

ASI Standards Committee – Minutes – Teleconference

Date: 10 October 2017

Antitrust Statement:

Attendees are kindly reminded that ASI is committed to complying with all relevant antitrust and competition laws and regulations and, to that end, has adopted an Antitrust Policy, compliance with which is a condition of continued ASI participation. Failure to abide by these laws can have extremely serious consequences for ASI and its participants, including heavy fines and, in some jurisdictions, imprisonment for individuals. You are therefore asked to have due regard to this Policy today and in respect of all other ASI activities.

Participants:

Chair: Jostein Soreide (Norsk Hydro).

Committee Members: Catherine Athenes (Constellium), Christophe Boussemart (Nespresso), Roland Dubois (Rio Tinto Aluminium), Philip Hunter (Verite), Adam Lee (IndustriALL Global Union), Jerome Lucaes (Rusal), Justin Furness (Council for Aluminium in Building), Rosa Garcia Pineiro (Alcoa), Justus Kammueler (WWF), Stefan Rohrmus (Schueco), Josef Schoen (Audi), Marcel van der Velden (Arconic), Neill Wilkins (Institute for Human Rights and Business).

Proxies/Alternates: Adam Lee (IndustriALL Global Union) proxy for Giulia Carbone (IUCN).

ASI Secretariat: Fiona Solomon, Sam Brumale, Krista West, Michelle Freesz.

Apologies: Brenda Pulley (Keep America Beautiful), Marie-Josée Artist (VIDS - Association of Village Leaders, Suriname), Karl Bath (BMW), Giulia Carbone (IUCN), Annemarie Goedmakers (Chimbo Foundation), Bjoern Kulmann (Ball), Jean-Pierre Mean (Independent anti-corruption expert), Robeliza Halip (Tebtebba), Tom Maddox (Fauna and Flora International).

Invited: None

Documents circulated:

1. Meeting Agenda (including Meeting Action Log)
2. Minutes of previous meeting 26 September 2017 v1
3. New Anti-Trust Policy Statement
4. Updated Log of Feedback and Comments from 2017 Public Consultation
5. ASI Performance Standard (Version 2, draft 3c WIP)
6. ASI Performance Standard Guidance (Version 1, draft 3c WIP)
7. Alternate Form [Word]
8. Proxy form for this meeting [Word]

Meeting objectives:

1. Adopt minutes of the previous meeting.
2. Discuss and review Principles 9 – 11 from the updated Performance Standard (Version 2, draft 3) and Guidance (Version 1, draft 3) with comments from the 2017 public consultation.

Items discussed:

1. Preliminaries

- a. Welcome.
- b. Apologies and proxies received.
- c. **RESOLUTION** to accept minutes of previous teleconference meeting held on 26 September 2017 (*version 1*).

- d. Review of Actions Log – see list at end of Agenda.
- Feedback regarding Closed Actions 105, 106, 107 and 109:

#	Action	Response / Changes:	Discussion Notes
105	Guidance for criterion 6.1 to be reviewed to add notes around cumulative impacts to air quality.	Additional Guidance for criterion 6.1 relating to cumulative impacts: <i>Assess the impacts to the receiving air quality from the Entity's source emissions. This assessment may include air dispersion modelling that accounts for meteorological conditions and wind profiles, worst case emission scenarios, terrain and topography, nature of nearby buildings and structures, cumulative and contributory effects for other sources of air emissions and the location of nearby sensitive receptors.</i>	Response accepted and no further changes suggested.
106	Guidance for criterion 6.1 to include (where available) relevant references that cover air emission standards and atmospheric (air quality) standards.	Additional Guidance for criterion 6.1 relating to discharge and atmospheric standards: <i>Ensure that you meet or exceed applicable regulatory air emissions and/or air quality (atmospheric) standards. In the absence of applicable regulatory standards, prevailing international standards for air emission discharges and air (atmospheric) quality such as the International Finance Corporation Air Emissions and Ambient Air Quality Guidance should be referenced.</i>	Response accepted and no further changes suggested.
107	Review criterion 6.5a in relation to the comments and the meaningfulness of an effective waste management strategy.	Edited as follows: 6.5 Waste management and reporting. <i>The [Entity] shall implement a waste management strategy <i>that is designed in accordance with the Waste Mitigation Hierarchy.</i></i> Additional Guidance added to support implementation of this criterion including revision to the Glossary. Guidance specifies that waste management strategy address the generation, storage, handling, treatment, transportation and disposal of waste.	There was discussion regarding whether the addition needed to differentiate between hazardous and non-hazardous waste, however it was acknowledged that the proposed language brings value and is an improvement over the original criterion. Suggested addition to the criterion to remain unless alternative language is proposed. As such Action 107 will remain open until the next meeting. The additional information in the Guidance was agreed.
109	Secretariat to work with the Committee Members with smelting activities to review the proposed changes to the criteria in 6.7 with due consideration to the comments received.	Criterion 6.7 modified as follows: 6.7 Spent Pot Lining (SPL). <i>[An Entity engaged in Aluminium Smelting] shall:</i> <i>a. Have constructed storage areas to effectively prevent the release of SPL or leachate to the environment.</i> <i>b. <i>Optimise processes</i> for the recovery and recycling of carbon and refractory materials.</i> <i>c. Not landfill untreated SPL.</i> <i>d. Review at least annually alternative options to landfilling of [treated] SPL and/or stockpiling of SPL.</i> <i>e. Not discharge [treated] SPL to fresh water or marine or aquatic environments.</i>	The suggested changes for criteria 6.7 including the addition of 6.7a and 6.7c as discussed at the previous Committee meeting were proposed in response to comments received during the public consultation from industry members and industry associations. However, it was noted that some of the changes might be seen as a major change to the Performance Standard and as such this action would remain open with further dialogue to be carried out with Committee Members with smelting activities as well as other interested parties, and at the next Committee meeting.

2. Standards Committee Update

- Auditor Accreditation** – ASI has received two applications and these are being reviewed.
- Registered Specialist** – Three applications for ASI Registered Specialists have been received.

- c. **Anti-Trust Policy Statement** – The new Anti-Trust Compliance Policy, as circulated to the Committee (with Agenda for this teleconference) and presented at the 13 September 2017 Teleconference, was adopted by the ASI Board as a By-Law on 19 September 2017 and is available at: <https://aluminium-stewardship.org/about-asi/legal-finance-policies/>.

3. ASI Normative Documents and Public Consultation

- a. **Performance Standard and Guidance on Principle 9 Human Rights** – Discussed and reviewed updates and comments related to Principle 9 Human Rights in the ASI Performance Standard (Version 2, draft 3c WIP) and Performance Standard Guidance (Version 1, draft 3c WIP):
- It was noted that some of the items in the comments log were not included in the teleconference presentation as these were either minor, easy to respond to and did not affect the intent of the standards. However, all comments are noted in the comments log circulated to all Committee members and published on the ASI website.

Feedback:	Comments & Proposed changes:	Discussion Notes
<p><i>Principle 9 Human Rights</i></p> <ul style="list-style-type: none"> “ ... with international instruments ... Unclear what is it. Impossible to assess and implement. Applicable legal requirements shall be enough. 	<p>The term 'international instruments for human rights' is a standard term in this field. However since it appears in the Principle, it is not an auditable requirement but a statement of the section's intent. The auditable components are in the individual numbered criteria.</p>	<p>Response accepted and no further changes suggested.</p>
<p>[IPAF] <i>Guidance for Principle 9 Human Rights</i></p> <ul style="list-style-type: none"> Provide reference also to the UN Convention on the Elimination of Racial Discrimination 	<p>Added reference and link to UN's International Convention on the Elimination of All Forms of Racial Discrimination</p>	<p>Response accepted and no further changes suggested.</p>
<p><i>Criterion 9.1 Human Rights Due Diligence</i></p> <ul style="list-style-type: none"> The current wording does not reflect the wording in the UN Guiding Principles on Business and Human Rights which state that entities will provide for or cooperate in remediation through legitimate processes <i>where they identify that they have caused or contributed to the harm</i>. To ensure alignment with the UN Guiding Principles on Business and Human Rights 	<p>Have changed wording for criterion 9.1c as follows:</p> <p><i>c. Where the [Entity] <u>identifies as having</u> has caused or contributed to adverse [Human Rights] impacts, it shall provide for or cooperate in their remediation through legitimate processes.</i></p>	<p>Response accepted and no further changes suggested.</p>
<p>[IPAF] <i>Guidance for 9.1 Human Rights Due Diligence</i></p> <ul style="list-style-type: none"> suggested change to emphasize the positive requirements rather than what is NOT required. Ensure that there is a reference here to the company level or operational level complaints mechanism (see Transparency section) so that UN GP standards for complaint and mediation are met. 	<p>Guidance reviewed as suggested including cross reference to criterion 3.4:</p> <ul style="list-style-type: none"> <i>It might not be feasible or practical to assess every single supply chain risk <u>or the human rights record of every entity with which you have a relationship.</u> Where it is necessary to prioritise, try to prevent and mitigate the most severe risk/s.</i> <i>.... See also <u>critterion 3.4 on Stakeholder complaints, grievances and requests for information which sets out requirements and guidance for company-level or operational-level complaints mechanisms. ASI also operates a Complaints Mechanism, and more information is available on the ASI website.</u></i> 	<p>Response accepted and no further changes suggested.</p>

Feedback:	Comments & Proposed changes:	Discussion Notes
<p>[IPAF] <i>Criterion 9.2 Women's Rights</i></p> <ul style="list-style-type: none"> Delete 'economic, social and cultural and environmental' from criterion 	<p>Have deleted from criterion 9.2 and Guidance.</p> <p>9.2 Women's Rights. <i>The [Entity] shall implement Policies and processes to ensure respect for the economic, social and cultural and environmental rights and interests of women, consistent with international standards, including the UN Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW).</i></p> <p><i>Note this was also deleted from criterion 9.3 indigenous Peoples.</i></p>	<p>Response accepted and no further changes suggested.</p>
<p>[IPAF] <i>Guidance for Criterion 9.2 Women's Rights</i></p> <ul style="list-style-type: none"> Minor revision including need to consider Indirect impacts, such as changes to traditional roles and livelihoods, fly-in fly-out work arrangements and their impacts on families Include reference to the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 	<p>Guidance reviewed as suggested:</p> <ul style="list-style-type: none"> Indirect impacts, such as changes to traditional roles and livelihoods, fly-in fly-out work arrangements and their impacts on families. For more guidance on promoting gender equality in your business, consult available references such as the Women's Empowerment Principles (UN Global Compact / UN Women) and the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) which is applicable to nation states 	<p>Response accepted and no further changes suggested.</p>
<p>[IPAF] <i>Guidance for Criterion 9.3 indigenous Peoples</i></p> <ul style="list-style-type: none"> The human rights due diligence process in 9.1 should specifically address risks to Indigenous peoples' rights and interests, in conjunction with the concerned indigenous people Ensure that engagement draw on appropriate language, anthropological, cultural and social skills and the development priorities of the concerned Indigenous peoples Add reference to the UN Declaration on the Rights of Indigenous Peoples 	<p>Guidance reviewed as suggested:</p> <ul style="list-style-type: none"> The human rights due diligence process in 9.1 should specifically address risks to Indigenous peoples' rights and interests, in conjunction with the concerned Indigenous peoples <ul style="list-style-type: none"> Engaging and consulting with Indigenous peoples in a fair, timely and culturally appropriate way through an operation's life cycle, ensuring that indigenous peoples have access to all relevant information in a manner, language and form appropriate for them Seeking to build long-term partnership with Indigenous peoples ..., which addresses the development priorities of the concerned Indigenous peoples, For more guidance on respecting the rights of Indigenous peoples, consult and the UN Declaration on the Rights of Indigenous Peoples. 	<p>Response accepted and no further changes suggested.</p>
<p><i>Criterion 9.4 Free Prior and informed Consent</i></p> <ul style="list-style-type: none"> ... we compare it to criterion 9.3 it would be formally correct, if it was added that this criterion "only applies where the presence of Indigenous Peoples or their lands, territories and resources is identified". 	<p>Added caveat to criterion 9.4:</p> <p>This criterion applies where the presence of Indigenous Peoples or their lands, territories and resources is identified.</p>	<p>Response accepted and no further changes suggested.</p>
<p>[IPAF] <i>Guidance for 9.4 Free Prior and informed Consent</i></p> <ul style="list-style-type: none"> Minor edits Define 'major changes' to pin down the concept. Regarding relocation of Indigenous Peoples from Land - add footnote: <i>Relocation' in this context refers both to physical</i> 	<p>Guidance reviewed with edits and added following as suggested:</p> <ul style="list-style-type: none"> FPIC processes are applicable for new projects or major changes (such as expansions, significant new infrastructure, or changes in land use) to existing projects or facilities that may have significant impacts on affected Indigenous peoples. This would include ... Where FPIC is not obtained, this should also 	<p>Further clarification was suggested regarding what constitutes a major expansion. It was proposed and agreed to review the wording for example as follows:</p> <p>(such as significant new infrastructure or expansions, or changes in land use)</p> <p>ACTION: Incorporate the agreed</p>

Feedback:	Comments & Proposed changes:	Discussion Notes
<p>displacement – relocation or loss of shelter, and economic displacement – loss of assets, or access to assets, that lead to loss of income sources or other means of livelihood, as a result of project-related land acquisition and/or restrictions on land use.</p>	<p><u>be recorded</u></p> <ul style="list-style-type: none"> Where resettlement, <u>relocation or economic displacement</u> of Indigenous peoples is proposed, this will require their FPIC. <p>Added as a footnote (regarding relocation) along with a reference to the IFC Performance Standards:</p> <p><u>'Relocation' in this context may refer to both physical displacement – relocation or loss of shelter, and economic displacement – loss of assets, or access to assets, that lead to loss of income sources or other means of livelihood, as a result of project-related land acquisition and/or restrictions on land use (Adapted from IFC Performance Standards, 2012).</u></p>	<p>change in the Guidance for criterion 9.4 about what is meant by 'expansions' for major changes.</p> <p>The remainder of the response accepted and no further changes suggested.</p>
<p>[IPAF] Guidance for Criterion 9.5 Cultural and Sacred Heritage Clarification about applicability of criterion 9.4 on FPIC.</p>	<p>Added 'also' to the dot point in Guidance for criterion 9.5, as follows:</p> <ul style="list-style-type: none"> Note that where Indigenous Peoples' sacred or cultural heritage sites and values may be impacted, criterion 9.4 on FPIC will <u>also</u> apply. 	<p>Response accepted and no further changes suggested.</p>
<p>Criterion 9.5 Cultural and Sacred Heritage- <u>Area of Influence</u></p> <ul style="list-style-type: none"> "area of influence" as described for B7.1 above <i>Inclusion of [in the Entity's Area of Influence] constitutes a major revision to the standard, beyond the scope of the current review exercise. Better to have this discussion during the next major review round. Inclusion also raises questions on other criteria beyond the Entity – e.g. electricity supply, governance and human rights etc.</i> As per 8.1 [comments] <i>Inclusion of "area of influence" materially increases the scope of the criteria. It is also problematic to apply to existing operations.</i> Do not include 'area of influence' terminology 	<p>The reference to 'area of influence' in criterion 9.5 is not a new addition and is currently in version 1 of the Performance Standard for this criterion. However, as per the comments raised about 'Area of influence' for criteria 7.1 and 8.2, its use is intended to better define the scope of the criterion. It is not meant to assign control to the Entity of areas/facilities etc. that it does not Control. It is for the purpose of assessing impacts and managing risks. Have added the following to the definition of 'Area of Influence' in the Glossary:</p> <p><u>Notes:</u></p> <ul style="list-style-type: none"> <u>'Area of Influence' is referenced in 7.1 (Water Stewardship), 8.1 (Biodiversity) and 9.5 (Cultural and Sacred Heritage), in relation to the Entity assessing impacts and managing risks in these areas for a given Certification Scope.</u> <u>Some activities and related impacts/risks in an Area of Influence may not be under the Control of the Entity. However where required by these criteria, these impacts and risks shall still be assessed by the Entity and, wherever practicable, mitigation measures and/or controls should be put in place.</u> <u>Associated facilities which are part of an Entity's Area of Influence but not under the Entity's Control are not part of the Certification Scope. In other words, the activities and related impacts/risks of associated facilities which are not under the Entity's Control are not factored into determining the Entity's conformance. This criterion applies where the presence of Indigenous Peoples or their lands, territories and resources is identified.</u> 	<p>Comments were raised regarding the use of 'area of influence' in this criterion though it is acknowledged that this term has been in this criterion since the beginning.</p> <p>Response kept open for further discussion by the Committee at the next meeting on the use of 'area of influence' throughout the Standard.</p>
<p>Criterion 9.6 Resettlements</p> <ul style="list-style-type: none"> What is the time scope here? What if there was a resettlement and the company can't demonstrate conformance to 9.6a? What if the facility went in five years ago? How far back are auditors expected 	<p>Have added the following clarification to the caveat (and the Guidance) for criterion 9.6:</p> <ul style="list-style-type: none"> <u>Note that these criteria applies apply to all resettlements being considered or taking place during the period since joining ASI, or through changes since the last Audit, or expected to occur during the Certification Period. When except when Indigenous Peoples are involved, criterion 9.4 on FPIC will <u>also</u></u> 	<p>Response accepted and no further changes suggested.</p>

Feedback:	Comments & Proposed changes:	Discussion Notes
to look?	<i>apply.</i>	
[IPAF] <i>Guidance for Criterion 9.6 Resettlements</i> <ul style="list-style-type: none"> Clarification regarding applicability of criterion 9.4 Include reference to UN Basic Principles on Development Based Evictions 	Guidance reviewed as suggested: <ul style="list-style-type: none"> ... When except when <i>Indigenous Peoples are involved, criterion 9.4 on FPIC will <u>also</u> apply.</i> <i>For more guidance on management of physical and/or economic displacement, consult available references including the International Finance Corporation (IFC) Performance Standard 5 – Land Acquisition and Involuntary Resettlement – Guidance Note (2012), and the IFC Handbook for Preparing a Resettlement Action Plan (2001) <u>and the Basic Principles and Guidelines on Development Based Evictions and Displacement (UN Special Rapporteur).</u></i> ... 	Response accepted and no further changes suggested.
[IPAF] <i>Guidance for Criterion 9.8 Conflict-Affected and High-Risk Areas</i> <ul style="list-style-type: none"> Regarding second dot point - This matches the requirement under 9.8 and acknowledges the statistical fact that most deaths in conflict zones of indigenous persons are caused not by illegal armed groups but by legal forces acting with impunity Refer to the OHCHR conflict guidance 	Have added the following, as suggested: <u>o Where public or private security forces are used, assess the risks of the security forces contributing to conflict or adverse human rights abuses – see also criteria 9.9 below.</u> Also added the reference to the OHCHR conflict guidelines: <u>o Office of the High Commissioner Human Rights conflict guidance</u>	Response accepted and no further changes suggested.

b. Performance Standard and Guidance on Principle 10 Labour Rights – Discussed and reviewed updates and comments related to Principle 10 Labour Rights in the ASI Performance Standard (Version 2, draft 3c WIP) and Performance Standard Guidance (Version 1, draft 3c WIP):

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<i>Criterion 10.1 Freedom of Association and Right to Collective Bargaining</i> <ul style="list-style-type: none"> The intent of these changes in 10.1a is to prevent local law from being any more limiting on these fundamental rights than it needs to be. These rights shouldn't need to be explicitly set forth in local law for participating companies to respect them, rather participating companies should commit to respecting these fundamental rights to the extent they are able to under local law. ILO core conventions deal with the right to JOIN labour unions. Reference to a 	Propose edit the criteria as follows (use definition of Applicable Law, and remove reference to join/not join to just say 'in'): <i>10.1a. The [Entity] shall respect the rights of Workers, as set forth in local law, to associate freely, join or not join <u>in</u> Labour Unions, seek representation and join Workers' councils [without interference] <u>to the extent possible under Applicable Law,</u> in line with the ILO Conventions C87 and C98.</i> Propose edit the criteria as follows (use definition of Applicable Law in Glossary, and change sequence of sentences): <i>10.1b. [The Entity shall respect the rights of Workers to collective bargaining, <u>participate in any collective bargaining process in good faith to the extent possible under Applicable Law,</u> and shall adhere to collective bargaining agreements where such agreements exist.] . The Entity shall, subject to Applicable Law, participate in any collective bargaining process</i>	There was discussion whether the suggested edits introduced unintended changes to the intent of the requirements, particularly in relation to the reference to Applicable Law. It was agreed that the key aspect was in relation to ensuring that Workers are able to associate freely and have access to collective bargaining irrespective of factors including the organisations size or the regulatory framework applicable to its activities and location. It was agreed to not include the phrase “not join” in 10.1a, and to revise the reference ‘to the extent possible’ in relation to Applicable Law by separating into a separate sentence in both 10.1a and 10.1b. ACTION: Review the suggested change related to Applicable Law in both 10.1a and 10.1b to allow for

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<p>“right to not join” labour unions is more typical of a unilateral code of conduct of an anti-union company!</p> <ul style="list-style-type: none"> Proposed edit: <ul style="list-style-type: none"> 10.1a. The [Entity] shall respect the rights of Workers to associate freely, join Labour Unions, seek representation and join Workers’ councils [without interference] to the extent possible under the law, in line with the ILO Conventions C87 and C98. 10.1 b. [The Entity shall respect the rights of Workers to collective bargaining, and shall adhere to collective bargaining agreements where such agreements exist, and participate in any collective bargaining process in good faith, to the extent possible under the law.] 	<p>in good faith.]</p>	<p><i>cases where applicable law curtails freedom of association and collective bargaining.</i></p> <p>The remainder of the response accepted and no further changes suggested.</p>
<p><i>Guidance for Criterion 10.1 Freedom of Association and Right to Collective Bargaining</i></p> <ul style="list-style-type: none"> Suggested edits to Guidance 	<p>Added these new points to the Guidance with some editing for consistency.</p> <ul style="list-style-type: none"> <i>At work, freedom of association means the right to freely form labour unions or workers organisations, without the interference of the employer.</i> <ul style="list-style-type: none"> <u><i>o Workers’ representatives need to have access to facilities needed to carry out their functions in the workplace. This includes access to designated non-work areas during organizing efforts for the purposes of communicating with employees.</i></u> <u><i>o Companies need to remain neutral in any legitimate unionizing or worker organizing effort; this means not producing or distributing material meant to disparage legitimate trade unions; not establishing or supporting a company union for the purpose of undermining legitimate worker representation; and not imposing sanctions on workers’ organizations participating in a legal strike.</i></u> <u><i>o Upon employment, companies need to inform workers of their rights under national labour and employment law and any applicable collective agreements; and that they are free to join a workers’ organization of their choosing without any negative consequences or retaliation.</i></u> <i>Collective bargaining is a voluntary process</i> <ul style="list-style-type: none"> <u><i>o Companies need to engage with workers’ representatives and workers’ organizations, and provide them with information needed for meaningful negotiation in a timely manner.</i></u> <u><i>o Where a company is a party to a collective bargaining agreement with a workers’ organization, the terms of the</i></u> 	<p>Whilst the content of the changes in the Guidance was agreed, it was noted that the use of must and shall in the Guidance might be confusing. For clarity it was noted that Entities are audited and certified based on the criteria in the Standard and that the Guidance provides valuable supporting information regarding the background issues, risks and example means of implementation to meet the criteria.</p> <p>ACTION: <i>The language in the Guidance added for criterion 10.1 to be reviewed to ensure it is presented as supporting guidance.</i></p>

Feedback:	Comments & Proposed changes:	Discussion Notes
	<p><u>agreement need to be respected.</u></p> <p><u>o Short-term contracts or other measures must not be used to undermine a collective bargaining agreement or worker organizing effort, or to avoid obligations to employees under applicable labour and social security laws and regulations.</u></p> <p><u>o Hiring of replacement workers should not be used as a strategy to prevent or break up a legal strike, support a lockout, or avoid negotiating in good faith. However replacement workers may be used to ensure that critical maintenance, health and safety, and environmental control measures are maintained during a legal strike.</u></p>	
<p>Guidance for Criterion 10.1 Freedom of Association and Right to Collective Bargaining</p> <ul style="list-style-type: none"> Suggested edits to Guidance 	<p>Added these new points to the Guidance with some editing for consistency.</p> <ul style="list-style-type: none"> How freedom of association and the right to collective bargaining are specifically applied in practice is set through applicable law and may vary across jurisdictions. <ul style="list-style-type: none"> Countries where freedom of association is currently restricted by law <u>include but are not limited to</u>: most of the Gulf States, <u>including</u> (Bahrain, Oman, Qatar, Saudi Arabia, <u>and</u> United Arab Emirates) where trade unions are banned completely; and China and Vietnam, where unions are government controlled and not independent (Sedex Supplier Workbook, Chapter 1.3 Freedom of Association and Collective Bargaining, 2013). In some countries, freedom of association may have restrictions in special economic zones, or for some categories of workers such as migrants. In these types of situations, employers <u>eshould</u> consider how to engage with freely elected representatives of the workforce in internal committees dealing with such issues as health and safety, harassment or migrant workers' housing. Activities that could hinder freedom of association and the right to collective bargaining, include the employer: <ul style="list-style-type: none"> taking sides in <u>opposing a</u> legitimate unionising or worker-organisation effort 	<p>Response accepted and no further changes suggested.</p>
<p>Criterion 10.5 Communication and Engagement</p> <ul style="list-style-type: none"> Suggested edit to include reference to Workers' representatives. 	<p>Added 'and their representatives' (to the criteria and Guidance):</p> <p>10.5 Communication and engagement. The [Entity] shall ensure open communication and direct engagement with Workers <u>and their representatives</u>, regarding working conditions and resolution of workplace and compensation issues, without threat of reprisal, intimidation or harassment.</p> <p>Guidance:</p> <ul style="list-style-type: none"> Consider how to establish and use communication channels that ensure open communication with workers <u>and their representatives</u> relating to working conditions, and any workplace and compensation issues. 	<p>There was in principle agreement with the proposed changes subject to a further edit in the criteria or Guidance to allow for cases where worker representatives such as unions are not present. There was a further suggestion to ensure that Guidance included some clarification and examples of worker's representatives, noting that the term is used extensively in other parts of the Guidance.</p> <p>ACTION: Revise the suggested inclusion for criterion 10.5 to include cases where worker representatives do not exist, and confirm that there are examples of worker representatives in the Guidance.</p>

Feedback:	Comments & Proposed changes:	Discussion Notes
<p>Proposal to have a new criteria relating Migrant Workers (currently only in 10.3c forced labour) including a definition in the Glossary and expanded supporting information & references.</p>	<p>New Criterion (in Principle 9 or 10): <u><i>Migrant Worker’s Rights. The [Entity] shall</i></u> a. <u><i>Implement Policies and processes to ensure respect for the rights and interests of Migrant Workers, consistent with international standards.</i></u> b. <u><i>Meet relevant international standards where the Entity provides accommodation or other services to its Migrant Workers.</i></u> c. <i>Not require Migrant Workers to lodge deposits or security payments at any time. (this is currently 10.3c in Forced Labour)</i></p> <p>New definition: <u><i>Migrant Worker: A person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national. (Adapted from the UN Convention on the Rights of Migrants)</i></u></p> <p>Guidance and References: Context, key concepts and detailed guidance for this criteria including references to the Dhaka Principles, UN GC publications Eliminating Recruitment Fees Charged to Migrant Workers and the Verite’ Fair Hiring Toolkit</p> <p>Standards Committee to discuss:</p> <ul style="list-style-type: none"> Inclusion of new criteria, definition and supporting guidance to respect and protect Migrant Workers. If agreed, whether it is included under Principle 9 Human Rights or Principle 10 Labour rights noting that Principle 10 is about upholding “...decent work and human rights of workers ...” 	<p>Whilst the importance of protecting the rights of Migrant Workers and particular risks that only Migrant Workers may face was acknowledged and agreed by all, it was noted that this proposed revision may constitute a major change and its introduction at this stage of Standard development would require further public consultation, which would compromise the target launch date of the program. It was also noted that development and maintenance of ASI Standards need to accommodate emerging issues and risks for the supply chain whilst respecting the lengthy multi-disciplinary consultation process that have informed them.</p> <p>It was agreed to review the existing parts of the Standard to ensure that the basic rights afforded to Workers that are citizens of the country or State in which they work in are confirmed to also cover Migrant Workers and that the particular risks faced by Migrant Workers are addressed in the Guidance. Further, the definition of Workers in the Glossary is to be revised to specifically mention Migrant Workers.</p> <p>ACTION: Review the relevant criteria in the Standard to ensure that the basic rights afforded to Workers that are citizens of the country or State in which they work in explicitly cover Migrant Workers and that the particular risks faced by Migrant Workers are addressed in the Guidance. Expand the definition of Workers in the Glossary to specifically mention Migrant Workers.</p>
<p>Proposal to expand criteria and supporting guidance & references relating remuneration (currently only in 10.7)</p>	<p>Proposed revision:</p> <p>10.7 Remuneration.. <i>The [Entity] shall</i> a. <i>Respect the rights of [Workers] to a living wage and ensure that wages paid for a normal working week shall always meet at least a legal or industry minimum standard and shall be sufficient to meet the basic needs of [Workers] and to provide some discretionary income.</i> b. <u><i>Pay Workers directly, in tender permitted by Applicable Law, regularly, on time and not be delayed, deferred or withheld. If workers are paid by a legitimate contracted employment agency, the Entity shall confirm that the Worker is paid in tender permitted by Applicable Law, regularly, on time and not be delayed, deferred or withheld.</i></u> c. <u><i>Only permit in kind payments where allowable by Applicable Law or a collective bargaining agreement, and prohibit any payment in the form of vouchers, coupons</i></u></p>	<p>As noted in the comments for the proposed introduction of the criterion for Migrant Workers, the additional criteria in relation to Remuneration may be seen as a major change at this stage of the Standard’s development. Concern was also raised as to whether the issues were too detailed/prescriptive that was not consistent with the approach in the remainder of the standards. It was noted that these issues are covered in the Guidance at present. However it was agreed to review the existing criterion 10.7 to highlight the additional risks associated with timely and fair payment of workers. Further it was agreed to there may be value to reference relevant ILO conventions such as C95, in the same way these are referenced in other criteria in the Standard, either under the existing structure or a new (b) only.</p>

Feedback:	Comments & Proposed changes:	Discussion Notes
	<p><u>or promissory notes.</u></p> <p>d. <u>Prohibit Entity owned and managed forced savings schemes.</u></p> <p>e. <u>Only permit wage advances and loans where allowed by Applicable Law and with interest and repayment terms that are transparent, fair, and understood and agreed by the Worker.</u></p> <p>f. <u>Provide workers with a payslip with understandable details of normal and overtime hours, rates of pay, and the calculation of legitimate deductions.</u></p> <p>Standards Committee to discuss inclusion of new criteria</p>	<p>ACTION: Review Criterion 10.7 to capture the additional risks associated with remuneration and include reference to relevant ILO convention(s).</p>

c. Performance Standard and Guidance on Principle 11 Occupational Health and Safety –
Discussion and review of the comments related to Principle 11 Occupational Health and Safety in the ASI Performance Standard (Version 2, draft 3c WIP) and Performance Standard Guidance (Version 1, draft 3c WIP):

Feedback:	Comments & Proposed changes:	Discussion Notes
<p><i>Principle 11 Occupational Health & Safety</i></p> <ul style="list-style-type: none"> Promotion of health and safety should be part of corporate practice, over and above provision of conditions 	<p>Added 'and promote' to the Principle: <i>The [Entity] shall provide <u>and promote</u> safe and healthy working conditions for all employees and contractors. Communication and engagement.</i></p>	<p>Response accepted and no further changes suggested.</p>
<p><i>Guidance for 11 Occupational Health & Safety – Background and Key Concepts</i></p> <ul style="list-style-type: none"> Suggested edits to the Background 	<p>Incorporated suggestions including: <u>A health and safety culture that drives prevention and promotes good health and safety can deliver substantial benefits.</u> <i>These include improvements in staff performance and motivation, and reductions in injuries, illnesses and sick days, insurance claims, premiums and regulatory fines. Poor management of health and safety directly increases the risk of workplace injuries, illnesses and fatalities, and has the potential to undermine commercial performance and reputation, <u>thereby negatively impacting organizational sustainability.</u></i></p> <p><i>Traditionally health and safety programs focused primarily on the prevention of workplace-related injuries and diseases, <u>including work-related stress, fatigue and work-life balance.</u> Increasingly businesses are developing programs for the general health and wellbeing of workers, by addressing broader aspects of health <u>such as psychological health</u> and safety, stress, fatigue, fitness for work, obesity, substance addiction and work-life balance. <u>While the intent of these programs is to further enhance workplace health and safety, due regard to issues of privacy must be given, with protections for workers who may seek help with health or personal problems.</u></i></p>	<p>Response accepted and no further changes suggested.</p>
<p><i>Criterion 11.1 Occupational Health & Safety Policy</i></p>	<p>The following revision have been made to criterion 11.1a which also incorporates</p>	<p>Response accepted and no further changes suggested.</p>

Feedback:	Comments & Proposed changes:	Discussion Notes
<ul style="list-style-type: none"> Visibly communicated policy statement should be included in addition to the existence of said policy. 	<p>suggested changes to the Policies in criterion 2.1 Environment, Social and Governance Policy:</p> <p>11.1 Occupational Health and Safety (OH&S) Policy. <i>The [Entity] shall</i></p> <p>a. implement, <u>communicate</u> and maintain <u>regularly review</u> an [Occupational Health and Safety] Policy that <u>senior management has endorsed and supports through provision of resources.</u></p>	
<p><i>Criterion 11.1 Occupational Health & Safety Policy</i></p> <ul style="list-style-type: none"> include visitors in the OHS Policy for area and activities under control 	<p>Added Visitor to 11.1b and included a definition of Visitor in the glossary:</p> <p>11.1 Occupational Health and Safety (OH&S) Policy. <i>The [Entity] shall</i></p> <p>b. applies <u>Apply the Policy to all Workers and Visitors present in any area [or activities] under [the Entity's] control.</u></p> <p><u>Visitor: A person visiting an Entity's Facility or operation or location under the Entity's Control who is not a Worker at the Facility or operation or location.</u></p>	<p>Response accepted and no further changes suggested.</p>
<p><i>Criterion 11.1 Occupational Health & Safety Policy</i></p> <ul style="list-style-type: none"> Edit to policy regarding compliance 	<p>Have modified the criterion and new 11.c convers commitment to comply with Applicable Laws and other standards including ILO Conventions:</p> <p>11.1 Occupational Health and Safety (OH&S) Policy. <i>The [Entity] shall</i></p> <p>c. <u>Include in the Policy shall recognise a commitment to comply with Applicable Law on Workers' health and safety rights, international standards, and in particular ILO Conventions on Occupational Health and Safety such as including where relevant ILO Conventions 155 and 176.</u></p>	<p>Response accepted and no further changes suggested.</p>
<p><i>Criterion & Guidance 11.1 Occupational Health & Safety Policy</i></p> <ul style="list-style-type: none"> Addition/edits to criterion for policy to recognise Workers' health and safety rights: <ul style="list-style-type: none"> i. to know fully and completely about the hazards of their work and receive the necessary training, education, and equipment to do it safely; ii. to refuse or shut down unsafe work without fear of reprisals; iii. to fully and meaningfully participate via Joint Health and Safety Committees (JHSC) and union safety representatives in all aspects of health and safety policies, programmes and procedures – from planning through risk assessment to implementation, including inspections, audits, accident and incident investigations. The only people with the moral authority to assess a risk are those who must 	<p>Have modified the criterion with new 11.d :</p> <p>11.1 Occupational Health and Safety (OH&S) Policy. <i>The [Entity] shall</i></p> <p>d. <u>Include in the Policy the rights of Workers to understand the hazards and safe practices for their work, and the authority to refuse or stop unsafe or uncontrolled work.</u></p> <p>Additional suggestions have been added to the Guidance including:</p> <ul style="list-style-type: none"> <i>Have a written policy on health and safety that is implemented <u>and communicated to all Workers and Visitors.</u></i> <ul style="list-style-type: none"> <u>The development, implementation and maintenance of the policy may be stand alone or integrated into the Entity's policies required in criterion 2.1 for governance, environmental and social aspects of the ASI Performance Standard.</u> <u>See Guidance for Criterion 2.1 for additional information to support the implementation and maintenance of the policy.</u> <i>Consider how to address the following issues for all types of workers and all workplaces, including office environments:</i> <ul style="list-style-type: none"> <u>Complete hazard information, training and supervision to all workers including knowledge and awareness about hazards of their work and how to carry out work activities and operate equipment safely</u> <u>The responsibility and authority to refuse or shut down unsafe work without</u> 	<p>There was in principle agreement with the inclusion of the criterion but that it be further reviewed to ensure the intent was clear in terms of rights, obligations and authority to act in unsafe working conditions.</p> <p>ACTION: <i>Review the wording of criterion 11.1d to clarify the rights of workers and their obligation /authority to act in unsafe conditions.</i></p> <p>Expansion of the guidance for the criterion in section 11.1 including similar Guidance as per that for criterion 2.1 (governance, environmental and social policy requirements) was noted.</p> <p>Further discussion about this criterion will continue at the next meeting.</p>

Feedback:	Comments & Proposed changes:	Discussion Notes
face the risk.	<p><u>fear of reprisals</u> <u>o</u> <u>Processes for consultation with workers on matters that affect their health and safety in an inclusive and meaningful participatory mechanism such as a joint health and safety committee (Workers or their representatives and management) in all aspects of health and safety policies, programmes and procedures – from planning through risk assessment to implementation, including inspections, audits, accident and incident investigations. (see 11.3)</u></p>	

- At this time the meeting time ran over and discussion on the remaining Principle 11 related comments will continue at the next committee meeting on 25 October 2017.
- It was proposed that an additional meeting for early November may be scheduled to complete the review and achieve the work plan for 2017.

Action: A meeting invitation will be sent to the Committee for an additional meeting (if required) for Wednesday 8 November 2017.

4. AOB

- a. No other business.

5. Next Committee teleconferences:

- a. Next meeting:
 - **Wednesday 25 October 2017 (continue with remainder of Performance Standard Principle 11 Occupational health and Safety and then proceed with Principles 7 Water & 8 Biodiversity and outstanding action items)**
- b. Remaining meetings for 2017:
 - Additional meeting for Wednesday 8 November 2017 (if required to complete the review of comments from the public consultation process)
 - Tuesday 21 November 2017 Target finalisation of normative documents for Board endorsement (and translation)
 - Wednesday 6 December 2017 – Work planning for 2018.