

CMSI Consultation Response

Respondent Details

NAME

Tobias Kluge

COUNTRY

Sweden

PERMISSION

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

STAKEHOLDER

Industry / trade organisation

ORGANISATION

Svemin AB

COMMENTS & QUESTIONS BY DOCUMENT

Document:
Governance

13. What is the role of National Panels?

COMMENT:

National panels should be given the possibility to propose country-specific exemptions for requirements in the Standard that are contrary to national law or practice, or requirements already handled by mandatory national legislation or established practice.

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: 5: Significantly exceeds

QUESTION 2

Does the proposed governance model ensure no single group is able to unduly influence decisions?

Response: unsure

More information is needed how the standard would complement national legislation and practice.

Document:
Assurance

2. Roles and Responsibilities

COMMENT:

It can be questioned to put the main responsibility on facility level, since there may be important benefits and economies of scale to coordinate audits (all types) at other organizational levels (eg group level). We propose to open for this to be undertaken at either Facility or Corporate Level.

4. Consolidated Standard External Assurance Process

COMMENT:

Improve by clarifying who is responsible for the different steps. It could now be read as that the Facility is responsible for certain steps and the Assurance Provider for other steps, but this is not clear.

COMMENT:

Could be improved by clarifying who is responsible to assess/decide if one or more Assurance providers need to be engaged. Is it the secretariat, the site or the auditor?

COMMENT:

Interviewing workers, stakeholders etc: It is unsure if this is GDPR (General Data Protection Regulation) compliant. We see risks for legal incompliance and infringement of personal integrity from the requirement to register information about individuals.

QUESTION 1

From your perspective, does the Assurance process meet your expectations of a robust, credible, replicable and transparent approach?

Response: 4: Exceeds expectations

It raises concerns whether the cost of assurance will be an obstacle for SME:s to implement the standard.

Document:
Standard

Introduction

COMMENT:

Svemin general comment on Consolidated Mining Standard Initiative (CMSI).

Svemin represents about 60 companies active in Sweden, with more than 14,000 employees in mining, exploration and technology. All active metal mines in Sweden are members, as well as the large limestone and cement producers. Among the 13 metal mines in Sweden there are mines as small as 20 employees up to approximately 1 500 employees that are represented by Svemin.

The replies on the CMSI consultation provided by Mr. Tobias Kluge are made on behalf of Svemin as the representative for Svemin and its membership.

Introduction

Raw materials needed for the green and digital transformation, as well as our security and everyday life must not be satisfied by irresponsibly or unsustainably mined minerals and metals. Europe and the world need a sustainable raw materials base for a sustainable future.

Svemin and its members supports the Paris Agreement and are subject to EU and Swedish regulations and targets of net-zero emissions by 2050 and 2045 for Sweden. To reach these targets, sustainable and resilient raw material value chains are necessary.

To promote a fair and sustainable development of raw material production Svemin members support the EU principles for sustainable raw materials supply (published 6th September 2021). Svemin agrees with the necessity of recognizing that the green and sustainability transition must not be built upon unsustainable practices.

General comments regarding CMSI

Svemin welcomes the initiative

Svemin and its members welcome the initiative to consolidate different existing certifications and standards. We see the need to streamline and reduce different reporting and information requirements that are imposed on mining operators to monitor, assess, and report several times the same data to different bodies or labelling mechanisms.

The Consolidated Standard can become an opportunity to create a level playing field for mining industry's competitiveness globally by establishing a common understanding of the sustainability requirements of raw materials -and with it an integration of ESG-compliance costs in the final price.

It must be possible to adjust for different regulatory jurisdictions

It should also be noted that the value of and the need for a standard or certification can be perceived differently. In rule-based countries where there is a general trust in legislation and law enforcement a third-party certification paid by the company concerned might be of less value and purpose than in jurisdictions with weak enforcement and traceability and accountability mechanisms. Thus, while we recognize the potentially positive effects of the Consolidated Mining Standard, it must not trump the EU and EU Member States' national regulatory competence.

However, these requirements must be adapted to the severity of the impacts, to the social context and to the Jurisdictional regulations. In many jurisdictions, there are regulated official procedures with the same purpose.

Therefore, for mining companies that are based and operating in Europe, we also see a need to avoid overlapping standards and legislation since that brings administrative burdens that does not constitute added value to environmental and social performance. Therefore, we have some general concerns regarding the draft consolidated standard, where the proposed practices in worst case can be contradictory to existing regulatory and societal regimes, like non-discrimination and gender equality.

A more flexible approach in relation to existing national/regional legal systems that provides for high performance is therefore needed. There must be introduced a possibility to define a requirement as "Not Applicable" when existing national or regional legislation provides for a different but still comparable high protection level that is consistent with the overarching purpose of the consolidated standard. To define such areas could be an important task for the national panels.

SME perspective needs to be handled

Adjustments for small and medium sized companies must be possible, as the administrative burden and cost to reach could be significant.

The Swedish context

Sweden is a jurisdiction with a strict and extensive rule of law concerning environmental and social protection, and human rights. Raw materials extracted in Sweden therefore already adhere to a comprehensive regulatory framework with high ESG demands. Therefore, for mining companies that are operating in countries like

Sweden there must be a possibility to declare that certain requirements are Not Applicable as they are covered by legislation, or even dysfunctional or contradictory to the national legislation.

One example is that it according to Swedish law is forbidden to register minority groups by heritage or disabilities. In the Swedish society it is also ruled by law that women and men have equal rights. Thus eg. separate consultations based on gender or other individual fundamentals can be seen as discriminating, or at least backwards from an equality perspective, or even against national law.

Performance Area 1: Corporate Requirements

SECTION: 1.3 Transparency of Mineral Revenues, Foundational Practice, 1

COMMENT:

The references to EITI should be rewritten to better reflect the situation when companies are operating in countries that has not subscribed to EITI due to an already well-developed legislation against bribery and improper business practices.

SECTION: 1.3 Transparency of Mineral Revenues, Good Practice, 1

COMMENT:

There are different requirements whether the company is operating in an EITI country or not -and this means that you can never fulfill good practice as it is written now since every step of a Performance Area must be fulfilled. Therefore, in this case these two requirements (requirement 1 and 2) must be written as one containing both alternatives.

Performance Area 12: Stakeholder Engagement

SECTION: 12.1 Stakeholder Identification and Engagement, Foundational Practice, 2

COMMENT:

Women, vulnerable and/or underrepresented groups is of course part of the group "stakeholders and rights-holders". The addition "including women, vulnerable and/or underrepresented groups." The last part of the sentence can thus be deleted.

Performance Area 13: Community Impacts and Benefits

SECTION: 13.1 Identify and Address Community Impacts, Good Practice, 2

COMMENT:

In a Nordic context, it is inappropriate to differentiate between groups in this way.

We suggest that this requirement is deleted.

SECTION: 13.2 Community Development and Benefits, Foundational Practice, 2

COMMENT:

Not relevant for smaller mines. This requirement should be moved to "Good Practice" or even "Leading Practice".

SECTION: 13.2 Community Development and Benefits, Foundational Practice, 5

COMMENT:

Not relevant for smaller mines. The requirement should be moved to "Good Practice" or even "Leading Practice".

SECTION: Applicability

COMMENT:

There should be some kind of qualification threshold. It is unreasonable to impose these requirements on mines/Facility's with only a few local employees.

Performance Area 14: Indigenous Peoples

SECTION: 14.1 Managing Engagement, Impacts and Opportunities with Indigenous Peoples, Foundational Practice, 4

COMMENT:

Cultural awareness training should be part of "Good Practice" and can be part of Requirement 12.

SECTION: 14.1 Managing Engagement, Impacts and Opportunities with Indigenous Peoples, Good Practice, 1

COMMENT:

*Difficult-to-read requirement that appear to be covered by Requirements 2-12.
We suggest that this requirement is deleted.*

SECTION: 14.1 Managing Engagement, Impacts and Opportunities with Indigenous Peoples, Good Practice, 3

COMMENT:

It can be problematic that the term "relocation" is not defined, especially in relation to nomadic people like the Sami reindeer herders.

SECTION: 14.1 Managing Engagement, Impacts and Opportunities with Indigenous Peoples, Good Practice, 4

COMMENT:

*Suggest to delete the second sentence.
An agreement is necessary if it is sensitive information, not all kind of information. Especially not publicly available information.*

SECTION: 14.1 Managing Engagement, Impacts and Opportunities with Indigenous Peoples, Good Practice, 6

COMMENT:

It should be “strive to obtain agreement”. Otherwise, this requirement could be interpreted as granting veto power to Indigenous People. As it is stated now it contradicts Requirement 7 on “Good Practice”.

It must be recognized that there are situations where the indigenous people under no circumstances want to negotiate with the mining company. It would be appropriate that the standard handled how situations like this should be dealt with by mining companies.

SECTION: 14.1 Managing Engagement, Impacts and Opportunities with Indigenous Peoples, Good Practice, 8

COMMENT:

“Benefit sharing” should not be a minimum requirement.

The requirement that an agreement should include benefits sharing, with the example “business procurement opportunities” is problematic in the Swedish/Sapmi context. We have seen increasing tension between reindeer herding communities and other local inhabitants during the last decade. It must be considered that in the northern part of Sweden where reindeer herding is ongoing there is also a local society with people with other backgrounds and diverse businesses. Giving the sami people exclusive advantages is likely to increase tensions and must therefore be used with caution. Benefit sharing is not a requirement according to UNDRIP and it would be more appropriate only to point it out as a possibility in some situation in the CMSI.

In some cases, it is hence unreasonable to demand anything more than compensation for damages and infringements.

Local procurement is also covered by Performance Area 13.

Performance Area 15: Cultural Heritage

SECTION: Intent

COMMENT:

The cultural heritage section places excessive emphasis on scenarios involving Indigenous peoples and traditional land users, neglecting to adequately address or adapt to contexts involving urban and developed cultural heritage.

Performance Area 2: Business Integrity

SECTION: 2.2 Business Ethics and Accountability, Good Practice, 7

COMMENT:

The requirement is to establish a confidential whistleblower mechanism. However, the intention should rather be to establish a whistleblower mechanism that provides anonymity, not that the mechanism is confidential. Must be rewritten.

Performance Area 20: Climate Action

SECTION: 20.1 Corporate Climate Change Strategy (Corporate Level), Leading Practice, 4

COMMENT:

Not good or relevant. Climate adaptation measures encompass a very broad area that no single company can or should take responsibility for. Local climate adaption in a broad sense can include housing, infrastructure, and natural areas affected by climate change, caused on a global level, but which of course need to be managed at a local level. However, for a single company to commit to investing in climate adaptations that cannot be directly attributed to the company's operations is neither reasonable, fair, nor economically sustainable.

SECTION: 20.2 Climate Change Management (Facility Level), Good Practice, 6

COMMENT:

Depending on what "engage" really means. Climate adaptation measures in local communities need to be primarily organized and funded with public funds. Climate adaptation benefits the entire society by reducing the risks of damage from extreme weather events and natural disasters. Public funding ensures that these measures are implemented on a broad and inclusive scale. Public funding can ensure that even less resource-rich areas and groups have access to necessary climate adaptation measures, contributing to a more just and equitable societal development. Additionally, it is unreasonable for individual companies to be required to invest in climate adaptations that cannot be directly attributed to the company's operations, as this is neither reasonable, fair, nor economically sustainable.

SECTION: 20.2 Climate Change Management (Facility Level), Leading Practice, 2

COMMENT:

Depending on what "collaborate" really means. Climate adaptation measures encompass a very broad area that no single company can or should take responsibility for. This can include housing, infrastructure, and natural areas affected by climate change, caused on a global level, but which of course need to be managed at a local level. However, for a single company to commit to investing in climate adaptations that cannot be directly attributed to the company's operations is neither reasonable, fair, nor economically sustainable.

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

COMMENT:

a. No, it is highly doubtful whether this is relevant at all, especially regarding performance indicators related to energy use. It is a mistaken assumption that improved energy efficiency would directly reduce the climate/environmental impact of mining operations. Fossil-free energy/electricity is the solution for the following reasons. Part of our industry's transition to fossil-free operations is expected to, in some cases, involve a significant increase in energy supply. Some energy use may be less efficient than today but is still necessary to phase out fossil fuels. Boliden's mine in Aitik, Sweden is a good example; it is an energy-intensive mine due to the low grades and the many transports. But it is also a model because the electrification of the mine has come a long way. The conclusion is that each mine is more or less unique in how it can move towards fossil-free operations or its energy consumption for that matter. When we phase out fossil fuels in mining operations, it can sometimes mean an increase in energy supply. Therefore, benchmarks for specific energy consumption would not be an appropriate way forward.

SECTION: 20.3 Annual Climate Change Public Reporting, Good Practice, 1

COMMENT:

c. Not relevant- Physical climate risks are difficult to tie to individual facilities; they are globally related impacts, factors, and risks. Climate adaptation measures encompass a very broad area that no single company can or

should take responsibility for. This can include housing, infrastructure, and natural areas affected by climate change, caused on a global level, but which of course need to be managed at a local level. However, for a single company to commit to investing in climate adaptations that cannot be directly attributed to the company's operations is neither reasonable, fair, nor economically sustainable.

Performance Area 21: Tailings Management

SECTION: 21.1 Tailings Management, Foundational Practice, 1

COMMENT:

Suggestion: Standard on Tailings Management (GISTM), the Tailings Management Protocol of the Minings Association of Canada (MAC) "or other internationally or nationally recognised standard."

And the same principle below on Performance Area 21.

Performance Area 22: Pollution Prevention

SECTION: 22.5 Cyanide, Leading Practice, 1

COMMENT:

There must be a level of interest. Suggestion: Collaborate with stakeholders to encourage broader industry adoption of the International Cyanide Management Code, when Cyanid is a KEI.

Performance Area 23: Circular Economy

SECTION: 23.2 Additional Requirements for Smelters, Leading Practice, 4

COMMENT:

Propose to remove. Not applicable for our industry. The coming decades the metal need will increase more than the availability of metals that can be recycled, hence there will not be sufficient material to increase recycling during a long period of time as metal can be used in products for several decades. In the distant future we will reach a steady state where recycling can increase.

Performance Area 4: New Projects, Expansions and Resettlement

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

COMMENT:

EIA is a standard requirement and appropriate for foundational practice.

A Social Impact Assessment (SIA) is, however, not a standard requirement. At least not regarding small scale developments.

Suggest: That the requirement of a SIA is moved to "Good Practice".

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

COMMENT:

In the nordic countries separate consultations with womens and “vulnerable groups” would be viewed as discriminatory.

Even the pharase “vulnerable groups” is problematic.

We suggest that this condition is deleted.

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

COMMENT:

It is first and foremost the states responsibility to seek resolution of existing land claims.

Suggest that this requirement is deleted.

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

COMMENT:

If a mining company monitor the social and economic status of displaced people that would probable be viewed as an infringement of the right to privacy. It is doubtful whether it would be legal to do so in the EU.

This requirement must be deleted.

SECTION: 4.2 Land Acquisition and Resettlement, Good Practice

COMMENT:

Almost all the requirements under “Good Practice” must be adapted to the severity of the impacts, to the social context and to the Jurisdictional regulations.

SECTION: 4.2 Land Acquisition and Resettlement

COMMENT:

The requirements for resettlement are quite comprehensive and should be applicable only to major resettlements.

Resettlement should include a qualification related to the magnitude or severity of the displacement, rather than solely focusing on the scale of the project. Under the currently proposed definition, almost all land acquisitions would be classified as involuntary resettlement (whether physical or economic displacement) since there is no threshold. That is not resonable.

SECTION: Applicability

COMMENT:

NA

Performance Area 5: Human Rights

SECTION: Glossary and Interpretive Guidance

COMMENT:

Expressions such as “fair wages”, “fair and competitive remuneration”, “fair and decent employment terms” are used in many places in the document. There is a lack of definition of the terms “fair, decent, competitive”.

Performance Area 7: Rights of Workers

SECTION: 7.1 Workers’ Rights Risk, Mitigation and Operational Performance, Leading Practice, 3

COMMENT:

The requirement that workers be paid the equivalent of a ‘living wage’. This responsibility lies with society and not with an individual employer/company.

Propose deletion.

SECTION: 7.1 Workers’ Rights Risk, Mitigation and Operational Performance, Leading Practice, 5

COMMENT:

What does Good Practice 17 review mean? This must be expressed and explained before comments can be made.

COMMENT:

Companies should not be obliged to offer conditions that go beyond what is required by binding legislation in certain designated areas. Different companies have different capabilities (e.g. SME). There should be no obligation to pay more than required.

Performance Area 9: Safe, Healthy and Respectful Workplaces

SECTION: 9.1 Health and Safety Management, Good Practice, 2

COMMENT:

There are few certified industrial hygienists in Sweden. Instead of qualified hygienist, it should say that someone “with sufficient knowledge”, such as a work environment engineer.

SECTION: 9.4 Monitoring, Performance and Reporting, Good Practice, 5

COMMENT:

Demanding zero fatalities is a given. Having this requirement in a standard creates a risk of a poorer reporting culture.

It is not particularly value-adding to include this requirement.

Propose deletion.

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: 5: Significantly exceeds

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: 3: Meets expectations

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: 4: Exceeds expectations

Document:
Claims

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

1. Yes, we see a need for a gradual on-ramp claims and report to incentivise early and rapid uptake of the CMSI.
2. No.
3. No, answer at the moment.