Indigenous and Local Perspectives on the Future of Tailings Governance

Q&A from the webinar co-hosted by GTMI, Cultural Survival and Earthworks

7 October 2026

The positions, schedules, interpretations and proposed actions described in this document reflect GTMI's working views and planning assumptions at the time of writing. They should not be interpreted as final, binding or Board-approved GTMI decisions unless and until the applicable governance requirements have been satisfied and the required Board approval has been formally obtained. Where a matter remains under Committee, legal, governance or Board review, the final GTMI position may change.

1. **How is GTMI addressing the risks related to industry-led standards, such as the Consolidated Mining Standard Initiative (CMSI)? How do you maintain the independence and credibility of your institution, especially considering the many concerns addressed by civil society and investors on CMSI`s governance set-up?**

   GTMI's credibility depends on being demonstrably independent, not simply claiming independence. Our governance is designed so that no single stakeholder group — including industry — controls the Institute or its technical outcomes. We maintain clear conflict-of-interest requirements, independent Board oversight, transparent consultation, and engagement with operators, investors, civil society, communities and technical experts.

   We will listen carefully to industry because practical implementation matters, but industry input does not determine the outcome. The same principle applies to every stakeholder group. GTMI's role is to consider the evidence, strengthen the assurance framework, and make decisions through the governance processes established for the Institute. That balance — broad engagement without stakeholder control — is fundamental to maintaining trust and credibility.

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2. **How do the protocols differ for upholding core international instruments to operationalize ILO C169, UNDRIP, or UNDROP?**

The GTMI Audit Protocols are not intended to replace, reinterpret, or create new obligations under instruments such as ILO (International Labour Organization) Convention 169, UNDRIP (United Nations Declaration on the Rights of Indigenous Peoples), or UNDROP (United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas). Instead, the protocols provide an independent means of assessing whether the relevant GISTM requirements have been effectively implemented.

Where these international instruments are applicable or referenced, the protocols focus on objective evidence that appropriate systems and processes are in place — including meaningful engagement, respect for the rights of Indigenous Peoples and affected communities, grievance mechanisms, and Free, Prior, and Informed Consent (FPIC) where applicable. The intent is to provide auditable assurance while respecting the authority and scope of the underlying international instruments.

3. **Will GTMI set requirements to ensure that auditors assessing tailings facilities that may affect Indigenous Peoples have the right expertise in FPIC, Indigenous rights, cultural heritage and community engagement?**

   Yes. Where a tailings facility may affect Indigenous Peoples, GTMI expects the audit team as a whole to have the competencies needed to assess the relevant GISTM requirements. Depending on the circumstances, this includes expertise in Indigenous rights, FPIC, cultural heritage and meaningful community engagement. Not every auditor needs to be an expert in each area, but together the team must be able to carry out a credible assessment.

4. **How will GTMI ensure that the FPIC is beyond a checklist, understanding that rightsholders are different from stakeholders, and might withdraw their consent. Are there any mechanisms of revisiting FPIC in the case of withdrawal? FPIC should not be a one time thing.**

   FPIC shouldn't be treated as a one-time checklist exercise. Indigenous Peoples are rights-holders, not simply stakeholders, and the audit process should consider whether engagement and consent processes remain meaningful over the full lifecycle of the facility.

   Where circumstances materially change, concerns are raised, or consent is reconsidered, the auditor should assess how the Operator has responded and whether the relevant GISTM requirements continue to be effectively implemented.

GTMI's role is to ensure the protocols require credible evidence of an ongoing process, while remaining consistent with GISTM and applicable legal and international frameworks.

5. **Are there options to have access to a grievance mechanism if we see that a mining company does not uphold a principle of the standard? This would be a helpful tool to use the leverage of the standard to support our rights or access information.**

   Yes. Access to an effective grievance mechanism is an important part of accountability. The protocols should help verify that appropriate grievance processes exist, are accessible to affected communities and rights-holders, and that concerns are documented and addressed. GTMI is also considering how complaints related to the assurance process itself should be received and handled.

6. **Will Requirement 1.2 — which addresses FPIC and Indigenous Peoples' rights — apply only to new tailings facilities? Given the potentially significant consequences of tailings dam failures, would it be appropriate to consider extending at least some FPIC-related criteria to existing facilities, particularly where Indigenous Peoples may be exposed to downstream risks?**

   That is an important point. The protocols must remain consistent with the scope of Requirement 1.2 of the GISTM. However, for existing facilities, auditors should still consider relevant Indigenous rights, engagement, and downstream risk requirements where applicable. The key is to avoid treating existing tailings facilities as exempt from meaningful engagement simply because they pre-date the Standard.

7. **National governments already have technical safeguards for tailings facilities. Would it be better for GTMI to enhance those national regulations instead of bringing your own framework?**

   GTMI has not been established to replace national regulation. National governments remain responsible for legal and regulatory requirements. GTMI's role is to provide a consistent, independent assurance framework for assessing implementation of the GISTM across jurisdictions, while recognising and working alongside applicable national requirements. In many cases, the two should be complementary.

8. **If the entire world is investing significant effort in improving tailings management and dam safety, why are we still seeing an increasing number of tailings dam failures? What are we missing?**

That is the central challenge. The issue is usually not the absence of standards or technical knowledge, but inconsistent implementation, weak governance, inadequate risk recognition, and failure to act on warning signs. GTMI's focus is therefore on whether good practice is actually embedded, independently verified, and sustained over the full life of a facility.

9. **In Assam, the consequences of weak resource governance, unscientific extraction, and unchecked mining waste manifest in acute environmental and socio-cultural vulnerabilities. Unsafe tailings storage permanently damages ecosystems, polluting the water, soil, and air. This compromises the ability of future generations to safely practice treaty rights, hunt, fish, gather traditional medicines, or live on ancestral lands. Communities advocate for integrating traditional ecological knowledge with formal governance frameworks, utilising local Biodiversity Management Committees (BMC) to monitor environmental health. Despite this local expertise, indigenous communities are consistently excluded from environmental impact assessments, mine planning, and resource-allocation decisions. This regulatory blindness leaves their customary land tenure unprotected against industrial expansion and infrastructure projects. What shall we do?**

   The issues you describe show why the meaningful participation of Indigenous Peoples and local communities must be built into decision-making from the start, not added after decisions have been made. Local and traditional ecological knowledge can strengthen environmental assessment, monitoring and risk management. Where the GISTM applies, GTMI's role is to help ensure that operators can show credible engagement, respect for rights-holders and effective processes for addressing environmental and community concerns.

10. **How are "Indigenous" organisations defined? Are they organised by state or business, who are their beneficiaries, and how do they hold these organisations accountable?**

    GTMI's focus is on Indigenous Peoples as rights-holders. An organisation isn't defined as Indigenous simply by whether it was established by a government, a business or another entity. What matters is whether it legitimately represents the affected Indigenous Peoples: how its representatives are chosen, who it answers to, and whether the community recognises its authority. Ultimately, it should be accountable to the Indigenous Peoples and communities whose rights and interests it represents.

11. **I appreciate this webinar and the opportunity to learn. But I find the term "Zero-harm goal" offensive. I appreciate that zero failings of tailings dams is a long-term goal, but it seems disingenuous to not acknowledge that all mining causes harm.**

    "Zero harm" is intended as an aspirational tailings safety objective, particularly around preventing catastrophic failures and protecting people and the environment. It should not be interpreted as suggesting that mining has no environmental or social impacts. Those impacts must still be acknowledged, managed, reduced, and avoided wherever possible .

12. **It seems that a GTMI's goal was to ensure that businesses had Free Prior and Informed Consent? UNDRIP describes the process of negotiating for Indigenous Peoples' FPIC consent as an obligation of the State. How does GTMI audit whether businesses have consent? Does GTMI lobby states for business? Does GTMI help businesses learn if states are upholding the UN Charter and core international instruments to realise UNDRIP? Businesses, especially those working internationally, have an obligation to not do work that violates core international instruments; development of Indigenous Peoples' territory without free prior and informed consent. Does GTMI support businesses that consider contracts with states broken when states do not respect the UN Charter principles described in UNDRIP and the ILO C169? How does GTMI help businesses to respect international law in this regard when they are involved with states that don't?**

    GTMI does not determine whether a State has complied with UNDRIP or ILO C169, nor do we lobby governments on behalf of companies. Our role is narrower: to assess whether an Operator has effectively implemented the applicable GISTM requirements, including the evidence supporting engagement and FPIC where required.

    Where State actions create conflicts with Indigenous rights or applicable legal obligations, those issues must be recognised and addressed by the Operator through appropriate legal, governance and rights-based processes. GTMI's role is assurance - not replacing the State, interpreting international law, or determining contractual remedies.

13. **How will GTMI address community and Indigenous Peoples' rights in its protocols? A challenge with some existing mining standards is that "technical" criteria carry more weight in an operation's overall score than community rights. As a result, an operation can score well overall while still facing serious concerns or disputes from affected**

communities, because strong performance in other areas offsets weaknesses in community-related criteria. How does GTMI plan to address this issue?

GTMI's approach is not intended to allow strong technical performance to simply offset significant weaknesses in community or Indigenous Peoples' rights. The protocols assess the applicable GISTM requirements individually, including social, environmental and rights-related requirements. Serious gaps in these areas should remain visible and require corrective action, rather than being hidden within an overall aggregate score. The objective is credible assurance across the full Standard, not just strong technical performance.

14. **How are the organisation and leadership of the Indigenous movement involved in the field of the local economy of Indigenous Peoples and communities?**

    Indigenous leadership and strong local economies are fundamental to ensuring that communities can participate in decisions affecting their territories, resources, and livelihoods. GTMI recognises the importance of listening directly to Indigenous Peoples and respecting their representative structures, traditional knowledge, and rights.

15. **How can engagement with Indigenous Peoples be improved if there is no clear consultation framework? In my experience, even when companies have all the relevant information, they often don't know who to share it with, or they don't trust that Indigenous groups have the expertise to engage with it.**

    A clear consultation framework is what addresses both of those problems. It identifies the legitimate rights-holders, establishes trusted points of contact, and defines how information should be shared and validated. It is also important to build Indigenous capacity and, where needed, provide access to independent technical support, so that communities can engage on an informed and equal basis.

16. **How do GTMI and other organisations or actors work with Indigenous Peoples' representative institutions? Indigenous Peoples' organisations do not have international rights independent of Indigenous Peoples and our representative institutions, according to the UNDRIP. Indigenous Peoples' representative institutions are responsible for recognising and advocating for Indigenous Peoples' organisations and states are supposed to negotiate with representative institutions of Indigenous Peoples. Are businesses introduced to 'Indigenous' organisations by the state or by Indigenous Peoples' representative institutions and what do businesses do when the**

two parties do not agree on which are the organisations of Indigenous Peoples? How does GTMI support businesses in that situation?

GTMI does not determine who legitimately represents Indigenous Peoples. Our role is to require operators to show that they have identified and engaged the appropriate rights-holders and representative institutions in a credible, documented and culturally appropriate way.

Where the state and Indigenous Peoples disagree on representation, the company should neither ignore the conflict nor try to resolve it alone. Operators should seek independent legal, cultural and human rights advice, document the basis for their engagement, and avoid relying solely on government designation where legitimacy is contested.

The international community can help by strengthening guidance, independent expertise and trusted mechanisms for resolving disputes over representation and rights.