

CMSI Consultation Response

Respondent Details

NAME

Emily Ritchey

COUNTRY

Belgium

PERMISSION

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

STAKEHOLDER

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

ORGANISATION

T&E

COMMENTS & QUESTIONS BY DOCUMENT

Document:
Governance

14. What happens next?

COMMENT:

Overall, we welcome efforts made to move towards a multistakeholder governance model. In particular, it is positive to see representation of value chain interests in the multistakeholder oversight, as well as consensus-based decision-making as the preferred option and voting as a last resort.

However, the model can be further strengthened to:

- Clarify definition of non industry stakeholders: when it comes to the Board, out of 16 Directors, there are 8 non industry stakeholders. This marks a step towards equal representation. However, the language setting out who is classified as a mining and value chain stakeholder needs to be strengthened to guarantee that the perspectives of rights holders and civil society will be represented in these spaces. Out of the 8 stakeholders, the majority should be rights holders with academia, international NGOs and multilateral organisations in the minority. This is similarly seen in the definition of non commercial interests across the value chain committee and mining committee. Without changing the structure, but by clarifying who is defined as a non commercial interest (increasing the focus on right holders) the structure could be hugely strengthened.

- Ensure independence in the governance model: the power of the four partners to select the Independent Chair, who is in turn charged with overseeing the formation of the Board, raises questions over the process and independence. The four executives are leading the design of the criteria and a process for selecting the Chair.

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

1. Introduction

COMMENT:

Whilst we welcome the inclusion of criteria such as the requirement for site-level audits and publication of audit reports as well as training, evaluation and competency requirements, overall the assurance framework lacks independence and gives mining companies too much control. Moreover, the assurance system lacks guidance, adequate accreditation, and oversight, making independent, reliable audits improbable. Specifically, the following provisions are not sufficient:

- Companies are given too much control over the audit: the mine, not the auditor, is the entity providing notice to stakeholders and rights holders about an upcoming audit. In addition, the mine identifies the stakeholders, including workers and rightsholders, that auditors may decide to interview during the audit. In preparing the Assurance Plan, the Assurance Provider and the Facility should agree on the approach to the site visit, including timing, duration and site orientation and training requirements. Mines are further encouraged to “conduct outreach to the potential interviewees in advance to make introductions with the aim of increasing the likelihood of gaining the consent and cooperation of the interviewee to participate.” In low-trust contexts, direct company outreach is likely to discourage workers, Indigenous Peoples and other affected community members from participating in the audit.

- The system lacks adequate accreditation: the mining company selects the audit company. The consolidated standard would also not require audit firm accreditation meaning individual auditors would be responsible for verifying their own conflicts. Audit firms are typically accredited against international standards, such as ISO 17021, which requires that firms have strong procedures in place to address conflicts of interest across the firm and for the companies they are auditing. Moreover, the auditing process appears to allow the mining company to select and directly pay the auditor, instead of financially separating the audit company from the mining company, creating a clear conflict of interest.

QUESTION 1

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

Response: **2: Below expectations**

Document:
Standard

Performance Area 17: Grievance Management

COMMENT:

The grievance mechanism must be strengthened to include the following:

- The mechanism needs to be independently facilitated - this is critical to the proper functioning and credibility of the mechanism.

- Access to remedy must be included as foundational, as a central element of any grievance mechanism.

- Systems for reporting and filing grievances must be available in multiple formats, such as online or, in person. In addition, all key information and documentation related to the grievance procedure must be culturally appropriate and provided in relevant local languages.
 - In addition to access to information, the company must provide access to advice and expertise.
 - The commitment on disclosure of grievances should be good practice, not leading.
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Performance Area 18: Water Stewardship

SECTION: 18.1 Water Management and Performance, Leading Practice

COMMENT:

We welcome a number of the commitments at the leading level, including public disclosure of facility-level water data, independent audits of public reporting on water and publicly available results.

However, these are key requirements when it comes to water stewardship, and should be included as foundational or good practice rather than solely leading. In addition, where ICMM Water Reporting: Good Practice Guide and MCA Water Accounting Framework are leading practices, these should be the minimum requirements, as is the case under ICMM. In addition, the performance area should be further strengthened to include:

- *The water monitoring programme for both water quality and water quantity should include participation of stakeholders from affected communities.*
 - *Whilst there is a commitment to identify water quality and quantity requirements for the Facility over its operating life cycle, this should be strengthened by including a commitment to ensure waters affected by the mining project are maintained at a quality that enables safe use for current purposes and for the potential future uses identified in collaboration with relevant stakeholders.*
 - *Whilst there is a mention of the need to identify opportunities to improve the efficiency of process water use and to seek to reduce process water use, this could be strengthened to include a specific commitment on recovery and recycling, referencing the use of water recovery and recycling technologies, closed loop water systems and tailings dewatering techniques as well as adopting Zero Liquid Discharge approaches.*
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Performance Area 19: Biodiversity, Ecosystem Services and Nature

COMMENT:

There are some positive steps taken, including on “no go” zones. We welcome the commitment to prohibit exploring or operating within World Heritage Sites, and to comply with restrictions established for Key Biodiversity Areas, Ramsar Sites (wetlands of international importance), legally designated protected areas and their buffer zones (where restrictions are defined) at the foundational level. This could be strengthened to further name specific areas, including International Union for Conservation of Nature (IUCN) protected areas (I-IV) and Buffer zones and core areas of UNESCO biosphere reserves. In addition, the performance area should be further strengthened to include:

- *Development and implementation of a biodiversity management plan to achieve no net biodiversity loss by 2030 should be foundational or good practice not leading. Aiming for a net gain in important biodiversity values should be leading.*
- *While there are some references to rehabilitation and/or restoration, this must be further strengthened to include the requirement to implement habitat restoration and reforestation programs throughout the life cycle of the mine.*

- Positive to see monitoring of progress with implementing management actions and progress towards no net loss or net gain at defined intervals. However, this should be strengthened to specify detailed and frequent monitoring of key biodiversity indicators (as to be agreed under the COP framework).

Performance Area 20: Climate Action

SECTION: NA

COMMENT:

It is positive to see some focus on minimising climate change impacts from mine sites through increased energy efficiency, reduced energy consumption and reduced emissions of greenhouse gases. We welcome the commitment to adopt widely recognized methods for measuring and reporting greenhouse gas emissions, such as the GHG Protocol Corporate Standard as a foundational requirement.

The performance area should be further strengthened to include:

- At facility level, there is a strong focus on scope 1 and 2 however setting of targets should be foundational and clearer wording is needed to specify targets are aimed at reduction of emissions. Language on scope 3 can be much stronger and should be included as foundational or good practice, rather than leading.

- It is positive to see some alignment of business planning and decision-making for existing activities and new projects with the goals of the Paris Agreement. However, this should be strengthened to include specific reference to aligning with science-based targets consistent with global climate goals, such as the Paris Agreement, to limit temperature increases to 1.5°C above pre-industrial levels.

- The performance area could be further strengthened with inclusion of time-bound commitments to phase out fossil fuel use in operations.

Performance Area 21: Tailings Management

COMMENT:

T&E welcomes alignment with GISTM at a minimum.

Building on this, CISM could take this opportunity to strengthen and go further by including:

- New mines must adopt Best Available Technologies (BAT) and Best Available Practices (BAP), such as de-watering and filtering tailings, as well as using dry stacking and backfilling techniques.

- No new tailings facilities where inhabited areas are in the path of a tailings dam failure, and no new upstream dams.

- Continuous monitoring systems in place to identify, disclose and mitigate risks, with regular independent inspections.

Performance Area 22: Pollution Prevention

COMMENT:

Overall, we welcome the commitment to manage and minimise non tailings waste in line with the waste mitigation hierarchy. It is also positive to see compliance with international codes and conventions including the International Cyanide Management Code (The Cyanide Code) and the Minamata Convention. We also welcome the requirement to quantify and publicly disclose material point source mercury air emissions from

operations in line with internationally recognised reporting standards (as good practice). However, the performance area should be further strengthened to include:

- The section on noise pollution could be further strengthened to include commitments to ensure mining-related noise does not exceed clearly set levels. If noise or vibration from blasting activities is found in monitoring to impact human receptors, clear conditions should be set for conducting blasting e.g. only on normal working days. Noise data and information should be made available to stakeholders.

Performance Area 23: Circular Economy

COMMENT:

It is hugely positive to see a dedicated chapter on circular economy with commitment to apply the principles of circular economy in the Facility's operations through increased resource efficiency, reprocessing, reuse, recovery and recycling as foundational practice. In addition, when it comes to requirements for smelters, we welcome the requirement to identify opportunities to promote collection, reuse and recycling of postconsumer products at their end-of-life.

Performance Area 24: Closure

COMMENT:

It is positive to see a commitment to undertake monitoring, maintenance and management of closure and rehabilitation activities during closure and post-closure (whilst only as good practice). However, it is necessary to include clear timelines for monitoring and liability post closure. The foundational level of "public commitment to responsible closure" is too vague. In addition, it is critical that financial assistance is independently guaranteed. In addition, financial assistance is currently only included as good practice, and only in cases in which a financial assurance is required under national law.

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: 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: 2: Below expectations

Document:
Claims

Disclaimer

COMMENT:

The CMSI is consulting on how to set a minimum threshold to achieve the Performance Claim. However none of the options include incentives for companies to move beyond Good Practice for any Performance Area. The options set out should be further strengthened to include a requirement to reach leading practice in a number of areas, and some performance areas where achievement of good rather than foundational is mandatory.

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:

None of the options include incentives for companies to move beyond Good Practice for any Performance Area. The options set out should be further strengthened to include a requirement to reach leading practice in a number of areas, and some performance areas where achievement of good rather than foundational is mandatory.