Environmental and Social Impact Assessments

A practical guide for Indigenous Peoples in Guyana

By Annetta Markussen-Brown and Meaghan Simms

January 2011
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The guides are meant to be read in the following order:
- “Free, Prior and Informed Consent: A practical guide for Indigenous Peoples in Guyana”
- “Environmental and Social Impact Assessments: A practical guide for Indigenous participation in Guyana”
- “Negotiating Impact and Benefit Agreements: A practical guide for Indigenous Peoples in Guyana”

These are working documents. Please send comments to msimms@nsi-ins.ca

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Acronyms

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<th>Acronym</th>
<th>Definition</th>
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<tr>
<td>CBD</td>
<td>Convention on Biological Diversity</td>
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<td>CEA</td>
<td>Cumulative Environmental Assessment</td>
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<td>CERD</td>
<td>Committee on the Elimination of Racial Discrimination</td>
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<td>Environmental Management Division</td>
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<td>Environmental Management Plan</td>
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<td>Environmental Monitoring Unit</td>
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<td>ERDD</td>
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<td>Impact Compensation Contract</td>
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<td>IFC</td>
<td>International Finance Corporation</td>
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<td>Indigenous Peoples Panel of Experts</td>
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<td>FPIC</td>
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<td>LCDS</td>
<td>Low Carbon Development Strategy</td>
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<td>MAC</td>
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<td>PDAC</td>
<td>Prospectors and Developers Association of Canada</td>
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<td>REDD+</td>
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<td>TSM Framework</td>
<td>Towards Sustainable Mining Framework</td>
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<td>UNDRIP</td>
<td>United Nations Declaration on the Rights of Indigenous Peoples</td>
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Preface & Introduction

As Amerindians in Guyana, we are no strangers to environmental, social, cultural and other impacts on our traditional territories and on our peoples. We have been raising our voices for years about the negative effects of small- and medium-scale mining on our waters, lands and health. We have spoken up about the damage done by forestry companies; and the Omai gold mine disaster in 1995, which touched the lives of so many Guyanese, has made very clear the dangers posed by large-scale mining.

But for years our voices have gone unheard, and our concerns have gone mostly unaddressed. Despite clear proof that the protections available under the law are not enough to protect our lands, waters and wellbeing from the negative impacts of mining and other projects, policies and programmes, concessions over our territories are still being given out by government agencies.

The talk around the Low Carbon Development Strategy (LCDS) has brought more attention to the environmental impacts of deforestation and small- and medium-scale mining — we can use this attention to be heard by foreign donors, members of parliament and other people in Guyana who are being affected. Yet the LCDS also brings major new risks in the form of hydro-dams, roads, continued large-scale mining and related projects.

The truth is that Guyana is not prepared to deal with these risks. This means we have to get better prepared to protect our lands, waters, resources and cultures for the present and future generations. It is our right under The Constitution of Guyana. It is our right under national and international laws, as this guide will show.

For this right to be realised, many problems with the law and how it is put into practice in Guyana have to be overcome.

There are especially deep problems with the way environmental and social impact assessments (ESIAs) of proposed projects are done — often our communities don’t even find out about these studies until it is too late for us to get involved. As the next section will tell us, environmental and social impact assessments are very important processes that look at how a proposed project will affect Indigenous Peoples, the land, the water, our cultures, our way of living and many more things that make up who we are. They are used to plan ways to avoid or lessen negative impacts.

That is why it is so critical that ESIAs be done right — being done right means fully and meaningfully including Indigenous Peoples by making sure we have opportunities to participate throughout the ESIA process, making sure that the impacts that most concern us are taken seriously and making sure our knowledge is used in planning ways to lessen negative impacts. It also means respecting our right to say “yes” or “no” to a project going forward if we decide the risks are too great.

Some of the problems with ESIAs in Guyana are problems with the laws themselves, which have to be changed. The pages that follow will tell us more about these problems, including that we don’t have enough or sometimes any notice of meetings that will let us raise our concerns about projects. We can appeal to the government and the foreign governments and funders who support Guyana to strengthen the law so that it respects our rights. Under the Environmental Protection Act, the Minister has the power to make regulations, including regulations that can assist
our communities to participate (Section 68.1). We can likewise take steps to build the expertise of our communities by sending our young people to university to study how environmental and social impact assessments are done.

However, we cannot just wait for these things to happen because projects are going forward in many of our communities right now.

This guide shares many lessons on why ESIAs are important and how we can participate more effectively (if our community chooses to be involved in an ESIA) so that we are better able to protect our territories, our people and the things that are most important to us. It tells us about who will be involved in ESIAs, what will happen at different stages of the study and how we, as Indigenous Peoples, can participate at each of those stages. It also tells us about what the laws and regulations of Guyana require of those that are doing the impact assessment and what they say about participation by Indigenous Peoples. And finally, it lets us know how to follow-up if we are not included the way we should be. This is important because if we don’t let others know when our rights aren’t being respected, how can we expect things to change?

Many of these lessons come from how ESIAs are done in most parts of the world, and how they should be done if our rights are respected, and if “best practices” are followed. We say best practices in quotation marks because they are the practices and standards that the best companies, banks or organisations are following — although, they may not be the very best that they could be if they don’t respect all of our rights. For example, some still do not respect our right to give or withhold our Free, Prior and Informed Consent. But these “best practices” are usually much stronger than national laws in a lot of countries.

Because the laws and regulations in Guyana don’t go far enough in creating spaces for us to be involved in environmental and social impact assessments, we have to go farther. We can create those spaces if we want our territory to be protected. We can gather our own information from our community members who know the land so well, as well as from outside our communities. And we can share our knowledge with the people doing the ESIA every chance we get, even if there is no meeting set up and they are just passing through.

We can also work with the ESIA consultants and the companies, organisations or government agencies who want to use our land to make sure they know about how we should be included. The “best practices” appendix at the back of this guide makes it clear that if Indigenous Peoples are fully included in ESIAs and planning, there is a better chance that negative impacts can be lessened. Everyone will be hurt if our rivers are poisoned by mining.

It is so important that we get organised and informed now and not wait until an ESIA starts. The guide on Free, Prior and Informed Consent that goes with this one has many tips on how we can get organised and how we can get informed in general. When we are comfortable with that knowledge, we can take the next step and read this guide.

This guide is for all the Indigenous Peoples of Guyana. It is meant to be read and reread, not just by the leaders of our communities, but by all community members. If some can’t read English, we need to explain it to them and then decide as a community which steps we want to take. A first step begins with us, the leaders, and resource people who have benefited from training on environmental and social impact assessments in the past reading the guide until we truly understand it. If that means reading just one section, then reading it again and again before we go on to the rest, that is okay. ESIAs can be complicated.

But it is also important for us to come up with examples from our own territories to make the lessons more real for our people. If showing videos or pictures also helps, we should use them. The guides are just one tool to help us defend our rights and protect our territories!

They draw on lessons from work with Indigenous Peoples all over the world and were revised to include advice and examples that Amerindian leaders and resource people shared after reviewing draft versions of the guides at a workshop in Georgetown in December 2010. All three guides were produced as part of a joint project between the Amerindian Peoples Association, The North-South Institute (Canada) and the Forest Peoples Programme (England). The project is called “Indigenous Perspectives on Consultation and Decision-making about Mining and other Natural Resources.” The first phase ran from 2000 to 2002 in Guyana. The second phase lasted from 2004 to 2010.

2 Paper copies of the Act should be available for a small fee at the office of the Environmental Protection Agency in Georgetown. Copies are also available on the Internet at the following address: http://www.epaguyana.org/index.php?option=com_docman&task=cat_view&gid=23&Itemid=29
Section 1: Understanding ESIAs and why they are important to Indigenous rights

1.1 What is an Environmental and Social Impact Assessment?

Some projects or programmes can have severe impacts on the land, water, air, plants and wildlife, as well as on the people who use them. Because of these risks, most countries now require that a proponent who wants to develop a project that is likely to have negative impacts conduct an environmental and social impact assessment before it can go ahead. The “proponent” can be a private company, a government agency or state-owned company, the bank or country funding the project or an organisation, such as a conservation organisation. Projects that might require an ESI include, among others, mines, logging operations, dams for hydro-electric power, protected areas, tourist resorts and highways.

The purpose of the ESI is to predict what the possible impacts of the proposed project will be on the environment and the people living in or near it. This is needed to plan ways to avoid or mitigate the negative impacts, which is the second purpose of the assessment. “Mitigate” means to lessen an impact to an acceptable level. ESIAs are sometimes called just “environmental impact assessment,” but today most people accept that there will be also social, cultural, health and other impacts that need to be considered and planned for. All of these issues should be studied in an environmental and social impact assessment.

The ESI is usually done by consultants or experts in impact assessment, who are hired by a company, the government or another proponent. The ESI team is supposed to be independent and fair. But because they are paid by the proponent, who wants the project to go ahead, some ESI reports do not pay enough attention to possible negative impacts. This can happen for a number of reasons. For example, some amount of pollution might be allowed under the environmental regulations of a country. If the proponent and the consultants are only concerned with meeting those regulations, no matter how weak they are, they might not consider some pollution to be a negative impact. The consultants might also feel that they have to stick to the schedule and budget that the proponent has agreed to for the ESI, because they are worried they will look bad if they don’t. This is less likely to happen with the better ESI consultant companies.

This is why our community should get involved — to make sure the issues that are important to us are properly considered and protected! Section 2 tells more about how to get involved.
1.2 Why is an ESIA important?

The ESIA process is important because if it is done properly it can identify and help plan ways to mitigate the negative impacts that the project could have on local communities and the environment. For Indigenous Peoples, this means impacts not only on our titled lands, but any impacts that will affect our traditional territories. And experience shows that developing a medium or large-scale project, especially in a remote, undeveloped area, will result in negative impacts. One big concern is the risk of water being polluted by a mine. The Omai Mine dam rupture, for example, released cyanide waste into the Omai and Essequibo Rivers and killed fish in the 80 kilometre “Disaster Zone” downstream. But some possible impacts are not as easy for outsiders to predict or measure, such as impacts on an Indigenous community’s traditional way of life or culture. So Indigenous Peoples have key roles to play! These roles are talked about in more detail in Section 2 of this guide.

Environmental and social impact assessments that follow “best practice” standards and include Indigenous Peoples in meaningful ways at all stages of the project can provide an important framework for gathering information about possible impacts and making sure our concerns are heard. These best practice ESIA should have “little problem identifying major risks.” Box 1 lists some of the risks around mining that were identified by Amerindian participants at a March 2010 training of trainers workshop in Georgetown, Guyana. This list only begins to touch on all the possible impacts of mining, which can be environmental, economic, social, cultural, political or health related, and can also affect our human rights. The websites listed at the back of the guide on Free, Prior and Informed Consent have more information.

The project should not go ahead or must be re-designed if the ESIA shows that the proposed project will have too many negative impacts that are “significant” (important impacts that can’t be avoided or reduced to levels that are acceptable). In Guyana, it should be our people who make the decision on whether or not the project goes ahead, based on our right to give or withhold our Free, Prior and Informed Consent. But in practice the decision is made by a government agency, called the Environmental Protection Agency. Some banks or donor countries funding projects in developing countries also require ESIAs, especially if Indigenous Peoples will be affected. If this is the case, the donor can decide to refuse funding if the ESIA shows the risks are too high. The project might not be able to go ahead without their funding. See Appendix 1 at the back of this guide for more information on the standards some banks require proponents to follow.

Even if the proposed project’s possible impacts seem insignificant to the proponent or government, we need to remind them that they may be very significant to us when combined with impacts from other projects on our lands — in the past and present, as well as likely impacts in the near future. Together these are called “cumulative impacts.” For example, if three large mines will be operating in our territories and each pollutes the water a little, the pollution of all three combined will have a bigger impact on fish than just one mine would. This combination of impacts is assessed through a process call “Cumulative Environmental Assessment,” which should be included as part of the project’s larger ESIA. When Canadian mining companies do ESIAs in Canada, the regulations say they have to consider “any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out.” If they do this in Canada, shouldn’t they also do it in Guyana?

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The guidelines that have been developed to go with the Act defines projects that “will be carried out” as including not only certain projects, but those that are “reasonably foreseeable.” This means might go ahead, but not completely certain to. See Cumulative Effects Assessment Practitioners Guide. 1999. Page 19. Available at http://www.ceaa.gc.ca/43952694-0363-4B1E-B2B3-47365FAF1ED7/Cumulative_Effects_Assessment_Practitioners_Guide.pdf
Box 1: Amerindian perspectives on some of the impacts of mining in Guyana

Environmental:
- Mercury contamination poisons our fish and harms people eating the fish;
- Water pollution;
- Fish spawning grounds are destroyed;
- Land slides and erosion;
- Less wildlife as hunters sell to miners or the noise of the machines affects them;
- Our waterways are diverted; Forests and wildlife are destroyed.

Health:
- Malaria;
- Alcohol and drug abuse that leads to violence;
- Sexually transmitted diseases and AIDS;
- More road accidents.

Social:
- Communities get divided;
- Homes and marriages break up;
- Teenage prostitution and sexual exploitation of women by miners;
- Increasing crime;
- More young people don’t finish school.

Cultural:
- Some of our people forget about the importance of traditional activities. This happens because of the money they get from mining work and the influence of miners from outside our community on our culture.

Economic:
- Food shortages as our people work in mines instead of farming;
- Fishing, fields and hunting hurt by the mining;
- No compensation;
- The work is underpaid and the conditions exploit us.

Political:
- Concessions decrease hopes of getting our traditional land rights recognised;
- Community members working with the mine have less respect for village leaders.
There are many benefits that come from an ESIA; however, there are limitations and problems as well. For example:

- It may not be possible to identify all possible impacts and some unexpected ones could come up later;
- Cumulative impacts often aren’t considered seriously by the proponent;
- The ESIA consultants may not take enough time to gather all the information needed to truly understand and make plans to mitigate the impacts that are most important for Indigenous Peoples;
- Some proponents and ESIA consultants will not make an extra effort to include Indigenous Peoples who might be affected. They think it is enough just to invite us to meetings that may not even be in our communities;
- The “significance” or importance of impacts can be underestimated by the proponent and the consultants they hire to do the ESIA, especially the social and cultural impacts on Indigenous communities;
- The mitigation measures designed during the ESIA may not be properly implemented during project construction, operation and “decommissioning” (closure);

These problems happen in all countries but are sometimes worse in less developed countries. This can be because of weaker laws, because governments may not have enough money or people to enforce the law, and because affected communities are often cut off from information and contact with officials, the media or others they could turn to when things go wrong.

That is why it is so important for Indigenous Peoples to think about participating actively in the ESIA process. They are a chance for us to make sure the risks to our people, lands and way of living are considered in the decision on whether or not the project will go ahead. They are a chance for us to be directly involved in the planning and development of a proposed project so that it protects against the impacts that are most concerning for us. But this means not just responding to questions; it also means asserting our rights, our traditional knowledge and our opinions.

**Key ESIA Tip:** Consultation with the people who may be affected is “mandatory” or required at certain stages in an environmental and social impact assessment. Section 2 tells us more about these stages and how we can get involved.

### 1.3 How does ESIA relate to Free, Prior and Informed Consent?

Environmental and social impact assessments are at the very heart of FPIC when it comes to projects and programmes that will impact Indigenous Peoples and our territories. Section 1.1 of the FPIC guide that goes with this one spells out Free, Prior and Informed Consent and what each word means. It is important for us to learn the full explanation and then test each new situation against it to see if our rights to FPIC are being respected.

**Most importantly, ESIs are how we get truly “informed” about a project.** We cannot be expected to give our consent to a project until we know what the alternatives are, what the impacts will be and what steps will be taken by the proponent to mitigate those impacts. All this comes out during the ESIA process.

But it is not enough to just read the finished ESIA report. Imagine being handed a 1,000 page document that is written in very technical language and being expected to understand it! If we accompany the ESIA process from the very start, we have a much better chance of being informed to not only give or withhold our consent, but to shape the project in ways that will protect what is most important for our people if it does go ahead. See Box 2 for tips on other ways to get informed.

**The other words in FPIC also have meaning for ESIs. For example:**

**Free:** For our decision to be truly free, whoever is proposing the project or policy cannot use violence, threats, intimidation, pressure, manipulation, bribery or other means of coercion. Communities cannot be forced to take part in ESIs and some choose not to because they know from the start that they don’t want the project to go ahead. In fact, in many countries, the consent of the people being asked to participate needs to be given before the study
can go ahead. In Guyana, the Amerindian Act requires researchers to get permission from the village council before they can do research on our titled lands (Section 5). However, there is an exception made for government officials and those on government business, which could mean consultants doing a government-mandated ESIA (see bottom of the page).4 But the consultants still have to follow village rules and should respect any “reasonable conditions” that we set out (Sections 7-8). It is up to our community to decide these conditions. Some examples could be how we expect to be consulted and the care that should be taken around sacred sites. Other communities choose to be involved because they know the assessment will go ahead whether they give permission or not and because they want to make sure their concerns are heard.

**Prior:** ESIAs have to be completed and approved by the authorities before any construction for the project starts. Usually this means construction for the larger project — like a mine and roads to transport the ore. Yet some proponents try to start building earlier. In Guyana, a recent example is the high-impact access road to the Amaila Falls hydro-dam site. Construction began long before the environmental and social impact assessment was available.5 If this happens we need to insist that construction stop, and remind both the proponent and the government that they have to wait for the ESIA to be approved before any construction begins.

Often the exploration stage of a mining project will also have impacts and involve some construction. This stage can involve drilling, digging test pits and testing samples of soil, among other steps. In Guyana, ESIAs are not usually required for exploration. But if our community thinks the impacts will be serious, we should push to have an exploration ESIA done as well. “Best practice” standards say ESIAs should happen for advanced exploration; we can use these standards to give strength to our demands. Appendix 1 has more information.

**Consent:** It is key for us to remember that even if we participate in an environmental and social impact assessment, we are not giving our consent to accepting the draft ESIA report or to the full project, policy or programme going ahead. We need much more information to be able to make those decisions. We should make this clear to the proponent before we start.

We should also remind proponents that our consent comes from the leaders we have freely chosen to represent us and should reflect the concerns and interests of all community members, especially those that are out on the land. However, the time limits that proponents or the governments set for ESIA consultations may not work with our customary decision-making processes. We must have time to understand the possible impacts, to communicate with our people and to consult with community members about what impacts are most important to them. This is our right. We must insist that it be respected and remind the proponent that the ESIA report and plans to protect against negative impacts will be made stronger with the knowledge of our people.

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4 Under Section 8, anyone on official “business for the Government” is deemed to already have permission of the village council. Copies of the Amerindian Act (2006) should be available to buy for a small amount at the Parliamentary Library in Georgetown.

5 This references the ESIA that is being paid for by the Inter-American Development Bank. See Goodland, Robert. “Guyana: Amaila Falls Hydro: Social and Environmental Aspects.” Dec 2010.
Section 2: Understanding the process so our people can get involved

Reading this section will help us, as Indigenous Peoples, to understand better how environmental and social impact assessments usually work and how they are supposed to work if they follow “best practices.” ESIAs mostly follow set steps or stages, but the whole process can be complicated and things do go wrong. It is important for us to know what these stages are and when they happen so that our communities can participate in meaningful ways.

The pages that follow describe:

- The stages that ESIAs go through almost everywhere in the world, and how Indigenous Peoples and other local communities can participate;
- What Guyana’s laws and regulations require at the different stages of an ESIA — under the law, an ESIA is supposed to be required for any project that could have “significant” or major impacts on the environment; and
- Problems with the way ESIAs have been done, which Indigenous Peoples in Guyana will need to overcome to have our concerns heard. We can overcome some of these problems by being very active in collecting information ourselves and taking every opportunity we can to share that information and our concerns with the consultants doing the ESIAs. We can also use grievance mechanisms to deal with complaints and take steps to make sure others know about the problems we are facing in trying to protect our way of living. “Grievance mechanisms” are processes that have been set up by proponents, the government, some NGOs and international agencies to deal with problems. One example in Guyana is the Human Rights Commission. Section 2.2e of this guide has more information about other grievance mechanisms.

But first we need some background on the laws and who we will be dealing with if we chose to participate in the environmental and social impact assessment for a project, programme or policy that could affect our traditional territory.
2.1 ESIAs in Guyana and Indigenous rights

In Guyana, the regulations that say how environmental impact assessments (EIAs) should be done are set out in Part Four of the Environmental Protection Act of 1996. The regulations use the phrase “environment impact assessment,” not “environmental and social impact assessments.” But they also require the EIA to look at impacts on people, living conditions, health and culture (Section 11.4). Because of this, we’ll use the term ESIA throughout this guide.

Special guidelines for mining and forestry ESIAs have also been created. The mining guidelines says that they should be “applied consistently” (always applied) to proposed mines that have to conduct an environment and social impact assessment.6 We are not aware of any regulations that punish miners or loggers for not following the guidelines, but in time they could become legally binding. At the very least, they are examples of national “best practice” for ESIAs that should be followed, even though they fall far short of respecting our rights and international “best practice.”

Even so, it is not clear how often the guidelines are actually used. We do know from experience that there are a number of problems with the regulations and how environmental and social impact assessments are carried out in Guyana. Even the government has admitted it has to do more to enforce the Environmental Protection Act.7 But the Environmental Protection Agency (EPA), which is responsible for overseeing the assessment process, does not have enough people or money to do everything it is supposed to. So gaps exist in enforcing standards, monitoring impacts and making sure companies follow their plans to protect against impacts. Because of this, some project proponents don’t do everything that is required of them under the law of Guyana, under international law and under “best practice standards” for environmental and social impact assessments.8

That is why it is so important for Indigenous Peoples to participate in the ESIA itself and later in community-based monitoring — that is, if our community first consents to participating and later gives its consent to the project going forward!

The rights of Indigenous Peoples to participate in ESIAs are clearly supported in Guyana’s laws. So it is the obligation of the Government to protect the environment and our people. For example:

The Constitution says:

- “The state shall protect the environment, for the benefit of present and future generations” (Article 149J.2);
- “Everyone has a right to an environment that is not harmful to his or her health or well-being” (Article 149J.1);
- “Indigenous Peoples shall have the right to the protection and promulgation of their languages, cultural heritage and way of life” (Article 149G). The Government of Guyana has not said what they mean by “promulgation,” but some of its different meanings are to “make known” and “put into action,” like a law;
- “Every citizen has a duty to participate in activities designed to improve the environment and protect the health of the nation” (Article 25).9

The Environmental Protection Act says:

- “During the course of the environmental impact assessment the developer and the person carrying out the environmental impact assessment shall... consult members of the public, interested bodies and organisations” (Section 11.9a). This means not only our community, but also the Amerindian Peoples Association.

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Sadly, the Act does not give details on when Indigenous Peoples and other members of the public should be consulted; and in reality, proponents have not involved the public enough in ESIAs in Guyana. This puts pressure on us to make sure we are involved, if that is what we decide to do as a community. The description of stages and the regulations that apply to each stage in Section 2.3 below will tell us more about how we can do that.

We can also use a number of levers to push the proponent to include us in more meaningful ways, such as:

- Our rights under international laws and treaties that Guyana has signed;
- The “best practice” standards or “codes of conduct” that some companies or industry associations say they will follow;
- “Best practice” guidelines that have been developed for the consultants doing the environmental and social impact assessment to follow; and
- The rules that some banks or donor countries put on the proponents when Indigenous Peoples could be negatively impacted by their projects, programmes or policies.

We need to learn our rights and demand that proponents respect them! We also need to learn about voluntary standards and ask that proponents commit to following them. Our participation in identifying and helping to plan ways to mitigate negative impacts could save a company problems and money if unexpected problems come up in the future.

One of the most important standards for Indigenous Peoples in Guyana is the Akwé: Kon Guidelines. These guidelines were created under the United Nations Convention on Biological Diversity (CBD), which Guyana has ratified. This means the CBD is now a part of Guyana’s laws and the government is legally obligated to uphold it. The Guidelines themselves are voluntary, but they were created to guide cultural, environmental and social impact assessments for projects that are likely to impact the traditional territories of Indigenous Peoples. This is key, because it means the steps recommended in the guidelines apply to more than just our titled lands. They should be followed on any land that we use and depend on.

Other key safeguards are the rules the World Bank and other banks or agencies apply when they lend or give money to countries. The World Bank is overseeing the funds that donors, like Norway, are contributing to the Low Carbon Development Strategy and REDD+ (Reducing Emissions from Deforestation and Forest Degradation +) in Guyana. The fund is called the Guyana REDD+ Investment Fund (GRIF). The World Bank should insist that its rules are followed for any projects funded from the GRIF. These rules cover many different topics but, critically, they talk about how ESIAs should be done and how Indigenous Peoples should be consulted. But because other partners, such as the Inter-American Development Bank, are also involved in funding REDD+/LCDS projects, there is not yet any clear answer on which safeguards will be followed. We need to learn about these safeguards and insist from the start that any GRIF-funded project that will affect our traditional territory under the LCDS and REDD+ follow the rules of the World Bank.

Appendix 1 at the back of this guide gives more details on the Akwé: Kon Guidelines and the World Bank safeguards, as well as on other rights and “best practices” that support the participation of Indigenous Peoples in ESIAs.

### 2.2 Who are the stakeholders in an ESIA?

A stakeholder is any person, company, government agency or organisation that has an interest in or could be impacted by a proposed project. For ESIAs, these are usually:

- **Communities** that could be impacted, including Indigenous Peoples;

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• **The proponent** who wants the project to go forward. In Guyana, the *Environmental Protection Act* uses the word “developer.” This could be a mining, oil and gas or forestry company. It could also be a conservation organisation or sometimes a government agency if it wants to build a project or put in place a programme that will have environmental and social impacts — like a protected area or the low carbon development strategy in Guyana;

• **The national government** because it sets the rules for ESIAs. Government agencies are also supposed to oversee the assessment, accept or reject the ESIA report and mitigation plans, and monitor impacts if the project is approved. When overseeing the assessment, government agencies should at least have regular meetings with the ESIA team and get regular updates on how the ESIA process is going. Unfortunately, many officials just rely on the ESIA report to decide if communities were properly consulted, but in some countries officials do attend consultations;

• **The funder or “financier,”** if the project gets money from an international bank or donor country that has rules on how ESIAs should be done or rules on how Indigenous Peoples should be engaged with;

• Under “best practice” and for large projects\(^\text{11}\) there should be an **independent review panel of experts.** This panel is sometimes set up by the proponent if the funders require and push for it. The panel will:
  - Review or help set up the plan or “terms of reference” for what impacts the ESIA team will study;
  - Help pick the ESIA consultants and make sure the right experts are on the team — like an expert on birds if the project area is home to many kinds of birds;
  - Sign off on the critical ESIA scoping document, to ensure all important issues will be addressed and all stakeholders have been heard;
  - Check every so often on how the assessment is going to make sure it is on track; and then,
  - Review the draft ESIA report to make sure that no impacts are missing and the proposed plans to mitigate or monitor impacts are clear and strong enough.

• **An Indigenous Peoples Panel of Experts (IPPoE)** has also been set up by some communities to help them better understand a project’s impacts and mitigation

\(^{11}\) The types of projects that involve an independent review panel of experts are usually projects that are controversial, like big dams, new highways and large mines.

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**Box 3:**

**Rights holders and Stakeholders**

Indigenous Peoples are not just stakeholders; we are rights holders! But governments and companies can sometimes treat our people as less important stakeholders during ESIAs. This is not acceptable!

For our rights and lands to be protected, it is critical for us to get to know the other stakeholders. For example, getting to know the consultants who have been hired, to find out what standards they will be using is especially important. Some consultants may not know what it means to consult us in meaningful ways. They may think it is just enough to inform us about their findings. We have to teach them the difference. It is also important for us to teach them about our ways, so they will want to make sure they are protected. The same is true for the company representatives or government officials we have to deal with.

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*Photo by Andy Whitmore*

An Elder at picket to stop OceanaGold company officials from passing to build a tailings dam (Didipio Gold Mine, the Philippines)
plans. This can be an important way to really get informed because of the complexity of some projects and the huge volume of information in many ESIs. For example, the Lokono People in West Suriname got help from outside experts to review and make recommendations on the draft ESIA for a proposed Bauxite mine. If our community decides to create an IPPoE, we should freely choose the experts that will be on our IPPoE so that they will watch out for our interests, needs and rights first. Box 4 talks about where we can get the money to pay for these experts or other steps we can take to strengthen the capacity of our communities.

Government stakeholders in Guyana
The Environmental Management Division (EMD) of the Environmental Protection Agency is generally responsible for making sure ESIA regulations are followed. Some of its duties under Part 2, Section 4 of the Environmental Protection Act are to:

- “Promote the participation of members of the public in the process of integrating environmental concerns in planning for development.” This means that plans for projects have to address our concerns about the environment;
- Make sure any activity that might have a negative impact on the environment is assessed before it can start;
- Consider negative impacts in deciding whether or not a project will be allowed to go foreword, and make recommendations for the mitigation of those impacts;
- Make information available to the public on ESIs that have been done, environmental permits that have been granted and other related information; and
- “Establish, monitor and enforce environmental regulations.”

Some other actors are also involved:

- The Environmental Assessment Board (EAB) is an independent body that hears appeals and helps develop, make recommendations and finalise ESIs. The EAB is supposed to be involved from the scoping stage of an ESIA (described below) to the point of creating conditions for the Environmental Permit to be issued;

- With mining ESIs, the EPA works with the Guyana Geology and Mines Commission (GGMC). The Environmental Research and Development Department (ERDD) is the part of the GGMC that develops “environmental regulations, procedures, standards and guidelines,” as well as reviewing environmental monitoring programs. Both the EPA and the GGMC are required to approve the draft ESIA report before a mining license can be issued;

- With forestry ESIs, the EPA works with the Guyana Forestry Commission (GFC). The GFC cooperates with and monitors the assessment, but how often and how well is not clear. Afterward, its Environmental Monitoring Unit should be monitoring all environmental issues around forestry projects.

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12 This information would usually be on the website of the EPA at http://www.epaguyana.org/index.php?option=com_docman&task=cat_view&gid=23&Itemid=29, but copies can also be bought from the EPA office for a small price.
13 The role of the EAB is spelled out in Section 4, Article 11.13 and Article 18 of the Environmental Protection Act. According to the Act it is supposed to be independent from the government, but we don’t know how true this is. EAB doesn’t play a particularly important role in Guyana.
14 We should let officials in this department, as well as the Minister, know if the regulations and guidelines for mining and mining ESIs are not being met by the proponent. The GGMC office is in Upper Brickdam, Georgetown. See the website of the GGMC for the full responsibilities of the ERDD. Available at http://www.ggmc.gov.gy/env.html
A major problem in Guyana, however, is that the Environmental Protection Agency is under-funded, doesn’t have enough staff and the staff it does have don’t have enough experience to do their jobs properly. It has not lived up to its obligation to monitor environmental impacts, and instead of taking the lead, has shifted the responsibility to other agencies. For example, even though the role of the GGMC is to promote mining, the Guyana Geology and Mines Commission has been left to monitor the impacts of small- and medium-scale mining.

There is evidence that the EPA does some monitoring of ESIs processes, but this happens more when stakeholders are making strong demands. This creates an opening for our communities to appeal to the EPA do get more involved, especially if our grievances are not being addressed by the proponent.

However, we also have to be aware that the EPA has been overridden by more powerful Ministries in the past.16

2.3 Stages of the ESIA process

The whole ESIA process usually takes up to two years and starts at the same time as the feasibility study. The feasibility study is a study that the proponent conducts in order to decide if the project makes sense economically. Will they make money after all their costs? The completed feasibility study and the ESIA are the two documents that determine if the project will go ahead or not from the perspective of the proponent and the government. For Indigenous communities, the completed ESIA and the impacts it identifies are critical to making an informed decision on whether we will decide to give our consent to the project — or whether we will not, as the case may be.

There are five steps or stages in the standard environmental and social impact assessment. Those stages and the people who are involved are explained briefly in the chart below. Each of these stages and opportunities for Indigenous Peoples to participate are then described in more detail in the pages that follow. These explanations are general, meaning they explain how ESIs are done in most places in the world. But at the end of each description there is information specific to Guyana, including information on the law, problems with the regulations and in some cases examples.

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A practical guide for Indigenous Peoples in Guyana

Photo by Stuart Kirsch

The Wane Hills Bauxite Mine in East Suriname
<table>
<thead>
<tr>
<th>Stage</th>
<th>Action</th>
<th>Who is responsible?</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td><strong>Screening</strong> determines if an ESIA is required and what kind of ESIA. This could range from a very detailed ESIA for big projects or little or no impact assessment for projects that are thought to only have minor impacts. Some projects will be considered too small to need a full ESIA, such as a new rural school building.</td>
<td>The government or the bank that will fund the project will decide. However, if our community doesn’t agree with the decision, we can appeal under Guyana’s laws.</td>
</tr>
<tr>
<td>2</td>
<td><strong>Scoping</strong> determines the overall design of the ESIA process: who the stakeholders are, what the important issues to be looked at are, and what studies will need to be done. This all gets put into a document called the “Terms of Reference,” which says how the ESIA will be carried out.</td>
<td>The consultants that the company hires to do the ESIA (the ESIA team), but it is mandatory for communities that could be affected to be consulted at this stage!</td>
</tr>
<tr>
<td>3</td>
<td><strong>Collecting and assessing information to write the ESIA report.</strong> This is done to identify possible impacts and shape plans to avoid or mitigate negative impacts.</td>
<td>The ESIA team is responsible, but all stakeholders have a right to be a part of the process and give comments at each stage. There are many opportunities for Indigenous Peoples and the experts we hire to be involved.</td>
</tr>
<tr>
<td>4</td>
<td><strong>Reviewing the draft ESIA report and deciding if the project will go forward.</strong></td>
<td>This is usually done by a government agency and sometimes by an independent review panel. Importantly, this is the second part of an ESIA during which it is required to have opportunities for communities be involved. See Section 2.5 below.</td>
</tr>
<tr>
<td>5</td>
<td><strong>Follow-up.</strong> As part of the ESIA the proponent has to create an Environmental Management Plan that details steps to mitigate and monitor negative impacts. Other follow-up activities, including steps to make sure land is reclaimed after the project ends and mechanisms to deal with “grievances,” or community complaints, are also in the EMP. However, Indigenous Peoples need to make sure that grievance mechanisms are set up long before the EMP, before the ESIA even starts. Section 2.2e of this guide talks much more about grievance mechanisms.</td>
<td>The proponent will be responsible for following up and implementing safeguard plans, but best practice says Indigenous communities who will be affected should also be included, especially in monitoring. The government is supposed to play a role in monitoring impacts and enforcing regulations as well.</td>
</tr>
</tbody>
</table>

**Key ESIA Tip:** Because communities have the chance to be heard at the “screening” and “scoping” stages, it is very important for us to be involved as much as we can in the early stages. It is also mandatory that we have a chance to comment on the draft ESIA report that comes at the end of all the studies. But because there are problems with how ESIAs are done at all stages, we need to use every opportunity to be involved throughout the assessment. Often that means pro-actively creating our own opportunities, not just passively reacting and participating only when the ESIA consultants come to us!
2.3a Stage 1 — Screening: Is an ESIA required?

Usually it is a government agency that has to decide if an ESIA is required and if so what type. This “screening” depends on how big the proposed project is and how serious its impacts will be. It normally takes about one week.

In many parts of the world, “categories” are assigned to make the rules more clear.

- Category A includes big projects (the focus of this guide) that will have potentially significant impacts; they require a full ESIA. Some examples are large mines, big dams, highways and projects that will cause a lot of forest loss or the displacement of people;[17]
- Category B projects have impacts that are less severe, so need an intermediate ESIA;
- Category C projects have few, minor or no impacts and may require only scoping before permission to go ahead is given.

Important: Under “best practice,” any project that is going to impact the livelihoods or traditional territory of Indigenous Peoples should be a category A and must require a full ESIA.18 “Best practice” also says that an ESIA should be required for advanced exploration, but this does not always happen.

In Guyana, before a project can go ahead, the proponent has to first apply to the EPA for an environmental permit. They include the following information in their application:

- A “summary” or short description of the project (such as its location, design, size, possible environmental impacts, how long it will last etc.);
- A non-technical explanation of the project.

The Environmental Protection Agency uses this information to decide if an ESIA is required. If it is, the environmental permit allowing the project to go ahead will not be given until the ESIA is finished and approved by the EPA. Under the Environmental Protection Act, an ESIA is supposed to be required for any project that could have “significant” or major impacts on the environment (Section 11). Some types of projects that the Act says may have significant impacts are listed at the bottom of this page.19 It is also required if the proposed project will have smaller impacts, but they

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18 See the World Bank’s Operational Policy 4.01 on Environmental Assessment (Article 8a, footnote 12). OP 4.01 is available on the Internet at http://web.worldbank.org/WEBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/0,,contentMDK:20064724~menuPK:64701637~pagePK:64709096~piPK:64709108~theSitePK:502184,00.html#f1
19 Schedule Four of the Environmental Protection Act lists projects that have to go through screening to see if they require an ESIA. Some of
could become more significant in combination with other projects in the area. These are called “cumulative impacts” (Section 17).

Whatever the EPA decides, it has to publish its decision and the reasons for that decision in at least one daily newspaper — usually the Guyana Chronicle. If it says no ESIA is required, but we believe that we will be impacted by the project, we can and should appeal. Box 5 has more information.

The Environmental Assessment Board then has to make the final decision about whether or not an ESIA will happen. The proponent has to wait — it cannot start the project until the Board decides (Sections 11.2-11.3).

Problems with ESIA screening in Guyana:

• Most Indigenous communities don’t have access to newspapers, radio broadcasts or television. Mail sent to and from the interior is also unreliable and can take many weeks to be delivered;
• Project summaries are often not shared and may only be available by visiting the offices of the EPA in Georgetown or on the Agency’s. Few Indigenous Peoples in Guyana have access to the internet;
• Appeals have to be submitted in writing, which is very difficult for many Indigenous Peoples in the interior, especially if the time limit for appeals is short;20
• Despite what the Act says, ESIs are only usually required of large-scale projects and even then not for every large-scale project. For example, the EPA does not require one for advanced exploration, medium or small-scale mining even though they have very significant environmental and social impacts.
• Most alarming, the EPA is not meeting its own regulations on when ESIs should be required (Section 11.1) and how appeals can take place under the Environmental Protection Act (Section 11.3). It recently ruled that First Bauxite, a Canadian company, didn’t have to undertake an ESIA to mine the Waratilla Cartwright deposits. The EPA’s decision said there were no fragile environmental habitats or species in the area — even through the proposed mine will be very near to the Santa Aratak Amerindian Reservation and is close to both the Demerara and Essequibo Rivers. Finally, the notice in the newspaper said appeals would be allowed only for 30 days, not the 60 days required under the Act.21

Box 5: Indigenous Peoples and opportunities to participate in screening

Under “best practice,” the decision on whether or not a project requires an ESIA should involve consultation with communities that could be impacted. This gives us a chance to make our concerns about impacts known from the start.

There is no provision for this in the law in Guyana. Instead, the only official opportunity for us to get involved is if we disagree with the decision of the EPA that a project will not have significant impacts and so doesn’t need an ESIA. We then have just 60 days to express our questions, concerns and issues in writing to the Environmental Assessment Board.1

The EAB will then make the final decision on if an ESIA is needed and again will publish its reasons in a newspaper.2

In the Amerindian Act (Section 48), miners are required to give village councils a summary of proposed projects that will take place on village lands and to attend consultations with our community. The EPA is also supposed to make the project summary available to the public, but the Environmental Protection Act only says before the ESIA starts, not necessarily before screening (Section 11.6). This means that unless we work with the proponent to make sure we have this information in advance, we may not have the information we need to participate effectively in the screening stage.

See to the right for the process and problems.

1 Appeal letters can be sent to: Environmental Assessment Board (EAB), Ganges Street, Sophia, Georgetown, Guyana.

2 See Section 11.3 of the Environmental Protection Act.

Those projects are:
• The building of any hotel, guest house or inn that will have ten or more rooms;
• Hydro-electric dams and related construction;
• Roads, harbours and airstrips;
• Construction to treat waste water — a tailings pond for a large mine is one example;
• Extracting or processing mineral resources;
• Harvesting or using forests or forest products.

2.3b Stage 2 — Scoping and Terms of Reference: What are the issues?

During the “scoping” stage the ESIA consultants find out who the stakeholders are so that they can have a say in deciding the most important issues to be studied. This stage usually takes one or two months. Key ESIA Tip: Scoping should be done with the full participation of anyone who might be impacted, such as Indigenous Peoples and other communities. But sometimes the consultants say there is no one living in the area close to the project, even though it may be land that we use. Box 5 gives more information on opportunities to get involved.

What happens in this stage?

1) First the consultants scope the parts of the project that will be assessed. The impacts of the main project (such as a mine) have to be assessed, but other activities that may be needed to support it should also be considered. For example, if the proponent has to build a hydro-dam to power the project, new roads to get to the site or ports they must be included in the ESIA.

2) Then the consultants decide the geographic area that will be looked at in the ESIA. This is sometimes called “the area of impact.” The standard, internationally-accepted way to decide the size of the area is to look at the “watersheds” and “airsheds” of the project. This means how far pollution in the water and in the air will travel, which tells the consultants how far away the impacts will be felt. Our community has to make sure that the airsheds and watersheds that are decided on include not only the site of the project itself, but also areas around all related parts of the project — such as access roads, new power lines, construction camps, resettlement sites, and other components. There is no magic distance, like 40 km.

3) Next the ESIA consultants develop a list of possible impacts, issues and concerns that will be studied. They should consider how the project will impact the environment, health, cultures, our economy and livelihoods, and social issues. Once they know what impacts are most important to study, they have to hire the appropriate experts, like a fish specialist or a water expert;

4) The consultants must also consider the “duration” of impacts, meaning how long they will last. Some impacts can last much longer than the project itself. For example, wildlife could avoid the area around a mine for years after it closes and pollution from mine tailings ponds can stay for decades;

5) This scoping shapes the Terms of Reference (TORs) document. The TORs are basically the plan for what will be studied in the full environmental and social impact assessment. They also set out the timeframe for when different parts of the ESIA will happen. Key ESIA Tip: TORs must be agreed upon by the project proponent, ESIA team, government, funder and local communities.

6) If any new issues and concerns come up when the ESIA is already underway or even later during construction, they are added to the Terms of Reference and to the scope of the assessment; so in a sense scoping continues throughout the ESIA. A mid-term review can be built into the TORs if necessary, but affected communities should also use the grievance mechanisms that have been set up if unforeseen impacts or concerns come up that they feel are not being properly considered.

Scoping and the law in Guyana:

Before an environmental and social impact assessment is started in Guyana, the EPA must publish a notice in at least one daily newspaper. The Agency also has to make the project summary available at that time. Members of the public then have just 28 days to tell the EPA, in writing, what issues they want considered and what questions answered in the ESIA. The address to write to is listed at the bottom of this page.22 According to the Environmental Protection Act, it is then up to the EPA to come up with the terms of reference for what will be studied in the ESIA. They do this after getting advice from the ESIA consultants, but they are also supposed to take into account any suggestions we or any other members of the public have made (Sections 11.6-11.8).

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22 The Environmental Protection Agency, Ganges Street, Sophia, Georgetown.
Scoping is supposed to be done with the full participation of Indigenous communities that could be impacted by the proposed project. This means the consultants have to carefully find out who could be affected and make sure we are included.

One opportunity to get involved is during what is called the “initial rapid environmental reconnaissance.” This is a short visit to the project area that is usually done in the early days of an ESIA by one or two of the ESIA consultants. It gives them an idea of what the key issues are. The “recon” must involve getting our views! It is valuable for us to really get to know these people — to start a relationship with them, show them around and find out how we can contact them when we need to.

Consultations during this time will help to define the Terms of Reference — the plan for what will be studied in the full ESIA. As Indigenous Peoples we know our territories better than anyone else, so we should tell the consultants:

- If we feel the area of impact being studied is not big enough and why;
- The risks we feel are most important. For example, in Guyana crabs are very important to the Arawak people. The ESIA consultants might not think of studying risks to crabs if they only come a few times a year — we have to tell them! The list of impacts to be studied must be developed in consultation with people who live in the area and must include all the concerns raised by us or our representative organisations; but we need to speak up and be heard.
  - It is critical that our community review the TORs to make sure all our concerns have been included! But if we don’t get involved from the very beginning there is a chance that the TORs will be too complicated for us to understand. The more we participate, the less time we will need to review the TORs. We should already know what is in them if we were involved in creating them from early on;
  - If we decide to hire experts or a panel of experts, they must also review the TORs.

If we haven’t already done this, the initial consultations are also a good time for us to:

1) Ask the proponent/ESIA team how they intend to help our community to participate in the ESIA process (funding to hiring experts and get prepared, equipment so we can collect our own information etc.);

2) Develop an agreement that sets out:
   - How ESIA consultations will take place and how we expect to participate in the ESIA;
   - Recognition of Indigenous rights and land ownership, especially our right to give or withhold our Free, Prior and Informed Consent. We can reject the project if the impacts are unacceptable to us!

We also need to give serious thought early on to how we will communicate information to our people, how we will get information from our people, and how we will take decisions regarding the ESIA. This can be important when we are facing projects and processes (like ESIs) that we may have never had to deal with before.

Problems with scoping in Guyana:

Major problems that affect our ability to participate in scoping include:

- Scoping meetings can be held long distances from our communities. For example, the public scoping meeting for the Aurora Mine were held in Bartica, over 100km downstream from the Kurutuku Homesteads, the closest Amerindian settlement;

- Often we do not have enough or any notice of meetings before hand. On November 28, 2010, it was announced in the Guyana Chronicle that a public scoping for the proposed Toroparu Copper Mine on the Upper Puruni River would take place just two weeks later on December 13. That meeting also took place some distance away, in Bartica;
Sometimes draft TORs are published in advance on the website of the EPA, but it is not clear how often this happens, and most of our communities do not have Internet access. These draft TORs would help us to be better prepared for a scoping meeting;

Instead consultants often just come, give us thick, technical documents and expect we can participate in an informed way and ask all the questions that we should be asking. This is what happened with the ESIA for the Marudi Mine in Region 9;

This type of approach violates our right to Free, Prior and Informed Consent and the “best practice” standards of both mining associations and ESIA consultants. See Appendix 1. It also doesn’t work with our customary ways of making decisions. There are people in our communities — hunters, fishermen, herbalists and others — who can provide vital information on possible impacts on fish, water, wildlife and our way of life. We need to have the time to get informed about the project and consult all community members.

Opportunities for Amerindian Peoples:
These problems may seem overwhelming, but we have to remember that ESIAs don’t happen right away. Some project proponents, for example mining companies, go through years of exploration before they are ready to undertake an ESIA study. We should consider using that time to:

- To get organised to participate in an ESIA when it does happen;
- Get informed about the project and the proponent;
- Try to build respectful relationships with the project proponents, with people in the responsible government agencies and with other stakeholders. Part of that time may be spent teaching them about our rights and our ways of life.
- Take steps to develop (and share with the proponent) a community consent protocol that lays out how we expect to be consulted;
- Have the proponent sign an agreement, such as a “letter of intent” or “memorandum of understanding,” in which they commit to respecting our rights, our consultation processes and our decisions. This means respecting the fact that we will need more time to consult community members that may be out on the land and not able to come to regular meetings. These people have important information to share because they know the land so well.

The guides on Free, Prior and Informed Consent and Negotiating Impact Benefit Agreements have much more information on ways we can take these steps.

2.3c Stage 3 - Collecting and assessing information for the ESIA report

Once the scoping stage ends with agreement on the Terms of Reference for what will be studied, the consultants start to collect information for the Environmental and Social Impact Assessment. When they are done, they compile all the information into the ESIA report. The whole process should take at least 12 months. This is because the ESIA needs to take into account how impacts could differ during the different seasons. For example, because things like the migration of wildlife, low flows and flooding of rivers happen at different times of the year.

The Environmental Protection Act in Guyana contains a list of what should be included in an ESIA, but this list should be considered the minimum (see the bottom of this page).  

23 According to Article 11.5 of the Environmental Protection Act, every environmental impact assessment in Guyana is required to contain: 1) a description of the project, 2) an outline of the main alternatives to the project that were studied and reasons for the choices that were made, 3) a description of significant effects of the development on the environment, 4) any difficulties, including not having enough information, in gathering information for the ESIA, 5) a description of the best technology available for the project that could lessen negative impacts 6) a description of any dangers that might come up and a risk assessment of those dangers, 7) a description of measures that will be take to lessen any negative effects, 8) a monitoring plan, an emergency response plan and a program for to restore the environment at the project site. The Act gives more detail on what is required under each of these descriptions.
The following chart gives more information on what is included in ESIAs in most parts of the world and shows:

- How an ESIA report is usually organised (beware: they can be very long);
- What studies and information go into each section; and
- Opportunities for Indigenous Peoples to be involved. At this stage in Guyana, the consultants may go about their work without engaging much with the community or having regular meetings. At the very least we need to monitor what they are doing to keep informed. But to make sure our concerns are really considered in the ESIA, we should keep talking with the ESIA team every chance we get, even if they are just passing through. Another way we can do this is working with the consultants. They will need guides to show them around. Those guides will have a lot of chances to tell the ESIA consultants about what is important to our community and what is at risk. **Remember:** If we think of new impacts, they can still be included in the study, even at this stage!

The chart is long because the ESIA is a long report, but it is divided in a way to make it easier to read and understand. It is meant to be read from left to right. The first column lists the section of the ESIA Report. The column in the middle tells us what is in that section. And the column on the right says how Indigenous Peoples can be involved.

### Chart 1: What information goes into an ESIA and how Indigenous Peoples can be involved

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<tr>
<td><strong>Introduction</strong></td>
<td>This is the first section of the ESIA report. It includes information about:</td>
<td>Information on Indigenous rights under national, international and village laws should also be included in this section. Ideally, it should recognise Indigenous land and FPIC rights if the proposed project will affect Indigenous territories. Indigenous Peoples may have to make it clear to the consultants that we expect this to be included. If it isn’t there in the completed draft ESIA, we should insist that it be added!</td>
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<tr>
<td>or Executive Summary</td>
<td>• The ESIA process and who was involved;</td>
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<td></td>
<td>• It might have information on specific government policies, regulations or laws, and on international agreements. This information could also be separated into its own section, later on in the report.</td>
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### Project Description

This section includes information on: 1) the technical plans and purpose of the project, 2) engagement with local communities, and 3) a summary of impacts. They are separated here to make it easier to read.

**Information on project plans:**
- Who the proponent is and the location of the project;
- How the land will be used, both on-site and off-site (should include maps);
- Parts of the project (buildings, equipment, roads etc.);
- Plans for storing and getting rid of waste, toxic or hazardous materials. The proponent must include a waste management plan;
- The pollutants that are expected to enter the air and waterways — where, what kinds and how much;
- What materials will be needed to build the project, where will they come from and how will they be transported to the project site. For example, will new ports be needed or new piers? Will quarries be needed?
- What the “production capacity” will be and plans for processing; For example: 1) how much gold will be mined each year, 2) what chemicals will be used and how they will be transported, stored and disposed of, and 3) if the gold will be processed on site or taken somewhere else;
- How much energy and water will be needed, and where it will come from;
- Other infrastructure needed to support the project (such as access roads, dams and power lines);
- Excavation requirements (how much earth will be added or removed and how it will be disposed of?);
- What permits and authorisations are needed?

**Impacts**
- Summary of what parts of the environment will likely be impacted by the project. For example, land, soil, water, air, vegetation, fish and wildlife;
- Social impacts;
- Health impacts. If there are likely to be major health impacts, then a “Health Impact Assessment” (HIA) will be needed;
- Cultural impacts;
- Economic impacts;
- Impacts on traditional knowledge and land-use.

### How Indigenous Peoples can get involved

The project descriptions must include information about Indigenous Peoples and local communities. It:
- Names the communities that might be impacted;
- Gives details on consultations with Indigenous Peoples;
- Says if a resettlement plan or Indigenous Peoples Development Plan is needed. Some banks, like the World Bank, require proponents to complete an Indigenous Peoples Plan if Indigenous Peoples will be affected. See Appendix 1 for more information.

By participating in consultations during scoping, Indigenous Peoples have a better chance of making sure that the impacts that the consultants describe include the impacts that are most important to our communities. **But we will have to review the draft ESIA Report when it is completed to be sure!** Section 2.2d below talks more about how Indigenous Peoples can review ESIAs.

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| **Project Alternatives** | This section identifies and analyses:  
- “Alternative” or different ways of carrying out the project. For example if the proposed project is a hydro dam, the location could be changed or the height of the dam reduced to lessen negative impacts;  
- Alternatives to the project itself. **Key ESIA Tip:** According to “best practice” standards this section should include a “no-project alternative.”  
**Problem:** Most ESIA reports focus only on alternative ways to carry out a project (like changing the location of a pipeline) and not alternatives to the project itself. This section tends to be weak. | If the right of Indigenous Peoples to Free, Prior and Informed Consent is to be respected, there must be a no-project option. This is required under “best practice.” It doesn’t often happen though, so the input and traditional knowledge of our people will be important for identifying alternatives. For example, the Innu People in Labrador, Canada were deeply concerned with the amount of nickel the mining company wanted to extract each year. They were able to force the company to agree to mine less each year so the mine would have a longer life and the community would benefit for many more years. |  |
| **Baseline Description** | This section describes the way things are now, before the project. It talks about:  
- The current condition of the environment;  
- Existing economic, social and cultural conditions in local communities;  
- Existing and planned projects, separate from the project being assessed.  
**Examples of essential baseline studies that should be done are:**  
- Species of wildlife, including endangered species, and key areas that they use or rely on;  
- Important economic areas, such as artisanal mines or fishing grounds;  
- “Physical features” (like springs and lakes) that support living things;  
- Sites that are sacred or important spiritually.  
**Getting the baseline description right is very important** because the impacts of the project will be measured against what the conditions were before it started. This is critical for follow-up monitoring of impacts later. | The baseline description is a weak part of the ESIA because the consultants often don’t take enough time. Consultation with local communities is essential to making it stronger. We know better than anyone else about our land, our culture and our most important economic activities. Our people can also participate by collecting our own information for baseline studies — such as information on our livelihood strategies, social relations, cultures, traditional land use, along with traditional knowledge on plants, wildlife and fish. These studies may be ones we conduct on our own, or as part of a field study team with ESIA consultants. However, it is important for us to think about protecting any information we don’t want made public. We might limit the knowledge we share to only the information that explains possible impacts and issues of concern. For instance, specific sites such as medicinal plant areas or important fishing streams could be presented without exact locations. If maps are needed of sensitive areas, they could be marked “confidential” and only be shared with select people. |  |

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| Identification and Analysis of Impacts | The project description and baseline data are needed in order to analyse or make sense of the possible positive and negative impacts of the project on the environment and local communities. In this section, the consultants predict the impacts and then rank them, deciding which they feel are most important and issues they think don’t have to be followed up on. For subsistence-based communities, impacts on some specific social, economic and cultural issues should be analysed. For example, how will the project affect:  
   - Systems of exchange, like bartering, that don’t rely on money and the relationships that are formed around these activities;  
   - The roles and relations of men and women;  
   - Traditional duties;  
   - Fairness and equality in a community;  
   - Traditional ways that natural resources are shared;[27]  
   - Elders passing knowledge on to youth. There is a risk that the changes some projects bring could make traditional skills or practices seem less important.  
There are a number of methods[28] for analysing possible impacts and designing mitigation measures. It is important for Indigenous people to keep in mind that the choices made by the consultants are affected by their own experiences, knowledge and values. They may not know a lot about the land, lives and livelihoods of Indigenous Peoples. We must inform them. | Identifying and analysing impacts should be done with community participation in order to ensure that Indigenous values are reflected in the assessment. This is particularly true for impacts on culture, socio-economic activities, Indigenous rights, traditional land use, overall social health of the community and community sustainability. Indigenous Peoples should also help develop the methods that the consultants use to analyse and monitor impacts. Social “indicators” (measures) that reflect our views could look at impacts on: gender (women and men), different generations, health, safety, food security, how secure our livelihoods are, unity and migration.[29] For example, while some companies talk about the jobs their project will bring, some Indigenous communities in Guyana are worried that these jobs will take people away from their fields and make them rely more on store bought food. To them that is food insecurity! Unfortunately indicators used to measure impacts don’t always reflect the view of Indigenous Peoples. But if our community doubts the choices the ESIA team makes about which impacts are important, one option is for us to hire an expert to get a second opinion. If we create an Indigenous Panel of Experts, it would play an important role here. Remember: All predictions about impacts must be verified through follow-up field studies and monitoring programs. But this will come after the project is underway so it is important for us to make sure first that the key risks for our community are being addressed in the ESIA and the plans it makes. |

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[28] The methods that consultants use to analyse impacts can seem confusing or unnecessary but remember, it is part of their job to show on paper even obvious impacts. To analyse environmental impacts such as the impact of releasing chemicals or other pollutants into a stream they might use a computer program to model what amount of pollutants over a certain period of time would cause the levels in the stream to become “unsafe” (for ESIA consultants “unsafe” usually means to go above what is allowed under government regulations). The consultants might also conduct experiments to analyse environmental impacts, such as changing the pH of the soil that a plant grows in to see what the effects are. For social and cultural impacts the consultants might make tables and diagrams to help them “think through” the connections between certain activities, changes, impacts and mitigation plans.

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<tr>
<td>Cumulative Effects Analysis</td>
<td>This is a process for considering the impacts of the proposed project together with other past, present or likely future projects. For example, one mine may not have a huge effect on water quality. However together with other mines in the area, the “cumulative” or whole effect on water could be too great. That means the project should not to be allowed to go ahead.</td>
<td>ESIA consultants rarely consider cumulative impacts in a meaningful way. But if we make sure all of our community members have a chance to give input into the ESIA, we can make sure the ESIA consultants are at least aware of how different projects have affected our lands. Governments should require companies to clean up and restore the environment before their project finishes. Unfortunately, this doesn’t happen often enough. Likewise, even though some governments have made new companies that want to mine clean-up the area before they can get the permits they need, this also doesn’t usually happen — especially in countries with weak laws and enforcement. We can, however, push for cumulative impacts to be taken more seriously in ESIAs by using national law, international law and “best practice” standards. For example, in Guyana the Environmental Protection Act requires ESIs for projects that will have cumulative impacts. And a number of the “best practice” standards that are talked about in Appendix 1 require that cumulative impacts be studied. We need to learn them and let the proponent know we expect them to be respected.</td>
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<td>Mitigation and Environmental Management Plans</td>
<td>The next step is to make plans to mitigate or lessen the negative impacts that were identified. For example, if malaria is a likely impact, the health expert on the ESIA team will come up with a way for the company to control it. Mitigation could also mean making changes to the project design. For example, by constructing a road in a different place or using better technology to reduce water or air pollution.</td>
<td>Key ESIA Tip: The Environmental Management Plan must be discussed and fully agreed upon by all stakeholders, especially local communities. This means our community members should be given enough time to review and comment on the EMP, and to decide if we agree with it. If we have hired experts to help us or brought together an Indigenous Peoples Panel of Experts, they will play a key role in reviewing the EMP. But we can also go farther by making sure we are involved in planning ways to avoid or lessen negative impacts.</td>
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<td>These mitigation steps all come together in the most important part of an ESIA, the Environmental Management Plan (EMP). It is called an “environmental” management plan (and sometimes an “Action Plan” or a “Mitigation Plan”), but it will also try to mitigate negative social, cultural, health and economic impacts.</td>
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<td>The EMP should set out:</td>
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<td>● Detailed plans to prevent or mitigate each negative impact;</td>
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<td>● Details on steps that will be taken to make sure each measure will be put into practice and funded (such as performance bonds, which are talked about in Section 2.2e);</td>
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<td>● Mitigation measures for each stage: construction, during operation, and during closure (this is sometimes called “decommissioning” for mines)</td>
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<td>● Monitoring programs to detect new impacts and to test how well the mitigation measures are working — the EMP should also spell out training and funding for community monitors;</td>
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<td>● Who is responsible for each activity;</td>
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<td>● Support for capacity building;</td>
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<td>● A timeline for activities;</td>
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<td></td>
<td>● How the company will take action if an emergency happens;</td>
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<td>● How the community can make a complaint when problems come up. These are called “grievance mechanisms;”</td>
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<td>● Compensation for any impacts that can’t effectively be mitigated. Details of the compensation will go in the Impact and Benefit Agreement. See the guide on IBAs that goes with this one for more information on negotiations.</td>
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<td>The EMP is usually prepared by the proponent and the ESIA consultants, but Indigenous Peoples can also play an important role in the planning. See the box to the right.</td>
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| Residual Impacts | **Identifying residual impacts**: Next the ESIA team identifies and describes the impacts that will likely still happen even with steps to mitigate them. These are called “residual” impacts and they get summarised in the EMP.  
**Deciding the “significance” or importance of residual impacts**: This step involves deciding if the residual impacts are acceptable or unacceptable — which determines whether the project should go ahead or not. It is a very controversial part of the ESIA because different groups have different ideas on what is acceptable.  
- For impacts on water, soil or air, standards set in government regulations may be used to decide what is acceptable. They can be lower than international standards, but the proponent will often agree to voluntarily meet higher standards, especially if they are pushed to do so;  
- For residual impacts on social relations, culture and quality of life it is more difficult to decide what is important.  
Methods and measures to decide the significance of residual impacts should be decided in consultation with communities.  
This is needed to make sure that our social, spiritual and cultural values are considered.  
Some methods used for identifying residual impacts include:  
- Comparing impacts to the standards in regulations;  
- The level of concern from Indigenous communities or other members of the public;  
- Judgments by experts;  
- How badly our social values or quality of life will be affected;  
- A process called Valued Ecosystem Components. This means parts of the environment that are important to Indigenous Peoples and others — like fish breeding grounds. |  
| Follow-up        | As mentioned above the ESIA report must include an Environmental Management Plan. This is one of the last chapters and it **describes what follow-up steps will be taken. Such as**: a description of how impacts will be monitored, training programs and capacity strengthening, and what will happen if there are any surprises, if additional problems come up or if a mitigation step doesn’t work.  
Community involvement in monitoring impacts is so important. We have people out on the land that will be the first to know if something is wrong. We need to use them! In one community in Guyana a fisherman was able to show leaders how a mine was impacting fish by bringing them fish that had turned red because of the poison. Section 4.3 of the FPIC Guide talks more about monitoring. |
ESIAs and Environmental Management Plans under Guyana’s regulations

As the chart above makes clear, the Environmental Management Plan is one of the most important parts of the ESIAs. In Guyana, the Environmental Protection Act does not require the proponent to do a detailed EMP. It only says the proponent has to describe the steps they intend to use to lessen negative impacts, a plan to respond to emergencies and how they will restore the land after the project is done (Section 11.5). However, an Environmental Management Plan is required for mining projects under:

- **The 2005 amendments (changes) to the Mining Regulations.** This applies to both large-scale and medium-scale mines (Regulation 226). The amendments also require miners to outline plans to close mines and restore the land before any prospecting or mining permit or license is issued by the GGMC (Section 227);

- **The EPA’s Environmental Impact Assessment Guidelines for Mining.** These Guidelines require much more detailed information than the Environmental Protection Act. Some examples of what they say should be in the EMP are listed at the bottom of this page. We don’t know how often this requirement is enforced; in general, environmental monitoring has been weak in Guyana;

- **The Amerindian Act** requires miners to “take all reasonable steps to avoid damage to the environment, pollution of water and disruption of village activities such as agriculture.” Our community can also require the miner to have “an environmental protection programme” and a “waste disposal plan” as a condition of a village agreement (Section 49).

Whether we’re dealing with mining companies, forestry companies, plans to build dams or other projects, we need to make sure the proponents follow international “best practice standards” and do a detailed environmental management plan. It is too easy for things to go wrong.

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32 For all the revisions to the Mining Act see the following document: Guyana. The Official Gazette, Legal Supplement B: Regulations made under the Mining Act (No. 20 of 1989). March 19, 2005. It can be purchased for a small fee from the library of the Guyana Geology and Mines Commission.

33 The Mining Guidelines say the EMP should include: 1) the companies environmental policy; 2) The “objectives” of the plan or what it hopes to make sure happens; 3) a description of the expected negative impacts; 4) detailed information on steps that will be taken on to mitigate these impacts; 5) spelling out what will be needed to make sure the mitigation plans will work and schedule that says when each step will be put into action; 6) a plan to monitor impacts; 7) the names of the people in the company who are responsible for implementing the EMP; 8) a budget that covers the money that will be needed to implement the EMP and monitoring; and, 9) an emergency response plan.
2.3d Stage 5 — Review of draft ESIA

Once a draft of the ESIA report is prepared, it must be submitted to the government agency for review. This is done in most parts of the world to make sure that the consultants have done their job properly, haven’t missed anything and have followed the regulations. It is up to the agency to decide if the project will go ahead.

As the draft report is supposed to be publicly available, anyone can review any part of it and make comments. Most development agencies and funders require that people who will be affected, especially Indigenous Peoples, have a chance to review the draft ESIA at this stage. Comments from the public and affected communities should be reflected in the final ESIA report.

The government decision-makers will consider the comments of the review panel as well as any comments from the public or affected communities. The agency should describe their reasons for approving or not approving the project, and any conditions that must be met before it can go ahead.

In Guyana:
The draft ESIA must be submitted along with an Environmental Impact Statement (EIS), to the EPA for evaluation and recommendations. The Environmental Protection Act does not say what should be in the EIS, but the ESIA Guidelines for mining do (see the bottom of this page). It is like a shorter, easier to read version of the ESIA, and it has to include information on the consultations that were done with Indigenous communities. When the draft is ready, notice must be published in at least one newspaper. We then have just 60 days to review it and make written submissions that describe any concerns our community has. The EPA, along with other agencies (like the GGMC for mining projects), review the ESIA/EIS during the 60-day period to make sure they are in line with any plans, guidelines or regulations developed by the EPA and sector agencies.

Copies of the ESIA and the findings of the EPA’s review are then passed to the Environmental Assessment Board for its review and recommendation. The EAB may decide to hold public hearings at the end of the 60 days to collect more information on whether an ESIA should be accepted, whether the environmental permit should be issued and, if so, what terms and conditions the proponent should be required to meet.

Finally, the EPA takes into account the recommendations of the Board and the agencies, along with public comments, and approves or rejects the project. It has to publish notice

Box 7: Reviewing the draft ESIA
Tips for Indigenous Peoples

There is a lot of technical information in an ESIA and many, many pages, so this can be a challenge. In fact, it is almost impossible to make sense of if we haven’t been involved in the ESIA process from the start or don’t have a panel of experts to help us review. In many of these cases, ESIs go unread by Indigenous Peoples and our concerns may also go unheard. That is why it is so important to us to participate from the start.

In Guyana, it is mandatory for communities who could be affected to have a chance to comment on the draft ESIA report. If we don’t take this chance, our silence could be read as consent by the proponent and government. This isn’t right, but it happens!

But there are challenges. We should be given a copy of the ESIA, but because notice only gets posted in the newspapers, Indigenous Peoples often don’t find out about it until the review period has finished. We have to make sure we get a copy of the draft report and make time to review it. Because 60 days is not very much time, we should ask the consultants and the proponent to give us the draft before they submit it to the government. We need time to read it, make sense of it and get feedback from our community members and the people that are helping us.

We can ask the ESIA team to walk us through the whole ESIA — or at least the parts we don’t understand or are most concerned with. We can even ask for some of the ESIA report to be presented to us in the form of posters, diagrams, flow-charts or even cartoons.

But if we can, our community should consider hiring an independent expert who doesn’t work for the proponent to review the ESIA with us. We need a full and balanced picture!

34 See pages 11-15 of the ESIA Guidelines for Mining for full information on what the Environmental Impact Statement should include. In many ways the EIS will summarise the more technical and detailed information in the full ESIA and it is supposed to be something that makes sense to the “average reader,” not just experts.
of its decision. For approved projects, the EPA issues the proponent an environmental permit with the terms and conditions necessary to effectively manage the environment.

**Remember:** If we have problems with the way an impact assessment has been done, we should not just wait until the end of the ESIA process to make our concerns known. It might be too late to make a difference then. The next sections give more information on how we can make complaints as problems come up.

### 2.3e Stage 6 – Follow up

Implementing the mitigation and monitoring plans that are set out in the Environmental Management Plan is often the weakest link in the environment and social impact assessment process. Implementation of the EMP (making sure the steps actually happen and aren’t just promises on paper) should start when the project is being built and continue throughout the life of the project, until after it is finished.

But there can be complications or there may be a lack of motivation on the side of the proponent to follow through once they have permission from the government to go ahead. Government monitoring and enforcement is also weak in many parts of the world, especially in Guyana.

That is why it is critical for affected Indigenous Peoples to be full participants in implementing the EMP and monitoring impacts after the project starts.

**The main goals of this stage are to:**

1. See if the impacts of the project on the environment and the people living nearby that were predicted in the ESIA report came true;
2. See if the steps to mitigate negative impacts that were set out in the EMP worked or not;
3. See if there are any new impacts that were not predicted;
4. Collect more information if it is needed, so that new steps to mitigate the new impacts can be added to the EMP;
5. Make sure the proponent is following the steps it agreed to. This means not only the steps related to mitigating and monitoring impacts, but also the other conditions it agreed to in the EMP or an Impact Benefit Agreement. See Sections 4 and 5 of the Guide on Impact Benefit Agreements for some examples of what these conditions can be.

In “best practice,” the proponent should give money and training to our community so that we can either be a part of a joint monitoring team with their staff or can form our own monitoring committee that will keep track of impacts and be involved in all the goals listed above. The company may also give money to an independent, third-party monitor (someone that it not connected to the project, like an NGO). Section 4.3 of the Guide on FPIC talks more about options for monitoring.

All this should be included in the EMP; and “best practice” standards say it is very important that the EMP itself should be included in a legally binding agreement between the proponent and our communities — such as an Impact Benefit Agreement. The IBA should also include a guarantee from the proponent that they have taken out “performance bonds” or insurance to pay if things going wrong. Some examples are emergencies, accidents, landslides, freak weather, unforeseen or new impacts and cyanide or mercury spills in the case of mines. The bonds should also cover costs if the proponent fails to meet other conditions in the IBA, like benefits and compensation for our community. The amount of the bond has to be set by experts who realistically know how much these things cost.
The GGMC requires that medium and large-scale miners pay an environmental bond to the Commission in advance to restore the environment when the Commissioner is not satisfied that the proponent has done it properly. However, the amount of fines the GGMC can impose and the amount miners are required to pay as a bond are very low.\textsuperscript{35}

The Guide on Impact Benefit Agreements that goes with this one gives much more information on how Indigenous Peoples can negotiate stronger protections in a legally-binding agreement, which can also include monitoring, compensation and benefits.

This way we could take the case to court if the conditions are not met. There are also other options we can take to follow-up if the proponent doesn’t do what it said they would:

- We have to use grievance mechanisms that have been set up with the proponent and start using them very early in the project, long before the ESIA begins. These could include:
  1) A letter box in our community where we can add written complaints (they can be signed, but they don’t have to be);
  2) In communities with telephones, a hotline can be set up allowing us to call the offices of the proponent;
  3) In communities with email, this is often the best method for submitting grievances. It is so useful, in fact that in Suriname’s Bakhuys Bauxite mine project, the proponent helped set up email access for the three main Indigenous communities that would be affected;
  4) The appointment of one for two people who work for the company to be responsible for dealing with our complaints;
  5) Having someone from our community work with a company person to make sure our concerns are dealt with quickly and appropriately; or
  6) A monthly report that lists complaints and gives information on what was done to address them. It is very important that our community work with the proponent to design grievance mechanisms that both sides accept;

- If the proponent doesn’t deal with our concerns as they should, we can first try to take our complaints to more senior people. For example, if a Guyanese mining company is owned by a company in Canada, we should write to the head of the Canadian company;

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\textsuperscript{35} See the 2005 Mining Code revisions (Article 225). In October 2009 the author was told that the GGMC required medium-scale miners to lodge a bond of just $100,000 GD ($500 USD).
• Making sure the government, and especially the Environmental Protection Agency and Ministry of Amerindian Affairs, knows about the problems. We can do this by writing a letter or seeking meetings with government ministers. Remember: the Agency has the power to cancel an environmental permit if the proponent does not follow the terms and conditions that the EPA set in it;

• Writing letters or having meetings with the bank or foreign government that is supporting the project. For example, writing to the Embassy of Norway in Georgetown or other donors that are helping to pay for the Low Carbon Development Strategy in Guyana. The LCDS is supposed to be about preserving forests. These donors should know if companies, other proponents or the government are not doing what they should to protect the environment or safeguard our rights;

• Telling NGOs or other organisations working on Indigenous rights or working to protect the environment;

• Making complaints to “independent” commissions in Guyana, like the Indigenous Peoples Commission that is just now being formed or the Guyana Human Rights Commission;

• Getting in touch with newspapers or other media — in Guyana and in other countries if we are, for example, having problems with a Canadian mining company;

• And others. Appendix 1 talks about other groups and funders that should know if their standards aren’t being respected;

We should keep copies of any complaints we make, any letters we write and notes on meetings, so that we can follow-up later to make sure they are being dealt with.

Key ESIA Tip: If we get prepared in advance to participate in all the stages of an environmental and social impact assessment, we have a better chance of:

• Having our rights and interests respected;

• Getting properly informed to make a decision on whether to say “Yes” or “No” to the project or programme;

• Making sure the things that are most important to us are protected as much as possible, if we do give our consent.

This means learning about the stages and not waiting for the proponent to invite us to get involved, learning about our rights when it comes to ESIA and knowing what the “best practices” are. Appendix 1 will tell us more about these “best practices” and what they say about how we should be involved in environmental and social impact assessments for projects, programmes and policies that will affect our peoples and our traditional territories.
Appendix 1: International law and "best practice" standards that support Indigenous participation in ESIAs

The pages that went before this section talk about how Indigenous Peoples should be included in environmental and social impact assessments. But how we should be able to participate in ESIAs and how we actually are included can be very different in some places. This is true especially in countries where national laws are not strong or where the government doesn’t have the money, willpower or staff to make sure the laws are followed.

What is important for us to keep in mind is that the government is only one of the stakeholders involved in ESIAs. Others are:

1) The proponent or company who needs to have the ESIA accepted before their project can go ahead;
2) The consultants and experts who the company hires to do the ESIA;
3) The international banks or countries who sometimes loan or give money to proponents to help them pay for the project; and
4) Our people. We have the right to be included in formal ESIA meetings, but we can also take steps on our own to be more involved.

One step is using our rights and “best practice” standards endorsed by companies, industry groups, banks and others. The next two sections list some of the rights and standards that our communities can use to push the proponent, consultants, banks and governments to meaningfully include our people and our traditional knowledge in environmental and social impact assessments. We need to learn them and keep pushing for these rights and standards to be respected. The risks to our territories, people and cultures are too great to accept less. But we also need to remind project proponents, the government and other stakeholders that our knowledge of our territories can only make the study of environmental and social impacts stronger. And if we chose to consent to the project going ahead, our participation in planning and monitoring can help to reduce negative impacts. This is sometimes called a win-win situation. We win and they win! If accidents happen later that our involvement could have helped to prevent, governments, companies, ESIA consultants and funders will look bad and may have to spend a lot of money making things right!
1.1 Support for Indigenous participation in ESIAs under international law

Indigenous Peoples have many rights under international law that we can use to make sure our people are included in meaningful ways in ESIAs. Some of these are core rights, like: 1) the right to collectively own the land and resources that we have traditionally used and occupied; 2) the right to self-determination; and 3) the right to give or withhold our Free, Prior and Informed Consent. See Section 1.3 of the guide on Free, Prior and Informed Consent that goes with this one for more information on the rights of Indigenous Peoples under international law. Other rights are more directly related to ESIAs and we can use them to add strength to our demands to be fully included. Some examples are:

1.1a United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

The Declaration clearly “enshrines,” or protects, Free, Prior and Informed Consent, but it also sets out the following rights and duties that we can use to strengthen our involvement in ESIAs:

- “Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources.” Conserving and protecting the “productive capacity” could mean anything from making sure we can continue to grow food, to ensuring the minerals on our territory aren’t mined out by others. States are required to set up and implement “assistance programmes” for our peoples for conservation and protection (Article 29);
- States have to take “appropriate measures” to lessen negative environmental, economic, social, cultural or spiritual impacts (Article 32.3);
- “Indigenous peoples have the right to participate in decision-making in matters that would affect their rights” (Article 18).36

Remember: First, we need to remember that Guyana signed UNDRIP in 2007. By signing it, members of parliament and the government have in effect said they commit to respecting the rights set out in the Declaration. If we can show that the government isn’t doing enough to lessen negative impacts from projects, we can use that to make it clear to the proponent that they need to go further than just national regulations. They need to respect our rights to protect our territories and respect how we want to participate in ESIAs.

1.1b The Convention on the Elimination of All Forms of Racial Discrimination

The Convention is an international human rights document that sets out steps that 174 governments have committed to take to end discrimination against different races of people, including Indigenous Peoples. The Government of Guyana signed in 196837 and, in 2003, the Constitution was changed to say that all Guyanese citizens are entitled to the human rights in the Convention and five other international treaties (Article 154a). That means the Government is legally required to uphold the Convention on Racial Discrimination. How it is implementing the rights and responsibilities set out in in the Convention is monitored by a committee of people, called the Committee on the Elimination of Racial Discrimination (CERD).

It is important for us to know that the Committee has expressed deep concern about continuing discrimination against Indigenous Peoples in Guyana. Specifically, it has raised the issue of pollution from mining and its impact on Indigenous areas and the health of Indigenous Peoples. In 2006, CERD responded by recommending that the Government of Guyana “undertake environmental impact assessments and seek the informed consent of concerned indigenous communities prior to authorising any mining or similar operations which may threaten the environment in areas inhabited by these communities (Article 19).38 It has also recommended that states everywhere, not just

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36 Copies of UNDRIP are available on the Internet at http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf. The Declaration has also been translated into some Indigenous languages, such as Arawak, Carib and others. They can be downloaded from the following website: http://www.un.org/esa/socdev/unpfii/en/declaration.html
Guyana, should “ensure that members of Indigenous peoples have equal rights in respect of effective participation in public life and that no decisions directly relating to their rights and interests are taken without their informed consent (Article 4d, emphasis added).”

**How can we use this information?** On one hand, the responsibilities of the government and the rights that are set out in the Convention itself are legally binding on Guyana. For example, Article 2c says the government has to review its policies and change or get rid of any laws or regulations that create or cause racial discrimination to continue. On the other hand, the recommendations that the Committee on the Elimination of Racial Discrimination has made since the Convention was signed are not legally binding. But we need to remember that they still carry important weight. We could use both the Convention and the Committee to push for stronger ESIA by saying something like:

“The United Nations has said the impacts of mining are putting Indigenous Peoples at risk in Guyana. It also says that the government has to protect against these risks by conducting ESIA, taking steps to make sure we are effectively included in them and making no decisions without our Free, Prior and Informed Consent. For this to happen, the Amerindian Act and Environmental Protection Act have to change. The Government of Guyana is legally required under the Convention on the Elimination of All Forms of Racial Discrimination to change laws and regulations that discriminate against us. The way ESIA are done in this country discriminates against us.”

1.1c  **The Convention on Biological Diversity (CBD)**

The CBD is a tool for ensuring that development is “sustainable” for the natural environment and for the people who rely on it. “Sustainable development” means development that does not threaten opportunities for or the survival of future generations. “Biodiversity” is the whole range of living things that call the land, water and air home and the Convention recognises that many Indigenous and local communities depend on biological diversity. 193 countries are party to the CBD, which Guyana signed in 1992 and ratified in 1994. The Government of Guyana is legally required to uphold the rights and responsibilities the Convention sets out.

One of the most important parts of the Convention for Indigenous Peoples is Article 8j. It sets out that the government should “subject to national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity.” This means the government should respect and protect the way we live, if the way we live is in harmony with nature. If we participate in small-scale mining that releases mercury into the rivers, this does not apply. If we gather only what we need from the forests, so that the plants and herbs we use continue to grow, it does apply. It also means the government should respect our knowledge. A key way to show that they do is by effectively including Indigenous Peoples in ESIA and later in environmental monitoring. If the Government of Guyana lets a project or programme go ahead that will hurt our traditional lifestyles or does not respect our knowledge, they are violating the Convention on Biological Diversity.

Unfortunately, Article 8j uses words like “subject to national legislation” and “as far as possible and as appropriate,” which governments sometimes use to avoid their responsibilities. But laws can be changed and, over time, we can pressure the government to improve ESIA regulations and practice. In the short term, we can draw on “best practice” guidelines that have been created under the Convention to guide how environmental, social and cultural impact assessments should be conducted for projects that are likely to impact our traditional lands, waters and sacred sites (and those of other local communities). They are called the Akwé: Kon Guidelines and even though they are voluntary, it is important that we learn what the guidelines recommend so that we can push the government, proponents and the consultants doing the assessment to follow them. See Box 8.

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42  Copies of the guidelines were given out to participants at the March 2010 Training of Trainers Workshops in Georgetown.
Box 8: Akwé: Kon Guidelines

The Voluntary Guidelines were developed in 2004 by the secretariat (committee) that oversees the Convention on Biological Diversity. The name “Akwé: Kon” comes from the language of the Mohawk People and means “everything in nature.” It is pronounced “agway-goo.”

The guidelines are mostly intended to provide advice to states on how to incorporate Indigenous Peoples and Indigenous knowledge into the ESIA process or ESIA laws, but the lessons are also useful to proponents, ESIA consultants, Indigenous communities and others.

Importantly, the Guidelines say:

1) Their purpose is to “support the full and effective participation and involvement of indigenous and local communities” (Article 3a);

2) ESIA regulations should take into account our rights over the lands, waters and living resources that we have traditionally used or occupied. And unlike article 8j, which only says “subject to national legislation,” this article (57) says “subject to national legislation consistent with international obligations.” In Guyana, the government has included the Covenant on Economic, Social and Cultural Rights and six other international treaties in the Constitution; so, it should be obligated to uphold the rights in them in Guyana’s ESIA regulations, including the right to self-determination;

3) Prior informed consent should be a general consideration in impact assessments that will likely affect our traditional territory and more specifically is necessary for the use of our traditional knowledge (Articles 52a, 53 and 60) — for example, if the ESIA consultants will use our knowledge on plants that we use for medicines, they need our prior informed consent;

Some specific guidelines on how we should be involved include:

• We should be involved at all stages of the ESIA (Article 12);

• Representatives of affected community should be invited to be a part of any group that is created to advise the proponent on the screening and scoping stages (Article 14). In Guyana, remember, this is only done by the EPA;

• In notifying (letting us know about) our communities of a proposed project and public consultations, proponents need to consider the challenges we face in being isolated or because many of our communities members may not read well. They don’t only talk about newspaper notices, as the regulations in Guyana do, but recommend using: radio, mail, village meetings, consultations in our languages and meetings in the areas that will be affected. Currently, scoping meetings can be held long distances from our communities;

• We should be given enough time to prepare after we have been notified about an upcoming consultation meeting (Article 11);

• Enough human, financial, technical and legal resources have to be provided for us to participate effectively in all stages of an impact assessment (Article 8f and 70). This means supporting us with advice, training and money so that we can hire the people we need from our community or hire people from outside, like experts on the law, impacts of a protect or other issues;

• Protocols should be created as a part of action plans or the Environmental Management Plan to make sure the proponent and the government respect our sacred sites and lands (Article 30). These should respect the rules of our community. Section 2.4c of the Guide on FPIC tells us more about community consent protocols;

• Plus many other ways, including in the sharing of benefits.
1.2 Support for Indigenous participation in ESIAs under international “best practice” standards and industry guidelines

There is also a chance that we can improve opportunities for Indigenous communities to participate in ESIAs by using the “best practice” standards that some banks, investors or donors who are funding a project require the proponent to follow. These are usually mandatory, not voluntary. We can also use industry guidelines and codes of conduct to appeal to the proponents, companies or consultants who are leading the assessment. True, these are mostly voluntary, but there is no rule that says these stakeholders can’t go beyond national laws.

Why would they want to do this? Companies have to think about their reputations. For example, mining companies want to make money, but before they can afford to undertake exploration or build a mine they first need people to invest money so they can buy equipment, pay for drilling and other costs. If they have a bad record of polluting the environment or causing harm to communities, people will not want to invest in them.

In fact, some have their own standards or belong to industry associations (like groups that represent many mining companies), which have developed higher standards. We need to make sure these stakeholders know if government regulations aren’t protecting our rights to be involved or are not protecting our lands and peoples. We need to let them know that we expect them to follow the commitments they have made and “best practice” standards, not just national law. And if they do not, we have to let the government and others know! Section 2.3e talks more about mechanisms we can use to make our concerns known.

1.2a Some examples of standards for mining and exploration companies that should impact how they do ESIAs

The commitments individual companies make. It is common for major mining companies to have policies or statements that spell out how they say they will commit to the environment, communities or sustainable development. For instance, Newmont, a company that is partnering in gold exploration in Region 1, says it is committed to “responsible stewardship of the environment” and “creating sustainable development - both in the communities and the ecosystems where we operate.” It has also said that, where possible, it will “set operating standards that exceed the requirements of the local law.” It is less common for smaller exploration companies to have their own safeguard policies. However, they might still make statements that we can use to remind them of their need to include us in ESIAs. For example, U308 Corporation is a Canadian company exploring for Uranium in Region 8. The company’s website says, “we ensure that our exploration work on Amerindian land is done in a manner that is acceptable to the land-owners” and “we rely on guidance from the local communities.”

Unfortunately, experience has shown that some mining companies do not even follow their own policies when they can get away with less. We can’t let that happen!

The commitments made by associations of companies. For example:

The Prospects and Developers Association of Canada (PDAC) represents several hundred Canadian exploration companies, including many that have projects in Guyana. PDAC has developed voluntary guidelines for exploration companies that include recommendations that should influence how ESIAs are done and how we are included. This is important because even though the law of Guyana says that any project that could have significant negative impacts should require an ESIA, the authorities have not required ESIAs for exploration activities. PDAC’s “e3Plus Framework for Responsible Exploration,” however, encourages exploration companies to:

46 The list of PDAC’s members are available here http://www.pdac.ca/pdac/members/corporate-members.html
• “Conduct an initial then periodic assessments of the direct, indirect, and cumulative environmental and social impacts, risks and hazards of exploration activities on the environment and people.” This guidance relates to two core principles of the Framework: Principle 4 — “Commit to project due diligence and risk assessment” and Principle 7 “Protect the environment.”\(^{47}\) It does not mean the company has to conduct a full ESIA that will be reviewed by the government; it just means that they should assess the impacts on their own;

• “Engage host communities” and interact with Indigenous Peoples “on the basis of respect, inclusion and meaningful participation.” This is Principle 5 of the 8 core principles of the e3Plus Framework. The Framework goes on to say explorers should: “Wherever possible, incorporate local or traditional knowledge and practice into baseline studies and the management of environmental issues” and that they should “consult with indigenous peoples and local communities to identify valued environmental and cultural heritage sites, and any other locations of importance to local people;”\(^ {48}\)

• “Create a community-based process for participation in environmental monitoring and verification of environmental management performance.”\(^ {49}\) “Verification” here means the community being able to say whether or not we feel the company has effectively protected the environment;

• Especially important for Indigenous Peoples, the e3Plus Framework also recommends that explorers provide our communities with training and funding to, for example, hire independent experts to support us and help us to understand the information we need to be able to be in a position to give our consent or participate in meaningful ways.\(^ {50}\)

One problem is that the guidelines are only voluntary, so companies that are members of PDAC are not required to follow them. Another problem is that few of the exploration companies working in Guyana mention the e3Plus Framework in their documents or on their websites. We need to remind them of what the guidelines say they should be doing and remind them that if they follow “best practice” standards in engaging with our communities, protecting against negative impacts and safeguarding the environment, they can actually benefit. Most exploration companies don’t themselves develop mines, but instead sell their concessions to bigger mining companies. If they act in a way that creates conflict with local communities, larger companies may not want to invest. They will have to inherit the conflict!

Communities on the Guyana side of the Corantyne River were left out of consultations when Bauxite companies wanted to develop a mine just across the water in West Suriname. This even though they would be affected by the barging of the raw materials to be refined.

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\(^ {48}\) As above, pages 6, 22.

\(^ {49}\) As above, page 23.

\(^ {50}\) As above, pages 17-18, 23.
The Mining Association of Canada (MAC) has also developed standards to guide its member companies. They are included in the “Towards Sustainable Mining” (TSM) Framework. Several MAC member companies have properties in Guyana, including Cameco Corporation and IAMGOLD Corporation.51

The Guiding Principles of the Framework commit members to carry out their operations in ways that are socially, environmental and economically responsible. Importantly, they should also be in line with the priorities of what MAC calls “communities of interest” — this includes Indigenous Peoples. To achieve these goals the Framework says members will:

- Respect human rights;
- Recognise and respect “the unique role, contribution and concerns of Aboriginal peoples and indigenous peoples worldwide;”
- Comply “with all laws and regulations in each country” and follow “best international practices;”
- Being “responsive to community priorities, needs and interests through all stages of mining exploration, development, operations and closure.”52

Within the TSM Framework, there is also a framework on Mining and Aboriginal Peoples, as Indigenous Peoples are often called in Canada. It offers specific guidance related to ESIs and obligates member companies to:

- Respect Indigenous rights;
- Undertake “early, timely and culturally appropriate engagement with Aboriginal Peoples, including within the environmental assessment process, to ensure their interests in a project and its potential impacts are understood;”
- “Respect the social, economic, environmental and cultural interests of Aboriginal Peoples;”
- Consider “traditional knowledge to minimise or mitigate potential adverse environmental and social impacts;”
- Work “with governments and communities to support and encourage community development programs, which may include … capacity building;”
- Support and encourage “Aboriginal involvement in environmental monitoring.”53

The TSM Framework uses stronger language than other standards by saying “we will” do this, instead of members “should;” But it is still a voluntary standard and member companies are not punished if they don’t follow the Framework. Nevertheless, we can ask MAC member companies to apply all of these commitments — to strengthen both our participation in ESIs and strengthen how they conduct ESIs, as well as their plans to mitigate impacts and monitor impacts!

The International Council on Mining and Metals (ICMM) is the most well known association of mining companies. Its 19 corporate members are some of the world’s largest mining companies. They include three companies with interests in Guyana: Rio Tinto, Newmont and Teck. ICMM’s “Sustainable Development Framework” is also probably the most well known set of voluntary standards for mining companies, although it is not without major problems. It is built on 10 Principles.54

- Principle 6 commits members to constantly try to improve their environmental performance. One of the ways they are to do this is to assess environmental impacts throughout the life of the project — from

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51 MAC member companies are listed here http://www.mining.ca/www/About_Us/Member_Countries.php


exploration until after the mines closes. This is important because environmental regulations in Guyana do not require ESIsAs for exploration. It is also important because members are required to assess not only direct impacts, but also indirect and cumulative impacts.

- **Principle 3** commits member companies to “uphold fundamental human rights and respect cultures, customs and values” in dealings with communities and others who are affected by their activities. This includes Indigenous Peoples. The ICMM has developed a position statement on “Mining and Indigenous Peoples” that spells out how they will meet their core principles when our communities are affected. It says:
  - Members will respect the rights of Indigenous Peoples under national and international laws;
  - Members must “engage and consult” with us from the earliest stage and throughout the project in ways that are fair and culturally appropriate; this includes the ESIA stage. According to the statement, this should be done “wherever possible... through traditional authorities within communities and with respect for traditional decision-making structures and processes;”
  - Members have to “clearly identify and fully understand” our interests and our views about the project and its possible impacts. One way they will do this is through social impact assessments and other social baseline studies, which require that we be consulted;
  - Members should design projects in ways that avoid significant negative impacts and “special arrangements” might need to be made to protect sites that are important to us culturally;
  - Members can assist us by supporting steps to build our capacity; and,
  - Members recognise that after consultations with our community, a decision might be made not to go ahead with the project. This is true even if the law allows the project to go ahead!

However, the ICMM standards are still far from ideal because they do not fully embrace Free, Prior and Informed Consent as the right of Indigenous Peoples. While the guidelines that were developed to help mining companies better understand the ICMM’s position on Indigenous Peoples say that FPIC should be respected if it is national law, ICMM members do not support Free, Prior and Informed Consent more widely because they feel it is too difficult to put in practice.  

Remember: We can use our community consent protocols to show them how our Free, Prior and Informed Consent should be sought.

1.2b  **Best practice standards to guide the consultants conducting the ESIA**

The consultants hired to do the ESIsAs may also work for impact assessment companies that have agreed to uphold the highest standards. That is why it is important to ask the consultants what standards they will be following. We should ask that they follow the Akwé: Kon Guidelines, but other important guidance also comes from the International Association of Impact Assessment (IAIA). The IAIA has several thousand members in 120 countries, many of whom are the consultants who will work closely with communities on ESIsAs. But we can also educate consultants who are not members on the IAIA guidelines and ask them to follow these and other “best practice” standards. Something that will help us is the fact that the IAIA has recognised that our participation can make assessments stronger and developments more sustainable; this could lead to more support from our communities for the proposed project. With that in mind, the IAIA has recommended the following steps:

- Communities that will be affected should be involved “early and regularly” in the impact assessment process to give us more time to be involved, to help us understand and analyse the impacts, and to ensure that the proposed project can be changed in response to our input. This means not just at the screening and scoping stages but throughout the process;
- We should be supported to participate in meaningful ways by being given enough information and information that is understandable to our people;

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We should be supported to participate through funding and capacity-building;

Participation opportunities should be adapted to our social, political and cultural institutions and backgrounds. This should mean that if we need more time to consult with our people, according to our customs, we have it!

The participation of groups that are usually under-represented should be encouraged. Indigenous Peoples, women, children and elderly people are directly mentioned;\(^57\)

Our “inputs and concerns” should be clearly addressed in ESIA documents and decisions.\(^58\) This means our inputs cannot be ignored.

1.2c  **Best practice standards from funders that support projects, policies and programmes affecting Indigenous Peoples**

In some cases, the cost of building a project, such as a mine, or implementing a programme, like the low carbon development strategy, is so expensive that companies, governments and other proponents need money from banks or foreign governments. Certain banks have standards that borrowers need to follow or they won’t get money. Some of these standards relate to environmental and social impact assessments and Indigenous Peoples. This doesn’t mean the banks or the groups they loan money to (called “borrowers”) always fully respect these standards. So, as with other standards and laws, we have to try to make sure they do. We can do this by learning about these standards and letting the proponent know we expect them to be followed. If they ignore them/us, we need to use our grievance mechanisms.

\(^{57}\) This point and the points above it come from the following document: “Public Participation: International Best Practice Principles.” International Association of Impact Assessment. August 2004. Available on the Internet at http://www.iaia.org

Some important “best practice” standards come from banks, such as:

- The World Bank;
- The International Finance Corporation; and,
- The Inter-American Development Bank.

To find out if the activity that is affecting our community is funded by one of these banks we can usually ask the proponent directly, look on the website for the company or look on the website for the bank.

**The World Bank.** In Guyana, the World Bank is managing the funds that Norway and other donors will give the government to support the Low Carbon Development Strategy. It also supports other projects. Unlike many banks, funding from the World Bank is meant to reduce poverty and promote sustainable development. Because of this, the World Bank has developed 10 environmental, social and legal safeguard policies to guide their loans to governments. They are meant to help prevent or lessen harm to people and the environment that could come from the projects, policies or programmes that they support and borrowers are required to follow them. One of the policies deals with ESIs — it is made up of two documents: *Operational Policy 4.01 and Bank Procedures 4.01*. The other deals with Indigenous Peoples and is made up of *Operational Policy 4.10 and Bank Procedures 4.10* (or OP/BP 4.10).

**Some key parts of OP/BP 4.01 on Environmental Assessments** that we should know are:

- The Bank undertakes screening to see what kind of ESIA is required. If it decides the project is a Category A project (meaning it is likely to have significant negative impacts), the government must hire independent consultants who have no interest in the project to do the ESIA. If the Bank decides it is a Category A project that is especially risky or the source of conflict, the government should also use an independent panel of experts to guide the ESIA;
- Groups that will be affected by a project — like Indigenous Peoples — and our organisations have to be consulted as early as possible. For consultation to be meaningful, the Banks says the government has to give all important information before consultations start and in forms and languages that our people can understand. It also says our views have to be taken into account;
- The consultants hired by the government are required to consult us at least two times — once before the drafts terms of reference for the ESIA are completed and again when the draft ESIA Report is done. This is important because is it not enough for us just to have an *opportunity* to share our views (like inviting us to a public consultation that might be too far from our community). We have to be consulted!

**Some key parts of OP/BP 4.10 on Indigenous Peoples that we should know are:**

- OP/BP 4.10 has to be followed if screening by the Bank shows that Indigenous Peoples are in the “project area” or have a “collective attachment” to the area — that is we have traditionally used or occupied the area;
- The government has to consult us at each stage of the project, especially during planning stages. ESIs are a key planning stage. The consultation has to be free, prior and informed. See the definition of Free, Prior and Informed Consent in Section 1.3 of this guide and in Section 1.1 of the guide on FPIC. True Free, Prior and Informed Consultation is not as strong as Free, Prior and Informed Consent, but it still means that our culture and ways of making decisions have to be respected by the government;

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59 The policies were created in January 1999 and were last revised in March 2007. OP 4.01 is available on the Internet at [http://web.worldbank.org/WEBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/0,,contentMDK:20064724~menuPK:64701637~pagePK:64709096~piPK:64709108~theSitePK:502184,00.html#f1](http://web.worldbank.org/WEBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/0,,contentMDK:20064724~menuPK:64701637~pagePK:64709096~piPK:64709108~theSitePK:502184,00.html#f1)


Before a project begins, the government has to undertake a social assessment, and they have to make sure we can participate;

The government has to prove they have “broad community support” from local communities for the project to go ahead. “Broad community support” means the support of the main groups in our community. If they cannot prove that we support the project, the Bank will not fund it;

These points are drawn from “A Community Guide to the World Bank’s Indigenous Peoples Policy (OP/BP 4.10),” which was produced by the Forest Peoples Program to explain OP/BP 4.10 in a way that is easy for us to understand. The address to get a copy of the guide is listed at the bottom of this page.\

The International Finance Corporation is a part of the World Bank Group but, unlike the World Bank, it loans money to companies, not governments. The IFC is supporting at least one mining project in Guyana — the Aurora Mine, which is owned by Guyana Goldfields and located on the Cuyuni River upstream from Bartica.

The IFC has developed eight environmental and social performance standards that the companies it lends money to are required to follow. One of the performance standards, PS7, is on Indigenous Peoples. Another, PS1, is on environmental and social impact assessments.

One of the goals of PS7 on Indigenous Peoples is to make sure development projects have full respect for our human rights, culture, livelihoods, and visions for the future. Another goal is to make sure that our communities are able to participate in an informed way if projects will affect our traditional land — not only our titled land — so that negative impacts can be avoided or lessened. Some of the things PS7 requires proponents to do are:

- Undertake an environmental and social impact assessment (Article 7), which the IFC will have to approve before deciding whether or not to loan the proponent money for the project;
- Make sure our participation in consultations is free, prior and informed, if the project is expected to have negative impacts on us (Article 9);
- Use consultation processes that are culturally appropriate, such as: a) including councils of elder or other groups be have chosen to represent us; and, b) allowing enough time for our decision-making processes (Article 9); and


• Make sure we have a chance we are able to participate in the making of any plans to mitigate negative impacts and make sure we are compensated for negative impacts even if they happen on our traditional territories and we don’t have legal title to those territories (Articles 8 and 13).

PS1 on ESIA\textsuperscript{63} also says:

• Consultation has to: a) start early in the ESIA process; b) be ongoing so that new risks can be dealt with as they come up; and c) has to be done in a way that fits with our decision-making processes (Articles 21-22). This means it is not enough to consult our community just during the scoping phase and again to review the draft ESIA.

• Our views have to be a part of any decisions that are made (Article 22);

• The proponent has to create a grievance mechanism to respond to our concerns. It has to make sure the grievance mechanism is open, easy for all our community members to use and that our concerns are dealt with quickly (Article 23);

Both of the performance standards go further. We can learn more by reading a simple guide that was specially created for Indigenous Peoples by The Forest Peoples Programme. It is called “Indigenous Peoples & World Bank Projects: A community guide to the International Finance Corporation’s Performance Standard 7 on Indigenous Peoples.”\textsuperscript{64}

In 2010 and 2011, the IFC has been reviewing its performance standards to see how effective they are. As part of that review many organisations, like The North-South Institute, have been asking the IFC to make Free, Prior and Informed consent a requirement. The review was not yet finished when this guide was written, so we don’t know yet if FPIC will actually be added or what other changes will be made to the standards. For now, though, borrowers are still required to take the steps listed above.

\textsuperscript{63} “Performance Standard 1: Social and Environmental Assessment and Management Systems.” The International Finance Corporation. This document and the other performance standards are available on the Internet at http://www.ifc.org/ifcext/sustainability.nsf/Content/PerformanceStandards

\textsuperscript{64} This Guide was created in 2008 and was given out to participants at the March 2010 Training of Trainers Workshops. It is available on the Internet at http://www.forestpeoples.org/topics/international-finance-corporation-ifc/publication/2010/community-guide-international-finance-
The Inter-American Development Bank (IDB) also has standards that borrowers are required to follow if they want money for their projects and programmes. The Bank loans money to governments, companies and NGOs for activities related to development. It has funded roads, ESIs, and other projects in Guyana, including projects related to the Low Carbon Development Strategy. The IDB also just supported the ESIA for the road that will go to the site of the proposed Amaila Falls Hydro-Dam project in Region 8. The government considers this dam to be one of the most important projects under the LCDS and it plans to use money from Norway to build it.

The Bank has a special policy to guide its loans when the activities being funded will affect Indigenous Peoples. It is called the Operational Policy on Indigenous Peoples or OP-765 for short. OP-765 requires that borrowers:

- Respect Indigenous rights, or in the wording the IDB uses “comply with applicable legal norms.” The key thing here is that the Policy says this means not only rights under national laws, but also under Indigenous legal systems (our rules) and the international treaties that a country has said it will follow. In Guyana, this includes the Covenant on Economic, Social and Cultural Rights, which says we have to right to self-determination. See Sections 1.3 and 1.5 of the FPIC Guide that goes with this one for information on other international laws;

- Carry out social, cultural and environmental evaluations that include consultations with us and look at possible impacts that are direct, indirect, cumulative or will affect the whole region. These evaluations or studies are also supposed to show who the leaders are that we have chosen to represent us and how we make decisions in our community;

- Consult with Indigenous Peoples who will be affected in ways that are socially and culturally appropriate. The have to do this “with a view to reaching agreement or obtaining consent” from our community.

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66 As above, pages 5 and 8. Unfortunately the Policy only recognises Indigenous legal systems when they have been accepted under the laws of Guyana.

67 As above, pages 8 and 10.

68 As above, page 6.

Logging in Region 1, Guyana, has been opposed by many Indigenous community members.
• Show proof to the Bank that they have reached an agreement with our community on the project and on the plans to mitigate its negative impacts. This applies when the possible negative impacts will be especially significant (see bottom of the page). 69 They also have to show that they got our agreement after negotiations that were done in good faith. 70

• Unfortunately, the policy has some “exceptions” that allow borrowers to get away with not meeting the requirements for consultation, good faith negotiations and agreement with communities that are talked about above. One says they do not have to do these things if the “potentially affected Indigenous Peoples show no interest in taking part in the consultation process.” 71 Because of this, if our community decides from the very beginning that the project will be so damaging that we don’t even want the ESIA to start, we need to clearly let the EPA, the Minister of Amerindian Affairs and the IDB know our reasons for not participating. Even if the ESIA still goes ahead, taking this step will help to make sure that more care is taken during impact assessment and in planning for mitigation measures and compensation.

The IDB also has what it calls an **Environment and Safeguards Compliance Policy**. That Policy requires:

• That we be consulted and provided with appropriate information during environmental impact assessments. Importantly the Policy says that as well as being in languages and forms we can understand, information also has to be given to us in “locations” that will let us be informed and meaningful consulted. 72 If information related to an IDB-funded activity is only on a website or given out in a community far from us, this Policy is being violated!

And its **Indigenous Peoples Strategy** says we can ask for financial and other support from the Bank, including funding to do our own consultations. 73

**Finally, the Equator Principles** are standards that certain banks have agreed to follow. Some “export credit agencies” have also said they will follow these standards. Export credit agencies are parts of the government in countries like Canada that loan government money to national companies. Unlike the World Bank, IFC and IDB safeguards, the Equator Principles are voluntary.

**Equator Principle 3** “Applicable Social and Environmental Standard,” makes clear that in most countries, such as Guyana, the banks should follow the IFC Performance Standards that are talked about above. There is no Equator Principle that deals exclusively with Indigenous Peoples, but the overall principles say consultations have to be free, prior and informed. 74

There are no banks in Guyana that have adopted the Equator Principles; however, the Equator Principles are internationally recognised as the minimum standard in the financial world for addressing environmental and social issues. For a list of all the Equator Banks and credit agencies see [www.equator-principles.com](http://www.equator-principles.com). They include, from Canada: 1) Export Development Canada (part of the Canadian Government that supports some mining, oil, gas and other companies, and 2) some private banks that might invest in Canadian mining companies. 75

**Key ESIA Tip:** We need to learn these rights and “best practice” standards, teach others about them and make sure they are respected. We can do this widely, even when the standards are voluntary or only apply to proponents that are funded by certain banks or are members of certain industry associations. Respecting our rights and meaningfully including our peoples in environmental and social impact assessments and follow-up monitoring makes sense for all stakeholders!

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69 The Policy says projects with particular potential for significant negative impacts are those that “carry a high degree of risk to the physical, territorial or cultural integrity of the affected indigenous peoples or groups.” See page 8.

70 As above, page 8, paragraph c.

71 As above, page 10, footnote 15.


73 The Indigenous Peoples Strategy is in the same document as OP-735. See pages 43 (paragraph g) and 44.


75 Some examples are CIBC (the Canadian Imperial Bank of Commerce), RBC (Royal Bank of Canada), Scotiabank, TD Bank Financial Group and others. We should ask the proponent what banks are supporting the project to see if they have signed the Equator Principles.