

18 December 2018

To:

Andrea Dreifke-Pieper, Chair Global Standards and Certification Team, WWF
Stewart Maginnis, Global Director, Nature-based Solutions Group, IUCN
Pippa Howard, Director, Extractives and Development Infrastructure, FFI

Cc:

Adam Lee, Director for Campaigns, Organizing and Base Metals, IndustriALL
Hugo Rainey, Director of COMBO Project, WCS
Jean-Pierre Méan, Independent Anti-Corruption Expert
Annemarie Goedmakers, President, Chimbo

Dear all,

We write in response to your letter received on 7 December 2018 regarding ASI's work on biodiversity and ecosystem services.

As noted, the ASI Standards Committee agreed to establish a Biodiversity and Ecosystem Services Working Group (BESWG) in January 2018 to progress work on two matters as set out in the Group's Terms of Reference:

- To review how ecosystem services could be practically integrated into the aluminium supply chain.
- To review the pros and cons associated with expansion of 'no-go' commitments (currently applicable to World Heritage Areas) to other areas of high biodiversity value for bauxite mining activities.

The BESWG Terms of Reference then commits to use the results of these work areas to recommend changes to the Performance Standard and related guidance.

ASI's standards development processes are centred on consultation and consensus-building, as set out in the ASI Standards Setting Procedure ([available here](#)). Therefore all proposed changes to the ASI Performance Standard arising from the BESWG are further subject to:

- Review by the Standards Committee
- Public consultation processes
- The revision cycle set by the ASI Board.

The Board's Statement on these matters in February 2018 noted that it sought to establish, ideally by May, whether consensus could be reached rapidly through the BESWG; if so, the Board

would consider an early revision to the Performance Standard. That hoped-for consensus has not happened, which reflects that the issues are genuinely complex. To take one example, your letter's request for expansion of no-go mining areas extends to IUCN categories V and VI, which cover many Indigenous Protected Areas (IPAs). The intent of these Areas is to promote a balance between conservation and other sustainable uses to deliver social, cultural and economic benefits for local Indigenous communities. ASI has one member that is an Indigenous-owned bauxite mining operation that is working on innovative mine rehabilitation techniques, and a Traditional Owner who is on their Board presented to the BESWG meeting in May in Perth. He made the point that your proposal would prevent ASI Certification of a unique Indigenous-owned enterprise, and emphasised the critical importance of broader consultation with Indigenous Peoples on these matters. This has to happen before the BESWG is in a position to conclude its work and make recommendations to the Standards Committee, but was not taken into account in the proposed actions of your letter.

The Board considered the broad suite of objectives and expectations of ASI, as well as the progress to October within the BESWG against their objectives, before setting ASI's most recent strategy, budget and objectives. There were two key factors that contributed to the Board's decision on the timing of the next standards revision:

- The BESWG has not concluded its process for discussing potential changes to 'no-go areas'; and indeed has not yet commenced any detailed discussions of *how* ecosystem services will be incorporated into the Performance Standard. It was thus anticipated that the BESWG discussions on these matters will need to continue well into 2019. A summary of decision points by the Standards Committee, Board and BESWG on biodiversity matters to date is contained in Annex 1, below.
- The ASI Constitution binds the organisation to conduct a Governance Review between 2019 and 2021. ASI cannot be reviewing its decision-making processes while at the same time trying to use them to make decisions on matters that have, to date, been highly contested. The Governance Review and any standards revision activities must therefore happen in sequence. The Governance Review has been scheduled to take place during 2019 rather than a later date, to allow revision of the standard at the earliest possible time.

With regards to the revision cycle for ASI's standards and normative documents, and in light of all the factors, the Board therefore agreed to bring forward the previously published 5 year revision cycle to 4 years. The revision process will thus commence in 2020 and is expected to conclude in late 2021. A Gantt chart of the steps in the standards revision process was tabled with the Standards Committee at its teleconference on December 4, 2018 (see Annex 1, section D). During 2019, the BESWG (along with other Working Groups) will continue their activities and ideally develop comprehensive recommendations in preparation for the commencement of the formal Standards Revision process.

In recognition of the strong interest by your organisations in the timing of the next standards revision, the Board specifically included the following points with regards to the BESWG in the introduction to the Strategy:

- The issues under discussion are critical to some members. Exploration of the potential implications for bauxite mines in the close vicinity of protected areas should continue to be explored.
- While all stakeholders are keen to see these resolved as soon as possible, there are limits on how quickly the process can be moved. The stakeholder engagement and dialogue needs to be respectful and done well.
- Consensus-building is the responsibility of the participants, and the Secretariat's role is to facilitate, enable and support the process. External engagement by ASI members may accelerate the process and help develop clear recommendations to the Standards Committee.
- The sooner the BESWG can reach a position, the sooner the Standards Committee can discuss and formulate a proposal for the 2020 consultation.
- Once the recommendation of the BESWG has been reviewed by the Standards Committee, the upcoming revision changes can be supported by Board-level communications ahead of the consultation process, providing a clear signal to all relevant stakeholders.

In response to your requested actions:

- 1) ASI is happy to publish your letter and this response on the ASI website and in the next Member update (due out in January 2019). The aim is to be transparent about the concerns raised, ASI's processes that are in train and the potential implications of both. This builds on previous communications in February 2018 with the Board Statement (referenced in Annex 1, below), as well as information included in ASI newsletters and updates throughout 2018, most recently in November and December.
- 2) The Board cannot agree to your request to direct ASI members not to pursue certification in some contexts. ASI's Constitution and Governance Handbook do not permit the Board to unilaterally issue moratoriums on standards-related matters that have not been through ASI's due processes of public consultation, consensus-building through the Standards Committee and legal review for competition law risks. These processes are in place to support proactive engagement with stakeholder groups that are likely to have an interest in the standard or that are likely to be affected by its implementation, and provides them with mechanisms for participation that are appropriate and accessible. They also control the risk of issuing standards, or similar, that do not have the full consideration of legal compliance and other risks. The Board has respected its governance role during all its deliberations and worked to support ASI processes. We fully acknowledge that ASI's Standards can and will be improved over time. But as a Board, it is neither our role nor intention to undermine the Standard which was approved following extensive multi-stakeholder processes, first begun under IUCN's Standards Setting Group from 2012-2014.

- 3) The BESWG has been established as a process for building consensus across divergent perspectives on the identified issues. Debate is welcome and encouraged, as it is at the heart of a multi-stakeholder process. The matters are clearly of high significance for both environmental NGOs, as signalled in your letter, but also for Indigenous Peoples (as explained above) and for mining companies as there are commercial implications in their ability to access, or not, ASI Certification.

As noted in the Strategy, the Board takes a realistic view of how quickly a consensus-building process can be pushed. Attempts to ‘fast-track’ such a process assume that additional pressure or intensity over a shorter timeframe will quickly resolve the divergent perspectives, despite the details and consultative processes that must be worked through in order to build common ground. In our view, it is essential that the dialogue underway be both respectful in nature and of the processes that are set out in ASI’s governance structure. The Board has specifically overseen the establishment of a multi-stakeholder Working Group process in order to bring the necessary experts from a range of organisations to the table. We therefore wish to see the BESWG process used effectively by all parties. While we do not yet see value in a separate mediation process, we are certainly open to exploring this point further, or other ways to enhance the process in 2019, subject to discussion of the proposal within the BESWG itself.

In terms of resources, the ASI Secretariat brings extensive standards and auditing expertise to ensure that criteria and guidance are written in a way that is clear and auditable, and that the standards development processes are inclusive and follow ASI’s procedures. Three senior members of the ASI Secretariat participate in BESWG and Committee activities and collaborate on process support. In 2018, significant amounts of time from the Secretariat, Board and Standards Committee have been directed towards discussions, activities and governance matters connected to BESWG topics, even though this is alongside our first year of implementation of the ASI program. ASI also convened a face-to-face meeting of the BESWG in Perth, and supported travel of additional participants to attend. In 2019, the BESWG will continue to have regular teleconferences and a face-to-face meeting is planned in Q3, alongside a second and longer Standards Committee meeting than the one to be held during ASI’s AGM Week.

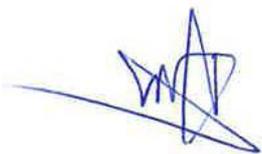
With regards to additional resources, we are aware that the Australian Aluminium Council are already funding the involvement of an independent consultant to facilitate input from industry perspectives and drafting of detailed proposals for consideration by the BESWG, with an initial proposal that was tabled in September 2018 and further work underway for the next meeting. The Board is also aware that the International Council on Mining and Metals (ICMM) will be releasing updated Performance Standards that introduce ‘no net loss’ requirements, and that ICMM and IUCN have a history of dialogue on these matters dating back to the early 2000’s.

We all share the desire to drive engagement through a dialogue process to resolve the issue. The action on the critical path is for the BESWG is to arrive at one or more proposals on draft wording of the Standard and Guidance in these areas, for the Standards Committee to then consider and take forward through to consultation. This relies on the participants to engage in good faith in the process and share expertise, input and experience to inform the deliberations. Your letter clearly highlights the frustrations felt within your organisations in following the agreed process, which may also be shared by other participants to the discussion. But this is the price for building true consensus across an organisation whose members have widely different views and positions, but who are nevertheless all committed to working together to create conditions for socially and environmental responsible production and use of aluminium for future generations.

We hope this response clarifies the history and current status of the processes to address the matters you have raised. Representatives of your organisations at Board, Standards Committee and/or BESWG should already be aware of and participating in the detailed discussions at these various levels. The ASI Board takes seriously the role of Civil Society members in contributing to an organisation that is aiming to make a difference in a global industry. Moving forward, we would value your organisations continued engagement in delivering the necessary content for the revision, within the processes and timing that have been set out. We would welcome the opportunity to convene a discussion between the three signatories and ourselves on ASI's processes and the steps ahead.

ASI has publicly committed to continue to progress the work under the BESWG during 2019. It is hoped, through the efforts of all parties, that consensus or compromise positions can be reached in time for the next Standards Revision process to commence. We understand that the matters are of significant importance to all parties, and hope that all ASI members and stakeholders can work collaboratively towards reaching a resolution.

Yours sincerely



Daniel Weston
ASI Board Chair



Fiona Solomon
ASI Chief Executive Officer

Annex 1 – Summary of decisions, minutes and Board statement

A. Standards Committee and Board decisions to date

The following is a timeline and summary of key **decision** points on these matters:

Date	Group/s	Decision (by resolution)
22 February 2017	Standards Committee	Performance Standard revision Terms of Reference for public consultation – revision agreed to be a minor revision, in recognition of the work already done by the IUCN Standards Setting Group on V1 of the Standard.
5-7 April 2017	Standards Committee	Agreed draft changes to the Performance Standard V2 and new Guidance document to be released for public consultation. A vote was taken with the result to not address ecosystem services in the V2 Standard and form a Working Group to explore how this could be done for a future revision.
<i>August 2017 (Included for context – not a decision)</i>	<i>IUCN, WWF and FFI</i>	<i>Submitted comments through public consultation process to ‘Initiate discussion to expand the “no go” list to include ...’ a list of IUCN, Ramsar, UNESCO, HCV and KBA areas plus areas adjacent to these.</i>
25 October 2017	Standards Committee	Discussion of biodiversity-related comments highlighted polarised views on issue of no-go areas, and a recap of the decision on ecosystem services that had been taken in April. Secretariat actioned to prepare discussion paper on (a) continuing minor revision and timelines as planned, or (b) opening to major revision.
8 November 2017	Standards Committee	Resolved to continue with the minor revision of the Performance Standard. Action raised for the Secretariat to work with the Committee on further options and future work plans for a Biodiversity and Ecosystem Services Working Group to commence in 2018.
29 November 2017	Standards Committee	Approval of the ASI normative documents for Board adoption. Recommendation to the Board that the ecosystem services “topic has a shorter revision period (suggested as 2 years)”.
12 December 2017	Board	Resolved to: <ul style="list-style-type: none"> • Adopt the final drafts of the ASI normative documents as ASI By-Laws, and launch the

		<p>ASI Certification Program in December 2017.</p> <ul style="list-style-type: none"> • Seek clarity from the Biodiversity Working Group and Standards Committee at the Board’s May meeting on potential revision timelines, based on the feasibility for consensus.
30 October 2018	Board	<p>The 2019 Strategy and Budget was approved by the Board by circular resolution on 30 October. The Board decided that in light of progress of the BESWG, there would be one comprehensive standards revision cycle commencing in 2020. This was communicated via:</p> <ul style="list-style-type: none"> • The ASI Members Update on 7 November 2018, where a copy of the Strategy was circulated to ASI Members as part of a broader article on 2019 plans. • The Standards Committee teleconference on 4 December 2018, where the Board’s decision on the standards revision cycle, including the notes regarding the BESWG, plus a Gantt chart of the revision process timetable prepared by the ASI Secretariat were tabled for discussion. <p>The Board also discussed a letter from WWF just prior to their meeting re next steps on the BES topics. The CEO and Chair responded inviting further bilateral discussions of proposals to be tabled with the WG. No reply was received.</p>

B. Board statement

In February 2018, at the request of WWF, the Board developed and published a ‘Board statement’ on the ASI website regarding work activities on biodiversity.
<https://aluminium-stewardship.org/asi-board-statement-regarding-biodiversity-2018-work-activities/>

The Board statement notes that:

The key expected outputs of the Working Group’s and Standards Committee’s work are: 1) a practical recommendation on the expansion of no-go areas and the integration of ecosystem services in the biodiversity management criteria, and 2) a proposed roadmap for change to the Standard, including public consultation processes as per ASI’s Standards Setting Procedure.

The Board has requested a progress update in May 2018, following the AGM Week meetings, at which point it will be able to review the feasibility of reaching consensus on changes to the ASI Performance Standard and the likely timing of future revisions.

C. Biodiversity and Ecosystem Services Working Group (BESWG) progress

In 2018, BESWG-related teleconferences and meetings have been held as follows:

Date	Type	Summary
February 21	Teleconference	Discussion of WG Terms of Reference and work plan to May meeting.
February – August	Reference sharing	A shared folder established to share relevant references from and among the Working Group. Around 16 sets of guidance and analyses on these topics have been added to date.
April 30	Teleconference	Further discussion of updated Terms of Reference and discussion of draft agenda for May meeting. Presentation from WWF on a mapping study of bauxite mining and KBAs/PAs.
May 24	Full day face-to-face meeting in Perth	Presentations and discussion on concepts of ecosystem services. General agreement for the integration of Ecosystem Services into the next version of Performance Standard as soon as possible, and that the development of detailed guidance for this was required through the WG. Presentations and discussion of pros and cons of expansion of the ‘no-go’ commitment to other areas of high biodiversity value. Industry actioned to prepare proposal for potential changes to the ASI Performance Standard and Guidance on a risk-based approach as alternative to no-go approach.
May-September	Industry sub-group	Australian Aluminium Council convened input from company experts in a drafting process for proposed changes to the Standard and Guidance using a risk-based approach, to be tabled with the BESWG for discussion.
August-September	IBAT webinars	The ASI Secretariat collaborated with the IBAT team to develop, deliver and promote webinars on the relaunched IBAT tool. A recorded version is now part of the educational series.
September 6	Teleconference	Industry proposal for potential changes to Standard and Guidance tabled for discussion and feedback. Industry agreed to work on further proposals and more detailed guidance for the next meeting.

		Further written feedback and specific drafting suggestions invited from all the WG.
November	ASI – ICMM meeting	The ASI CEO met with the ICMM Secretariat to discuss their forthcoming Performance Expectations, and changes made on biodiversity topics. These will be shared with the BESWG when they are published by ICMM.
December	Birdlife International – TESSA	Following several earlier discussions during 2018, the ASI Secretariat organised a 1.5 hour briefing with Birdlife on their Toolkit for Ecosystem Services Site-Based Assessment (TESSA); to be shared at the next BESWG meeting.

In addition, numerous bilateral calls between the ASI Secretariat and individual BESWG members have been held during the year.

For 2019:

- First teleconference has been scheduled for February 19, 2019
- Additional teleconferences to be scheduled around availability and progress of participants – ideally every 4-6 weeks
- Q3 face-to-face BESWG meeting planned alongside Standards Committee meeting

D. Standards Review Schedule shared with Standards Committee 4/12/18

ASI Strategy and Standards Review Schedule

