory village mapping in Apoera Dorp, Section, Washabo, Zandlanding and Wanapan to better understand the demographics of the communities, their livelihoods, as well as impacts at the household level from family members working at the Bakhuis exploration site.
 - ♦ Focus groups with women, men and youth to discuss decision-making within the communities.
 - ♦ Ongoing discussions with the community leaders, their assistants, as well as other local governance representatives, specifically the *Bestuursopzichter* (BO) and the *Ressorraad* (RR)¹¹ regarding land rights, the proposed developments and other developments affecting the communities, and decision-making processes within the communities.
 - ♦ Information-sharing workshops to disseminate all information learned from the companies and government throughout the project. A video camera was used to film the site visits to Coermotibo and Afobaka dam, and community leaders and other members who attended these workshops presented these videos and their impressions of the site visits at community workshops. Plain language posters were used to disseminate information at the workshops, and other visuals such as a large map showing the proposed Bakhuis and Kabalebo projects was also made.
 - ♦ House-to-house information sharing (using short information sheets) about the Bakhuis and Kabalebo Projects and key potential impacts. A group of 17 community members were trained and hired for this purpose. They also administered a short questionnaire to better understand people's perceptions of potential benefits and negative impacts of the projects.
 - ♦ Capacity-building workshops on land rights, co-management, rights to consultation, participation and free, prior and informed consent, and Impact Benefit Agreements.
 - ♦ Brainstorming of ideas regarding community perspectives and demands in terms of appropriate processes for outsiders to follow regarding consultation and consent. These ideas will be used to further discussions on a protocol.

The captains (all VIDS members) and their assistants in the communities were consulted prior to the commencement of all fieldwork activities throughout the project, and adjustments to the work schedule and methodologies made accordingly. In addition, all information from the plain language posters used for workshops and the village maps were left with the communities for their safekeeping and further consultation. Further discussions will take place amongst the communities and project partners regarding the best process for safekeeping the community interviews undertaken and other project materials.

Community radio was used throughout the project to inform villagers of the project activities and preliminary results.

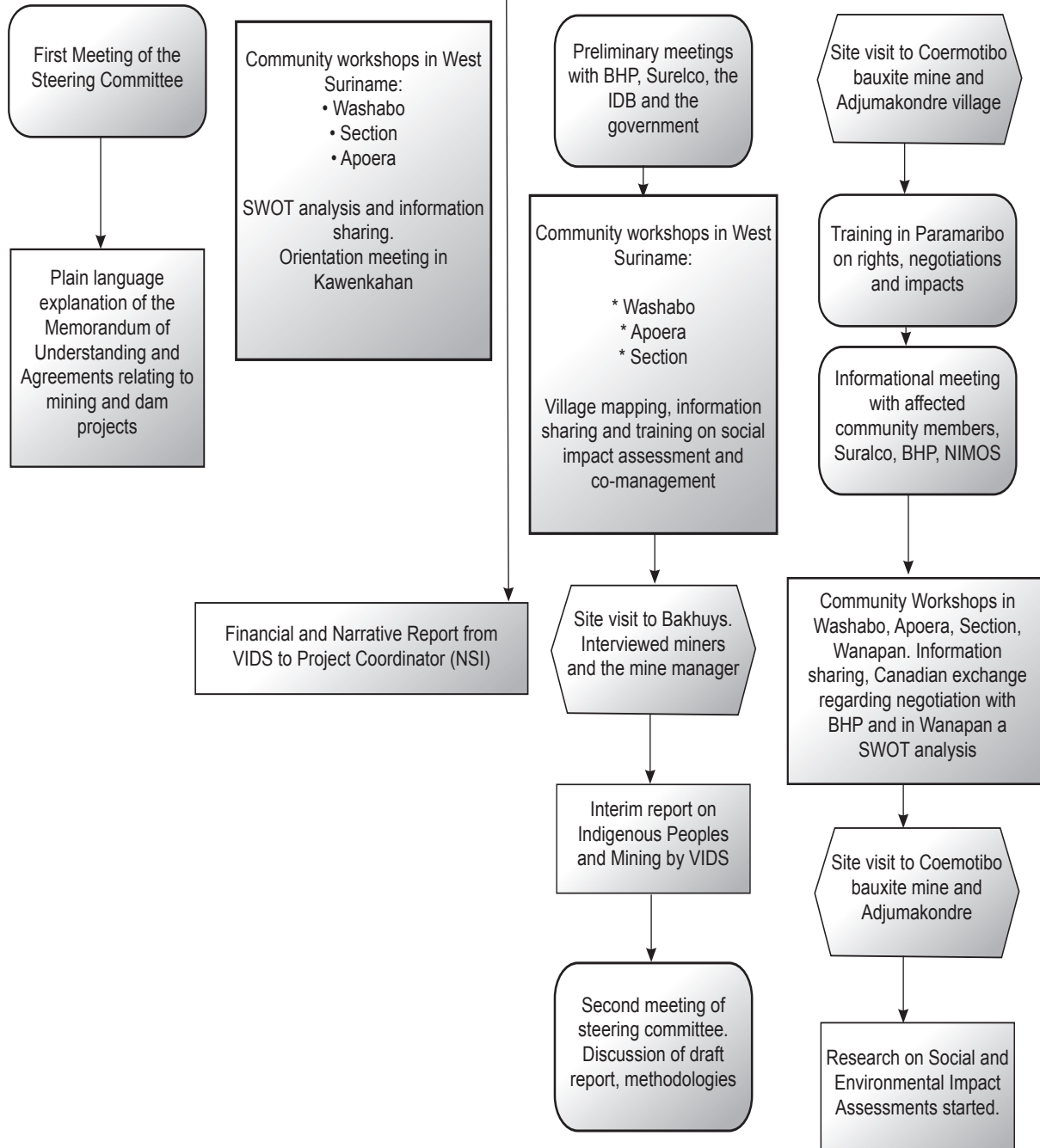
In addition to the fieldwork in West Suriname, members of the project team visited Amotopo to introduce the VIDS, explain the VIDS/NSI project, and share up-to-date information with Trio leaders from Amotopo and Lucie regarding plans for hydroelectric developments at Kabalebo and the proposed bauxite mine in the Bakhuis mountains. A video of the site visit to Afobaka was also shown.

This originally conceived 10-month project extended to a 20-month project (27 if final document preparation and review are included), with activities incorporated and adjusted as the project proceeded. We are extremely grateful to the International Development Research Centre of Canada, for their understanding and flexibility.

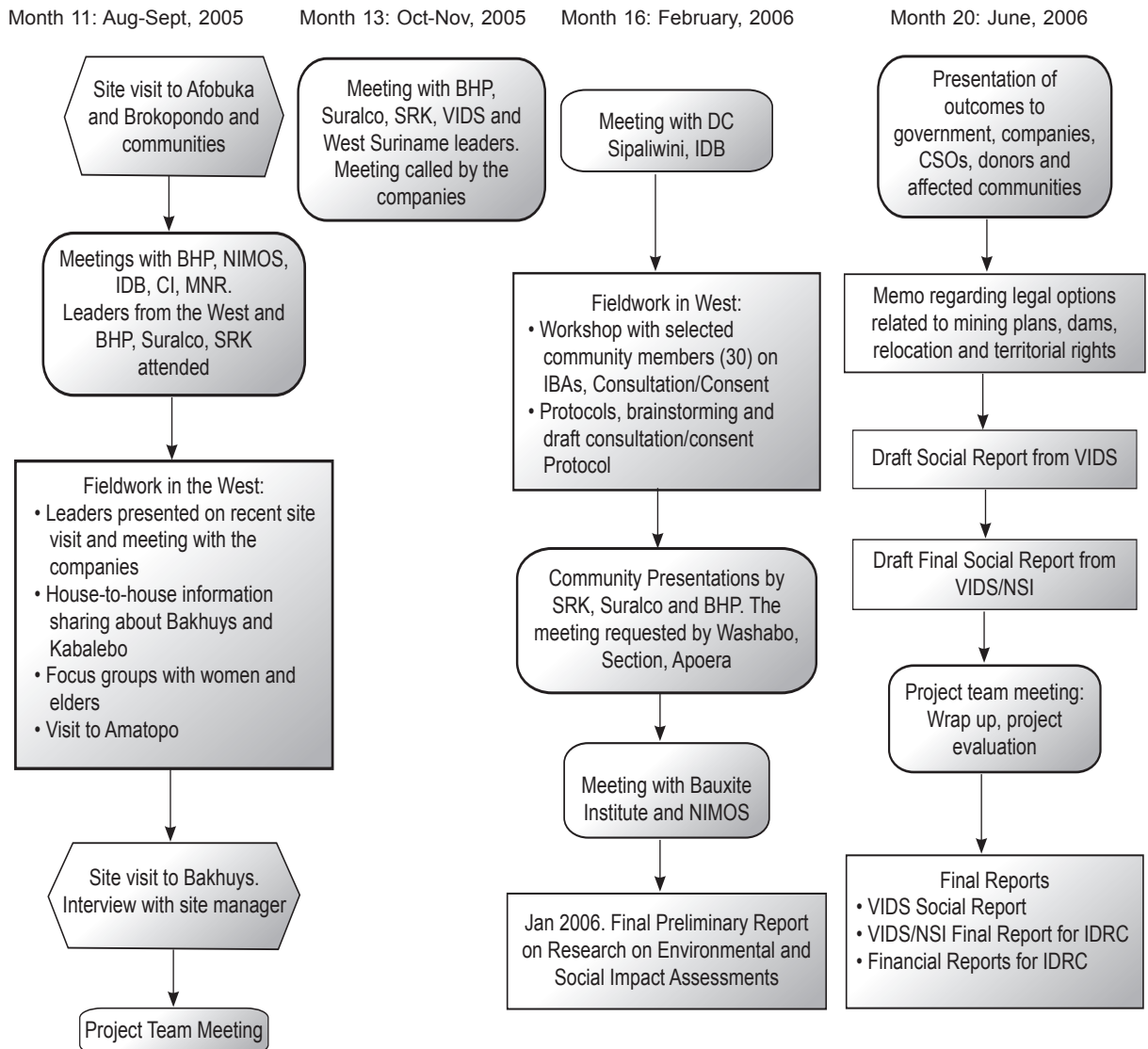
Box 2: Project Activities and Process Flowchart

Suriname Activities, VIDS and NSI

Month 1: October, 2004 Month 2: November, 2004 Month 4: January, 2005 Month 5: February, 2005 Month 7: May, 2005



Box 2: Project Activities... (continued)



Project Documents

In addition to this final project report, project documents, which will be available on The North-South Institute's website (www.nsi-ins.ca), include:

- Goodland, Robert. 2006. *Suriname: Environmental and Social Reconnaissance, The Bakhuy's Bauxite Mine Project with notes on the proposed Kabalebo hydro project and comparisons with Alcoa/BHP/Billiton's recent track record*. Ottawa: The Association of Indigenous Village Leaders in Suriname and The North-South Institute. (Available in English).
- Kambel, Ellen-Rose. 2006. *Brief on Legal Options for Recognition of Land Rights in West-Suriname*. Ottawa: The Association of Indigenous Village Leaders and The North-South Institute. (Available in English and Dutch).
- Madsian, Carla and Josee Artist. Forthcoming. *West Suriname: What does an integrated aluminum industry mean for Indigenous communities? (West Suriname: Wat Betekent een Geïntegreerde aluminium industrie voor de inheemse gemeenschappen?)*. Paramaribo: The Association of Indigenous Village Leaders. (Available in Dutch).

Relevant documents produced under a related IDRC-funded project disseminated in West Suriname include:

- Weitzner, Viviane. 2006. *'Dealing Full Force': Lutsel K'e Dene First Nation's Experience Negotiating with Mining Companies*. Ottawa: The North-South Institute and Lutsel K'e Dene First Nation. (Available in Dutch, English and Spanish).
- The North-South Institute and Lutsel K'e Dene First Nation. 2006. *Dealing Full Force*. Training video based on the written case study by Viviane Weitzner, produced by Marcelo Saavedra. (Available in English and Spanish – consent process for dissemination still under discussion with LKDFN).
- Weitzner, Viviane. 2005. *Summary Report: Mining on or Near Ancestral lands in the Americas* (Report of October 5th Workshop). Ottawa: The North-South Institute. (Available in English and Spanish).
- de Jong, Caroline. Forthcoming. *Indigenous Peoples along the Corantijn 1900 B.C. – 1900 A.D.: The historical use and occupation of Indigenous communities along the Corantijn River in West Suriname. (Inheemsen aan de Corantijn 1900 voor Chr. – 1900 na Chr. De historische inheemse bewoning van de Corantijn rivier in West-Suriname)*. Ottawa: Association of Indigenous Village Leaders in Suriname and The North-South Institute. (Available in Dutch, with an extensive English summary).

Other documents relevant to West Suriname produced in collaboration with VIDS include:

- Kambel, Ellen-Rose. 2004. *Ontwikkeling in West Suriname....en wat zijn onze rechten? (Development in West-Suriname... And What Are Our Rights? The Rights of Indigenous Peoples Related to Large-Scale Mining Activities)*. Paramaribo: The Association of Indigenous Village Leaders in Suriname (Available in Dutch only).
- Kambel, Ellen-Rose. 2004. *'I sit here in Panic'*. Report of a VIDS visit to West-Suriname. Paramaribo: The Association of Indigenous Village Leaders in Suriname. (Available in Dutch only). March.
- Goodland, Robert. Forthcoming. *Suriname: BHP Billiton/Suralco's Bakhuy's Bauxite Mine Project. A Review of SRK's 10/06 Environmental and Social Assessment, Transport & Scoping Document (Working Title)*. Washington D.C.: Inter-American Development Bank.
- Preliminary map by communities of traditional territory.

The following sections and analysis in this report weave in the outcomes and information gathered from the fieldwork activities and documents listed above.

Section 3: General Context: Regulatory and Legal Framework, Mining and Indigenous Peoples in Suriname

Economic Importance of the Mining Sector

Minerals are Suriname's primary source of foreign exchange, with bauxite mining, large-scale gold mining, and small-scale gold mining being the key activities (see Box 3).

The bauxite industry in Suriname has historically been the most important, with an estimated 15 per cent of Suriname's GDP and 70 per cent of the country's export earnings.¹² Gold mining is starting to take on more economic importance, particularly since the 2004 opening of Canadian company Cambior's¹³ large-scale Gross-Rosebel mine, and on-going exploration activities by multi-national and national companies. Small-scale gold mining in Suriname's interior began in the 1980s, mostly in the South East, and increased rapidly in the 1990s due to the end of Suriname's interior war in 1992, high gold prices, and the Government of Suriname's issuing one-year permits for US\$200 between 1997 and 1999. There are an estimated 10-20,000 small-scale miners in an area of some 20,000 km² in East Suriname, with many of these being Maroons, and an estimated 6-8,000 being small-scale miners – *garimpeiros* – from Brazil.¹⁴ Small-scale mining purportedly “supports a large share of poor households and substantially maintains the economy of the interior.”¹⁵ It also contributes to severe social, health and environmental impacts, with an estimated 20-30 tons of mercury being used in Suriname per year.¹⁶

According to the IMF, mining is a key driver in the recent increase in GDP in Suriname:

Suriname is benefiting from the global boom in commodity process and from increased mining output. Real GDP increased by eight percent in 2004 and by around five percent in 2005, boosted by the opening of a new gold mine and investment in the alumina and bauxite sector.¹⁷

While projections are that the sector will continue to stimulate economic growth, there are serious issues with regard to its regulation, its social and environmental impacts, and the share and distribution of wealth from this activity to the government and communities directly affected by its minerals activities.

This section briefly examines the regulatory and policy context at the interface of issues around the mining sector and Indigenous Peoples in Suriname, to set the context for a closer look at the situation in West Suriname.

Box 3: Select Figures: Mining in Suriname

Value of principal exports in 2003 (in USD millions):

1. alumina, 335.8
2. gold, 140.3
3. shrimp and fish, 36.9
4. crude oil, 34.7
5. rice, 9.1

Sources: Central Bank in Suriname; Bauxite Institute; National Planning Office; and IMF estimates, cited in Bernhard Fritz-Krockow et al. (2005).

Suriname's share of world bauxite production in 2004:

Bauxite: 2.6% of total world production of 156,689 metric tons

Alumina: 3.7% of total world production of 54,872 metric tons

Employment by sector in 2003(in # of workers):

Mining: 2,276 – 5th employer, with 3.5 % of total workers (1. government – 40,129 or 62% 2. trade; 3. manufacturing; 4. other services)

Source: Mariana Torres, Masahiro Nozaki and Rafael Portillo (2006: 8-10).

Surinamese Legislation and Policy around Mining, the Environment and Indigenous Peoples

Mining Legislation and Policy

According to Suriname's constitution and mining legislation, the state is the sole owner of subsurface resources, and does not require that Indigenous or Maroon communities be consulted before concessions are issued or mining activities take place.¹⁸

Mining activities in Suriname are primarily regulated by the 1986 Mining Decree and the 1989 State Decree on Mining Installations. The 1986 Mining Decree regulates large- and small-scale mining, and mining for building materials. It covers reconnaissance, exploration and exploitation of mineral resources, and among other things, refers to: compliance with ecosystem oriented regulations, reclamation of the mined area and environmental protection in the decommissioning phase; norms related to the health and safety of workers; and ensuring that mining activities take into account "the higher interest of the nation".

Examining protection of Indigenous and Maroon rights within this decree, Kambel and MacKay¹⁹ point out that this decree does not include the 'guarantee' or 'savings clause' that had a long history in previous laws governing Suriname's mining activities going back to 1877. For instance, article 35 of the Mineral Ordinance of 1932 – which the 1986 Decree replaced – stated that "no concession or its effects, may violate the rights of Bushnegroes and Indians to their villages, settlements and agricultural plots, which may be found within the issued parcel of domain land," with violations subject to a fine. Instead, the 1986 Decree refers only once to Indigenous and Maroon Peoples in article 25 (1)(b), which states that exploration permits must include a list of tribal communities located in or near the area to be explored. The reasons for this change are vague, and alleged violations to the new rule – for example, the case of

Box 4: The Case of Pierrekondre

(Excerpt from The Association of Indigenous Village Leaders in Suriname, Stichting Sanomaro Esa, The Association of Saramaka Authorities and The Forest Peoples Programme [2004]: Paragraphs 29-31)

In 1998, Suriname issued a sand mining permit to a Canadian company called Suriname Stone Industry. This concession is approximately 200 meters from the houses that comprise the indigenous village of Pierrekondre and also encompasses areas used for hunting, fishing and agriculture. The concession was issued without any consultation with the community and without even a formal notice. Since 1998, the company has extracted a large quantity of sand, leaving a very large open pit next to the village.

The community's repeated complaints about the mining, first made in 1998, have been ignored. When villagers first witnessed heavy digging equipment at the site, they requested information from the District Commissioner, and were told that the company was only taking samples. They later discovered that a concession to mine sand in an area of approximately 400 hectares had already been issued. Even after the village presented conclusive evidence that the company was operating in violation of its mining permit, their complaints continued to be ignored.

In December 2002, the community sought an emergency injunction to suspend present and future mining activity, arguing that the concession had been issued in violation of their rights to use the land for hunting, agriculture, fishing and other traditional livelihood activities. This emergency injunction is still pending before the courts almost six months after it was filed. In its reply, the State argued that "whether or not the villagers are heard, their possible objections with regard to issuing the concession do not, in fact, have to be taken into account..." This position is based on the argument that, pursuant to the Constitution and the Mining Act, the State has inalienable rights to exploit natural resources and, therefore, community concerns need not be addressed.

Canadian companies Golden Star Resources and Cambior not including the village of Nieuw Koffiekamp – have gone unpunished.²⁰ In effect, under the 1986 Decree, Indigenous Peoples and Maroons have to accept mining activities on their lands.

Indirectly, Indigenous and Maroon Peoples are referred to in the case of aggregate mining (sand, natural stone, granite). Article 43 (3) states that “if a use right attaches to the land, the right to exploit building materials may only be granted to the owner of the land or, if it is domain land, to those who have a real or personal use right. Since there are use rights attached to Indigenous and Maroon lands, the State can only issue concessions for building materials in indigenous and maroon lands to the Indigenous and Maroon owners of these lands.”²¹ In practice, however, this article is not followed, and concessions are issued on or near ancestral lands as illustrated by the case of Pierrekondre (see Box 4)²².

Agreements made between the government and mining companies can also contain protections for Indigenous and Maroon Peoples, and in the case of conflict between these agreements approved by the National Assembly and existing legislation, the Agreement prevails. However, even protections in these agreements are not respected, as Kambel and MacKay underscore, highlighting the case of the 1994 Mineral Agreement with Golden Star.²³

Another piece of mining legislation is the 1989 State Decree, which focuses on provisions for mining installations placed on or above the sea, including required protection measures based on international conventions such as the 1982 United Nations Convention on the Law of the Seas (UNCLOS), the 1974 International Convention for the Safety of Life at Sea (SOLAS), the 1973 (further amended in 1978) International Convention for the Prevention of Pollution from Ships (MARPOL).

Bauxite extraction is subject to special legislation (*De Bauxiet Mijnwet* 1919), as well as the 1986 Mining Decree and the Brokopondo Agreement.²⁴

A key problem with all mining legislation, however, to be discussed further below, is that there is no national law requiring environmental and social impact assessments of mining activities, and so in practice there is no real protection for the natural or human environment:

[f]or instance, under the State Decree on Mining Installation, several large-scale mining companies conducted environmental impact assessments, although late in the decision-making process. Although providing some guidance for impact mitigation measures and monitoring, in practice these reports have had little impact on the approval and development of their concessions.²⁵

In 2002, the Government of Suriname issued a draft revised Mining Act that will eventually replace the 1986 Mining Decree, which mandates large-scale mining companies to undertake environmental impact assessments and put in place environmental management systems. However, the draft Act does not include provisions for occupational health and safety – or public safety. Moreover, it was developed without consulting small-scale miners, and “as a result, suggested policies do not provide for effective management of small-scale mining in a way that reflects the actual situation.”²⁶

In addition, the draft Mining Act did not involve consultations with Indigenous and Maroon organizations, and the original draft act and its subsequent revisions have been severely criticized for being discriminatory on a number of counts.²⁷ Namely, that the draft Mining Act:

- *Denies Indigenous and Tribal Peoples access to judicial remedies available to all other Surinamese.* In particular, if Indigenous or Tribal Peoples fail to reach agreement with miners on compensation for damages related to mining on their traditional lands, Indigenous and Tribal Peoples may not seek judicial determination of the amount of compensation as non-indigenous and non-tribal peoples can, “because traditional rights do not

lend themselves to the normal court procedure as individual rights are not involved”²⁸; instead, they must appeal to the executive, which will issue a binding decision. This “perpetuates the denial of Indigenous and Tribal Peoples’ legal personality as collective entities,” and contravenes articles 5 (a) the right to equal treatment before tribunals, and article 6, the right to effective remedies, of the UN Convention on the Elimination of Racial Discrimination, according to Indigenous and Maroon critiques.²⁹

- *Fails to guarantee rights to participate and consent to decision-making.* On the contrary, the Act (articles 31 and 76) “explicitly states that Indigenous and Tribal Peoples must accept mining subsequent to prior notification and limits input in decision-making to negotiating the amount of compensation that may be required to repair (potential or actual) damage”.³⁰
- *Fails to otherwise provide meaningful procedural and substantive guarantees for Indigenous and Tribal Peoples’ rights in relation to mining activities.* Among other things, Maroon and Indigenous organizations note the procedures outlined in the draft Act do not take into consideration whether Indigenous or Tribal communities believe that mining on their traditional lands is appropriate; instead all procedures take as a given that the mining will go ahead. The proposed “protocol on the effects on the community” and “proposal for an agreement on relations with the community” to be submitted in applications for exploration permits do not require prior consultations and discussions at the community level, or that Indigenous and Tribal Peoples be involved in the proposed study on the effects of mining activities that is to be submitted alongside the application. In addition, the adequacy of all submitted materials is assessed solely by the State, rather than in collaboration with the Indigenous and Tribal Peoples or through independent third parties. Further there are no sanctions should companies fail to comply with these provisions, and no quality standards or benchmarks for the studies.³¹
- *Actively discriminates against Indigenous and Tribal Peoples’ property rights, with the government failing to identify, delimit and demarcate Indigenous and Tribal Peoples traditional lands and territories.* Among other issues, the draft act provides a higher measure of protection for non-indigenous/tribal persons’ property rights.³²

In light of the potential adoption of this draft Act as is, Maroon and Indigenous organizations of Suriname filed an urgent action to the UN Committee on the Elimination of Racial Discrimination (CERD) in January 2004. In November 2004, VIDS submitted a formal petition to the government requesting meaningful consultation on the revised draft Mining Act and the inclusion of Indigenous and Tribal Peoples’ rights. To date this petition has gone unanswered, and recommendations by CERD unheeded. This has resulted in further submissions to CERD, as discussed below in the section on Indigenous rights.

Despite this VIDS’ 2004 petition does not seem to have been read or circulated among affected government departments – government officials interviewed for this VIDS/NSI project were unaware of the problems inherent in the draft Mining Act. To the contrary, at the Geological and Mining Department (GMD), there was a distinct impression that the rights of Indigenous Peoples and Maroons were protected through provisions in the draft Act.

Environmental Legislation

The Surinamese government has recognized the urgent need for improved environmental legislation with respect to mining. In 1997, the Director of the GMD stated:

There is no environmental legislation in effect with respect to mining, and in view of the rapid growth in this sector, such legislation is a must. Our country does not have the tools it needs to ensure an environmentally sound development of mineral resources, which can translate into sustainable development. Clearly the development of mineral resources in the near future will produce increased revenues. The value of this added bonanza can only translate into long term development, however, when the price of reclaiming the landscape and insuring [sic] safe living conditions

in the country do not exceed the revenues . . . legislative instruments and administrative resources are urgently needed to achieve development with a net gain.³³

To begin to address this situation, in 1997 the government established the National Council for the Environment (NMR) as a policy-making body within the Office of the President. In 1998, it established the National Institute for Environment and Development of Suriname (NIMOS), the operational arm of the NMR. Both bodies jointly received a grant of US\$2.24 million from the Inter-American Development Bank and the European Union for institution-building and the development of national environmental legislation. However, because of limitations in their authority, lack of legal backing and lack of human and material resources, these bodies have not produced results other than the development of a draft Framework Law on Environment (which is known as the Environment Act in English, and has not yet been discussed in Parliament), and draft guidelines for Environmental and Social Impact Assessment. In 2002, the Ministry of Labour, Environment and Technology (ATM) was established, which created several institutional changes, introducing ambiguities as to the role of the National Council on the Environment, and has held up approval processes with regard to draft legislation.³⁴

The 2001 draft Environment Act, a comprehensive environmental policy and management bill, addressed guidelines for environmental protection and planning, pollution control, environmental and social impact assessment and public participation, and attributed to NIMOS the role of environmental authority while maintaining current responsibilities of line ministries. In 2002 the draft Act was sent to the newly created ATM, which has among its responsibilities functions related to environmental policy, and supervising NIMOS activities. In 2004, a commission was established, comprised of officials from NIMOS, ATM and representatives of the National Council, to review and revise the draft Act.

By late 2004, several modifications had been made that represent some major steps backwards. The new draft proposal includes splitting the Act into two – an environmental management bill and another outlining institutional functions and responsibilities. According to Buursink,³⁵ regressive changes include:

- *In the environmental management bill:* restrictions on public participation in the EIA process. Earlier drafts had included “modules to guarantee the participation of civil society, NGOs, the private sector, and other stakeholders”³⁶;
- *In the institutional arrangements bill:* restrictions in NIMOS’ environmental authority, roles and competencies – from executing to controlling policy implementation under ATM; from enhancing citizen participation in decision-making to enhancing public environmental awareness; and from mutually coordinating to controlling environmental management activities within the various sectors; from having the power to issue environmental regulations and impact assessment procedures to having the power to propose them for approval by the minister.

These proposed changes highlight the lack of citizen participation in reviewing the law, and will no doubt lead to a backlash from environmental, Indigenous, Maroon and other organizations aware of these changes.

NIMOS’ proposed draft regulations for ESIA include administrative and public participation procedures for ESIA; criteria for EIA screening, scoping and review; and project implementation and monitoring procedures. Guidelines have also been developed for assessing proposed projects³⁷. Elements of NIMOS’ guidelines will be brought out during the analysis of the proposed projects for West Suriname. It is worth mentioning in this brief review, however, that the EIA guidelines do include a discussion of social impact assessment looking particularly at EIAs that have included Indigenous Peoples and have resulted in the postponement or rejection of projects on account of the impacts they would have on these communities (e.g., Justice Berger’s seminal Mackenzie Valley Pipeline ESIA conducted in the 1970s in Canada). International Association of

Impact Assessment guidelines are outlined, as are those under the US National Environmental Protection Act. Public consultation and involvement are key elements of these guidelines. There is also mention of Indigenous Peoples in the checklist NIMOS uses to review environmental assessments (see Box 5), and in other places in the guidelines. There are no real references to Suriname's Tribal Peoples, the Maroons, and a key question is whether "Indigenous" would also encompass Maroons in the current guidelines.

The guidelines highlight that "during all the EA steps, the project proponent must provide opportunities for interested members of the public, particularly those from local communities affected by the project, to access information on the project. The proponent must identify, record and take into account public concerns and comments."³⁸ There are also procedures that can lead to public hearings should there be sufficient public interest to warrant this³⁹, and an appeals process, should the public, applicant or other government agencies not agree with a decision by NIMOS regarding approving/rejecting an EIA.⁴⁰

Despite some mention of Indigenous Peoples, there is no doubt that the NIMOS guidelines could be strengthened with regard to the involvement of Indigenous and Maroon Peoples and the assessment of project impacts on Indigenous and Maroon territories.⁴¹ In 1996, Suriname ratified the Convention on Biological Diversity, which contains a variety of protections for Indigenous Peoples, namely articles 8(j) and 10 (c)⁴². Parties to the CBD negotiated an excellent set of guidelines that should inform Surinamese procedures and legislation with regard to EIA, namely the Akwé:kon Guidelines for the Conduct of Cultural, Environmental and Social Impact Assessment regarding Developments Proposed to Take Place on, or which are Likely to Impact on, Sacred Sites and on Lands and Waters Traditionally Occupied or Used by Indigenous and Local Communities (see Box 6).⁴³ The work of the UN Permanent Forum on Indigenous Populations with regard to standard-setting

Box 5: Excerpts from NIMOS' Checklist for the Review of Environmental Assessments

(NIMOS, Environmental Assessment Guidelines Volume 1, 2005: Annex 10)

1.11: Has the ownership of the site been described? Are there any competing claims for ownership (including claims by indigenous peoples), and have they been noted?

Baseline conditions

3.8: Is there an adequate description of socio-economic conditions? (e.g., land uses, employment, settlement patterns, economic activities, community services, transportation, historic and cultural resources, indigenous communities, etc.)

Impact identification

4.6: Have the potential impacts on socio-economic conditions been investigated? (e.g., land uses, employment, settlement patterns, economic activities, community services, transportation, historic and cultural resources, indigenous communities, etc.)

Significance

6.10: Has the significance of effects been discussed in terms of ecological importance and societal value (e.g., impact on the local community and on the protection of environmental resources)?

Stakeholder input

11.1: Has the proponent included a list of persons and groups there were consulted?

11.2: Does the report include a description of the process used to consult with stakeholders? Was the process sufficient?

11.3: Has the proponent included a list of concerns identified by stakeholders, and a response to those concerns?

11.4: Does the information identify and address the main concerns of the general public and special interest groups who may be affected by the project?

11.5: If Indigenous communities are affected by the project, were they consulted?

around free, prior and informed consent procedures, and recommendations from the World Bank initiated 2000 World Commission on Dams⁴⁴ and the 2004 Extractive Industries Review⁴⁵, provide international standards Suriname should feed into its own legislation.

Regardless of how strong the substance of Suriname's EIA guidelines, however, they will continue to be weak until they are mandated by law. As Kambel and MacKay have noted, by ratifying the CBD, Suriname is in fact mandated to conduct EIAs, and to recognize and protect Indigenous and Maroon Peoples' intellectual and cultural property rights.⁴⁶ To date, however, NIMOS focuses more on the environmental side and much less on social impact assessment.

In addition, the effectiveness of NIMOS' guidelines even as they now stand is severely hampered by the scarce human and financial resources to appropriately review, monitor and enforce the implementation of mitigation and other measures proposed in ESIA's approved by the agency.

Throughout the VIDS/NSI project, NIMOS expressed keen interest in knowing more about the developments in the West and community concerns. However, it was also evident that there were simply no funds for NIMOS officials to travel to the proposed development sites or to participate in relevant ESIA events to learn first-hand perspectives from the community level. A key missed opportunity in this respect was company-community information-sharing workshops that took place in February 2006 following repeated requests by the community leadership. Given the lack of funding at the agency for these types of visits it would seem appropriate for the companies to enable NIMOS to attend these sessions.

Box 6: Steps outlined in Akwe:kon Guidelines

(Source: Secretariat of the Convention on Biological Diversity, 2004)

The guidelines outline the following steps, each of which is accompanied by detailed operational guidelines:

- Notification and public consultation of the proposed development by the proponent
- Identification of Indigenous and local communities and relevant stakeholders likely to be affected by the proposed development
- Establishment of effective mechanisms for Indigenous and local community participation, including for the participation of women, the youth, the elderly and other vulnerable groups in the impact assessment processes
- Establishment of an agreed process for recording the views and concerns of the members of the Indigenous or local community whose interests are likely to be impacted by a proposed development
- Establishment of a process whereby local and Indigenous communities may have the option to accept or oppose a proposed development that may impact on their community
- Identification and provision of sufficient human, financial, technical and legal resources for effective Indigenous and local community participation in all phases of the impact assessment procedures
- Establishment of an environmental management or monitoring plan (EMP), including contingency plans regarding possible adverse cultural, environmental and social impacts resulting from a proposed development.
- Identification of actors responsible for liability, redress, insurance and compensation;
- Conclusion, as appropriate, of agreement, or action plans, on mutually agreed terms, between the proponent of the proposed development and the affected Indigenous and local communities, for the implementation of measures to prevent or mitigate any negative impacts of the proposed developments.
- Establishment of a review and appeals process.

Another concern raised by NIMOS is the lack of information at the agency with regard to the location of Indigenous and Maroon communities, and the areas considered ancestral territories. NIMOS officials noted that maps containing this information would be extremely helpful so NIMOS can ensure companies take these communities into consideration at the outset of proposed projects.

Finally, NIMOS expressed interest in obtaining more information on international standards and best practice with regard to Indigenous Peoples and ESIA, and asked VIDS to share their resources on this topic. Clearly there is an opportunity here with regard to capacity building and strengthening NIMOS institutionally.

Indigenous and Tribal Peoples

Suriname is home to four Indigenous Peoples (Kali'na, Lokono, Trio, Wayana)⁴⁷ and six Maroon tribes (Saramaka, Ndyuka/Aukaners, Paramaka, Aluku, Matawai, Kwinti), with approximately 47 Indigenous communities and 186 Maroon communities. Suriname's 2004 census indicated that 3.7 per cent of the population is Indigenous (representing 18,037 persons), and 14.7 per cent Maroon (representing 72,553 persons).⁴⁸ These communities depend on traditional subsistence activities to sustain their livelihoods, activities that are regulated through customary rules and tenure systems, often based on spiritual ties to the natural world. Many community members mix these traditional subsistence activities with other economic activities that can bring in cash to the household level.

Historically, Indigenous and Maroon Peoples living in the forest have been able to conduct their affairs without interference, and with some measure of protection from the government. Following a detailed examination of land law in Suriname, for example, Kambel and MacKay conclude that in effect, Surinamese land law "recognizes and has always recognized indigenous peoples and maroons as owners of the lands and territories occupied and used by them, and not just as permissible occupiers of cleared and cultivated state lands." This conclusion, they argue, is consistent with the Surinamese government's practice of not granting land titles in Indigenous and Maroon territories (with only few exceptions); and therefore "indigenous peoples and maroons have been able to hunt, fish, gather and to freely practice agriculture in their ancestral territories."⁴⁹

Nonetheless, as Kambel highlights in a recent policy brief for IDB, there is no Surinamese law that explicitly recognizes or protects traditional land tenure systems or collective land title, and all land and all natural resources are considered to be owned by the state. Indigenous and Maroon Peoples do have access to individual titles in the form of land leases (under the 1982 L-Decrees) that can be issued for a maximum period of 40 years, and are subject to being revoked by the Minister of Natural Resources if the annual fee is not paid in time or the land is not used in accordance with the initial request. This type of land lease can be held by any Surinamese, and the majority of Indigenous communities – some 80 per cent – have rejected this option.⁵⁰

The L-Decrees, the primary legislation in Suriname concerning state land, do provide for extremely limited protection of customary rights. They state that when domain [state] land is allocated, the rights of Maroons and Indigenous Peoples to their villages, settlements and agricultural plots must be respected, "unless there is a conflict with the general interest" (Decree Principles on Land Policy, Article 4.1). The general interest is then defined as including "the execution of any project within the framework of an approved development plan" (Article 4.2). Activities such as mining, logging, tourism or infrastructure projects that are considered in the "general interest" therefore are exempt from ensuring that customary rights are respected. In practice then, economic activities in the general interest trump customary rights. A further issue is that the L-Decrees do not extend customary rights beyond the boundaries of villages and ag-

ricultural plots, leaving out the rest of the traditional territories Indigenous and Maroon Peoples use for hunting, gathering and other activities.

The 1992 Peace Accord of Lelydorp put an end to Suriname's Interior War (1985-1992)⁵¹, and was signed by government representatives and leaders of Indigenous and Maroon insurgents, the Tucayana Amazonas and the Jungle Commando. But it also addressed issues around development, land rights and the status of traditional authorities of the Interior. Provisions include a Council for the Development of the Interior, an article (10) outlining the right to land and the process for applying for land lease titles, encouragement for a national discussion on ratifying ILO Convention No. 169, and strengthening the legal status, authority and increasing the stipend paid to Maroon Paramount Chiefs and Indigenous village leaders. To date, however, the substance of this accord has not been implemented, and there are questions about whether implementing this accord might actually run counter to the best interest of Indigenous and Maroon Peoples as their rights and cultural processes are not fully respected in the accord.⁵²

While lack of explicit protection for traditional land tenure systems may not have been problematic in the past, the government's issuance of increasing numbers of mining and logging concessions on or near ancestral lands and its establishment of protected areas has severely affected the integrity of these systems. Indeed, a recent IDB report states that nearly 40 per cent of mining concessions overlap with Indigenous and Maroon communities, and that logging concessions affect 60 per cent of Indigenous and Maroon communities.⁵³ In some cases the government has also issued overlapping concessions for the same areas of ancestral lands (for example, in the case of Bakhuys, mining and forestry). As touched on briefly above, the lack of legislation to ensure that Indigenous and Maroon Peoples meaningful participate in decision-making before resource extraction activities take place is clearly problematic.

Another key issue is the lack of effective legal remedies for Indigenous and Tribal Peoples. As Kambel explains:

Under Surinamese law, indigenous and tribal peoples and communities lack legal personality and are therefore incapable of holding or enforcing rights. Moreover, the judiciary may not order that the Government adopt or amend legislation as a remedy. This is considered the exclusive prerogative of the Government and the National Assembly. Attempts by indigenous peoples to use the court system have therefore failed. In the most recent case, a complaint filed against the State by the indigenous community of Pierrekondre (district Para) concerning a sand mining concession, was rejected by the judge, who stated that the community lacked 'competence' to bring the claim and referred the community back to the Ministry of Natural Resources to seek a political settlement.⁵⁴

Indigenous and Maroon Peoples are increasingly turning to international courts and bodies to help push Suriname to draft legislation that recognizes their internationally guaranteed rights, particularly their collective rights to their ancestral territories.

International obligations and actions

Suriname has ratified several international treaties that in effect take precedence over national laws.⁵⁵ Kambel and MacKay explain:

The Surinamese Constitution of 1987 provides that ratified international treaties 'which may be directly applicable to anyone shall have this binding effect as from the time of publication' (art. 105) and, that international instruments which are directly applicable shall supersede conflicting national laws (art.106). These ratified international treaties can be invoked in national courts as authority.⁵⁶

International human rights instruments are therefore an important source obligating the recognition of the rights of Indigenous and Maroon Peoples in Suriname. Following a comprehensive comparison of provisions in international human rights instruments with current legislation and practice in Suriname, Kambel and MacKay conclude that “the vast majority [of Suriname’s obligations under international human rights law to recognize and respect Indigenous and Maroon rights] have not been implemented,...the vast majority are not recognized in law, and... domestic remedies are substantially inadequate or unavailable.”⁵⁷

In recent years, Indigenous and Maroon Peoples have turned to the international system. Maroon Peoples have had some major successes at the Inter-American Human rights system:

- In 2005, the Court ruled in favour of the Maroon community of Moiwana, ordering Suriname to “adopt such legislative, administrative and other measures as are necessary to ensure the property rights of the members of the Moiwana community in relation to the traditional territory from which they were expelled,” providing for their use and enjoyment of these territories and ensuring that Suriname creates an effective mechanism for delimiting, demarcating and titling these lands.⁵⁸ Until their land rights are secured, the Court ordered that Suriname “refrain from actions – either of State agents or third parties acting with State acquiescence or tolerance – that would affect the existence, value, use or enjoyment of the property.”⁵⁹ Kambel notes that Suriname has since this time authorized mining, logging and palm oil plantations on Moiwana territory. This could lead to the Moiwana village appealing to the Court to issue legally binding orders to halt these operations, which would have serious financial and other repercussions for the companies and government.⁶⁰
- In 2006, the Commission ruled in favour of the Saramaka Maroon People of the Upper-Suriname River who had submitted a case asking, among other things, for recognition of their collective rights. The 2006 decision requires the State of Suriname to recognize Saramaka land rights without prejudice to other Indigenous and Maroon Peoples, and prohibiting the state from giving third-parties rights within Saramaka territory that would prejudice their land rights.⁶¹

Appealing to the United Nations Committee for the Elimination of Racial Discrimination (CERD) has also led to successful decisions for a coalition of Indigenous and Maroon organizations. In 2002, the Association of Indigenous Leaders in Suriname, Stichting Sanomaro Esa, the Association of Saramaka Authorities and the Forest Peoples Programme submitted to CERD a “Formal Request to Initiate an Urgent Procedure to Avoid Immediate and Irreparable Harm”, and since then the coalition has submitted a series of requests for follow-up⁶² (See Appendix 3 for a summary of CERD decisions).

CERD’s latest decision, Decision 1(69) of August 18, 2006, deals with the discrimination inherent in the draft mining law. In this decision, CERD “reiterates deep concern about information alleging that the state party has authorized additional resource exploitation and associated infrastructure projects that pose substantial threats of irreparable harm to indigenous and tribal peoples, without any formal notification to the affected communities and without seeking their prior agreement or informed consent.”⁶³ The committee strongly recommends that the state party:

- Ensure legal acknowledgement of the rights of indigenous and tribal peoples to possess, develop, control and use their communal lands and to participate in the exploitation, management and conservation of the associated natural resources;
- Strive to reach agreements with the peoples concerned, as far as possible, before awarding any concessions;
- Ensure that indigenous and tribal peoples are granted the right of appeal to the courts, or any independent body specially created for that purpose, in order to uphold their traditional rights and their right to be consulted before concessions are granted and to be fairly compensated for any damage;

- Elaborate a framework law on the rights of indigenous and tribal peoples and take advantage of the technical assistance available under the advisory services and technical assistance programme of the Office of the United Nations High Commissioner for Human Rights for that purpose;
- Extend an invitation to the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people for a visit to its territory.

In addition, CERD requested that:

...detailed information on the above-mentioned issues be included in the eleventh to thirteenth periodic reports of the State party, to be submitted in a single document on 14 April 2007. The Committee also wishes to receive, as previously requested, detailed information on the current status of the revised draft Mining Act and its compliance with the International Convention on the Elimination of All Forms of Racial Discrimination, as well as the Committee's 2004 concluding observations.⁶⁴

Many of these are repeated requests – and echo recommendations made to Suriname by the UN Human Rights Committee in May 2004.⁶⁵ A key question is what kind of action CERD, the coalition of Indigenous and Maroon groups and the UNHRC could take if Suriname continues to ignore these requests.

Policy and Role of Government

This brief review highlights the lack of protections for Indigenous and Maroon Peoples' rights in the current environmental and legislative frameworks of Suriname. While some progress is being made by at least writing Indigenous Peoples into some of the key questions that help guide NIMOS in decision-making about whether or not to approve an EIA, there is still a long way to go to ensure that Indigenous and Maroon Peoples are meaningfully included in the EIA process, and that NIMOS has the resources it needs to conduct its work. There are opportunities to influence and strengthen these guidelines in this respect before they become legally mandated. With regard to the draft Mining Act there is an urgent need to review this draft with the active involvement of Indigenous and Maroon Peoples, and to implement CERD's recommendations. Finally, with regard to land rights, there are still no protections for collective land title, despite recent gains through international courts.

In recent decades the land rights issue has become a topic of debate in Suriname, but "has never resulted in significant actions" in terms of assigning land title to Indigenous and Maroon Peoples.⁶⁶ A legal expert from the VIDS office takes this critique one step further, stating that despite the many committees established to tackle this subject, there has been *no* progress on land rights.⁶⁷

"The A-Combinatie argues that only when interior inhabitants get a title to land, they can determine their own development. In the current situation, interior inhabitants have no say over concessions that are issued to companies such as Cambior, garimpeiros or Chinese loggers."

– Caprino Allendy, vice-chair, National Assembly (DWT, 4 March 2005 "Natural Resources wants Suriname Solution Model for Land Rights" in Kambel 2006: 13)

"Without land you deprive them of the right to exist."

– Michel Felisi, Minister of Regional Development (cited in Kambel 2006: 13)

"The Moiwana case shows that you can prove how they can recognize land rights of traditional people. The problem of land rights involves not only Amerindians, but Maroons. The problem is to know what the people want. Maybe some want collective rights, others may want individual. I hope [the Indigenous people in the West] can express their vision and their direction so the government can do what it needs to do. But I'm sure that the government will do this before the mining starts."

– District Commissioner Strijk (Pers.Comm., February 2, 2006)

Recent political developments and announcements, however, point to a potential shift underway. For example:

- In the government's 2005-2009 Multi-Year Plan, President R.R. Venetiaan commits to a "rights-based approach to development", and recognizes that economic, social and cultural rights are linked. The Plan notes as priority actions implementation of land rights of Maroon and Indigenous Peoples (particularly those associated with the Lelydorp/Peace Accord), and evaluating ILO Convention No. 169 for potential ratification by Suriname.
- The government elected in May 2005 is comprised of a coalition – previous New Front coalition partners, the Democratic Alternative '91 and the Maroon-dominated A-Combinatie – that has highlighted addressing Indigenous and Maroon land rights as a key issue. Indigenous and Maroon Peoples are making their way into mainstream politics: the A-Combinatie now holds five seats in parliament; Michel Felisi, of Maroon descent, was appointed Minister of Regional Development; and Sylvia Kajoeramari was appointed to the National Assembly, the first time an Indigenous woman has held such a seat.⁶⁸
- There is also support with regard to action on land rights from the new head of the newly created Ministry of Physical Planning, Land and Forest Policy, Michael Jong Tjien Fa, who has committed to resolving the land rights issue within the next 5 years.⁶⁹ This policy commitment was echoed by the District Commissioner of Sipaliwini, DC Strijk, who told the VIDS/NSI project team that the land claims situation in West Suriname could very well be resolved in the next 5 years, importantly before bauxite mining begins at Bakhuis.⁷⁰
- On January 4, 2006 a Presidential Commission on Land Rights (PCLR) was established, likely in reaction to the June 15, 2005 Inter-American Court of Human Rights *Moiwana Village* decision.⁷¹ It has a one-year mandate to "research and identify in close collaboration with the target groups the problems related to land rights, as well as giving advice to the Government concerning the approach to these issues." However, as a June 2006 submission to CERD by a coalition of Indigenous groups highlights, there was no consultation with Indigenous or Maroon groups regarding the mandate or make-up of the PCLR; the only Indigenous and Maroon representation is by government officials – these representatives were not freely chosen by Indigenous or Maroon groups; the PCLR is the third government commission on land rights in the last 15 years, and there is skepticism regarding whether it will indeed result in progressive action.⁷²

While there appears to be a shift at least in rhetoric, there is also much resistance to implementing collective rights among government officials. Government officials interviewed for this project noted the government is "scared" of land rights and its implications, particularly given the government position that whatever is below the surface of the land belongs to the government. The government position is that with respect to projects on ancestral lands, "*in the end it is the government who will decide – not the people.*"⁷³ Awareness needs to be raised among government officials that assigning collective title may in fact reduce conflict and therefore costs with regard to large-scale projects: some communities may open-up portions of their lands 'for business' entering into joint ventures and other types of business arrangements where benefits flow to them more directly than under the current situation. In countries such as Canada, there has in fact been a push by industry for government to settle land claims so companies have increased certainty with regard to land ownership, and know with whom they should be doing business and on what basis.

While legislation and regulations regarding the environment, mining and Indigenous and Maroon Peoples are debated, drafted and redrafted, Suriname continues to attract foreign direct investment, especially in the mining industry. The following section examines the implications of this for Indigenous communities in West Suriname, focusing specifically on the Bakhuis and Kabalebo projects.

Section 4: The Bakhuijs and Kabalebo Projects: Impacts and Indigenous Peoples' Concerns

Background: An Integrated Project for the West⁷⁴

The Bakhuijs Mine and Kabalebo projects are not new – the Government of Suriname's interest in mining bauxite and generating hydroelectricity from the West goes back to the 1970s. At that time infrastructure was built to enable the projects, including a railroad from the Bakhuijs mountain range to a port built specifically for these projects in Apoera, a road from Apoera to the mining concession, and roads leading out towards the proposed hydroelectric project. The integrated aluminum project was to eventually include a smelter, and there were also plans to establish a wood mill, with areas identified for oil palm plantations, logging and also large-scale agriculture.

The 1970s were also the genesis of big plans for making Apoera one of Suriname's three largest cities (after Paramaribo and Nieuwe Nickerie), using a phased approach through what is known as the "West Suriname Plan." Bauxite production was to help fuel the growth of this city. Phase 1 of this plan was undertaken, and involved bulldozing through the agricultural plots and homes of Indigenous People living in the area that is today known as "Apoera Plan", a "city" that housed the workers building the "West Suriname Plan". The planners did not consult with the Indigenous People in the area, and assumed that these people would either move into the new city and assimilate into mainstream Surinamese life, or move to other Indigenous villages. Following protests from the people and their supporters, there was agreement to let the Indigenous People live in what had been planned as the "green" or "recreational" zone of "West Suriname Plan" lining the Corantijn River, as long as they maintained their traditional way of life, and lived without electricity or running water, in keeping with the "green" zone plan.

"One of the biggest arguments of opponents of the West Suriname project was that the government was building infrastructure – a railroad, a port, etc – without any company interested in mining there! In the 1970s there was not even talk about mining – not even Suralco. In those days everyone said 'there is a railroad from somewhere to nowhere'. We were fighting the government, not a company."

– Harold Jap-a-Joe, member of now defunct 'Action for Land Rights in the Interior' (Personal Communication, Sept. 13, 2005)

With regard to land rights, the case of West Suriname Plan is one of the exceptions Kambel and MacKay refer to with regard to government interference in Indigenous land rights in the Interior (see discussion on land rights above). In this case the government assumed possession of Indigenous lands through a 1978 Decree which made Apoera part of the town planning law of 1973⁷⁵, and re-issued Indigenous lands to individuals through individual titles.

However, this early vision for an integrated aluminum industry and for the West Suriname Plan came to an abrupt end on account of low world bauxite prices, and the 1980 military coup. The new military regime criticized the large-scale projects concocted by the previous government, and all the monies that flowed to this area without any results. Instead, the regime tried to embark on smaller scale economic projects, but these also failed. The upshot was that the workers left their residences, and returned to Paramaribo. Slowly, the empty residences began to be inhabited by local and Guyanese Indigenous People, and also people from Paramaribo. The settlement is known now as Apoera City (*Apoera Stad*) or Apoera Plan. Since 2003, people who

moved into the houses have been granted the right to buy their houses and get individual title to their homes and land.⁷⁶

In recent years, there has been renewed interest in realizing the vision of an integrated aluminum industry in the West, particularly as bauxite deposits in the East are depleted and mines are slated for closure. As one high-level government official stated: *“We’ve been talking about this for 30 years, so we hope we can realize it...The bauxite mining industry is very important. We hope it can last longer. In the East, Bauxite will be depleted, and then the Bauxite in the West will be needed.”*⁷⁷ The Bakhuijs and Kabalebo projects feature prominently in the President R.R. Venetiaan’s 2005-2009 multi-year plan,⁷⁸ in regional discussions of the Technical Executive Group of the Venezuela-Brazil-Guyana-Suriname Hub of IIRSA (Regional Infrastructure Integration in South America/ Integración de la Infraestructura Regional en Sur América)⁷⁹, and in ongoing national media reports.

The following section describes the new vision for these projects. It begins by providing a brief sketch of the Indigenous communities in the West taking part in this VIDS/NSI project, who will be directly affected by the proposed mega-projects. It then outlines the recent proposals for the Bakhuijs and Kabalebo projects. The outcomes of VIDS/NSI fieldwork are then described, particularly focusing on concerns expressed by community members regarding the Bakhuijs and Kabalebo projects, and the social and environmental impacts the affected communities are already experiencing – and will likely experience – on account of the projects. A final section examines other pressures the communities are facing that need to be considered in assessing cumulative effects on the ancestral lands and communities of West Suriname.

In Brief: Apoera, Section, Washabo and Wanapan⁸⁰

The history of use and occupation of the Lokono people today living in Apoera, Section and Washabo, and the Trio people in Wanapan, is currently the subject of archival and community-based research.⁸¹ There is evidence from different time periods that these peoples used and occupied West Suriname before European contact, during the ‘discovery’ of the continent, and during each and every subsequent period; there have always been Indigenous groups along the Corantijn River.⁸²

A preliminary map of traditional use areas has been made by the Lokono communities, but this map is still incomplete and in need of updating. Preliminary land-use mapping has been undertaken in Wanapan and other Trio communities further south who will be directly affected by the Kabalebo project.

Apoera, Section and Washabo

Archival evidence confirms the communities’ oral history that the area was used and occupied for centuries. However, Washabo and Apoera were permanently settled in around 1920, and Section slowly grew into a village between Washabo and Apoera as families started settling there.⁸³

These villages are located some 150 km south of Nieuw Nickerie on the Corantijn River, which marks the border between Guyana and Suriname. From Paramaribo, the villages can be reached by: 1) a dirt road that is in bad condition, and which takes some 10 hours to drive; 2) by road to Nieuw Nickerie, and then boat from Nickerie (4 to 10 hours from Nickerie, depending on the boat); 3) by chartered aeroplane, which is very costly, and takes around 1 hour. There is a dirt road linking the villages, and in Apoera Plan the roads are made of interlocking brick. Most villagers travel between villages by bicycle, by hitching a ride with locals who have trucks and do runs between the villages, by boat or dugout canoe (mostly without outboard motors), or walking.

Accurate and disaggregated population data for the Indigenous villages is hard to come by,⁸⁴ and to fill this gap the VIDS/NSI project team undertook participatory village mapping in February 2005. According to our numbers, there are a total of 1,023 people living in the three villages (not including the children attending boarding school in Nickerie, or students in Paramaribo) (see Box 7).

Box 7: Population in Apoera, Section & Washabo Villages (February 2005)

	Households	Adults	Seniors (60+)	Youth*	Total
Apoera Village	70	165	29	117	311
Section	38	72	16	73	161
Washabo	106	228	14	309	551
Total	214	465	59	499	1,023

* Each village had a different definition for youth. For Apoera Village and Section, youth/children included people aged 0-17, while in Washabo the range was 0-20 years old. All concurred that seniors were over 60.

Washabo is the largest and most traditional of the three villages – it has some 106 households, with a total of approximately 551 persons. Section is the smallest of the three villages, with a total of 38 households and 161 people. And Apoera village has some 70 households with a total of 311 people. Apoera is considered the least traditional village, largely because a number of villagers have moved into Apoera Plan, including the village captain.⁸⁵

The villages are also home to several churches, an elementary school, a number of shops and bars, and there is also a community radio station and clinic in Apoera Plan to which villagers have access (see Box 8). For secondary school, village children attend a boarding school in Nieuw Nickerie, and further studies are pursued in Paramaribo.

Box 8: Miscellaneous facts about Apoera, Section & Washabo Villages (February 2005)

	Apoera	Section	Washabo
Households	70	38	106
Shops	2	0	2
Shops/bar	4	6	2
Clinic	1*		1
Churches**	3	1	2
Rice Mill ***		1	
Radio Station	1*		
Elementary School	1*		1
Boats	9	1	9
Dug out canoes	1	5	15

* These buildings are in Apoera Plan.

** In Apoera Plan there are 3 more churches, bringing the total number of churches in the 3 villages and Plan to 9.

*** Currently not in use

Until very recently, the villages were without running water, electricity or access to personal telephone lines, even though Plan Apoera had sporadic access to these services, as well as public telephones. There is no postal service to the communities. In April 2004, running water was introduced in the villages through a collaborative project between the Warishi Foundation, BHP Billiton and the government. Many households still use river water for bathing and drinking, however, and some community members have questioned why running water has been introduced now. Some have expressed fear that the companies and government know they will likely pollute the river water with the mining and potential hydro dam, and have therefore preempted this by introducing a 'safe' water source. For a variety of reasons to do with the donor (in this case IDB's community development fund) and Suriname's Energy Bureau (EBS), bringing electricity to the villages was postponed for several months, even though trees had been cleared, poles put up, and even a fake ceremony held to "flick the switch" by politicians during the May 2005 election. The villages finally got electricity in June 2006. Cellular phones became operational in February 2006, radically changing the nature of communications with the villages, which had relied on two-way radio with the VIDS office in Paramaribo prior to this. As of yet, the villages do not yet have access to Internet or e-mail.

With regard to economic activities, most households in the villages rely on a mixed economy of traditional and cash generating activities. In their small scale-agricultural plots (*kostgrondje*), villagers grow cassava, pom tayer, bananas and peppers. The forest yields bush meat, medicinal plants, nuts and fruits, among other forest products. And fish are caught in the rivers, creeks and swamps. There is a clear division of labour: While the men hunt and help to cut open the agricultural plots, women are the primary farmers and cassava-bread makers. Both men and women fish and help sow the crops in the plots. In addition to these traditional livelihood activities, villagers produce pom tayer and bananas to sell to merchants in Paramaribo. They also sell bananas to merchants in Guyana, where the price for bananas is much higher. Other employment sources are logging companies, the gravel pit close to Apoera, wildlife trading (particularly snakes)⁸⁶, and more recently exploration activities at BHP Billiton. Some villagers are public servants working with the government.

There is increasing encroachment on the hunting and gathering grounds of the Indigenous People in West Suriname. Increasingly, sports hunters from Paramaribo are visiting the area, with hunters reporting that they need to go farther away to get their bush meat. In addition, the proposed protected area at Kaboeriekreek (to be discussed below) and logging activities pose threats to local livelihoods.

While the vast number of Indigenous People in the villages are Lokono, there are also a number of Caribs (Kari'na) and Waraos who in-migrated to take advantage of economic opportunities such as logging, gravel, and others. Most Lokono households are losing the Lokono language, however, with most communication being in Sranan Tongo or Guyanese English, and only a handful of Elders are still able to speak Lokono.

With regard to local governance, Apoera, Section and Washabo are part of the Kabalebo Ressor of the District of Sipaliwini. Traditionally, the three villages had one village Chief (based in Washabo), who was helped by one assistant (usually from Apoera to create a balance of power between the villages)⁸⁷. However, in 1992, villagers decided this governance structure needed to be supplemented in order to deal effectively with all the various developments taking place in the area, and that the newer generation of Paramaribo-educated youth should play a more prominent role. Consequently, a village Chief was established for each village, with four assistants to help each Chief (2 men and 2 women assistants per village). While they work independently on issues affecting each of the villages, the leaders come together for joint decision-making on issues that affect all three villages collectively. The Apoera Chief is also recognized as the traditional authority by Indigenous inhabitants of Apoera City.

Traditional governance structures are not legally recognized in Suriname. Instead, in an effort to decentralize government, in 1987 the Constitution of Suriname introduced District Councils (*districtsraad*) and Ressor Councils (*ressortraad*), which function at the subdistrict level. In theory, these organs – whose members are elected by the citizens of the district and ressort – determine the policy for both administrative regions. In practice, however, they do not function, especially not in District Sipaliwini where members of the District Council live far apart from each other and are not provided with a travel budget to attend meetings. At the ressort level, the Council of Ressor Kabalebo is based in Apoera City and meets regularly. However, this council has very little room for autonomous decision-making as all its decisions are subject to approval by the Districts' Commissioner (the DC of Sipaliwini), who is appointed by the government and represents the Minister of Regional Development in the districts.

In reality then, it is the DC of Sipaliwini and his representatives who have the most influence in decision-making at the district and ressort level. In Apoera City, the DC is represented by an Adjunct District Secretary (ADS) and a *Bestuursopzichter* (BO). The BO keeps the DC informed of what is happening in the villages, attends traditional village meetings, and is also supposed to advise the DC on the issuance of land titles and concessions (with no legally binding effect). Discussions are currently underway between traditional and state recognized authorities with regard to how best these structures can work together in West Suriname.

Zandlanding and Wanapan

Wanapan is a Trio village located near Wonotobo Falls, some 8 hours upstream from Apoera on the Corantijn by outboard-motorboat. This old village was only resettled in around 2000 by the Trio. Like other communities in the South, the Trio from Wanapan had migrated and settled in Kwamalasamutu following evangelical missionaries and in order to get access to health services. Again, like other Trio people – and mandated by the Granman, the head Chief of the Trio, who is based in Kwamalasamutu – the Chief of Wanapan decided some 5 years ago to leave Kwamalasamutu to resettle the old village. While the Chief and his assistant still maintain contact with the Granman, Wanapan is fairly isolated. The village has acquired a boat with an outboard motor, but gasoline costs are very high – and increasing very fast – thus limiting much transportation between villages.

Recently, the Chief of Wanapan set up an understanding with the Captain of Apoera⁸⁸ to use an area of Apoera known as Zandlanding (near the port in Apoera) to house Trio families whose children attend the elementary school in Apoera. In addition, people from Wanapan come to Zandlanding to get medical treatment in Apoera, as there are no medical services in Wanapan.

The population between Wanapan and Zandlanding fluctuates on account of these reasons. Participatory mapping in February 2005 revealed the population of these two villages to be 75, with a total of 17 households between the two (See Box 9).

	Adults	Seniors (60+)	Youth	Total
Zandlanding	30		22	52
Wanapan	20	2	1	23
Total	51	2	22	75

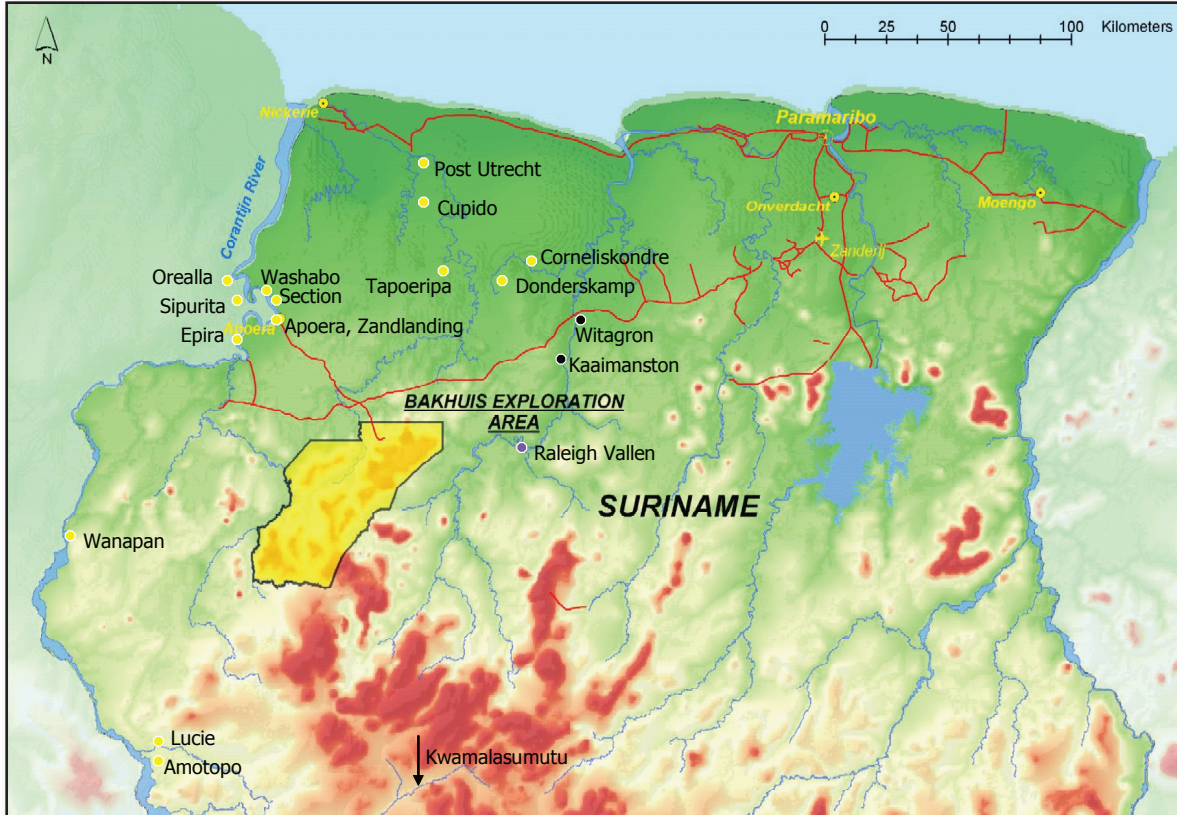
There are other villages further upstream that did not participate in this project, but that will be affected by the Kabalebo project, including Lucie, Amotopo, Caju Island and Curuni, each with a village Chief and assistant. Each of these villages has some 20 to 40 inhabitants who are preparing their villages for the return of more Trios from Kwamalasamutu.

Trio Peoples live very traditionally. Like the Lokonos, they have small-scale agricultural plots, and they also hunt (almost exclusively with bows and arrows), gather and fish. They use forest products such as lianas extensively for construction. For cash income, the Trios also engage in wildlife trading, and Trio women are well known across Suriname for their beautiful seed necklaces and handicrafts, which they sell to merchants in Paramaribo and whenever possible, directly to tourists. The Trio also seek employment in day jobs, and in Zandlanding two Trio men have employment with the gravel company.

The Trio language is alive and well, and in fact the Chief of Wanapan can communicate with non-Trio speakers only through an interpreter. The missionaries at Kwamalasamutu have been instrumental in enabling the Trio language to be written, and teaching this to the Trio people.

With regard to decision-making, the Chief and assistant of Wanapan are well aware that the land on which Zandlanding is settled comes under the mandate of the Chief of Apoera. The Chief of Apoera is also aware of the importance of sharing information with the Chief of Wanapan for any developments affecting Zandlanding. This clarity in decision-making and openness in communication will be very important, as Zandlanding will be directly affected – and may even face resettlement – by the mining-related developments.⁸⁹

The Bakhuis Project



Source: Adaptation of Glaser (May 2005) presentation, showing Indigenous (with white dots) and Maroon villages (with black dots).

*Brief Background*⁹⁰

The Bakhuis Project is jointly owned by BHP Billiton (45 per cent) and Suralco (55 per cent). A Memorandum of Understanding (MoU) was signed between the companies and government on January 6, 2003 for exploration of the concession area, covering 2,800 km² (278,000 Ha) of primary forest.⁹¹

Exploration drilling began in November 2003 and ended in November 2005, with total exploration costs of approximately US\$8.5 million. Approximately 330 km of roads and 650 km of drill lines were cleared throughout the exploration phase, with some 7,700 boreholes dug (i.e., some 50,000m in total). The total area drilled was some 8,890 ha, with the total area “visited on-the-ground” estimated at 52,800 ha.

The companies did not keep track of how many Indigenous People were hired for exploration activities⁹², but did keep track of how many “local people” were hired. According to June 2006 estimates by the village captains, some 74 Amerindians were hired throughout the exploration phase, although not continuously. In February 2005, participatory mapping in the villages revealed that at that time approximately 38 Amerindians from Apoera Dorp, Section and Washabo were working at the mine of a total of 150 workers; the exploration manager estimated that as many as 60-70 people were from Apoera, Section and Washabo.⁹³

The outcome of the exploration phase is that the companies are interested in exploiting all “plateaus” over 250m, some 25 per cent of the concession area. If the bauxite mine does go

ahead, the companies are envisioning it could be operational in 2010 or 2011, with construction potentially starting in 2008.

Among several unknowns are:

- Whether the project will eventually include a refinery in West Suriname, and if so where that refinery will be located. Current options include near Apoera, nearer to Nickerie or in Bakhuis.⁹⁴
- Whether to maintain or expand the Paranam refinery. Because the quality of Bakhuis bauxite is lower than that from the East already refined at Paranam, a “beneficiation” plant⁹⁵ will be required. Currently, there are two options being considered for the location of this plant – Bakhuis or Paranam. If it is located at Bakhuis, the beneficiation plant “would require abstraction of water from one or more watercourses, which may include the Nickerie River,” which would have consequences for downstream communities, especially those on the Wayambo River, a tributary of the Nickerie.⁹⁶
- How the bauxite will be transported from Bakhuis. Options include: by road or by rail to Apoera, and then barged on the Corantijn to Paranam (or to Trinidad); by slurry pipeline to Paranam. If barging is the chosen option, it may include dredging the mouth of the Corantijn River. In addition, there would be upgrade of the Zanderij-Bakhuis and Bakhuis-Apoera roads. Rail upgrading would also need to take place.
- Where the bauxite will be smelted. Options include building a smelter in the West, which would require building a hydroelectric dam (see section on Kabalebo Project below), or transporting to Trinidad.
- Whether the concession area might be mined for nickel as well as bauxite.⁹⁷
- Who the financiers for this mine might be.⁹⁸

The companies engaged SRK Consulting of South Africa to undertake the mine ESIA, which began in 2003 and was estimated to be completed in 2006. Separate ESIA's will be conducted for the transportation options and refinery. The transportation ESIA commenced in October 2006 and will be completed in 2007.

VIDS/NSI Project Finding #1: Exploration Impacts

Throughout the exploration phase of the project, the communities already experienced significant impacts. These include:

Impacts on Land Rights, Traditional Use and Decision-Making

- Community people were prohibited from engaging in subsistence activities in the 2,800 km² of their traditional territory that overlaps with the Bakhuis mining concession area. This area is used for hunting and fishing, among other activities, and prohibiting this use clearly has significant socio-economic and cultural impacts.
- There is increasing population pressure in Plan Apoera, as more city people in-migrate in search of opportunities related to the mine and other developments in the area. This in turn is exacerbating the ongoing conflict about land rights within Plan Apoera, and questions about who owns the land in “Plan”. Indigenous Peoples have always maintained the land in Plan was taken away from them unjustifiably by Apoera Plan planners in the 1970s, and that the land is part of their traditional homeland. The notion of individual rights that is promoted within the Plan conflicts with Indigenous conceptions of collective rights, and there is currently heated debate within the Indigenous communities regarding how to reconcile this situation and maintain their traditional rights to the area. At the same time, in-migrants are organizing to ensure their individual rights are upheld.
- Throughout the exploration phase, the traditional governance and decision-making structures of the local Indigenous Peoples were undermined, as were rights to consultation and free, prior and informed consent. Examples include:

- ♦ Local communities were not consulted when the concession area was issued to BHP Billiton/Suralco, or when the MoU was signed between the companies and the government.
- ♦ BHP's contractor undermined the Chiefs' suggestions and process with regard to local workers to be hired. Rather than working with the list of community people the Chiefs had developed based on their own criteria, the contractor allegedly simply came to town and hired locals as per his own criteria. According to discussions at the community level, one of the Chiefs' criteria was to provide employment opportunities for men and women who had families and children, while the contractor was more interested in hiring younger, single men.
- ♦ Local communities were not consulted and did not participate in the "screening" or initial "scoping" phase of the mine ESIA. Company consultants noted that only "high level" consultations took place (i.e., with government and company officials in Paramaribo, as well as select NGOs), denigrating and disrespecting the "level" and authority of the traditional leadership.
- ♦ ESIA studies started well in advance of any presentations at the community level or of any feedback.

Workplace Conditions and Impacts on Family

Indigenous miners interviewed for this project highlighted the following issues with regard to workplace conditions and impacts on family:

- The pay is poor and overtime is not paid.
- The food provided by the company is not culturally appropriate – workers eat chicken all the time, instead of the bush meat and fish that is inextricably linked with their cultural identities.
- Indigenous workers cannot hunt in the concession area – they can fish, but cannot eat the fish onsite.
- The work rotation of two weeks on and one week off is very hard on the miners and their families:
 - ♦ While they could go home on the weekend, they would need to do this on their own as there is no bus service, and the distance is 80 km. The expense is higher than most can afford.
 - ♦ Miners do not rest when they go home for their week "off" – they have to hunt and fish for the family, and stock up for the two weeks they are away
 - ♦ There is extra work and stresses for their spouses
- There is not enough telephone access to call home.
- Some miners experience physical problems because of the repetitive nature of the work.
- There is concern about the environmental impacts of the exploration activities, especially concern that holes were drilled 25m apart instead of 50m apart. Exploration activities were excluded from normal and NIMOS-mandated ESIA.

"The bush will disappear after the mining."

– Indigenous miner, Bakhuis

It should be noted that the younger, single Indigenous miners were more satisfied. Those interviewed were not hunters or providers for their families. They did not complain about not being able to go home on the weekend, noting that if they went home they would have to work for the family, while by staying at the camp they could rest.

The key benefits identified by miners were the safety training, budgeting training and the no alcohol/drugs policy. Having a regular paycheck was also considered an advantage.

Interviews with miners' spouses highlighted the following issues:

- Miners are very poorly paid.
- Food prices at shops in the villages are twice as expensive as in Paramaribo.
- Being paid monthly is a big problem in budgeting; every two weeks would be far better.
- When husbands come home, there is not enough family time; husbands end up working instead of resting.
- There is a big increase in workload for spouses at home, caring for children, elders and providing for the family through fishing and other activities usually considered more "men's work". In addition, the agricultural crops – largely the work of women – go uncared for due to time constraints and the lack of help from husbands to cut these plots open and turning the soil. In some cases these plots are completely neglected.

"My husband's working there. At first he was working 14 days and then got paid, but now it's every 30 days. The money is not enough. He's working so hard, but gets less money. When I go to the shop and get food, I pay for it and all of the money is gone already – it's better to get paid every fortnight. When he is home for the one week, it's too short – there's no time. He has too much work when he gets home. The company has so much money, why don't they pay more?"

– Spouse of Indigenous miner

Observations made by other community members with regard to the impacts of exploration were that there is now more alcoholism in the communities. A schoolteacher noted he can tell whose parents work at Bakhuy's because they have more money for their children.

When asked about some of the complaints made by the miners, specifically the possibility of going home for weekends and the complaints about the lack of culturally appropriate food, the Exploration Manager noted that "BHP is not a transportation company," and that if BHP had to cater to everyone's preference with regard to meals at the exploration camp, they would have to produce many different menus.⁹⁹ These responses show a lack of understanding, awareness and respect for Indigenous Peoples and minimizing impacts on their way of life.

VIDS/NSI Project Finding #2: Current Impacts

While the exploration phase has come to an end, the impacts of this project continue at the community level. Current impacts include:

- Concern about BHP's community development projects and the impacts that these could have on community unity. There is nervousness that BHP is offering short-term projects, while the communities should be focusing on long-term community goals such as recognition of collective land rights. As well, there is concern the community development projects might be a "divide and conquer" tactic, at a time when community unity is what is needed. Finally, the community leadership wants assurance that these projects are not being linked directly to the mine; these projects should not be seen as compensation, and certainly do not mean that the communities are saying yes to the mine. In response, BHP has underscored that it works in communities across Suriname on community development, and that this approach is regardless of whether the community is affected by mining.
- Fear that the forest and traditional livelihoods will be destroyed.
- Fear of increased prostitution among the youth.
- Raised expectations regarding future employment:
 - ♦ Concern that non-West Surinamese will get the jobs;
 - ♦ Concern that women will not be meaningfully employed.

VIDS/NSI Project Finding #3: Company/Government/Community Interactions

Overall, interactions between the companies, government and communities have strayed far below international standards or best practice, in some cases violating the companies' own policies, and in others that of the government of Suriname. This is without mentioning the breaches to the community level policies on consultation and consent which the communities in West Suriname are currently developing.

Aside from the already mentioned fact that the communities were not at all consulted with regard to the issuing of the mining concession on their traditional territory, or in the signing of the MoU between the companies and the Government of Suriname (the lack of consultation is a practice which is the norm for business in Suriname, despite its international commitments under CERD), arguably more egregious missteps were:

"People have been blindfolded by small projects. We need to get title in order to benefit."

– Indigenous community member

- *Not engaging in an ESIA for advanced exploration on 2,800 km² of primary forest on mountains that are the source of the watershed for numerous downstream Indigenous and Maroon communities.* This clearly violates the companies' own policies as enshrined in Principle 6 of the ICMC Sustainable Development Framework, which states, among other things, that the companies will "assess the positive and negative, the direct and indirect, and the cumulative environmental impacts of new projects – **from exploration through closure**" (emphasis added).¹⁰⁰ It also counters Principle 9's commitment to "engage at the earliest practical stage with likely affected parties to discuss and respond to issues and conflicts concerning the management of social impacts." BHP Billiton did apologize publicly for this misstep several times, including at meetings in the communities in February 2006. Engaging with the communities early, and negotiating their participation in the exploration activities, could have minimized the socio-economic, cultural and environmental impacts the communities experienced in the exploration phase, and built a more solid platform for future negotiations. Appendix 4 highlights South African miner De Beers' policies on interacting with Indigenous Peoples during the exploration phase of diamond mining in Canada, showing the intent of using far higher standards than those used by BHP and Alcoa in Suriname.
- *Not involving potentially affected Indigenous and Maroon communities in the screening or scoping phases of the ESIA for the mine site.* Potentially affected Indigenous and Maroon communities and their representative national organizations were left out altogether, while environmental NGOs and others participated. This is a clear breach of NIMOS' guidelines which state: "NIMOS understands and recognizes the importance of public participation throughout the EA [Environmental Assessment] process. Moreover, NIMOS will adopt procedures to ensure full public participation at the early stages in the EA process, **and particularly at the scoping and reviewing phase**".¹⁰¹ According to NIMOS, the scoping paper should include the concerns of parties affected by the project, and outline how these parties – including the directly affected communities – should be involved in the screening and scoping phases. The paper should address land use, resource use, community infrastructure, heritage, health and safety issues. How SRK, the Consultant hired by the companies, and the companies could do this without involving the directly affected communities at all deeply questions the quality and validity of the scoping report, let alone the scope of the important ESIA's based on this report.

In fact, the lack of consultation with Indigenous and Maroon communities was apparent in the quality and scope of the original (August 2005) Plan of Study (PoS) for the ESIA, which highlighted concerns related to environmental impacts on the Central Nature Reserve, without mentioning the need to carefully study the impacts on the watershed and creeks the Indigenous and Maroon communities use. The PoS claimed there are no

communities within the concession area¹⁰² without providing evidence to back this up, but more importantly revealing ignorance that while communities may not live in the concession area, this area is used by both Maroon and Indigenous Peoples (see further discussion in section on Kabalebo hydro project below). The consequence of excluding Indigenous and Maroon Peoples at the outset of the ESIA process is that the focus of the scope of studies in SRK's PoS is largely biophysical, with only one study dedicated to social impacts of 15 studies.¹⁰³ In addition, the area of study for the ESIA is far narrower than World Bank standards for ESIA's, which require that the study area include the affected airshed and watershed.¹⁰⁴

Further, NIMOS' Scoping Guidelines suggest establishing a scoping advisory group that continues to meet during the EA studies in situations where "project planning is at an early stage and the significance of issues is unclear"; they also suggest that "occasionally it may be appropriate to set up an advisory group or expert panel that might be independent of the developer and competent authority."¹⁰⁵ The EA Policy of the World Bank, which the consultants (SRK) purport to be following, also mandates the establishment of a panel of social and environmental experts at the beginning of the process.¹⁰⁶ The ESIA for Bakhuis should clearly have considered these possibilities, besides involving the affected communities and their organizations at all stages. Indeed, if it were to have followed international best practice with regard to ESIA's involving Indigenous communities, the ESIA itself would have been a joint undertaking.¹⁰⁷

In October 2006, following repeated requests, Indigenous communities in West Suriname and the VIDS finally received a copy of the 2003/4 scoping study, two years after it had been completed. In a twist of irony, the scoping report was distributed to them at the same time as they received the draft final version of the Mine ESIA.

- *The ESIA studies started without informing the communities, or actively seeking out their participation as researchers with valuable traditional knowledge to share. This goes against international best practice and ethical research involving Indigenous Peoples, particularly since affected communities could derive benefits from participating in the studies, and the ESIA team could benefit from the traditional knowledge of community members.*¹⁰⁸

"The ESIA has been designed to meet the standards of the World Bank Group and BHP Billiton's Health, Safety, Environment and Community (HSEC) policies and standards. This will ensure a comprehensive ESIA that adheres to the highest international standards is produced"

– SRK, ESIA for Proposed Bauxite Mining Project Bakhuis, Suriname: Background Information Document, September 2005:3.

- *The ESIA for the proposed projects is being done piecemeal instead of an integrated, cumulative assessment. Because of project and option uncertainties, the companies have decided to proceed by undertaking first an ESIA of the mine site, then one on the transportation routes, with further potential ESIA's on refinery, smelter and hydroelectric options. There is concern that this approach will miss the important cumulative effects and interactions between these various aspects of the related projects. Indeed, this approach seemingly violates NIMOS' guidelines with regard to undertaking a mine EA: "As a minimum, the description of a mining project should include among various other topics, the following: plan of operations (including processing plan), pipelines, power facilities, transport and access."¹⁰⁹ In other words, according to NIMOS – and following international best practice – the mine ESIA will not be complete until, at a minimum, all the aspects listed above are assessed cumulatively. By releasing the mine site ESIA first, the companies and SRK could fuel misconceptions that this constitutes the final mine project ESIA. The danger is creating a situation where NIMOS and the Government of Suriname make a decision about whether or not to approve exploitation based on an incomplete assessment, and enter into an agreement.*
- *The standards being used for the ESIA are unclear. Project documents claim that the ESIA will be:*

- ♦ Informed by NIMOS' draft Environmental Act and draft guidelines for Impact Assessment.¹¹⁰
- ♦ Designed to meet (or exceed) the standards of the World Bank Group, and specifically: Operational Policy 4.01 Environmental Assessment [OP 4.01], 1989 Environmental Assessment Sourcebook, 1991; Operational Policy 4.10 Indigenous People [OP 4.10], 2005¹¹¹
- ♦ Designed to meet (or exceed) the policies, guidelines and procedures of the Equator Principles.¹¹²
- ♦ Consistent with BHP Billiton's Health, Safety, Environment and Community (HSEC) Charter, Policy, management Standards and Procedures, and Alcoa's corporate standards, if they are considered more appropriate than BHP Billiton's, or more comprehensive in a particular aspect.¹¹³

Public presentations have also highlighted SRK's intention of following International Association for Impact Assessment guidelines and procedures.

The problem is that because there is no legislation in Suriname yet on these issues, and no real requirement to meet World Bank Operational Policies or IFC's Performance Standards as the project will likely be self-financed, the ESIA will be guided by multiple sets of standards "as appropriate", instead of one set across the board. The concern is that this discretion will lower the bar, rather than raise it, depending on what is considered "appropriate" and by whom. As has already been shown, so far the ESIA process does not comply with NIMOS' draft guidelines – or company policies – let alone World Bank policies or "highest international standards."¹¹⁴

The communities and VIDS have called on the ESIA team and companies to apply the IFC Performance Standards to this ESIA as the most appropriate, given that these are the foundation for the Equator Principles, and the most likely benchmarks against which the project would be measured should BHP Billiton and Suralco apply for funding from one of the 40 commercial banks subscribing to these Principles. In addition, ICMM – the association of which both companies are members – has accepted the April 2006 IFC Performance Standards.

- *The companies back-peddled on their publicly made commitments to negotiating a protocol on consultation/free, prior and informed consent/traditional rights part way through the process.* In May 2005, a representative of BHP Billiton publicly committed to negotiating with the communities of West Suriname a protocol on consultation/consent/traditional rights for research and project activities affecting the communities and their traditional use areas. This request by the communities, and acceptance by BHP Billiton, has been raised at all meetings with the companies and their consultants. Similarly, their request to be considered "rights-holders" rather than just another "stakeholder" to be consulted has also been mentioned in all meetings with the companies and consultants.¹¹⁵ In meetings in November 2005 and then again in February 2006, the companies backpedalled from their public commitment, and stressed that they support free, prior and informed consultation, not free, prior and informed consent (FPIC). In a letter to the companies¹¹⁶, the captains of West Suriname noted:

We would like to begin by noting BHP's 2005 policy to "*understand, promote and uphold fundamental human rights within our sphere of influence, respecting the traditional rights of Indigenous peoples and valuing cultural heritage.*" As you know, "traditional rights" have not been defined in Surinamese law. In order to fulfill BHP's policy, it is necessary to first define what "traditional rights" mean in the case of the affected communities in West Suriname. In order to do this appropriately, we have suggested the negotiation of a protocol on traditional rights as well as consultation and consent procedures, which you agreed to negotiate with us in a workshop in May 2005. Such a protocol would greatly clarify how to go about respecting traditional rights, and is within your mandate and certainly your sphere of influence.

With regard to the national context, BHP Billiton and Alcoa can be leaders by showing that it upholds these rights even if there is no explicit legal backing within Surinamese

law. Suriname's international commitments, which are incorporated into Surinamese law via the Constitution, require FPIC for activities that affect traditionally owned indigenous territories. [The companies] can also encourage the Surinamese government in resolving land rights issues as a win-win-win situation for everyone: the companies have increased certainty over their investments and clarity with regard to which areas are Indigenous territories, as well as reduced potential for conflict including recourse to international courts, which will invoke the liability of the State as well as reputational and commercial risk of the companies; the government can meet its international commitments, while at the same time being more confident in attracting companies to explore opportunities in conditions where conflict is reduced; the communities can begin planning the use of their territories in ways that meets their own criteria for sustainable development, which may also include extractive industries.

"For Indigenous Peoples, 'equitable and culturally appropriate means of engagement' means that they are enabled to engage in their own internal consultation and consent procedures, and these processes may result in communities saying 'no' to a given project."

– Chiefs of West Suriname

You could also, as we have previously suggested, contribute towards enabling conditions for us to map our traditional lands, for example through establishing and providing funding for a documentation centre that could also house our mapping tools.

Protocol for Free, Prior and Informed Consent (FPIC)

While you say that BHP Billiton and Alcoa do not have a commitment to FPIC in their corporate policies, please let us remind you again that you publicly committed to this in May 2005. In addition to the above cited policy that recognizes Indigenous Peoples' traditional rights, the ICMM Sustainable Development Framework to which both Alcoa and BHP Billiton subscribe states that the companies will *"Ensure that appropriate systems are in place for ongoing interaction with affected parties, making sure that minorities and other marginalized groups have equitable and culturally appropriate means of engagement"* (emphasis added). ICMM's 2006 draft Position Statement on Indigenous Peoples contains similar language including a specific reference to FPIC. For Indigenous Peoples, "equitable and culturally appropriate means of engagement" means that they are enabled to engage in their own internal consultation and consent procedures, and these processes may result in communities saying "no" to a given project. These internal processes must follow any external interactions in means that are appropriate to the peoples' customs. All this to say that BHP and Alcoa's policies could indeed be interpreted as endorsing FPIC.

Regardless of interpretation, you infer that you need a social license to operate, and that you would not do so *"if there was overwhelming community opposition"*. The communities themselves need to define what that phrase means for their communities. For this reason, as well as the arguments made above, a clear consent protocol is key.

The companies' response to this letter is extremely disappointing. In a November 4, 2006 letter they state: "Until such time as traditional rights are recognized by the Republic of Suriname and incorporated into Surinamese law, formal endorsement by BHP Billiton and Alcoa of such claims would be premature." They add that they would like to work towards an acceptable outcome through dialogue and consensus building "rather than being forced to align with either indigenous people [sic] or government positions to the exclusion of the other's."

In other words, the companies are shrugging off their own policy as formulated through Principle 3 in the ICMM Sustainable Development Framework, and they are also under-

mining the ICMM's draft statement on Indigenous Peoples and Mining which explicitly addresses the situation of non-State recognition of Indigenous rights, when it states:

Where [national policies and legislative frameworks...developed in consultation with Indigenous Peoples which have equitable and clear processes, including processes in which indigenous Peoples have the opportunity to participate in decision-making] do not exist ICMM members reaffirm their commitment to the ICMM Sustainable Development Framework and this position statement.¹¹⁷

The companies seem to misunderstand that traditional rights are not conferred by States, and that Indigenous Peoples don't "claim" these rights. Traditional rights are inherent, and are internationally recognized through a variety of instruments that Suriname has ratified (and therefore that are binding to Suriname through its Constitution as discussed above in the section on Indigenous rights), as well as through an increasing body of international jurisprudence decisions. In addition, Suriname has not stated that it is opposed to traditional rights – quite the contrary, the President has indicated that he intends to follow a "rights-based approach" to development, including settling issues around land rights.

In short, all studies for the mine ESIA went forward without a negotiated protocol for consultation/consent/traditional rights, and the draft mine ESIA has now been published. This was exactly the fear of captains in the West, as well as the VIDS/NSI project team.

The communities are still forging ahead and developing their own protocol¹¹⁸, and will continue to insist that this be respected (see Appendix 5, for a proposed agreement with the companies, and Appendix 6 for community policies on consultation and consent). The litmus test will be whether the companies and their consultants have the political will to do things 'right' with the Transportation ESIA, which commenced in October 2006, to reconsider the arguments made in their letter of November 4, 2006, and to negotiate an agreement with the communities.

- *Initial communication and interactions with the chiefs was very poor.* Initial communications between the ESIA project team and the Chiefs in West Suriname left a lot to be desired, and were at times ignorant, offensive, showing disrespect for the traditional authorities, community structures and processes. Among others, the captains:
 - ♦ Were not given advanced notice of meetings in their own villages with SRK, and were caught unprepared, off-guard and unaware of the purpose of the visit.
 - ♦ Were expected to provide serious comments on documents for which there was no Dutch translation, and which they were able to read only three days before the official deadline for comments.
 - ♦ Were eventually provided with poorly translated materials that were far too technical for comprehension at the community level.
 - ♦ Were originally denied requests for community-level information-sharing sessions following processes deemed appropriate at the community level, and were instead told what would be appropriate for the communities (Only after asking for community meetings on the ESIA Plan of Study a second time, was this request granted, with meetings held in Section, Apoera and Washabo in February 2006.¹¹⁹)
 - ♦ Were contacted directly by SRK and the companies for meetings, when the captains had requested VIDS be their intermediaries, and that VIDS also attend company-community meetings to support the community leadership.
- *Key Indigenous and Maroon communities that would be affected by the mine were completely excluded from the ESIA process originally, including downstream communities in the Wayambo area, Guyanese communities downstream on the Corantijn and the Trio community of Wanapan.* Initial project documents listed only the Captain of Apoera as a "stakeholder", which was to be expected given the lack of input from Indigenous and Maroon organizations and communities in the Scoping Report or discussions to put in place the Plan of Study.

VIDS/NSI Project Finding #4: Company/Government/Community Interactions: Lessons Learned?

Since the beginning of this VIDS/NSI project, there have been increasing interactions between the companies, government and communities of West Suriname, with a sense of some progress and lessons learned; however, it seems that for each step forward, there is a step backward. For example, in response to requests from West Suriname Indigenous communities, the companies and ESIA team:

- Claim to have hired five Indigenous members of the communities in consultation with the chiefs to help undertake studies. However, the chiefs have noted they were informed they had a choice only among those already hired at Bakhuijs, and were not able to choose freely among the people in the communities those local experts that should join the ESIA team.
- After denying the captains request for a documentation centre, then claiming it was totally impossible, the companies eventually committed to providing a documentation centre at the community level.¹²⁰ However, the captains are struggling to ensure their criteria and aspirations regarding this documentation centre are met. For example, the companies had unilaterally determined a particular site for the centre, which the communities did not deem appropriate. Following some negotiations, the companies did agree to establish the centre in the village of Section, as per the communities' request. However, the companies claim ownership of the documentation centre – even though it is on Indigenous land – and there is lack of clarity regarding what it should be used for. The communities are hoping that this centre will be community-owned, provide the space to house a variety of documents related to the mining and hydroelectric projects and other relevant projects affecting their ancestral territories, ranging from materials provided by the companies and their consultants to independent case studies about the companies' work internationally, information about Indigenous rights, national and international policies and standards, videos, among other materials. This centre would also include computer and internet access to enable ongoing communications about the projects, audio-visual equipment including a digital camera and video camera to record traditional knowledge and monitor impacts at the community level, and an office for the leadership, negotiators and community-run research projects. In short, this centre would operate independently of the companies. Negotiations regarding this are ongoing.
- Committed to translating and providing the 2003/4 scoping report. This was finally delivered to the chiefs in October 2006 in English and Dutch, and a plain language version in both languages is said to be under preparation.
- Committed to start including and interacting with the affected communities in the Wayombo and Guyanese communities, following repeated requests which were initially denied.

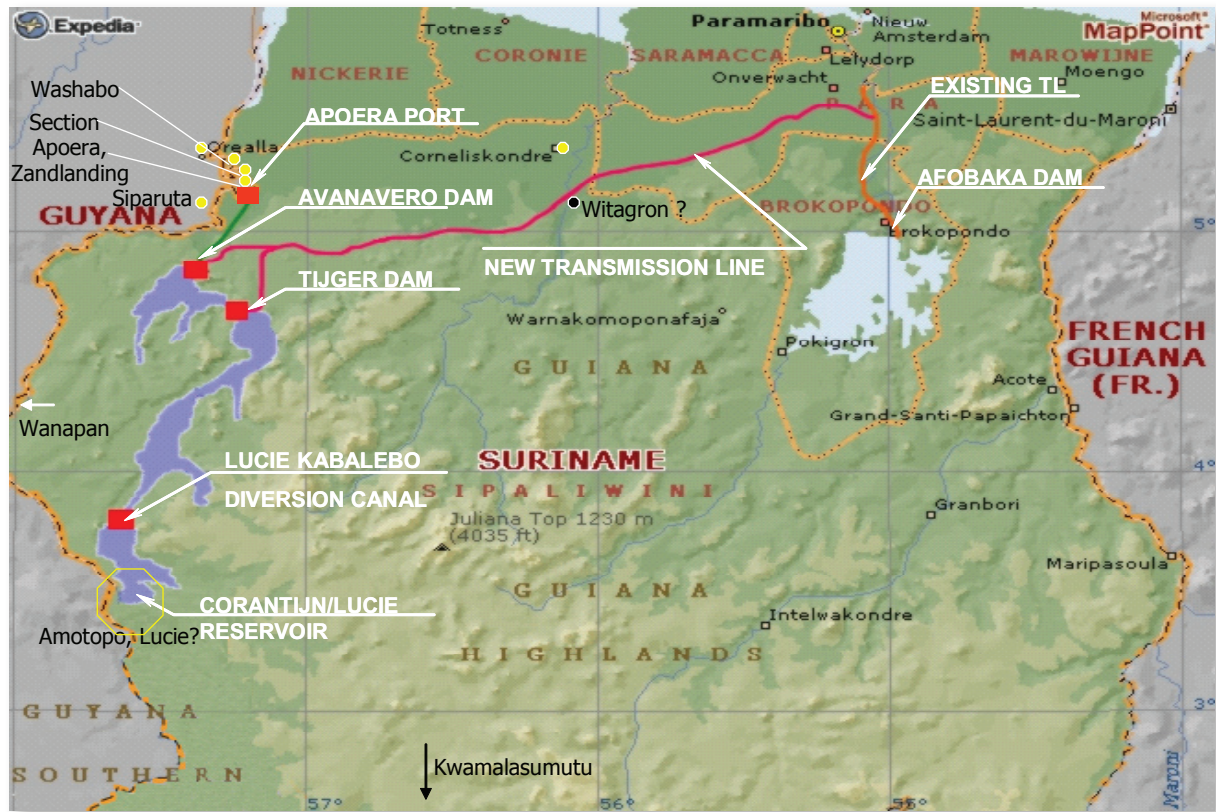
There has also been some progress in terms of consolidating communication channels. SRK has now assigned a senior consultant as the key expert and contact for the communities, and now have an SRK staff person in Suriname for ongoing communications.¹²¹

Nonetheless, communications remain problematic not only because of the lack of professional equipment at the community level (fax, Internet, computers, telephones), but because company representatives and consultants have still been contacting the leadership in the communities directly for meetings without informing the VIDS, which is affecting the support the leadership has requested – and needs – at this critical time. In addition, it is evident that the companies are under tremendous pressure from their shareholders, and are forcing extremely tight timeframes on the communities which is undermining the traditional internal decision-making processes of the communities, which can involve – among other things – several community meetings to ensure information is understood before a decision is made.

A recent development is the establishment of 'The Bakhuis Forum,' regular meetings between the Surinamese managers of BHP Billiton and Alcoa, their consultants and the leadership of Apoera, Section and Washabo, who are supported by VIDS and a local coordinator, as well as representatives of state recognized local governance, namely the DC Sipaliwini and his representatives, the Assistant District Secretary and the BO. The ground rules for these meetings are still being established, with critical issues highlighted including accurate documentation of minutes and sign off on these, honoraria, a clear distinction between this Forum and the negotiation of a protocol of consultation/consent/traditional rights, and ongoing issues around the documentation centre. These regular meetings between the managers of the companies, the chiefs and state recognized local government authorities in the communities have the potential to increase the quality of communication and relationship-building, and to enable mutually beneficial outcomes. However, it will be key for the communities to remain drivers in this process, rather than what is already the perception – that it is the companies who are driving the agenda, and that it is mostly a public relations forum. For the chiefs and their assistants it will also be critical to ensure:

- ♦ Downwards accountability, to keep their people informed about the substance of these discussions, and to feed in community concerns.
- ♦ This forum does not detract from, or take the place of internal consultations and consent processes on critical issues, as per evolving community policies.
- ♦ The chiefs and their assistants are not overtaxed by participating in these discussions to the potential detriment of other community priorities, such as land rights.

The Kabalebo Project



Source: Adapted from Pedersen (May 2005) presentation, including select Indigenous (white dots) and Maroon (black dots) communities.

Brief Background¹²²

The Kabalebo project was first proposed by the Government of Suriname some 40 years ago, in the 1960s and 1970s. Various studies were conducted on the hydroelectric potential (1967), the feasibility (1975) and environmental impacts (1981, 1982), with projected outputs of the scheme ranging from 800-1346 MW, and flooded areas of around 3,000km².

According to Warren Pedersen,¹²³ Managing Director of Suralco, the project was not deemed feasible for a variety of reasons:

- There were no immediate plans for large-scale industry that could benefit from the output, and at the time the country only needed an extra 40MW for Paramaribo.
- Providing Paramaribo and its outskirts with the 40MW of power was a very expensive proposition, and there was no place “to put” the extra output.
- There were also political issues – the project was stopped when there was a change of leadership. Robert Goodland¹²⁴ notes that following the coup d’état and the army killing opposition leaders in 1982, the Netherlands and World Bank withdrew from the project.
- For Alcoa, the project was too expensive to justify build a smelter.

The current proposal is for a project that would be owned 100 per cent by Suralco. It would have an output of around 600-650MW, with three reservoirs and a total flooded area ranging from 1,600 km² to around 2,500 km².¹²⁵ Estimated costs for the project would be around US\$900 million for the dams, and US\$900 million for the smelter.¹²⁶ Alcoa is looking to Suriname as a

potential place to build a smelter, given that it is closing smelters around the world, particularly in the US and Canada.

According to a 2005 report by CNEC Engenharia S.A., the project would take some four to five years to build, and require approximately 3,700 workers at peak periods (between months 21 and 36 of the construction). The project would be accessed by roads and airstrips, and the port at Apoera would also be used. Road access would include the roads connecting Paramaribo and Apoera, Apoera and the Avanavero airstrip to the Kabalebo River, and reopening the road connecting Avanavero Falls to the Lucie River. The Avanavero and Amotopo airstrips would be used.

The project would also include a transmission line to take the power to Paranam.

The Kabalebo Hydroelectric Complex “is an integral part of a comprehensive enterprise for power generation, aiming at using the bauxite mineral deposits in the Bakhuis Mountain region and the ore improvement, with alumina extraction and cast with aluminum production.”¹²⁷ While some of the electricity would be used for Suriname, currently the estimated total increase in demand for power that Suriname will see over the next decade is in the order of 50 MW.¹²⁸ There are discussions of meeting this increase in demand through diverting the Jai Kreek and Tapanahony Rivers in the East, so extra capacity could be generated at Afobaka.¹²⁹

Among the unknowns of the Kabalebo Project are:

- The potential location of the smelter. Current options include building a smelter: close to the refinery at Paranam, near Apoera, or near Nickerie.
- The project financiers. The proponents have made initial approaches to the Inter-American Development Bank, but it is unclear whether they will follow this up or which other potential financiers Alcoa might approach. The CNEC 2005 report does discuss IDB and World Bank guidelines for hydroelectric projects, suggesting these are two potential sources.

VIDS/NSI Project Finding #1: Current Impacts

Sharing information from available documentation on the project, updates from Suralco¹³⁰, and the site visit to Afobaka and the transmigrant Maroon community of Tapoeripa brought about several reactions from community members who expressed the following concerns:

- Fear (increased stress, mental health impacts) that Wanapan, Amatopo, Lucie and other Trio communities and traditional lands will be flooded, wiping out their livelihoods and bringing about death.
- Erosion of cultural identity, integrity and well-being of Trio communities. Already some leaders from Kwamalasamutu are scared to move their people back to their old villages, because they fear these old settlements are located where the dams will be.¹³¹
- Fear that the effects of the dry season on the Corantijn that are already being felt (“drunk” fish, pools of mosquitoes, unnavigable areas, “sliminess”) will be exacerbated.

Lokono Women’s Concerns

“I don’t want the dam. We need to talk for the children...”

“I’m very worried about the dam, because the river is our life. It’s already a problem now. In the dry season it gets slimy, and when you bathe, you can feel the slime.”

“Why don’t the companies use money in a different way instead of destroying the environment? When I hear these things, I can’t sleep well....my heart is thumping. I am very sad. The kids will be affected. It’s a paradise here now....but if this comes it won’t be a paradise anymore.”

- In Lokono communities, fear that the fish will no longer be edible, and that drinking water will be affected especially in sister Amerindian communities along the Guyanese side of the Corantijn who use the water for drinking.

Workshops, discussions with leaders from Apoera, Section, Washabo, Wanapan, Lucie and Amotopo, and house-to-house questionnaires administered in Apoera, Section, Washabo and Zandlanding revealed there is no support for the Kabalebo hydro project among Indigenous Peoples. The sense is that the local people will bear all of the costs, have very few benefits, and that there will not be much employment for local Indigenous people.

VIDS/NSI Project Finding #2: Interactions between Alcoa, the Government and Indigenous Communities

For community leaders, information shared at the May 2005 meeting in Paramaribo was the first time they had heard from Suralco first-hand about the Kabalebo project. This was despite the many studies that had been conducted on various proposals for the project.

In 2003, the consulting firm SENES released a report that had as one of its goals to build NIMOS' capacity with regard to assessing environmental impact assessments¹³². SENES undertook a series of stakeholder consultations for this capacity-building project, not one of them with Indigenous organizations or the leadership of potentially affected communities. Instead, the consultants flew over of the area that would be affected by the project.

Similarly, in August 2004, CNEC field-tested the results of work they had gathered since 2002, and held various "stakeholder meetings". Again, not one of these was with Indigenous organizations. The consultants met with a variety of environmental NGOs, and also with the Amazon Conservation Team.¹³³ They also met with the IDB who alerted them to the VIDS/NSI project on mining and Indigenous Peoples in West Suriname; however, neither VIDS nor the leadership in West Suriname was contacted. Interestingly, the consultants did meet with a gravel pit operator near Apoera. It should be noted, however, that according to the Captains of Amotopo and Lucie, the Brazilian SENES consultants hired several Trio people from Kwamalasamutu to help conduct GPS work for their studies, but the Trio were unaware that this work was related to the potential construction of the hydroelectric dam.¹³⁴

On account of this exclusion, it is not surprising that the conclusions reached by the consultants regarding Indigenous use and occupation of the area are misconceived. The SENES report notes:

The visit [by consultants] included a fly-over of the Kabalebo site area which indicated that conditions were still largely unchanged since the 1981 studies. The key finding is that the area directly affected is still uninhabited and essentially an untouched rainforest... There is no sign of any human habitation in the area or along the Corantijn or Kabalebo.¹³⁵

In his May 2005 presentation, Suralco's Warren Pedersen articulated a similar view:

There are huge environmental issues with any hydro project. It's always difficult, there's no easy hydro project. ***At least in this case there's no one living in this area so we don't envision mass migration of people.*** Obviously there's you people that know this area,

"Looking at your presentation and where the reservoir will be... I am afraid I am going to die. I am Indigenous. I don't have a store; the forest is my supermarket. I can find meat, fish, everything else that I use... I am going to go back to my community to tell them what I have heard."

– Captain Alapate of Wanapan, to Warren Pedersen, Managing Director of Suralco, May 2005

and own this area and work in this area and have to have a say in it, *but it is not like Afobaka; it does not cover any area where people live and work in*" (emphasis added).

The area of influence of the Kabalebo hydro project does in fact cover an area "where people live and work". Along the Lucie and Corantijn Rivers, the Trio communities of Lucie, Amotopo, Caju Island, Coronie and Wanapan would be directly affected, and so would the people in Kwamalasamutu who are planning to return to their old villages. Downstream, Lokono communities on the Surinamese and Guyanese side of the Corantijn would be affected (Washabo, Section, Apoera, Orealla, Siparuta), many of whom use the Kabalebo and Corantijn Rivers for subsistence fishing and drinking water, and adjacent areas for hunting, among other activities.

Preliminary maps made by ACT and VIDS/FPP show that the area slated to be flooded is the traditional territory of Indigenous Peoples, and is used for subsistence activities. However, these maps need to be updated and fleshed out to capture the full extent of traditional use and occupation.

In addition, it is not correct to equate "uninhabited" spaces with spaces that are unused, or "terra nullius." As Fergus MacKay, legal advisor to the VIDS, has stated:

There may not be anybody living there, but it may be considered the traditional territory of somebody...It's quite clear from the maps of the proposed dam that these dams are in the traditional Territory of the Trio and others. We've talked... about the World Commission on Dams as the standard of international best practice requiring consent. Suriname's international obligations certainly would require consent in the case of a dam being built on an Indigenous territory and those obligations could be enforced against the state through the Inter-American Commission and Inter-American Court of Human Rights. So would Alcoa be willing to sit down with the Trio and the VIDS and others and talk about how you're going to discuss whether [negotiating a protocol on consent and to define traditional rights] happens and how it happens? Because *you may not be talking about physically displacing people but you are talking about economic displacement which fits the World Bank's definition of resettlement anyway, so it's tantamount to the same thing*" (emphasis added).¹³⁶

Clearly, both government and company officials need far more information, awareness and capacity-building with regard to the traditional homelands of Indigenous Peoples in Suriname, their internationally guaranteed rights, and international best practice with regard to how to interact appropriately with them in decision-making about potential projects affecting ancestral lands. While consultants such as CNEC, SENES and SRK should have knowledge and experience on these issues, their preliminary observations about the areas of influence of both the Kabalebo and Bakhuy's Projects are in large part (mis)guided by (mis)information shared with them by government and company officials.

Bakhuy's and Kabalebo: Likely Impacts

Goodland's 2006 report highlights the key environmental and social impacts of both the Bakhuy's and Kabalebo project, based on his 25-year experience as a tropical ecologist and ESIA expert working at the World Bank, as well as reviews of existing studies.¹³⁷ Of particular note is Goodland's observation that asymmetric power is at the heart of the issues and impacts with both projects:

The Bakhuy's bauxite mine is a classic case of asymmetric power. Unsustainable mining confronts traditional societies. Rich and powerful multinationals will impose potentially severe impacts on inexperienced, weak, largely illiterate and poor Indigenous Peoples. Multinationals have great difficulty even in communicating

with the affected people. Practically all the benefits will accrue to two stakeholders, namely the multinationals as they will reap a saleable commodity (bauxite) and the government as they will reap taxes and royalties. These two stakeholders will gain substantial benefits, but bear no adverse impacts. The Indigenous Peoples, on the contrary, will bear practically all of the negative impacts and few, if any, of the benefits...History worldwide shows that impacted Indigenous Peoples have not received much benefit trickling down from government's receipts from mining or hydroelectricity...That is the asymmetric situation the ESA and Impact Benefit Agreements stemming from it seek to avoid.¹³⁸

ESIA is a key tool to ensure that impacts on Indigenous Peoples are reduced to acceptability, and to guarantee that they will be better off 'with' the project. However, Goodland implies that in the case of the Bakhuy's mine, the potential of ESIA as a tool to balance power asymmetry has been missed for a variety of reasons, many of which are already outlined above, and he provides concrete suggestions for how SRK and the project proponents can try to rebalance the situation. Key among these is strengthening the Indigenous Peoples by providing them with the means to negotiate meaningfully to protect their livelihoods, whether directly or through representatives such as VIDS.

Likely Impacts: Bakhuy's

According to Goodland, likely impacts from exploitation activities at Bakhuy's will include:

- Removing the forest covering the bauxite deposits. This will drastically reduce biodiversity in this pristine forest, and have a direct impact on Indigenous and Maroon Peoples' livelihoods (reducing fish and game, timber and fuel wood, fruits, seeds, medicinals, honey, resins, thatch, etc). Surface erosion will occur, increasing sedimentation and water turbidity, in turn affecting the fish population, with silt buildups affecting navigation. In addition, there will likely be removal of more forest cover than simply where bauxite will be mined due to conflicting goals between the loggers and the mining company, and because of the expense that would be incurred if the forest were harvested selectively. Keeping the loggers only to the areas where bauxite will be removed once they start operations will be very difficult. Logging concessions already overlap with the Bakhuy's mining concession, and therefore logging could become an unwanted negative impact due to the mining companies' opening up the roads to this area.
- Removal of trees and top soil (overburden) by bulldozers. This will result in surface erosion. The materials could be stockpiled and re-used for restoration and rehabilitation after mining, if the ESIA determines it is worthwhile (if years go by, the nutrients may leach away).
- Bauxite mining impacts. This will involve mining six meters of bauxite, and crushing and ore washing are likely. Whether dynamite or pneumatic drills are used for mining will have different impacts. Sources of water and water disposal for these activities are critical, as are dust and noise, especially if explosives are used (could affect an area far larger than the actual mine site).
- Acid leachate from the spoils, and increased acidity which may harm the forest and fish.

"The wasteland that is left [following bauxite mining] can often hardly be rehabilitated because it is a landscape of bare kaolin without a layer of humus: a soil on which barely anything grows. Or it is a swamp where the alkaline environment maintains itself ... The few feeble attempts at 'rehabilitation' [in Suriname] are no use at all: one area is planted with exotic pine trees that hardly grow, in the other areas holes are made for planting neem trees, mango trees and other exotic species, whereas before there was natural forest with a great diversity of plant and animal species."

– Sahdew and Obouter (2003:6)

- Greenhouse gas emissions. These will accumulate from use of diesel in road construction, as well as from the decay of biomass removed to expose the ore.
- Impacts from potentially inadequate mine site rehabilitation. Current examples of rehabilitation following bauxite mining in Suriname leave a lot to be desired regarding best practice. The Wane Hills in East Suriname are an example in failure.¹³⁹ Lessons should be garnered from this example to ensure that Bakhuy's rehabilitation draws on past failures in Suriname, as well as international best practice. At the Coermotibo mine site in East Suriname, West Surinamese Indigenous People saw the failed attempt at planting pine trees as a form of rehabilitation, and also witnessed kilometres of exhausted mine areas that had not yet been rehabilitated by Suralco. Goodland recommends insurance or performance bonds – set at realistic levels and monitored by independent and reliable third parties – to ensure that responsible restoration and waste management are undertaken.
- Social impacts. Goodland concludes that this is the weakest section in SRK's original ESIA plans, particularly initial claims that no one inhabits the concession area. The emphasis should be on resource systems that are used by the Indigenous Peoples, rather than the location of their villages and homes:

It seems indisputable that the Indigenous Peoples depend on the forest and aquatic resources that will be impacted by the bauxite mining...As there are at least four distinct vulnerable ethnic minorities (Arawak, Warau, Trio Kalinya/Carib) in the Indigenous communities likely to be affected by Bakhuy's, this gap in SRK's Plan of Study needs to be rectified...Affected Amerindian communities would include: downstream of the Nickerie, Tapoeripa, Post Utrecht and Cupido, downstream of the Wayambo, Donderskamp and Corneliskondre; downstream of the Kabalebo and Corantijn, Apoera, Section, Washabo, Zandlanding and several Guyanese villages including Orealla and Siperuta.¹⁴⁰

Clarifying the land titling situation, and securing land rights will be essential. Among the main likely social impacts will be:

- Gender impacts. Wage labour will result in women and children bearing the largest impacts from husbands/fathers working at the mine. There will be increased burden on women to care for the children and Elders, and increased family breakups.
- Health impacts, particularly with regard to increased HIV/AIDS from the influx of truck drivers, and potential influx of small-scale miners. Mitigation of these impacts will require health screening, education campaigns and distribution of free condoms, among other precautions.
- Impacts related to worker conditions. Culturally appropriate foods, work camps, and transport between home and the site will need to be well assessed and managed.

Goodland stresses the importance of implementing free, prior and informed consent throughout the mine cycle, and ensuring ongoing communication with culturally appropriate materials delivered in a timely way. So far this has been far from satisfactory, in Goodland's assessment. Should the mine go ahead, negotiating an impact benefit agreement with the Indigenous Peoples affected will be crucial. Finally, it will be important to ensure there are compensatory offsets:

Once removed, tropical forests cannot be restored or rehabilitated to their original richness and productivity. ***Once destroyed for bauxite mining, they are essentially lost permanently.*** The two main losers are the Indigenous People, whose livelihood depended on sustainable use of the forest, and biodiversity. Even the best restored vegetation after mining contains a tiny fraction of the original biodiversity. Because these two losses are major and permanent, international practice is to compensate for irreversible loss by means of offsets. ***Compensatory offsets should be designed first to offer the Indigenous People as much habitat in which to fish and hunt as they had before the mine project.*** Second, such offsets conserve biodiversity...Offsets

are tracts of lands supporting the same or similar ecosystems to those destroyed by the mining project.¹⁴¹ (Emphasis added.)

Goodland closes his section on likely impacts from Bakhuijs with concrete recommendations to ensure international standards and best practice are followed. He also includes sections detailing the likely impacts from refining bauxite and smelting alumina, two activities that may occur in the future in West Suriname.

It should be mentioned that the transportation routes chosen will have a huge impact on the Indigenous communities, and may even involve relocation of Zandlanding, not to mention the impacts of dust on the agricultural plots, and the impact of noise on the wildlife in the area. If the trucks and barges that transport the bauxite are uncovered as they are at Coermotibo, the degree of impact and affected area will be even greater.

Likely Impacts: Kabalebo

According to Goodland, likely impacts related to Kabalebo include:

- The area that will be impounded (flooded) will be shallow and will fluctuate seasonally in extent. If the ratio of the area flooded to the rated capacity exceeds 100, this indicated that the total benefits compared to the social/environmental impacts that will be incurred are poor. Brokopondo – Suriname’s only other dam – has a ratio that exceeds 1,000.
- The flow of the Corantijn between the Lucie Diversion and the Kabalebo/Corantijn confluence (some 260 km) will be reduced to the equivalent of the dry season throughout the entire year. This would result in reduced fish catch, impaired navigation for the communities on the river banks, interference with log rafts, and reduction in water supply. It could also increase mosquitoes and hence mosquito born-diseases.
- The flow of the Corantijn between the Kabalebo/Corantijn confluence and the mouth of the Corantijn will increase such that it will seem that it is the rainy season for the entire year. At the confluence, there will be erosion on the Guyanese bank of the Corantijn (and require expensive civil works). Sediment will be deposited in the lower Corantijn, which will affect navigation and fish.
- The area that will be flooded is intact rainforest, and will result in the loss of 2,460 km² of traditional territory for Indigenous Peoples. While the CNEC team mentions compensatory offsets, the question is whether this would result in larger protected areas being designated that would curtail Indigenous Peoples’ traditional use, and in fact create a further negative impact.¹⁴²
- There will likely be tree removal before flooding. However, the affected area does not include commercially attractive species, and therefore there would not be a significant reduction of biomass from a commercial cut. Biomass removal before the area is flooded is therefore a difficult proposition. Suralco has suggested that perhaps a benefit for Indigenous Peoples could be if they negotiate for the logging license; however, given the lack of commercially viable species’, this seems like a losing proposition. Goodland notes that much organic material in tropical forests is in the topsoil, mulch and litter and therefore even tree and bush removal would result in

“The consequences [for the local population] will be considerable. Apura will be flooded with strangers. The current inhabitants of Apura and Washabo will become third-rate citizens in their own territory. The water level of the Corentyne River and its tributaries (including Guyanese tributaries) will change and, with it, the fish stock will decline. Pollution will increase in the area. It remains to be seen whether there will be any jobs for most of these people. Their level of education will often prove to be too low and most jobs will be temporary for the duration of the construction only, after which massive lay-offs are to be expected, as happened at Brokopondo at the time.”

– Sahdew and Obouter (2003:11)

much biomass being left behind. Prescribed burning may be a partial answer, Goodland suggests.

- Water quality will likely be very poor in the impounded areas, and water weeds may proliferate. The conversion of free-flowing rivers to stagnant water bodies will result in the production of toxic gas and greenhouse gases from rotting biomass. Fluctuating water levels between rainy and dry seasons may also harm fish breeding. Below the dam and possibly as far as the Atlantic estuary, poor water quality will harm fish and all other aquatic resources severely. Both reservoir and river fish are predicted to contain unsafe levels of mercury. SENES predicts that about 140,000 kg of protein sources – namely fish – will be lost annually by some 900 families along the Corantijn for the first decades after impoundment.¹⁴³ This translates to roughly \$0.5 million annually.
- Health impacts may include the spreading of water-borne diseases, such as schistosomiasis, which is already present nearby in Nieuw Nickerie.
- The influx of workers will clearly have social impacts on the Indigenous Peoples and villages close by, including increased transmission of HIV/AIDS, cultural erosion, and increased prostitution. When asked about what benefits there could be for local people from the project, Suralco's Warren Pedersen acknowledged the transmission line does not mean that local villages would necessarily receive electricity from that line: *"If you have a huge power line, it's very difficult to drop down just a little bit of power for say 50 people. You run a line along the coast, and even that is difficult to give power to Coronie and those areas. It's a technical cost issue. So in the end it may still be that you supply power in isolated pockets like we do today."*¹⁴⁴ He did note there will be some 3,000 workers needed during construction, and that through negotiations with the local people other benefits could be identified – but it would largely be up to the local people to ask for these benefits (See Box 10 for community-community advice regarding negotiations).

Goodland closes his analysis examining the impacts from the potential Jai Kreek and Tapanahoni Diversions, which would increase the electrical output at Afobaka. The biggest impact here will be the further displacement of Indigenous Peoples and Maroons.

Box 10: Lessons from Afobaka

Afobaka is Suriname's only dam. Built in the 1960s, this dam forced many Maroon communities (some 6,000 persons) to move away from their traditional lands. According to Suralco's Warren Pedersen, "No one in their right mind would ever build a dam like [Afobaka] again.... There was no deforestation and the valley was simply flooded, and that caused a lot of problems. The forced migration of people was not very well handled" (presentation to VIDS and West Suriname community leaders, May 2005, Paramaribo).

In September 2005, leaders from West Suriname including Wanapan visited the dam site, and also Tapoeripa, a Maroon community displaced 3 times by the rising waters of Brokopondo. They told how the overnment failed to keep their promises, such as larger houses, larger plots, a bank and electricity. Only recently was the community hooked-up to the electric grid line, and community members fear they will soon have to pay for this service.

This is some advice community leaders gave to the people of West Suriname:

"The Elder people living here didn't believe there could be a lake like this [Brokopondo], so we never took it seriously. But now we see it is possible. You need to look 25 years, 100 years ahead and make a very good decision..."

"There are far more negative than positive things from the dam. The only good thing about it is that we didn't die."

"Look at the agreement well – don't let them do what they did to us. Agreements must be written in black and white. Take into consideration all the things that went wrong [at Afobaka]. Make the agreement good for now, for the little children, for tomorrow..."

Other Pressures on West Suriname Indigenous Communities

It should be highlighted that issues around interacting “in the right way” underpin every project and sector that comes into contact with Indigenous and Maroon Peoples in Suriname. In West Suriname, the communities are facing a barrage of projects aside from those related to the proposed Bakhuyts Mine and the Kabalebo hydro project. These are important to consider in assessing the cumulative effects from these two proposed mega-projects.

Logging

While community members look to logging as a potential source of income, the working conditions as described by community members are appalling. A youth from Apoera describes his experience with logging as follows:

A lot of young men work for logging companies. I did myself (Berjaya). And I noticed that we're being misused. We work very hard and don't get paid. Sometimes we get paid half of the money we're supposed to, or we get paid little or not at all...

The BO makes contact with the wood company. Then the captain looks for boys and men to work. So the deals aren't very good that are being made. There is no contract. The youth have no economic opportunities. The problem is that there isn't any work here...

A young woman noted that one of the main economic opportunities for women in the communities is prostitution, and that young women go to the logging camps in search of this opportunity:

There's Berjaya. The women go there for prostitution. They tell their parents that they go there to offer cleaning services. But they get raped and paid money. The girls are shy to tell this is what they do. I have seen 14- and 15-year old girls do that. I thought of doing that...

Consequently it is no wonder that one of the chief concerns of community people with regard to the potential mine and hydroelectric project is, on the one hand, meaningful work for women, and on the other, concern that there will be an increase in prostitution and STDs such as HIV/AIDS. Strengthening the community leadership to make good deals on behalf of community members with regard to logging and all future projects is clearly also a priority.

Conservation: Kaboeriekreek Nature Reserve

Interactions with the Government of Suriname and WWF around the proposed Kaboeriekreek Nature Reserve have also been problematic.

Kaboeriekreek Nature Reserve was first proposed in 1978 as an IUCN category IV protected area (i.e., a Habitat/Species Management Area), covering approximately 68,000 ha. The creek is the habitat of a large population of giant otters (*Pteronura brasiliensis*) and the Guiana otter (*Lutra enudris*).¹⁴⁵ If classified as category IV, the area would be protected mainly for conservation through management intervention.¹⁴⁶

WWF Guianas has provided a US\$58,000 grant to the Government of Suriname for establishing this protected area,¹⁴⁷ and STINASU has expressed interest in Alcoa/Suralco providing additional funding for establishing this reserve.¹⁴⁸

The Kaboeriekreek area is traditionally used for farming and fishing among other activities by the Indigenous People in the area – particularly those from Washabo – and there is a strong spiritual attachment to this area. It has been conserved through traditional use for hundreds

of years, and there are stories and legends about this area that have been handed down from generation to generation. Archival research has highlighted this area as being one of the oldest Indigenous settlements in the region.¹⁴⁹

The communities of West Suriname have stood firmly in rejecting current proposals for the establishment of a nature reserve, noting they first want recognition of their land rights. They have sent letters to the government and to WWF-Suriname, accompanied by some 300 signatures, stating they object to the establishment of the nature reserve if their land rights are not constitutionally recognized, delimited, demarcated and titled. There are several concerns underpinning this position:

- That the 68,000 ha considered by the Indigenous Peoples as their ancestral territories would pass into the hands and ownership of the government.
- That current rules and legislation around protected areas in Suriname would have detrimental effects on the cultural integrity and autonomy of the Indigenous people using this area, and particularly their current socio-economic and subsistence activities. While one government official¹⁵⁰ notes there has been progress with regard to respecting traditional rights within protected areas, for example through the 1986 Nature Preservation Resolution, others note that this Resolution applies only to the reserves established by the Resolution (Peruvia, Wane Creek, Upper-Cusewijne and Copi), not to the 10 protected areas created prior.¹⁵¹ The Central Suriname Nature Reserve established in 1998, involved expropriating approximately one-third of the territory of the Kwinti Maroon people who exercised ownership and other rights there since the 18th Century, and to date has not resulted in compensation. The 1998 Resolution provides that “the villages and settlements of bushland inhabitants living in tribes, will be respected as long as it is (a) not contrary to the general interest or the national goal of the established nature reserve and if (b) it is not provided otherwise” (article 2).¹⁵² There is sufficient vagueness in these types of provisions, with the rights described as unenforceable customary entitlements, that Indigenous and Tribal Peoples do not feel they offer enough real protection for their rights.
- That government officials often point to the Galibi Nature Reserve and its Consultation Commission as a potential model for Kaboeriekreek. However, the Galibi model is problematic (see Box 11). It offers an extremely weak model of consultation with local populations, rather than strong co-management models that include at least 50 per cent Indigenous Peoples and 50 per cent government officials on decision-making boards, and where Traditional Ecological Knowledge and traditional models of conservation are incorporated into management planning, decision-making and monitoring. Indeed, current proposals for Kaboeriekreek refer far more often to “local communities” rather than recognizing these are “local *Indigenous* communities,” and make it clear that the government would retain control of decision-making and would seek what appears to be very token advice from adjacent Indigenous communities. The government hired a consultant to draft a management plan for the area¹⁵³, without the communities being informed or participating equally, and therefore, without traditional knowledge being considered equally with Western Science.
- That the “consultations” so far with government have been unilateral information-sharing sessions only. The leadership has objected to the very short notice government officials have given to proposed workshops or talk-s in the villages. In addition, they were not pleased with the way research regarding Kaboeriekreek was conducted in the villages (household surveys), and are wondering what has happened with that study and the results. An interview with a government official revealed that this survey was done by the consultant hired by STINASU to draft the management plan for Kaboeriekreek,¹⁵⁴ and it is possible that the results were used to draft that plan, although the communities have not seen the results of the survey and are completely unaware of the draft management plan.

Despite the stated position by the communities, the government is trying to rework its original proposal to satisfy Indigenous leadership concerns, particularly because it wants to ensure it

does not lose the funding WWF has provided (this is a one-sided effort so far). In the meantime, government officials have started patrolling Kaboeriekreek with weapons – very much a throw-back to the 1970s model of parks without people – and the area is being used for tourism (proposed by STINASU).¹⁵⁵ So far it the IUCN/WWF's Principles and Guidelines on Indigenous and Traditional Peoples and Protected Areas¹⁵⁶ are not being followed at all, raising questions about whether the WWF Suriname office takes its own guidelines seriously and has apprised the Government of Suriname of these.

It is important to stress that the Indigenous Peoples are not against protecting the area – they have in effect been doing this for centuries. Indeed, with increased development pressures such as logging and mining, official recognition could be very valuable. What they propose is that the area be officially recognized as under their collective ownership, allowing them to continue protecting and managing it in accordance with their own laws; or alternatively, that the area be considered under IUCN's new category of Indigenous-owned park, in keeping with progress made at the 2003 World Parks Congress held in Durban, South Africa, for a “new paradigm for protected areas” (see Box 12).

Box 11: Galibi Nature Reserve

Established in 1969, the Galibi Nature Reserve covers an area of approximately 4,000 ha protected under IUCN category IV. It was established to protect the nesting beaches of sea turtles, including the leatherback (*Dermochelys coraicea*), the green turtle (*Chelonia mydas*) and the olive ridley (*Lepidochelys olivacea*).

A “Consultation Commission” has been established for this Nature Reserve that includes two representatives from the adjacent villages of Christiaankondre (also called Galibi) and Langamakondre, although the majority of representatives are from government, including the Chair. In effect, government retains decision-making power, while local representatives are ‘allowed’ to engage in short-term projects. The consultation commission is a very weak form of collaboration, considering the spectrum of possible co-management models.

The process used to create the Nature Reserve violated Indigenous rights, and has left a legacy of conflict. One Indigenous leader explains: *“Protected areas...have been established [in Suriname] without our consent. In the case of the Galibi protected area, a governmental delegation came to Gailibi for a few hours. They cheated and tricked the village leaders of the time, by saying that they intended only to do some research in the area. When they returned three months later, the area had already been declared a protected area by government. The Indigenous peoples had to relocate immediately and stop all activities in the area...One quick meeting by government officials with the people to announce that a protected area has been established does not count as real participation in decision-making. We have traditions and structures that must be respected by government.”*

According to Galibi Indigenous leaders speaking to West Surinamese communities in February 2005, there is no real benefit from the Nature Reserve, aside from tourism: *“If I were the captain 30 years ago,”* one leader said, *“I wouldn't have signed the agreement [regarding the Galibi Nature Reserve] The only benefit is tourism.”* Another noted: *“We are the ones who conserved our area; they [the government] are giving land to multinationals, and now to foundations. They are making the foundations survive, not the people.”* He added that in Galibi the people are still weak with regards to speaking up, and that constitutional change recognizing the rights of Indigenous Peoples would provide the best protection. The people want training so they can take over the management of the Reserve themselves.

Sources: Baal (2000); Captain Pane and Captain Ramses (Personal comments., 2005); Pane (2004)

Initiative for the Integration of Regional Infrastructure in South America (IIRSA)

While interactions around logging and conservation schemes have been problematic, so too is planning around major infrastructure projects by the Government of Suriname in conjunction with other regional governments. So far communities in West Suriname have not been involved in these discussions, and are unaware of the significant impacts that this new infrastructure could bring to their ways of life.

IIRSA is an initiative that includes improving the infrastructure that connects Brazil to Venezuela through the Guyanas. The idea is to exploit economic complementarities and integrate productive chains across international borders, in particular the bauxite-alumina-aluminum chain, and the oil/gas-petrochemicals-fertilizers chain.¹⁵⁷

According to a presentation made by Suriname at the first meeting of the technical executive group of the Venezuela-Brazil-Guyana-Suriname Hub in Manaus, November 19, 2002:

As mentioned before, the second East-West Connection enjoys high priority with the Government of Suriname, where huge development activities are planned for the immediate future. Only recently the government signed an agreement with two multinationals regarding bauxite mining activities in this part of Suriname that, once implemented, will drastically improve the economic situation of the country. According to calculations, the bauxite reserves in this region range from 70 to 200 million tonnes and the companies have the intention to invest about US\$3 billion. For the construction of a hydro power plant, an alumina refinery and an aluminum smelter. This will mean an additional injection in the Surinamese economy of US\$100 million on a year basis.

Box 12: From the Action Plan approved by the World Parks Congress, Durban, South Africa, September 8-17, 2003

Recommendation No. 5.24 Indigenous Peoples and Protected Areas

Governments, inter-governmental organisations, NGOs, local communities and civil societies should:

- “ENSURE that existing and future protected areas respect the rights of indigenous peoples;
- CEASE all involuntary resettlement and expulsions of indigenous peoples from their lands in connection with protected areas, as well as involuntary sedentarization of mobile indigenous peoples;
- ENSURE the establishment of protected areas is based on the free, prior and informed consent of indigenous peoples, and on prior social, economic, cultural and environmental impact assessment, undertaken with the full participation of indigenous peoples;
- ENACT laws and policies that recognise and guarantee indigenous peoples’ rights over their ancestral lands and waters...”

With regards to restitution for past injustices, 5.24 also includes provisions for establishing:

“participatory mechanisms for the restitution of indigenous peoples’ lands, territories and resources that have been taken over by protected areas without their free, prior and informed consent, and for providing prompt and fair compensation, agreed upon in a fully transparent and culturally appropriate manner;”

A “high level independent Commission on Truth and Reconciliation of Indigenous Peoples and Protected Areas.”

The infrastructure highlighted includes the revamping of the railroad connecting Bakhuis to Apoera, upgrading of the East-West connection, which includes the road from Zanderij to Apoera, upgrading the road from Apoera to Nieuw Nickerie, and improved connections with French Guyana and Guyana. A major connection between Suriname and Guyana being proposed is a bridge to be located between Apoera and Orealla, which is part of what is being termed “Proyecto Ancla”, a road connecting Venezuela (Ciudad Guyana), Guyana (Georgetown) and Suriname (Paramaribo).

Development economist Dr. Pitou Van Dijk of the Netherlands recently highlighted this infrastructure project aimed at regional integration in an October 2006 visit to Suriname, noting that while there could be economic advantages, there will be plenty of disadvantages as well, such as increased illegal logging and hunting.¹⁵⁸ For the Indigenous communities of West Suriname, this development will have huge impacts, and additional pressures on all aspects of their livelihoods.

Conclusion: Cumulative Effects

This section has highlighted some of the concerns of West Suriname community members with regard to the Bakhuis and Kabalebo projects, underscored some of the problematic interactions and processes that have been undertaken by the companies and their consultants, and described the impacts that have already taken place, those that are currently taking place, and those that will likely take place in the future regarding these projects. Of critical concern are the cumulative effects of the projects: the ESIA's which need to take into consideration not only the mining- and hydroelectric-related projects BHP Billiton and Alcoa are interested in undertaking, but also other developments, such as logging, protected areas and the IIRSA project.

Section 5: Conclusion: Implications for Policy and Practice and Recommendations

Implications for Policy and Practice

The value of voluntary company commitments and policies?

With no legally mandated EIAs and no apparent national legal or constitutional protection for Indigenous rights, Suriname presents the perfect opportunity for multi-national and other resource companies to test their own commitments to corporate social responsibility and human rights. The experience so far with the proposed Bakhuijs Bauxite Mine and Kabalebo hydroelectric projects shows that in the context of Suriname, BHP Billiton and Alcoa failed to meet this test. Despite having expressed early on the desire to interact with Indigenous communities “in the right way”, the companies strayed from their own policies and commitments, as well as best practice and guidelines recommended by Suriname’s Environmental Agency, NIMOS. Indeed, when positive examples of company engagement with communities in other countries were brought to the attention of company officials working in Suriname, they noted that these countries had different contexts and special legislation with regard to recognizing Indigenous rights, and therefore in those cases the companies abided by different – i.e., higher – standards¹⁵⁹. In short, instead of having one set of standards with regard to working with Indigenous Peoples internationally, company standards change according to the governance context.

This questions the value of voluntary international commitments by industry, such as those to which BHP and Alcoa subscribe as members of ICMM, as well as their own company policies, principles and values. These look good on paper, but remain exercises in rhetoric and public relations if they fail to be implemented in practice. If the excuse for non-implementation is that there are no national legislative frameworks in place to enable implementation, then in the context of weak governance – as is the case in Suriname, and in much of the developing world – these principles and statements mean nothing.¹⁶⁰

In the case of Suriname, however, as shown above in the discussion of legal/Indigenous rights, the argument that there is no legislative framework in place to recognize Indigenous rights does not work. Suriname has made international commitments that do indeed recognize Indigenous and Tribal rights, and these commitments take precedence over national law through articles enshrined in Suriname’s constitution.¹⁶¹

While the attitude of many company officials¹⁶² and selectivity of implementation of company policies may be a factor, a more compelling potential reason for non-implementation of international and company policies may simply be lack of knowledge of these at the operational level, as well as lack of understanding of what a commitment to human

“Industry as a whole – because it’s a business – will always try to take advantage of a situation for profit. So I was not surprised when BHP totally tried to demean the people and did not explain that they have policies [regarding Indigenous Peoples]. I think in the long run it’s a bad way of doing business with Aboriginal people. I always tell industry, maybe we don’t understand ‘development’, but that doesn’t mean we’re against it. By [Aboriginal people] understanding it more, it will also benefit industry. So for them to play a game of poker with the lives of people was something I was not surprised about. But I did learn – or it did confirm my thinking – that industry will not deal with people all in the same way if they don’t have to, or to keep that high standard of being fair or being respectful to the people.”

— member of Lutsel K’e Dene First Nation on experience in Suriname

rights and respecting traditional rights means in practice.¹⁶³ The VIDS/NSI project has helped to bridge dialogue on these issues, but there is still much work to be done with regard to bridging at the conceptual level, and raising awareness and capacities on Indigenous rights issues and international best practice with the companies and the government. As noted above, government officials are “scared” of land rights, and the “power-sharing” that is implied by implementing meaningful consultation and consent processes with Indigenous and Tribal Peoples. Consent processes are translated as “veto rights” which mischaracterizes and undermines the full extent of Indigenous and Tribal rights. Much of the fear may have to do with the sense that Indigenous and Tribal Peoples will say no to developments – while some may, there are compelling reasons for Indigenous and Tribal Peoples to consider developments that bring in real benefits to the communities and the nation, and mitigate negative environmental and social impacts that would be borne primarily by the local peoples, but also by the entire country.

Rebalancing Asymmetry

Project Results

As Goodland has highlighted¹⁶⁴, at the heart of the issues around Bakhuyts and Kabalebo is the significant power imbalance that exists between the directly affected Indigenous communities, the government and the companies. This VIDS/NSI project has worked towards levelling the playing field as best possible within the project constraints, but there is clearly a very long way to go. Some of the project ‘results’ include:

- *Raised awareness at the community level with regard to international standards and best practice concerning bauxite mining and hydroelectric dams, consultation and consent procedures with Indigenous Peoples, environmental and social impact assessment and impact benefit agreements.* When the project first started, community people thought ‘consultation’ was the term used for a medical appointment. They also thought that because the proposed bauxite mine was some 80 km away, they would not experience impacts. They were also not aware of the types of benefits they could ask for through impact benefit agreements, should they determine that development projects can go ahead in their traditional territory. Much education had to take place to raise awareness and capacities with respect to international standards and best practice internationally on this range of issues. Site visits to existing bauxite mines and dams, and to speak with mining- and dam-affected communities in Suriname, helped make the realities and impacts of these types of projects come alive. In addition, the visit of Canadian affected Indigenous Peoples and the lessons they shared about negotiations played an invaluable role with regard to increasing knowledge of what is possible and how to go about this. The development of a community protocol on consultation and consent with regard to developments on Indigenous lands was one of the direct outcomes of these types of interactions. The role of video has been instrumental in helping the leadership in the West Suriname relay what they saw and learned during site visits, and also in sharing lessons from Canada’s Lutsel K’e Dene First Nation. It should also be highlighted that the Indigenous-to-Indigenous exchange resulted in South-North learning as well. In particular, members of Lutsel K’e Dene First Nation were impressed with what the communities in West Suriname have achieved with regard to obtaining support from BHP Billiton and other funders for community radio, and the powerful role that this radio has on internal communications and accountability. This will surely be an inspiration for Lutsel K’e in the future.
- *Increased information-sharing and dialogue with the companies and government.* Through this project, VIDS and the communities were able to create forums to bring together West Suriname leaders with key players in Paramaribo. This increased the flow of information to the community level, and increased community leadership confidence in interacting with the companies and government on behalf of their people.
- *Raised the profile of the rights of Indigenous and Tribal Peoples with regard to large-scale development in Suriname.* Ongoing interviews with government and company officials have helped raise awareness of the importance of Indigenous and Tribal rights. The June

26, 2006 workshop in which the captains of West Suriname presented the preliminary results of the VIDS/NSI IDRC-funded project in Suriname marked a watershed not only for the people in West Suriname, but for the VIDS. The Minister of Natural Resources opened the workshop, and according to VIDS, it was the first time in VIDS' history that the Minister stayed so long. He listened to the entire presentation by the captains of the West and their peoples' concerns with regard to Bakhuys and Kabalebo, as did the District Commissioner of Sipaliwini. The media produced several reports in printed, radio and TV format, based on interviews with VIDS and the captains in the West.

- *Strengthened VIDS' role in facilitating applied research, and also exchanges between people at the grassroots and the national policy level.* VIDS is becoming increasingly adept at generating interest in its projects, and knowing how to get the attention of high-level government officials. It is also strengthening its capacities with regard to applied research. While more work needs to be done to ensure that all VIDS' work is well-documented, already other communities – including Maroons – are turning to VIDS for advice in how to handle large-scale developments on their land.
- *Strengthened company plans in how to interact with affected Indigenous communities.* While there is still a long way to go, the VIDS/NSI project has increased the awareness of BHP and Alcoa – and by extension, their consultants', SRK's – awareness that old ways of doing business where there is no – or at best only tokenistic – consultation or interaction with Indigenous or Tribal communities is not a viable model of engagement. Some large errors were made by the companies and their consultants – among others, not including Indigenous or Tribal Peoples in the screening or initial scoping phase; not engaging in ESIA at all for advanced exploration on 2,800 ha of primary forest; disregarding community level policies regarding consultation and consent; and refusing to recognize that the affected peoples are traditional rights holders – some improvements have been made, at least in terms of increased dialogue. Whether this translates into positive action remains to be seen. It is very likely that without the VIDS/NSI project, business would have remained as usual within the Surinamese context.

Over the long-term, much work remains with regard to knowledge and capacity building at a variety of levels, but particularly at the community level. At its best, this project has raised awareness and started to build some capacities with regard to negotiations. But large-scale bauxite mining and hydroelectric dams are very complex projects that will require ongoing learning and capacity building of the affected communities. This project has started that process, but it is only the beginning. VIDS has a long-term commitment to West Suriname, and more projects to enable building capacities in dialogue and negotiation, documenting traditional territories and use, and monitoring impacts, among other issues, need to be undertaken if the current power asymmetry that exists is to be further balanced. Funders such as IDRC could play a critical role in this regard.

Project Challenges

While the VIDS/NSI project had some positive and concrete results, the project team encountered several challenges throughout the project. These included:

- Efforts to obtain copies of reports from the companies and government, such as the 2003-4 scoping report for the ESIA for Bakhuys, which was not released to the communities until September 2006. At the beginning there was even reluctance to share hard copies of presentations made publicly at our May 2005 meeting, but eventually we did receive these on paper and electronic versions. Building trust and getting to know one another was clearly an important step in beginning the dialogue process.
- It took a great deal of time to translate technical information we received into bilingual, community accessible documents, such as plain language posters and one-page hand-outs.
- Capacity-building around mining and effective negotiations is a long-term proposition. In this project we managed to raise awareness about some key issues, but the learning

curve for communities never exposed to these types of developments is very steep, and much remains to be done to start shifting the tremendous power imbalances between the communities and the companies.

- At the community level, our key contact points were mostly the village chiefs and their assistants. However, these are very busy people who need to attend to a variety of issues, and in the future it will be important to establish a working group of key community people to follow the developments as they take place and advise community leaders. Delegating this role to others may be difficult for some chiefs.
- There is a dearth of readily available information about baseline information at the community level. We engaged in some activities to help fill this gap, but we do not yet have a full picture.
- Some of the project activities took place in the lead-up to national elections, and it was difficult to explain to the communities that VIDS is not a political party and was not campaigning. At that time, there was some scepticism with regard to the VIDS/NSI project, especially because people perceived us to be anti-mining as we were sharing information about potential impacts from the two development projects (much of it from already available information commissioned by the companies and government, besides our own project work). We had to explain time and again that we were not anti-mining, but pro-community self-determination and informed decision-making, and that we were there at the request of the village chiefs to help the communities deal with the situation. That we were not anti-mining was brought home to some when we spoke about Impact Benefit Agreements and the types of settlements communities can negotiate with mining and hydroelectric companies.
- Weather, including severe flooding, clearly had an impact on project activities, and the burden of work that Bureau VIDS had to contend with aside from this project. Bureau VIDS was much burdened with the at-times very tight turnaround communications with the companies and their consultants, trying to bridge this with the leadership in communities who for most of the project did not have telephone service.
- Tension between channelling community energies towards achieving land rights recognition, while at the same time educating and raising awareness around mining/hydro potential impacts and rights to participation in decision-making and free, prior and informed consent, was evident throughout the project. In general, there is low awareness about Indigenous rights in Suriname among Indigenous Peoples. Bureau VIDS started awareness-raising in the communities in 2004, the year this project also started.

Despite these challenges, the project had some concrete and positive results as outlined above.

Key Recommendations

A variety of recommendations emerge from this VIDS/NSI project that if implemented could further reduce the power asymmetry between communities, government and companies. These recommendations include:

For Affected Indigenous and Tribal Communities (including those who did not participate in this study):

1. Develop your own vision for what you want in the future and then see if the project proposals **fit** with this vision.
2. Develop and articulate *in writing* the process by which you expect to be consulted by outsiders, and who can negotiate, make agreements and give consent on behalf of the community.
3. Identify what *the internal process* should be to come to collective decisions to inform the person(s) representing the communities in negotiations.
4. Consider developing a Working Group to address these issues and provide recommendations to the community leadership.
5. Do not lose sight or stop working on your long-term community goals, especially land rights.
6. Strengthen community leadership and decision-making processes, and communication with all groups in the community (radio, meetings, etc.) and with neighbouring affected communities.
7. Continue to form alliances with other national and international groups, and consider actively encouraging Oxfam Australia's ombudsperson for mining to open communications with BHP Billiton's head office, and possibly to do a site visit to Bakhuys.
8. Request that Joji Cariño, former Commissioner of the World Commission on Dams and expert on the Convention on Biological Diversity, come to visit.
9. Request that the Government of Suriname invite Rodolfo Stavenhagen, UN Special Rapporteur on the Situation of Indigenous Peoples, conduct an on-site visit to West Suriname to provide advice to the government, companies and Indigenous and Tribal Peoples.

For the Government of Suriname

1. Urgently implement all UN Committee for the Elimination of Racial Discrimination (CERD) recommendations for Suriname (March 2004, reiterated in March and August 2005), among others:
 - Ensure legal acknowledgement of the rights of Indigenous and Tribal Peoples to possess, develop, control and use their communal lands and to participate in the exploitation, management and conservation of the associated natural resources;
 - Ensure the compliance of the revised draft Mining Act with the International Convention on the Elimination of All Forms of Racial Discrimination, as well as with the Committee's 2004 recommendations. For example:
 - Ensure that indigenous and tribal peoples are granted the right of appeal to the courts, or any independent body specially created for that purpose, in order to uphold their traditional rights and their right to be consulted before concessions are granted and to be fairly compensated for any damage.
 - Elaborate a framework law on the rights of Indigenous and Tribal Peoples with the technical assistance from the Office of the United Nations High Commissioner for Human Rights
2. Implement Inter-American Commission and Court of Human Rights jurisprudence that upholds the right of Indigenous and Tribal Peoples *to give or withhold their free, prior and*

informed consent to any activity that affects that traditionally owned lands, territories and resources.

3. Develop appropriate information systems that allow identification of which Indigenous or Tribal communities may be affected by a given project in order to consult with them and seek their agreement prior to issuing a concession or exploration permit (collate existing maps; undertake sketch mapping for other areas).
4. Commence discussions with West Suriname Indigenous communities about the establishment of an Indigenous-owned protected area at Kaboeriekreek. This is consistent with:
 - ♦ Indigenous Peoples' rights in international law;
 - ♦ Suriname's obligation under the Convention on Biological Diversity;
 - ♦ The new IUCN protected areas categories.

This should not be seen as a substitute for addressing the wider land rights issues in west Suriname or nationally, but rather as a confidence building measure and a means of avoiding conflict.

5. Only consider approving the projects and negotiating agreements with the companies and communities when:
 - ♦ The government and affected communities have received and understood a full set of satisfactory environmental and social impact studies, and agree with mitigation measures proposed.
 - ♦ The affected Indigenous and Tribal peoples and their communities have given their free, prior and informed consent for these projects to go ahead, using appropriate consultation and consent procedures designed by legitimate representatives of each of the communities.
6. Require from the companies environmental liability insurance to ensure that in the case of environmental or social damage, sufficient monies are available to cover the harm fully, and in the worst-case scenario.
7. Ensure that there are effective, prompt and culturally appropriate grievance mechanisms in place to address and resolve any complaints raised by Indigenous and Tribal Peoples and their communities. These mechanisms must be established both at the level of the operating companies and at the national level.
8. For the Bakhuijs transportation and refinery ESIA's and the Kabalebo and Tapanohony River/Jai Kreek projects:
 - ♦ Establish an independent advisory committee of experts to guide the ESIA process, as allowed for under NIMOS guidelines, including appointees named by affected Indigenous and Tribal communities.

For BHP Billiton/Alcoa

1. Implement BHP Billiton's public commitment to negotiating protocols for FPIC and recognition of traditional rights to be in place for the life of the project, from environmental assessment through to closure (should the project proceed). This will enable:
 - ♦ Fulfillment of Indigenous and Tribal Peoples' human rights;
 - ♦ Reduction of corporate risk should the communities seek recourse to national and international tribunals to protect their rights;
 - ♦ Fulfillment of BHP's Sustainable Development Policy to "understand, promote and uphold fundamental human rights within our sphere of influence, respecting the traditional rights of Indigenous peoples and valuing cultural heritage."
2. In keeping with the UN CERD's recommendations, persuade the Government of Suriname to make progress in settling the land rights issues related to the areas that will be affected by the mining- and dam-related developments prior to the mining operations and dam construction. This is a pre-requisite to fulfilling:

- ♦ The companies' Sustainable Development Charter commitments;
 - ♦ The Government of Suriname's national policy on rights-based development and its international commitments;
 - ♦ The communities' policies, rights and aspirations.
3. Improve the quality of current and future ESIA processes in Suriname so they meet reasonable and normal standards.
 4. Negotiate Impact Benefit Agreements (IBAs) with affected Indigenous and Tribal communities. Key elements of the IBA should be revenue-sharing, training and employment of Indigenous and Tribal People, monitoring of socio-environmental impacts using traditional knowledge, appropriate communication and dispute resolution mechanisms, and implementation committees and review processes, among other elements.
 5. Study the environmental and social impacts of the exploration activities at Bakhuis already suffered by the affected Indigenous and Tribal communities, and duly compensate these people through good faith negotiations.
 6. Commit publicly that the companies will not engage in advanced exploration activities in Suriname without first engaging in exploration ESIA with meaningful participation by affected communities. This should include negotiating legally binding agreements around compensation for any impacts to people's livelihoods on account of exploration activities, and the terms of Indigenous and Tribal participation in the exploration activities.

Concluding Thoughts: A Turning Point?

In many respects, dialogue around the proposed developments in West Suriname and the demands made by the communities there, supported by Bureau VIDS, represent a turning point – or at least a first – in relations between Indigenous communities, the government and multinational extractive companies operating in Suriname. For perhaps the first time, government and company officials are becoming aware that the old exclusionary model of doing business is no longer viable. For their part, Indigenous community leaders are becoming aware of what their rights are under international law, and what best practice entails with regard to extractive projects internationally. Concepts such as meaningful consultation, participation, consent and Impact Benefit Agreements are beginning to be debated in Suriname. Nonetheless, large efforts will be required to ensure that the companies and government continue to improve their interactions with the affected communities, and that these translate into positive action that respects traditional and human rights. For the communities, this will mean not only sustained and long-term support from Bureau VIDS, but reaching out to other allies nationally and internationally, while at the same time organizing at the community level, strengthening the community leadership, and consolidating community processes, policies and regulations around interactions and negotiations with outsiders. Already, Bureau VIDS has garnered support for a follow-up project to begin to meet some of these needs, funded by the Inter-American Bank with technical support from NSI. Clearly, more sustained support will be needed over the long term. Only time will tell whether indeed Bakhuis and Kabalebo mark a turning point in Suriname's history of excluding Indigenous Peoples from decision-making that affects their traditional homelands.



References

- The Association of Indigenous Village Leaders in Suriname (VIDS). 2004. Proposal to the North-South Institute for Suriname Component of "Through Indigenous Eyes" Project. Unpublished.
- _____. (forthcoming). *West Suriname: Wat Betekent een deïntegreerde Aluminium Industrie voor de Inheemse Gemeenschappen?*
- The Association of Indigenous Village Leaders in Suriname, the Association of Saramaka Authorities, Stichting Sanomaro Esa and the Forest Peoples Programme. 2002. Persistent and Pervasive Racial Discrimination Against Indigenous and Tribal Peoples in the Republic of Suriname. "Formal Request to Initiate an Urgent Procedure to Avoid Immediate and Irreparable Harm," submitted to the United Nations Committee on the Elimination of Racial Discrimination. December 15.
- _____. 2004. "Request for the Initiation of an Urgent Action and a Follow Up Procedure in Relation to Imminent Adoption of Racially Discriminatory Legislation by the Republic of Suriname," submitted to the United Nations Committee on the Elimination of Racial Discrimination. January 6.
- _____. 2005. "Request for Follow-Up and Urgent Action Concerning the Situation of Indigenous and Tribal Peoples in Suriname." July 8.
- _____. 2006. "Request for Additional Follow-Up and Urgent Action Concerning the Situation of Indigenous and Tribal Peoples in Suriname." June.
- Baal, Ferdinand L.J. 2000 (updated 4 March 2005). Natural Heritage in Suriname. Unpublished paper.
- BHP Billiton. 2005. BHP Billiton's Sustainable Development Policy. September.
- _____. 2005. Bakhuis Exploration Programme: Visitor's Induction. Introduction and HSEC, Project and Operations Overview.
- Brown, Charles Barrington. 1875. Report no 10; geological report on the Corentyne River. In Charles Barrington Brown and J.G. Sawkins, *Report on the physical, descriptive, and economic geology of British Guiana*. London. 202-232.
- Buursink. 2005. *Draft Report: Country Environment Assessment (CEA) – Suriname*. Commissioned by the Inter-American Development Bank. February.
- CNEC. 2005. Environmental Impact Statement of the Kabalebo Complex, Phase I – Consolidation of Secondary Data. January.
- Dagblad Suriname*. "Econoom wil Suriname ontsluiten," October 16, 2006, Internet Editie. http://www.dbsuriname.com/archief/nat/2006/okt06/16-10-06/Nat_Econoom%20wil%20...
- Dagblad Suriname*. December 3, 2003.
- de Jong, Caroline. Forthcoming. Archival research on West Suriname. Ottawa: The Association of Indigenous Village Leaders of Suriname and The North-South Institute.
- De Ware Tijd*. "Government recognizes rights of the Saramaka peoples." May 5, 2006.
- De Ware Tijd*. January 21, 2004.

- Forest Peoples Programme and Tebtebba Foundation. 2006. Indigenous Peoples' Rights, Extractive Industries and Transnational and Other Business Enterprises: A Submission to the Special Representative of the Secretary-General on human rights and transnational corporations and other business enterprises. 29 December.
- Fritz-Krockow, Bernhard et al. 2005. IMF Country Report No. 05/42. "Suriname: Selected Issues". April.
- Glaser, Michael. 2005. Presentation on Bakhuijs Exploration Programme at VIDS Workshop in Paramaribo. May.
- Goodland, Robert. 2006. *Suriname: Environmental and Social Reconnaissance The Bakhuijs Bauxite Mine Project, with notes on the proposed Kabalebo Hydro Project & Comparisons with Alcoa/BHP/ Billiton's recent track record*. Ottawa: The North-South Institute. Available at www.nsi-ins.ca.
- Hart, Tim. 2006. Presentation on SRK's ESIA processes at VIDS Workshop in Paramaribo. June.
- Heneman, J.C. 1784. Kaart van de Colonie Suriname en de onderhoofdige rivieren en districten.
- Inter-American Court of Human Rights. 2005. Judgement of the Inter-American Court of Human Rights in the Case of Moiwana Village vs. Suriname. June.
- International Council on Mining & Metals (ICMM). 2006. Draft Position Statement: Mining and Indigenous Peoples Issues. March.
- _____. 2003. ICMM Principles and Sustainable Development Framework.
- International Monetary Fund. 2006. IMF Public Information Notice, No. 06/39. April. Available at <http://www.imf.org/external/np/sec/pn/2006/pn0639.htm>.
- IIRSA. 2002. Guiana Shield Hub Group power point presentations. Manaus, Brazil. <http://www.iirsa.org>.
- IUCN and ICMM. 2005. Report of the Roundtable on Mining and Indigenous Peoples Issues. November 8-9, Gland, Switzerland.
- Kambel, Ellen-Rose. 2006. Indigenous Peoples and Maroons in Suriname. Economic and Sector Studies Series. Washington DC: Inter-American Development Bank. August.
- Kambel, Ellen-Rose and Fergus MacKay. 1999. The Rights of Indigenous Peoples and Maroons in Suriname. Copenhagen: The International Work Group for Indigenous Affairs (IWGIA) and the Forest Peoples Programme (FPP). IWGIA Document No. 96.
- Martinez-Cobo, José. UN Doc E/CN.4/Sub.2/1/1986/7 and Add. 1-4.
- Mego, Andrés. 2005. Experiences with dialogue. In *Latinamericapress*, February 3. Available at: <http://noticiasaliadas.org/article.asp?IssCode=&lanCode=1&artCode=4115>
- Nationaal Instituut voor Milieu en Ontwikkeling in Suriname (NIMOS). 2005. *Environmental Assessment Guidelines Volume I: Generic*. Paramaribo: NIMOS, Office of Environmental and Social Assessment. March.
- _____. 2005. *Environmental Assessment Guidelines Volume II: Mining*. Paramaribo: NIMOS, Office of Environmental and Social Assessment. March.
- _____. 2005. *Environmental Assessment Guidelines Volume III: Forestry*. Paramaribo: NIMOS, Office of Environmental and Social Assessment. March.
- _____. 2005. *Environmental Assessment Guidelines Volume IV: Social Impact Assessment*. Paramaribo: NIMOS, Office of Environmental and Social Assessment. March.

- _____. 2005. *Environmental Assessment Guidelines Volume V: Power Generation and Transmission Projects*. Paramaribo: NIMOS, Office of Environmental and Social Assessment. March.
- Pane, Ricardo. 2004. Protected Areas in Suriname: A Voice from Suriname's Gailibi Nature Reserve. *Cultural Survival* 28(1). March 15.
- Pedersen, Warren. 2005. Presentation on Kabalebo Project at VIDS Workshop in Paramaribo. May.
- PRS Group. 2004. Suriname Country Forecast: Political Risk Services. November 1.
- Sahdew, Shamita A. and Paul E. Obouter. 2003. *Destruction of the tropical rainforests of the Guianas*. Paramaribo: Institute for Biodiversity and Environment Education and Research (IBER), the National Zoological Collection of Suriname (NZCS) and the Comité Redt West Suriname. March
- Schomburgk, Richard. 1848. *Reisen in Britisch-Guiana in den Jahren 1840-1844*. Leipzig.
- Schomburgk, Robert Hermann. 1841. *Reisen in Guiana und am Orinoko während der Jahre 1835-1839*. Leipzig.
- Secretariat of the Convention on Biological Diversity. 2004. Akwé: Kon Voluntary Guidelines for the Conduct of Cultural, Environmental and Social Impact Assessment regarding Developments Proposed to Take Place on, or which are Likely to Impact on, Sacred Sites and on Lands and Waters Traditionally Occupied or Used by Indigenous and Local Communities. Montreal (CBD Guidelines Series).
- SENES Consultants Limited. 2003. *Provision of Expert Services for Environmental Management Program Republic of Suriname: Environmental Assessment Review Report, Kabalebo Hydropower Project*. Prepared for the National Institute for Environment and Development in Suriname (NIMOS). October.
- Scholz, Eddie. 2006. Presentation at VIDS Workshop in Paramaribo. June.
- SRK Consulting. 2005. Environmental and Social Impact Assessment for the Proposed Bakhuis Bauxite Mine, Plan of Study. Report No 346217/3. August.
- _____. 2005. ESIA for proposed Bauxite Mining Project Bakhuis, Suriname, Background Information Document. Report No. 364217/5. September.
- _____. 2005. Environmental and Social Impact Assessment for the Proposed Bakhuis Bauxite Mine, Revised Plan of Study. Report No. 345217/3a. December.
- _____. 2005. Environmental and Social Impact Assessment for the Proposed Bakhuis Bauxite Mine, Revised Public Consultation Plan. Report No. 346217/5a. December.
- _____. 2006. Proposed Bakhuis Bauxite Mining Project: Plan of Study Presentation. Given in Apoera, Section and Washabo, February.
- Summary of the Proceedings of a Conference on Mercury and Small-Scale Mining held in Paramaribo, March 30, 2000. Available at: <http://www.wfsguianas.org/gfecp05.htm>
- Torres, Masahiro Nozaki and Rafael Portillo. 2006. IMF Country Report No. 06/134. Suriname: Statistical Appendix. April.
- United Nations Human Rights Committee. 2004. Concluding Observations: Suriname, CCPR/CO/80/SUR, May 4.
- WWF and ACT were also contacted throughout the project, but no formal meeting took place.

United Nations Committee on the Elimination of Racial Discrimination. 2003: Decision 3(62): Suriname. UN Doc. CERD/C/62/CO/Dec.3. 21 March.

_____. 2004: "Concluding Observations on Suriname." CERD/C/64/CO/9/Rev.2. 12 March.

_____. 2005: Decision 3(66): Suriname. Follow-Up Procedure. UN Doc. CERD/C/66/SUR/Dec. 3. 9 March.

_____. 2005: Decision 1 (67): Suriname. UN Doc. CERD/C/DEC/SUR/2. 18 August.

_____. 2006. Decision 1 (69): Suriname. Prevention of Racial Discrimination, Including Early Warning measures and Urgent Action Procedures. CERD/C/DEC/SUR/3. 18 August.

van der Aa, Pieter. 1706. Derde scheeps-togt door Walter Raleigh na Guiana, met de pinas de Watte, gedaan in 't Jaar 1596 en 1597, beschreeven door Mr. Thomas Masham, een der geene, die de selve heeft bijgewoont. Excerpt from: "Drie Scheepstochten na het goudrijke Koninkrijk Guiana, in Amerika geleege, door den Engelschen ridder Walther Raleigh, gedaan in de jaren 1595, 1596, 1597, etc." In *Naaukeurige versameling der gedenk- waardigste Reysen na Oost en West Indiën, mitsgaders andere gewesten gedaan, zedert het jaar 1593 tot 1599*, 21:3. 49-64.

van Rosevelt, J.F.A.C and J.F.A.E. van Lansberge. 2004 (reprint). Kaart van Suriname, naar de opmetingen gedaan in de jaren 1860-1879. Amsterdam.

van Sijpesteijn, J.C.A. 1849. Kaart van de Kolonie Suriname, een gedeelte van Guiana, Nederlandsche bezitting op het vasteland van Zuid Amerika, uitgegeven in het jaar 1784, door den Ing. J.C. Heneman, verbeterd, naar den tegenwoordigen toestand der Kolonie gewijzigd, en daarop alle bestaande Plantagiën aangeduid.

Versteeg, Aad. 2003. Suriname voor Columbus. Paramaribo.

Weitzner, Viviane. 2006. *Dealing Full Force: Lutsel K'e Dene First Nation's Experience Negotiating with Mining Companies*. Ottawa: The North-South Institute and Lutsel K'e Dene First Nation. Available at www.nsi-ins.ca.

Weitzner, Viviane. 2002. *Through Indigenous Eyes Toward Appropriate Decision-Making Processes regarding Mining on or Near Ancestral Lands*. Ottawa: The North-South Institute. Available at www.nsi-ins.ca.

Appendix 1: List of Formal Interviews/Meetings in Paramaribo

Note: These formal interviews were supplemented with other project activities that included informal/ongoing dialogue with various government, company and NGO representatives (see discussion on methodology, Section 2)

Date	Organization	Interviewee
February 2005	IDB	<ul style="list-style-type: none"> William Grisley, Agricultural Specialist and Country Officer
August 31, 2005	Geological Mining Department (GMD)	<ul style="list-style-type: none"> Lothar Godfried, Lawyer Rachel Polak, Environment Engineer
August 31, 2005	United Nations Development Programme (UNDP)	<ul style="list-style-type: none"> Christine de Rooij, Programme Manager
September 1, 2005	Alcoa/Suralco	<ul style="list-style-type: none"> Patrick Grover, Senior Environmental Project Manager, Alcoa – Richmond, VA Eric Black, Project EHS Manager, Alcoa – Pittsburgh, PA Jan V.E. Vandenberg, EHS Manager, Suralco LLC
September 1, 2005	BHP Billiton (BMS) and SRK Consulting	<ul style="list-style-type: none"> Andy Whitcomb, Manager Environment, BMS Kamla Madho, CSR and EA Specialist, BMS Kate Steyn, SRK Consulting Belinda Gebhardt, SRK Consulting
September 1, 2005	NIMOS	<ul style="list-style-type: none"> Cedric Nelom, Acting Director for Office of Environmental and Social Assessment Quan Tjon-Akon, E/SIA field officer, Office of Environmental and Social Assessment
September 1, 2005	Ministry of Natural Resources, Nature Conservation Division	<ul style="list-style-type: none"> Bryan C. Drakenstein, Acting Head, Nature Conservation Division, Suriname Forest Service
September 13, 2005	Ministry of Natural Resources	<ul style="list-style-type: none"> J. Abdul, Director, Energy, Mining and Water Supply
September 13, 2005	Formerly with PAS, and 'Action for Land Rights in the Interior'	<ul style="list-style-type: none"> Harold Jap-a-Joe
September 13, 2005	Conservation International Suriname	<ul style="list-style-type: none"> Wim Udenhout, Executive Director Annette Tjon Sie Fat, Operations Director
September 15, 2005	University of Suriname (formerly a member of 'Red West Committee')	<ul style="list-style-type: none"> Paul Obouter (specialist in reptiles and amphibians)
February 2, 2006	Ministry of Regional Development	<ul style="list-style-type: none"> Dhr. Strijk R.E., DC Sipaliwini
February 9, 2006	Bauxite Institute Suriname	<ul style="list-style-type: none"> R. Vaseur, Director A. Gemerts, Research Officer
February 9, 2006	NIMOS	<ul style="list-style-type: none"> Quan Tjon-Akon E/SIA field officer

Appendix 2: News Articles Related to this Project

Note: Bureau VIDS has copies of all articles and media related to this project. The following represents a selection from print media.

NO. 39335

DE WEST VAN VRIJD

Ter voorbereiding geplande mijnbouwactiviteiten

Canadese inheemsen bezoeken

West-Suriname

Twee inheemsen uit Canada hebben de afgelopen week een bezoek gebracht aan Apura, Section en Washabo in West-Suriname. Zij hebben daar, in verschillende ontmoetingen met de dorpsbewoners, verteld over hun ervaringen met grote projecten nabij hun dorp. Dit bezoek is een initiatief van de VIDS (Vereniging van Inheemse Dorpschoudeu in Suriname) en maakt deel uit van een programma om inheemsen in Suriname te versterken.

Vorige week kwamen de twee Canadese inheemsen aan in Suriname. Zij namen in Paramaribo deel aan een training getiteld: "West-Suriname: Inheemse Volken en Mijnbouw". Aan deze training namen ook deel dorpschoudeu, assistenten en vrouwen uit Oost- en West-Suriname. Tijdens de training verschaften de mijnbouwmaatschappijen BHP/Billiton en Suralco enige informatie over hun geplande activiteiten in West-Suriname, terwijl het NIMOS een presentatie verzorgde over de status van milieu-effectstudies in Suriname.

Activiteiten mijnbouwmaatschappijen in West-Suriname

Suralco en BHP/Billiton voeren sinds twee jaar in joint venture verband exploitatiewerkzaamheden uit in het Bakhuysgebergte, terwijl Suralco de mogelijkheden onderzoekt om in het Kaba-lebogebed een waterkrachtcentrale te bouwen. Tot nu toe zijn de inheemsen die rechtstreeks geraakt zullen worden door deze acti-

viteiten niet of nauwelijks geïnformeerd door de overheid. Het betreft zowel de Inheemsen van Apura, Washabo en Section in West-Suriname, als de Trio-Inheemsen die reeds eeuwenlang gebruikmaken van het gebied dat onder water gezet zal worden. Door het uitblijven van adequate informatie is het onmogelijk voor de gemeenschappen om zich voor te bereiden op de ontwikkelingen en te besluiten in hoeverre zij zich kunnen vinden met de door de maatschappijen geplande activiteiten.

Bezoek Canadezen aan West Suriname

Deze week hebben de Canadese inheemsen hun ervaringen gedeeld met de inheemse gemeenschappen in West-Suriname en enkele Trio-vertegenwoordigers uit Wanapan (bij de Wonotobovallen). Florence Catholique is hoofdonderhandelaar en voormalig stamhoofd van de Lutsel K'e Dene First Nation, en Delphine Enzoe is jongerenvertegenwoordiger en lid van de Lutsel K'e

De Dene First Nation Commissie voor Wild, Gronden en Milieu. Op het grondgebied van de Lutsel K'e Dene First Nation exploiteert BHP/Billiton momenteel een diamantmijn. Florence Catholique heeft daar de onderhandelingen tussen de gemeenschap en de maatschappij geleid. Ook was zij betrokken bij onderhandelingen met de Canadese overheid die op haar grondgebied een natuurreservaat wilde instellen.

Tijdens de ontmoeting met de maatschappijen in hotel Krasnapolsky, gaf BHP/Billiton uitleg over het speciaal beleid dat de maatschappij voert ten aanzien van inheemse volken. Ook verklaarde BHP/Billiton bereid te zijn om samen met de gemeenschappen te werken aan een protocol waarin het consultatieproces zal worden vastgelegd.

Uitblijven erkenning landrechten bron onzekerheid en onrust

De trainingen in Paramaribo en in West-Suriname vormen onderdeel van een programma dat de VIDS uitvoert in samenwerking met het Canadese North South Institute (NSI). Dit programma heeft als doel de inheemse gemeenschappen in West-Suriname en de Trio gemeenschappen te versterken en voor te bereiden op de ontwikkelingen die in

hun gebied gepland zijn. Vast staat dat het uitblijven van informatie en van de wettelijke erkenning van hun rechten op de gronden en natuurlijke hulpbronnen, voor de gemeenschappen een grote bron van onzekerheid en onrust vormen.

De VIDS doet dan ook een oproep aan de komende regering om zo snel mogelijk over te gaan tot het uitvoeren van Suriname's internationale verplichtingen op dit gebied. Hiertoe behoren op de eerste plaats het wettelijk erkennen van de rechten op gronden en natuurlijke hulpbronnen, die de inheemsen reeds eeuwenlang collectief bezitten en gebruiken.

Concept-Mijnbouwwet in strijd met internationale rechten inheemse volken

Tijdens de training kwam ook het Concept-Mijnbouwwet ter sprake. Dit concept is door het VN-Comité inzake de uitbanning van rassendiscriminatie in een recente uitspraak discriminerend bevonden, onder andere omdat het binnenlandbewoners de kans ontnemt om hun klachten over compensatie aan een onafhankelijke rechter voor te leggen. Dit in tegengesteld tot degenen die wel over een erkende titel op hun grond beschikken. De VIDS doet hierbij een dringend beroep op de nieuw gekozen leden van De Nationale Assemblée, om het Concept-Mijnbouwwet pas na een adequaat consultatieproces met de inheemsen en marrons en nadat het in overeenstemming is gebracht met de in Suriname geldende internationale verdragen over de rechten van inheemse en in stamverband levende volken, weer in behandeling te nemen.

Grondrechten tribale volken en inheemsen verdienen prioriteit

PARAMARIBO - Wettelijke erkenning van de rechten van de inheemse en tribale volken om hun gemeenschappelijke gronden te bezitten, deze tot ontwikkeling te brengen, en het beheer en de bescherming van aanverwante natuurlijke hulpbronnen was een van de aanbevelingen op een gisteren gehouden workshop van de vereniging van Inheemse Dorpscommissies in West-Suriname. **TIMES 28 JUNE '06**

De workshop is georganiseerd in samenwerking met The North-South Institute (NSI) uit Canada. Op de workshop werd een presentatie gehouden over de voorlopige resultaten van het project 'Mijnen en inheemse volken in West-Suriname'. De mijnbouwwet zou volgens de

deelnemers herzien moeten worden, zodat de inheemse en tribale volken het recht krijgen om in beroep te gaan bij de rechter om hun traditionele rechten te handhaven. Er zou invoering van internationale jurisprudentie met betrekking tot de rechten van de inheemse en tribale volken moeten

plaatsvinden. Projecten en onderhandelingsovereenkomsten met maatschappijen en gemeenschappen zouden alleen goedgekeurd moeten worden als de overheid en getroffen gemeenschappen een volledig plan van de resultaten van het milieu en sociale effectenstudies hebben ontvangen. De inheemse en tribale volken horen hun vrije, voorafgaande en weloverwogen toestemming te geven voor de uitvoering van de projecten. Van de maatschappijen zou milieu aansprakelijkheidsverzekering geëist moeten worden om er verzekerd van te zijn dat in geval van milieu- of sociale schade er beschikbare gelden zijn die de schade volledig kunnen dekken. NF

TIMES 28 JUNE 106 Government must recognize land rights Maroons and Indigenous persons

PARAMARIBO - During a workshop organized by the Association of Indigenous Village Chiefs (VIDS) last Monday all of the speakers pointed out that Suriname is the only country on the Western hemisphere where the government does not recognize the land rights of the Maroons and the Indigenous people. The VIDS mainly focused on discussing the Indigenous Communities and the Proposed Development

Projects in West Suriname. The VIDS officials made clear that they think the Mining Law to be discriminatory as the government made this law without first discussing it with the Indigenous people or the Maroons. The government still has not responded to a petition which had been presented by the VIDS. The speakers also pointed out that the government is in a weak position when it comes to

making sure that all parties involved in the mining and the lumber industry follow the regulations. They elucidate that only a few mining and lumber companies obey the national laws of this country. The speakers also expressed their concern about the future as mining concessions cover about 40% of the natural habitat of the Indigenous and Maroon communities while lumber concessions cover about 60%.

Appendix 3: Summary of CERD's Decisions and Recommendations to Suriname

(1) 21 March 2003: Decision 3(62): states that “serious violations of the rights of indigenous communities, particularly the Maroons and Amerindians, are being committed in Suriname.”¹⁶⁵

(2) March 12, 2004: CERD adopted “Concluding Observations on Suriname”, which emphasize:

- both *de jure and de facto* discrimination with regard to rights to lands, territories and resources, particularly the failure of the State to recognize, guarantee and secure those rights (paras 11, 12, 23 and 30);
- the absence of meaningful and effective procedural and other guarantees in relation to natural resource exploitation and the resulting negative cultural, health, social and other consequences (paras 13-15 and 18); and
- the absence of adequate and effective domestic remedies to assert and seek protection for indigenous and tribal rights in domestic venues (para 14).
- the discriminatory draft Mining Act (para 14).¹⁶⁶

(3) March 9, 2005: Decision 3(66):

- observed that a revised version of the draft Mining Act, which was approved by Suriname’s Council of the Ministers at the end of 2004, and is likely to be scheduled for adoption by the National Assembly within the next few months, may not be in conformity with the Committee’s recommendations (para 4);
- invited Suriname to comment on the nature of the draft Mining Act “before 11 April 2005” and recommended that it “ensure the compliance of the revised draft mining Act with the International Convention on the Elimination of All Forms of Racial Discrimination, as well as with the Committee’s March 2004 recommendations” (paras 5-6)¹⁶⁷

(4) August 18, 2005: Decision 1 (67):

- expressed deep concern about information alleging that Suriname is actively disregarding the Committee’s recommendations by authorizing additional resource exploitation and associated infrastructure projects that pose substantial threats of irreparable harm to indigenous and tribal peoples, without any formal notification to the affected communities and without seeking their prior agreement or informed consent (para 3).
- Drew attention of the State party to its General Recommendation 23 (1997) on the rights of indigenous peoples, urging the State party to ensure the compliance of the revised draft Mining Act with the International Convention on the Elimination of All Forms of Racial Discrimination, as well as with the Committee’s 2004 recommendations. In particular, the Committee urges the State party to:
 - Ensure legal acknowledgement of the rights of indigenous and tribal peoples to possess, develop, control and use their communal lands and to participate in the exploitation, management and conservation of the associated natural resources;
 - Strive to reach agreements with the peoples concerned, as far as possible, before awarding any concessions;
 - Ensure that indigenous and tribal peoples are granted the right of appeal to the courts, or any independent body specially created for that purpose, in order to uphold their traditional rights and their right to be consulted before concessions are granted and to be fairly compensated for any damage (para 4)
- Recommended once again that a framework law on the rights of indigenous and tribal peoples be elaborated and that the State Party take advantage of the technical assistance available under the advisory services and technical assistance Programme of the

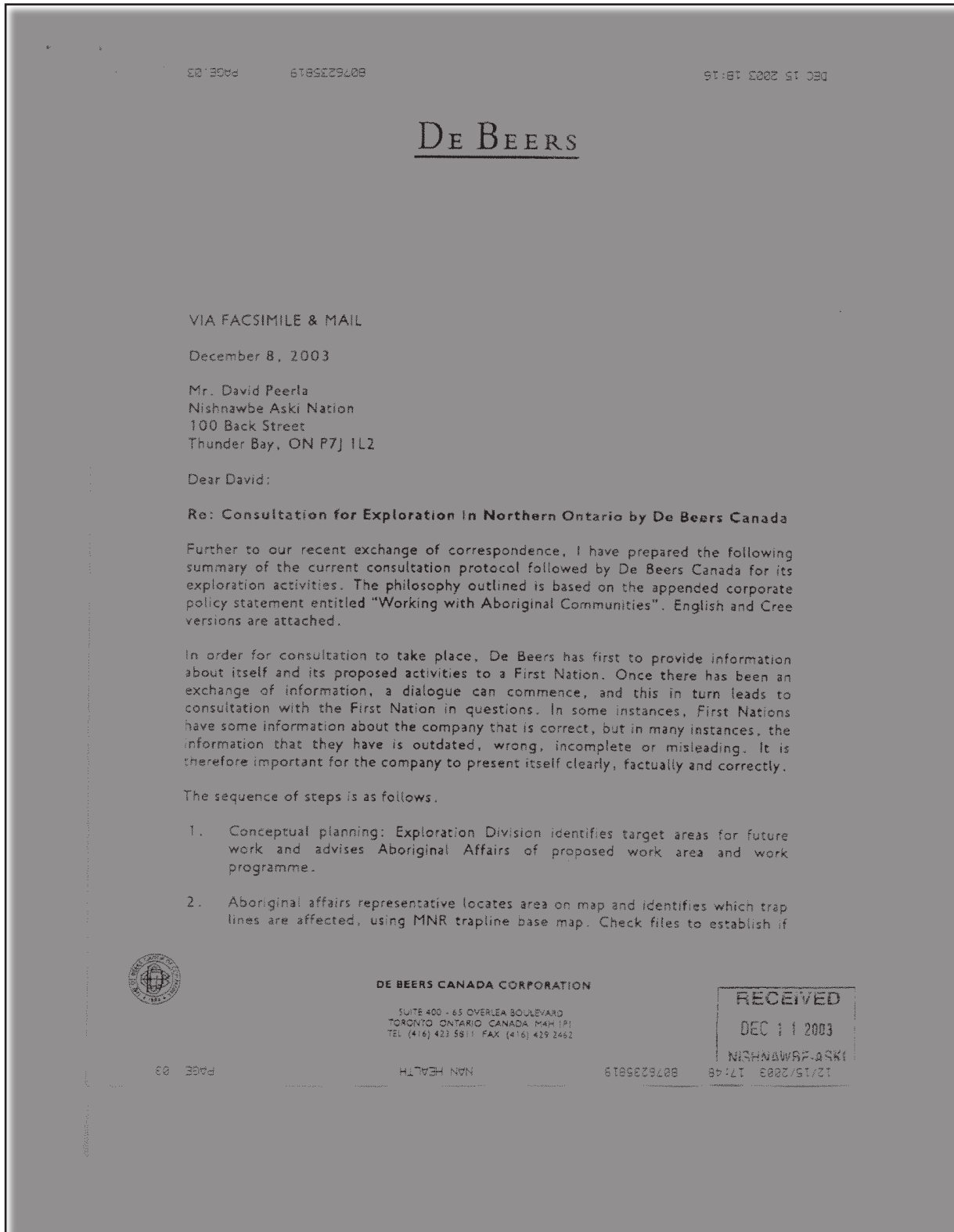
Office of the United Nations High Commissioner for Human Rights for that purpose (para 5).

- ♦ Recommended to the State party that it extend an invitation to the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (para 6);
- ♦ Urged the Secretary-General of the United Nations to draw the attention of the competent United Nations bodies to the particularly alarming situation in relation to the rights of indigenous peoples in Suriname, and to request them to take all appropriate measures in this regard.¹⁶⁸

(5) August 18, 2006: Decision 1 (69):

- ♦ Reiterated “deep concern about information alleging that the State party has authorized additional resource exploitation and associated infrastructure projects that pose substantial threats of irreparable harm to indigenous and tribal peoples, without any formal notification to the affected communities and without seeking their prior agreement or informed consent.” (para 1)
- ♦ Reiterates the recommendations from August 18, 2005.
- ♦ Requested “detailed information on the above-mentioned issues be included in the eleventh to thirteenth periodic reports of the State party, to be submitted in a single document on 14 April 2007. The Committee also wishes to receive, as previously requested, detailed information on the current status of the revised draft Mining Act and its compliance with the International Convention on the Elimination of All Forms of Racial Discrimination, as well as the Committee’s 2004 concluding observations.” (para 3)
- ♦ Drew “the attention of the High Commissioner for Human Rights as well as the competent United Nations bodies, in particular the Human Rights Council, to the particularly alarming situation in relation to the rights of indigenous and tribal peoples in Suriname, and invites them to take appropriate measures in this regard.” (para 4)¹⁶⁹

Appendix 4: De Beers' Policies on Exploration



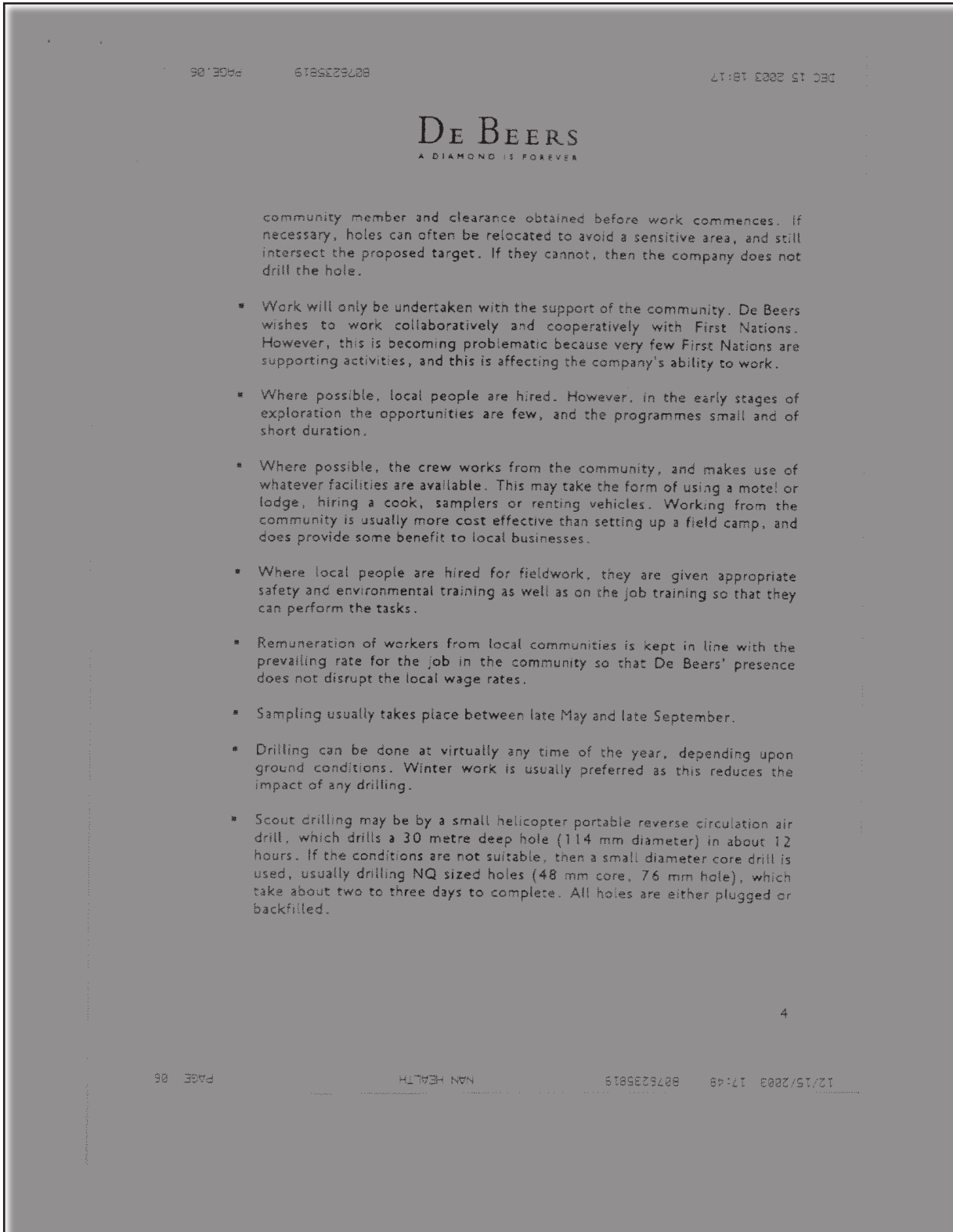
DE BEERS
A DIAMOND IS FOREVER

- known which First Nations use trap lines. If First Nation that uses the trap lines is known, go to step 4. If not, go to step 3.
3. Contact MNR local office for region in question and establish which First Nation is the registered user of trap line.
 4. Contact affected First Nation and introduce company. Identify that company wishes to undertake exploration within traditional lands of the First nation, and ask for a meeting to discuss proposed programme. The Chief is contacted initially by letter or facsimile, and this is followed up about a week to ten days later by a telephone call. In some instances, the Vice President Aboriginal and Environmental Affairs or the Manager, Government and Aboriginal Affairs make the follow up call by telephone. In other instances, an aboriginal facilitator may be used.
 5. Once meeting set up, prepare presentation for Chief Council and community members. Explain whom De Beers is, what work is planned and seek support from First Nation for proposed programme. Presentations are designed to be informative, and comprehensible: care is taken to try to use concepts and language that can readily be translated. Confirm with First Nation that the area of proposed activity is part of their traditional lands; check for overlap / sharing with other First Nation communities.
 6. If support is forthcoming, advise Exploration Division who the contact is for the First Nation and facilitate meeting. Exploration Geologist / Project Geologist then provides liaison with Community.
 7. Fieldwork is then undertaken.
 8. Upon completion of programme, Project Geologist reports back to community.
 9. Once results are available, summary overview of results provided to First Nation if this has been requested.
 10. Sequence repeats for subsequent work programmes.
 11. If proposed work programme is classed as Advanced Exploration under Ontario Mines Act, then notification has to be given in the press before consultation or dialogue for the programme takes place. Notification is required not less than 30 days before programme commences.

DE BEERS

A DIAMOND IS FOREVER

12. Where it is necessary to stake mining claims, De Beers advises the First Nation of its intentions, and indicates in general terms where it will be staking, and undertakes to provide more precise information once the staking is complete and the claims have been recorded. It is explained why precise information cannot be provided prior to staking for competitive and proprietary reasons. This is usually accepted by the First Nations.
13. The following points are made:
- Exploration is a high-risk activity with a low chance of success. Between 1 project in 750 and 1 project in 1500 becomes a mine. Few projects progress beyond any follow-up work.
 - Large areas are explored, and the majority do not require any follow-up work. While the area is large, the actual "footprint" of the ground activity is small.
 - Work teams are small (two persons per crew) and usually travel by helicopter.
 - Considerable effort is made to minimise the impact of the activity on the ground. Work is planned, following consultation with First Nations, to avoid sensitive times of the year such as calving, hunting or migration periods. The Project Geologist also will meet with designated community members to identify any sensitive areas that should be avoided during work programmes (sensitive areas include burial sites, sacred sites, medicine gathering/harvesting areas and the like: the company does not need to know why an area is sensitive, but it does need to know where such sites are so that they can be avoided).
 - Sediment samples range from 10 to 20 litres in size (one to two pails), and all sample holes are backfilled for environmental and safety reasons.
 - If drilling is planned, water samples are collected up and down stream from the site before during and after the drilling activity to provide base line information. The results of this water sampling are available for the community.
 - If drilling is planned, an archaeologist is used to check for sensitive sites prior to work commencing. If there is any doubt, the site is visited with a



PAGE: 07

8076295819

DEC 15 2003 10:17

DE BEERS

A DIAMOND IS FOREVER

- Care is taken to minimise the cutting of bush or timber to clear a small space for the drill to operate, and the site is cleaned up and inspected after the hole is completed.
- De Beers Canada Exploration has an environmental management system, and this is registered under ISO 14001, and is subject to not only internal audit, but also to external audit in order to retain certification. This ensures that best practices are followed wherever possible.
- De Beers is very conscious of its responsibility to work responsibly with respect to the environment. Its contractors are also expected to work to the same standards.

The majority of communities have little exposure to modern exploration techniques, and normally at least two visits are required before support is agreed. In some instances, the community is prepared to let the company work on the basis of a verbal agreement. In other instances, a letter agreement is used to provide some comfort and certainty to the community. In other cases, the community may request a Memorandum of Understanding or Cooperation before support for a programme is given. One of the disadvantages of a Memorandum of Understanding or Cooperation is that it may take anywhere from two to 18 months to conclude negotiations for such an agreement.

To date, De Beers has always negotiated a Memorandum of Understanding before commencing any Advanced Exploration programme.

Where there is a disturbance or disruption of traditional activities, De Beers has used two separate approaches, depending upon the wishes of the First Nation. The first approach is to provide compensation for any actual measurable loss. This takes the form of an agreed monetary amount on an annual basis. The amount can be calculated in one of two ways: either by paying a set amount per drill hole for example, or by calculating the actual and comparing this to the average harvest over the previous ten years or so and paying for the shortfall. The second alternative is to enter into an agreement to pay the First Nation a set amount annually to provide certain services, and undertake certain activities, and also to include a compensation component. A typical example of this second alternative is as follows:

- "In consideration for the payments as set out above, the First Nation agrees to be responsible for all costs it may incur in the following areas:

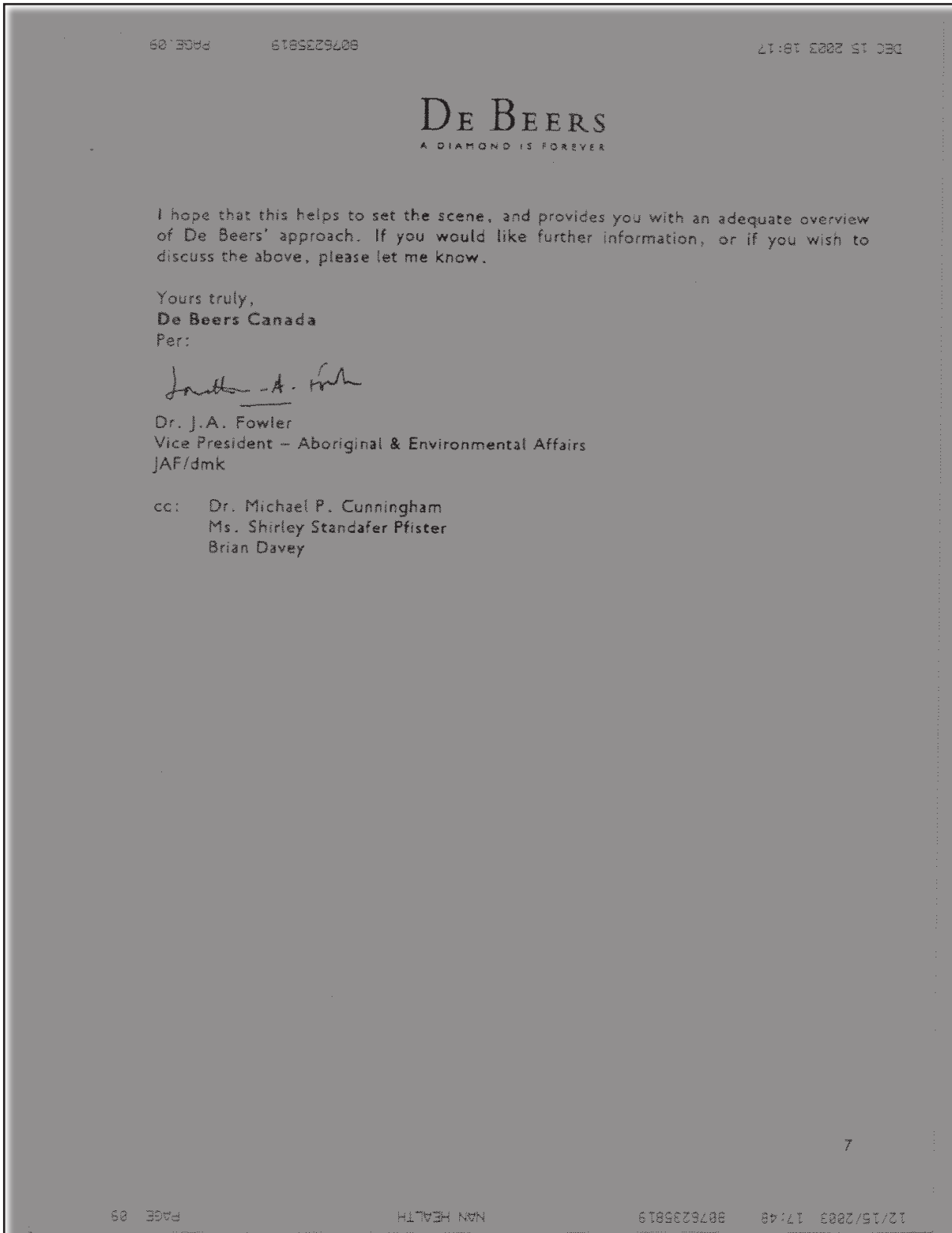
5

PAGE 07

NAN HEALTH

8076295819

12/15/2003 17:48



PAGE 10

8076235819

DEC 15 2003 18:18



DE BEERS

DE BEERS CANADA


POLICY STATEMENT WORKING WITH ABORIGINAL COMMUNITIES

De Beers Canada* acknowledges the status of aboriginal people of Canada and their constitutionally entrenched rights. In working with aboriginal people, De Beers Canada will ensure that this status and their rights are respected, and will work to strike a balance between these considerations and other economic, social and environmental responsibilities.

De Beers Canada will apply the following principles in all of its activities and undertakings with aboriginal people in Canada:

- It is recognized that aboriginal people have a historical occupation, usage and reliance on the land as well as a respect for the land and environment, which is enshrined in their traditions and practices. Arising from this is a far-reaching wisdom and knowledge about the land and natural environment. This knowledge will be actively solicited and considered in the planning and management of De Beers Canada's activities.
- De Beers Canada believes that meaningful consultation and communication regarding activities, programmes and developments are necessary. Consultation forms the basis for relationships and the De Beers Canada process will be:
 - timely (adequate notice; time to evaluate and respond)
 - informative (sufficient detail and explanation to allow understanding)
 - comprehensible (presented in an understandable manner)
 - ongoing (process acknowledges feedback; reports on how used)
 - responsive (changes based on feedback where relevant/possible)
- De Beers Canada believes that projects must benefit and add to the sustainability of local communities. Socio-economic development will be a primary focus through community participation in employment and business opportunities in all stages of the mineral development process from exploration, evaluation, mine development, production and closure.
- De Beers Canada's key corporate values of integrity, reliability and honesty in association with genuine respect for individuals and communities, non-discrimination, best practice standards, health and safety, protection of the environment, teamwork and innovation will be promoted at all times.

*Unless otherwise stated, the term De Beers Canada means De Beers Canada Corporation, De Beers Canada Mining Inc. and De Beers Canada Exploration Inc.

HS_03_00	President and Chief Executive Officer	Date:	Page 1 of 1
	R. G. Malynoux 	June 1, 2002	

PAGE 10

NAN HEALTH

8076235819

12/15/2003 17:48

Appendix 5: Agreement between the Indigenous Peoples of West Suriname and BHP/Billiton and Suralco NV (Draft 2006)

Considering that BHP/Billiton and Suralco NV have signed Memoranda of Understanding with the State of Suriname which grant rights in relation to bauxite deposits in the Bakhuijs area of West Suriname as well as the development of hydro power in the Kabalebo River and surrounding area, and that these companies have made considerable investments to define the nature and the feasibility of mining these bauxite deposits;

Considering also that BHP/Billiton and Suralco NV are presently negotiating with the State of Suriname to define and secure rights and permits to mine and otherwise exploit the Bakhuijs area bauxite deposits, including for the construction of associated infrastructure, and Kabalebo hydro power potential, and that an Environmental and Social Impact Assessment in relation to the bauxite mining has commenced;

Further considering that the Bakhuijs area is part of the traditional territory of the indigenous peoples of West Suriname on which they depend for their cultural, spiritual and physical sustenance and well-being, and that mining and associated infrastructure plans will affect them as well as indigenous peoples in the Wayambo region;

Acknowledging that the rights of indigenous peoples to own and control their traditional lands, territories and resources and to participate in and consent to decisions that affect them are not explicitly recognized in the laws of Suriname, and that this absence of effective legal protections for the rights of indigenous peoples exposes BHP/Billiton and Suralco NV to reputational, commercial and legal risk, and undermines the effective exercise and enjoyment of the rights of indigenous peoples;

Observing that, while indigenous peoples' rights are not explicitly recognized in the laws of Suriname, these rights are nonetheless guaranteed and protected by international human rights law, which is binding on the State of Suriname, and applicable in relation to the acts and omissions of the State and those authorized by the State by virtue of international law and via Article 103, 105 and 106 of the 1987 Constitution of Suriname;

Observing also, consistent with Inter-American human rights law, that the United Nations Declaration on the Rights of Indigenous Peoples, adopted by the United Nations Human Rights Council on 23 June 2006 provides, in Article 26, that

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

and, in Article 30, that;

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

2.States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of their mineral, water or other resources.

3.States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

Acknowledging also that BHP/Billiton’s Sustainable Development Policy, states that BHP/ Billiton will “ensure [that] we understand, promote and uphold fundamental human rights within our sphere of influence” and respect “the traditional rights of Indigenous peoples and valu[e] cultural heritage;”

Further acknowledging the BHP/Billiton and Suralco NV have publicly stated their desire and intention to ensure that the development of mining in West Suriname represents a ‘win-win’ situation for all involved, and that the indigenous peoples of West Suriname have affirmed that this cannot be achieved without full respect for their rights and interests and the development and maintenance of relationships based on mutual respect;

In order to achieve a mutually respectful and Beneficial relationship and to reduce the risks to their rights and interests, the indigenous peoples of West Suriname, as represented by their traditional authorities who exercise their authority pursuant to the consensus of their respective communities in accordance with their customary laws (hereinafter ‘the indigenous peoples’), and BHP/Billiton and Suralco NV, as represented by their undersigned duly authorized officers (hereinafter ‘the companies’) –

HEREBY AGREE AND COMMIT TO THE FOLLOWING:

Article 1 – Indigenous Peoples’ Traditional and Human Rights

1. The terms ‘traditional rights’ and ‘fundamental human rights’ shall be understood in accordance with international human rights law, in particular as defined by the Inter-American Commission and Court of Human Rights and the United Nations Committee on the Elimination of Racial Discrimination, and by the indigenous peoples’ customary laws.
2. As stated in BHP/Billiton’s Sustainable Development Policy, the traditional rights of indigenous peoples and their fundamental human rights shall be respected. Adequate and effective safeguards and guarantees protecting these traditional and human rights shall be included in all instruments, plans, and operations pertaining to mining in the Bakhuis area, including those pertaining to any associated infrastructure and in relation to development of hydro power potential in the Kabelebo area.
3. The companies shall promote the traditional and human rights of indigenous peoples in all negotiations with the State of Suriname in connection with bauxite mining in the Bakhuis region and any associated infrastructure, and hydro power generation, and shall strive to ensure that adequate and effective protections for these rights are included in all agreements with the State of Suriname and in any permits issued by the State.

Article 2 – Adherence to Indigenous Peoples’ Regulations

1. Pursuant to and in the exercise of their traditional rights, the indigenous peoples have adopted a policy and regulations that broadly define the manner in which they shall engage in consultation processes and express their consent in relation to activities, plans and proposals that may affect them. The policy and regulations are set forth in the Annex to this agreement and are hereby incorporated by reference and shall be deemed an integral part of this agreement.

2. The companies confirm that they will adhere to and comply with the indigenous peoples' policy and regulations as the basis for their engagement with the indigenous peoples.
3. The indigenous peoples shall not amend or otherwise alter the policy and regulations without providing a minimum of 90 days notice to the companies.
4. In the case of a significant amendment to or revision of the policy and regulations that may materially affect the interests the companies, the indigenous peoples shall consult the companies with a view to obtaining their agreement to the proposed amendment or revision at least 90 days prior to enacting the amendment or revision.

Article 3 – Dispute Resolution

1. In the event of a dispute concerning any aspect of this agreement, the indigenous peoples and the companies shall establish a committee composed of three (3) persons representing the companies and three (3) persons representing the indigenous peoples. This committee shall have the authority to act on behalf of the parties and shall attempt to resolve the dispute through dialogue and negotiation.
2. This committee shall adopt mutually acceptable and written terms of reference and procedures to govern its attempts to resolve the dispute.
3. Unless the parties decide otherwise, the committee shall examine and attempt to resolve each dispute under consideration within a 120 day period.
4. The parties shall not pursue legal or other remedies without first seeking to resolve the dispute in accordance with sub-paragraphs 1-3 above.

Signed on this the ____ day of _____, 2006;

On behalf of the Indigenous Peoples:

On Behalf of the Companies: ADD NAMES

Appendix 6: Policy and Regulations on Consultation and Consent Processes Adopted by the Indigenous Peoples of West Suriname (2006 Draft)

1. **Principle and Rationale:** In accordance with international law and human rights instruments ratified and binding on the State of Suriname, the indigenous peoples and communities of Western Suriname are the legitimate owners of the lands, resources, waters and territories traditionally owned or otherwise occupied and used by us in accordance with our customary laws. This is confirmed by, among others, the Inter-American Court of Human Rights in the *Case of Moiwana Village v. Suriname*, which stated that:

this Court's holding with regard to indigenous communities and their communal rights to property under Article 21 of the Convention must also apply to the tribal Moiwana community members: their traditional occupancy of Moiwana Village and its surrounding lands – which has been recognized and respected by neighboring N'djuka clans and indigenous communities over the years (supra paragraph 86(4)) – should suffice to obtain State recognition of their ownership.²

Despite this, Suriname's policy and laws have denied the indigenous peoples our right to control and manage our traditionally owned territory and resources. As a result, we have considerable concerns regarding the nature and extent of development within our territory and the effect such development may have on our cultural integrity and the exercise and enjoyment of our indigenous and human rights. As a first step to prevent further damage and expropriation, this policy and regulations, adopted by us in XXXX 2006, is intended to ensure that consultation processes and other activities that may affect us are understood and undertaken in a way that is respectful of our inherent rights, is culturally appropriate, and respects our obligations to our past, present and future generations.

2. **Permission to Consult:** This policy and regulations cover only permission to consult with us and the general principles pertaining to consultation, which is a prerequisite to obtaining our free, prior and informed consent regarding activities affecting our traditionally owned lands, waters and territories. In order to be fully informed of the impacts of a project we require a process of culturally appropriate engagement and information sharing, a full environmental and social impact assessment and a formal role in the impact assessment process and any measures adopted to implement the results of the assessment through out the life of the project.
3. **The FPIC Process:** We can only consider giving our free, prior and informed consent to large-scale projects following an environmental and social impact assessment and negotiation of a legal Impact Benefit Agreement (IBA) and/or other necessary agreements.
4. **Application to Consult:** All persons or groups wishing to work, research or start a project in Western Suriname must complete an "Application for permission to consult" which must be approved by the Indigenous Peoples' representatives in advance. The Association of Indigenous Village Leaders in Suriname (VIDS) may be asked if there is any doubt whether a specific project needs to complete this application form. In general, the "Application for Permission to Consult" is directed primarily at private sector projects that may have negative impacts, such as mining, logging, artisanal mining, road building or significant upgrading, bridge building, ports, factories and significant infrastructure.
5. **Application Form:** The form to apply for permission to consult can be obtained from the three community Captains or from VIDS, Paramaribo. The application form should be completed and three copies, one for each of the three Captains, in Dutch (copies in English appreciated). The three applications should be delivered to the three Captains or to their representatives or to the Council, in person, or to VIDS. The completed application forms should be accompanied by a processing fee commensurate with the size of the proposed work. (total project costs, number of expected employees – see processing fee attached).

6. **International Standards:** The applicant is required to confirm and provide supporting information demonstrating that the proposed project will fully comply with specified international standards and best practice, including international human rights norms. Information pertaining to an environmental and social assessment must confirm that the ESA will fully meet international standards, such as FPIC, IBA, and the Akwe:Kon Guidelines (which are the product of discussions by signatories to the Convention on Biological Diversity, ratified by Suriname), and that the ESA will be undertaken jointly with the Indigenous Peoples..
7. **Legal Entity:** The applicant must show they are a legal entity, registered by the government of Suriname.
8. **Logistics:** The communities offer to find suitable buildings, chairs, tables, refreshments, and lunch etc for each presentation upon request from the proponent. The communities will bill the proponent for provision of such services. Portable generators are not available in the communities. The Captains or their representatives are responsible for inviting representative numbers of each community to attend the presentations. Reasonable compensation for opportunity costs related to attending the meeting is expected (Annex x). A visit by representatives of the communities to the site of the proposed project and/or a similar existing project is required.
9. **Decisions:** After the presentations, discussions by the communities and site visits, *if the communities agree that consultation may begin*, that decision will be communicated promptly. *If there is uncertainty about the proposed project*, the communities will request clarification. In cases of uncertainty, decisions must be expected to take longer.
10. **Elements of the Consultation Process:** If an application for permission to consult has been accepted, the following are fundamental elements of an acceptable and effective consultation process – additional and more specific elements may be required depending on the nature of each application:
 - a. The proactive dissemination of all relevant information at least four (4) weeks prior to scheduled meetings. Copies shall also be submitted to the VIDS. The information must be in non-technical, simple language, and be sufficient to provide the basis for meaningful discussion. Audio-visual materials are often useful aids in explaining projects and other matters.
 - b. Meetings, which will always be presided over by the Captain of the village, unless otherwise stated, should be conducted in Sranan Tongo and shall be of sufficient duration to ensure that those in attendance can understand the subject matter and the underlying rationale for the proposed activity. If necessary, periodic evaluations should be held throughout the meeting to verify that people understand the material. The use of graphics, maps, posters, and video is recommended rather than sole reliance with the written word. The duration of the presentations shall be commensurate with the complexity of the proposed project. An average presentation would be about half a day (3 hours). The presentations shall be in Sranan Tongo.
 - c. The proposed agenda for any meetings must be submitted to the communities no later than four (4) weeks prior to the scheduled date and the communities shall have the rights to add to the agenda or otherwise propose modifications. Such proposals shall be accepted unless they are manifestly unfounded or irrelevant.
 - d. Unrealistic deadlines from the proponent will automatically be rejected. The communities must not be required to make a decision at the end of a meeting, unless they so decide. Cultural characteristics and differences must be accounted for. Indigenous decision-making processes are usually diffused and consensus based. Extended discussions at the community, extended family and household levels often take place before consensus can be reached and this process must be respected.
 - e. There must be adequate feed back to the communities subsequent to consultation so that they may see to what extent their views have been accounted for and to ensure that their views have been understood correctly. It is not unusual for comments to be misconstrued and faulty assumptions to be based on those misunderstandings. This is often the cause for conflict at a later date.

Endnotes

¹ The United Nations' working definition of *Indigenous Peoples* is as follows:

Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing on those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal system.

This historical continuity may consist of the continuation, for an extended period reaching into the present of one or more of the following factors:

- f. Occupation of ancestral lands, or at least of part of them;
- g. Common ancestry with the original occupants of these lands;
- h. Culture in general, or in specific manifestations (such as religion, living under a tribal system, membership of an indigenous community, dress, means of livelihood, lifestyle, etc.);
- i. Language (whether used as the only language, as mother-tongue, as the habitual means of communication at home or in the family, or as the main, preferred, habitual, general or normal language);
- j. Residence on certain parts of the country, or in certain regions of the world;
- k. Other relevant factors.

On an individual basis, an indigenous person is one who belongs to these indigenous populations through self-identification as indigenous (group consciousness) and is recognized and accepted by these populations as one of its members (acceptance by the group).

This preserves for these communities the sovereign right and power to decide who belongs to them, without external interference (UN Doc. E/CN.4/Sub.2/1986/7 and Add. 1-4., paragraphs 379-382).

According to Kambel and MacKay (1999:16-17), the following definition characterizes *Maroons*:

Maroons are the descendants of escaped African slaves who fought for and won their freedom from the Dutch colonial administration in the 18th century. Their freedom from slavery and rights to territorial and political autonomy were recognized by treaties concluded with the Dutch in the 18th and the 19th centuries and by two centuries of colonial administrative practice. They succeeded in establishing viable communities along the major rivers of the rainforest interior and have maintained a distinct culture based primarily upon an amalgamation of African and Amerindian traditions. Maroons consider themselves, and are perceived to be, culturally distinct from other sectors of Surinamese society and regulate themselves according to their own laws and customs. Consequently, they qualify as tribal peoples according to international definitional criteria and enjoy the same rights as indigenous peoples under international law.

² The VIDS is an association of Indigenous village leaders from every Indigenous village in Suriname. It was established in 1992 in the aftermath of the internal armed conflict in Suriname. Its goals and objectives are to promote and defend the rights of Indigenous Peoples, to speak for Indigenous Peoples on the national and international levels and to support sustainable development in Suriname. The VIDS has taken a leading role in promoting Indigenous rights, sustainable development and environmental protection in Suriname. It believes that all three are interrelated and all must be supported and monitored. In 2001, the VIDS established Stichting Bureau VIDS as its full-time secretariat.

³ The North-South Institute is a not-for-profit, non-partisan, independent research institute based in Ottawa, Canada, whose motto is "Research for a Fairer World". It was founded in 1976. For more information, see www.nsi-ins.ca

- ⁴ This was an informal meeting between Bureau VIDS staff and BHP Billiton company representatives (VIDS 2004).
- ⁵ These requests were made at VIDS meetings with affected communities in November 2002, early February, April, October and November 2003.
- ⁶ The resulting map is preliminary. Key areas – particularly those in the mining concession – were left out due to lack of funding to cover transportation costs (Capt. Carlo Lewis, pers. Comm., 2006). More work needs to be undertaken to document traditional land use and occupation, and to complete this map.
- ⁷ The multi-country project “Indigenous Perspectives to Consultation and Decision-Making about Mining and other Natural Resources Activities on or near Ancestral Lands” involves components in Guyana, Colombia and Canada, as well as an Indigenous-to-Indigenous training component, and is described at www.nsi-ins.ca.
- ⁸ It was comprised of: Loreen Jubitana – Project Coordinator, VIDS; Ricardo Mac-Intosh – Village Chief, Washabo; Miep Pelenapin—Village Chief, Kawemhaken and Local Coordinator, Lawa; Ronald Karwofodi – Village Chief Bernhard-dorp, member of VIDS Board and Member of Parliament; Lygia Banca – Indigenous Volunteer (Telecommunications); Eric Karwofodi – Indigenous Volunteer (Ministry of Planning and Development; journalism).
- ⁹ For more information, see description of decision-making in description of West Suriname communities in Section 4, below.
- ¹⁰ Adjoemakondre originally refused relocation, and then eventually agreed to be relocated as it saw no other option. Following negotiations between the government and Alcoa, however, the company decided that relocation of the community was a government responsibility. No action has been taken by the government, and Adjoemakondre was never relocated despite numerous requests. There are currently three active mine sites surrounding the community, some as close as 200 metres away (VIDS, SSE, ASA and FPP 2002: 22).
- ¹¹ For further information on these officials and their functions, see discussion on decision-making in West Suriname communities below in Section 4.
- ¹² PRS Group (2004:16); Buursink (2005: 4).
- ¹³ Cambior has since been bought by Iamgold.
- ¹⁴ Bernhard Fritz-Krockow et al. (2005: 38-39). According to VIDS (2004), “very few Indigenous people participate in mining in Suriname. Those that do are primarily from Kawemhakan, Apetina and Tepoe (Wayana and Trio communities in the south).”
- ¹⁵ Buursink (2005: 4).
- ¹⁶ Summary of the Proceedings of a Conference on Mercury and Small-Scale Mining held in Paramaribo, March 30, 2000. Available at: <http://www.wfguianas.org/gfepc05.htm>
- ¹⁷ IMF Public Information Notice, No. 06/39 (April 10, 2006) Available at: www.imf.org/external/np/sec/pn/2006/pn0639.htm Following a Feb. 24, 2006 consultation with Suriname by the Executive Board of the IMF. The report projects that: “The near-term outlook remains favourable, owing to the strength of global commodity prices and the impact of recent and ongoing investment in the extractive industries. The economy is projected to grow by almost 5 percent, and inflation would ease at about 8 percent. The current account deficit is projected to decline from around 16 percent of GDP in 2005 to 12 percent, reflecting the effects of continued growth in alumina production and buoyant gold prices on exports, and the impact of completion of the major investment projects in the mining industry on capital goods imports.”
- ¹⁸ Article 2(2) of the Mining Decree (1986) states: “All minerals within the territory of the State of Suriname are property of the State.” Article 41 of the 1987 Constitution states: “Natural riches and resources are property of the nation and shall be used to promote economic, social and cultural development. The nation

has the inalienable right to take complete possession of its natural resources in order to utilize them to the benefit of the economic, social and cultural development of Suriname.”

¹⁹ Kambel and MacKay (1999: 101-102).

²⁰ Ibid., page 102.

²¹ Ibid.

²² See also Kambel (2006).

²³ Kambel and MacKay (1999: 102).

²⁴ See VIDS (forthcoming) for further details.

²⁵ Buursink (2005: 9).

²⁶ Ibid., page 61.

²⁷ The Association of Indigenous Village Leaders in Suriname, the Association of Saramaka Authorities, Stichting Sanomaro Esa and the Forest Peoples Programme (2004).

²⁸ Draft Revised Mining Act, explanatory note to article 76.

²⁹ The Association of Indigenous Village Leaders in Suriname, the Association of Saramaka Authorities, Stichting Sanomaro Esa and the Forest Peoples Programme (2004: 4 at A.11).

³⁰ Ibid., page 4 at B12.

³¹ Ibid, pages 5-7 at C.

³² Ibid, pages 8-10 at D.

³³ Cited in VIDS (2004).

³⁴ Buursink (2005: 4) notes that “Until now the [National Council for the Environment] has not been functioning very well due to the incoherent environmental institutional structure, mainly after the creation of ATM.”.

³⁵ Buursink (2005: 11).

³⁶ Ibid., page 70.

³⁷ These were published in March 2005 and include 5 volumes: Volume 1: Generic; Volume II: Mining; Volume III: Forestry; Volume IV: Social Impact Assessment; Volume 5: Power Generation and Transmission Projects.

³⁸ NIMOS Volume II, Mining (2005: 26).

³⁹ Once an Environmental Impact Statement has been submitted to NIMOS, and NIMOS publishes a note regarding this in newspapers, the public has 30 days from this point to submit written comments. Should there be high public interest as shown by these comments, NIMOS may hold a public hearing. If a public hearing is held, NIMOS then takes 30 days following this hearing to review the EIS and submit its comments.

⁴⁰ This appeal must be made within 30 days of NIMOS having issued its decision, and could result in the chair of the National Council on the Environment appointing an expert panel to review the EA procedures/process results. The Minister of the Environment makes the final decision based on advice from the chair of NCE, who considers the recommendation of the expert panel (NIMOS 2005: Volume I, Generic, Annex 5).

⁴¹ For example, while IAEA guidelines are mentioned and the Berger Inquiry, the SIA guidelines are very weak on consultation. They outline that a minimum of two consultation points are necessary – to present

alternatives and results of preliminary assessment, but there is no mention of the involvement of local peoples in the SIA. In addition, NIMOS assesses the adequacy of the SIA and whether adequate consultation has taken place, without verifying whether the communities consulted consider the consultation adequate.

- ⁴² Article 8(j) requires that state-parties: "Subject to [their] national legislation, respect, preserve and maintain knowledge, innovations and practices of Indigenous and local communities...relevant for the conservation and sustainable use of biological diversity"; Article 10 (c) requires state-parties: "Protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements".
- ⁴³ Secretariat of the Convention on Biological Diversity (2004).
- ⁴⁴ See www.dams.org
- ⁴⁵ See www.eireview.org
- ⁴⁶ Kambel and MacKay (1999: 117).
- ⁴⁷ While Kambel and MacKay (1999: 16-17) mention 4 distinct Indigenous Peoples, according to VIDS (forthcoming), if examined through the lens of linguistics, it is more correct to say there are 8 Indigenous Peoples in Suriname, as there are 8 distinct language groups spoken by the Lokono and Carib people in this region.
- ⁴⁸ Kambel (2006: 7). Kambel notes the Census figures are problematic in that they do not disaggregate urban/rural figures, and therefore the total number of people living in tribal communities is unknown.
- ⁴⁹ Kambel and MacKay (1999: 96).
- ⁵⁰ Kambel (2006: 10).
- ⁵¹ For a description of the causes of the Interior War (also known as the Civil War), see Kambel and MacKay (1999: 120-121).
- ⁵² Kambel and Mackay (1999: 129 and 131).
- ⁵³ Buursink 2005:9).
- ⁵⁴ Kambel (2006: 10).
- ⁵⁵ International human rights instruments ratified by Suriname include: The International Covenant on Civil and Political Rights (1966); the International Covenant on Economic, Social and Cultural Rights (1966); The International Convention on the Elimination of all Forms of Discrimination (1965); the Convention on the Rights of the Child (1989); the American Declaration on the Rights and Duties of Man (1948); the American Convention on Human Rights (1969).
- ⁵⁶ Kambel and MacKay (1999: 152).
- ⁵⁷ *Ibid.*, page 173.
- ⁵⁸ Judgement of the Inter-American Court of Human Rights in the Case of Moiwana Village v. Suriname Issued June 15, 2005. Para 209.
- ⁵⁹ *Ibid.*, para 211.
- ⁶⁰ Kambel (2006: 11).
- ⁶¹ De Ware Tijd, "Government recognizes the rights of the Saramaka peoples," May 5, 2006.
- ⁶² (1) December 15, 2002: Persistent and Pervasive Racial Discrimination Against indigenous and Tribal Peoples in the Republic of Suriname. Formal Request to Initiate an Urgent procedure to Avoid Immediate and Irreparable Harm; (2) May 21, 2003: Persistent and Pervasive Racial Discrimination Against Indigenous

and Tribal Peoples in the Republic of Suriname; (3) January 26, 2004: Comments on Suriname's State Party Report (CERD/C/446/Add.1); (4) January 6, 2005: Request for an Initiation of an Urgent Action and a Follow-Up Procedure in Relation to the imminent Adoption of Racially Discriminatory Legislation by the Republic of Suriname; (5) July 8, 2005: Request for Follow-up and Urgent Action Concerning the Situation of Indigenous and Tribal Peoples in Suriname; (6) June 2006: Request for additional follow-up and urgent action concerning Indigenous and Tribal peoples in Suriname

⁶³ CERD/C/DEC/SUR/3. CERD 69th session, July 31- August 18, 2006. Prevention of Racial Discrimination, Including Early Warning Measures and Urgent Action Procedures. **Decision 1 (69)** Suriname. para 1.

⁶⁴ Ibid., para 3.

⁶⁵ See Human Rights Committee, Concluding observations: Suriname, CCPR/CO/80/SUR, May 4, 2004, para 21.

⁶⁶ Buursink (2005: 61).

⁶⁷ Jacqueline Jubitana, intervention through panel discussion in May 2005 VIDS/NSI workshop, Paramaribo.

⁶⁸ Kambel (2006: 13).

⁶⁹ Ibid.

⁷⁰ Interview, Dhr. Strijk, February 2, 2006, Paramaribo.

⁷¹ Case of *Moiwana Village v. Suriname*, Judgement of June 15, 2005. Cited in The Association of Indigenous Leaders in Suriname, Stichting Sanomaro Esa, Association of Saramaka Authorities and Forest Peoples Programme (June 2006).

⁷² Ibid.

⁷³ Interview, J. Abdul, Director Energy, Mining and Water Supply, Ministry of Natural Resources, September 13, 2005, Paramaribo.

⁷⁴ This section is based on VIDS (forthcoming).

⁷⁵ Interview with Mr. Jap-a-Joe, September 13, 2005, Paramaribo.

⁷⁶ Dagblad Suriname, December 3, 2003. See also De Ware Tijd, January 21, 2004.

⁷⁷ Interview with J.Abdul, September 13, 2005, Paramaribo.

⁷⁸ Venetian, R.R. November 23, 2005. Suriname Regeringsverklaring 2005-2009, speech at the National Assembly.

⁷⁹ See www.iirsa.org

⁸⁰ For a more detailed description of these communities, see VIDS (forthcoming), and for archival research on these communities see Caroline de Jong (forthcoming).

⁸¹ See Caroline de Jong (forthcoming).

⁸² According to Caroline de Jong (forthcoming):

Written sources (like travel journals of early explorers, reports of expeditions, diaries of missionaries, colonial letters and other documents and maps dating from the 16th- 20th centuries, and archaeological data from before that time, show that both sides of the Corantijn River, its branches and creeks, and surrounding forests, savannas and other lands, have been used and occupied by Indigenous groups. The three most mentioned Indigenous groups are the "Caraibs", "Arowaks" and "Warraus". Several of these sources mention names of places or villages. Some of these place-names still exist. Apoera was first mentioned as "Appoera" in a 1784 map by Heneman (1841),

then by Schomburgk (1843) and Brown (1871) as [Apuru]. Washabo was mentioned for the first time as [Wasiappo] by Schomburgk in 1836 and again in 1843. Epira presumably is the same place as [Eppera] from the report of the third sea voyage by Walter Raleigh. C.A. van Sijpesteijn also indicated indigenous villages at the [Wasjappakreek] and the [Appoerakreek] on his map in 1850, just like J.F.A. Cateau van Rosevelt and J.F.A. van Lansberge, who drew villages close to the mouths of the [Wassiabokreek] and the [Apoerakreek]. Other villages, for example [Pärurú] (Schomburgk 1836), are abandoned but are still known by the current communities and are explicitly considered to be part of the ancestral territory. On several maps, villages are indicated (without a name) along creeks that are still of great importance to the present indigenous communities and are still frequently used by them, like Kaboeriekreek (mentioned in 1784 by Heneman as [Kapoerakreek] and by Schomburgk in 1843 as [Caburikreek]). The oldest villages identified by archeologists, Kaurikreek (charcoal samples taken here date back to 2200 and 1750 BC) and Wonotobo (the establishment of this village, the present location of the Trio village Wanapan, is dated ± 2000 years ago), are places that are inhabited or used even now.

⁸³ VIDS (forthcoming).

⁸⁴ There is population information for the “Kabalebo Resort” area, which includes the area between: Kaburikreek (Northwest), Lucie rivier (Southwest), Nickerie rivier/Arawarakreek (Northeast) and West rivier (Southeast). The area comprises the villages of Apoera, Section, Washabo, Zandlanding, Wanapan and likely also the Trio community of Lucie. The latest census for this area shows a total of 1843 inhabitants, and includes all people living there, rather than targeting specifically the Indigenous inhabitants of the area (VIDS [forthcoming]).

⁸⁵ While we did not do village mapping for Apoera Plan, it is estimated that up to 85% of Plan is comprised of Indigenous people.

⁸⁶ Villagers supply around 5 wildlife traders with species.

⁸⁷ Carla Madsian, pers. comm., 2006.

⁸⁸ Who in turn consulted the Chiefs of Washabo and Section.

⁸⁹ See Goodland (forthcoming).

⁹⁰ Information for this section is drawn largely from a May 2005 presentation by Michael Glaser, Exploration Manager for BHP, and a June 2006 presentation by Eddie Scholz, General Manager, BHP Billiton Suriname.

⁹¹ For more information on the substance of the MoU, see VIDS (forthcoming).

⁹² Michael Glaser, February 2005, pers. comm..

⁹³ We did not do mapping in Apoera Plan, which has a “mixed” population of Amerindians and ‘outsiders’. Some people estimate that approximately 85% of the population in Apoera Plan is Amerindian.

⁹⁴ Andy Whitcomb, Manager Environment, BHP, September 1, 2005, Paramaribo.

⁹⁵ “Beneficiation” is a process to remove impurities from ore. It includes screening, washing and stockpiling ore before it is transported for refining (www.comalco.com).

⁹⁶ November 4, 2006 letter from BHP Billiton and Suralco to the captains of West Suriname.

⁹⁷ Andy Whitcomb, Manager Environment, BHP, September 1, 2005, noted that initial prospecting was taking place for nickel. This was confirmed at a meeting with Ms. Vaseur, Director Bauxite Institute, and Ms. Gemerts, February 9, 2006.

⁹⁸ Company representatives have speculated that the project will likely be self-financed, and this is also reflected in SRK’s December 2005 Plan of Study (p. 5).

- ⁹⁹ It should be noted that for its dam at Afobaka, Suralco buses all (approximately 28) employees from Paramaribo daily, which is over an hour away.
- ¹⁰⁰ There are also questions regarding whether the advanced exploration might have violated NIMOS' criteria for mining exploration permits (as outlined in NIMOS' Environmental Assessment Guidelines Volume II: Mining, Appendix A), and whether the MOU between the companies and government was violated in practice if, as miners' alleged, boring took place every 25m instead of every 50 m.
- ¹⁰¹ NIMOS Volume I: Generic (2005:7, emphasis added).
- ¹⁰² SRK (2005: 8).
- ¹⁰³ Of the 15 studies, 1 is dedicated an archeological study, and 1 focuses on resource economics. At the community presentations in February 2006, SRK emphasized that all studies would highlight relevant social impacts as appropriate.
- ¹⁰⁴ Robert Goodland, pers. comm., February 2006.
- ¹⁰⁵ Ibid. Annex 6.3.
- ¹⁰⁶ Robert Goodland (2006, footnote 4).
- ¹⁰⁷ See for example, Akwe:kon guidelines, voluntary guidelines negotiated by parties to the Convention on Biological Diversity, which Suriname has ratified. One example of a jointly managed ESIA process is the Diavik diamond mine in Canada.
- ¹⁰⁸ Some concessions to including local experts were made retroactively following repeated requests by West Surinamese leadership and VIDS, but too far into the process for it to be meaningful, with problematic criteria and selection process, as discussed below.
- ¹⁰⁹ NIMOS Volume II: Mining (2005: 14).
- ¹¹⁰ SRK, Background Information Document (2005:3).
- ¹¹¹ SRK, Environmental and Social Impact Assessment of the proposed Bakhuis Bauxite Mine: Revised Consultation Plan, December (2005: 5); and SRK, Revised Plan of Study, December (2005: 6). The World Bank's OP 4.10 was added to the Plan of Study following comments by VIDS and their advisors. However, as Goodland (2006: 6, and footnote 4) points out, it is unclear why some World Bank policies are referred to, while other important ones are left out, for example: Natural Habitats (biodiversity) Policy, Cultural Property Policy, Downstream Riparian Policy, Disputed Areas Policy and others.
- ¹¹² SRK, Revised Plan of Study, December (2005: 6).
- ¹¹³ SRK, Revised Plan of Study, December (2005: 4)
- ¹¹⁴ Moreover, there have been discrepancies in how the ESIA project team uses its terms, with some referring to the ESIA complying with World Bank principles (there aren't any), and more recently, World Bank guidelines (for example, in SRK's June 26, 2006 presentation in Paramaribo; SRK's December 2005 Revised Plan of Study, see page 4, footnote 4.). It has been some time since we have heard the word "standards" being used.
- ¹¹⁵ ICMM has been holding discussions with Indigenous Peoples internationally on FPIC reflecting these very views. See IUCN and ICMM (2005).
- ¹¹⁶ Dated September 21, 2006.
- ¹¹⁷ Recognition statement #6, ICMM (2006).
- ¹¹⁸ A copy of which they handed over to company representatives for comment in October, 2006.

119 While these meetings were a good first step in sharing information directly at the community level, feedback from community members indicated these were far too technical. The company-provided translation was spotty (consultants spoke in English, followed by translation into Sranan Tongo), not all interventions were translated (for example, the Chief of Apoera's opening at his village meeting, which showed disrespect; the companies refused to provide translation for VIDS' international advisors, and VIDS stepped in to do this), and the meetings were consequently very long. They were very well attended, however, showing the level of interest in this project and its potential impacts, and the need for the companies and government to share information at the community level.

120 Please note that since the completion of the research for this report, a documentation centre has opened.

121 These SRK consultants are Tim Hart, Partner, Principal Social and Development Consultant, and Sue Reuther, Logistical Support and Economic Assessment.

122 The information in this section draws heavily from a presentation given by Warren Pedersen, Suralco's General Manager Operations, at a May 2005 workshop, and updates provided at a June 2006 workshop, both workshops held in Paramaribo. It also draws from CNEC's January 2005 Environmental Impact Statement of the Kabalebo Complex, Phase I – Consolidation of Secondary Data.

123 Presentation at May 2005 workshop in Paramaribo.

124 Goodland (2006: 20).

125 Warren Pedersen's presentation in May 2005 noted that the output would be 600MW, with a total flooded area of 1600 km²; however the 2005 CNEC study conducted describes a project with a 650MW output, and a total flooded area of 2,460 km².

126 CNEC (2005) estimates the dam will cost some US\$680 million.

127 CNEC (2005: Presentation: 1).

128 Pedersen in CNEC, 2005.

129 Pedersen (May 2005) estimates the output from the Jai Kreek diversion to be 10MW, with no flooding taking place. Diverting the Tapanahony would be in the order of 175MW, with no flooding or raising of the water in the Afobaka reservoir.

130 Information from documents and updates was shared at the community level as soon as possible after the project team received them, in keeping with the objectives of the project. In February 2005, the project team was given a copy of the SENES October 2003 report, "Environmental Assessment Review Report Kabalebo Hydropower Project," prepared for NIMOS. This report synthesizes available environmental studies and impacts on the environment, focusing mostly on the 1981 studies that propose a 4-Phase project with an output of 800MW and total flooding area of 3300 km². Plain language posters were produced detailing the 1981 proposals, and the main impacts outlined in the SENES report, and were discussed at workshops in Washabo and also in Wanapan. Following updates from Suralco in May 2005, and a site visit to Afobaka, a workshop was held at the community level to share information and for the captains and their assistants to explain to community members what they had learned and seen. A video of the site visit was also shown to community members. Short handouts were also produced and brought house-to-house by a team of community members. The CNEC 2005 report has yet to be shared at the community level.

131 Discussion with Captain from Lucie, September 9, 2005.

132 SENES (2003).

133 CNEC's records of this meeting highlight that ACT's main concern about the impact of the project was that the Trio people might migrate from Kwamalasamutu to Nieuwe Nickerie.

134 Discussions in Amotopo, September 9, 2005.

¹³⁵ SENES (2003: ES-2; 2-18). Nonetheless, it should be acknowledged that the SENES report did identify as a major weakness in the 1981 studies that “There is relatively little treatment on the impact on the Amerindian communities. Beyond a general reference to the population and location – some hundreds (?) along the Lower Corantijn – and the fact that their subsistence fishery will be severely impacted” (SENES 2003: 2-13).

¹³⁶ Intervention at May 2005 VIDS workshop in Paramaribo.

¹³⁷ SRK’s October 2006 Mine Project ESA was not included in this review.

¹³⁸ Goodland (2006: 4).

¹³⁹ See, for example, the description in Sahdew and Obouter (2003).

¹⁴⁰ Goodland (2006: 9-10).

¹⁴¹ Goodland (2006: 14).

¹⁴² CNEC (2005).

¹⁴³ SENES (2003) cited in Goodland (2006): 22.

¹⁴⁴ Presentation May 2005, Paramaribo.

¹⁴⁵ Baal (2005: 7).

¹⁴⁶ <http://www.iucn.org/themes/wcpa/theme/categories/categories.htm>

¹⁴⁷ *De Ware Tijd*, February 10, 2004, “WWF steunt uitbreiding beschermbe gebieden in Suriname.”

¹⁴⁸ CNEC (2005: Appendix, “Stakeholder Meetings”). In an August 16, 2004 meeting, Mr. Jerry Ritfield, Public Relations of Stinasu, suggested that Alcoa/Suralco could help in establishing this nature reserve.

¹⁴⁹ Caroline de Jong. Forthcoming.

¹⁵⁰ Baal (2005: 9) notes that the Nature Preservation Resolution of 1986:

includes a provision for the so called ‘traditional’ rights and interests of tribal communities with regard to the established protected areas...such that people living in tribal communities would be able to maintain their ‘traditional’ rights and interests inside the nature reserves which were established, provided that: no harm is done to the national objectives of the proposed nature reserves; the motives for these ‘traditional’ rights and interests still exist; and; the ‘traditional’ rights and interests are limited to the time of all consolidation of all people into a unified citizenship of Suriname. The ‘traditional’ rights and interests can be described as follows: free choice for the settlement of a village (this means permission to build camps); free choice of parcel(s) for the establishment of shifting cultivation grounds; permission to hunt; permission to fish; and possibility to maintain a cutting permit...this freedom of action is limited by their own traditional and cultural norms and the general laws and the specific legal instruments on hunting, fishing, and forest utilization.

A critical issue in this description is that the scope and meaning of ‘traditional rights’ has been unilaterally defined. Baal’s description clearly does not include Indigenous or Maroon conceptions or definitions of what they consider are their traditional rights, and further, nowhere in the laws, resolutions or explanatory notes is there a definition of traditional rights (Kambel, pers. comm., 2006).

¹⁵¹ Association of Indigenous Village Leaders in Suriname, Stichting Sanormaro Esa, the Association of Saramaka Authorities and the Forest Peoples Programme (December 2002: 28-29).

¹⁵² *Ibid.*, page 29.

¹⁵³ Drakenstein, pers.comm., 2005.

¹⁵⁴ Drakenstein, pers. comm., 2005.

¹⁵⁵ Goodland (2006: 18), describes a visit to the area where he met government officials armed with sub-machine guns and body armour.

¹⁵⁶ See the joint IUCN/WWF "Principles and Guidelines on indigenous and Traditional Peoples and Protected Areas" (1999) and "Indigenous Peoples and Conservation: WWF Statement of Principles", available at <http://www.worldwildlife.org/indigenous/policies/index.cfm>.

¹⁵⁷ IIRSA Guiana Shield Hub Groups power point presentations in 2002, Manaus, Brazil. <http://www.iirsa.org>.

¹⁵⁸ Cited in Dagblad Suriname, "Econoom wil Suriname ontsluiten," October 16, 2006, Internet Editie. http://www.dbsuriname.com/archief/nat/2006/okt06/16-10-06/Nat_Econoom%20wil%20...

¹⁵⁹ For example, the experience of communities in Peru who negotiated with BHP for recognition of consent in the case of the Tintaya mine; and communities in Canada affected by BHP's Ekati diamond mine, where consent is part and parcel of any research project that includes Indigenous community participation (although approval of the actual mine itself did not include appropriate consent procedures). See Mego (2005) and Weitzner (2006) for further elaboration on these cases.

¹⁶⁰ Forest Peoples Programme and Tebtebba (2006) have highlighted this issue in a report to the UN's special representative of the Secretary-General on human rights and transnational corporations. Referring to BHP and Alcoa's operations in West Suriname, Forest Peoples Programme and Tebtebba (2006:19-20) argue that the Surinamese context in which there is inadequate protection for Indigenous Peoples' rights is a good example highlighting the need for direct obligations to be imposed on transnational corporations.

¹⁶¹ As domestic legislation and enforcement is weak, the companies should respect Suriname's commitments under international law, which take precedence over domestic law.

¹⁶² When asked how Canadian Indigenous community members visiting Suriname perceived company officials and their interactions with Indigenous Peoples in Suriname, they noted the companies were talking down to the communities and described this as "arrogance".

¹⁶³ With regards to FPIC, for example, in an October 23, 2006 letter to the Captains of West Suriname, the ICMM noted:

ICMM's view is that practical implementation of FPIC presents significant challenges for government authorities as well as affected companies as the concept is not well defined and with very few exceptions, is not enshrined in local legislation. Indeed, even within related existing international frameworks...the implementation of FPIC is not substantially addressed. We also recognize the primary role of sovereign states in determining how their mineral endowments are managed.

Industry associations such as ICMM and their members are far more comfortable with the term 'free, prior and informed consultation'. Nonetheless, 'meaningful prior and informed consultation' suffers from the same problem with regards to non-implementation. The term 'consultation' is subjective, as is the term 'consent'. Indeed, for many Indigenous Peoples, consultation necessarily implies a process leading to the affected communities giving or withholding consent (Weitzner 2002). In order to make either of these terms meaningful and operational, negotiations and agreements at the community level need to take place to ensure community perspectives, processes and rights are appropriately integrated (as per the Akwe:kon guidelines, highlighted in Box 6). While the UN Permanent Forum on Indigenous Populations is currently undertaking a standard-setting exercise on FPIC, and John Ruggie will be examining FPIC in his current investigation of issues around the UN, human rights and transnationals, it should be stressed that there is no simple blueprint or checklist for implementing FPIC, but rather some key principles

and steps that can help ensure appropriate implementation processes at the community level. Going back to the above quote from the ICMM, appropriate processes are required if companies are to obtain a social license to operate, regardless of whether or not local legislation does or does not enshrine FPIC. Company, government and community know-how (as well as political will) in negotiating and implementing these processes in practice is the crux of the problem.

¹⁶⁴ Goodland (2006). The issue of power asymmetry between companies, the government and communities surfaced as one of the principal issues with regards to Indigenous Peoples and mining in Phase I of the NSI project “Indigenous Perspectives” See for example, Weitzner (2002).

¹⁶⁵ Prevention of Racial Discrimination, including Early Warning Measures and Urgent Action Procedures, Decision 3(62), Suriname. Un Doc. CERD/C/62/CO/Dec.3., March 21, 2003.

¹⁶⁶ Concluding Observations of the Committee on the Elimination of Racial Discrimination: Suriname. CERD/C/64/CO/9/Rev. 2, March 12, 2004.

¹⁶⁷ Follow-Up Procedure, decision 3(66), Suriname. UN Doc. CERD/C/66/SUR/Dec. 3, March 9, 2005

¹⁶⁸ Prevention of Racial Discrimination, including Early Warning Measures and Urgent Action Procedures, Decision 1(67): Suriname. Un Doc. CERD/C/DEC/Sur/2, August 18, 2005.

¹⁶⁹ August 18, 2006. CERD/C/DEC/SUR/3. CERD 69th session, July 31-August 18, 2006. Prevention of Racial Discrimination, Including Early Warning Measures and Urgent Action Procedures. **Decision 1 (69)** Suriname.





**The North-South Institute
(NSI)**
55 Murray Street, Suite 200
Ottawa, ON
Canada
K1N 5M3

Telephone: (613) 241-3535
Fax: (613) 241-7435
Website: www.nsi-ins.ca
Email: nsi@nsi-ins.ca



**Association of Indigenous
Village Leaders in Suriname
(VIDS)**
Verlengde Gemenelandsweg 18 d
Complex Kennedy Stichting
Paramaribo, Suriname

Telephone: 597-520-130
Fax: 597-520 131
E-mail: infovids@vids.sr