

# ASI Standards Committee

## Teleconference Minutes

1 December 2020

# Antitrust Compliance Policy

---

*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 a Competition 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.*



# Acknowledgement of Indigenous People

---

*ASI acknowledges Indigenous Peoples and their connections to their traditional lands where we and our members operate. We aim to respect cultural heritage, customs and beliefs of all Indigenous people and we pay our respects to elders past, present and emerging.*



# ASI Ways of Working

---



*ASI is a multi- stakeholder organisation. Dialogue is at the heart of everything we do. It is critical to ensure that the organisation delivers on its mission. We welcome all participants and value the diversity of backgrounds, views and opinions represented in this meeting. We recognise that we have different opinions; that is the heart of healthy debate and leads to better outcomes. To ensure our meetings are successful, we need to express our views and hear the views of others in a respectful and professional way, protecting the dignity and safety of all participants and enabling full participation from all attendees.*

# Agenda – 1 December 2020

	Topic		Lead	Time
1	a. Welcome b. Introduction & Apologies c. Objectives d. Documents Circulated	e. Previous Minutes f. Log of Actions g. Progress/Status Update	ASI / Chair	5 min
2	a. Modern Slavery Statement (10.3)	b. Criterion 10.4 Non-Discrimination	ASI / Chair	20 min
3	a. ASI ESS ICMM recognition update		ASI	10 min
4	a. Criterion 9.1 Human Rights Due Diligence b. Criterion 9.3 Indigenous Peoples c. Criterion 9.4 Free, Prior and Informed Consent	d. Criterion 9.6 Resettlements e. Criterion 9.7 Local Communities f. Criterion 9.9 Security Practice g. Guidance	ASI / Chair	80 min
5	a. Agreed upon actions for Committee members	b. Agreed upon actions for the Secretariat c. Close	Chair	5 min

# 1a,b Welcome, Introduction & Apologies

---

Chair: Kendyl Salcito (Nomogaia)

Attendees: Abdoul Khalighi Diallo (AGEDD - Association Guinéene d'éveil au Développement Durable), Alexander Leutwiler (Nespresso), Annemarie Goedmakers (Chimbo), Catherine Athenes (Constellium), Jessica Sanderson (Novelis), Neill Wilkins (IHRB), Rosa Garcia Pineiro (Alcoa), Steinunn Steinsen (Nordural), Tina Bjornestal (Tetrapak).

ASI: Cameron Jones (facilitator), Marieke van der Mijn, Camille Le Dornat, Kamal Ahmed

Apologies: Abu Karimu (Settle Ghana), Anthony Schoedel (Arconic), Gesa Jauck (Trimet), Gina Castelain (IPAF), Giulia Carbone (IUCN), Hugo Rainey (WCS), Jostein Søreide (Hydro), Justus Kammüller (WWF), Louis Biswane (KLIM), Marcel Pfitzer (Daimler), Michael Frosch (BMW), Nicholas Barla (IPAF), Samir Whitaker (FFI), Stefan Rohrmus (Schueco).

Alternatives: None

Proxies:

1. Kendyl Salcito for Justus Kammüller
2. Catherine Athenes for Gesa Jauck
3. Annemarie Goedmakers for Giulia Carbone



# 1c,d Objectives & Documents Circulated

---

## Objectives for today's session:

1. Adopt minutes from the meetings between 12-20 October and 17 November.
2. Review and approve Criterion 10.3 relating to the Modern Slavery Statement requirement.
3. Approve Criterion 10.4
4. ASI ESS Update: ICMM Mining Principles
5. Review and approve criterion and guidance for Principle 9.
6. Confirm actions and next meetings

## Documents circulated for today's session:

1. ASI SC Teleconference minutes 12-20Oct20 (amended).pdf
2. ASI SC Teleconference minutes 17Nov20 (revised).pdf
3. Principle 9 TC.docx (*last updated 29 September, 2020*)
4. Principle 10 TC.docx (*last updated 25 November, 2020*)
5. ASI - SCMemberApptProxyForm 01Dec20.docx
6. ASI - SCMemberAlternateForm 01Dec20.docx

# 1e Previous Minutes

---

- “ Minutes for the meetings from 12-20 October were distributed on 4 November as one consolidated presentation.
- “ Two rounds of amendments made based on feedback received
- “ Minor amendment made to 17 November minutes based on feedback.
- “ Does the SC accept both the October and November meeting minutes (and with amendments)?
- “ Resolved to accept the minutes of the 12-20 October meetings.
- “ Resolved to accept the minutes of the 17 November meeting.



# 1f Log of Actions

---

## Log of Meeting Actions open or closed since last meeting:

- |  |                      |
|--|----------------------|
| 1. The Secretariat to add introductory section on “publicly disclose” to the Performance Standard Guidance | OPEN                 |
| 2. One Standard Committee Member to draft some language on OHS indicators to include in the Guidance.      | COMPLETED            |
| 3. The Secretariat to include a reference to GRI 403 in the Guidance for Criterion 11.2                    | COMPLETED            |
| 4. The Secretariat to check with the Board what is the process for the SC rejecting a WG proposal.         | OPEN                 |
| 5. The Secretariat to change ‘legal tender’ to ‘legal currency’ in Guidance for 10.7                       | COMPLETED            |
| 6. Add more clarity in 10.8 Guidance on workers who need to work more than 7 days in a row (+ example)     | OPEN                 |
| 7. The Secretariat to include a modern slavery statement template in the Guidance.                         | FOR DISCUSSION TODAY |
| 8. Further update to 12-20 October minutes, based on recent feedback (re agreed text)                      | COMPLETED            |
| 9. The Secretariat to add guidance on vulnerable groups to Criterion 10.1.                                 | OPEN                 |
| 10. Review Guidance re. references to national law and check for consistency throughout                    | UNDERWAY             |

# 1g Progress/Status Update

	PS 1	PS 2	PS 3	PS 4	PS 5	PS 6	PS 7	PS 8	PS 9	PS 10	PS 11	COC	MS	AM	Claims	Final Review
Standard	✓	✓	✓	✓		✓	✓	✓	T	10.3 & 10.4	✓	✓ *	✓	✓		
Guidance	✓	✓	✓	✓	-	✓	✓	✓	T	✓		✓				

## Upcoming Meetings:

- 2 December (GHG 'sub-committee' only – for 5.2a)
- 10 December (GHG 'sub-committee' only – for 5.2a)
- 16 December: CoC (including pre-consumer scrap), Claims Guide, P11 Guidance
- 7 January (GHG 'sub-committee' only – for 5.2a)
- 13 January: PS 5. **All decisions made by this date.**
- 21 January: **Final Review and All documents Approved for Consultation**
- February: Review of consultation documents and planning for SC process for post consultation
- March: Benchmarking/Indicators/Verifiers Discussion

\* CoC 9.3 + new recommendations

## 2a Modern Slavery Statement

### 10.3 Forced Labour

The Entity shall neither engage in nor support the use of Forced Labour as defined in ILO Conventions C29, along with Protocol P29 (2014) to this Convention, and C105.

- a. The Entity, **either directly or through any direct or contracted employment or recruitment agencies**, shall not:
  - i. Engage in or support Human Trafficking ~~either directly or through any employment or recruitment agencies~~.
  - ii. Require any form of deposit, **Recruitment Fees, Costs and Charges** or equipment advance from Workers either directly or through employment or recruitment agencies.
  - iii. Require Migrant Workers to lodge deposits or security payments at any time.
  - iv. Hold Workers in Debt Bondage or force them to work in order to pay off a debt.
  - v. ~~Unreasonably~~ restrict the freedom of movement of Workers in the workplace or in on-site housing.
  - vi. Retain original copies of Workers' identity papers, work permits, travel documents or training certificates.
- b. **The Entity shall publish an annual Modern Slavery Statement detailing their actions to address modern slavery.**

“ Text agreed to (in principle): “The Entity shall publish an annual modern slavery statement detailing their actions to address modern slavery.”

“ Qu to SC: *Do you support the inclusion of the modern slavery statement requirement?*

- 6 of 7 respondents said Y
- 5 for 10.3, 1 said up to Secretariat.
- Other location suggested was 9.1, but preferred in Guidance.

## 2a Discussion

---

- “ The majority of participants were keen to include it in Criterion 10.3 and a few thought other criteria might be more suitable.
- “ One participant who initially wanted to include this requirement somewhere else in the Standard, expressed agreeing to include it in Criterion 10.3.
- “ A participant said that it is useful to keep that in mind when Criteria are overlapping across several principles, but reiterated the thinking that 10.3 is the right place for a modern slavery statement and added pushing back against the idea of including it in the Guidance – if we include it, it should be normative.
- “ A participant said it was not being very clear as to why we would need to do this for modern slavery and not for other human rights issues (discrimination, etc.) and asked where this is leading for the whole human rights topic - are we going to require statements for all other human rights issues?
- “ Another participant replied that including it under this criteria specifies that this is a labour rights issue and it is not in the scope of the broader range of Due Diligence issues.

## 2a Discussion

---

- “ It was added that having a modern slavery statement is a practice now reasonably well established across Australia, Europe, the US, etc. Modern slavery statements or their equivalents are expected to become a norm.
- “ It was also said that the original idea for this requirement came from the fact that many companies may already have a modern slavery statement. It is also a statement of intent that you are undertaking due diligence. It is important that it goes into the Criterion and not in the Guidance because external stakeholders will look at the criteria but not necessarily to the Guidance. It would be weak to say those requirements are only included in the Guidance and this is not ASI's commitment.
- “ The participant said that a company has more responsibility towards its own site/s than towards the rest of the supply chain, and this would pose a 'dilution' problem.
- “ A participant replied that a company may chose to tackle a specific area/sector that presents the greatest risks, and that is the sort of things that would go into a modern slavery statement. By undertaking this, it is only expected that you undertake due diligence, present the risks and your mitigation means.

## 2a Discussion

---

- “ For example, Tesco prepared a statement and subsequently took some steps to reduce the problems they were finding. The starting point for that was the due diligence, as part of their modern slavery statement. This really led to significant change down the line, after several years.
- “ It was asked whether anyone was strongly opposed to this new language.
- “ One participant raised not agreeing - arguing it is complicated to implement for small companies down the value chain; this represents a lot of work; and ASI's role is precisely to have assurance along the value chain.
- “ The Secretariat suggested to send it out for consultation and see if we receive comments from small companies, etc.
- “ The participant asked whether we could include a question for the consultation. The Secretariat said we will capture in the tracked changes that it was not a consensus decision and that concerns were raised.
- “ It was said that Modern Slavery Statement should be capitalised, as it's becoming a proper noun.
- “ The Standard was approved for consultation, with capitals to Modern Slavery Statement, with a note mentioning that one participant disagreed.

## 2b Criterion 10.4 Non-Discrimination

### 10.4 Non-Discrimination

The Entity shall:

- a. ensure equal opportunities and shall not engage in or support Discrimination in hiring, salary, promotion, training, advancement opportunities or termination of any Worker on the basis of gender, race, national or social origin, **caste**, religion, disability, political affiliation, sexual orientation, marital status, family responsibilities, age, or any other condition that could give rise to Discrimination, ~~in line with ILO Conventions C100 and C111.~~
- b. **Undertake objective appraisals of jobs on the basis of the work to be performed to verify equal rates of pay for equal work.**

- “ As there was no quorum at the time, the decision to approve the Standard (above) carried over today. In principle agreement was obtained last meeting.
- “ Approve?



## 2b Discussion

---

- “ Revisions to Criterion 10.4 were approved.

## 2b Criterion 10.4 Non-Discrimination

### 10.4 Non-Discrimination Guidance

- Note that where targets are mandated by local legislation or law that requires positive discrimination in favour of local residents, Indigenous peoples, or groups who have been historically disadvantaged (such as on the basis of gender or race, for example), these may not be regarded as discrimination.
- Similarly, projects may have objectives to promote the employment of the local community within the project. Where this is done in accordance with national law, this will not be taken to infringe the principles of this paragraph.

“ A question was asked last meeting about where references to ‘national law’ are in the current PS Guidance. These are as follows:

10.2 Child labour: *“The minimum age relating to child labour is considered to be 15 years, or the minimum age as specified in national law, whichever is higher.”*

10.7 Remuneration: *“ Wage payments need to be made regularly and directly to workers, in accordance with national law, and shall not be delayed, deferred or withheld.” AND “only deductions, advances and loans authorized by national law are permitted and, if made or provided, actions shall only be taken with the full consent and understanding of workers.”*

*Question – can we remove the reference to national law?*

“ Can we remove the reference to national law? Could it read as:

*“Local residents, indigenous peoples, or groups that have been historically disadvantaged (such as on the basis of gender or race, for example) can be prioritized for recruitment, hiring and promotion without infringing the principles of this criterion.”*

## 2b Discussion

- “ It was raised that the text in blue contradicts the first bullet point. A participant replied that it does not, as the first bullet point says it is not considered discrimination if the law requires it, while the second says you can find creative ways to promote positive discrimination. It was said that the blue language was unclear.
- “ It was also asked what “this will not be taken to infringe the principles of this paragraph” meant.
- “ The Secretariat noted the points regarding readability and suggested to replace the blue language with the green wording at the bottom of the slide. This was agreed to.
- “ The Guidance language was approved, as per the blue text below:

### 10.4 Non-Discrimination Guidance

- Note that where targets are mandated by local legislation or law that requires positive discrimination in favour of local residents, Indigenous peoples, or groups who have been historically disadvantaged (such as on the basis of gender or race, for example), these may not be regarded as discrimination.
- Local residents, indigenous peoples, or groups that have been historically disadvantaged (such as on the basis of gender or race, for example) can be prioritized for recruitment, hiring and promotion without infringing the principles of this criterion.

## 3a – ASI ESS Update: ICMM Mining Principles

- “ The International Council on Mining and Metals (ICMM) is an international organisation dedicated to a safe, fair and sustainable mining and metals industry.
- “ ICMM brings together 27 mining and metals company members and over 35 national, regional and commodities association members. ICMM and ASI have three members in common: Alcoa, Hydro and Rio Tinto
- “ Every ICMM company member adheres to the ICMM Mining Principles, which incorporate environmental, social and governance requirements, site-level validation of performance expectations and assurance of corporate sustainability reports.
- “ ICMM has conducted equivalency benchmarking exercise of their Mining Principles to see how they are equivalent to, or differ from, the requirements of other mining/metals-related standards, including ASI Performance Standard
- “ Others include World Gold Council Responsible Gold Mining Principles, RMI Risk Readiness Assessment (RRA) / Copper Mark and Mining Association of Canada - Towards Sustainable Mining (TSM)
- “ After a 1,5-year process and several rounds of discussion between ASI and ICMM , the recognition will be launched in December and will include:
  - ICMM press release
  - FAQ document
  - ASI equivalence introduction text
  - ASI-ICMM benchmarking table (*this will contain details on what evidence ICMM members need in order to fill gaps where rating is ‘Partially Meets’*)



## 3a – ASI ESS Update: ICMM Mining Principles

---

What does this mean for ICMM members that are also ASI members and certified against the Performance Standard?

- “ This recognition means that for ICMM member assets that have undergone third-party validation of the ASI Performance Standard within in the last three years, ICMM will recognise this validation so assets do not need to repeat the validation for those requirements deemed equivalent in this table, for which the asset has already demonstrated conformance under the ASI Performance Standard.
- “ If the PE is ‘partially met’ by the ASI Performance Standard requirements, the highlighted text and notes in the main benchmark table will say what additional evidence you need to provide to meet the PE.
- “ ASI will also include information on its website regarding the ICMM recognition under *Why ASI > Recognition by other Standards and Schemes*.
- “ When ASI’s revised Standards are launched in Q1 2022, the ASI-ICMM benchmarking exercise needs to be updated and ASI will start the recognition process of the ICMM.

# 3a – ASI ESS Update: ICMM Mining Principles

ASI Performance Standard <i>exceeds</i> ICMM PE	ASI Performance Standard <i>meets</i> ICMM PE	ASI Performance Standard <i>partially meets</i> ICMM PE	ASI Performance Standard does <i>not meet</i> ICMM PE	N/A for ASI Performance Standard
2 PEs  6.3, 10.2	23 PEs  1.1, 1.2, 1.4, 2.2, 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, 4.2, 4.3, 4.4, 5.1, 5.2, 6.1, 6.4, 8.2, 9.1, 9.3, 10.1	11 PEs  1.5, 2.1, 4.1, 6.2, 6.5, 7.1, 7.2, 8.1, 9.2, 10.3, 10.4	0 PEs	2 PEs  1.3, 9.4

Why are there differences between ASI / other standards and ICMM?

- 1) The other standard owners and ICMM are distinct organisations with different memberships, mandates and governance structures
- 2) The drivers behind how and why each standard was developed are similar, but not exactly the same.
- 3) Standards that are commodity or geography specific are likely to emphasise particular environmental, social or governance issues over others. Given the diversity of ICMM's membership, the Mining Principles are designed to apply across commodities and geographies.

Why did ASI rate Partially Meets on certain ICMM PEs?

- “ ICMM wanted specific language and references to be included in the standard requirement (not in the Guidance, where is mentioned) in order to be equivalent (this was the case for all Partially Meets)
- “ Gaps have been logged as part of the ASI Standards Revision process.
- “ ASI accepted but did not agree to all ratings, however it is ICMM's decision in the end.

## 3a Discussion

---

- “ It was asked whether the gaps logged as part of the revision process were logged for this revision round or for the next one (i.e. V4 of the Performance Standard). The Secretariat replied that the benchmarking assessment with ICMM started in 2019 and the gaps were logged for this revision round, and have already been addressed where possible.
- “ It was asked whether ICMM conducted a similar equivalency benchmarking with other Standards like Responsible Steel, Copper Mark, etc. It was replied that yes; the first round includes standards from the World Gold Council, CopperMark/Responsible Minerals Initiative and Mining Association of Canada, and next year others will be completed including standards from Responsible Steel and IRMA.



# 4a Criterion 9.1 Human Rights Due Diligence

**9.1 Human Rights Due Diligence** The Entity shall respect Human Rights and observe the UN Guiding Principles on Business and Human Rights in ways appropriate to their size and circumstances, including as a minimum:

- a. A **gender-responsive** Policy commitment to respect Human Rights.
- b. A **gender-responsive** Human Rights Due Diligence process that seeks to identify, prevent, mitigate and account for how it addresses its actual and potential impacts on Human Rights, **including any significant legacy impacts. The Entity shall ensure the process is**
  - i. **consultative**
  - ii. **monitored**
  - iii. **periodically updated to accommodate shifting Human Rights conditions.**
- c. A mapping of Impacted Populations and Organizations. The Entity shall ensure Impacted Populations are:
  - i. **engaged by the operation**
  - ii. **consulted about operational activities and potential significant Human Rights impacts and informed of the operation's Complaints Resolution Mechanism.**
- d. Where the Entity identifies, **through due diligence and/or grievances**, as having caused or contributed to adverse Human Rights impacts, it shall provide for or cooperate in their remediation through legitimate processes.

## Recommendation for the Standards Committee from the HRWG:

- 1. Include a gender component to the Human Rights Policy and Human Rights Due Diligence process. (Log item 232)
- 2. Required that the Human Rights Due Diligence Process is consultative, monitored and periodically updated. (Log item 170)
- 3. Require a mapping of Impacted Populations and Organizations
- 4. What does this mapping entail for highly regulated areas?

## 4a Discussion

---

- “ A participant asked whether language will be included in the Guidance about highly regulated areas and implementation of this revised criterion for companies operating in those areas.
- “ A participant replied that the Guidance already does articulate that the level of due diligence varies by context. The due diligence (including mapping) will be carried out in light "of its circumstances (including sector, operating context, size and similar factors) to meet its responsibility to respect Human Rights."
- “ Revisions to Criterion 9.1 were approved.

## 4b Criterion 9.3 Indigenous Peoples

### 9.3 Indigenous Peoples

- a. The Entity shall implement Policies and processes to ensure respect for the rights and interests of Indigenous Peoples, consistent with international standards, including ILO Convention 169 and UN Declaration on the Rights of Indigenous Peoples.
- b. The Entity shall inform Indigenous Peoples of the relevant ASI Performance Standard requirements.

For consideration:

1. Indigenous Peoples should be explicitly informed about the ASI requirements by the company (LOG ITEM 67)

## 4b Discussion

---

- “ Revisions to Criterion 9.3 were approved.

# 4c Criterion 9.4 Free, Prior and Informed Consent

## 9.4 Free, Prior and Informed Consent

~~Where new projects or major changes to existing projects may have significant impacts on the Indigenous Peoples associated culturally with and living on the relevant lands,~~ The Entity shall consult and cooperate in good faith with the Indigenous Peoples concerned through their own representative institutions in order to obtain their documented free and informed consent:

- a. For New Projects or Major Changes to existing projects that may have significant impacts on the Indigenous Peoples associated culturally and living on the relevant lands prior to the approval of the project
- b. For Bauxite Mines: On an on-going basis:
  - i) Prior to entering a new phase of operations.
  - ii) Prior to altering an existing rehabilitation plan.
- c. The Entity shall demonstrate that the consent is supported by the Indigenous Community.

### For consideration:

1. Consent should be documented. (LOG ITEM 76)
2. Consent should be supported by the Indigenous Community. (LOG ITEM 76)
3. In some instances consent should be given on an on-going basis. (LOG ITEM 75)
4. Leave out “through their own representative institutions” Too often they are “corrupted”.

## 4c Discussion

---

- “ A participant raised that in c), “Indigenous Community” is ambiguous – do we refer to both “local communities and Indigenous Peoples”, or only to “Indigenous Peoples”?
- “ Another participant said that affected communities are addressed in 9.1 and 9.2, and Indigenous Peoples are addressed separately in 9.3 and 9.4. ASI has not extended the right of FPIC beyond Indigenous Peoples.
- “ It was asked why not, as local communities should also have the right to FPIC. It was replied that countries have national laws and the ability to infringe people’s rights to move projects forward if they want to. Historically this has been used against Indigenous Peoples, so now they are protected by international laws (UN, ILO) with FPIC rights to prevent that. Other Standards tried to expand FPIC to other communities and faced issues because they couldn’t enforce it.
- “ It was discussed that for example in Guinea there are no Indigenous Peoples but local communities that are affected by projects and they should have the right to FPIC.
- “ It was added that FPIC is required before defining a protected area, so why wouldn’t it be possible for a mine?

## 4c Discussion

---

- “ It was said that if we expand the right of FPIC to all communities, we risk problems implementing without a cover of international laws to justify ASI's position. We could run this question by lawyers. It was added that in Guinea some communities would qualify under Indigenous Peoples.
- “ A participant replied not thinking that in Guinea there is any indigenous group in *scripto sensu* (literally); and that this criteria is about companies, not States, and a company cannot overrule the rights of communities. It was suggested to replace 'Indigenous Community' by 'indigenous and local communities'.
- “ A participant added that if this is extended to local communities, we could also face situations where communities can reject industrial projects in industrial areas, and how do we deal with that?
- “ A participant reiterated having real reservations to extend FPIC beyond Indigenous Peoples. IFC's Performance Standard 7 specifically defines Indigenous Peoples who can be protected under FPIC (partly though self-identification).



## 4c Discussion

---

- “ The Secretariat suggested to include a reference to IFC PS7 in the Guidance to clarify, and to run the issue with the ASI legal counsel.
- “ It was said that we need to include participants from the mining industry in those discussions.
- “ A participant reiterated not agreeing, as for example we see in Guinea that local communities are not happy at all with the mining projects and feel neglected, left out of the decision-making. So we have to find a way for them to have a right to something.
- “ It was suggested that this concern may be addressed with the new Criterion 9.1. The Secretariat added that this concern could also be addressed through the Guidance. A participant suggested that we also look closely in the guidance at how companies demonstrate that they've worked with people to define whether they are indigenous under international definitions (regardless of legal definitions). This is a real gap in the IFC portfolio that ASI might be able to close.
- “ The Standard was approved, with the above change, reflected on the next slide. One participant did not agree with this decision though.

## 4c Discussion

- ” ACTIONS – Draft Guidance to address the concern that local communities also have a say in new projects or major changes; and how companies demonstrate that they have worked with people to define whether they are indigenous under international definitions (regardless of legal definitions).

### 9.4 Free, Prior and Informed Consent

~~Where new projects or major changes to existing projects may have significant impacts on the Indigenous Peoples associated culturally with and living on the relevant lands,~~ The Entity shall consult and cooperate in good faith with the Indigenous Peoples concerned through their own representative institutions in order to obtain their documented free and informed consent:

- a. For New Projects or Major Changes to existing projects that may have significant impacts on the Indigenous Peoples associated culturally and living on the relevant lands prior to the approval of the project
- b. For Bauxite Mines: On an on-going basis:
  - i) Prior to entering a new phase of operations.
  - ii) Prior to altering an existing rehabilitation plan.
- c. The Entity shall demonstrate that the consent is supported by ~~the~~ Indigenous ~~Community~~ Peoples.

# 4d Criterion 9.6 Resettlements

## 9.6 Resettlements

- a. The Entity, in project designs, shall consider feasible alternatives to avoid or minimise physical and/or economic displacement, while balancing environmental, social, and financial costs and benefits, paying particular attention to impacts on the poor and vulnerable or at-risk, including women.
- b. When physical displacement is unavoidable, the Entity in consultation and in cooperation with the affected parties shall develop a Resettlement Action Plan that covers, at a minimum, the applicable requirements of IFC Performance Standard 5 (Land Acquisition and Involuntary Resettlement) and complies with Applicable Law regardless of the number of people affected.
- c. The Entity shall regularly review the effectiveness of the Resettlement Action Plan and, where required, identify and implement improvements.
- d. The Resettlement Action Plan, including the number of people impacted, shall be made publicly available. Progress against the Resettlement Action Plan shall be shared with affected parties annually for the duration of its implementation or in the event of a deviation from the Resettlement Action Plan.

These Criteria apply to 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 Indigenous Peoples are involved, Criterion 9.4 on FPIC will also apply.

### Recommendation for the Standards Committee from the HRWG:

- “ Require regular review of the effectiveness of the plan and, where required, implement improvements. This is the same language used (and approved already) for Criteria in Principles 1 and 2. (LOG ITEM 42)
- “ Require public disclosure of the Resettlement Action Plan and annual progress with affected parties. (LOG ITEMS 155, 157)
- “ Note from the SC: Does the resettlement paragraph include the right to keeping also in the future at least the same level of income generating options as a family that will be displaced had before.

## 4d Criterion 9.6 Resettlements

### Resettlements Guidance

[International Finance Corporation \(IFC\) Performance Standard 5](#) (January 2012) provides an international standard for Land Acquisition and Involuntary Resettlement, with objectives to:

- “ Avoid, and when avoidance is not possible, minimise displacement by exploring alternative project designs.
- “ Avoid forced eviction.
- “ Anticipate and avoid, or where avoidance is not possible, minimise adverse social and economic impacts from land acquisitions or restrictions on land use by providing compensation for loss of assets at replacement cost, and ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation and the informed participation of those affected.
- “ Improve, or restore, the livelihoods and standards of living of displaced persons.
- “ Improve living conditions among physically displaced persons through the provision of adequate housing with security of tenure at resettlement sites.

## 4d Discussion

---

- “ It was said that “effectiveness” is unclear, and it was asked whether this has been addressed in other Criteria already. The Secretariat will look into it.
- “ It was suggested to remove “the effectiveness of” in c)
- “ It was said that this piece is enormously important. In Guinea, if people are resettled, they lose their agricultural lands, the area around their houses for gardening and income generating options. They have to find something else and companies are not doing that for them.
- “ Another participant stressed on the criticalness of this and said that this is not just about the planning, but also the implementation.
- “ It was suggested to add in c) “to ensure that living conditions and income generating options equal or exceed those prior to resettlement”. This was agreed to.
- “ The Criterion (9.6) was approved with the above changes, as reflected on the next slide.
- “ The Guidance was also approved.

# 4d Discussion

## 9.6 Resettlements

- a. The Entity, in project designs, shall consider feasible alternatives to avoid or minimise physical and/or economic displacement, while balancing environmental, social, and financial costs and benefits, paying particular attention to impacts on the poor and vulnerable or at-risk, including women.
- b. When physical displacement is unavoidable, the Entity in consultation and in cooperation with the affected parties shall develop a Resettlement Action Plan that covers, at a minimum, the applicable requirements of IFC Performance Standard 5 (Land Acquisition and Involuntary Resettlement) and complies with Applicable Law regardless of the number of people affected.
- c. The Entity shall regularly review ~~the effectiveness of the~~ Resettlement Action Plan and, where required, identify and implement improvements to ensure that living conditions and income generating options equal or exceed those prior to resettlement.
- d. The Resettlement Action Plan, including the number of people impacted, shall be made publicly available. Progress against the Resettlement Action Plan shall be shared with affected parties annually for the duration of its implementation or in the event of a deviation from the Resettlement Action Plan.

These Criteria apply to 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 Indigenous Peoples are involved, Criterion 9.4 on FPIC will also apply.

## 4e Criterion 9.7 Local Communities

### 9.7 Local Communities

- a. The Entity shall respect the legal and customary rights and interests of local Communities in their lands and livelihoods and their use of natural resources.
- b. The Entity shall **develop a plan in consultation with local Communities to monitor, avoid, minimize, reduce and compensate for** ~~take appropriate steps to prevent and address~~ any **significant** adverse impacts, **including health and safety impacts, on the** local Community ~~livelihoods~~ resulting from its activities.
- c. **In accordance with the plan the Entity shall commit resources to community development.**
- d. **The Entity shall regularly review the effectiveness of the plan and, where required, identify and implement improvements.**
- e. The Entity shall explore with local Communities opportunities to respect and support their livelihoods.

### Recommendation for the Standards Committee from the HRWG:

1. Criteria 9.1 only addresses human rights, but this Criteria looks at customary rights and interests of local Communities – should the grey ‘disclaimer’ at the bottom of the Criteria stay in? (LOG ITEM 179)
2. Align with RMI on language:
  - “ 23 - To implement a policy to monitor, avoid, minimize, reduce and compensate for adverse project-related impacts on community health and safety (perhaps this aligns with earlier discussion in 9.1).
  - “ 24 - To identify community needs in consultation with affected communities, develop a plan, and commit resources to support community development. (Log item 160)
3. Comment from SC: Existing use of natural resources might be harmful for biodiversity and ecosystem services; that should not be guaranteed.

## 4e Discussion

---

- “ A participant raised that local communities might have counterproductive habits of using natural resources and that should not be stimulated, for instance by cutting original trees to replace them with cashew. That’s a problem in Guinea for example, because people get compensated for doing so. The participant felt that a) could promote this kind of practices.
- “ It was said that perhaps it does not need to be normative and could be part of the Guidance, by adding a bullet point about discouraging practices that are not respectful to biodiversity and ecosystem services.
- “ It was suggested to address this issue under b) by including “health and safety and environmental impacts”.
- “ It was added that we should also be aware that in some cases the local communities may want to do some things that are not compliant with the law, and the law may be stricter than what communities want. So we have to be careful about that.
- “ The Standard was approved with the above change, reflected on the next slide.
- “ ACTION – The Secretariat to expand the Guidance to cover the fact that practices should be respectful of biodiversity and ecosystem services.



# 4e Discussion

---

## 9.7 Local Communities

- a. The Entity shall respect the legal and customary rights and interests of local Communities in their lands and livelihoods and their use of natural resources.
- b. The Entity shall **develop a plan in consultation with local Communities to monitor, avoid, minimize, reduce and compensate for** ~~take appropriate steps to prevent and address~~ any **significant** adverse impacts, **including health and safety and environmental impacts**, on **the** local Community ~~livelihoods~~ resulting from its activities.
- c. In accordance with the plan the Entity shall commit resources to community development.
- d. The Entity shall regularly review the effectiveness of the plan and, where required, identify and implement improvements.
- e. The Entity shall explore with local Communities opportunities to respect and support their livelihoods.

## 4f Criterion 9.9 Security Practice

**9.9 Security Practice** The Entity shall, in its involvement with public and private security providers, respect Human Rights in line with recognised standards and good practices.

### **9.9 Security Practice**

- a. In line with recognised standards and good practices, the Entity shall respect Human Rights in its involvement with private, **including in-house, and** public ~~and~~ security providers.

### **Recommendation for the Standards Committee from the HRWG:**

1. This Criterion does not currently address situations where security is not outsourced (relates to Log item 145)
2. Criterion reworded for clarity.

# 4f Discussion

---

- “ Revisions to Criterion 9.9 were approved.

# 4g Principle 9 Guidance

---

**No comments on the Principle 9 Guidance Received** (*'Principle 9 TC.docx' – previously distributed on several occasions – most recently on 15 November*)

**Agree to Guidance for Principle 9**

# 4g Discussion

---

- “ The Guidance was approved, with the additions and changes mentioned today to be incorporated.
- “ ACTIONS – The Secretariat to distribute the updated tracked changes Guidance to the Standards Committee when additions and changes have been made.

# 5 Agreed Upon Actions & Close

---

- a. Agree actions
    - New actions as presented in the minutes.
  - b. Chairs and Secretariat thanks to all participants and close of meeting
  - c. Upcoming Meetings:
    - 2 December (GHG 'sub-committee' only – for 5.2a)
    - 10 December (GHG 'sub-committee' only – for 5.2a)
    - 16 December: CoC (including pre-consumer scrap), Claims Guide, P11 Guidance
    - 7 January (GHG 'sub-committee' only – for 5.2a)
    - 13 January: PS 5. All decisions made by this date.
    - 21 January: Final Review and All documents Approved for Consultation
    - February: Review of consultation documents and planning for SC process for post consultation
    - March: Benchmarking/Indicators/Verifiers Discussion
- A participant asked whether market credits will also be discussed in the 16 December meeting. The Secretariat replied that yes, and that pre-consumer scrap is not the only CoC topic that will be discussed.

Thank you