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**REPORT BY THE INTERNATIONAL COUNCIL ON MINING  
AND METALS ON ACTIVITIES  
RELATED TO INDIGENOUS PEOPLES**

## **Submission to UN Permanent Forum on Indigenous Issues on ICMM's activities relating to Indigenous Peoples**

### **1. Introduction**

ICMM welcomes this opportunity to provide an update to the United Nations Permanent Forum on Indigenous Issues (UNPFII) on ICMM's activities relating to Indigenous Peoples. While there has been no significant interaction between our two organisations in the past, ICMM would welcome an opportunity for more substantive engagement with the UNPFII going forward. This submission provides a brief introduction to ICMM, describes some of our work on Indigenous issues in recent years, and identifies possible areas for collaboration between UNPFII and ICMM.

ICMM is a CEO-led collaborative of 18 of the largest mining, minerals and metals companies in the world. Our companies employ some 750,000 people at over 800 operations in 60 countries on every continent. In addition we serve to link 30 mining and commodity associations through which we have reach to another 1,500 companies in the sector.

In 2008, our members adopted a common **position statement on Mining and Indigenous Peoples**. This formed the basis for developing our Indigenous Peoples and Mining Good Practice Guide (<http://www.icmm.com/library/indigenouspeoplesguide>), which was published in late 2010. Our submission provides further information on the process that led to these milestones and signals our interest in engaging more substantively with the UNPFII in areas of common interest.

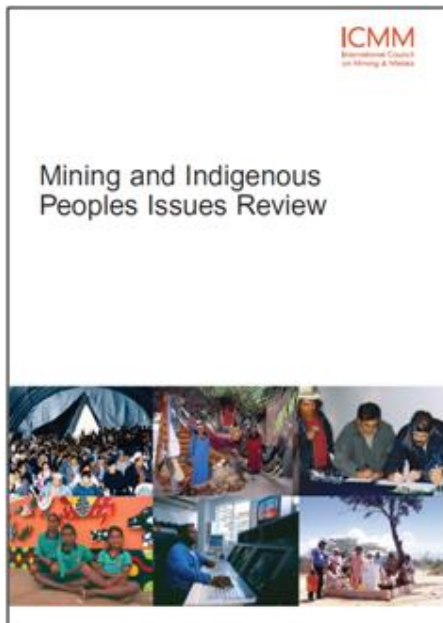
### **2. ICMM's work on Indigenous Peoples issues**

ICMM's work on Indigenous Peoples issues seeks to build effective and constructive relationships with Indigenous Peoples that are based on respect, meaningful engagement and mutual benefit. The main milestones in our work on Indigenous Peoples issues in the past 5 years are as follows.

#### **Mining and Indigenous Peoples Issues Review (2005)**

In 2004, ICMM commissioned an independent review of the issues surrounding Indigenous Peoples and mining and metals operations. The review process included a survey of a diverse range of industry representatives, many of whom were from ICMM member organizations.

The review acknowledges that relationships between mining and metals operations and their local communities are often complex. This is particularly the case in relationships with Indigenous communities, which have characteristics that set them apart from the wider community.



While industry, Indigenous Peoples, governments and other stakeholders all have a role to play in ensuring sustainable communities, the review signalled that ICMM recognized the need to facilitate more meaningful industry engagement with Indigenous Peoples.

The review identifies a high level of convergence in the issues identified by industry, Indigenous Peoples and other stakeholders and outlines a number of possible follow-up activities.

Available at: <http://www.icmm.com/page/1161/mining-and-indigenous-peoples-issues-review>

### **Roundtables on Mining and Indigenous Peoples Issues (2005 and 2008)**

In 2005 and 2008, two roundtables on Mining and Indigenous Peoples Issues were convened under the ICMM-IUCN Dialogue on Mining and Biodiversity.

A November 2005 roundtable addressed key issues identified by participants. These included Free, Prior, Informed Consent (FPIC), land rights, capacity building, Indigenous development, institutions and roles, and legal frameworks. The roundtable also highlighted the need for progress in addressing these issues, through relevant fora or processes at global, regional and national levels, and suggested areas and opportunities for future activity.

In January 2008, a second Roundtable on Mining and Indigenous Peoples Issues addressed issues relating to consultation, engagement and the meaning of broad community support, generating and defining net social benefits, and challenges in implementing FPIC. The roundtable highlighted the need for progress in addressing these issues and suggested areas and opportunities for future activity.

Both reports are available at: <http://www.icmm.com/page/208/indigenous-peoples>

### **Position Statement on Indigenous Peoples Issues (2008)**

In May 2008 the ICMM approved a ***Position Statement on Mining and Indigenous Peoples***, having fully considered stakeholder feedback on an earlier draft version. The position statement stressed the need for constructive relationships between the mining and metals industry and Indigenous Peoples based on respect, meaningful engagement and mutual benefit, with particular regard for the specific and historical situation of Indigenous Peoples.

The position statement includes a number of 'recognition statements', which: acknowledge the historical disadvantage of Indigenous Peoples and the potentially significant impacts that mining can have on Indigenous Peoples and the wider community (both positive and negative); the special connection between Indigenous Peoples and land and their environment; the interests

of Indigenous Peoples in relation to mining and metals projects; the importance of broad community support for successful mining and metals projects; and the importance of governments and the legal context in determining the interactions between Indigenous Peoples and mining companies.

The position statement also includes a series of nine linked commitments which ICMM member companies must adhere to. These are summarized below (and outlined in full in the position statement):

- Acknowledging and respecting the social, economic, environmental and cultural interests of Indigenous Peoples and their rights as articulated and defined within national, provincial and international laws.
- Clearly identifying and fully understanding the interests and perspectives of Indigenous Peoples regarding a project and its potential impacts.
- Engaging and consulting with Indigenous Peoples in a fair, timely and culturally appropriate way throughout the project cycle.
- Building cross-cultural mutual understanding between company personnel and indigenous peoples.
- Encouraging governments where appropriate to participate in alleviating and resolving any problems or issues faced by Indigenous Peoples near mining operations.
- Designing projects to avoid potentially significant adverse impacts of mining and related activities and where this is not possible, minimising, managing and/or compensating fairly for impacts.
- Seeking agreement with Indigenous Peoples and other affected communities on programs to generate net benefits (social, economic, environmental and cultural), that is benefits and opportunities which outweigh negative impacts from mining activities.
- Supporting appropriate frameworks for facilitation, mediation and dispute resolution.
- Through implementation of all of the preceding actions, seek broad community support for new projects or activities.

The position statement also included a commitment to develop guidance in support of implementation, which led to the development of the Indigenous Peoples and Mining Good Practice Guide in 2010 (see below).

Available at: <http://www.icmm.com/page/208/indigenous-peoples>

### **Indigenous Peoples and Mining Good Practice Mining (2010)**

The Good Practice Guide (the 'Guide') was prepared to support ICMM members in implementing the underlying vision and the specific commitments set out in the position statement. It was designed to assist mining and metals companies navigate the cultural, social, economic and political complexities associated with developing, operating and closing projects on or near Indigenous lands, or which otherwise impact on Indigenous communities. It highlights good practice principles, discusses the challenges in applying these principles at the operational level, and provides real-world examples of how mining projects have addressed these challenges.

Although the primary audience for the Guide is ICMM member companies, it has relevance to other companies operating in the sector, as well as to related industries such as oil and gas and

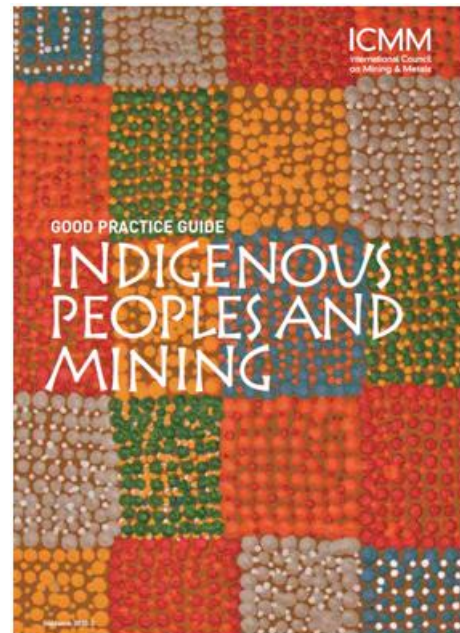
construction. It should also be a useful resource for Indigenous Peoples' Groups, governments, civil society organisations and consultants that engage with the sector.

The information and advice presented in this Guide was drawn from a broad range of sources: publications and websites of government agencies, international organisations, civil society groups and industry associations; company reports and other corporate publications; company policies and standards; case studies provided by companies via the ICMM; research literature; and, consultations with industry personnel and external stakeholders.

From the outset, an **Indigenous Peoples Advisory Group**<sup>1</sup> was convened to:

- provide suggestions and perspectives on the development of the Guide to ICMM and a Working Group comprising representatives of ICMM member companies; and
- play a 'quality assurance' role, by constructively challenging ICMM and the Working Group (see acknowledgements) on the development of the guidance.

The Advisory Group was made up of five individuals with international expertise in mining and Indigenous Peoples issues from a diverse range of geographies and backgrounds. The group provided constructive critical comments on two iterative drafts of the documents, in writing and via teleconferences.



The second draft of the Guide was circulated to a wide range of representative and advocacy organisations working on Indigenous issues for comment, on the understanding that providing comments in no way implied endorsement of the content (see acknowledgements section). ICMM sought to address any comments received in the final version.

Available from: <http://www.icmm.com/library/indigenouspeoplesguide>

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<sup>1</sup> An independent Indigenous Peoples Advisory Group was convened to provide constructively critical advice on substance and process throughout the development of the Guide. The Advisory Group members acted in their individual capacity, rather than as representatives of their respective organisations, and shared their wisdom and insights throughout the process of developing the Guide:

Mike Rae, Director of NRPlan (Canada)

Cassio Inglez de Souza, Independent Expert on Indigenous Affairs (Brazil)

Meg Taylor, Vice President, Compliance Adviser/Ombudsman (CAO) for the International Finance Corporation and the Multilateral Investment Guarantee Agency (Papua New Guinea/Baiman Tsenglap)

Lucy Mulenkei, Indigenous Information Network (Kenya /Maasai)

Mick Dodson, Director, National Centre for Indigenous Studies, Australian National University (Australia/Yawuru)

### 3. Towards deeper engagement between UNPFII and ICMM

As mentioned in the introduction, ICMM has not had significant interaction with the UNPFII to date. In preparing for this submission, we identified two references to ICMM originating from the UNPFII. Firstly, the report on the ninth session<sup>2</sup> of the UNPFII includes the following recommendation:

*“27. The Permanent Forum recommends that the International Council on Mining and Metals provide a list of at least 10 projects that they recommend as good practices in the involvement of indigenous peoples in mining operations and invite members of the Forum, members of affected indigenous peoples and indigenous experts to visit the project sites for the purpose of reporting back to the Forum at its tenth session.”*

Secondly, a former member of the UNPFII (Victoria Tauli-Corpuz) made a submission to the 18<sup>th</sup> session of the UN Commission on Sustainable Development,<sup>3</sup> which included the following recommendation:

*“I call on mining corporations both transnational and national, as well as investors for mining (whether institutional or individual) to endorse the UN Declaration on the Rights of Indigenous Peoples. I recommend that mining Corporations and their associations such as the ICMM and the IGF work with indigenous peoples to elaborate operational guidelines on how to use the UNDRIP in their day to day operations and how to monitor and promote its implementation.”*

ICMM was completely unaware of either of these recommendations until we were preparing for this submission. On that basis, we have not sought to respond directly to them.

Given the shared interest that the UNPFII and ICMM have in ensuring that Indigenous Peoples benefit from, rather than be disadvantaged by, mining and metals projects, we would welcome a closer interaction with the UNPFII. Our strong preference, however, is that this ought to be based on direct dialogue and interaction. The absence of any awareness on our part of the recommendations outlined above suggests that there is scope for more direct and constructive engagement between our two organisations. We are willing to discuss how best to pursue such engagement with the UNPFII at your convenience.

For ICMM, the key point of contact is as follows:

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<sup>2</sup> See Permanent Forum on Indigenous Issues. Report on the ninth session (19-30 April 2010, Economic and Social Council Official Records, 2010, Supplement No. 23)

<sup>3</sup> See UN CSD18 Review Session, Interactive Panel: Thematic Session on Mining 6 May 2010 UN Headquarters, New York, Mining and Sustainable Development