

# CMSI Consultation Response

## Respondent Details

NAME

PATRICIO CONTRERAS

COUNTRY

Chile

PERMISSION

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

STAKEHOLDER

Supplier / business partner

ORGANISATION

KPSERVICES SPA

## COMMENTS & QUESTIONS BY DOCUMENT

Document:  
Governance

### 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: 3: Meets expectations

### QUESTION 2

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

Response: yes

Document:  
Assurance

## 4. Consolidated Standard External Assurance Process

SECTION: 4.2.9

COMMENT:

4.2.9 Reads that approach has to be agreed. Isn't it necessary also to agree on the Scope?

- Approach describes the method or strategy for achieving something.
- Scope defines the limits or extent of what will be addressed or included.

### QUESTION 1

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

Response: 4: Exceeds expectations

## Performance Area 10: Emergency Preparedness and Response

SECTION: Glossary and Interpretive Guidance

COMMENT:

*Some reference for Emergency Preparedness and Response, several international norms and standards can serve as references. These standards provide frameworks for developing, implementing, and maintaining effective emergency management systems. Key references include:*

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### *ISO Standards*

*1. ISO 45001: Occupational Health and Safety Management Systems*

*- Clause 8.2: Addresses emergency preparedness and response requirements.*

*- Focus: Identifying potential emergencies, planning responses, conducting drills, and continual improvement.*

*2. ISO 22320: Security and Resilience - Emergency Management - Guidelines for Incident Management*

*- Focus: Effective management of incidents, coordination between stakeholders, and structured responses.*

*3. ISO 22301: Business Continuity Management Systems*

*- Focus: Emergency planning as part of business continuity, ensuring resilience against disruptions.*

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### *NFPA Standards*

*1. NFPA 1600: Standard on Disaster/Emergency Management and Business Continuity Programs*

*- Comprehensive guidance for emergency and disaster preparedness, response, recovery, and mitigation.*

*2. NFPA 101: Life Safety Code*

*- Focus: Emergency evacuation planning and building safety to protect lives during emergencies.*

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### *ILO Standards*

*1. ILO Guidelines on Occupational Safety and Health Management Systems (ILO-OSH 2001)*

*- Includes emergency preparedness as part of a systematic approach to workplace safety and health.*

*2. International Labour Standards*

*- Various ILO conventions and recommendations (e.g., C155) stress the importance of emergency response as part of occupational safety and health measures.*

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### *UN Frameworks*

*1. Sendai Framework for Disaster Risk Reduction (2015-2030)*

*- Focus: Reducing disaster risk through preparedness, resilience, and coordination at all levels.*

*2. WHO Guidelines for Emergencies*

*- Relevant for health-related emergency preparedness, especially in industries with public health implications.*

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#### Other Standards and References

1. OSHA Emergency Preparedness and Response Guidelines (USA)

- Detailed guidance on workplace emergency plans, hazard identification, and employee training.

2. BS 11200: Crisis Management - Guidance and Good Practice

- Provides a framework for managing crises, including emergency response.

3. API RP 1174: Recommended Practice for Emergency Preparedness and Response (Oil and Gas Industry)

- Tailored for oil and gas, covering emergency planning and response measures.

4. FEMA Guidelines (USA)

- Comprehensive resources for disaster planning and emergency response.

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## Performance Area 11: Security Management

SECTION: 11.1 Security Management

COMMENT:

*In Chile, private personnel providing industrial protection or security services must be authorized by the state, which is achieved through certified training courses provided by the police. This requirement is generally applicable across the board, meaning that companies offering such services can only hire personnel who are qualified and certified by the police or another relevant authority, in accordance with the laws of each country.*

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## Performance Area 14: Indigenous Peoples

SECTION: Applicability

COMMENT:

*The concept of "Indigenous Consultation" in environmental permits, as part of the environmental assessment process, is regulated in Chile under **\*\*ILO Convention 169\*\***, to which the country is a party. This convention establishes that Indigenous peoples have the right to be consulted in advance, freely, and in an informed manner about projects or activities that may affect their territories, resources, or cultural rights.*

*Application across Latin America*

*In general terms, Indigenous Consultation is a legal requirement in many Latin American countries, particularly those that have also ratified ILO Convention 169. However, its application varies significantly:*

1. Countries with robust regulation and active implementation:

- Peru: The Law of Prior Consultation (Law No. 29785) regulates the process as part of environmental assessments and other projects affecting Indigenous communities.

- Colombia: Requires prior consultations for projects that may impact ethnic communities, with strong jurisprudence from the Constitutional Court.

- Bolivia: Recognizes prior consultation as a fundamental right in its Political Constitution of the State, including aspects related to natural resource use.

- Ecuador: The Constitution guarantees the right to prior, free, and informed consultation, particularly for issues related to mining, oil extraction, and large infrastructure projects.

## 2. Countries with limited implementation or controversies:

- Mexico: Although it has ratified Convention 169, there are criticisms about its effective implementation, and cases where consultations are not fully binding.

- Argentina: Implements Indigenous consultation mainly through provincial regulations, resulting in disparities in its application.

- Brazil: Has limited progress despite being a signatory to Convention 169, with significant conflicts in the Amazon region.

## 3. Common challenges across the region:

- Lack of clear or specific procedures in some countries.

- Social conflicts over projects approved without properly conducting the consultation process.

- Issues with legitimate representation of Indigenous communities during the process.

While the concept of Indigenous Consultation is widespread in the region, its effective application and scope vary among countries. Chile stands out for explicitly including this concept in its environmental assessment process, but not all countries apply this requirement uniformly or with the same rigor.

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## **Performance Area 2: Business Integrity**

SECTION: 2.1 Legal Compliance, Foundational Practice, 1

COMMENT:

*It can be considered, along with keeping a record of significant legal obligations, to also maintain a similar record of commitments made to authorities. This is because, while a commitment to an authority is an obligation, its origin is different, as it may arise from an inspection or review by a sectoral authority or as part of monitoring compliance with environmental commitments, which often stem from the identification of a non-compliance.*

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## **Performance Area 4: New Projects, Expansions and Resettlement**

SECTION: 4.2 Land Acquisition and Resettlement, Leading Practice

COMMENT:

*A leading practice can be to implement a system or process to track environmental and legal commitments, as well as those commitments made as a result of authority reviews. In Chile, there is a weakness in the implementation of formal systems for the registration and tracking of commitments resulting from findings by the authorities, which are in addition to, for example, Environmental Qualification Resolutions (RCA). They are usually managed in Excel spreadsheets stored on a computer rather than in a system.*

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## **Performance Area 7: Rights of Workers**

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

COMMENT:

*For facilities that are already built, it is important to consider conducting an assessment of conditions that may pose risks or challenges to workers, particularly women. During audits of BHP operations, I have observed*

that, while progress has been made in integrating women into operational and maintenance roles, there are challenges in accessing and/or operating certain equipment or facilities. This is largely due to factors such as the average height for women in Chile and Latin America, which is approximately 1.60 to 1.65 meters, making certain tasks significantly more difficult. Companies do not appear to be making modifications or adjustments to the work environment, facilities, or equipment to mitigate these challenges, which could pose safety risks.

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## Performance Area 9: Safe, Healthy and Respectful Workplaces

SECTION: 9.1 Health and Safety Management

COMMENT:

Consider to include: Epidemiological surveillance program from an occupational health perspective.

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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: 4: Exceeds expectations

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: 4: Exceeds 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

No comment or question