CMSI Consultation Response

Respondent Details

NAME
Kady Seguin

COUNTRY
Canada

PERMISSION
Yes, CMSI can disclose my feedback, name, and organisation.

STAKEHOLDER
Non-governmental organisation (NGO) / civil society organization (CSO)

ORGANISATION
IMPACT

COMMENTS & QUESTIONS BY DOCUMENT

Document:
Governance

11. How would the initial Board be established?

COMMENT:

The proposed process for selecting the Independent Chair poses risks to the credibility of the CMSI, in our view. Civil society organizations and affected stakeholders make up a very small portion of the members of these two groups. Coupled with the ultimate selection being carried out by the four partners of the CSMI, there is a significant risk that the CSMI will face criticism that it selected a Chair that is not Independent or that is perceived to be biased towards industry over affected stakeholders and rights-holders.

Further, the selection of the initial set of Directors will have little input from civil society and affected stake-holders. The few CSO and affected stakeholder representatives of the SAG are not all representative of the broader views of these groups, and are far outnumbered. Again, this raises significant risks for the credibility of the CMSI if the intent is to demonstrate meaningful multistakeholder governance.

We would recommend reconsidering this process to identify ways of having greater transparency over the selection process, as well as opportunities for wider input or more representative input into the selection process.

QUESTION 1
The governance principles that guided the development of the governance model are inclusive, effective, credible, impact-driven, pragmatic and efficient. From your perspective, does the proposed governance model meet expectations for consistency with these principles?
Response: No Response

QUESTION 2
Does the proposed governance model ensure no single group is able to unduly influence decisions?
Response: unsure

2. Roles and Responsibilities

COMMENT:

The roles for the assurance provider include reviewing a list of stakeholders and rights holders that is provided by the company to inform a target list for interviews. However, this assumes that the list provided by the company is comprehensive and hasn't left off particular stakeholders or rights-holders that are less agreeable with the company's performance. There should be some level of assessment of this list to ensure that it is complete, whether this is conducted by the assurance provider or by the Secretariat of the CMSI.

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3. Who Can Conduct External Assurance?

COMMENT:

We suggest that there be no time provision for former employees for a company, and that assurance providers should not have been previously employed by a company at all.

COMMENT:

We suggest that trainings for assurance providers be followed up with some level of testing or demonstration of core comprehension, beyond what is being proposed in the Assurance Provider Oversight Process. There should be some level of competency tested prior to Assurance Providers being able to move forward with an assurance process for a Facility.

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4. Consolidated Standard External Assurance Process

SECTION: Execution of Facility Assessment

COMMENT:

We recommend putting specific circumstances as to why a Facility may request that a particular stakeholder of rights holder is not interviewed, otherwise this could be interpreted more broadly than its intended.

COMMENT:

This should consider women and other disadvantaged or vulnerable groups, as they may require specific or alternate methods of communication. Further consideration should be given for groups that may not want to be contacted directly by the company. Companies should also demonstrate best efforts to confirm that communication was received.

COMMENT:

Interviewees should be gender-representative.

COMMENT:

Interviewees should also be gender-representative.

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COMMENT:

We suggest that interviewees be asked for permission to to have their participation attributed in the Assurance Report (i.e. that they were interviewed, but not attribution for specific input). This will add greater transparency to the process, and still provide interviewees with the opportunity to decline where they are not comfortable.

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COMMENT:

How will external stakeholders and rights-holders with literacy challenges be provided with information from the Assurance Report. Companies should be required to make this information accessible in other ways (e.g. presentations for low-literacy environments).

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COMMENT:

The use of automated translation services to carry out a review for completeness of the Assurance Plan has limitations. We would encourage the CMSI to try to address this issue either via its staffing or ensuring that staff have access to resources or support beyond the automated service should there be a lack of compre-hension.

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COMMENT:

What is made public when there is an Assurance Process that is stopped or post-poned?

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5. Dispute Resolution Process

COMMENT:

The sub-committee should be representative of different stakeholder groups.

Appendices

COMMENT:

What is the rationale for the Statement of Findings not being broken down into the specific requirements? Doing so would make it easier to follow for readers and allow the auditor to ensure information is shared for each criteria. It will also help readers assess comprehensiveness.

QUESTION 1
From your perspective, does the Assurance process meet your expectations of a robust, credible, replica-ble and transparent approach?
Response: No Response

Document:
Standard

Overarching Glossary

COMMENT:

The definition of publicly disclose is vague as it pertains to Facility-level disclosure of information that is relevant and critical for local stakeholders and rights-holders. There are a number of requirements that include a level of public disclosure, but with limited assessment of the quality of that disclosure and whether it is adequate (e.g. is it gender-inclusive? culturally appropriate? accessible?). This should be a clear part of meeting these disclosure requirements for facilities.

Performance Area 1: Corporate Requirements

SECTION: 1.3 Transparency of Mineral Revenues, Good Practice, 3

COMMENT:

We are assuming that a company will need to provide clear evidence where disclosure is legally prohibited?

SECTION: 1.3 Transparency of Mineral Revenues, Leading Practice

COMMENT:

We would suggest to add to leading practice that the company promotes or encourages the government in non EITI-implementing countries to join/implement the EITI, and/or supports local efforts designed with the same objective or purpose.

SECTION: 1.4 Risk Assessment, Leading Practice, 1

COMMENT:

We find this should be considered good practice, and not leading practice. Leading practice could then include actions that, though desirable, are still not as common - such as targeted engagement of women and other disadvantaged groups in risk assessment (e.g. stand-alone opportunities for input and dialogue).

SECTION: 1.5 Crisis Management and Communications, Leading Practice

COMMENT:

The criteria around Crisis Management and Communications is completely gender-blind, despite women and men experiencing various crises very differently. We suggest including within the Leading Practice criteria efforts by companies to create or adapt the plan to be gender-responsive.

Performance Area 10: Emergency Preparedness and Response

SECTION: 10.1 Emergency Preparedness and Response Planning

COMMENT:

Emergencies affect women and men differently, and therefore companies should be considering this as they develop their responses to emergencies. The Leading Practice or even Good Practice Criteria should be adapted to consider this.

Performance Area 11: Security Management

SECTION: 11.1 Security Management, Good Practice, 1

COMMENT:

This is pretty broad. We suggest that this be broken down into criteria that is in line with practices outlined in the VPSHR itself as well as practices outlined in the VPSHR Implementation Guidance Tool. Such criteria could include a policy or procedures on use of force, an MoU with public security forces (or evidence of attempts to finalize one where none is in place), contractual obligations for public security providers to implement the VPSHR or specific aspects of it, and so on. We suggest that the CMSI draw on some of the criteria outlined in the IRMA standard for this particular component.

SECTION: 11.1 Security Management, Good Practice

COMMENT:

The Good Practice criteria should build on the requirement in Foundational Practice to have conducted a security risk assessment. To be considered to have met Good Practice in this area, there should be some more detailed requirements to help ascertain the quality of the security risk assessment. Otherwise, it risks being a more simple box-ticking exercise. Was the person(s) qualified to carry out the assessment? What was the methodology or process used to identify risks? Was a gender-lens applied? Is there a policy or practice to regularly update risk assessments, either periodically or when a significant change occurs?

COMMENT:

The Good Practice criteria is missing an element of due diligence and background checks on security providers, whether private or public. This could be part of the risk assessment, but again if its not broken down into more tangible steps, its difficult to determine the robustness with which companies are being assessed for their security management practices.

SECTION: 11.1 Security Management, Leading Practice, 1

COMMENT:

This criteria should be considered Good Practice, and not Leading Practice.

SECTION: 11.1 Security Management, Leading Practice

COMMENT:

We suggest adding a Leading Practice criteria to engage and support in-country working groups of the VPSHR where they exist, or similar platforms established at the national level.

SECTION: 11.1 Security Management

COMMENT:

The Security Management criteria is missing an element of effective stakeholder engagement for security-related matters. The criteria is limited to informing stakeholders, rather than involving them in the risk assessment process, risk management, process, etc. We suggest that this be included at a minimum level within Foundational Practice, with potentially higher-degrees of involvement/engagement within Good Practice and Leading Practice.

Performance Area 12: Stakeholder Engagement

SECTION: 12.1 Stakeholder Identification and Engagement

COMMENT:

There seem to be inconsistencies with how stakeholder engagement is treated across the different performance areas. For example, in the following section for Performance Area 13, engagement with affected stakeholders and rights-holders on adverse impacts is categorized as Good Practice, whereas under Performance Area 12 engaging potentially impacted stakeholders and rights-holders is considered Foundational Practice.

Performance Area 13: Community Impacts and Benefits

SECTION: 13.1 Identify and Address Community Impacts, Good Practice, 4

COMMENT:

This should specify that the monitoring of the action plan should be done in a gender-sensitive manner.

SECTION: 13.2 Community Development and Benefits, Good Practice

COMMENT:

With the exception of inclusion in consultations regarding community development opportunities, the remaining aspects of the performance area are gender-blind. This is an area of impact where large-scale mining companies can inadvertently have a negative impact on gender-equality in their vicinity, and therefore applying a gender-lens is important to things like local hiring, procurement, contracting, etc. For example, programmes that support increased levels of local procurement and employment should consider inequalities in education, skills training, norms, etc. Targets and objectives should be made gender-sensitive.

Performance Area 14: Indigenous Peoples

SECTION: 14.1 Managing Engagement, Impacts and Opportunities with Indigenous Peoples, Good Practice, 7

COMMENT:

This requirement runs counter to the principle of FPIC.

Considering this to be Good Practice will jeopardize the credibility of the standard.

Performance Area 16: Artisanal and Small-Scale Mining

SECTION: 16.1 ASM Risk Assessment, Engagement and Reporting, Good Practice, 1

COMMENT:

This requirement only considers risks to the Facility, but not risks of the Facility's operations to those engaged in ASM. While other engagement and risk identification processes may reveal some of this and could be done in a comprehensive way, a Facility with ASM operating in its vicinity should demonstrate specific intent and action in this specific Performance Area. This should also be considered in the second requirement with respect to the management and mitigation of risks.

SECTION: 16.1 ASM Risk Assessment, Engagement and Reporting, Good Practice, 3

COMMENT:

The requirements in the performance area are gender-blind. Requirement #3 in Good Practice, and Requirement #2 in Leading Practice could be specified to be gender-inclusive.

SECTION: 16.1 ASM Risk Assessment, Engagement and Reporting, Leading Practice, 3

COMMENT:

Initiatives aimed at the formalisation of ASM seems overly narrow. We suggest broadening to initiatives aimed at improving overall well-being of those operating in the ASM sector.

SECTION: 16.1 ASM Risk Assessment, Engagement and Reporting, Leading Practice

COMMENT:

One of the biggest challenges for LSM & ASM coexistence is access to land/resources. It is becoming increasingly recognized that companies should be exploring viable options for providing access to their concession to ASM to the extent possible. This could be considered Leading Practice at the time, with an intent to eventually see this as Good Practice.

Performance Area 17: Grievance Management

SECTION: 17.1 Grievance Mechanism for Stakeholders and Rights, Holders, Good Practice

COMMENT:

This should specify the inclusion of women and other disadvantaged groups.

SECTION: 17.1 Grievance Mechanism for Stakeholders and Rights, Holders

COMMENT:

Women and men do not always receive information in the same ways, which can be a very critical factor for the awareness levels of grievance mechanisms for communities. An additional requirement to ensure effectiveness of communication of the availability of the grievance mechanism - including for women and other disadvantaged or vulnerable groups - should be included under Good Practice.

SECTION: 17.1 Grievance Mechanism for Stakeholders and Rights, Holders, Leading Practice

COMMENT:

The collaborative design of the mechanism should also be gender-inclusive.

Performance Area 18: Water Stewardship

SECTION: 18.1 Water Management and Performance, Good Practice, 4

COMMENT:

Risk identification and mitigation should consider gender-differentiated risks and impacts.

Performance Area 19: Biodiversity, Ecosystem Services and Nature

SECTION: 19.1 Biodiversity and Ecosystem Services and Nature, Good Practice

COMMENT:

Should be made gender-inclusive, and inclusive of other disadvantaged/vulnerable groups.

Performance Area 20: Climate Action

SECTION: 20.2 Climate Change Management (Facility Level), Good Practice, 4

COMMENT:

Should be made gender-inclusive, as well as inclusive of disadvantaged/vulnerable groups.

Performance Area 23: Circular Economy

SECTION: 23.2 Additional Requirements for Smelters

COMMENT:

There should be some requirements for public reporting on the provenance of scrap materials, especially when sourcing from high-risk areas.

Performance Area 24: Closure

SECTION: 24.1 Closure Management, Good Practice

COMMENT:

Requirements should be made gender-inclusive, and inclusive of other disadvantaged or vulnerable groups.

Performance Area 3: Responsible Supply Chains

SECTION: 3.1 Responsible Supply Chain (applicable to all facilities), Good Practice, 2

COMMENT:

How will 'reasonable action" be defined? This is quite vague. Are there particular references to existing normative frameworks (OECD Guidelines, OECD DDG, VPs Implementation Guidance Tool, etc.) that could be referenced?

SECTION: 3.1 Responsible Supply Chain (applicable to all facilities), Leading Practice, 1

COMMENT:

Some clarification may be required here. Does this refer to a complaints system by which stakeholders can identify and express risks that they believe the company should be addressing? Or complaints about how they are being dealt with generally? Essentially at first read there was a bit of conflation with what would be considered a grievance mechanism, therefore its important to avoid this misreading with some further clarification.

Performance Area 4: New Projects, Expansions and Resettlement

SECTION: 4.1 Risk and Impact Assessments of New Projects and Expansions, Foundational Practice, 2

COMMENT:

The last sentence on considering how different stakeholder groups etc.. should have 'must" instead of 'should", otherwise it gives the impression its optional (and if so, why bother including it?). It's not unreasonable to have a basic expectation that these groups are at least considered in the assessment.

SECTION: 4.1 Risk and Impact Assessments of New Projects and Expansions, Good Practice, 1

COMMENT:

Suggestion to add in gender-appropriate and inclusive of disadvantaged groups.

SECTION: 4.1 Risk and Impact Assessments of New Projects and Expansions, Good Practice, 5

COMMENT:

Suggestion to add a gendered component to this vis-a-vis accessibility, as what is accessible to men/women differs.

SECTION: 4.2 Land Acquisition and Resettlement, Foundational Practice, 2

COMMENT:

This should specify that consultations should be gender-balanced and inclusive of disadvantaged groups.

SECTION: 4.2 Land Acquisition and Resettlement, Foundational Practice, 3

COMMENT:

The socio-economic baseline study and impact assessment should be gender-sensitive.

SECTION: 4.2 Land Acquisition and Resettlement, Good Practice, 1

COMMENT:

The resettlement action plan should also be gender-sensitive.

SECTION: 4.2 Land Acquisition and Resettlement, Good Practice, 8

COMMENT:

This should also be gender-sensitive.

SECTION: 4.2 Land Acquisition and Resettlement, Leading Practice, 1

COMMENT:

Programmes should be inclusive of women and men, as well as other potentially disadvantaged populations (e.g. ethnic minorities, indigenous peoples, etc.).

SECTION: 4.2 Land Acquisition and Resettlement, Leading Practice, 2

COMMENT:

Women are often at a serious disadvantage when it comes to legal rights to land, as traditional and legal forms of land ownership and governance tend to favour men. Any process facilitated by a company in a leadership position should be gender-inclusive.

Performance Area 5: Human Rights

SECTION: 5.1 Human Rights, Good Practice, 2

COMMENT:

Should specify gender-disaggregated risks and impacts for women and men, as they are often not the same or felt differently.

SECTION: 5.1 Human Rights, Good Practice, 3

COMMENT:

Also suggest that this be gender-disaggregated.

Performance Area 6: Child Labour and Modern Slavery

SECTION: 6.1 Risk, Mitigation and Operating Performance, Foundational Practice, 3

COMMENT:

Risks should be identified through a gender-sensitive approach, as they will not be the same for boys and girls. This can either be included as Foundational practice, or as a measure of Good Practice.

SECTION: 6.1 Risk, Mitigation and Operating Performance, Leading Practice

COMMENT:

We would encourage as Leading Practice companies who engage with actors outside of the mining sector to address child labour in particular, as a way of reducing the change that child labour is simply displaced from one place to another rather than eliminated.

Performance Area 7: Rights of Workers

SECTION: 7.1 Workers' Rights Risk, Mitigation and Operational Performance, Good Practice, 8

COMMENT:

Facilities should also have due consideration for the needs and risks for women and men workers.

SECTION: 7.1 Workers' Rights Risk, Mitigation and Operational Performance, Leading Practice, 8

COMMENT:

Suggestion that this be considered Good Practice and not Leading Practice.

SECTION: 7.2 Grievance Mechanism for Employees and Contractors (Workers)

COMMENT:

7.2 is completely gender-blind. We suggesting adding some recognition of gender-inclusive/gender-appropriate language in the Good Practice / Leading Practice levels in relation to how companies 1) consult with or co-design with workers/representatives, 2) engage workers who have filed complaints, and 3) provide remedy or resolution.

Performance Area 9: Safe, Healthy and Respectful Workplaces

SECTION: 9.2 Psychological Safety and Respectful Workplaces

COMMENT:

This section of the performance area is gender-blind. We suggest inserting criteria - or adapting existing criteria - to incorporate requirements of applying a gendered approach to mechanisms and programmes within this area.

QUESTION 1
Does the scope, content, and narrative style of the consolidated standard meet your individual expectations and the collective industry expectation for responsible production practices?
Response: No Response

QUESTION 2
Do the requirements meet your expectations for being sufficiently clear to support consistent and practical implementation and to achieve necessary performance improvement?
Response: No Response

QUESTION 3
From your perspective, does the three-level performance structure (Foundational, Good, Leading) of the Consolidated Standard meet your expectations for providing an effective on ramp and clear articulation of good practice and effective path to continuous improvement?
Response: No Response

Document:
Claims

3. Types of Reporting & Claims

COMMENT:

There should be specific requirements that must be met in order to meet the threshold for the Performance Claim. For example, Requirement 2 of Good Practice under 5.1 Human Rights should be expected of a company making such a Performance Claim.

QUESTION 1
We would value perspectives on a few additional questions related to threshold of performance associated with achievement claims. Please click here/ see page 11 of Reporting and Claims Policy.
Response: No Response