

# CMSI Consultation Response

## Respondent Details

NAME

Anonymous

COUNTRY

Belgium

PERMISSION

Yes, CMSI can disclose my anonymous feedback.

STAKEHOLDER

Industry (midstream/downstream)

ORGANISATION

Anonymous

## COMMENTS & QUESTIONS BY DOCUMENT

Document:  
Governance

### 1. What is the vision?

COMMENT:

*General Questions*

- *The governance system would benefit from more precision in certain areas on how it will be operationalized. For example, how will 'with due regard to ensuring participation across different commodities, geographies and company size' be balanced with 'diversity criteria in line with the principles outlined in section 2 should be considered in the appointment process of the Board and its committees and will be developed in due course'?*
- *The transition period for the Copper Board to be replaced by relevant commercial or stakeholder interests should be stipulated upfront, rather than including vague terms such as "in due course".*
- *The spirit of multi-stakeholder governance initiatives can at times be compromised due to the imbalance of resources available across the different constituents. Consideration must be given on how to ensure in particular non-industry actors are sufficiently resourced (time; travel & subsistence expenses) to incentivise actively participate in the committees.*
- *The public grievance mechanism would be better placed in the governance document, rather than the assurance document.*
- *Given the proposed national panels are not mandatory, what is the priority of CMS in this regard and how will the CMS incentivise their creation?*

---

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: **unsure**

Document:  
**Assurance**

## 1. Introduction

COMMENT:

*Public Grievance Mechanism*

- *The public grievance mechanism would be better placed in the governance document, rather than the assurance document.*
- *There should be a dedicated section for "remote assessments", instead of this being included in the "site visits" section. As currently written, there is a risk that there is too much subjectivity around when remote assessments can be triggered that could be mitigated through a more prescriptive process.*
- *As far as possible, the CMSI's public grievance mechanism should seek to meet the relevant requirements of the Grievance Mechanism PA set out in the CMS. At a minimum, the public grievance mechanism should be designed to meet the eight UNGPs' effectiveness criteria for such mechanisms. These emphasise legitimacy accessibility, etc. (see glossary for full details), and protection against discrimination or reprisals for those raising grievances, supported by confidentiality to protect their identity. It should also publicly disclose the number and types of issues and concerns raised through the grievance mechanism and types of actions taken in response, resolution and/or remediation of such issues, considering provisions for confidentiality and protection of complainants.*

---

QUESTION 1

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

Response: **No Response**

Document:  
**Standard**

## Introduction

COMMENT:

*overall comments:*

- *Less detail in explanations compared to IRMA (IRMA Standard June 2018)*
- *IRMA more prescriptive, CMS leaving more room for interpretation (eg on stakeholder engagement see IRMA p21 vs CMS p64-65)*
- *Clarify the cross-references more (as with IRMA) to make it clearer how different criteria relate to one another?*
- *The foundational/good/leading levels is more transparent for non-experts than the IRMA requirements, given that the critical requirements only are few elements out of the more comprehensive standard, and in between the scoring the level of how you have progressed on one topic or another, is not clear.*

- Due to different levels, CMS requires companies to have at least foundational in place for every requirement in order to get assurance? (is that correct understanding?)

o Ratings for each performance area in the scope of the assurance: will there be one overarching "facility rating"? eg 80% of indicators need to score "good practice" in order to be "good practice" overall?

---

### **Performance Area 13: Community Impacts and Benefits**

COMMENT:

*it might be beneficial to give the areas of impacts here that need to be checked e.g. water access/ pollution for drinking & household, impacted ecosystem services e.g. forest products, pollution of soil used for agriculture, fishing etc., otherwise it might be too easy for the company to simply ignore some areas of impact in their assessment*

---

### **Performance Area 16: Artisanal and Small-Scale Mining**

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

COMMENT:

*there is this requirement under good practice*

*o Assess risks and impacts to the Facility from ASM and update the assessment at defined intervals.: this should be moved to Foundational*

---

COMMENT:

*o The requirements under this PA are weak and need further deliberation. The logic behind the assignment of requirements to different levels is questionable.*

*o We propose that the PA would be more robust if it were better aligned with Criterion 21 under the Copper Mark's Risk Readiness Assessment version 3.0.*

*o We would also propose a review of the PA against the World Bank's latest paper "Achieving Sustainable and Inclusive Artisanal and Small-Scale Mining (ASM): A Renewed Framework for World Bank Engagement" to align the requirements with the recommendations therein. This could help avoid perpetuating some of the pitfalls of current approaches to ASM that have resulted in limited progress to date in this agenda.*

---

### **Performance Area 19: Biodiversity, Ecosystem Services and Nature**

COMMENT:

*The foundational requirements will be already quite far-reaching for some actors; considering that for example in Indonesia many operations are currently not doing anything on this topic; while it is good to push them, the high requirements might discourage actors who are only starting to look into this topic now (and might not be able to establish a biodiversity baseline study for example, as they are already operating for a while)*

---

### **Performance Area 5: Human Rights**

SECTION: NA

COMMENT:

- In Performance Area 5: Human Right I suggest to move from Good practice to Foundational:

o 2. Establish and implement a due diligence process consistent with the UNGPs to identify and assess human rights risks and impacts caused or contributed to by the Facility's operations with the intention of avoiding infringing on the Page 33 of 122 human rights of others (including human rights defenders) and addressing adverse human rights impacts.

o 5. Provide for, or cooperate in processes to enable, the remediation of adverse human rights impacts that the Facility has caused or contributed to as per the UNGPs.

---

## **Performance Area 6: Child Labour and Modern Slavery**

SECTION: 6.1 Risk, Mitigation and Operating Performance, Good Practice, 4

COMMENT:

- In Performance Area 6: Child Labour and Modern Slavery in Point 4. Of Good practice suggest to add "and implement where required":

o "4. Develop and implement where required risk-based remediation framework aligned with the UN Guiding Principles on Business and Human Rights."

---

COMMENT:

o We do not support the inclusion of a PA that includes both child labour and modern slavery. These are separate and distinct issues that most often have different root causes and that necessitate different measures to prevent, mitigate and remediate the impacts. Additionally, combining the two issues presents challenges to undertaking risk-based due diligence to identify salient risks based on severity and likelihood. This is because a company may identify forced labour as a salient issue, but not child labour.

o We find the term "modern slavery" problematic as this is not a term defined in international instruments. We would instead propose that this is labelled as "Forced Labour" and that this is term is defined in a separate PA, distinct to child labour.

---

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

SECTION: 7.1 Workers' Rights Risk, Mitigation and Operational Performance, Good Practice, 2

COMMENT:

- In Performance Area 7: Rights of Workers there should be additional point in Good Practice following on the first point form Foundational Practice on implementation of public commitment to human rights

o Currently there is only "Implement policies and practices to respect the rights and interests of women" -let's not forget that men can also be harassed and exposed to harsh and inhumane treatment.

---

COMMENT:

- Workers rights: foundational practice seems very basic compared to foundational practice requirements in other areas. Only having public commitments without any measures shouldn't even be rewarded with

*“foundational practice” e.g. “communicate employment terms” from “good practice” needs to be foundational as well*

*- We would suggest to move the following from “Good practice” to “Foundational” (these are basically ILO conventions that should be the basis; in most human rights assessments non-compliance with the below would be a critical or major finding):*

*o 3. Communicate employment terms, at the beginning of employment and when terms change, to affected workers in a language and form that they understand and that clearly define the conditions of employment.*

*o 4. Remunerate workers with fair wages and benefits that represent competitive remuneration within that job market, including for part-time workers*

*o 8. Where a Facility provides accommodation, maintain a reasonable standard of safety, repair and hygiene. Charge no more than market rates if accommodation charges are applied. Enable workers to access adequate food, clothing and water and sanitation in the workplace.*

*o 9. Establish practices that demonstrate workers’ total regular working hours do not exceed 48 hours per week and overtime does not exceed 12 hours per week, calculated on average in case of shift work (including fly-in fly-out rotations) or processes to be carried out continuously. If local law or collective bargaining agreements require fewer than 60 working hours per week, including overtime, these prevail.*

*o 10. Provide at least one rest day in seven and rest periods during working hours, calculated on average in the case of shift work or processes to be carried out continuously.*

*o 11. Provide overtime on a voluntary basis where working hour exceptions apply, assess health and safety impacts of overtime on workers, and provide related safeguards to minimise and mitigate those impacts.*

---

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: 3: Meets 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: 2: Below 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

Not clear enough how the different scoring levels would be communicated and if one cannot really distinguish between foundational and good for instance in easy understandable terms, then it may not function as a strong incentive to improve

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