

1.1 Why produce a Good Practice Guide focusing specifically on Indigenous Peoples?

In many respects, what constitutes good practice in relation to Indigenous Peoples is the same as for non-Indigenous Peoples. Regardless of where they operate, responsible companies aim to avoid impacting negatively on communities and seek to leave a positive legacy, particularly in relation to local social and economic development. The basic principles of good engagement are the same across the board (see Section 2.2),² and many of the methodologies for identifying and realizing development opportunities will apply in the context of dealings with both Indigenous and non-Indigenous Peoples.

Notwithstanding these common elements, there are some compelling reasons for producing (and now updating) a guide that focuses specifically on Indigenous Peoples and mining:

- There is now widespread recognition at an international level that Indigenous Peoples have distinct rights and interests, and a growing expectation that these will be respected by responsible companies.
 - Through law, custom or a combination of both, Indigenous Peoples often have a special relationship to land, territories and resources on which companies want to explore and mine. This can create specific obligations for companies, as well as presenting a range of unique challenges (and sometimes opportunities such as improved access to resources) that need to be understood and addressed.
 - Indigenous Peoples often have cultural characteristics, governance structures, and traditional ways of interacting and decision making that set them apart from the non-indigenous population, which require companies to utilize forms of engagement that are sensitive to these characteristics.
 - Legislation in some countries requires mining companies to engage with Indigenous Peoples and, in some cases, to actually seek their consent for undertaking mining operations on their land. In most countries, however, “neither indigenous peoples nor any other population group actually have the right to veto development projects that affect them”, so free, prior and informed consent (FPIC) should be regarded as a “principle to be respected to the greatest degree possible in development planning and implementation”.³
- Indigenous Peoples have historically been disadvantaged, discriminated against and dispossessed of their land, and continue to be disadvantaged relative to most other sections of society. They are also likely to be more vulnerable to negative impacts from developments, particularly those that adversely impact culture and natural resources. On the other hand, Indigenous Peoples potentially have much to gain from the positive impacts of a mining project if appropriately engaged. Addressing these issues requires special attention to the interests and rights of indigenous groups across all stages of the mining project life cycle.

1.2 The updated ICMM position statement

In May 2013, the International Council on Mining and Metals (ICMM) released an updated version of its 2008 Mining and Indigenous Peoples Position Statement. The development of the updated position statement included a review of the changes to the international policy landscape since 2008, notably the inclusion of an FPIC provision within Performance Standard 7 (on Indigenous Peoples) of the International Finance Corporation’s (IFC’s) revised Performance Standards on Social and Environmental Sustainability.

The May 2013 position statement supersedes the 2008 version and builds on several years’ work at ICMM. It contains several key recognition statements that acknowledge the importance of having special regard for Indigenous Peoples’ rights and interests. These recognition statements have been given practical effect through six commitments that ICMM members have committed to abide by, to the extent that they do not conflict with the relevant national or provincial laws.

2 For further information on good practice engagement, see, for example, L Zandvliet and M B Anderson, *Getting it right: making corporate–community relations work*, Sheffield, UK, Greenleaf Publishing, 2009.

3 As expressed in the Department of Economic and Social Affairs of the United Nations (UN) Secretariat, *Resource kit on Indigenous Peoples’ issues*, New York, UN, 2008.