

# ASI Standards Committee

Teleconference Minutes V2

06 October 2021

# Antitrust Compliance Policy

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*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

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*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

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*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

	Topic		Time	Lead
1	a. Welcome b. Introduction & Apologies c. Objectives d. Documents Circulated	e. Previous Minutes f. Conflicts of Interest/Duty g. Log of Actions	5	Chair
2	Presentation from Leo Carlowitz (IPAF present)		30	Leo
3	Criteria 2.5/2.6 (IPAF present)		5	ASI - Krista
4	Criteria 9.3-9.7 (IPAF present)		15	ASI - Krista
5	Criteria 9.1-9.2/9.8-9.9		5	ASI - Krista
6	Principle 10		15	ASI- Krista
7	Principle 11		15	ASI - Chris
8	Principle 7		15	ASI - Chris
9	CoC		10	ASI - Chris
10	a. Agreed upon actions for Committee members	b. Agreed upon actions for the Secretariat c. Close	5	Chair

# Discussion

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- Not all slides will be discussed in this meeting. As shared in advance of the meeting the recommendations in green will be actioned by the Secretariat as is for those slides not discussed.

# 1a,b Welcome, Introduction & Apologies

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a) Welcome

b) **Chair:** Rosa Garcia Pineiro (Alcoa)

c) **Attendees:** Abu Karimu (Settle Ghana), Anthony Tufour (Arconic), Catherine Athenes (Constellium), Jessica Sanderson (Novelis), Jostein Søreide (Hydro), Kendyl Salcito (Nomogaia), Louis Biswane (KLIM), Nadine Schaefelberger (Ronald Group), Nicholas Barla (IPAF), Samir Whitaker (FFI), Steinunn Steinson (Nordural), Stefan Rohrmus (Schueco), Tina Bjornestal (Tetra Pak), Warrick Jordan (Job Hunters).

**ASI:** Cameron Jones, Camille Le Dornat, Chinelo Etiaba, Chris Bayliss, Klaudia Michalska, Krista West, Laura Brunello, Marieke van der Mij, Mark Annandale, Penda Diallo, Thad Mermer, Roshan Bhuyan

**Apologies:** Gina Castelain (IPAF), Gesa Jauck (Trimet), Hugo Rainey (WCS), Justus Kammüller (WWF), Marcel Pfitzer (Daimler), Neill Wilkins (IHRB)

**Alternatives:**

**Proxies:** Annemarie Goedmakers (Chimbo), Catherine Athenes (Constellium) for Gesa Jauck (Trimet), Chair for Hugo Rainey (WCS)

**Guests:** Leo Carlowitz, Aboubacar Diallo (IPAF)

# Discussion

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\*a proxy from Marcel Pfitzer (Daimler) nominating Catherine Athenes (Constellium) was sent in advance of the meeting and acknowledged during the meeting. However, Catherine Athenes had already been nominated and as proxy for Gest Jauck (Trimet) and thus the proxy does not stand. No votes were taken during this meeting and thus this does not change the outcomes of these minutes.



# 1c,d Objectives & Documents Circulated

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## c) Objectives

1. Adopt minutes of the previous meeting
2. Agree to direction on Principles Assurance Manual, 4, 6, 7 & 11
3. *If time available – Agree to direction on Principles 10*

## d) Documents Circulated

1. ASI SC Teleconference 06Oct21
2. ASI SC Teleconference Minutes V2 15Sept21
3. For SC PUBLIC Round 1 Consultation Log of Input April21
4. Social Governance Report PUBLIC Final
5. CoC DRAFT Guidance
6. Disclosure of Conflicts of Interest/Duty
7. ASI - SCMemberApptProxyForm 15Sep21
8. ASI –SCMemberAlternateForm 15Sep21
9. ASI CoCWG Teleconference Minutes 17March21

# 1e,f Previous Minutes & Conflicts of Interest/Duty

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- e) Approval of Previous meeting minutes draft: 15 September 2021 will be published on the ASI website.

The Previous meeting minutes draft: 15 September 2021 were approved (with one addition from the Secretariat that was presented on screen) and will be published on the ASI website.

- e) Conflicts of Interest/Duty

*Disclosure sent with meeting package*

# 1g Log of Actions

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g) Log of Meeting Actions open or closed since last meeting.

Meeting where Action was Identified	Assigned To	Action	Date Due
24Mar2021	Secretariat	Ensure that there is time to be dedicated to discussing the Theory of Change and M&E program post-revision.	Post-revision
15Sep2021	Secretariat	Include 2020 AECOM Impartiality Review as agenda item for discussion.	Early 2022
15Sep2021	Secretariat	'Horizon Issues' (from the ASI August Newsletter) to be put on the agenda and ASI will present the origin and context of this piece of work.	Early 2022

## 2 Presentation on Social/Governance Topics

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- This report is in response to the SC request for further study on select topics.
- Report was distributed in advance of the meeting.
- Report will be published on the ASI website (<https://aluminium-stewardship.org/why-aluminium/outcome-impact-evaluations/>) in the following weeks.

# **Analysis of Implementation of Key Governance and Social Criteria from ASI Certified Entities**

Presentation before ASI Standards Committee, 6 October 2021

**Dr. Leopold von Carlowitz**

Consultant; Associate with MSP Institute – Multi-Stakeholder Partnerships for Sustainable  
Development

# Implementation of Criteria

- **Desktop study on implementation** of key governance and social criteria of the ASI Performance Standard:
  - ✓ Criterion 2.7 (mergers and acquisitions)
  - ✓ Criterion 2.8 (closure, decommissioning and divestment)
  - ✓ Criterion 3.4 (complaint resolution mechanism)
  - ✓ Criterion 9.1 (human rights due diligence)
  - ✓ Criterion 9.3 (rights of Indigenous peoples)
  - ✓ Criterion 9.4 (FPIC)
- **74 ASI Certified Entities**



# Four Objectives of Study

***Objective 1 : "Snapshot" of overall global implementation*** (crit. 2.4, 2.7, 2.8 + 9.1)

- Sources: public headline summary and full reports

***Objective 2 : Implementation of complaint resolution mechanisms*** (criterion 3.4)

- Sources: public headline statements, full reports, company websites, other sources

***Objective 3 : UNGPs and Indigenous peoples*** (criteria 9.1, 9.3 and 9.4)

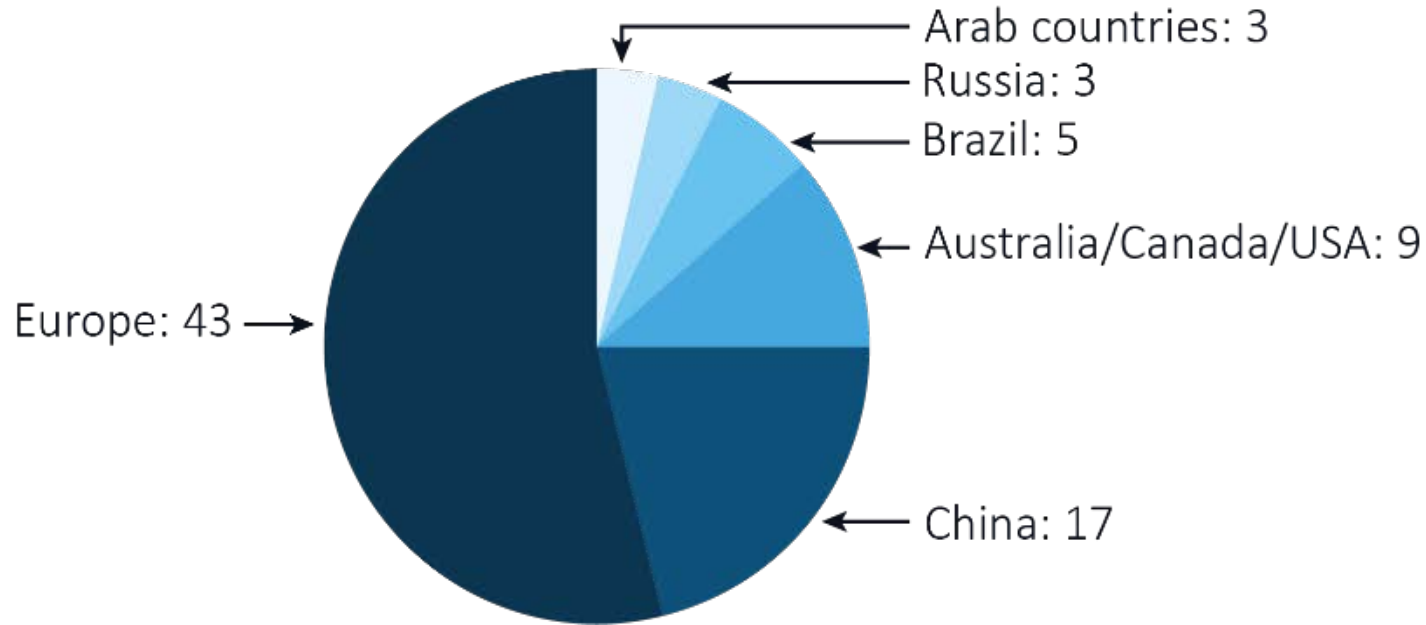
- Sources: public headline statements and full reports

***Objective 4 : Implementation of Indigenous peoples' rights and FPIC*** (crit. 9.3 + 9.4):

- Sources: public headline statements, full reports, company websites, maps, online resources, grey literature, academic research, IPAF, expert interviews

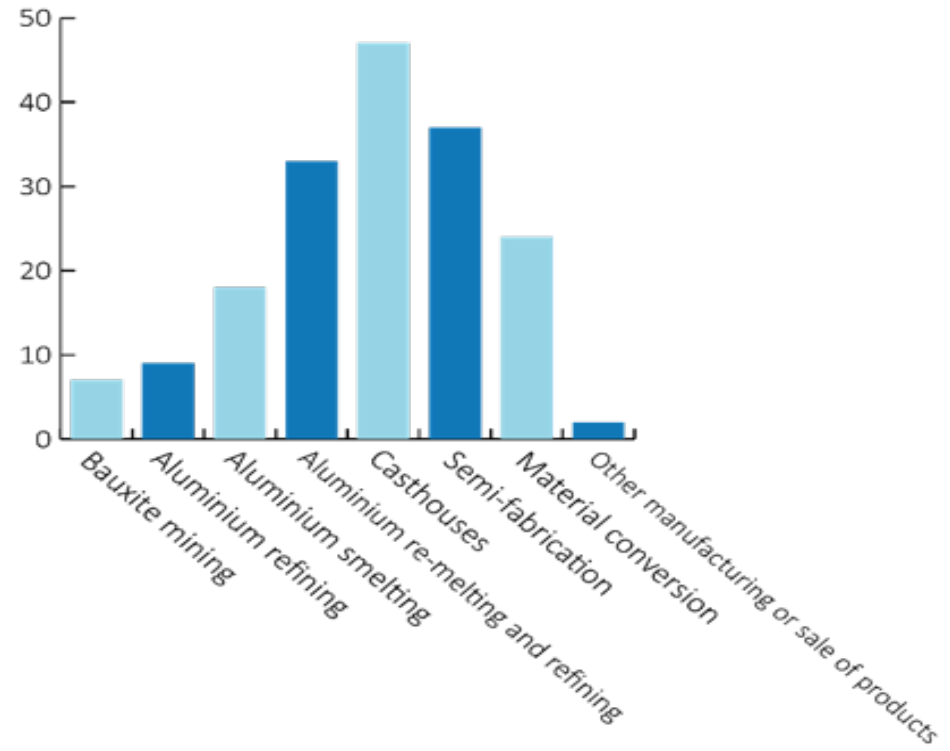
# Objective 1: Snap Shot

## ASI Entities per region



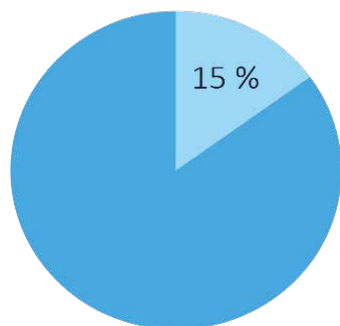
# Objective 1: Snap Shot

## Supply Chain Activities

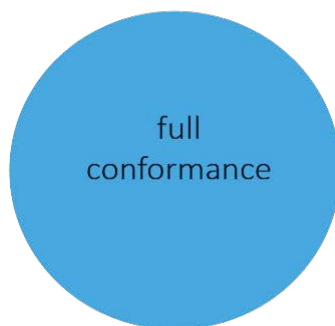


# Objective 1: Snap Shot

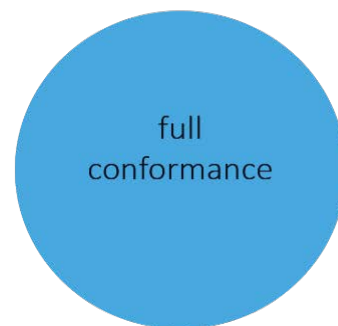
## Percentage of non-conformance



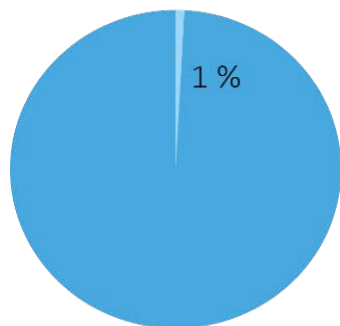
criterion 2.4



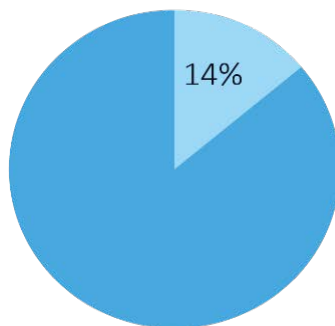
criterion 2.7



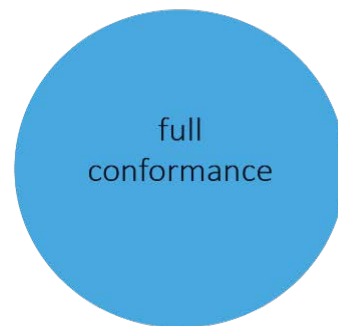
criterion 2.8



criterion 9.1.a



criterion 9.1.b



criterion 9.1.c

# Objective 1: Snap Shot

- Overall, consistent application of criteria 2.4, 2.7, 2.8 and 9.1.
- Total conformance rate is extremely high, with slight exception of criteria 2.4 and 9.1.b.
- Information provided in public summary reports is generally sufficient to demonstrate conformance with the criteria.
- In most cases, public headline statements contain a summary of the evidence reviewed.
- Information provided in the public headline statements is too limited to be able to make own judgements as to implementation.
- Reports issued after May 2020: significant improvement of quality and level of detail in varying degrees depending on the criteria.

# Objective 2: Complaint Resolution Mechanisms

- Unclear meaning of the principles mentioned in criterion 3.4,  
*i.e.* accessible, transparent, understandable, culturally sensitive, gender sensitive and adequate to address stakeholder complaints.
- 22% of Entities = best practice  
*i.e.* complaint resolution mechanisms are well-explained and detailed addressing most of the issues suggested by the Guidance.
  - ✓ Either big multi-national companies or at least a considerable size with over 2000 employees
  - ✓ No specific efforts to be culturally and gender sensitive
- Other Entities fulfil the principles to different degrees.

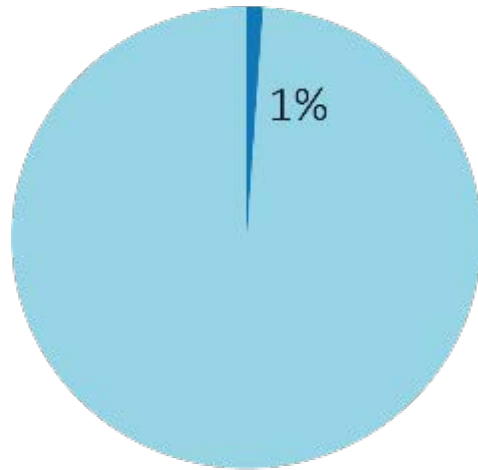


## Objective 2: Complaint Resolution Mechanisms

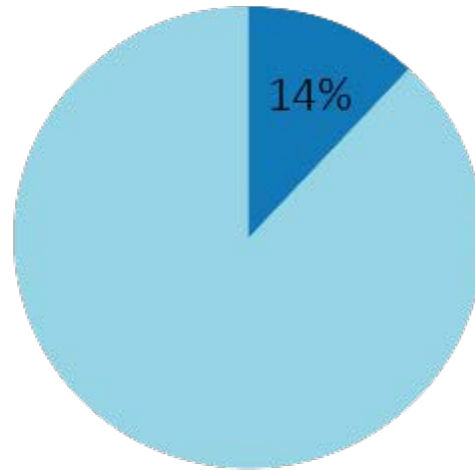
- Brevity of information provided by most Entities raises doubts as to how seriously they encourage aggrieved stakeholders to lodge their complaints and to remedy harm done.
- Global Compact Network Germany:  
“For many [companies], human rights grievance mechanisms are associated with complex procedures and financial risks that are difficult to gauge. Few companies currently recognize the opportunities associated with grievance mechanisms as efficient channels of communication.”

# Objective 3: Human Rights Due Diligence

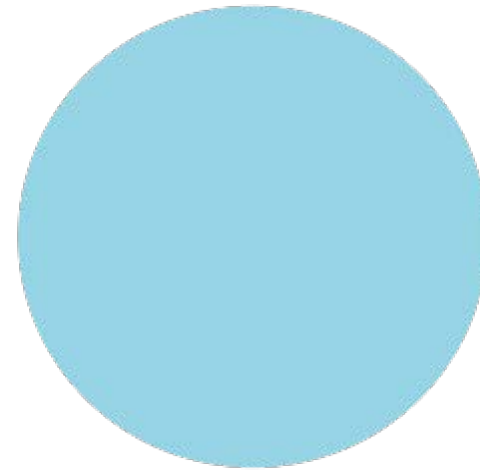
## Percentage of Non-Conformance



criterion 9.1.a



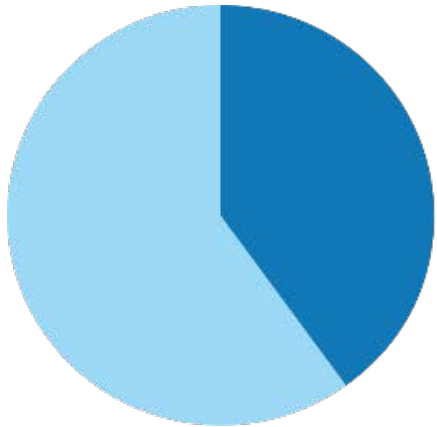
criterion 9.1.b



criterion 9.3 + 9.4

# Objective 3: Human Rights Due Diligence

- Ten minor non-conformances for criterion 9.1.b
- Two groups



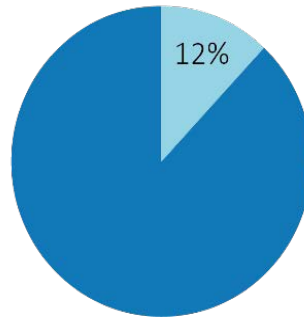
## Categories of non-performance

- Design of due diligence process 40%
- Implementation of due diligence process 60%

# Objective 4: Rights of Indigenous Peoples

- Only nine Entities included criteria 9.3 and 9.4 as applicable within their scope. All other Entities declared the criteria not applicable for them (or stated no Indigenous peoples were found in the area of operation).

Entities with applicability of criteria 9.3 + 9.4



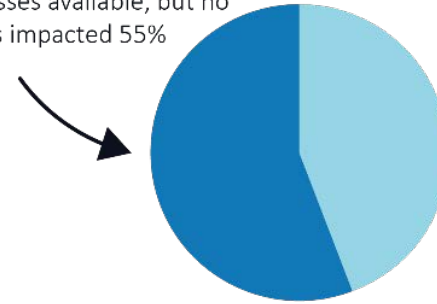
- Research confirmed that Entities who declared criteria non-applicable for them have (or seem to have) rightly done so.

## Objective 4: Rights of Indigenous Peoples

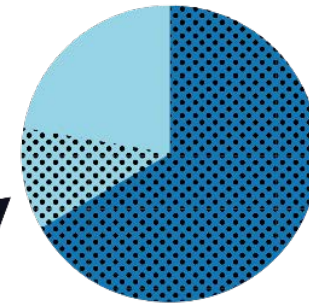
- Despite having adopted policies and processes to respect the rights of Indigenous peoples, five Entities stated that no Indigenous peoples were found or impacted by Entity-led operations.
- Seven Entities reported on ongoing processes and specific activities to respect the rights and interests of Indigenous peoples.

### Respect for rights of Indigenous peoples

Policies and processes available, but no Indigenous peoples impacted 55%



Entities with consultation mechanisms 66,6%



Entities with ongoing processes and activities in support of Indigenous peoples 77,7%



# Objective 4: Rights of Indigenous Peoples

- High-level assessment: correct rating of Entities' practice on criterion 9.3 as conformant.
- Some Entities are investing more than others in its relations with Indigenous peoples.
- An Entity's investment in implementing Indigenous peoples-related policies also depends on its proximity and the impact that the operation has for Indigenous peoples in the vicinity.
  - ✓ Entities who have the closest and most serious contact with Indigenous peoples have also invested most.
  - ✓ Entities without Indigenous peoples in their vicinity keep their commitment in support of Indigenous peoples' rights mainly declaratory and on a general policy-level.



# Objective 4: Rights of Indigenous Peoples

- All nine Entities adopted policies and processes in relation to FPIC or were seeking FPIC when required to do so by national or international law.
- Only two Entities reported on ongoing FPIC/consultation processes.
- Difficult to assess in how far these consultation processes fully comply with the requirements of FPIC.
- FPIC is difficult concept and includes many particulars that do not match the short and more generic reporting template of the audit reports.

# Recommendations

## **General improvement of data quality and reporting standards:**

- Consider introducing more specific reporting requirements based on specific key terms, activities and points to consider contained in the Guidance.
- Special focus on the elements, design and implementation of a responsible sourcing policy, of adequate complaint resolution mechanisms and of policies and processes to respect the rights of Indigenous peoples (incl. FPIC).
- Consider developing reporting schemes that differentiate performance geographically and by supply chain activities in a broader Certification scope.

# Recommendations

## Conceptual issues for specific criteria:

- *Criterion 2.4:* Determine whether effective responsible sourcing policy should include due diligence measures for suppliers beyond the first tier.
- *Criterion 3.4:* Clarify meaning of principles for complaint resolution mechanisms
- *Criterion 9.3:* Agree to what extent general CSR-measures building capacities for Indigenous peoples count for implementation of criterion, if not directly linked to Certified operations of the Entity.
- *Criterion 9.3:* Determine ASI's stance towards the existence of Indigenous peoples in China.
- *Criteria 9.3 and 9.4:* Develop more detailed points to consider for determining how close Indigenous peoples must be situated to Entities' operations so that their concerns are to be considered for the fulfillment of the criteria.

# Recommendations

## **Training and capacity-building:**

- *Criterion 3.4:* Train auditors with respect to principles for an adequate complaint resolution process, including training on cultural and gender sensitivity.
- *Criterion 9.4:* Train auditors on particulars of FPIC processes, including methodological issues and procedural requirements.
- *Criteria 9.3 and 9.4:* Strengthen the capacity of IPAF to give advice on issues relating to Indigenous peoples and to network with Indigenous peoples' organizations in critical countries with oppressed Indigenous communities and national minorities.

# Thank you for your attention!

## **Dr. Leopold von Carlowitz**

Consultant, Law, Rights, Resources

Associate, MSP-Institute – Multi-

Stakeholder Processes for Sustainable

Development, Berlin

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# Discussion

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- A participant asked: how did you determine overall consistent application of the criteria?
- Dr. Leopold von Carlowitz responded that he analysed the various criteria with respect to geographical groups and countries and with respect to different supply chain activities and formed soft categories. It was concluded that there weren't any significant imbalances, either geographically or with respect to supply chain activities, that would make him judge that the application is inconsistent. No hard and fast rule of what consistency means, and grouping of different entities to a particular region also wasn't based on refined methodology.
- A participant also noted the statement that information provided and public summary report was enough to show conformance. They asked: can you talk about challenges faced in validating that? Where Indigenous Peoples (IP) are located and how adequate the grievance mechanisms were found to be?
- Dr. Leopold: the information provided on IP rights was more detailed than for grievance mechanisms, and so a lot of his analysis on complaints resolution was taken from looking at the webpages of the Entities, checking whether a procedure was actually provided, its accessibility etc. The audit reports gave more details on IP rights, and those Entities who declared criteria applicable also gave detailed information related mainly to location, which was then compared with geographical data (Google maps). The main task was verifying the statements of the various entities who had declared that Indigenous rights weren't an issue for them (no IP around). In-depth research went especially into countries such as China, Brazil, Russia, as those are listed in the IPAF Guidance and international publications of countries where Ips are present. He referred to online information to cross-check information provided in audit reports.

# Discussion

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- A participant questioned the findings related to criterion 2.4 and the related recommendation: what is the reason for the % of Non-conformances being higher than others, and what drives this to the recommendation to go beyond Tier 1 (given that criterion 2.4 is not specifically aimed at metal flows, it's about all kinds of suppliers since the Standard is being applied to the entire supply chain). What kind of Non-conformances were observed, and what is the issue with due diligence?
- Dr. Leopold stated that no deep dive into Non-conformances related to 2.4 was undertaken. The area of focus was related to Principle 9, as per the scope of the project. With respect to tiers, it didn't appear in the audit reports specifically, but there was an overall feeling that often information is only linked to first tier that led to the recommendation.
- The participant responded that the due diligence to further tiers is often linked to risk assessments. Is it that which was not properly done?
- Dr. Leopold answered that it wasn't clear whether responsible sourcing and related Due Diligence would go beyond first tier or not.
- A member of the Secretariat added to recommendations and findings: the need to educate entities, auditors, communities and IP, and increase awareness of what FPIC is (what is it, when does it apply, how is it implemented) this leads to 3.4 (complaints mechanism). For people to be able to use the complaints mechanism, they need to be aware of its existence and the process of using it.
- A member of IPAF expressed concern over the following: how do we reconcile this conflict in position in countries where the state has decision in giving license for mining. What can the community do? Explain/give advice: what should we do?
- Dr. Leopold responded that ASI would need to judge and look at *implementation* of standards. 9.4 on FPIC is relatively clear that the consent must be given prior etc. So this case of consent by gunpoint by government is not proper FPIC, in that case that would be a Non-Conformance. Acknowledges that is a very real problem. Dr. Leopold added that with regards to legacy issues (i.e. for a past mine) does a consultation process now heal this, how does ASI deal with historical operations where FPIC was an issue? The retroactivity of it isn't clear.

# 2 Presentation on Social/Governance Study

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## **General improvement of data quality and reporting standards:**

Consider improving data capture, analysis and comparison by introducing more specific reporting requirements based on specific key terms, activities and points to consider contained in the Guidance to the Performance Standard. Special focus should be placed on the elements, design and implementation of a responsible sourcing policy (criterion 2.4), of adequate complaint resolution mechanisms (criterion 3.4) and of policies and processes to respect the rights of Indigenous peoples (criteria 9.3 and 9.4).

### ➤ Comments:

- 2.4: Consultation draft requires effectiveness monitoring & SC has already agreed to requiring the Responsible Sourcing Policy to be publicly available in this round of discussions.
- 3.4: Consultation draft requires sharing the Complaints Mechanism with Affected Populations and Organisations and the SC has already agreed to requiring the Complaints Mechanism to be publicly available in this round of discussions.
- 9.3: Consultation draft required informing Indigenous Peoples to be informed of relevant ASI requirements. (on agenda for today)
- 9.4: Consultation draft expanded FPIC for new phases of the operation in Bauxite Mining and prior to changing an existing mine rehabilitation plan and demonstrated consent from the Indigenous Peoples community. (on agenda today)

### ➤ Recommendations:

- More specific reporting requirements is work that should be explored post-revision.
- Existing requirements in 3.4 (accessible, transparent, understandable and culturally and gender sensitive) should be broken into sub-Criterion in this revision so they are both highlighted and reported on separately.



## 2 Presentation on Social/Governance Study

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### **General improvement of data quality and reporting standards:**

Developing reporting schemes that differentiate performance geographically and by supply chain activities in a broader Certification scope.

#### ➤ Comments:

- Reporting is currently done at the Entity level, not the Facility level which means we get aggregated data based on the Certification Scope.
- While reporting at the Facility level would give more comprehensive data it would also have a significant impact on audit reporting costs that would be passed on to members.

#### ➤ Recommendation:

- No change.

### **Conceptual issues for specific criteria:**

*Criterion 2.4:* Determine whether or not an effective responsible sourcing policy should include due diligence measures for suppliers beyond the first tier.

#### ➤ Recommendation:

- Tier 1 due diligence is still new for many organizations, beyond Tier 1 due diligence is a step that should be considered in future revisions. Recommend no change.

*Criterion 3.4:* Clarify and explain the meaning of the principles for complaint resolution mechanisms, *i.e.* accessible, transparent, understandable, culturally sensitive, gender sensitive and adequate to address stakeholder complaints.

#### ➤ Recommendation:

- Include in Guidance.

## 2 Presentation on Social/Governance Study

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### Conceptual issues for specific criteria:

*Criterion 9.3:* Reflect and confirm to what extent general CSR-measures building capacities for Indigenous peoples count for implementation of the criterion, if they are not directly linked to Certified operations of the Entity.

- Recommendation:
  - Further guidance could be developed for future revisions. Recommend no change.

*Criterion 9.3:* Determine ASI's stance towards the existence of Indigenous peoples in China.

- Recommendation:
  - See agenda item 4 where existing guidance developed by IPAF on where Indigenous Peoples are located in the world should be incorporated in the Guidance now and further guidance on additional geographies developed over time post-revision.

*Criteria 9.3 and 9.4:* Develop more detailed points to consider for determining how close Indigenous peoples must be situated to Entities' operations so that their concerns are to be considered for the fulfillment of the criteria.

- Recommendation:
  - Agree that this needs to be better defined however this will need significant time and input from IPAF. ASI could explore this post revision. Recommend no change.

# 2 Presentation on Social/Governance Study

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## Training and capacity-building

*Criterion 3.4:* Train auditors with respect to the principles for an adequate complaint resolution process, including training on cultural and gender sensitivity.

- Recommendation:
  - Agree and recommend adding it to the list of training material to be developed by ASI (based on current resources likely late 2022)

*Criterion 9.4:* Train auditors as to the particulars of FPIC processes, including methodological issues and procedural requirements.

- Recommendation:
  - Agree and further resources on Indigenous Peoples already in process (expected release early 2022)

*Criteria 9.3 and 9.4:* Strengthen the capacity of IPAF to give advice on issues relating to Indigenous peoples and to network with Indigenous peoples' organizations in critical countries with oppressed Indigenous communities and national minorities.

- Recommendation:
  - Noted and recommendation passed along to CEO.

# Discussion

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- A participant commented, in relation to recommendations of 9.3: is there a document that is proof that you are obliged to consider certain people or not? For some areas its clear, but in some other cases it may not be that clear. Is there a reference document that states whether you're 'in or out'? Who judges it?
- A member of the Secretariat responded that it is not always that simple or clear cut is and is often a result of discussion with Ips and understanding the context.
- A participant in the chat responded that it is often unclear, and 'in or out' isn't really how its done. Because IP are so historically and continually marginalized, erring on the side of protection is important
- Dr. Leopold acknowledged that it is very difficult to come up with a global guidance/factsheet that clarifies all the locations where IP are or aren't. It is good to have a discussion on specific locations within ASI. Additionally, work that can be done regarding whether an Entity is close to IP, is to work more via networks, have points of contacts and ask them for advice to provide local knowledge.
- A member of IPAF pointed out the importance, when discussing social and governance issues such as FPIC, that this is understood by corporate Entities, as well as Auditors, who would need to understand in-depth FPIC, human rights impacts etc.
- Another member of IPAF asked, regarding FPIC, this is something that is, in theory, taken into account by local law. Between the existence of these law and the implementation however, there is a gap: the lack of political will. Revenues from mining significantly contribute towards national budget for development. Moreover, corruption issues are relevant and some of these Entities have, within them, powerful stakeholders. How is this addressed?
- A member of the Secretariat clarified that the granting of the ASI Performance Standard is based on is finding Objective Evidence of implementation on the ground. There is a proposal for the next revision that all new projects going ahead will have to have FPIC (though that won't apply retroactively)

# Discussion

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- Another concern was raised - how can we ensure that all these mining companies join ASI or otherwise take into account FPIC?
- A member of the Secretariat referred back to the answer given previously (the proposal that all projects from 2022 on will have to have FPIC). Additionally criterion 9.3 would always apply, IP rights and interests have to be respected. This is why the recommendation was scheduled to be brought towards the Standards Committee today: FPIC compulsory from 2022 on.

# 3 Criterion 2.6 HRIA Criterion

## 2.6 Human Rights Impact Assessments. The Entity shall:

- a. Conduct a Human Rights Impact Assessment, including a gender analysis, for New Projects or Major Changes to existing Facilities.
- b. Ensure that Impact Assessments consider how baseline conditions are affected by Historic Aluminium Operations.
- c. Develop and implement a Human Rights impact management plan to prevent, mitigate and, where required, remediate any significant impacts identified.
- d. Regularly review the effectiveness of the Human Rights impact management plan and, where required, identify and implement improvements.
- e. Publicly disclose the Human Rights Impact Assessment, the Human Rights impact management plan and the review.
- f. Where Indigenous Peoples are involved: ensure the Human Rights Impact Assessment includes the assessment of Indigenous Peoples' rights.

- Log item 63: Consider requiring that the human rights impact management plan be gender-sensitive.
  - Recommendation from HRWG: This would align with other decisions made by the HRWG and the gender analysis required by 2.6 (a) – chance recommended
- Log item 135: What is meant by “baseline conditions “ of historic aluminium production?
  - Recommendation from HRWG & BESWG: Define ‘Baseline Condition’. It was stated that baseline conditions refer to ‘those conditions which exist at the start of a project’ or the ‘status quo’ or ‘the current status before the existence of this New Project or Major Change’.

# Discussion

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- This slide was not specifically discussed during the meeting.

# 3 Criterion 2.6 HRIA Criterion

## 2.6 Human Rights Impact Assessments. The Entity shall:

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- b. Ensure that Impact Assessments consider how baseline conditions are affected by Historic Aluminium Operations.
- c. Develop and implement a Human Rights impact management plan to prevent, mitigate and, where required, remediate any significant impacts identified.
- d. Regularly review the effectiveness of the Human Rights impact management plan and, where required, identify and implement improvements.
- e. Publicly disclose the Human Rights Impact Assessment, the Human Rights impact management plan and the review.
- f. Where Indigenous Peoples are involved: ensure the Human Rights Impact Assessment includes the assessment of Indigenous Peoples' rights.

## Considerations for HRWG:

1. Log item 154, 209, 597, 454: Guidance is missing on scope and content of what to publicly disclose of the Human Rights Impact Assessment, the Human Rights impact management plan and the review. Disclosure requirements must not be too extensive as that might result in either being impossible to disclose (e.g. due to privacy concerns) or it might have the unintended result that less thorough impact assessments might be performed. Our suggested rewording is aligned with language from the UN Guiding Principles on Business and Human Rights 2.6 (e)
  - Recommendation from HRWG: 2.6 (e) Seek to publicly disclose the Human Rights Impact Assessment, the Human Rights impact management plan and the review with due consideration for not posing risks to affected stakeholders, personnel or to legitimate requirements of commercial confidentiality.



# Discussion

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- This slide was not specifically discussed during the meeting.

# 3 Criterion 2.5/2.6 ESIA/HRIA Guidance

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- Log Item 378: The Performance Standard Guidance does not include examples of legacy impacts to help entities and Auditors understand the scale of the impacts. For example, Legacy Impacts from a hydro-electric dam may range from loss of communities (houses, resettlement, etc) as well as loss of biodiversity and species habitat.
- Log Item 209: state clearly that the size and impact of the operations must guide the scope of any assessment. Preferably, this should be further explained in concrete terms in the appendix (i.e. “project of type A in part B of value chain in a context of C, typically should undergo D”)
- Log Item 209: It should be added a general comment about historic aluminium operations (on a general basis, not only for this requirement).
  - Requests for examples was made to the HRWG & BESWG and no examples were brought forward (examples from the BESWG may be forthcoming). No change recommended.

# Discussion

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- This slide was not specifically discussed during the meeting

# 3 Criterion 2.6 HRIA Guidance

## Guidance

- There are occasions when a New Project or Major Change would not necessitate a Human Rights Impact Assessment (HRIA) because there would be no impacted Indigenous Peoples or Rightsholders. In these instances, the Entity should provide Auditors with documentation showing how they confirmed that they have no impacted Rightsholders associated with the New Project or Major Change.

## Considerations for HRWG:

- Log Item 455: It is hard to know how a company could know there are no impacted Indigenous Peoples or Rightsholders without doing an assessment. Suggest deletion of this point.
  - Recommendation from HRWG: Clarify in the Guidance that the onus is on the Entity to do an analysis of whether there are impacted Indigenous Peoples or Rightsholders and where none are found to present documented evidence of that analysis.

# Discussion

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- This slide was not specifically discussed during the meeting

### 3 Criterion 2.6 HRIA Guidance

**Table 2 – Example HRIAs**

<u>Example Type</u>	<u>Country</u>	<u>Project, Company</u>	<u>Comments</u>	<u>Link</u>
<u>HRIA – meets all five requirements</u>	<u>Eritrea</u>	<u>Bisha Mine, Nevsun</u>	<u>A clearly articulated methodology adheres to all five key principles</u>	<u><a href="https://media.business-humanrights.org/media/documents/files/documents/Nevsun_HRIA_Full_Report_April_2014.pdf">https://media.business-humanrights.org/media/documents/files/documents/Nevsun_HRIA_Full_Report_April_2014 .pdf</a></u>
<u>HRIA – meets all five requirements</u>	<u>Liberia</u>	<u>Palm Bay &amp; Butaw Estates, KKK</u>	<u>A clearly articulated methodology adheres to all five key principles</u>	<u><a href="https://www.epoil.co.uk/documents/human-rights-impact-assessment-executive-summary-2017/">https://www.epoil.co.uk/documents/human-rights-impact-assessment-executive-summary-2017/</a></u>

- Log Item 455: We are also concerned at the example HRIAs listed in Table 2 – particularly the “example type” as it is unclear who has done the rating of these assessments and whether the methodology used could be called into question.
  - Recommendation from HRWG: Genericize the examples and move to the website.

# Discussion

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- This slide was not specifically discussed during the meeting

# 3 Criterion 2.6 HRIA Guidance

- Conduct regular reviews of the Human Rights impact management plan. The frequency of the review would be influenced by:
  - The size and scope of the Business
  - The degree of risk in the geographic locations where the Business operates and/or activities in which the Business participates
  - The degree to which the Human Rights management plan is aligned with existing company practices
  - The degree to which the management plan effectively manages identified Human Rights risks
  - Changes within the Business or external to the Business which would impact the applicability of the existing Human Rights Impact management plan (including any mergers and/or acquisitions, natural disasters, outbreaks of conflict or other crises (e.g. pandemics), etc.)
  - Changes over time in the expectations of Affected Populations and Organisations on the Member, Entity and/or sector
  - Alignment with legal requirements.

Depending on these factors, it is expected that a review would occur on a frequency ranging from three to five years. A significant event, such as a merger or acquisition or an identified material breach of the Human Rights impact management plan, may trigger an earlier or more frequent review

- Log Item 213 & 596: The guidance on when to “regularly review” is complicated and hard to translate into real business processes. This could be simplified, or at a minimum provide concrete examples as appendix. It should be clarified that a review every “three to five years” is integrated in regular business processes – very few projects last that long. This also includes the improvements following a review.
  - Clarify that it is the Human Rights Impact management plan that is being reviewed on a 3-5 year basis and not the Impact Assessment itself.



# Discussion

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- This slide was not specifically discussed during the meeting

# 3 Criterion 2.5/2.6 ESIA/HRIA Guidance

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- Concern raised by HRWG: Is there a point at which the Human Rights impact management plan required in 2.6 ceases to exist and is rolled into 'regular' due diligence and remediation required under 9.1.
  - Recommendation from the HRWG: include a guidance in both 2.6 and 9.1 that the management of these impact assessments can evolve into ongoing management through an ESMS system. It was additionally suggested that the Guidance should recognize for 2.6(e) there is a point where the documents wouldn't logically continue to be shared.

# Discussion

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- This slide was not specifically discussed during the meeting

# 4 Criterion 9.3 Indigenous People

## 9.3 Indigenous Peoples. The Entity shall:

- a) 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) Inform Indigenous Peoples of the relevant ASI Performance Standard requirements.

This Criterion applies where the presence of Indigenous Peoples or their lands, territories and resources is identified.

- Log item 366: Mandate that the policy(ies) in 9.3 a is (are) publicly available
  - Aligned with other changes agreed to by the Standards Committee – recommend to make change.
- Log item 77: Include examples of Indigenous Peoples in different regions, i.e. Europe, Australia (Marks example), India, Ghana (Traditional Leaders from Abu) etc.
  - This document has already been developed by IPAF (<http://aluminium-stewardship.org/wp-content/uploads/2017/04/ASI-IPAF-Fact-Sheet-1-Identifying-IPs-2015.pdf>)
  - Recommend a review by Penda/Mark/IPAF and inclusion in the Guidance.
  - Consideration from Carlowitz report – post-consultation ASI should explore expanding this Guidance, including potentially Guidance on Indigenous Peoples in China.
- Log item 605: Most Indigenous communities lack the technical and specialised capacity to enable them to effectively protect their rights and environment. Support capacity-building projects that will increase knowledge and protect their environment and rights. Establish a fund to support capacity-building efforts, training, and awareness training campaign within local communities
  - This would be aspirational however implementation across the supply chain and globally would, potentially, be a barrier to certification. Recommend no change. Additionally note, that ASI does capacity-building efforts, training and awareness training through IPAF.

# Discussion

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- This slide was not specifically discussed during the meeting

# 4 Criterion 9.4 Indigenous People

~~Free, Prior, and Informed Consent (FPIC). 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 Free, Prior and Informed Consent (FPIC):

- 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 any project, ~~affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.~~
- b) Where engaged in Bauxite Mining:
  - i. Prior to entering a new phase of operations.
  - ii. Prior to altering an existing Mine Rehabilitation and closure plan.
- c) Where FPIC is required in 9.4(a) or (b): Demonstrate that the consent is supported by the Indigenous Peoples community.

This Criterion applies where the presence of Indigenous Peoples or their lands, territories and resources is identified.

- Log item 368: FPIC should be given not just prior to approval of new projects (or major developments) but also prior to commencement.
  - Based on incident at Juukan Gorge– recommend to make change.
- Log item 370: Stronger controls are required where Indigenous Peoples clearly communicate, that at any point during engagement with the Entity, that they do not wish to proceed with FPIC-related discussions, the Entity shall recognise that it does not have consent, and shall cease to pursue any proposed activities affecting the rights or interests of the Indigenous Peoples. The Entity may only approach indigenous peoples to renew discussions only if agreed to by the Indigenous Peoples. (See IRMA Responsible Mining Standard 2.2.3.1a)
  - Is inherent in 'Free Prior and Informed Consent – recommend no change.

# Discussion

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- This slide was not specifically discussed during the meeting

# 4 Criterion 9.4 Indigenous People

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- b) Where engaged in Bauxite Mining:
  - i. Prior to entering a new phase of operations.
  - ii. Prior to altering an existing Mine Rehabilitation and closure plan.
- c) Where FPIC is required in 9.4(a) or (b): Demonstrate that the consent is supported by the Indigenous Peoples community.

This Criterion applies where the presence of Indigenous Peoples or their lands, territories and resources is identified.

- Log item 25: Criterion 9.4 is limited to activities of the Member since joining ASI. In practice, a company could begin an operation in year X and join ASI in year X+1 and not have FPIC in scope.
  - Recommend that Criterion 9.4 applies to all New Projects and Major Changes 2022 and beyond.
- Log item 441: 9.4(a) – Should there be requirements for operations/projects that were initiated in the past where FPIC was not sought? E.g. see the IRMA standard that requires that entities act in the spirit of FPIC
  - This is redundant – covered in 9.3 – recommend no change.



# Discussion

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- This slide was not specifically discussed during the meeting

# 4 Criterion 9.4 Indigenous People

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- 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 any project, ~~affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.~~
- b) Where engaged in Bauxite Mining:
  - i. Prior to entering a new phase of operations.
  - ii. Prior to altering an existing Mine Rehabilitation and closure plan.
- c) Where FPIC is required in 9.4(a) or (b): Demonstrate that the consent is supported by the Indigenous Peoples community.

This Criterion applies where the presence of Indigenous Peoples or their lands, territories and resources is identified.

- Log item 468: 9.4(a) – the removal of the section stating, “affecting their lands or territories and other resources.” has potential to expand consent beyond where any impact may be possible.
  - The wording was moved to part a) and should be moved back to the main paragraph. Recommend change.
- 9.4 (b) guidance on what a new phase of operation is
  - Phase of operations is understandable in the context of a mine – recommend no change.
- 9.4 (c) assuming this is providing evidence of consent if a or b are applicable however the wording questions which indigenous peoples consent would be required from. In countries where there is native title legislation, who consent/approval is required from is defined however outside of areas where native title exists, the wording of this is potentially too broad
  - This is a change recommended from IPAF and is good practice in engagement with Indigenous Peoples. No change recommended.

# Discussion

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- This slide was not specifically discussed during the meeting

# 4 Criterion 9.6 Resettlements

## 9.6 Resettlements

The Entity shall:

- a) In project designs: 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 groups, including women.
- b) When physical displacement is unavoidable: In Consultation and in cooperation with the affected parties, 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) Regularly review 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 physical and/or economic displacement resettlement.
- d) Ensure that 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.

This Criterion 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.

- Log item 25: Criterion 9.6 is limited to activities of the Member since joining ASI. In practice, a company could do a resettlement in year X and join ASI in year X+1 and not have it's resettlement activities in scope.
  - Recommend that Criterion 9.6 applies to all New Projects and Major Changes 2022 and beyond.

# Discussion

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- This slide was not specifically discussed during the meeting

# 4 Criterion 9.7 Local Communities

## 9.7 Local Communities. The Entity shall:

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

~~These criteria apply where the outcome of the Human Rights Due Diligence conducted as part of criterion 9.1 has identified the presence of issues affecting local Communities.~~

- Log item 102: ASI Performance Standard 9.6(b) extend FPIC to local communities.
  - Recommendation from HRWG &IPAF: The focus of FPIC should be on Indigenous Peoples – no change recommended.
- Log item 263: Entity to develop and invest in mitigation plan with quantifiable targets for socio-economical improvement of affected population.
  - (d) 'regularly review the effectiveness of the plan and, where required, identify and implement improvements' is language used throughout the Standard – no change recommended.
- Log item 103: ASI Performance Standard 9.7 should clearly articulate communities' right to benefit from natural resource exploitation, and the related Guidance should provide more details on how to achieve that, particularly through shared management of natural resources.
  - This would be aspirational however implementation across the supply chain and globally would, potentially, be a barrier to certification. Recommend no change.

# Discussion

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- This slide was not specifically discussed during the meeting

# 4 Criterion 9.7 Local Communities

## 9.7 Local Communities. The Entity shall:

- a. Respect the legal and customary rights and interests of local Communities in their lands and livelihoods and their use of natural resources.
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- c. In accordance with the plan, commit resources to community development.
- d. Regularly review the effectiveness of the plan and, where required, identify and implement improvements.
- e. Explore with local Communities opportunities to respect and support their livelihoods.

~~These criteria apply where the outcome of the Human Rights Due Diligence conducted as part of criterion 9.1 has identified the presence of issues affecting local Communities.~~

- Log item 442 (e) This is very weak. “Exploring” might result in nothing
  - Recommendation from HRWG: Exploration captures the right balance of expectations and is expected to be done in good faith. Recommend no change.
- Log item 470: Suggest adding “human rights impacts” to list of adverse impacts in b for completeness. Would also suggest sticking closer to the language of the UN Guiding Principles here and not using the word “compensate” given that there may be other forms of remediation that are appropriate.
  - Recommendation from HRWG: recommend adding Human Rights to the list of adverse impacts. Recommend no change on compensation.



# Discussion

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- This slide was not specifically discussed during the meeting

# 5 Criterion 9.1 HRDD Criterion

**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 is **developed in Consultation and in cooperation with Affected Populations and Organisations, monitored and periodically updated to accommodate shifting Human Rights conditions** and seeks to identify, prevent, mitigate and account for how it addresses its actual and potential impacts on Human Rights, **including any significant Legacy Impacts**.
- c. **A mapping of Affected Populations and Organisations. The Entity shall ensure Affected Populations and Organisations are:**
  - a. **Engaged by the Entity**
  - b. **Consulted about operational activities and potential significant Human Rights 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.

Where Indigenous Peoples are involved, FPIC (Criterion 9.4) may apply.

- Log item 364: Mandate that the Policy is publicly available.
  - **Recommendation from HRWG: This aligns with other decisions taken by the SC and HRWG – make change.**
- Log item 440: The guidance says “Should seek to address adverse Human Rights impacts which may be directly linked to your operations, Products, or services by your Business relationships”. The Criterion itself does not make clear whether it applies to own operations or also to business relationships.
  - **Recommendation from HRWG: Clarify that there is a responsibility for Human Rights Due Diligence through business relationships in the Criterion and to add to Criterion 2.4 that there are further requirements for responsible sourcing in Criteria 9.1 and 9.8**

# Discussion

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- This slide was not specifically discussed during the meeting

# 5 Criterion 9.1 HRDD Guidance

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- Log Item 138: Overall it is unclear here what a company in a more developed country like US, Germany, UK, etc. is supposed to do as standard seems very much targeted towards sites operating in less developed countries.
  - Examples were sought from the HRWG, none received. No change recommended.
- Log Item 219: "Gender-responsive" needs better explaining and be provided a reason for it being selected as particularly important as opposed to all other rights. The suggested insertion of this should be given a rationale in the guidance and also explained what it would look like as compared to a "standard" policy commitment and DD process.
  - Examples were sought from the HRWG, none received. No change recommended.
- Log Item 467: Given the new language in the Standard around consultation with affected populations we suggest that the guidance note include guidance as to what to do if direct consultation is not possible, including because it could be unsafe. Please see commentary of UN Guiding Principle no. 18 which provides guidance on these types of situations
  - Recommendation from HRWG: Add to Guidance: "In situations where such consultation is not possible, business enterprises should consider reasonable alternatives such as consulting credible, independent expert resources, including human rights defenders and others from civil society." and "that Entities should be expected to 'err on the side of direct communication' and that additional guidance would be needed on what is meant by 'not possible'. It was stated that 'not economically viable' was not a consideration for 'not possible' while 'threat to life' was a reasonable claim."

# Discussion

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- This slide was not specifically discussed during the meeting

# 5 Criterion 9.1 HRDD Guidance

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Considerations for HRWG:

1. Log Item 565: Who defines the 'shifting human rights conditions'? How can this be applied universally and is it auditable?
  - Examples were sought from the HRWG, none received. No change recommended.

# Discussion

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- This slide was not specifically discussed during the meeting

# 6 Principle 10.9 New Criterion

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- Log item 181: Suggestion: Require the entity not just to respect, but also to inform workers about their rights. Rationale: Only if workers know about their rights, can they demand them.

## ➤ Recommendation from HRWG

### 10.9 Informing Workers of Rights

The Entity shall:

- a. Inform Workers of their rights, as protected in this Principle
- b. Where Freedom of Association and Collective Bargaining are restricted by Applicable Law then it is expected that Entities would inform Workers of the requirements of 10.1 (d).

Resources for Guidance:

- [https://www.ethicaltrade.org/sites/default/files/shared\\_resources/foa\\_in\\_company\\_supply\\_chains.pdf](https://www.ethicaltrade.org/sites/default/files/shared_resources/foa_in_company_supply_chains.pdf). point 2 P 39
- <https://api.fairwear.org/wp-content/uploads/2021/04/Fairwear-Freedom-of-Association-Brand-Guide-2021.pdf>. P54



# Discussion

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- This slide was not specifically discussed during the meeting

# 6 Criterion 10.3 Forced Labour

**10.3 Forced Labour:** The Entity shall neither engage in nor support the use of Forced Labour. The Entity shall:

a. Not, either directly or through any direct or contracted employment or recruitment agencies:

...

v. ~~Unreasonably~~ restrict the freedom of movement of Workers in the workplace or in on-site housing.

...

Log item 494 & 519: The word “unreasonably” has been removed from 10.3a(v) – at times freedom of movement may need to be restricted for H&S reasons e.g. in an emergency situation.

- Recommendation from HRWG re: v. Restrict the freedom of movement of Workers in the workplace or in on-site housing, unless reasonable, necessary, timebound and proportionate.
- Recommendation from HRWG re: Additional Guidance: Reasonable restriction may be necessary in cases where:
  - emergency situations are occurring where for the protection of the health and safety of the worker, or other workers, they may be required to be confined to an area e.g. isolation/quarantine in a pandemic/outbreak or safe rooms during a release of hazardous materials;
  - continuous production;
  - Special care should be taken to ensure gender is not used as a means to restrict movement of workers
  - health and safety controls require a person to be prohibited from entering an area for the protection of their, or others, health and safety e.g. access to an area requires training/competency requirements to be fulfilled before entering or access to a site is prohibited if a person is sick
  - the local community needs to be protected from in migration issues
  - it should be noted that these restrictions would normally be documented in emergency response or site/region access procedures and be inclusive of all personnel

# Discussion

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- This slide was not specifically discussed during the meeting

# 6 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.

- Log item 142: Current language on equal rates of pay for equal work eliminates options available for affirmative action in many parts of the world when it comes to positive discrimination and trying to maximise employment opportunities for locals. ASI should be promoting local employment as part of the standards, even if this involves additional allowances to encourage certain groups to take available job opportunities.
  - Recommendation from HRWG: change 'equal' to 'equitable'.
- Log item 443: Promoting a non-discrimination culture among workers is missing.
  - Recommendation from HRWG: include as sub-criterion (c)

# Discussion

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- This slide was not specifically discussed during the meeting

# 6 Criterion 10.6 Disciplinary Practices

**10.6 Disciplinary Practices.** The Entity shall neither engage in nor tolerate the use of corporal punishment, mental or physical coercion, Harassment, and gender-based violence including sexual Harassment, or verbal abuse of Workers.

- Log item 52: Consider aligning with ILO Convention 190. It sets out duties on employers, to create clear and effective workplace policies and procedures to prevent and address violence and harassment.
  - a) adopt and implement, in consultation with workers and their representatives, a workplace policy on violence and harassment
  - b) take into account violence and harassment and associated psychosocial risks in the management of occupational safety and health
  - c) identify hazards and assess the risks of violence and harassment, with the participation of workers and their representatives, and take measures to prevent and control them
  - d) provide to workers and other persons concerned information and training, in accessible formats as appropriate, on the identified hazards and risks of violence and harassment and the associated prevention and protection measures.
    - Recommendation from HRWG: Accept this Change with the change of combining (b) and (c) and move assessing psychosocial risks more broadly to Principle 11.
    - **Note: A question was raised by a member of legality of including Contractors in the definition of workers for this Criterion. The Secretariat reached out to several large members and this concern was not seen as a barrier to implementation, however, the commitment to the HRWG member was that this concern would be made known to the Standards Committee.**
- Suggestion from HRWG: add significant in front of hazards and risks in (d).
  - All hazards and risks should be addressed. No change recommended.

# Discussion

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- This slide was not specifically discussed during the meeting

# 6 Criterion 10.7 Remuneration

**10.7 Remuneration.** The Entity shall:

- a. Ensure Workers have a written contract of employment in a language and format they understand.
- b. 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.
- c. Pay a premium for work that exceeds 40 hours per week, except in situations of a collective agreement or extended work shifts where work hours are averaged over a certain period.
- d. Make wage payments that are timely, in legal currency ~~tender~~ and fully documented

- Log items 128, 221, 444: Consider an alternative to the word 'contract', which has a particular meaning in some countries.
  - Use 'a written description of terms and conditions of employment' instead.
- Log items 129: Difference needs to be made between hourly workers and salaried ones like engineers etc who don't get overtime pay.
  - Add salaried employees to the 'exemptions'.
- Log items 182: Require a minimum OT premium of at least 25%, in accordance with ILO Convention C001
  - Make change.



# Discussion

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- This slide was not specifically discussed during the meeting

# 6 Criterion 10.8 Working Time

## 10.8 Working Time. The Entity shall:

- a. Comply with Applicable Law and industry standards on Working Time (including Overtime working hours), public holidays and paid annual leave.
  - b. Ensure Workers have at a minimum one day off per seven day period.
  - c. Ensure the work day is 8 hours on average over a three month period.
- 
- Log items 143, 130, 445, 484: 10.8 (c): There is no indication in terms of how the average 8 hours a day over 3 months should be calculated (including work days, off days, rotation, weekends, holidays etc. etc.)
    - Average is self-explanatory. No change recommended.
  - Log items 129: The proposed wording may provoke non-conformance for “fly-in, fly-out” kind of scenarios. Thus, the wording for criteria shall be aligned with the proposed wording of the guidance. The wording should be polished.
    - Extending the ‘average period’ by an additional month should provide enough leeway for all situations.
  - Log items 130: We have some exceptional situations allowed by the law and by the agreement with unions which may infringe on this criteria.
    - Add exemption for union agreements to 10.8.

# Discussion

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- This slide was not specifically discussed during the meeting

## 7 Performance Standard Principle 11: Occupational Health & Safety

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*The Entity shall provide safe and healthy working conditions for all Workers.*

- Where example amended text is shown in the following slides it is to illustrate what implementation of the Standards Committee decision on a given log item/issue might look like
- Detailed input on wording is not sought, but direction and decision on each item is, as well as discussion where noted
- Pre-consultation changes in red

- Log item 376: OHS requirements fall short of performance standards in terms of specific performance requirements
  - Suggested inclusions provided by commentator.
- Log item 566: Criteria light compared to other Principles

For Standards Committee discussion:

- Balancing specific outcomes with focus on management system implementation

Proposal:

- Risk management approach to allow multitude of hazards/risks to be addressed, under a common framework (ISO 45001?), public disclosure as per other ASI criteria
- Inclusion of specifics (baseline assessments, critical risk management, psychological health & safety, vulnerable populations, tools to manage risk)
- BUT not re-iteration of ISO45001 or other referenced standards if inclusion as normative reference (see following)

- 11.1 **Occupational Health and Safety (OH&S) Policy.** The Entity shall:
- Implement, communicate and regularly review an Occupational Health and Safety Policy that senior management has endorsed and supports through provision of resources.
  - Apply the Policy to all Workers and Visitors present in any area or activities under the Entity's Control.
  - Include in the Policy a commitment to comply with Applicable Law on Workers' health and safety, international standards, and ILO Conventions on Occupational Health and Safety including where relevant ILO Conventions 155 and 176.
  - Include in the Policy that Workers have the right to understand the hazards and safe practices for their work, and the authority to refuse or stop unsafe work.

➤ Log item 375: **Make policy publicly available**

- Proposal: accept inclusion under 11.1a

➤ Log item 567: **Include explicit reference to ISO 45001 under 11.1c**

- Proposal: accept inclusion (Criteria and/or Guidance?)

➤ Log item 568: **Additional detail:**

- *language or format that can be understood by/is accessible for all workers*
- *developed in consultation with workers*
- *holistic view, including psychological health & safety, wellness and fitness for work.*
- *regular training for workers including information and training specifically for groups identified as vulnerable.*

- Proposal: accept inclusion (Criteria and/or Guidance?)

• Log item 267: **11.1d: "...and to remove themselves from work situations that they believe could cause injury or ill health."**

- Proposal: accept inclusion under 11.1d

11.1

### Occupational Health and Safety (OH&S) Wellbeing Policy

The Entity shall:

- a. Implement, communicate and regularly review a regularly reviewed and publicly available Wellbeing n-Occupational Health and Safety Policy, developed in consultation with Workers, that senior management has endorsed and supports through provision of resources
- a-b. Regularly communicate the Policy and its revisions to Workers and Visitors ;
- b-c. Apply the Policy to all Workers and Visitors present in any area or activities under the Entity's Control.

- e-d. Include in the Policy a commitment to manage Occupational Health and Safety (OH&S) risks in accordance with international standards [ISO 45001], to comply with Applicable Law on Workers' health and safety, international standards, and ILO Conventions on Occupational Health and Safety including where relevant ILO Conventions 155 and 176.
- e-e. Include in the Policy that Workers have the right to understand accessible information on the identified hazards, risk assessment processes and risk control mechanisms and safe practices for their work, and the authority to refuse or stop unsafe work and to remove themselves from work situations that they believe could cause injury or ill health, where such action does not present a hazard in itself.

### 11.1 Wellbeing Policy

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- a. Implement a regularly reviewed and publicly available Wellbeing Policy, developed in consultation with Workers, that senior management has endorsed and supports through provision of resources
- b. Regularly communicate the Policy and its revisions to Workers and Visitors
- c. Apply the Policy to all Workers and Visitors present in any area or activities under the Entity's Control.
- d. Include in the Policy a commitment to manage Occupational Health and Safety (OH&S) risks in accordance with international standards [ISO45001], to comply with Applicable Law on Workers' health and safety and ILO Conventions on Occupational Health and Safety including where relevant ILO Conventions 155 and 176.
- e. Include in the Policy that Workers have the right to accessible information on identified hazards, risk assessment processes and risk control mechanisms, and the authority to refuse or stop unsafe work and to remove themselves from work situations that they believe could cause injury or ill health, where such action does not present a hazard in itself.

# Discussion

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- A participant stated that, in terms of content , most of this is actually *in* ISO 45001, so no issues there, however the term 'wellbeing' could be undermining. The semantics of the term 'wellbeing' has increasingly become diluted to become somewhat superficial, whereas in a lot of facilities, the key concern does remain the safety of visitors and employees. Wellbeing is in ISO 45001 (a part of it), so fear that this sort of language could undermine the criteria somehow.
- A member of the Secretariat made the proposal to revert back to OH&S and explicitly link to ISO45001.
- A participant suggested to put the promotion of health wellbeing in the OH&S policy, but the title is misleading, particularly in view of the equivalence with ISO Standards, which remain strong standards in that respect.
- **The Secretariat will make a proposal on how to integrate this comment replacing all current text in 11.1, 11.2 and 11.3.**



# From HRWG July 2021 Minutes (re. 10.6)

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- A participant mentioned that sub-criterion 10.6b potentially shouldn't be limited to health and safety management system, and rather we should allow Entities to decide themselves what management systems these OHS requirements pertain to.
- A member of the Secretariat suggested to roll sub-criterion 10.6 (b) into (c) and to include reference to psychosocial risks in the HIRARC (hazard identification, risk assessment, risk control) violence, harassment and associated psychosocial risks (among other health and safety risks) additionally in Criteria/Guidance under Principle 11. **This was agreed to.**
- A participant mentioned in the chat that, as a matter of implementation, setting policies and procedures establishes a workplace culture; where ever it's housed it should be articulated clearly as a priority issue (and here seems fine). Because OHS covers a lot of ground, and you often need some inputs into how to design OHS management system
- A participant commented on sub-criterion 10.6d there can be some risks which are not necessarily significant risks. Should we put here 'significant' as well? **The Secretariat will raise this to the Standards Committee.**

Workplace psychosocial risk factors - social factors (from ISO 45003:2021)

Examples	
Interpersonal relationships	<ul style="list-style-type: none"> <li>— poor communication, including poor information sharing</li> <li>— poor relationships between managers, supervisors, co-workers, and clients or others that workers interact with</li> <li>— interpersonal conflict</li> <li>— harassment, bullying, victimization (including using electronic tools such as email and social media), third-party violence</li> <li>— lack of social support</li> <li>— unequal power relationships between dominant and non-dominant groups of workers</li> <li>— social or physical isolation</li> </ul>
Leadership	<ul style="list-style-type: none"> <li>— lack of clear vision and objectives</li> <li>— management style unsuited to the nature of the work and its demand</li> <li>— failing to listen or only casually listening to complaints and suggestions</li> <li>— withholding information</li> <li>— providing inadequate communication and support</li> <li>— lack of accountability</li> <li>— lack of fairness</li> <li>— inconsistent and poor decision-making practices</li> <li>— abuse or misuse of power</li> </ul>
Organizational/workgroup culture	<ul style="list-style-type: none"> <li>— poor communication</li> <li>— low levels of support for problem-solving and personal development</li> <li>— lack of definition of, or agreement on, organizational objectives</li> <li>— inconsistent and untimely application of policies and procedures, unfair decision-making</li> </ul>
Recognition and reward	<ul style="list-style-type: none"> <li>— imbalance between workers' effort and formal and informal recognition and reward</li> <li>— lack of appropriate acknowledgement and appreciation of workers' efforts in a fair and timely manner</li> </ul>
Career development	<ul style="list-style-type: none"> <li>— career stagnation and uncertainty, under-promotion or over-promotion, lack of opportunity for skill development</li> </ul>
Support	<ul style="list-style-type: none"> <li>— lack of support from supervisors and co-workers</li> <li>— lack of access to support services</li> <li>— lack of information/training to support work performance</li> </ul>
Supervision	<ul style="list-style-type: none"> <li>— lack of constructive performance feedback and evaluation processes</li> <li>— lack of encouragement/acknowledgement</li> <li>— lack of communication</li> <li>— lack of shared organizational vision and clear objectives</li> <li>— lack of support and/or resources to facilitate improvements in performance</li> <li>— lack of fairness</li> <li>— misuse of digital surveillance</li> </ul>
Civility and respect	<ul style="list-style-type: none"> <li>— lack of trust, honesty, respect, civility and fairness</li> <li>— lack of respect and consideration in interactions among workers, as well as with customers, clients and the public</li> </ul>

Work/life balance	<ul style="list-style-type: none"> <li>— work tasks, roles, schedules or expectations that cause workers to continue working in their own time</li> <li>— conflicting demands of work and home</li> <li>— work that impacts the workers' ability to recover</li> </ul>
Violence at work	<ul style="list-style-type: none"> <li>— incidents involving an explicit or implicit challenge to health, safety or well-being at work; violence can be internal, external or client initiated, e.g.:</li> <li>— abuse</li> <li>— threats</li> <li>— assault (physical, verbal or sexual)</li> <li>— gender-based violence</li> </ul>
Harassment	<ul style="list-style-type: none"> <li>— unwanted, offensive, intimidating behaviours (sexual or non-sexual in nature) which relate to one or more specific characteristic of the targeted individual, e.g.:</li> <li>— race</li> <li>— gender identity</li> <li>— religion or belief</li> <li>— sexual orientation</li> <li>— disability</li> <li>— age</li> </ul>
Bullying and victimization	<ul style="list-style-type: none"> <li>— repeated (more than once) unreasonable behaviours which can present a risk to health, safety and well-being at work; behaviours can be overt or covert, e.g.:</li> <li>— social or physical isolation</li> <li>— assigning meaningless or unfavourable tasks</li> <li>— name-calling, insults and intimidation</li> <li>— undermining behaviour</li> <li>— undue public criticism</li> <li>— withholding information or resources critical for one's job</li> <li>— malicious rumours or gossiping</li> <li>— assigning impossible deadlines</li> </ul>
<p>NOTE 1 A range of policies, legislation and practices can be in place in relation to the issues in this table. Consulting the relevant guidance and/or legislation is part of understanding legal requirements and other requirements (see <a href="#">ISO 45001:2018, 6.1.3</a>).</p> <p>NOTE 2 Bullying and harassment can occur both face to face and electronically (e.g. social media).</p>	

- 11.2 OH&S Management System. The Entity shall:
- a. Have a documented Occupational Health and Safety Management System that is conformant with applicable national and international standards.
  - b. Regularly review and publicly disclose the effectiveness, using lagging and leading indicators, of the Occupational Health and Safety Management System; compare this with peers and best practices; and where required, identify and implement improvements.

- Log item 298: ISO 45001 system implemented, regardless of the indicators chosen. The list of indicators in Guidance neither exhaustive nor “must-haves”
- Log item 521: Other criteria require consideration of baseline conditions in assessments – similar for OH&S?
- Log item 569: As peers’ data is not public (for leading indicators at least) “where available” added to 11.2b
- Log item 579: The use ‘lagging indicators’ is not necessarily a driver of positive change or good practice in the future.
- Proposal:
  - ISO 45001 normative under 11.2
  - Review 11.2b in light of ISO 45001 requirements on disclosure, comparison and improvement (potentially delete 11.2b if covered by 45001 process)

## 8 Performance Standard Principle 7: Water Stewardship

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*The Entity shall withdraw, use and manage water responsibly to support the stewardship of water resources.*

- Where example amended text is shown in the following slides it is to illustrate what implementation of the Standards Committee decision on a given log item/issue might look like
- Detailed input on wording is not sought, but direction and decision on each item is, as well as discussion where noted
- Pre-consultation changes in red

- Log item 435: Concept of water as a “shared resource” is not well reflected: working with other water users to manage water-related issues

For Standards Committee discussion:

- Incorporation of concept into Principle itself (see proposal below)
- Weave co-operative action into Criteria and/or Guidance under Principle 7 (see following slides)

Proposal:

*The Entity shall withdraw, use and manage water responsibly to support the stewardship of shared water resources.*

- 7.1 **Water Assessment.** The Entity shall:
- Identify and map its water withdrawal and use by source and type.
  - Assess water-related risks in Watersheds in the Entity's Area of Influence.
- 7.2 **Water Management.** The Entity shall:
- Implement water management plans, with time-bound targets that address material risks identified in Criterion 7.1(b).
  - Monitor the effectiveness of the plans.
- This Criterion does not apply where risks identified in 7.1b are assessed and documented as low.*
- 7.3 **Disclosure of Water Usage and Risks.** The Entity shall ~~publicly report~~ disclose water withdrawal and use and ~~disclose~~ material water-related risks.

- Log item 356: Replace map with document (7.1a) (not for SC discussion)
- Log item 552: Reword 7.2b to align with language elsewhere in Standard (not for SC discussion)
- Log item 435 (from prior slide): Water as a shared resource
  - Criterion language, as below, or add to Guidance alone?
- Example amended text in light of SC decision:
 

7.1 *Water Assessment* and Disclosure. The Entity shall:

  - Identify, document and publicly disclose its water withdrawal and use by source and type.
  - Assess and, where material, publicly disclose water-related risks in Watersheds in the Entity's Area of Influence.

7.2 *Water Management.* The Entity shall:

  - Implement water management plans, developed in conjunction with [other users/stakeholders/other?], with time-bound targets that address material risks identified in Criterion 7.1(b).
  - Regularly review the effectiveness of the plans and, where required, identify and implement improvements.

*This Criterion does not apply where risks identified in 7.1b are assessed and documented as low.*

7.3 ~~Disclosure of Water Usage and Risks. The Entity shall~~ ~~publicly disclose~~ ~~water withdrawal and use and material water-related risks.~~

# Discussion

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- No comments were received by the Standards Committee on the proposal.

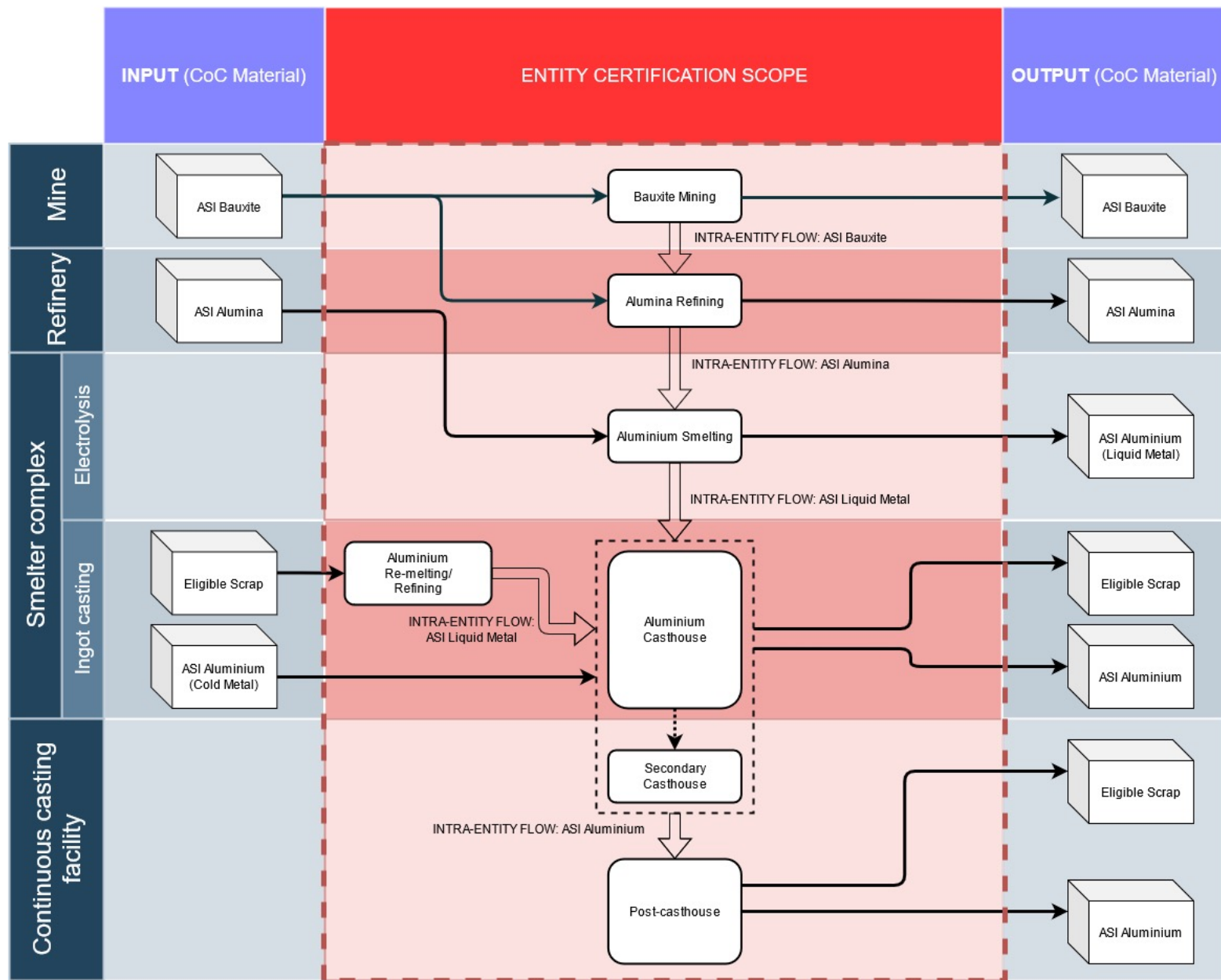
## 9 Chain of Custody

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### Significant changes:

- Removed reference to internal scrap – redundant; Eligible Scrap only applies when crosses Scope boundary (otherwise nets zero)
- Clarified the supply chain activity boundaries and material in and outflows
  - Treatment of dross as Eligible Scrap.
  - ONLY scrap into remelter/refiner process and liquid Al out, if with a casthouse then treated as 2 separate (even if conjoined processes); Casthouse can have liquid and cold in but NOT scrap
- Liquid/Cold Metal differentiation removed – all ASI Aluminium (in whatever form)
- Broadened definition of alumina to include aluminium hydrate
- Treatment and role of Traders, Tolling Arrangements, Joint Ventures and Outsourcing Contractors
- Input/Output applies to CoC Material **crossing Certification Scope boundary only**
- Non-CoC Inflows and Outflows and Intra-Entity Flows used for flows between activities within Scope or non-CoC entering/leaving scope (material accounting and reporting)
- Criteria normative, no normative references in Guidance (from SME WG)





- INPUT/OUTPUT (specific term):
  - Only applied to CoC Material and Eligible Scrap entering or exiting the Certification Scope
  - Scope can be an almost infinite number of permutations depending on the Certifying Entity....we cannot hope to cover all scenarios in the Standard, so need to be very clear that this is specific definition of Entry to and Exit from a Scope within a Material Accounting period;
- INTRA-ENTITY FLOW (specific term):
  - flow of CoC Material between supply chain activities within a Scope
  - Included in reporting requirement (1.7) – in particular of use when multi-activity Entities are Outputting different CoC Materials from Scope; e.g. integrated producer long in alumina, their Input % of ASI Bauxite will not equal Output % of ASI Aluminium
- INFLOW/OUTFLOW (general term):
  - any material (CoC or non-CoC) flowing between any activity, to/from outsourcing contractors, across scope boundary etc

# Discussion

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- A participant asked whether there is a process of approval for these changes? It was agreed that the Secretariat would have interested participants to liaise directly with the Secretariat (Chris Bayliss)
- A participant expressed concern about the concept of Intra Entity flows, and the fact that this might require to disclose sensitive information as well as contributing to administrative burden. Need to consider carefully the consequences of this. Questionable value-added of this for Entities that don't transform one CoC Material into another CoC Material, ie for casthouse and post-casthouse activities?
- A member of the Secretariat agreed that it can sometimes be redundant (for companies that have metal in → metal out), but an issue arose when collecting data from those Entities who transform CoC material from for example bauxite to alumina and then sell some alumina but put a proportion into an integrated smelter . In these cases, input and output percentages cannot be compared (multiple denominators on output).
- The participant expressed concern about the big cost consequences this could have on IT systems, so would welcome a session to give opportunity to comment on the whole CoC.
- **The Secretariat agreed to hold one (or if need be two) longer (4 hour) sessions for Standards Committee reps, their technical experts and CoCWG participants to test the changes to Criteria in the CoC Standard v2, allowing further refinement prior to Standards Committee finalization at its call of 1 December.**



**45 MINUTES ON**

**asi** Aluminium  
Stewardship  
Initiative

Chain of Custody Material Flows:  
latest data and future developments

Wednesday September 22, 2021

[https://youtu.be/sldjmKw\\_b74](https://youtu.be/sldjmKw_b74)

**asi** Aluminium  
Stewardship  
Initiative

# 10 Agreed Upon Actions & Close

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- a. Agree any final post-meeting actions and timeframes by Committee members
- b. Agree actions by Secretariat
- It was agreed that all recommendations in green will be actioned by the Secretariat. Comments were received on 9.7 and local communities: this will be carried over to the next Standards Committee meeting.
- c. Chairs and Secretariat thanks to all participants and close of meeting

## Next Meetings:

- 20 October – P5 / P8 all SC decisions by this date
- 01 December – final review and approve documents for consultations

Thank you