

ASI Community Rights and Participation Working Group – Discussion Notes

Call # 6: 06 November 2025 (Virtual)

Attendance – Working Group

Brodie Vansleve (Rio Tinto)	Margriet Biswane (IPAF representative)
Elena Miceski (Rio Tinto)	Daniel O Campo (CREER)
Hugo Bonilla (Alcoa)	Nicholas Barla (IPAF representative)
Linn Aakvik (Hydro)	Vincent Ekka (IPAF representative)
Lauren Brandi (Hydro)	Rania Tayeh (EGA)
Kendyll Salcito (NomoGaia)	Alexey Spirin (UC Rusal)
Louis Biswane (IPAF representative)	Diana Munoz (CREER)
Abu Karimu (IPAF representative)	
Soumah Ibrahima (IPAF representative)	
Cathal Doyle (Forest Peoples Program)	
Yuri Herder (Tetra Pak)	

ASI Secretariat Participants

Chelsea Reinhardt, <i>Standards Director</i>	Chris Bayliss, <i>Climate Change and Decarbonisation Director</i>
Mark Annadale, <i>Director of Research and IPAF Advisor</i>	
Jessica Pereira, <i>Human Rights Specialist</i>	Chinelo Etiaba, <i>Director of Membership</i>

Agenda:

1. Welcome: Progress update and adjusted timelines (5 min)
2. Discuss key open issues and proposed adjustments
 1. Inclusion of Land-connected communities and FPIC (40 min)
 2. Requirement for consent/ agreement through FPIC process (20 min)
 3. Other issues raised by the WG (20 min)
3. Additional content points, *if time:*
 1. 7.7.2.1 documentation of consultation and ‘sign-off on key documented outcomes’
 2. 7.4 Proposed adjustments to community benefits
4. Next steps (5 min)

1. Introduction

- The ASI team gave an overview of the overall revision progress so far. Most sections of the revised Performance Standard drafts are on track to be approved for consultation by early 2026. However, the draft for Community Rights and Participation will require more time, in particular due to complex and sensitive issues surrounding the scope of FPIC and the definition of ‘land-connected communities.’
 - ASI and the Standards Committee will make sure we have space in the process to listen to all views and have these important discussions- at the same time, it’s essential that we get input from Working Group members in the next month on these points, to allow us to move forward.
- **Key purpose of the session:**
 - To continue discussion on FPIC and Land-connected communities.
 - To review wording on the requirement for consent.

- To identify remaining areas needing adjustment before consultation.

2. Proposed Inclusion of Land-connected Communities as rightsholders

- ASI presented an overview of ongoing debates around the proposed inclusion of Land-connected communities within the FPIC criterion.
 - Industry members raised concerns that expanding FPIC beyond Indigenous Peoples would diverge from existing frameworks (IFC, ICMM, IRMA), would be ‘unimplementable’, could dilute the rights of Indigenous People. They also raised a concern about reputational challenges for ASI if companies could not comply.
 - Views from IPAF and civil society participants supported extending FPIC to very specifically defined sets of land-connected communities. This reflects international human rights jurisprudence and realities where communities with collective ties to land would otherwise be characterized as Indigenous, except that they do not self-identify as Indigenous.
- The Secretariat presented several options that aim to find middle ground between these two sides of the issue:
 - Option 1: Maintain the current FPIC focus on Indigenous Peoples only (V3 wording)
 - Option 2: Retain FPIC for Indigenous Peoples as a minimum requirement, but include expansion of FPIC to specific land-connected communities as *leading practice*.
 - Option 3: Expand the Indigenous Peoples definition to explicitly encompass communities meeting equivalent characteristics *except* for self-identification.
 - Option 4: Apply FPIC to land-connected communities where feasible (e.g. this would not apply where governance structures make collective consent impracticable.)
 - Option 5: Maintain the current inclusion of FPIC for Indigenous Peoples and land-connected Communities as in the current working draft
- Working Group participants were given time to think about any alternate options that should be discussed, and to add thoughts and considerations especially on Options 2, 3, and 4 via a Canva whiteboard.
- One participant reiterated the concerns from an industry perspective:
 - The importance of harmonisation with other standards (e.g., ILO 169, UNDRIP) that limit FPIC to Indigenous Peoples.
 - Concerns from some Indigenous groups that extending FPIC could dilute their rights
 - Implementation complexity, particularly where community governance structures are not formalised.
- Another participant added the *national-level challenges* of expansion, noting that in some jurisdictions (e.g., Latin America), Indigenous and Land-connected groups coexist, creating overlapping claims and possible tensions over representation.
- One participant explained that Indigenous and Land-connected groups may live far from extraction sites while non-Indigenous local communities live nearby, yet companies consult only with those immediately adjacent.
- There was support for Option 3, where the Indigenous Peoples definition could be slightly expanded to include specific groups already recognised under national law (e.g., Quilombola communities in Brazil). It was cautioned against any “feasibility condition” that could undermine the legitimacy of FPIC as a right.
- Another participant reinforced that the recognition of “tribal” or analogous peoples exists in human rights jurisprudence and that ASI’s revision should draw from established legal language rather than invent new terms. They advised care with regional sensitivities around terminology such as “tribal,” recommending reference to “peoples with similar characteristics.”
- Summarised feedback:
 - Participants agreed that “feasibility” should not determine whether a community has FPIC rights – this will likely rule out Option 4 from further development
 - Some noted that “leading practice” framing could misrepresent legally required rights in certain jurisdictions. This means that for Option 2, minimum requirements would need to cover cases such as the Quilombola who are already afforded FPIC rights under law.

- Participants supported retaining flexibility in terminology (e.g recognising differing terms are used in differing regions such as tribal, first nations, adavasi, etc) while grounding definitions in international precedent
- **Actions:**
 - ASI Secretariat to further develop Options 2 and 3 further, integrating participant feedback and examples from human rights frameworks
 - ASI to look at the language used in case law and international frameworks
 - Working Group members interested in a 121 follow up or discussion to please get in touch with ASI

1 Requirement for consent and agreement

- ASI presented the proposed redrafting of the FPIC criterion regarding the requirement for consent: (currently 9.4 in the PS V3): *“Where FPIC is required, demonstrate that consent is provided by affected Indigenous Peoples”*
- The Working Group discussed the current text and some alternate proposals and raised the following points:
 - Some participants expressed concern that current wording could be interpreted as a veto right and sought language reflecting ongoing engagement and agreement-building rather than consent.
 - The complexity of FPIC implementation was highlighted, noting that communities may be divided or overburdened by multiple FPIC processes. One participant raised the example of Canada, where numerous projects require parallel FPIC processes with the same communities, straining their capacity.
 - Another participant suggested conducting a risk analysis of each proposed drafting option to understand possible outcomes, such as widespread non-conformance or reputational risk, should the criteria prove unimplementable.
 - Some participants were not in favour of wording around “progress towards consent”, raising a concern that it would be inconsistent with international standards (as FPIC requires *obtaining consent*, not only showing progress). It was generally agreed that the concept of FPIC is not a veto, but rather a means to legitimise development by ensuring collective approval
 - It was noted that FPIC should remain a clear commitment, not a conditional goal.
 - It was also noted by the ASI secretariat that – on behalf of feedback from the Indigenous Peoples Advisory Forum (IPAF) – being perceived to weakening FPIC language would go against clear priorities from IPAF. It was acknowledged that both companies and communities face challenges in correctly implementing FPIC, underscoring the need for clear expectations, guidance, and sufficient and resource planning.
- **Actions:**
 - ASI Secretariat to further review FPIC consent wording, incorporating feedback from the Working Group as well as IPAF input and looking to align with human rights standards.
 - Working Group members asked to review and contribute to adjusted proposals on wording in the working draft
 - Working Group members interested in a 121 follow up or discussion to please get in touch with ASI

3. Next steps

- The Canva board will remain open for several days for additional feedback on proposed options and considerations around FPIC and land-connected communities
- The ASI Secretariat will consolidate comments and circulate updated drafts for review.

- Further one-to-one calls with members (at their request) will be scheduled to discuss implementation examples and risks.
- Additional Working Group calls to be scheduled for late November and early/ mid December