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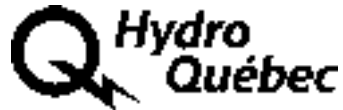
Dams and Benefit Sharing

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Prepared for Thematic Review I.1:
Social Impacts of Large Dams Equity and Distributional Issues

For further information see <http://www.dams.org/>

This is one of 126 contributing papers to the **World Commission on Dams**. It reflects solely the views of its authors. The views, conclusions, and recommendations are not intended to represent the views of the Commission. The views of the Commission are laid out in the Commission's final report "Dams and Development: A New Framework for Decision-Making".



**Direction principale
Planification stratégique et Environnement**

**WORLD COMMISSION ON DAMS
SOCIAL IMPACT THEMATIC**

Dams and Benefit Sharing

Summary Review

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1. INTRODUCTION

1.1 Purpose of the Summary Review

Many dams, particularly those providing hydropower, generate direct monetary revenues. These revenues belong to the dam or power plant owner, whether a private, public or co-operative company. Some of these revenues are usually transferred to various levels of government in the form of taxes, royalties and other mechanisms.

Historically, hydropower developed in the early 1900s as a local activity with small projects supplying local communities and industry: projects had local impacts and provided local benefits. As dams grew in size and electricity networks developed, hydropower dams began serving regional and national interests, often to the detriment of local residents. Today, there is a growing consensus that local stakeholders should share the benefits of such projects in addition to being compensated for the inevitable environmental and social costs of developing such projects.

What are the available mechanisms to transfer revenues to local communities? What are their limitations? The purpose of this summary review is to provide a brief overview of approaches where benefit sharing with project affected communities has worked in the past or may work in the future.

1.2 Limits of the Summary Review

There are several limitations to the present review. These limitations are summarized below.

◆ **Hydropower plants only**

The review looks only at hydropower plants as potential sources of revenue, even though only about 20% of large dams worldwide are used for hydropower purposes only. Nonetheless, hydropower is generally the main source of revenue derived from large dams. Revenues derived from the sale of water for irrigation purposes, or from navigation rights, flood control, potable water or other purposes are not included hereafter, although they may represent important alternative sources of income.

◆ **Local or regional benefits only**

The focus of the review is limited to mechanisms that are designed to ensure transfers of revenues to local and regional jurisdictions. These are loosely defined as areas within which dams have direct environmental/social or economic effects. Mechanisms such as corporate taxes paid by the dam operator to central governments are therefore excluded from the review.

◆ **Excludes all indirect benefits (compensation, etc.)**

The purpose of the review is to discuss only those mechanisms that ensure a direct monetary redistribution of project-related revenues or profits. The review therefore excludes all forms of investments in local communities, such as physical and socioeconomic infrastructure development, resettlement and rehabilitation programs, or environmental and social compensation or mitigation programs.

Such compensation or mitigation programs are of course required for any hydropower dam project to compensate for the negative environmental and socioeconomic impacts that the project may cause. However, they cannot be considered as benefit sharing mechanisms and cannot, therefore, be replaced by such mechanisms.

1.3 Study Approach

The summary review is based upon the practical experience of certain power utilities (in particular Hydro-Québec, in Canada) and upon a preliminary review of existing documentation illustrating this issue. The documentation obtained is summarized in a few case studies from around the world (refer to Appendix to the report).

The case study approach enabled us subsequently to develop a framework for analyzing the various types of proven or potentially effective benefit sharing mechanisms that may be applied. This framework is presented as follows in the subsequent sections of the report:

- Types of benefit sharing mechanisms (Section 2)
- Initiators of benefit sharing mechanisms (Section 3)
- Geographic and social sharing of benefits (Section 4)
- Degree of control associated with benefit sharing (Section 5)
- Relative efficiency of transfer mechanisms (Section 6)

2. TYPES OF BENEFIT SHARING MECHANISMS

Four main types of benefit sharing mechanisms may be considered. For a given project, more than one type of mechanism can be used. These types of mechanisms are summarized below.

2.1 Preferential Electricity Rates (Case 1)

Local or regional authorities may negotiate free energy or preferential electricity rates with the hydropower producer, which benefits all electricity consumers in their constituency and contributes to local and regional economic development. This mechanism is a form of revenue sharing since it results in less revenues for the electricity producer.

2.2 Property Taxes (Case 2)

In a number of countries, the state allows local or regional authorities to tax hydropower producers on the basis of their property value. This mechanism is not linked to revenues since the tax applies whatever the level of power generated by the dam operator. However, it represents a fixed charge for the producer, which has a direct impact on profits.

2.3 Revenue Sharing (Cases 3 and 4)

In the case of revenue sharing mechanisms, part of the revenues are redistributed to local or regional authorities in the form of royalties tied to power generation or of water charges. Such mechanisms may be the result of negotiations between the authorities and the promoter or may be simply defined in the legislation. In the latter case, the percentages of revenues which must be transferred to local beneficiaries and the destination of the proceeds are generally specified.

2.4 Equity Sharing or Full Ownership (Cases 5 and 6)

A variety of mechanisms may allow local or regional authorities to partly or fully own a hydropower facility. Local authorities thus share the risks of the venture but also its profits, if any. Moreover, they gain a degree of control over the design and operation of the project.

3. INITIATORS OF BENEFIT SHARING MECHANISMS

Benefit sharing mechanisms may be clearly set out in a country's legislation or, in the absence of such legislation, may be initiated by project proponents. Both of these cases are briefly discussed below.

3.1 National or Local Governments (Cases 1, 2, 3 and 4)

In a number of countries, national legislations set out benefit sharing requirements to be applied by hydropower proponents. These requirements can come under a variety of forms: they can involve the supply of free energy or the use of preferential electricity rates (as required in Norway), the payment of specific property taxes (as required in France), the payment of royalties or water charges (as required in Brazil and Colombia), etc.

3.2 Project Proponents (Cases 5 and 6)

In other cases where national or local regulatory frameworks do not specifically require benefit sharing, certain hydropower project proponents routinely negotiate partnership agreements with concerned communities on the basis of a wide variety of mechanisms (equity or revenue sharing and other business agreements). In the case of Hydro-Québec in Canada, the Provincial power utility proposes partnership agreements to local communities for all new hydropower projects.

4. GEOGRAPHIC AND SOCIAL SHARING OF BENEFITS

Various benefit sharing mechanisms may lead to the redistribution of revenues to different geographic areas. The same may apply from a social perspective: some social groups may benefit more than others from the redistribution of benefits, or some social groups may even derive profits from a project at the expense of other groups. These aspects are discussed further below.

4.1 Geographic Distribution of Benefits

Dams affect the livelihood of communities in the immediate vicinity of the works and associated impoundment zones. These communities should logically be the first ones to benefit from such projects. However, this generally is not the case, particularly for large dam projects which tend to be designed for the benefit of wider regional or national constituencies.

The case studies presented in the Appendix to the report present a few examples where a share of the project benefits is in effect redistributed to communities situated close to the project.

For instance, in the case of the Itaipu Dam in Brazil and Paraguay (Case 4), Brazil's legislation requires that 45 % of the royalties derived from a hydropower project be paid to the municipalities which have lost land to the dam. Colombia's relevant legislation includes a similar requirement (Case 3).

Certain hydropower dams with large reservoirs may also significantly modify the natural hydrological cycle of the downstream reaches and thereby lead to negative impacts upon downstream communities. Such impacts may extend to fishery activities in the river or estuary downstream of a dam, as well as to downstream agricultural activities such as flood recession agriculture, etc. Because such dams affect the availability and quality of water resources for downstream communities, such communities should also share the benefits derived from the hydropower project.

In several cases where national or local regulatory frameworks set out benefit sharing requirements to be applied by hydropower proponents, these benefit sharing mechanisms do not specifically extend to downstream communities, even if such communities are likely to be affected by a project. For instance, the Urra 1 project in Colombia (Case 3) requires the redistribution of benefits to concerned communities through a municipality and a watershed management agency. However, the relevant Colombian legislation (Decree 1933) applies only to communities within the impoundment zone and in the upstream watershed. Nevertheless, in this particular case the proponent designed a Fisheries Management Plan under the coordination of the watershed management agency to mitigate potential downstream impacts. Part of the financing for the Plan will come directly from the Urra 1 Project, independently from the amounts transferred under Decree 1933.

The agreements signed recently for new hydropower projects in Québec, Canada (Cases 5 and 6) are negotiated on a geographical basis with all of the affected communities. Because of the size of these communities (regional municipalities covering several watersheds), these agreements include communities situated both upstream and downstream of the dam.

4.2 Social Distribution of Benefits

The case studies presented in the Appendix to the report provide for the redistribution of benefits through a variety of mechanisms to local and regional governments. The issues involved in the social redistribution of such benefits are therefore for the most part left up to the concerned local and regional authorities. In certain cases where national or local regulatory frameworks set out benefit sharing requirements to be applied by hydropower proponents (such as in Brazil), the legislation sets out the authorized uses of revenues obtained by municipalities which have lost land to the dam (public infrastructure works, etc.). Even in such cases, the extent of social benefits generated by such revenues depends largely upon the effectiveness of local and regional governments.

In the case of mechanisms where local or regional authorities negotiate free energy or preferential electricity rates with the hydropower producer, the benefits normally extend to all electricity consumers in their constituency, and particularly to consumers who make use of large amounts of power.

However, such benefits do not extend to constituents who do not have access to electricity. Therefore, the social implications of such mechanisms are that they are relatively fair inasmuch as everyone has access to power (as in Norway). In order to be socially acceptable in countries where this is not the case, such mechanisms would have to be combined with rural electrification programs, for instance.

5. LEVELS OF CONTROL ASSOCIATED WITH BENEFIT SHARING

Benefit sharing mechanisms can be distinguished according to the levels of control over their development that the various mechanisms provide to concerned communities. Critical

aspects for the development of local communities include control over the redistribution of benefits and the use of funds as well as control over the design and operation of the project. Generally speaking, the levels of control of concerned communities over such aspects vary proportionately to the level of investment of the communities in the equity of the project (see Table 1). These aspects are briefly discussed below.

Table 1: Levels of control associated with various benefit sharing mechanisms

Categories of Benefit Sharing	Control over Redistribution of Benefits and Use of Funds	Control over Project Design and Operation
Revenue Sharing	Variable	Low
Equity Sharing	High	High
Equity Ownership	Complete	Complete

5.1 Low Level of Community Control (Revenue Sharing)

When communities do not or cannot invest as partners or owners in a hydropower project, benefit sharing is most often limited to revenue sharing mechanisms, which may come under many forms: the supply of free energy or the use of preferential electricity rates, the payment of specific property taxes, the payment of royalties or water charges, etc. When specified in national legislations, these mechanisms generally describe the way benefits must be redistributed and spent. In addition, communities frequently have limited control over the design and operation of the project.

5.2 High Level of Community Control (Equity Sharing or Ownership)

When communities do have the means or the inclination to invest as partners or owners in a hydropower project, benefit sharing can be extended to equity sharing or full equity ownership. For such communities, equity sharing mechanisms frequently lead to a greater degree of autonomy over the redistribution of benefits and the use of funds and to increased control over the actual design and operation of the project.

In the case of communities that do not have the financial means to invest in a hydropower project, the capital required for an equity partnership can, for instance, be provided by the proponent through a long-term loan as a form of compensation for the “natural capital” lost by such communities for reservoir impoundment purposes.

The community can also borrow the required capital from a lending agency based upon a guarantee that the community’s share of the power produced by the project will be sold at an agreed price over a long period of time. This approach was applied in the case of the Pesamit Agreement (1999) signed between Hydro-Québec and the relatively poor Indigenous community of Betsiamites (Case 6). Moreover, a share in a project's equity gives a greater right to local communities to participate directly in the design and operation of the project.

6. RELATIVE EFFICIENCY OF TRANSFER MECHANISMS

The relative efficiency of benefit sharing mechanisms may vary according to several factors. Critical aspects for the efficiency of transfers of benefits to concerned communities include:

- the financial and administrative autonomy and institutional capacity of implementing agencies;
- the accountability of implementing agencies entrusted with the redistribution of benefits;
- the sustainability and equity of the redistribution of benefits and uses of funds.

These aspects are briefly discussed below.

6.1 Institutional Autonomy and Capacity of Implementing Agencies

The efficiency of benefit sharing mechanisms designed to transfer revenues to local communities is largely dependent upon both the financial and administrative autonomy and the institutional capacity of the selected implementing agencies. In many cases, local community governments are ill equipped to manage large sums of money. Their administrative and financial autonomy may be highly tenuous. Important decision-making processes may be left to other levels of government who could be tempted to divert local benefits for other regional or national purposes. Their professional and technical resources may not be adapted to the long-term financial planning requirements involved in the management of large sums.

6.2 Accountability of Implementing Agencies

Transfers of money to local communities may represent very important sums and raise the concern that they may not be used in the manner intended by the agreement or by the legislation. It is essential that the use of the proceeds be publicly disclosed in a transparent way.

When several stakeholders are involved, plans to invest the proceeds must be developed on the basis of a dialogue, in accordance with the following rules:

- the dialogue must be as open as possible, involving all the stakeholders and affected communities;

- projects must be clearly identified and agreed upon, along with their budget;
- the agency responsible for the implementation of each project must also be clearly identified;
- the results of the dialogue must be publicly disclosed so that each implementation agency will be held accountable for its project, within the framework of the jointly planned management plan.

This approach is generally time-consuming. Nonetheless, it provides greater assurances that the proceeds will be effectively spent on projects that truly benefit affected communities.

6.3 Sustainability of Benefit Sharing

The concept of sustainability is fundamental to the success of benefit sharing mechanisms. The long-term development goals of communities involved in hydropower projects require long-term revenue streams that are tied to the revenues derived by the project. Hydropower projects are particularly well suited to such requirements because of their lengthy life spans. Examples given in Cases 5 and 6 in Québec (Canada) illustrate the possibility of designing long-term mechanisms that extend over several generations (e.g.: renewable 50 year agreements).

6.3 Fairness of Benefit Sharing

A central issue of benefit sharing is the issue of fairness towards affected communities in resource-rich regions. Benefit sharing mechanisms constitute a recognition of the requirement to transfer to such communities a share of the widespread project benefits derived from the use of local or regional resources.

APPENDIX

CASE 1: BENEFIT SHARING THROUGH PREFERENTIAL ELECTRICITY RATES - THE CASE OF NORWAY (TO BE COMPLETED)

CASE 2: BENEFIT SHARING THROUGH PROPERTY TAXES - THE CASE OF FRANCE (TO BE COMPLETED)

CASE 3 : BENEFIT SHARING THROUGH REVENUE TRANSFERS TO AFFECTED MUNICIPALITIES AND WATERSHED MANAGEMENT AGENCIES - THE URRÁ 1 PROJECT IN COLOMBIA

Project Description

The Urra 1 hydroelectric project is currently being completed in the Northwestern part of Colombia. It is located on the 350 km long Sinu River which flows into the Caribbean Sea. Its installed capacity is 340 MW and its reservoir area is 7400 hectares. Construction began in 1994 and, if all permits are obtained by the end of 1999, its four units will be commissioned in 2000.

The construction of the civil works as well as the impoundment and protection of the reservoir required the acquisition of 15,000 hectares of land inhabited by some 5,800 people. Land in the upstream Sinu Valley has been used by indigenous people since the pre-Colombian era and has been occupied by settlers since the 1950s. The Sinu Valley can be characterized as an economically backward area with almost no government presence, subsistence-level agriculture, extreme poverty and high levels of ethnic, social and political conflicts. The impact of the project on migrating fish populations in the Sinu River constitutes an important issue. Sinu River fishery resources support several thousand commercial fishermen downstream.

Mechanisms

Under National Law 99 promulgated in 1993, for all new power generation plants of more than

10 MW installed capacity built in Colombia, power producers must transfer part of project revenues to local watershed agencies and concerned municipalities. Decree 1933 promulgated in 1994 specifies the percentages and destination of such transfers.

For hydroelectric plants, 3% of project revenues must be transferred to the watershed agencies that have jurisdiction in the region where the project is located. The amounts must be used for the protection of the environment in the watershed upstream of the dam and in the area of influence of the project, in accordance with a watershed management plan. In the case of the Urra 1 Project, only one watershed management agency is concerned: the Corporación Autónoma Regional del Sinu y del San Jorge (CVS).

Another 1.5% of project revenues must be transferred to the municipalities bordering on the reservoir and 1.5% of project revenues must be devolved to the municipalities located in the watershed upstream of the dam. These amounts must be used for infrastructure projects that have been identified in municipal development plans. Water and sewage treatment projects as well as liquid and solid residue disposal projects must be prioritized. In the case of the URRÁ 1 Project, the municipality of Tierralta, the largest by area in Colombia, will receive most of these amounts.

Summary Assessment

Colombian legislation establishes a clear framework for ensuring the effective long-term protection of the watershed situated upstream of a hydroelectric facility. The sums allocated for such purposes, which correspond to the relatively high percentages specified by way of Decree 1933, should generally be sufficient to finance appropriate measures. Although the legislation excludes the funding of social and economic development projects per se, watershed protection is a fundamental requirement for ensuring both the sustainable use of local natural resources and the long-term benefits associated with the operation of the hydroelectric facility.

In the case of the Urra 1 Project, the implementation of Decree 1933 is made easier because only one municipality and one watershed agency are concerned. Besides, a National Park covers a large proportion of the watershed upstream of the dam. However, in spite of these favorable conditions, most of this area is the scene of numerous and complex problems, including uncontrolled occupation by settlers, illegal wood cutting, land degradation, illicit cultures and armed conflicts. Although many stakeholders, including the company responsible for the construction of the Urra 1 Project, have an interest in reestablishing the integrity of the Park, efforts to develop and implement a concerted management plan for the watershed upstream of the dam have not yet come to fruition.

Decree 1933 does not take into account potential impacts downstream which must thus be taken into account by the developer. These impacts constitute one of the main environmental issues of the Urra 1 Project. A Fisheries Management Plan has been designed under the coordination of the CVS. Part of the financing for the Plan will come directly from the URRA 1 Project, independently from the amounts transferred under Decree 1933.

CASE 4: BENEFIT SHARING THROUGH PAYMENT OF ROYALTIES TO NATIONAL, REGIONAL AND LOCAL AUTHORITIES - THE ITAIPÚ¹ BINATIONAL PROJECT IN BRAZIL AND PARAGUAY

Context

The Brazilian Constitution of 1988 warrants that the States, the Federal District, Federal administrations and municipalities participate in the results of exploitation of hydraulic resources for the purpose of generation of electric power. The same applies to petroleum, gas and mining activities.²

Law 8001 of 1990 stipulates that the monthly allocation of financial compensation from hydropower plants shall be distributed as follows:

- 45% to the affected States
- 45% to the municipalities
- 8% to the Federal Electricity Regulatory Agency (ANEEL)
- 2% to the ministry of Science and Technology

The municipalities receive the royalty as a proportion of the land area lost to impoundment.

The case of the Itaipú Project illustrates how Brazilian law ensures significant transfers of revenues to the municipalities bordering a reservoir.

Project Description

Itaipú is the largest hydropower plant in the world, with 12 600 MW of installed capacity, soon to increase to 14 000 MW. The output from this giant power plant satisfies most of Paraguay's electricity needs, and 25% of those of Brazil. Located on the Paraná river, which constitutes the border between Brazil and Paraguay, it is co-owned by both countries following the Itaipú Treaty of 1973, which established the ITAIPU Binacional entity to build, own and operate the power plant.

Benefit Sharing Mechanisms

The case of Itaipú Project is exceptional, both by its size and its binational ownership. The following text concentrates on the benefit sharing mechanisms applicable to the Brazilian side of the Itaipú Complex.

The Itaipú Treaty sets royalties, which amount today to about US\$ 13 million per month, to be paid by ITAIPU Binacional to each of the governments of Brazil and Paraguay. For Paraguay, 100% of the royalties are paid to the National Treasury, which then redistributes this income according to government priorities.

In Brazil, following the Constitution of 1988 and Law 8 001 of 1990 discussed above, 45%

¹ The authors would like to thank Dr. Altino Ventura Filho, of ITAIPU Binacional, which submitted to the WCD Regional Consultation "Large Dams and their Alternatives in Latin America" the paper: *ITAIPU, A Binational Hydroelectric Power Plant: Benefits and Regional Insertion*. 1999, on which this case study is based.

² Constituição da República Federativa do Brasil, Título III, Capítulo II, Artigo 20.

of the royalties are distributed to affected municipalities. This amounts to a revenue flow to local municipalities of over US\$ 70 million per year. There are 16 municipalities on the Brazilian side which receive revenues from the royalties, as a function of the area lost to reservoir impoundment. This revenue flow often constitutes the main source of revenue for these municipalities, averaging 51% of their total revenues in 1998. For 6 municipalities, the royalties account for over 75% of their total income.

It must be noted that in addition to these royalties, ITAIPU Binacional has developed its own, large scale environmental and social development programs. These programs concentrate on activities such as reforestation, public health, reservoir fisheries, biodiversity conservation, and environmental monitoring activities. These programs also constitute a source of economic activity for the neighboring communities.³

Summary Assessment

The Brazilian mechanism of redistributing part of the royalties levied on power production to the affected municipalities is a simple and effective way of ensuring that the administrations most affected by the project also receive most of the royalties: 45% in this case.

This ensures a continual flow of money, over the lifetime of the project, well beyond what would typically be the revenues of municipalities without the hydropower project. The objective of benefit transfer is thus achieved quite efficiently.

The royalty payment over the lifetime of the infrastructure, in this case certainly several generations (50 to 100 years of production), ensures the economic sustainability of concerned communities.

There are possibly two limitations to this approach:

1. The legislation is designed to provide revenues to partly impounded municipalities. However, residents of some municipalities may be affected, even though their land is not impounded.
2. Transfers of money to municipal institutions are effective if the municipal governments and the local population have the political and institutional capacity to properly manage such a resource.

³ For additional information, please refer to:

Altino Ventura Filho. 1999. *ITAIPU, A Binational Hydroelectric Power Plant: Benefits and Regional Insertion*. ITAIPU Binacional. Paper submitted to the WCD Regional Consultation "Large Dams and their Alternatives in Latin America". 16p.

CASE STUDY 5: BENEFIT SHARING THROUGH A LIMITED PARTNERSHIP COMPANY - THE MINASHTUK^o PROJECT IN QUÉBEC (CANADA)

Project Description

The Minashtuk^o hydroelectric project is currently being completed in the Province of Québec, in Eastern Canada. It is located on the Mistassibi River, within the boundaries of the municipality of Mistassini, which has a mixed aboriginal and non-aboriginal population of 8400 inhabitants. With an installed capacity of 9.9 MW, the Minashtuk^o Project is a run-of-river facility with minimal environmental impacts since it involves no impoundment and little water flow changes. Construction began in February 1999 and the project is expected to enter into operation in April 2000. The main developer of the project is the Montagnais Amerindian community of Lac Saint-Jean, which has a total population of 4400 members. About 1900 of the community's residents live near the project site. The Montagnais (who also call themselves Innu) have traditionally fished, hunted and trapped in the region where the Mistassibi River is located.

Mechanisms

The project is financed and owned by the Minashtuk^o Limited Partnership Company. The Band Council of the Montagnais of Lac Saint-Jean is the company's majority shareholder with 50.1% of the shares. Hydro-Québec, the Provincial public power utility, owns the rest of the company's shares (49.9%). As part of its partnership in the company, Hydro-Québec has agreed to buy all of the electricity generated by the project under a 20 year contract. The contract is renewable for another 20 years. The shareholders directly invested 23 % of the total cost of the project, with the remainder of the project being financed through a long-term bank loan. Hydro-Innu, a company fully owned by the Band Council of the Montagnais of Lac Saint-Jean, has been mandated to conduct the feasibility studies, obtain all the governmental authorizations, have the project built under a turnkey contract and operate the facility. Minashtuk^o is the first project developed by Hydro-Innu.

Summary Assessment

Since the beginning of the 1990s, the project has been considered by the Montagnais of Lac Saint-Jean as one of the initiatives to be taken in order to alleviate the high unemployment situation in the community and ensure its long-term social and economic development. In an agreement signed with Hydro-Québec for the construction of a transmission line in 1994, both parties had expressed their intention to enter into partnerships for specific projects. However, proper mechanisms had to be developed to ensure the long-term profitability of such projects for the Montagnais of Lac Saint-Jean. The community also wanted to retain a degree of control over project design.

Besides being guaranteed a direct entitlement to a share of the profits of the Minashtuk^o Project, the limited partnership company allowed the Montagnais of Lac Saint-Jean, as majority shareholder and owner of Hydro-Ilnu, to design the project according to their priorities. The project was also planned in close partnership with the municipality of Mistassini, under the common goal of maximizing regional economic spin-offs.

The main long-term goal of the Montagnais of Lac Saint-Jean is to reinvest the profits into other projects that can generate employment for their community. Another goal pursued by the community is to favor the transfer of technology and the training of technically specialized manpower. The long-term profitability of the Minashtuk^o Project is ensured by strict management rules. Such rules include, for instance, obligatory calls for tenders for contracts for goods and services and regular maintenance programs, as conditions to be respected in the long-term contract for the purchase of power.

CASE STUDY 6: BENEFIT SHARING THROUGH REVENUE SHARING, TRUST FUNDS AND A JOINT PARTNERSHIP COMPANY - THE PESAMIT AGREEMENT AND OTHER AGREEMENTS IN QUEBEC (CANADA)

Context

Hydro-Québec, a Canadian provincial utility, has established new internal rules for all future projects. New projects will be built if:

1. They are profitable
2. They are environmentally sustainable
3. They are well received by the local communities

In order to ensure the social and economic acceptability of potential projects, Hydro-Québec has developed a partnership strategy with local communities, whether indigenous or not. This strategy offers local communities the option to participate in the project's equity by becoming, in effect, part owners of the project. It also offers local communities an array of other options, such as revenue sharing agreements, trust funds, etc. The following case study discusses the various agreements signed this year between Hydro-Québec and local communities for the construction of a hydropower dam and of various partial river diversions on the North Shore of the Saint-Lawrence River.

Project Description

The project involves the construction of a 440 MW hydropower dam on the Toulousteouc River below the existing Lac Sainte-Anne Reservoir, as well as partial diversions of the Portneuf, Sault-aux-Cochons and Manouane Rivers towards the existing Bersimis-1 and Bersimis-2 hydropower dams on the Bersimis River. The project represents an average annual production of 2.6 TWh and an investment of \$ CDN 680 M for Hydro-Québec, the Provincial power utility, and its partners. Construction should start in 2000 following government approvals and the last component of the project is scheduled to be commissioned by 2005.

The detailed design and environmental review of the various components of the project are currently under way. The various projects are located within the boundaries of 5 regional municipalities (or MRCs) and of lands claimed by 3 Innu indigenous communities (Betsiamites, Essipit and Mashteuiatsh). The Innu (or Montagnais) communities of Québec are relatively small and impoverished when compared to other non-indigenous communities.

Benefit Sharing Mechanisms

The project is being developed in partnership with the 5 MRCs and the 3 Innu communities. Specific agreements have already been signed with two of the three Innu communities and with four of the five MRCs. Project design and environmental assessments are carried out under the responsibility of Hydro-Québec in close co-operation with the partner communities.

Agreements with involved Innu communities

The Pesamit Agreement (1999) was signed in September 1999 by Hydro-Québec and the Band Council of the Montagnais.

The Agreement was submitted for approval by the Band Council through a community-wide referendum. The community of 3 000 inhabitants voted close to 80 % in favor of the Agreement with a turn-out of about 50 % of residents eligible to vote.

According to the Agreement, the community of Betsiamites may invest up to 17.5 % of the total construction costs of the partial river diversions. The costs of these diversions are estimated at \$ CDN 82 M. The community could therefore invest about \$ CDN 14.3 M in the project. In return, the community can benefit from revenues equivalent to the value of 17.5 % of the total energy produced by the river diversions minus the corresponding operating and environmental monitoring and follow-up costs. Hydro-Québec will buy the power from Betsiamites over a 50 year period under an agreed pricing formula, based on the electricity tariffs in Québec and the New England Power Pool prices. In 50 years, the community will retain the option of extending the partnership agreement for another 49 years.

Hydro-Québec and the Band Council of the Montagnais of Essipit signed a similar partnership agreement in October 1999. According to the agreement, the community of Essipit

(400 inhabitants) may invest 3.4 % of the total construction costs of the partial diversion of the Portneuf River, which are estimated at \$ CDN 10 M. In return, the community of Essipit will benefit from revenues equivalent to the value of 3.4 % of the total energy produced by the river diversion.

In addition to the revenue sharing mechanisms, Hydro-Québec will contribute:

- a total of \$ CDN 10.4 M towards the setting up of a Betsiamites Community Development Fund;
- a total of \$ CDN 11 M for environmental mitigation and socioeconomic and cultural development programs for the community to be managed through a joint Betsiamites/Hydro-Québec Remedial Work Corporation or “SOTRAC”.
- a total of \$ CDN 500,000 for remedial works for the community of Esipit.

Job creation objectives for Innu community members are set at 12.5 % of the total person-years of employment related to the studies and construction of the project. This objective could lead to the creation of 200 person-years of employment for Innu community members. Otherwise, objectives for contracts to be awarded to Innu companies are set at 10 % of the contracts awarded for the project.

Agreements with involved regional municipalities (MRCs)

Apart from agreements signed with Indigenous communities, Hydro-Québec has reached agreements with 4 of the 5 concerned Regional Municipalities (MRCs) in view of establishing a joint partnership company for the river diversion components of the project. This is the first agreement of its kind to be signed between the Provincial power utility and municipal authorities.

The agreement covers the partial diversion of rivers into existing hydropower reservoirs. The agreement specifies that Hydro-Québec will be both the official representative of the

company (known as the Betsiamites Joint Partnership Company or “SOCOM”) and the majority shareholder with at least 86 % of its shares. The responsibility for project construction and implementation is devolved by the company to Hydro-Québec.

The joint partnership company will exist for a period of 50 years, subsequent to which the MRCs retain the option of extending the partnership agreement for another 49 years. Following the completion of the river diversions at the end of 2002, the 4 MRCs that are parties to the agreement will have the option to acquire 14 % of the company shares, which would represent an investment on their part of \$ CDN 6.5 M. In return, the MRCs will receive annual royalties of \$ CDN 1.4 M over a period of 50 years. These royalties will be shared out proportionately amongst each of the concerned MRCs.

Summary Assessment

It is still too early to draw firm conclusions regarding the effectiveness of these partnership agreements. However, these agreements represent a breakthrough both for the Provincial power utility and the involved indigenous and non-indigenous communities. For Hydro-Québec, the agreements materialize the local acceptance of the projects, thereby reducing the levels of risk and associated costs related to a lengthy project planning and authorization process.

For the involved communities, the agreements constitute a recognition of the requirement to transfer to such communities a share of the widespread project benefits derived from the use of local or regional resources. As observed by the Prefect of the MRC of La-Haute-Côte-Nord...“In a context of devolution of powers towards local governments, the sums redistributed within our community will enable us to ensure our development according to models adapted to our needs.”