

CMSI Consultation Response

Respondent Details

NAME

Nalori Chakma

COUNTRY

United States

PERMISSION

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

STAKEHOLDER

Indigenous peoples / organisation

ORGANISATION

First Peoples Wordwide at CU Boulder

COMMENTS & QUESTIONS BY DOCUMENT

Document:
Governance

General comment

COMMENT:

Lack of Alignment with International Indigenous Peoples' Rights Standards

CMSI's governance model does not integrate specific protections and procedural requirements from key international Indigenous Peoples' rights frameworks, resulting in gaps that could lead to violations of Indigenous Peoples' rights in resource governance. This lack of alignment means CMSI may be overlooking or inadequately addressing critical aspects of Free, Prior, and Informed Consent (FPIC) and other rights upheld in international standards.

COMMENT:

Specific Gaps

4. Lack of Binding Commitments to Protect Indigenous Peoples' Rights

a. While ILO Convention 169 Article 15 requires that Indigenous Peoples have a role in safeguarding their territories from exploitation, CMSI lacks binding commitments to Indigenous Peoples' rights protections. Instead, CMSI's standards are industry-led, voluntary guidelines without legally enforceable protections for Indigenous Peoples' lands and resources.

Example: Without binding commitments, CMSI's standards may be perceived as optional by industry actors, allowing them to bypass Indigenous Peoples' rights considerations when convenient.

COMMENT:

Recommendations

– Shift from Industry Dominance to Shared Governance: CMSI must re-balance power by giving Indigenous and non-industry stakeholders equal influence in decision-making to create a truly multistakeholder model.

–*Strengthen Indigenous Peoples Rights Protections and Representation: Clear, enforceable Indigenous Peoples rights protections, specific representation, and accountability structures are essential for CMSI to meet ethical and international standards.*

–*Commit to Transparency and Accountability: Real-time reporting, independent audits, and explicit accountability measures will enhance CMSI’s transparency and credibility.*

–*Indigenous Rights and Equity Review Committee: Propose an Indigenous Rights and Equity Review Committee within CMSI, empowered to review governance decisions for Indigenous rights protections.*

–*Annual Indigenous Peoples’ Rights Audits: Suggest CMSI implement annual audits led by Indigenous Peoples’ organizations to ensure compliance with Indigenous Peoples’ rights standards.*

–*Public Reporting Dashboard: Recommend a CMSI online dashboard to track Indigenous Peoples’ rights compliance and Indigenous Peoples engagement metrics, promoting transparency.*

–*Indigenous-Led Training for Governance Members: Encourage CMSI to implement mandatory Indigenous-led training on Indigenous Peoples’ rights for all decision-makers.*

–*Explicit Indigenous Peoples’ Rights Clauses in Governance Charter: Suggest specific clauses in CMSI’s Governance Charter that mandate adherence to Indigenous Peoples’ rights frameworks.*

–*Benchmarks for Indigenous Peoples’ and Non-Industry Representation: Propose representation benchmarks to ensure Indigenous Peoples and non-industry stakeholders are fairly represented in CMSI.*

3. What principles have guided the development of the governance model?

COMMENT:

Insufficient Multi-stakeholder Governance

CMSI’s model does not meet the fundamental parameters of multistakeholder governance, which requires equal decision-making among Indigenous Peoples’ rights holders, NGOs, labor, and industry. By concentrating power within industry-led entities, CMSI undermines credibility and fails to align with best practices for transparency, shared governance, and respecting Indigenous Peoples’ rights.

4. What are some of the key features the governance model needs to include?

COMMENT:

Specific Gaps

1. Free, Prior, and Informed Consent (FPIC)

a. UNDRIP Article 32 mandates that Indigenous Peoples have the right to give or withhold consent for projects affecting their lands or resources. CMSI’s governance structure does not require FPIC as a binding standard, allowing industry-led decisions to proceed without obtaining clear consent from Indigenous Peoples. This creates a compliance gap with UNDRIP’s FPIC standard.

Example: Without FPIC integrated into governance practices, projects could be approved and implemented without meaningful input from Indigenous communities, undermining their rights to self-determination.

6. What will the composition of the Board look like?

COMMENT:

Industry-Dominated Governance Structure

CMSI's governance model gives disproportionate control to industry actors, with ICMM, MAC, WGC, and CopperMark responsible for Board member selection and defining criteria for the "Independent" Chair. This structure heavily favors industry, limiting Indigenous Peoples' and non-industry stakeholder influence. For meaningful governance, Indigenous Peoples' rights holders and other non-industry voices must share decision-making authority to ensure balanced power, transparency, and accountability.

–CMSI's governance structure must prevent industry-dominated decision-making by providing Indigenous Peoples' and other non-industry representatives equal power.

–Indigenous Peoples should be recognized as rights holders with inherent authority over lands, not merely stakeholders. Their involvement must go beyond advisory roles, ensuring that decisions impacting their lands and communities reflect their input.

–To enhance credibility and transparency, CMSI should prioritize an equitable governance structure that safeguards against industry-driven decisions.

COMMENT:

Limited Representation of Mining-Affected Stakeholders

Only 10 out of 53 Board seats are allocated to "mining-affected stakeholders," a term that groups Indigenous Peoples with labor and environmental advocates. This broad categorization risks diluting Indigenous Peoples' perspectives and influence. CMSI should specify dedicated seats for Indigenous Peoples' representatives to reflect their unique legal status and cultural connection to the land and resources impacted by mining activities.

–Indigenous Peoples' rights holders must have dedicated seats within CMSI governance to ensure their unique perspectives and rights are upheld.

–Rather than aggregating stakeholders, CMSI should define clear representation pathways for Indigenous Peoples, ensuring genuine accountability and impact in governance decisions.

–Direct, empowered Indigenous Peoples' representation strengthens CMSI's accountability and respects Indigenous sovereignty.

COMMENT:

Specific Gaps

2. Right to Participate in Decision-Making

a. UNDRIP Article 18 and ILO Convention 169 Articles 6 and 7 assert that Indigenous Peoples have the right to participate in decision-making on issues that affect them. Currently, CMSI's governance structure does not ensure equal decision-making roles for Indigenous Peoples' representatives; instead, it concentrates decision power within industry-led committees and excludes Indigenous Peoples' rights holders from meaningful governance positions.

Example: Indigenous Peoples are limited to advisory roles rather than being granted decision-making authority, preventing their input from shaping key governance outcomes.

COMMENT:

Specific Gaps

3. Recognition of Indigenous Self-determination and Distinct Status as Rights Holders

a. UNDRIP Articles 3, 4, and 5 uphold the right of Indigenous Peoples to self-determination and autonomous governance over their territories. By not granting Indigenous representatives specific, dedicated governance roles and by grouping them as “stakeholders” alongside other entities, CMSI fails to recognize Indigenous Peoples as distinct rights holders with inherent authority over their lands.

Example: By categorizing Indigenous Peoples as “affected stakeholders” rather than as rights holders, CMSI’s model may dilute Indigenous authority and fails to differentiate their unique legal standing from other interest groups.

8. What will the composition of the Mining and Value Chain Committees look like?

COMMENT:

Potential for Insular-Decision Making

By creating separate Mining and Value Chain Committees with limited cross-sectoral influence, CMSI risks fostering insular decision-making. The Mining Committee’s control over standards implementation, updates, and interpretation is isolated from downstream stakeholders’ input, reducing opportunities for cross-sector accountability and responsiveness.

–CMSI should facilitate cross-sectoral influence within its committees to avoid decision-making silos that prioritize industry interests over balanced, multi-stakeholder accountability.

–Indigenous Peoples’ and downstream stakeholders must have roles in both the Mining and Value Chain Committees to ensure that responsible sourcing and Indigenous Peoples’ rights are upheld across the supply chain.

–Genuine cross-sector representation within CMSI would prevent insular decision-making and support a more integrated, transparent governance approach.

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: **1: Significantly below**

QUESTION 2

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

Response: **no**

Document:
Assurance

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:

Structure of the Consolidated Mining Standard

The connections between Performance Areas and how they intersect in practice must be clarified. For example, Performance Area 14 (Indigenous Peoples) sets critical standards for FPIC and Indigenous Peoples' rights that should directly inform and reinforce related areas, such as Cultural Heritage (Performance Area 15), Community Impacts and Benefits (Performance Area 13), New Projects and Resettlement (Performance Area 4), and Tailings Management (Performance Area 21. To ensure a cohesive approach, CMSI should provide guidance on how FPIC should be consistently applied across all linked areas. This would help guarantee that core protections, including Indigenous Peoples rights, community engagement, and cultural heritage preservation, are fully respected throughout the standard.

Recommendation: Expand to include a brief example of a linkage and suggest how these interdependencies should be operationalized to ensure consistency.

COMMENT:

Levels of Performance

Foundational Practice Loopholes: This level's description implies a basic starting standard by allowing companies to begin with "minimum industry standards," which could enable superficial compliance without meaningful action. If companies can claim compliance merely by meeting the most basic requirements, it weakens the overall rigor of any standard. The Foundational level may allow companies to claim compliance without meeting tangible, high-impact requirements. This could be a loophole for companies to meet "minimum standards" without significant effort. The term "on the road to implementing good practice" signals that companies at this level are not expected to meet robust standards, raising questions about the rigor of a baseline standard.

Recommendations:

Definition of Foundational Practice: Define clear baseline requirements to ensure Foundational Practices include conformance with recognized international frameworks (e.g UNGPs, UNDRIP, ILO169) and are tied to tangible actions and measurable outcomes. Foundational practices must reflect the minimum expectations for responsible business conduct, ensuring companies meet already established legal and international standards.

COMMENT:

Levels of Performance

Good vs. Leading Practice: The distinction between Good Practice and Leading Practice lacks clarity due to undefined benchmarks, leaving room for subjective interpretation and inconsistent application. While CMSI requires companies to eventually meet Good Practice as a prerequisite for obtaining a logo or performance claim, there is no incentive or expectation for companies to achieve Leading Practice in any Performance Area. This structural gap risks undermining the aspirational value of Leading Practice, as it allows companies to claim compliance with CMSI without striving for the highest standards.

Without measurable standards, it is unclear what constitutes "leadership" or "best practice," potentially allowing companies to exaggerate their performance. This ambiguity could erode accountability and create inconsistencies in implementation. Furthermore, CMSI's description of Leading Practice as "above and beyond international norms and industry standards" must be substantiated with evidence that these requirements genuinely exceed Good Practice rather than reiterating or slightly extending existing standards.

Recommendations:

Establish Measurable Benchmarks for Good and Leading Practices: Introduce measurable benchmarks to delineate Good Practice and Leading Practice. For example,

- *Good Practice: Requires proactive measures that build on foundational commitments such as integrating international standards into operational processes, improving engagement and strengthening grievance mechanisms.*

- *Leading practice: While Leading Practice might mandate independent verification of exceptional performance or innovative approaches that exceed standard practices in areas such as Indigenous Peoples rights, grievance management, or climate resilience.*

COMMENT:

Equivalency with other standards

The lack of clarity on equivalency criteria raises significant concerns, particularly the risk of weaker standards being recognized. This ambiguity could allow companies to leverage CMSI for streamlined certification processes without demonstrating meaningful alignment with robust international standards, diluting protections and accountability. CMSI must ensure that equivalency assessments prioritize the protection of Indigenous Peoples' rights as non-negotiable, in line with UNDRIP and ILO 169. Equivalency criteria should explicitly incorporate protections for FPIC, cultural heritage, and biodiversity, ensuring that these remain robustly protected. Additionally, equivalency processes must be transparent, with clear, public criteria and independent oversight to prevent dilution of CMSI's authority or objectives. Without such measures, equivalency with less stringent standards could undermine the trust and effectiveness of CMSI's framework.

Recommendation:

1. Define Stringent Equivalency Criteria: Develop clear equivalency criteria aligned with global best practices and international frameworks. These criteria must explicitly require strong protections for Indigenous Peoples' rights to FPIC, ensuring equivalency only with standards that uphold these values.

2. Transparent Equivalency Process: Implement a public and transparent assessment process for equivalency. This could include:

- Publishing the evaluation methodology.

- Requiring independent, third-party audits to verify the rigor of equivalent standards.

- Establishing a public consultation process for stakeholders, including Indigenous Peoples, to review proposed equivalency determinations.

3. Mitigation Against Dilution: Introduce mechanisms to prevent dilution, such as:

- Regular reviews of equivalent standards to ensure ongoing alignment with CMSI principles.

- Requiring companies to report publicly on equivalency-based compliance, showing clear evidence of alignment with CMSI's core objectives.

4. Accountability and Oversight: Create an independent oversight body responsible for reviewing equivalency applications and ensuring that equivalency does not weaken the standard's protections.

COMMENT:

Implementation of the Consolidated Standard, point a.

The flexibility in applying corporate-level requirements at the facility level (and vice versa) ensures adaptability. The example provided (mineral revenue disclosure under Performance Area 1) is good but it's unclear how accountability will be enforced across levels, especially for corporate-level requirements. Will this lead to inconsistent implementation across facilities? For requirements impacting Indigenous Peoples (e.g., FPIC in Performance Area 14), clarity is needed on how corporate oversight integrates with localized, facility-level engagement with Indigenous Peoples communities.

Recommendation: CMSI should specify how oversight and accountability will be maintained across levels, particularly for cross-cutting issues like Indigenous Peoples rights, climate change, and biodiversity, Closure, etc.

COMMENT:

Implementation of the Consolidated Standard, point b.

Comment: Recognizing the importance of applying the standard during the pre-operational phase (e.g., Performance Area 4 on resettlement, Performance Area 12: Stakeholder Engagement, Performance Area 14 on Indigenous Peoples) is crucial, but there are some gaps, mainly:

- Inadequate Emphasis on Early Closure Planning: CMSI does not emphasize that closure planning should ideally begin during the pre-operational phase, especially for Indigenous Peoples communities. Closure planning must account for the long-term impacts on communities and Indigenous Peoples from the very start of project planning and must remain an ongoing part of FPIC processes throughout the mine's lifecycle. This ensures alignment with international standards like UNDRIP, which recognizes Indigenous Peoples' rights to determine land use and rehabilitation outcomes post-mining. (See more in comments under Performance area 24: Closure)

-Retrospective Application Loophole: While CMSI states that certain requirements cannot be applied retrospectively, this leaves a gap for facilities that failed to engage in early planning, particularly with Indigenous Peoples communities. Without mechanisms to rectify missed pre-operational steps, facilities may sidestep critical obligations, such as FPIC for closure impacts.

- Vague Integration of Cross-Cutting Themes: The mention of ""requirements covering the same topics"" during operations lacks clarity on how operational phase activities will account for pre-operational gaps, especially for cross-cutting areas like biodiversity (Performance Area 19) or Indigenous rights (Performance Area 14).

Recommendation: CMSI should mandate auditable mechanisms for facilities to demonstrate compliance during all life cycle stages, including retrospective reviews of missed pre-operational requirements.

COMMENT:

Implementation of the Consolidated Standard, point c.

Comment: The inclusion of assurance provider verification for facilities' non-applicability determinations is a positive step towards transparency and accountability. However, the process still relies on facilities' initial self-assessments, which introduces risks of subjectivity and potential misinterpretation of applicability criteria. This is particularly concerning for sensitive performance areas like Indigenous Peoples rights (Performance Area 14), resettlement (Performance Area 4), and biodiversity (Performance Area 19), where decisions about applicability could have significant social and environmental consequences.

CMSI must strengthen verification mechanisms by requiring assurance providers to have specific expertise in these areas and by incorporating stakeholder engagement into the review process. Additionally, while public disclosure of non-applicability determinations is a good step, CMSI should ensure these disclosures include detailed evidence and rationale, accessible to affected communities, with mechanisms for stakeholders, including Indigenous Peoples, to raise concerns or challenge decisions.

Recommendations (See our detailed comments in the Assurance Process)

1. Strengthen Assurance Provider Qualifications: Require assurance providers to demonstrate specific expertise in Indigenous Peoples rights, cultural heritage, biodiversity, and community impacts when verifying non-applicability determinations.

2. Enhance Transparency: Mandate that public disclosures of non-applicability determinations include:

a) Comprehensive evidence supporting the decision.

b) Stakeholder engagement records, demonstrating consultation with affected communities, including Indigenous Peoples.

c) Assurance provider findings and explanations.

3. *Integrate Stakeholder Oversight: Establish a designated process for stakeholders, including Indigenous Peoples communities, to participate in the decision-making of non-applicability determinations.*

4. *Periodic Audits of Non-Applicability Determinations: CMSI should conduct or commission random audits of facilities' non-applicability claims to ensure ongoing compliance and integrity.*

Performance Area 1: Corporate Requirements

SECTION: 1.1 Board and Executive Accountability, Policy and Decision, Making, Foundational Practice

COMMENT:

Comment:

The requirement does not specify what the senior management individual's responsibilities should entail. Without clarity, there is a risk of this becoming a symbolic appointment rather than a position with substantive influence on sustainability performance.

It is unclear whether this role includes oversight of Indigenous Peoples' rights, FPIC processes, or community engagement efforts. For mining operations, these areas are critical components of sustainability but could be deprioritized if not explicitly included in the individual's mandate.

The requirement does not mandate that the appointed individual(s) engage directly with affected communities, rights-holders, or Indigenous representatives, which limits the potential for inclusive and culturally informed decision-making.

The requirement lacks provisions for how this senior management role will be held accountable for achieving sustainability outcomes, particularly in relation to performance areas such as human rights, community impacts, and environmental stewardship.

Recommendation: Identify an individual(s) from senior management to be responsible for corporate-wide sustainability practices and performance. This role must include oversight of Indigenous Peoples' rights, FPIC implementation, and grievance mechanisms, with clearly defined responsibilities for monitoring, reporting, and ensuring adherence to sustainability commitments. The appointed individual(s) must engage directly with affected rights-holders and disclose progress in culturally appropriate formats.

SECTION: 1.1 Board and Executive Accountability, Policy and Decision, Making, Leading Practice

COMMENT:

Comment: While linking senior executive compensation to sustainability metrics is a commendable step, the requirement lacks the necessary specificity and rigor to drive substantive change. Without clear, measurable, and independently verified metrics, there is a risk that payouts are based on superficial or narrative-based achievements rather than genuine progress toward sustainability objectives.

The current framing also overlooks the need to include Indigenous Peoples' rights as a core component of these metrics. For example, the requirement does not specify whether metrics will reflect adherence to FPIC, respect for customary land tenure, or resolution of grievances—critical benchmarks for Indigenous communities affected by mining operations. Additionally, the CMSI does not require companies to achieve Leading Practice, meaning there is no clear incentive for executives to go beyond baseline compliance.

To ensure credibility and effectiveness, the CMSI must integrate quantitative, rights-based indicators, validated by third parties, and aligned with international standards such as UNDRIP and ILO 169. Public disclosure of metrics and their achievement is also essential to build trust and avoid greenwashing.

SECTION: 1.1 Board and Executive Accountability, Policy and Decision, Making, Leading Practice

COMMENT:

Comment: Lack of diversity leads to insular decision making and committee boards are stronger if members represent diverse backgrounds. Given the extent to which the mining industry has affected Indigenous Peoples, historically and presently, it is critical that committees have an Indigenous representative on the board to provide expertise on sustainability matters, including impact on Indigenous Peoples livelihoods, sacred sites, rights, and culture.

Recommendation: We recommend requiring that, in addition to establishing a Committee of the Board dedicated to sustainability matters, companies have an Indigenous representative on the Committee that can provide expertise on sustainability matters, including impacts to Indigenous Peoples and engaging affected Indigenous communities in a rights-based manner aligned with Indigenous Peoples' right to FPIC as enshrined in the UNDRIP.

SECTION: 1.2 Sustainability Reporting, Good Practice, 1

COMMENT:

Comment: To adequately disclose substantive and meaningful sustainability information to investors, a company's sustainability report must include information on the company's relationships with affected Indigenous Peoples and to what extent the company's practices respect Indigenous Peoples' rights as enshrined in the UNDRIP. Failing to disclose reliable, accurate information on these corporate operations risks misleading investors and other stakeholders about the company's social, ethical, and overall sustainability performance.

Recommendation: We recommend requiring mining companies to disclose information about the company's engagements and relationships with Indigenous Peoples in the annual corporate-wide sustainability report. Such information includes how the company or Facility is implementing or maintaining a protocol to respect Indigenous Peoples' right to FPIC aligned with the UNDRIP and how the company is engaging with Indigenous Peoples' through Indigenous communities' respective protocols, laws, and practices.

SECTION: 1.2 Sustainability Reporting, Leading Practice, 1

COMMENT:

Comment: While integrating a double materiality approach into corporate sustainability or integrated reports is a positive step, the requirement does not explicitly mandate disclosures on the material risks of violating Indigenous Peoples' rights, particularly FPIC, as recognized under UNDRIP. This omission risks misleading investors and other stakeholders about the financial and reputational consequences of failing to respect Indigenous rights.

Mining operations disproportionately affect Indigenous Peoples through land conflicts, environmental harm, and cultural disruptions. These impacts not only generate significant social and legal risks but also financial risks, including operational delays, litigation costs, and reputational harm. Therefore, it is essential that mining companies incorporate Indigenous-specific risks into their double materiality assessments.

Recommendation:

Mandate transparency on due diligence processes for identifying and mitigating risks tied to Indigenous Peoples' rights violations, including failures to secure FPIC, land conflicts, and grievances.

Require disclosures on the financial risks of non-compliance, including operational delays, legal liabilities, reputational damage, and associated costs.

Include measurable indicators of corporate relationships with Indigenous Peoples, such as FPIC compliance rates, active agreements, and the number of grievances resolved or pending.

SECTION: 1.4 Risk Assessment, Leading Practice, 1

COMMENT:

Comment: The proposed leading practice for risk assessment does not specify what stakeholders will be engaged, guidelines for engagement, or the extent such stakeholders will have decision-making abilities in the risk assessment process. The omission of these criteria in the leading practice criteria risks diminishing the standard's credibility as an industry leading benchmark as meaningfully including Indigenous Peoples in the risk assessment process is critical.

Recommendation: Incorporate specific guidance on engagement measures, including engagement with affected Indigenous Peoples aligned with Indigenous Peoples' right to FPIC as enshrined in the UNDRIP.

Performance Area 13: Community Impacts and Benefits

SECTION: 13.1 Identify and Address Community Impacts, Foundational Practice, 1

COMMENT:

Comment: Explicitly mentioning cultural impacts and non-material risks. FPIC to identify risks particularly for Indigenous Peoples territories is missing and lack of emphasis on culturally sensitive risk assessment, which would ensure that non-material, cultural, and spiritual impacts are considered.

Recommendation: Identify a full spectrum of potential adverse risks and impacts related to the Facility's activities ensuring alignment with culturally sensitive and rights based frameworks. These should include:

Human rights risks: Such as including gender-based violence, displacement, conflict

Environmental impacts: Including air and water pollution, soil contamination, destruction of biodiversity, habitat loss and access to clean water

Health impacts: Such as respiratory diseases, cancers, neurological disorders, and gastrointestinal illnesses caused by exposure to toxic chemicals, untreated waste, and contaminated water. Additional risks may include mental health challenges and the spread of diseases, particularly in regions with Indigenous Peoples in Voluntary Isolation or Initial Contact.

Cultural and Non-Material Risks: Incorporating impacts on culturally significant sites, practices, governance systems, and resources.

To ensure these impacts are accurately identified and prioritized, the assessment must integrate FPIC processes for Indigenous Peoples, emphasizing community-led evaluations of cultural and spiritual impacts. Such assessments should consider not only material harms but also intergenerational and intangible losses that may affect community resilience and identity.

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

COMMENT:

Comment: Lack of specificity for Indigenous-managed lands or culturally significant sites where standard mitigation may not suffice. This Performance area is related to Performance area 14 and 15 hence CMSI need to clearly define how each area will inform the other area.

SECTION: 13.1 Identify and Address Community Impacts, Foundational Practice, 3

COMMENT:

Comment: Tracking the progress over time is important. Will there be any reporting on this requirement?

SECTION: 13.1 Identify and Address Community Impacts, Good Practice, 1

COMMENT:

Comment: We understand that rights-holders definition includes Indigenous Peoples but here it needs to be explicitly mentioned. This requirement sets a good foundation for stakeholder engagement across impact areas. For Indigenous Peoples' communities, especially where projects intersect with their lands or cultural resources, FPIC should be required to ensure that impacted communities have the right to participate in the prioritization of impacts that directly affect them. FPIC would ensure their consent is not only obtained but that their own criteria for what constitutes significant adverse impacts are fully considered.

Recommendation: Engage with affected stakeholders and rights-holders, using FPIC for Indigenous Peoples' communities, on the identification and prioritization of potential adverse impacts, including cultural, social, human rights, environmental, and community health impacts.

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

COMMENT:

Comment: This requirement promotes inclusivity, but as a good practice requirement, it could be strengthened by explicitly addressing the unique roles, insights, and health concerns of Indigenous women. Indigenous women may have distinct perspectives on community impacts, particularly regarding cultural knowledge, traditional roles, intergenerational practices, and health risks tied to Facility activities (e.g., impacts on reproductive health, access to clean water, or exposure to pollutants).

Culturally appropriate engagement processes are crucial, as Indigenous women may not want to participate in conventional consultation settings. Incorporating gender-sensitive approaches to consultation and ensuring Indigenous women have safe spaces to voice their concerns would enhance the Facility's assessment process.

SECTION: 13.1 Identify and Address Community Impacts, Good Practice, 3

COMMENT:

Comment: For Indigenous communities, action plans should be co-designed or approved by Indigenous Peoples' communities, particularly when the mitigation measures affect cultural heritage sites, traditional resources, or sacred lands. Indigenous Peoples' input is essential in defining acceptable mitigation methods and determining how mitigation should be implemented.

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

COMMENT:

Comment: Monitor the progress and effectiveness of impact mitigation action plans, with Indigenous-led or co-managed monitoring where impacts involve Indigenous Peoples' lands or cultural heritage. Ensure that monitoring outcomes are transparently reported back to affected Indigenous communities

SECTION: 13.1 Identify and Address Community Impacts, Leading Practice, 1

COMMENT:

Comment: Considering that rights-holders include Indigenous Peoples, this requirement should explicitly outline Indigenous-led reviews for impacts on Indigenous Peoples' territories. As rights-holders, Indigenous communities should have a leading role, given that they hold cultural and legal rights over their lands. Disclose findings transparently, particularly to affected Indigenous Peoples' communities as right-holders.

SECTION: 13.1 Identify and Address Community Impacts, Leading Practice, 3

COMMENT:

Comment: Capacity-building efforts should align with Indigenous Peoples' governance models and Indigenous stewardship practices, which provides long-term resources for self-managed oversight and decision-making. Prioritize Indigenous Peoples' governance and stewardship system for post-closure management on Indigenous Peoples' lands and provide financial and non-financial resources that allow Indigenous Peoples' communities to maintain their lands and cultural resources according to their Indigenous protocols. (See comments in Performance area 24: Closure)

SECTION: 13.2 Community Development and Benefits, Foundational Practice, 1

COMMENT:

Recommendation: Publicly disclose the Facility's commitment to community-defined social and economic development priorities, particularly for Indigenous Peoples' communities.

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

COMMENT:

Comment: Collecting socio-economic data establishes a baseline for tracking the Facility's community impact, but we need specific culturally relevant indicators for Indigenous Peoples' communities. Indigenous Peoples communities use different measures of socio-economic well-being, such as Indigenous livelihoods, cultural health, and land stewardship.

Recommendation: Compile data on socio-economic development in the area of influence, incorporating Indigenous-defined indicators where relevant, to inform culturally relevant monitoring of progress.

SECTION: 13.2 Community Development and Benefits, Foundational Practice, 4

COMMENT:

Recommendation: Provide Indigenous Peoples enterprises with access to procurement and contracting opportunities, invest in the growth and resilience of Indigenous businesses by providing resources, access to markets, and culturally relevant training to support long-term success.

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

COMMENT:

Recommendation: Develop a community investment programme that prioritizes Indigenous-led initiatives in Indigenous Peoples' areas, aligning with their self determined or community-defined social, economic, and cultural needs.

SECTION: 13.2 Community Development and Benefits, Good Practice, 1

COMMENT:

Comment: For Indigenous Peoples communities, FPIC would guide the process for development priorities which will reflect Indigenous Peoples needs.

Recommendation: Add Indigenous Peoples including Indigenous women and FPIC in the requirement.

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

COMMENT:

Comment: For Indigenous Peoples communities, FPIC would guide the process for development priorities which will reflect Indigenous Peoples needs.

Recommendation: Add Indigenous Peoples including Indigenous women and FPIC in the requirement.

SECTION: 13.2 Community Development and Benefits, Good Practice, 3

COMMENT:

Recommendation: Establish partnerships with governments, Indigenous governance bodies, civil society, and other actors to progress the Facility's contribution to cultural aligned socio-economic development.

SECTION: 13.2 Community Development and Benefits, Good Practice, 9

COMMENT:

Comment for requirement 4-9: These requirements support local employment and economic growth, but for Indigenous Peoples, knowledge/skills -building, and culturally respectful training are crucial for sustained engagement. Programs should specifically target Indigenous skill-building and allow for self-defined economic roles. Support Indigenous economic empowerment by investing in Indigenous businesses, including providing capital, mentorship, and access to procurement opportunities...lastly, offer tailored support to enhance their participation in local and regional markets.

SECTION: 13.2 Community Development and Benefits, Leading Practice, 1

COMMENT:

Comment: This is positive but Indigenous Peoples should have a leading or co-leading role in these processes wherever Indigenous Peoples lands, territories and resources are involved. FPIC should guide any decision-making on Indigenous Peoples territories.

Recommendation: Engage Indigenous representatives as co-leaders in decision-making on community development, local procurement, and employment, using FPIC where Indigenous lands and resources are involved.

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

COMMENT:

Comment: See comment under good practice requirements 4-9.

SECTION: 13.2 Community Development and Benefits, Leading Practice, 3

COMMENT:

Recommendation: Incorporate traditional/Indigenous ecological knowledge and culturally relevant skill-building in consultation with Indigenous Peoples.

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

COMMENT:

Comment: As a leading requirement, examples of opportunities to contribute can be defined or explained. Indigenous Peoples will remain in the area long after the facility closes, making it essential to uphold and strengthen their enduring presence, cultural heritage, and the sustainability of the Indigenous Peoples communities

Recommendation: Incorporate long-term community development opportunities into closure plans by establishing an Indigenous-governed legacy fund, supporting Indigenous-led economic models, and funding leadership, governance, and environmental stewardship programs. These initiatives should be co-designed with Indigenous communities to ensure they create benefits that endure for future generations, aligning with cultural and economic resilience goals.

Performance Area 14: Indigenous Peoples

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

COMMENT:

Comment: The current language frames Indigenous Peoples' rights as "principles," which risks undermining their status as a right under international frameworks. Furthermore, there is no explicit mention of FPIC, which is a cornerstone of Indigenous Peoples' rights under UNDRIP (Article 32) and ILO 169 (Article 6). Without explicitly embedding FPIC in the Facility's public commitments, there is a risk of misinterpretation, where consent becomes optional or negotiable.

Recommendation: Publicly commit to respect Indigenous Peoples' rights under international frameworks, explicitly referencing FPIC as a non-negotiable right. The commitment must state that any Facility activities impacting Indigenous Peoples' lands, territories, resources, or cultural heritage require active, documented, and verifiable FPIC, obtained without coercion, manipulation, or misinformation.

SECTION: 14.1 Managing Engagement, Impacts and Opportunities with Indigenous Peoples, Foundational Practice, 2

COMMENT:

Comment: Engagement is an essential first step, and CMSI should specify that this requirement should be structured, ongoing, and conducted in full adherence to FPIC. This would ensure that Indigenous Peoples are genuinely included in decision-making processes, with a clear role in guiding measures to prevent impacts on their rights

Recommendation: Engage in structured and ongoing dialogue with Indigenous Peoples, conducted in full adherence to FPIC (UNDRIP, Article 32). Ensure engagement processes are documented and incorporate feedback loops to allow Indigenous Peoples to influence decisions at all stages.

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

COMMENT:

Comment: Requirements around Indigenous engagement and cultural awareness should go beyond just workers who directly interact with Indigenous Peoples. For a robust standard, cultural awareness and respect for

Indigenous Peoples rights should ideally extend to all decision-makers, contractors, consultants, and partners involved in any aspect of the Facility's operations that could impact Indigenous Peoples communities.

Recommendation: Provide initial and ongoing cultural awareness training, including the history, traditions, and rights of Indigenous Peoples, for all workers, contractors, consultants, and decision-makers whose roles may impact Indigenous Peoples or their lands, territories and communities. Ensure this training is developed in collaboration with Indigenous Peoples experts to ensure cultural accuracy and relevance.

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

COMMENT:

Comment: It aligns with good practice by defining engagement and decision making processes that are culturally appropriate and recognises Indigenous Peoples governance structure. However, for Indigenous Peoples in voluntary isolation or initial contact, CMSI should clarify that the focus should be on protection and non-interference, not engagement. All voluntary standards and schemes should include protections for Indigenous Peoples in Voluntary Isolation and Initial Contact. Territories of Indigenous Peoples in Isolation and Initial Contact should be protected as permanent "no-go zones" that are not open to critical mineral extraction.

This would align with international standards on respecting the isolation of Indigenous Peoples in voluntary isolation (IPVI) and initial contact and preventing unintended harm. International standards recognize that IPVI and Initial Contact are not able to provide FPIC. As a result, no mining should occur on lands with Indigenous Peoples in Voluntary Isolation and Initial Contact. The American Declaration on the Rights of Indigenous Peoples affirms that IPVI "have the right to remain in that condition [of isolation] and to live freely in accordance with their cultures. The UN Draft Guidelines on the Protection of Indigenous Peoples in Voluntary Isolation and Initial Contact, and the Inter-American Commission on Human Rights (IACHR) Recommendations, both emphasize the necessity of a no-contact approach to protect these vulnerable groups.

SECTION: 14.1 Managing Engagement, Impacts and Opportunities with Indigenous Peoples, Good Practice, 10

COMMENT:

Comment: Decisions regarding access to cultural heritage sites, areas of spiritual value, and traditional lands must be made in full consultation and collaboration with Indigenous Peoples. Co-designing access protocols ensures their governance systems and cultural practices are respected, consistent with UNDRIP Articles 11 and 25 and ILO Convention No. 169, Article 15(1).

Recommendation: Facilitate continued access to cultural heritage sites, areas of spiritual value, and traditional lands, territories, or resources, in collaboration with Indigenous Peoples. Access protocols must be co-designed to reflect their governance systems and cultural practices. Any restrictions on access should be based solely on significant safety concerns, documented through consultation, and reviewed periodically to uphold cultural and spiritual rights.

SECTION: 14.1 Managing Engagement, Impacts and Opportunities with Indigenous Peoples, Good Practice, 11

COMMENT:

Comment: A culturally appropriate grievance mechanism is critical (acknowledging that it is mentioned in Performance area 17). CMSI could enhance this by requiring co-development with affected Indigenous Peoples communities. Grievance mechanism needs to be genuinely accessible and trusted by Indigenous Peoples, and can include informal resolution options aligned with their customs.

SECTION: 14.1 Managing Engagement, Impacts and Opportunities with Indigenous Peoples, Good Practice, 12

COMMENT:

Comment: This requirement currently overlaps with Foundational Practice requirement 4. CMSI could expand this Good Practice level by requiring advanced or ongoing training for all staff and contractors, with Indigenous-led training sessions for greater authenticity and depth.

Recommendation: The trainings should go beyond workers: for all staff, contractors, and stakeholders involved in decisions impacting Indigenous Peoples communities on an advanced level and on an ongoing basis.

SECTION: 14.1 Managing Engagement, Impacts and Opportunities with Indigenous Peoples, Good Practice, 2

COMMENT:

Comment: This requirement should be in Foundational requirement. Replace "guided by the principles of FPIC" with "uphold FPIC as a right. FPIC should be upheld fully as a right, not simply a guiding principle, especially where Indigenous Peoples' lands, resources, and cultural heritage are at risk.

Recommendation: Carry out ongoing due diligence to identify, prevent, mitigate, and account for potential adverse impacts on Indigenous Peoples' rights. This process should uphold FPIC a right, ensuring that Indigenous Peoples are fully empowered to participate in decision-making on matters affecting them, with the right to grant or withhold consent - including for decisions made in the past without their FPIC. Due diligence should be continuously revisited, recognizing that risks to Indigenous Peoples' rights may evolve over time with changes in the Facility's operations or context. Additionally, the due diligence process should include a clear framework for remedying any adverse impacts that occur.

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

COMMENT:

Comment: This requirement is a positive step for cultural respect. There should be formalized agreements or protocols for Indigenous knowledge use, ensuring respect for intellectual property.

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

COMMENT:

Comment: Strengthen documentation requirements for FPIC processes.

Recommendation: Obtain clear documentation of the FPIC process with affected Indigenous Peoples, ensuring consent is freely given, fully informed, and without coercion. The agreement should outline mitigation measures and a grievance framework, ensuring compliance with UNGPs Principle 31, which sets out effectiveness criteria for grievance mechanisms to ensure legitimacy, transparency, and alignment with

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

COMMENT:

Comment: Avoid framing FPIC as optional. Define what constitutes concerted efforts to avoid ambiguity. The phrase "despite concerted efforts" could imply that, after extensive efforts to engage Indigenous Peoples'

communities, the project may proceed even without their full consent. This is problematic because FPIC is not simply about making “efforts” to reach agreement; it’s about respecting Indigenous Peoples’ right to fully consent or refuse based on their own collective decisions.

Recommendation: If full agreement cannot be obtained, the facility must respect the right of Indigenous Peoples to withhold consent. Disclose the steps taken to honor Indigenous Peoples’ decision, including consideration of alternative project modifications or withdrawal from the project if consent is not achieved (UNDRIP Article 10, which prohibits forced removal without consent).

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

COMMENT:

Comment: This requirement sets a strong foundation for comprehensive agreements by emphasizing mitigation, benefit-sharing, monitoring, and redress mechanisms. However, to ensure legitimacy and cultural alignment, Indigenous Peoples must actively co-design and implement these mechanisms. Their involvement is crucial to reflect governance systems, traditional knowledge, and cultural values in processes such as monitoring, redress, and closure planning. Align it with UNDRIP Article 18, which emphasizes Indigenous Peoples’ right to participate in decision-making through their own institutions, and ILO Convention No. 169, Article 7, which recognizes their right to define development priorities

Recommendation: Ensure that agreements, at a minimum, include mitigation measures, benefit-sharing mechanisms, monitoring and review systems, and redress options. These mechanisms must be co-designed and implemented with Indigenous Peoples to reflect their governance systems and cultural values. Include capacity-building measures to support equitable participation, such as access to independent legal or technical expertise. Periodic evaluations of these agreements should be conducted jointly with Indigenous Peoples to ensure accountability, adapt to evolving needs, and address any unforeseen impacts, especially regarding end-of-life planning and mine closure.

SECTION: 14.1 Managing Engagement, Impacts and Opportunities with Indigenous Peoples, Good Practice, 9

COMMENT:

Recommendation: Maintain and collaboratively monitor the implementation of agreement terms and commitments with Indigenous Peoples, ensuring they have direct access to performance data and involvement in regular reviews. To reflect the iterative nature of FPIC, results of monitoring should be regularly communicated via public meetings, email, bulletin boards and other communications channels. In cases new information is revealed as a result of monitoring especially in cases of adverse impacts to Indigenous communities, the information should be immediately and fully disclosed.

Note: The data and report related to facility should be shared with the impacted Indigenous Peoples on a regular basis

Environmental Impact: Data on environmental quality (e.g., water, soil, air) near Indigenous Peoples lands to confirm compliance with agreed environmental standards or thresholds.

Example: In the case Kichwa Indigenous People of Sarayaku v. Ecuador the Inter-American Court of Human Rights highlighted the critical role of participatory environmental assessments and access to information for Indigenous communities. The judgment underscores that failing to provide adequate information about potential risks and impacts violates the rights of Indigenous Peoples to communal property and cultural identity (paras. 164-165). These principles affirm the importance of transparent environmental monitoring and the inclusion of Indigenous Peoples in decision-making processes that affect their lands and resources.

Document progress on actions mitigating impacts on Indigenous lands, resources, or cultural heritage.

Example: The Initiative for Responsible Mining Assurance (IRMA) Standard provides a model for collaborative monitoring. Chapter 2.1 emphasizes the need to engage stakeholders, including Indigenous Peoples' communities, in developing and monitoring mitigation plans. Chapter 1.2 reinforces the importance of accessible information and participatory processes, ensuring commitments are transparently maintained and evaluated.

Community Benefits: Data on benefits provided, such as revenue-sharing distributions, infrastructure development, educational programs, and access to training or employment (UNDRIP Article 20(1), which guarantees Indigenous Peoples the right to freely pursue economic development and benefit from their resources).

Example: Benefit-sharing agreements in Canada's Impact and Benefit Agreements (IBAs), such as the Meadowbank Project Inuit Impact & Benefit Agreement, require detailed reporting on benefits and their implementation. This agreement outlines commitments to employment, training, and business opportunities for Inuit, with mechanisms for monitoring and reporting progress.

Grievance Handling: Share statistics or reports on grievances raised by Indigenous community members, including resolution rates and responsiveness. Reports should be provided in culturally appropriate formats and shared during regular review meetings, empowering Indigenous Peoples to verify that grievances are being addressed effectively. These practices align with the transparency and accountability principles outlined in UNGPs Principle 31.

Cultural Heritage Access: Document adherence to commitments ensuring access to cultural heritage sites and spiritual areas (UNDRIP Article 11).

This will help them to verify that the facility is honoring its commitments and participate actively in reviews and can hold the facility accountable. These data can also help in raising concerns or suggest adjustments in the agreement if any issues arise.

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

COMMENT:

Comment: This is similar to aspects of decision-making and dispute resolution which are present in earlier levels. For instance:

Good Practice point 1 involves defining engagement and decision-making processes with Indigenous Peoples.

Good Practice point 11 addresses culturally appropriate grievance mechanisms, which overlaps with dispute resolution here.

Recommendation: Distinguish this requirement by explicitly mandating formal recognition of Indigenous Peoples protocols in all decision-related structures within the Facility, setting a high standard for respecting Indigenous governance structures where they exist.

SECTION: 14.1 Managing Engagement, Impacts and Opportunities with Indigenous Peoples, Leading Practice, 2

COMMENT:

Comment: This overlaps with Good Practice point 12, which also mandates training on Indigenous history, rights, and intercultural awareness for employees. To differentiate this requirement from Good Practice, CMSI could clarify that Leading Practice involves Indigenous-led or co-designed training sessions that extend beyond basic awareness. The expectation could also be expanded to require regular refresher training for employees at all levels to deepen intercultural understanding.

SECTION: 14.1 Managing Engagement, Impacts and Opportunities with Indigenous Peoples, Leading Practice, 5

COMMENT:

Comment:

the Facility supports local cultural activities and employees are encouraged to participate in Indigenous Peoples' community events. (if/when invited) only.

This requirement sets a good standard for intercultural understanding, but CMSI could reduce overlap by focusing on elements such as including non-Facility individuals in awareness efforts and integrating Indigenous protocols directly into business practices. CMSI might consider removing or refining items that repeat earlier requirements. item (a), (b), and (d) overlap with points already covered under Good Practice, specifically regarding employee education, training effectiveness reviews, and support for cultural awareness.

SECTION: Glossary and Interpretive Guidance

COMMENT:

Demonstrating Consent: Indigenous Peoples have the right to to define consent on their terms, grounded in their unique cultural, legal, and social frameworks. Consent as understood within the right of FPIC must be freely given, informed and granted prior to any decision-making that affects Indigenous Peoples lands, resources and communities. Importantly, while some Indigenous Peoples may choose to express their formal agreements—such as partnership agreements, Impact/Benefit Agreements, collaboration agreements; statement of support or through approval resulting from Indigenous-led impact assessments—these agreements alone do not inherently satisfy FPIC requirements. Consent is a distinct process that must allow Indigenous Peoples the freedom to grant or withhold permission based on full and transparent information, free from any pressures or incentives. Benefit agreements, while they maybe part of an engagement process, are not equivalent to consent and cannot be assumed as such by external parties.

Facilities must recognize that each Indigenous Peoples' community has its own processes and values that inform how consent is defined and expressed, and these processes may include traditional council, collective decision-making, or consensus building practices that cannot be substituted with conventional business or legal agreements. Facilities must engage with affected Indigenous Peoples to understand and fully respect these processes, ensuring that consent is acknowledged as a continuous and iterative right that Indigenous Peoples may revisit or withdraw at any time if circumstance or impacts change or new information emerges.

FPIC: FPIC comprises a process, and an outcome (for a point in time). FPIC is an iterative process that can be revisited as projects evolve, ensuring Indigenous Peoples have the opportunity to reassess their consent if new impacts emerge. Through this process Indigenous Peoples are: (i) able to freely make decisions without coercion, intimidation, or manipulation; (ii) given sufficient time to be involved in decision-making before key decisions are made and impacts occur; and (iii) fully informed about proposed activities and their potential impacts and benefits. Unlike mere consultation, FPIC ensures that Indigenous Peoples' consent, not just their input, is sought and respected, affirming their authority to decide on matters that affect them. FPIC is a recognised right within international frameworks, including UNDRIP and ILO Convention No.169, highlighting its grounding in international law rather than voluntary practice. The outcome is that Indigenous Peoples can collectively grant or withhold their consent for a specified activity as part of a given decision-making process. These decision-making processes for proposed activities should be based on good faith negotiation, must respect Indigenous Peoples' rights to representation by their chosen or traditional authorities, and must be consistent with Indigenous Peoples' traditional decision-making processes while respecting internationally recognised human rights. FPIC also includes monitoring mechanisms and accountability measures to ensure compliance with the consent provided or withheld, with responsibilities shared by companies, states, and relevant stakeholders.

COMMENT:

When agreement is not obtained: If a company decides to disengage, it must ensure that the process respects the inherent rights and well-being of Indigenous Peoples. Disengagement must include comprehensive measures to address all residual impacts, including social, economic, cultural, and environmental harms. This

requires a clear commitment to environmental restoration, equitable remedy for affected communities, and transparent, culturally appropriate communication about the decision. Companies should co-design disengagement plans with Indigenous Peoples, ensuring the process aligns with their governance systems and international standards, such as UNDRIP Articles 19 and 29 and ILO Convention No. 169, Article 15(2). Disengagement should not absolve a company of its obligations but rather reaffirm its accountability.

SECTION: Intent

COMMENT:

Comment:

The phrase “guided by the principles of FPIC” introduces unnecessary flexibility, weakening the recognition of FPIC as a non-negotiable right of Indigenous Peoples under international standards such as UNDRIP and ILO 169. Moreover, the term “obtaining agreement” creates ambiguity, as it does not explicitly require active, documented consent from affected Indigenous Peoples. This language risks allowing interpretations that undermine Indigenous Peoples’ right to withhold or grant consent free of coercion. The intent also overlooks territorial rights, cultural heritage, and ongoing accountability mechanisms, which are critical to a robust FPIC process.

Recommendation:

Respect Indigenous Peoples’ rights by developing culturally appropriate, structured, and ongoing engagement processes that ensure transparency, inclusivity, and trust. Conduct human rights due diligence with full recognition of Indigenous Peoples’ rights to FPIC. The ICMM’s application of FPIC falls short of its intended definition, as it allows for flexibility in obtaining consent and does not mandate it as an unqualified right. This undermines the principle of Indigenous self-determination by permitting projects to proceed despite Indigenous objections, rendering FPIC conditional rather than a protected standard. Additionally, the absence of retroactive application for past projects and reliance on state-led processes further weakens ICMM’s commitment, highlighting gaps in accountability and alignment with international human rights standards like UNDRIP. FPIC must be obtained through active, documented processes that demonstrate mutual consent free from coercion, manipulation, or misinformation. The intent must include anticipated impacts to lands, territories, resources, and cultural heritage, with mechanisms for ongoing monitoring, grievance resolution, and independent validation of compliance with FPIC principles.

Performance Area 15: Cultural Heritage

SECTION: 15.1 Cultural Heritage Identification and Management, Foundational Practice, 2

COMMENT:

Recommendation: Identify cultural heritage that could be impacted by the Facility’s activities in collaboration with traditional owners and users. For Indigenous cultural heritage, Indigenous Peoples must lead or co-lead the identification process, consistent with ILO Convention No. 169, Article 13, which recognizes the unique relationship between Indigenous Peoples and their sacred sites.

SECTION: 15.1 Cultural Heritage Identification and Management, Foundational Practice, 3

COMMENT:

Comment: Include accountability for respecting FPIC throughout cultural heritage management.

SECTION: 15.1 Cultural Heritage Identification and Management, Good Practice, 1

COMMENT:

Comment: Involve Indigenous Peoples and other communities in exploring and assessing alternatives

Recommendation: Where there is a risk of adversely impacting cultural heritage, conduct an analysis of alternatives in collaboration with traditional owners and users of the cultural heritage. Prioritize options that avoid adverse impacts, ensuring that Indigenous and community values are fully considered through Indigenous-led or community-led participation in assessing alternatives. Adapt the Facility's design, construction, or operational procedures accordingly to minimize cultural impacts.

SECTION: 15.1 Cultural Heritage Identification and Management, Good Practice, 2

COMMENT:

Recommendation: This training should also cover local Indigenous cultural practices and history

SECTION: 15.1 Cultural Heritage Identification and Management, Good Practice, 4

COMMENT:

Comment: For impacts to Indigenous Peoples cultural heritage, it will be the Indigenous Peoples who would approve the mitigation measures.

SECTION: 15.1 Cultural Heritage Identification and Management, Good Practice, 5

COMMENT:

Comment: This measure respects cultural heritage, but CMSI should confirm that such actions only occur with FPIC and that preservation efforts align with Indigenous practices. Please clarify FPIC is required for any removal or preservation of irreplaceable cultural heritage, ensuring the process respects Indigenous customs.

SECTION: 15.1 Cultural Heritage Identification and Management, Good Practice, 6

COMMENT:

Comment: This requirement needs to be strengthened to address Indigenous Peoples' rights. Facilities must implement robust measures to ensure immediate notification and active participation of Indigenous Peoples upon discovering chance finds. These measures are essential to uphold cultural sensitivity, respect, and compliance with FPIC requirements.

Recommendation: Develop and implement an Indigenous-led process to manage chance finds of previously unknown cultural heritage or recently disclosed culturally important information. This process must include

Halting operations immediately upon discovery of cultural heritage

Immediate notification of Indigenous Peoples communities, and traditional owners

Restarting the FPIC process to address the new information and ensure continued consent in the light of discovery.

Co-designing protocols co-designed with Indigenous Peoples and traditional owners, to manage chance finds and ensure culturally appropriate handling of sensitive knowledge.

Implementing culturally sensitive documentation practices that respect Indigenous values and restrictions on knowledge sharing, ensuring alignment with UNDRIP (Article 11) and other international frameworks.

SECTION: 15.1 Cultural Heritage Identification and Management, Leading Practice, 1

COMMENT:

Recommendation: Include Indigenous Peoples

SECTION: 15.1 Cultural Heritage Identification and Management, Leading Practice, 2

COMMENT:

Recommendation: Require all employees to complete cultural heritage training developed and delivered in partnership with traditional owners and where applicable Indigenous Peoples. Ensure training aligns with the specific cultural values and practices of Indigenous Peoples communities.

SECTION: 15.1 Cultural Heritage Identification and Management, Leading Practice, 3

COMMENT:

Comment: CMSI could specify that initiatives supporting cultural heritage should center Indigenous-led processes, especially for projects related to repatriation or intangible heritage, which hold significant cultural importance to Indigenous Peoples.

Recommendation: Provide dedicated financial and technical resources to support Indigenous-led and community-led cultural heritage programs, including initiatives like repatriation and cultural reconnection, in collaboration with Indigenous Peoples and other traditional owners.

SECTION: 15.1 Cultural Heritage Identification and Management, Leading Practice, 4

COMMENT:

Comment: This requirement empowers communities to monitor protections but can be strengthened by mandating Indigenous-led monitoring processes. Indigenous Peoples should define success criteria based on their cultural values, consistent with ILO Convention No. 169, Article 7, which recognizes their rights to shape and implement protective measures.

SECTION: 15.1 Cultural Heritage Identification and Management, Leading Practice, 5

COMMENT:

Comment: This requirement is positive by promoting cultural heritage rather than merely avoiding harm. Specifying dedicated resources and Indigenous led decision making would be a robust commitment.

Recommendation: Provide ongoing financial and collaborative support for Indigenous-led initiatives to preserve, celebrate, and revitalize cultural heritage according to community-defined priorities.

SECTION: Glossary and Interpretive Guidance

COMMENT:

Traditional owners: There needs to be a clear and distinct definition between traditional owners and Indigenous Peoples. While traditional owners may refer to individuals or groups with a historical or cultural connection to specific lands, Indigenous Peoples encompass broader cultural, social, and political identities that include rights recognized under international frameworks. Clarifying these distinctions ensures that each group's unique relationship to land and rights is acknowledged and respected.

Without this clarity, industry and private actors risk confusion, potentially leading to misunderstandings in their engagements. This distinction should be clearly defined in the standard to prevent ambiguity and uphold respectful, informed interactions.

SECTION: Intent

COMMENT:

Comment: The intent should frame cultural heritage as both a right and a responsibility, recognizing its spiritual, historical, and communal significance to Indigenous Peoples. Cultural heritage extends beyond physical artifacts to include practices, landscapes, and intangible heritage. In alignment with UNDRIP Articles 11 and 32, the intent should explicitly affirm Indigenous Peoples' rights to control, access, and preserve their cultural heritage, and their right to grant or withhold consent on decisions that affect it. This ensures the standard respects FPIC and aligns with Indigenous governance systems.

Performance Area 17: Grievance Management

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

COMMENT:

Comment: This lacks provisions for culturally appropriate grievance handling for Indigenous Peoples communities. Simultaneously Publicly commit through statements and policies that stakeholders and rights holders who use the grievance mechanisms will not face discrimination, reprisals, harassment, threats or intimidation from the company and its business partners.

Recommendation: Publicly commit with policies and statements and establish a grievance mechanism with confidentiality options that also includes culturally appropriate channels, especially for Indigenous Peoples and marginalized communities.

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

COMMENT:

Comment: Needs to integrate Indigenous languages and using local communication methods.

Recommendation: Communicate the grievance mechanism's availability in culturally relevant ways, ensuring accessibility for all community members, including Indigenous Peoples, through translation and localized outreach.

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

COMMENT:

Comment: The UNGPs' effectiveness criteria provide a strong foundation for grievance mechanisms but do not explicitly address the cultural nuances, trust-building requirements, or Indigenous-specific protocols essential for effectiveness in Indigenous Peoples contexts. Grievance mechanisms must incorporate Indigenous governance systems, cultural practices, and protocols, ensuring alignment with UNDRIP Articles 18 and 19, which affirm Indigenous Peoples' rights to participate in decision-making processes through their chosen representatives.

Recommendation: For Indigenous Peoples, ensure that grievance mechanisms are designed and implemented with cultural sensitivity, in collaboration with Indigenous representatives, to reflect traditional customs, dispute resolution methods, and language needs. In line with UNDRIP (Article 40) and IFC (PS1 para 35; PS7, para.13), these mechanisms should protect confidentiality, guard against reprisals, and allow Indigenous Peoples to meaningfully engage in grievance resolution through culturally relevant processes.

UNDRIP Article 40: Affirms Indigenous Peoples' right to access conflict resolution procedures that consider their customs and traditions.

IFC Performance Standard 7 (PS7), Paragraph 13: Mandates that grievance mechanisms be culturally appropriate and accessible to Indigenous Peoples.

IFC Performance Standard 1 (PS1), Paragraph 35: Requires grievance mechanisms to protect confidentiality and prevent retaliation.

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

COMMENT:

Recommendation: Co-design the mechanism with Indigenous Peoples and other stakeholders directly affected by facility operations. Indigenous representatives should have a leadership role in the design process to ensure the mechanism reflects their Indigenous values and needs.

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

COMMENT:

Recommendation: Include Indigenous representatives in the review process where grievances affect Indigenous Peoples communities or rights.

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

COMMENT:

Recommendation: Publicly disclose aggregated grievance data in a manner co-designed with Indigenous Peoples, respecting their cultural protocols and governance systems. Sensitive Indigenous Peoples grievances must only be disclosed externally with explicit, community-level FPIC, ensuring alignment with UNDRIP Articles 18 and 19. Reporting mechanisms should prioritize transparency while safeguarding confidentiality and protecting the identity of complainants. Data should also reflect culturally contextualized outcomes to ensure grievances and their resolutions are not misrepresented

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

COMMENT:

Comment: Grievance reviews involving Indigenous Peoples communities must include Indigenous representatives in all stages, from analyzing patterns and assessing underlying causes to co-developing preventive actions. This ensures that solutions and preventive measures align with Indigenous governance systems and cultural protocols, in line with UNDRIP Articles 18 and 19 and ILO Convention No. 169, Article 6. Communicate outcomes of grievance reviews publicly in culturally appropriate formats, ensuring transparency and accessibility for Indigenous Peoples communities.

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

COMMENT:

Comment: The term "legitimate avenues of redress" is vague. Please specify what these avenues might include (e.g., judicial mechanisms, Indigenous-led forums, national human rights institutions, or international complaint bodies like the OECD National Contact Points). For Indigenous Peoples, the referral process must respect their governance systems and culturally specific approaches to dispute resolution

Performance Area 19: Biodiversity, Ecosystem Services and Nature

SECTION: 19.1 Biodiversity and Ecosystem Services and Nature, Foundational Practice, 1

COMMENT:

Comment: The latest Living Planet Index report shows that the global biodiversity has dropped by 73%. This steep decline is driven by habitat loss, climate change, and unsustainable resource use, all of which are putting the planet's natural diversity at risk. The report urges immediate action to protect ecosystems.

CMSI's foundational requirements should explicitly prohibit activities that could jeopardize the integrity of these critical areas. Strengthened foundational standards should mandate protective measures, such as Indigenous-led monitoring, cumulative impact assessments, and buffer zones around high-value areas. These measures align with the Kunming-Montreal Global Biodiversity Framework (Target 3), which calls for conserving 30% of terrestrial and marine areas by 2030, emphasizing the role of Indigenous stewardship.

Recommendation: Prohibit exploration or operations within World Heritage Sites and establish mandatory buffer zones to prevent indirect impacts on their Outstanding Universal Value (OUV). Ensure that operations adjacent to these areas undergo cumulative impact assessments and are monitored by Indigenous-led mechanisms to maintain ecosystem integrity and cultural values. Require the implementation of the mitigation hierarchy, prioritizing avoidance in culturally and ecologically significant areas. Align these measures with the Kunming-Montreal Global Biodiversity Framework (Targets 3 and 22), which emphasize protecting areas critical to biodiversity and Indigenous Peoples' rights, and UNDRIP Article 29, which affirms Indigenous Peoples rights to conservation and environmental protection.

SECTION: 19.1 Biodiversity and Ecosystem Services and Nature, Foundational Practice, 2

COMMENT:

Comment: where restrictions are not clearly defined (includes Indigenous Peoples lands), the facility should prevent impacts by obtaining FPIC for operations on or near Indigenous Peoples lands

Recommendation: Comply with all established restrictions for Key Biodiversity Areas, Ramsar Sites, legally designated protected areas, Indigenous Peoples lands, and their buffer zones. Where restrictions are undefined or absent, apply a precautionary approach to prevent harm to biodiversity and cultural values. For operations on or near Indigenous Peoples lands, obtain FPIC from Indigenous Peoples communities.

SECTION: 19.1 Biodiversity and Ecosystem Services and Nature, Foundational Practice, 4

COMMENT:

Recommendation: Assign senior management responsibility for biodiversity outcomes, supported by a formal governance framework with routine evaluations and Indigenous community involvement.

SECTION: 19.1 Biodiversity and Ecosystem Services and Nature, Foundational Practice, 6

COMMENT:

Comment: This risk assessment could benefit from specifying that it includes not only direct but also cumulative impacts on biodiversity, considering both present and future risks.

SECTION: 19.1 Biodiversity and Ecosystem Services and Nature, Good Practice, 1

COMMENT:

Comment: While this requirement references community engagement, it lacks specificity and meaningful inclusion of Indigenous Peoples' rights and governance systems. The framework should mandate co-design of mitigation measures with Indigenous Peoples' representatives to ensure cultural relevance and respect for

Indigenous ecological knowledge (IEK). UNDRIP Articles 18, 19, and 32 affirm the rights of Indigenous Peoples to participate in decision-making and require FPIC for actions affecting their ecosystem services. The mitigation hierarchy must prioritize Indigenous-led solutions, moving beyond general engagement to ensure accountability and alignment with Indigenous governance structures.

Recommend: Revise this requirement to ensure engagement with Indigenous Peoples is not merely consultative but collaborative, with Indigenous representatives co-designing and co-implementing mitigation measures. Actions affecting ecosystem services must integrate IEK and adhere to FPIC, as outlined in UNDRIP Articles 18, 19, and 32. This approach ensures resource management strategies respect Indigenous Peoples' rights, governance systems, and cultural values, while maintaining accountability through Indigenous-led monitoring.

SECTION: 19.1 Biodiversity and Ecosystem Services and Nature, Good Practice, 2

COMMENT:

Recommendation: Address material risks and impacts to biodiversity and ecosystem services by rigorously applying the mitigation hierarchy, prioritizing avoidance in culturally significant areas and lands connected to Indigenous Peoples. All mitigation and restoration measures must be co-developed with Indigenous communities through FPIC, ensuring alignment with their governance systems and cultural values. Offsets for residual impacts should be a last resort, implemented only after exhausting avoidance and minimization efforts, and co-designed with Indigenous Peoples. Rehabilitation and restoration efforts must integrate Indigenous ecological knowledge to achieve culturally respectful and ecologically effective outcomes.

SECTION: 19.1 Biodiversity and Ecosystem Services and Nature, Good Practice, 3

COMMENT:

Comment: Involve Indigenous Peoples in monitoring where relevant to ensure culturally sensitive oversight and adaptively manage toward achieving net gain where possible.

SECTION: 19.1 Biodiversity and Ecosystem Services and Nature, Good Practice, 6

COMMENT:

TNFD "s primary focus is on financial risks to businesses arising from nature-related issues, rather than emphasizing the impacts of business activities on nature itself. Facilities need to look at the broader ecological and social consequences of corporate actions. Recommending the following points for reporting:

financial impacts of nature-related risks on the facility and the facilities' impacts on nature and impacts on Indigenous Peoples and other rights holders.

Comprehensive assessments of how the facilities affect biodiversity, ecosystems, Indigenous Peoples and other rights holders, beyond just financial metrics.

Reporting frameworks must incorporate the perspectives and models of Indigenous Peoples communities (Indigenous-led Initiatives (e.g., ICCA Consortium): The ICCA Consortium represents Indigenous and Community Conserved Areas, encouraging community-defined reporting standards that highlight Indigenous knowledge and priorities in conservation efforts and other stakeholders who are directly affected by corporate activities.

SECTION: 19.1 Biodiversity and Ecosystem Services and Nature, Leading Practice, 1

COMMENT:

Comment: As previously noted, include Indigenous Peoples in baseline setting and monitoring to strengthen cultural relevance and support.

SECTION: 19.1 Biodiversity and Ecosystem Services and Nature, Leading Practice, 4

COMMENT:

Comment: Include public disclosure of the review findings and Indigenous co-reviewers to provide additional layers of accountability and cultural relevance.

SECTION: Intent

COMMENT:

Comment: Management practices should prioritize avoidance of biodiversity and ecosystem service impacts, particularly in areas of cultural and spiritual significance to Indigenous Peoples. Where impacts cannot be avoided, Indigenous Peoples must co-design mitigation and restoration measures, ensuring FPIC is secured and cultural values are upheld. The concept of 'net gain' should only be applied where it aligns with Indigenous Peoples' values and governance systems, as affirmed by UNDRIP Article 29 and ILO Convention No. 169, Article 7.

Recommendation: Identify and address material risks and impacts to biodiversity and ecosystem services by rigorously applying the mitigation hierarchy, prioritizing avoidance in culturally significant and high-biodiversity areas. Ensure that all biodiversity-related actions on Indigenous Peoples' lands are undertaken with the FPIC of Indigenous Peoples, respecting their governance systems and cultural values. Management practices must integrate Indigenous ecological knowledge (IEK) and community-led co-management, contributing to a nature-positive future in alignment with the Kunming-Montreal Global Biodiversity Framework (Targets 3 and 22) and UNDRIP Article 29, which affirms Indigenous rights to conservation and environmental protection. Where appropriate, strive for net gain in biodiversity, co-designed with Indigenous Peoples to reflect their values and priorities.

Performance Area 24: Closure

SECTION: 24.1 Closure Management, Foundational Practice, 1

COMMENT:

Recommendation: Publicly commit to a responsible closure approach that fully integrates environmental, social, and cultural considerations to achieve enduring, stable post-closure conditions free from ongoing material risks to people, ecosystem, and cultural heritage of Indigenous Peoples. In areas involving Indigenous Peoples, ensure that closure plans are developed collaboratively with Indigenous Peoples and adhere to Indigenous-defined standards of environmental integrity, cultural preservation and long-term safety.

SECTION: 24.1 Closure Management, Foundational Practice, 2

COMMENT:

Recommended wording: Develop a closure plan that not only complies with regulatory requirements, but is shaped by active engagement with potentially affected stakeholders and rights-holders. Where Indigenous Peoples communities are involved, ensure that the plan fully integrates FPIC to uphold their rights in the decision-making process. Ensure the plan integrates environmental, social, and cultural aspects and thoroughly estimate closure costs, reflecting the values and needs of the impacted community

The closure plan needs to integrate FPIC for Indigenous Peoples communities where applicable.

SECTION: 24.1 Closure Management, Good Practice, 1

COMMENT:

Comment: The commitment to consulting stakeholders and rights-holders is important, but the phrasing “where applicable” weakens the prioritization of Indigenous Peoples’ values and perspectives. These values, particularly in relation to sacred sites and vital water sources, must always be central to closure and rehabilitation processes in areas impacting Indigenous Peoples’ lands or territories. The current language also does not address the critical need for FPIC or Indigenous-led monitoring and co-management, which are essential for meaningful and sustained inclusion of Indigenous Peoples in decision-making processes. Additionally, explicit financial mechanisms for addressing post-closure liabilities should be included to ensure that Indigenous communities do not bear disproportionate burdens over the long term.

Recommendations: Identify risks and impacts related to closure and rehabilitation in consultation with stakeholders and rights-holders, ensuring that Indigenous Peoples’ values and perspectives are explicitly prioritized in all cases involving their lands, territories, or resources. Incorporate FPIC as a mandatory component of the consultation process. Address specific risks related to sacred sites and vital water sources through co-created solutions, including Indigenous-led monitoring and co-management practices. Ensure financial provisions are established to support long-term environmental and social commitments, with specific allocations for projects benefiting Indigenous Peoples post-closure. This approach will ensure that closure and rehabilitation practices respect Indigenous Peoples’ rights and cultural priorities while addressing broader environmental and social concerns.

SECTION: 24.1 Closure Management, Good Practice, 2

COMMENT:

Comment: Prioritize Indigenous Peoples’ community members, to ensure that post-mining plans align with their long-term economic, cultural, and environmental goals, fostering sustainable livelihoods and preserving community well-being.

SECTION: 24.1 Closure Management, Good Practice, 3

COMMENT:

Comment: Ensure that all planning aligns with the values of the Indigenous Peoples community to support sustainable, long-term outcomes.

SECTION: 24.1 Closure Management, Good Practice, 4

COMMENT:

Comment: The engagement process for identifying post-closure opportunities should explicitly recognize Indigenous Peoples as key rights-holders, with their cultural, environmental, and economic priorities integrated into the planning process. The lack of explicit mention of FPIC risks sidelining Indigenous Peoples decision-making and undermining the legitimacy of closure planning processes. Additionally, post-closure opportunities should align not just with general stakeholder aspirations but also with the unique rights, values, and long-term vision of Indigenous Peoples for their lands. A co-managed approach that includes Indigenous ecological knowledge would enhance the relevance and sustainability of post-closure uses.

Recommendations: Engage stakeholders and rights-holders, with a specific emphasis on Indigenous Peoples, to identify and document potential post-closure opportunities for alternative productive, recreational, or conservation uses of land and/or infrastructure. Ensure that this process incorporates FPIC and centers Indigenous-led or co-managed approaches. Post-closure opportunities must reflect the rights and values of Indigenous Peoples, with particular attention to sacred sites, traditional land uses, and community-led priorities. Allocate financial resources to support the implementation of sustainable and culturally appropriate post-closure initiatives and establish mechanisms for Indigenous-led monitoring of these projects to ensure their long-term success.

SECTION: 24.1 Closure Management, Good Practice, 5

COMMENT:

Recommendation: Implement and monitor closure measures during the operating life of the facility in line with a progressive closure approach and in accordance with the closure plan. Ensure that these measures are regularly evaluated and adjusted as needed to meet evolving environmental, social, and regulatory standards, including the priorities of Indigenous Peoples and other rights-holders. Adopt an adaptive monitoring approach that incorporates Indigenous ecological knowledge, co-management practices, and FPIC for any changes that may impact Indigenous Peoples' lands, territories and resources, or communities. This approach will promote sustainable outcomes, enhance community trust, and minimize future closure-related risks.

SECTION: 24.1 Closure Management, Leading Practice, 1

COMMENT:

Recommendation:

Publicly disclose how closure costs are estimated, including provisions specifically allocated for addressing the cultural, environmental, and economic priorities of Indigenous Peoples and other affected rights-holders. Provide annual updates on these costs, demonstrating alignment with evolving legal, social, and environmental standards, as well as commitments made during consultation and FPIC processes. Ensure disclosures are accessible to all stakeholders, including Indigenous communities, through culturally appropriate and locally relevant communication channels.

SECTION: 24.1 Closure Management, Leading Practice, 2

COMMENT:

Recommendation:

Collaborate with affected stakeholders and rights-holders, with a specific focus on Indigenous Peoples, to identify opportunities for post-mining communities throughout the life of the facility. Ensure that this process is grounded in FPIC and integrates Indigenous ecological knowledge, cultural values, and economic priorities. Post-mining opportunities should include targeted support for Indigenous-led enterprises, such as capacity-building programs and preferential access to resources. Align all plans with the aspirations and needs of Indigenous communities while ensuring equitable outcomes for other stakeholders, including workers and local suppliers.

SECTION: Intent

COMMENT:

Comment: Integrate FPIC and Indigenous-led monitoring requirements into closure planning and post-closure processes. Closure planning must be embedded in the FPIC process from the outset to ensure Indigenous Peoples are fully informed and meaningfully involved as decision-making partners throughout the project life-cycle. Early integration of FPIC allows for a co-created vision for post-closure that respects and aligns with Indigenous Peoples' values and their cultural, environmental, and economic priorities. This approach supports sustainable outcomes that reflect the needs and rights of Indigenous Peoples communities.

Performance Area 3: Responsible Supply Chains

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

COMMENT:

Comment: A general policy could overlook key issues - supply chain policy should specifically include Indigenous Peoples' rights protections, particularly FPIC, land use, and cultural heritage preservation. There should be clear requirements around environmental stewardship that directly protect ecosystems, biodiversity, and water resources on Indigenous Peoples' lands. High-risk supply chain segments should have protocols to minimize environmental impacts on Indigenous Peoples' lands.

Recommend: Publicly disclose a comprehensive Responsible Supply Chain Policy that includes specific commitments to: Indigenous Peoples' rights to their land, territories, resources and communities including FPIC.

SECTION: 3.1 Responsible Supply Chain (applicable to all facilities), Foundational Practice, 3

COMMENT:

Comment: Expand this requirement to include protocols for responding to inquiries or concerns from Indigenous Peoples' communities affected by supply chain activities. Additionally, establishing timelines and response standards can improve accountability and ensure that Indigenous Peoples' concerns are addressed promptly and transparently.

Recommendation Respond to customer and Indigenous Peoples' community inquiries related to the Facility's performance against the Performance Areas of this Standard, following clear timelines and standards for information disclosure.

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

COMMENT:

Comment: To ensure comprehensive risk assessment, CMSI should consider explicitly prioritizing impacts to Indigenous Peoples' lands that exhibit high scale, scope or are irremediable. For example, any adverse impacts that permanently alter Indigenous Peoples' territories including water sources, or cultural sites should be classified as high risk.

Recommendation: Identify, assess, and prioritize the most significant parts or segments of the Facility's supply chain where the severity or likelihood of sustainability risks is high or very high, with particular emphasis on impacts to Indigenous Peoples' territories. Classify as high risk any adverse impacts that are significant in scale, scope, or irreversibility, including those affecting critical resources like water sources and cultural sites. Ensure that the assessment incorporates FPIC and reflects the rights and priorities of Indigenous Peoples as recognized in international frameworks.

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

COMMENT:

Comment: Define what is reasonable action as this could be interpreted broadly and leaves room for facilities to take minimum steps instead of substantive actions. The absence of specific examples, especially for high-risk areas impacting Indigenous Peoples' lands, may result in inconsistency in how facilities address these risks.

Reasonable action" must include mandatory protections, such as FPIC. FPIC should be required for all interactions with Indigenous Peoples' communities, regardless of the risk's scale, scope, or perceived irreparable nature. FPIC is not conditional on the severity of the impact—it is an inherent and non-negotiable right of Indigenous Peoples, as recognized under UNDRIP (Article 32) and ILO 169 (Articles 6 and 7).

By requiring FPIC for all engagements with Indigenous communities, this standard would align with international Indigenous rights frameworks and ensure that Indigenous Peoples retain their sovereignty and self-determination over decisions that affect their lands, territories, and resources. Prioritizing severe impacts is important for risk management, but this must not override the obligation to respect FPIC in all scenarios.

Recommendation: Define "reasonable action" to include clear and mandatory measures that respect the rights of Indigenous Peoples. Require that FPIC be obtained for all interactions with Indigenous communities, regardless of the scale, scope, or severity of the risk. For high or very high risks, actions should include co-designed mitigation measures that reflect Indigenous values, priorities, and knowledge. Ensure that these protections are not conditional on risk level but are applied consistently as part of a rights-based approach.

SECTION: 3.1 Responsible Supply Chain (applicable to all facilities), Good Practice, 3

COMMENT:

Comment: This requirement has limited Scope for affected Communities as the focus seems to be on business relationships. It doesn't address grievance mechanisms for affected communities, especially Indigenous Peoples communities who were, are, and may be impacted by supply chain activities. Indigenous Peoples communities often lack formal channels to file complaints when issues arise.

Recommendation: Enable access for business relationships and affected communities, including Indigenous Peoples, to file complaints or grievances, with culturally appropriate, accessible grievance channels.

SECTION: 3.1 Responsible Supply Chain (applicable to all facilities), Good Practice, 6

COMMENT:

Comment: Public disclosure is a positive step toward transparency and accountability. However, to ensure meaningful accountability, disclosures must go beyond general progress updates. Facilities should publicly disclose specific impacts and actions related to Indigenous Peoples, including mitigation and remedy efforts for high-risk or irremediable impacts such as cultural heritage destruction, land degradation, or loss of access to traditional territories. Reporting should provide sufficient detail to assess whether actions taken uphold FPIC, safeguard Indigenous Peoples' rights, and align with international standards such as the UN Guiding Principles on Business and Human Rights (UNGPs) and the OECD Due Diligence Guidance for Responsible Supply Chains.

Recommendation: ...and, where applicable, remedy of adverse impacts associated with the Facility's business relationships, with specific disclosure on high-risk, irremediable impacts affecting Indigenous communities, lands, and cultural sites.

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

COMMENT:

Comment: This requirement does not provide a meaningful advancement beyond the foundational and good practice levels. Foundational practice already requires facilities to respond to inquiries, and good practice includes grievance mechanisms for business relationships. Simply providing access to a grievance system at the leading practice level risks redundancy and does not meet CMSI's goal for "stretch goals" or leadership.

To make this requirement distinct and truly exemplary, this level should go beyond access and instead mandate an advanced, culturally responsive grievance system specifically for affected communities, particularly Indigenous Peoples communities. Such a system should have a robust process for tracking, resolving, and transparently reporting complaints.

Recommendation: Enable access to a culturally appropriate system for stakeholders, including Indigenous Peoples' communities, to file complaints regarding sustainability risks. The system should include (a) anonymous reporting options, (b) Indigenous language support, and (b) transparent procedures for tracking, reporting, and resolving complaints.

SECTION: 3.1 Responsible Supply Chain (applicable to all facilities), Leading Practice, 10

COMMENT:

Comment: Good Practice already requires public disclosure of due diligence actions, including risk mitigation processes, which creates some overlap with Leading Practice as currently written. To make Leading Practice lead, CMSI could specify that public disclosure here should include detailed tracking and reporting on high-risk segments within the supply chain. For example, CMSI can say, "require in-depth updates on Indigenous Peoples' specific risks, progress on FPIC processes, and ongoing mitigation outcomes. This would establish Leading Practice as a higher standard of transparency and accountability.

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

COMMENT:

Comment: This leading practice overlaps with good practice point 2, which already required action to mitigate risks in business relationships. For clearer distinction at the leading level, CMSI would require facilities to remove language "where appropriate, feasible, reasonable" making collaboration on remediation mandatory. CMSI would also require facilities to engage directly with affected communities to provide remedy.

For a true Leading Practice standard, when a mining facility learns that a business relationship—whether it be a sub-contractor, joint venture partner, or other entity—has caused or contributed to significant adverse impacts, it should require immediate remedy actions. If the harm is severe or the business relationship fails to implement effective remedy, the facility should take decisive action to suspend or terminate the relationship to prevent further damage. Additionally, the facility should conduct enhanced due diligence and continuous monitoring to ensure compliance with remedy actions and avoid future harm. Finally, to demonstrate transparency and accountability, the facility should publicly disclose significant actions taken in response to these impacts, including terminations and the results of enhanced due diligence efforts. This approach would establish CMSI as a leader in responsible business conduct, showing a commitment to high standards of integrity and accountability.

SECTION: 3.1 Responsible Supply Chain (applicable to all facilities), Leading Practice, 3

COMMENT:

Point 1 and 2 are largely repetitive, as both focus on collaboration to address adverse impacts caused by business relationships. To create a clearer and more rigorous standard, we suggest CMSI to consolidate these points and elevate the language to require facilities to use leverage over business relationships actively. This could include a clear escalation path: first, requiring support for remedy actions, followed by increased collaboration with stakeholders to maximize influence, and, if necessary, suspending or terminating relationships for unremedied severe impacts. This would make the Leading Practice level truly distinctive and outcome-focused

SECTION: 3.1 Responsible Supply Chain (applicable to all facilities), Leading Practice, 5

COMMENT:

Comment: Capacity-building is already required at Foundational and Good Practice levels, where facilities are expected to support prioritized relationships in their risk management practices. For Leading Practice to lead, CMSI should specify advanced, targeted capacity-building, such as Indigenous Peoples rights training, FPIC protocols, and cultural heritage protection, especially for suppliers operating in high-risk areas.

Recommendation: Assist prioritized business relationships in building capacities with advanced training on Indigenous Peoples rights, FPIC, and cultural heritage protections, focusing on areas where risks to communities are highest.

SECTION: 3.2 Responsible Mineral Sourcing, Foundational Practice, 1

COMMENT:

Comment: By mentioning the OECD aligned responsible mineral sourcing it establishes a transparency baseline, which is crucial for responsible sourcing. However, it lacks specificity about how Indigenous Peoples' rights are addressed in the policy, particularly in cases where minerals are sourced from or near Indigenous Peoples' lands. This is crucial even at the foundational practice.

Recommendation: Publicly disclose an OECD-aligned responsible mineral supply policy that includes specific commitments to Indigenous Peoples' rights protections where relevant, particularly around FPIC.

SECTION: 3.2 Responsible Mineral Sourcing, Foundational Practice, 2

COMMENT:

Comment: By mentioning the OECD aligned responsible mineral sourcing it establishes a transparency baseline, which is crucial for responsible sourcing. However, it lacks specificity about how Indigenous Peoples' rights are addressed in the policy, particularly in cases where minerals are sourced from or near Indigenous Peoples' lands. This is crucial even at the foundational practice.

Recommendation: Publicly disclose an OECD-aligned responsible mineral supply policy that includes specific commitments to Indigenous Peoples' rights protections where relevant, particularly around FPIC.

SECTION: 3.2 Responsible Mineral Sourcing, Good Practice, 1

COMMENT:

Comment: This requirement introduces an independent audit, adding a level of external accountability beyond the foundational steps. It's effective in validating compliance but could benefit from an emphasis on Indigenous-specific factors within the audit. CMSI should require that the audit explicitly assess how the due diligence system protects Indigenous Peoples' rights, with a particular focus on the following:

FPIC Compliance: Whether FPIC was obtained, maintained, and documented throughout all stages of business relationships impacting Indigenous lands and resources.

Engagement Quality: Evidence that engagement processes were culturally appropriate, inclusive, and aligned with Indigenous governance systems.

By including these elements, CMSI can ensure the audit provides a rigorous evaluation of how the Facility aligns with international standards like UNDRIP (Article 32) and ILO 169 (Articles 6 and 7).

Recommendation: Demonstrate that the Facility implements an OECD-aligned due diligence system, by completing an independent audit under an OECD-aligned programme that includes an assessment of Indigenous Peoples' rights protections.

SECTION: 3.2 Responsible Mineral Sourcing, Leading Practice, 1

COMMENT:

Comment: Since this is a leading practice, why does CMSI mention only one from the three in the list. Facilities should aim to address all three items in leading practice especially (a) all sustainability risks.

COMMENT:

The intent of Performance Area 3 lacks critical emphasis on Indigenous Peoples' rights, land, and cultural heritage, which are disproportionately impacted by mining supply chain activities. Globally, over 54% of mining

projects are located on or near Indigenous lands, making Indigenous-specific due diligence a fundamental requirement for responsible business conduct. Without explicit acknowledgment, companies may fail to identify or address risks related to Indigenous Peoples' rights violations, land impacts, and cultural harm within their supply chains. The intent should also include transparency measures for disclosing raw material sourcing locations and reporting on FPIC processes and community consultations to ensure accountability and respect for Indigenous communities.

Recommendation:

Add Indigenous-Specific Language to the Intent: Revise the intent to explicitly prioritize due diligence on Indigenous Peoples' rights, land impacts, and cultural heritage, aligning with international standards like UNDRIP and ILO 169.

Mandate Supply Chain Transparency:

Require companies to disclose raw material sourcing locations, ensuring that supply chain impacts on Indigenous communities are visible and addressable.

Include reporting on FPIC agreements, community consultations, and actions taken to mitigate Indigenous-specific risks.

Strengthen International Alignment: Reference international frameworks such as OECD Due Diligence Guidance for Responsible Supply Chains of Minerals and IFC PS7 to provide a clear standard for assessing Indigenous-specific risks and ensuring compliance.

Recommendation to add to the intent: Promote responsible business conduct in supply chains by implementing risk-based due diligence on business relationships to identify environmental, social, governance, and Indigenous Peoples' rights risks and impacts, particularly those affecting Indigenous Peoples' lands, cultures, and resources. Due diligence should include transparency in sourcing locations, the steps taken to obtain FPIC- including documentation of the process- and the outcomes of meaningful community consultations.

Performance Area 4: New Projects, Expansions and Resettlement

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

COMMENT:

Recommendation:

- Collect baseline data that characterizes the environmental, social, cultural (including intangible heritage), and economic context of the proposed new project, major expansion, or other significant changes to existing operations.*
- Ensure the process includes meaningful engagement with affected communities and respects the rights of Indigenous Peoples, particularly their right to FPIC where applicable.*
- Integrate Indigenous ecological knowledge and cultural heritage into data collection to provide a comprehensive understanding of potential impacts.*
- Transparently disclose baseline data to affected communities in culturally appropriate formats to foster informed participation and decision-making.*

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

COMMENT:

Comment: Explicitly integrate the rights of Indigenous Peoples, including FPIC, and emphasize their active involvement at all stages of the assessment. Additionally, it should ensure that intangible cultural heritage is adequately considered to capture the full scope of potential impacts. To address jurisdictional variability, the

requirement should emphasize adherence to international best practices in cases where jurisdictional regulations are insufficient. Finally, the ESIA findings should be transparently disclosed to all affected stakeholders in culturally appropriate formats to enable informed decision-making and participation.

Recommendation: Conduct an ESIA of a proposed new project, major expansion, or other significant changes. This assessment must:

- *Explicitly integrate Indigenous Peoples' rights, including FPIC, and involve them in co-designing the ESIA process.*
- *Consider tangible and intangible cultural heritage to capture the full range of impacts.*
- *Adhere to international best practices, such as UNDRIP, where jurisdictional regulations are insufficient.*
- *Transparently disclose findings to affected Indigenous Peoples communities in culturally appropriate formats, enabling informed participation and decision-making.*

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

COMMENT:

Comment: While the requirement mentions engaging rights-holders and ensuring cultural appropriateness, it falls short in explicitly addressing Indigenous Peoples' rights and fails to integrate FPIC. The phrasing "engage" is vague and risks tokenistic participation, where Indigenous Peoples are consulted but lack meaningful influence over decisions that directly impact their lands, territories, and resources. Indigenous Peoples must be recognized as rights-holders, not just stakeholders, with unique legal and cultural standing under frameworks like UNDRIP (Articles 18 and 32) and ILO 169 (Articles 6 and 7). Additionally, the requirement does not address the need for co-leadership in processes like baseline data collection, which is critical for ensuring Indigenous knowledge systems and governance are integrated and respected.

Without integrating FPIC, Indigenous co-leadership, and accountability measures, this requirement risks being reduced to tokenistic engagement that fails to respect Indigenous Peoples' unique rights and contributions.

Recommendation: Engage Indigenous Peoples and other rights-holders in the baseline data collection process, risk and impact assessments, and the development of mitigation plans, in ways that respect FPIC and integrate Indigenous knowledge and governance systems. Engagement processes must be co-designed with Indigenous Peoples and conducted in accessible, culturally appropriate formats to ensure meaningful participation and decision-making power.

SECTION: 4.1 Risk and Impact Assessments of New Projects and Expansions, Good Practice, 3

COMMENT:

Comment: Management plans must align with internationally recognized frameworks such as the IFC Performance Standard Performance Standards on Environmental and Social Sustainability (PS1) and the UNEP Guidelines, which emphasize the mitigation hierarchy. These frameworks prioritize the avoidance of impacts as the first and most effective step in safeguarding Indigenous Peoples' lands, cultural heritage, and livelihoods. However, in practice, there is often an over-reliance on mitigation and compensation, which fail to fully address the cultural and spiritual significance of impacts on Indigenous Peoples communities. For Indigenous Peoples, this can result in irreparable harm to cultural and spiritual connections with the land. Compensation mechanisms frequently default to monetary payments, which fail to account for the intrinsic, non-material value of Indigenous heritage and livelihoods.

Impacts to Indigenous Peoples' lands, territories, and cultural heritage must be avoided as a primary principle. In the rare event that Indigenous Peoples themselves determine, through FPIC, that impacts cannot be avoided, compensation strategies must be Indigenous-led and culturally appropriate. These strategies should prioritize land-for-land replacement, cultural restoration programs, and livelihood support aligned with Indigenous practices and aspirations.

Recommendation:

Prioritize Avoidance: Explicitly require the mitigation hierarchy to prioritize avoiding impacts on Indigenous Peoples' lands and cultural heritage.

Culturally Appropriate Compensation: Develop compensation plans in collaboration with Indigenous Peoples, incorporating land-for-land measures, cultural heritage restoration, and economic opportunities aligned with Indigenous Peoples' self determined needs, priorities and practices.

Ongoing Monitoring: Establish mechanisms for Indigenous Peoples to monitor and participate in the implementation of management plans.

Accountability Mechanisms: Require independent audits of management plans to ensure commitments are upheld.

SECTION: 4.1 Risk and Impact Assessments of New Projects and Expansions, Good Practice, 4

COMMENT:

Comment: Monitoring should not only track progress but actively involve Indigenous Peoples as co-monitors to ensure accountability and cultural appropriateness. Updates to management plans must reflect community feedback and evolving needs, ensuring Indigenous Peoples remain at the center of decision-making.

Recommendation

Require Indigenous Peoples' participation in monitoring teams to ensure cultural and community priorities are respected.

Create mechanisms for Indigenous communities to submit concerns or observations directly into the monitoring process.

Ensure updates to management plans are co-developed with Indigenous Peoples and disclosed in culturally appropriate formats.

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

COMMENT:

Comment: Disclosure should prioritize accessibility for Indigenous Peoples communities, ensuring that ESIA results are translated into Indigenous languages and presented in culturally appropriate formats. Additionally, it must include explicit documentation of how Indigenous Peoples input influenced project design and mitigation measures. Confidential or sensitive cultural information must be excluded or disclosed only with FPIC.

Recommendation:

Require disclosure of ESIA results in Indigenous languages and through formats tailored to community preferences (e.g., oral presentations or visual summaries).

Include clear documentation of how Indigenous Peoples' communities input shaped project design, mitigation, and compensation measures.

Establish a mechanism for ongoing communication of changes or updates to the ESIA throughout the project lifecycle

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

COMMENT:

Comment: This requirement acknowledges the importance of inclusivity in consultation processes, but it risks fragmenting participation into silos without addressing the intersectional roles and contributions of Indigenous women. Indigenous women often hold distinct knowledge related to land stewardship, cultural practices, and intergenerational wisdom. However, they may face systemic barriers to participation, such as patriarchal community structures or the lack of culturally appropriate formats.

Recommendation:

Mandatory Participation: Make separate consultation sessions with women, vulnerable, and underrepresented groups mandatory, not discretionary, and ensure their outcomes are integrated into the broader ESIA process.

Intersectionality: Include specific guidance on how to engage Indigenous women in a culturally appropriate manner, such as by ensuring female facilitators, offering safe spaces, and aligning consultations with Indigenous governance systems.

Capacity Building: Provide resources, including translation and training, to empower these groups to meaningfully contribute to decision-making processes.

Documentation and Transparency: Require detailed documentation of how separate consultations informed the ESIA outcomes and decisions.

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

COMMENT:

Comment: Joint monitoring can be a powerful tool for transparency and accountability, but it must recognize Indigenous Peoples as rights-holders rather than stakeholders, emphasizing their legal and cultural connection to their lands. Without explicitly addressing this distinction, the collaboration could dilute Indigenous Peoples' authority or tokenize their involvement.

Recommendation:

Joint monitoring must be co-designed and led by Indigenous Peoples where their lands or rights are affected. Monitoring should incorporate Indigenous governance systems and traditional ecological knowledge

Provide training and resources for Indigenous monitors to enable them to fully participate in technical aspects of monitoring

Establish publicly accessible reports documenting monitoring findings, with a clear explanation of how these findings influence project decisions and adjustments.

Create mechanisms for Indigenous Peoples to report non-compliance directly and for the results of monitoring to trigger corrective actions.

SECTION: 4.1 Risk and Impact Assessments of New Projects and Expansions, Leading Practice, 3

COMMENT:

Comment: While collaboration on cumulative impacts is essential, this requirement is vague about how Indigenous Peoples' rights will be safeguarded in multi-party scenarios. Indigenous Peoples often face challenges when multiple actors are involved, as overlapping jurisdictions and interests can dilute accountability and exacerbate harm. The absence of a clear mechanism for Indigenous Peoples' direct involvement risks reducing their role to consultation rather than co-decision-making in mitigation measures.

Recommendation:

Require that Indigenous Peoples have a decision-making role in determining cumulative mitigation measures, especially when their territories are affected.

Develop a collaborative governance framework that ensures accountability across all contributing parties, with clear roles and responsibilities for Indigenous Peoples.

Establish funding mechanisms to support Indigenous Peoples communities' participation in cumulative impact mitigation, particularly for long-term monitoring and cultural preservation programs.

Mandate the disclosure of agreements, roles, and responsibilities among all parties involved in mitigation efforts, ensuring that Indigenous communities are fully informed.

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

COMMENT:

Comment: The phrase "wherever possible" is vague and creates loopholes, allowing facilities to justify displacement without exhausting all alternatives. This undermines the principle of avoidance, which should be a baseline obligation, not a discretionary measure. For Indigenous Peoples, displacement represents a direct violation of their rights under UNDRIP (Articles 10 and 32) and ILO 169 (Articles 16 and 17), which emphasize that relocation must not occur without FPIC. The foundational requirement fails to make FPIC central, reducing the protection for Indigenous communities affected by land acquisition and resettlement.

Recommendation: Prohibit involuntary physical and/or economic displacement. Displacement may only occur with FPIC of affected communities and after all feasible alternatives to avoid displacement have been documented, transparently disclosed, and agreed upon. Additionally, measures must address the loss of cultural, spiritual, and governance values associated with displacement.

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

COMMENT:

Comment: The requirement only mentions consultation without including FPIC for Indigenous Peoples. This omission risks relegating Indigenous Peoples communities to a consultative role rather than recognizing their right to approve or reject projects affecting their lands and livelihoods. The conflation of stakeholders and rights-holders dilutes the distinct legal and cultural standing of Indigenous Peoples. While all stakeholders may require consultation, rights-holders (e.g., Indigenous Peoples) have specific protections under international frameworks, including UNDRIP (Articles 10 and 32) and ILO 169 (Articles 6 and 16).

Amend the requirement to specify that consultation alone is insufficient for Indigenous Peoples and must be replaced with FPIC.

Recommendation: Where physical and/or economic displacement is deemed unavoidable, FPIC must be obtained from Indigenous Peoples, and meaningful consultation must be conducted with all potentially affected stakeholders during the planning stages of any new project or expansion. Facilities must document and disclose all explored alternatives, demonstrate why displacement is unavoidable, and ensure culturally appropriate methods of engagement that respect Indigenous governance systems and languages.

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

COMMENT:

Comment: Displacement also threatens cultural heritage, spiritual connections to the land, and community cohesion, which are intrinsic to Indigenous identities and livelihoods. UNDRIP (Articles 11, 12, and 25) and ILO 169 (Article 13) emphasize the need to include these non-economic factors in assessments.

Recommendation: Conduct a socio-economic, cultural, and spiritual baseline study and impact assessment, co-designed and led by Indigenous Peoples, for communities potentially affected by involuntary physical and/or economic displacement. The findings must form the basis for obtaining FPIC and designing culturally appropriate mitigation and compensation measures, with transparent documentation shared in accessible formats.

SECTION: 4.2 Land Acquisition and Resettlement, Foundational Practice, 4

COMMENT:

Comment: The grievance mechanism is reactive, addressing issues after displacement processes have begun, rather than embedding Indigenous Peoples' FPIC and decision-making authority as proactive safeguards to prevent grievances

Recommendation: Provide people potentially affected by displacement with access to an independent, culturally appropriate grievance mechanism co-designed with Indigenous Peoples. This mechanism must operate transparently, document grievances and resolutions, and be integrated into the FPIC process to address concerns proactively before displacement occurs.

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

COMMENT:

The requirement mentions "consultation with affected stakeholders and rights-holders," but it lacks emphasis on FPIC for Indigenous Peoples. Consultation alone risks diluting the unique legal and cultural rights of Indigenous Peoples by equating their authority with that of other stakeholders

RAP and Livelihood Restoration Plan often focus on tangible aspects such as housing or income but neglect cultural and spiritual impacts. This is a critical oversight, particularly for Indigenous Peoples, whose connection to land goes beyond material considerations.

Recommendation: Develop a resettlement action plan (RAP) and, a livelihood restoration plan, in line with IFC Performance Standards 5 and 7 on Land Acquisition, Involuntary Resettlement, and Indigenous Peoples' rights. These plans must be co-designed with Indigenous Peoples, incorporate their FPIC, and address both tangible and intangible impacts, including cultural and spiritual dimensions.

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

COMMENT:

Comment: Cumulative impacts are critical for Indigenous Peoples, whose lands and resources often face overlapping pressures from multiple projects, including mining. However, many cumulative impact assessments are superficial, failing to account for the intergenerational, cultural, and spiritual dimensions unique to Indigenous territories. The absence of robust alternatives analysis risks approving projects that prioritize cost efficiency over Indigenous Peoples' rights and environmental integrity.

The assessment of cumulative impacts must explicitly integrate Indigenous knowledge systems and address intergenerational impacts on land, resources, and cultural heritage. The alternatives analysis should prioritize options that avoid or minimize impacts on Indigenous Peoples' territories, recognizing that compensation cannot replace cultural and spiritual loss.

Recommendation:

- Indigenous-Led Input: Require Indigenous Peoples' leadership in identifying cumulative impacts to reflect traditional knowledge and lived experiences.

- Long-Term Analysis: Assess long-term and intergenerational cumulative impacts on cultural and spiritual heritage.

- Prioritize Avoidance: The alternatives analysis must prioritize options that avoid impacts on Indigenous Peoples' lands and resources, with clear documentation of why alternatives were chosen or rejected.

- Transparency: Ensure that cumulative impact assessments and alternatives analyses are publicly disclosed to Indigenous Peoples' communities in culturally appropriate formats

COMMENT:

Comment: The requirement seem to limit the application of IFC Performance Standard 7 to cases of physical and/or economic displacement, leaving other forms of harm (e.g., cultural, spiritual, or governance-related impacts) unaddressed. PS7 applies broadly to all impacts on Indigenous Peoples' lands, not just displacement. Limiting it to displacement misrepresents its intent and weakens protections for Indigenous Peoples. Additionally, While PS7 includes FPIC, the requirement does not mandate that FPIC be achieved prior to any displacement. Without explicitly tying this to UNDRIP Article 10, which prohibits forced relocation without FPIC, the protection is incomplete.

Recommendation: Implement the provisions of IFC Performance Standard 7 on Indigenous Peoples for all impacts involving lands traditionally owned by, or under the customary use of, Indigenous Peoples. FPIC must be obtained prior to any displacement or activity affecting these lands, in full alignment with international frameworks, including UNDRIP Articles 10 and 32, and ILO 169 (Articles 6 and 16). Compliance must be independently verified and regular public reporting. Protections must also align with Performance Area 14 to address the full scope of Indigenous Peoples' rights, including governance systems, cultural heritage, and the right to self-determination.

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

COMMENT:

Comment: National laws often fail to recognize Indigenous Peoples' land rights, particularly in countries where domestic legislation conflicts with international frameworks like UNDRIP and ILO 169. This creates a significant gap when seeking to resolve land title disputes, as national law alone may perpetuate injustices or invalidate customary land tenure systems. Indigenous Peoples' land rights are grounded in customary law, traditional governance systems, and international protections, which often go unrecognized in formal land title systems. Without prioritizing compliance with international law, companies may inadvertently reinforce inequities in land disputes. Terms like "seek resolution" lack specificity. What does "resolution" entail? Without clear guidelines, companies could claim compliance even when disputes remain unresolved or when outcomes disproportionately favor corporate interests. Clarify that "resolution" must involve equitable agreements reached through consultation or FPIC, rather than imposed settlements or coercion.

Recommendation: Identify and resolve existing claims and conflicts of land title in compliance with international frameworks, including UNDRIP and ILO 169, as well as customary land tenure systems recognized by Indigenous Peoples. All resolution processes must be guided by FPIC and include Indigenous leadership, with mechanisms for transparency and public accountability.

SECTION: 4.2 Land Acquisition and Resettlement, Good Practice, 4

COMMENT:

Comment: The inclusion of avoidance is positive but weakened by its placement alongside mitigation and compensation as part of a continuum. This framing risks companies treating avoidance as optional, defaulting to mitigation or compensation without sufficiently exploring ways to prevent displacement

Recommendation:

Reframe the requirement to emphasize that avoidance must be the first and primary action, with mitigation or compensation as last-resort measures.

Acknowledge Indigenous Peoples' unique status as rights-holders and emphasize that remedies must be designed in collaboration with Indigenous leaders to reflect their governance systems, cultural priorities, and land rights

Make FPIC a central element in the design and implementation of actions and remedies. This ensures remedies address community-defined needs and priorities.

SECTION: 4.2 Land Acquisition and Resettlement, Good Practice, 5

COMMENT:

Comment: The requirement's focus on compensation and livelihood restoration assumes that material compensation can adequately address all losses. For Indigenous Peoples, land is tied to spiritual, cultural, and governance systems that cannot be replaced or compensated through monetary or material means. This narrow framing risks overlooking the intangible impacts of displacement. Full replacement cost can vary significantly depending on how it is defined and calculated. Without specific guidelines, there is a risk that compensation will undervalue culturally significant lands, traditional livelihoods, or sacred sites. For Indigenous Peoples, land-for-land compensation is often the only acceptable option because monetary compensation does not address the cultural, spiritual, and subsistence value of land. This is in line with UNDRIP Article 26, which affirms the right of Indigenous Peoples to lands they traditionally own, occupy, or otherwise use.

Recommendation: Provide compensation for lost assets at full replacement cost, prioritizing land-for-land compensation for Indigenous Peoples where applicable, and include measures to address intangible cultural and spiritual losses. Compensation frameworks must be co-designed and led by Indigenous Peoples to ensure alignment with their values and priorities. Establish transparent, consistent, and equitable mechanisms for calculating compensation, and implement long-term monitoring programs to ensure livelihoods and living standards are sustainably improved.

SECTION: 4.2 Land Acquisition and Resettlement, Good Practice, 6

COMMENT:

Comment: The term "appropriate development benefits" is vague and subject to interpretation. Without clear guidelines, there's a risk that benefits may be tokenistic (e.g., one-time payouts or superficial training programs) rather than meaningful and sustainable contributions to the livelihoods and well-being of displaced communities. The absence of FPIC weakens the principle of empowering Indigenous Peoples communities to actively decide on the benefits they wish to derive. (see detailed comments in performance area 13).

Define "Appropriate Development Benefits" Clearly: Specify that development benefits must be sustainable, culturally relevant, and tailored to the priorities of affected communities, especially Indigenous Peoples. Examples of appropriate benefits include but not limited to: (a) Support for traditional livelihoods (b) Investments in education, healthcare, and infrastructure aligned with community-defined needs (c) Capacity-building programs to strengthen.

Recommendation: Provide opportunities to displaced communities and persons to derive sustainable, culturally relevant development benefits from the Facility, prioritizing initiatives co-designed with affected communities, particularly Indigenous Peoples. Development benefits must respect and uphold their right to FPIC and support community-defined needs, including traditional livelihoods, capacity-building, and intergenerational resilience. The Facility must establish transparent monitoring and accountability mechanisms to track and report on the delivery and impact of these benefits.

SECTION: 4.2 Land Acquisition and Resettlement, Good Practice, 7

COMMENT:

Comment: The requirement to disclose engagement processes, impacts, plans, and progress is positive but needs clarity and specificity. Engagement processes should detail how FPIC was achieved or attempted, especially for Indigenous Peoples, including timelines, methodologies, and outcomes. Without this, it is difficult to assess whether engagements were meaningful or tokenistic. Additionally, the disclosure of impacts should go beyond socio-economic aspects to include cultural, spiritual, and environmental dimensions that are critical to Indigenous Peoples and often overlooked. The disclosure of plans and progress should include specific benchmarks, timelines, and challenges faced during implementation, ensuring that affected communities can hold the facility accountable for promises made.

The requirement also does not ensure that disclosed information is accessible to Indigenous Peoples in culturally and linguistically appropriate formats. Written or digital formats may exclude communities with limited and technological access, thereby undermining the intent of transparency.

Recommendation: Publicly disclose the engagement processes, including FPIC methodologies, socio-economic, cultural, spiritual, and environmental impacts, resettlement or mitigation plans, and progress on implementation. Disclosures must be validated through independent audits, provided in culturally and linguistically appropriate formats, and updated regularly to ensure transparency and accountability.

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

COMMENT:

Comment: This is positive step towards ensuring accountability and long-term support. However, it narrowly focuses on restoration of livelihoods and standards of living, failing to account for the broader impacts of displacement, particularly for Indigenous Peoples. Restoration alone may not address the full extent of harm caused by displacement, including the loss of cultural, spiritual, and governance systems tied to their lands.

In regard to Indigenous Peoples communities, the goal should not merely be restoration but enhancement and self-determination, ensuring that livelihoods and standards of living are sustainably improved in ways aligned with their cultural and social values and self determined needs and priorities. Additionally, the requirement does not specify the duration, frequency, or methodology of monitoring, leaving it open to inconsistent or superficial implementation.

Recommendation: Monitor the social, economic, cultural, and spiritual status of physically and/or economically displaced people, particularly Indigenous Peoples, to enable the enhancement of livelihoods, standards of living, and cultural preservation. Monitoring must be conducted at regular intervals, co-designed and implemented with affected communities, and align with Indigenous Peoples' right to FPIC. Findings must be transparently disclosed through public reporting and validated by independent audits to ensure accountability and long-term effectiveness.

SECTION: 4.2 Land Acquisition and Resettlement, Good Practice, 9

COMMENT:

Recommendation: Conduct an internal review of the implementation and monitoring of the resettlement action plan and the livelihood restoration plan. The review process must actively involve affected Indigenous Peoples and other displaced communities to ensure transparency and alignment with their priorities. Action plans to address gaps must include timelines, measurable goals, and clear accountability mechanisms. Findings and corrective actions should be independently validated and publicly disclosed to promote trust and transparency.

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

COMMENT:

Comment: While the goal of improving livelihoods and standards of living is commendable, this requirement lacks specificity and does not account for the unique needs and priorities of displaced Indigenous Peoples. The phrase "improve livelihoods and standard of living" often implies an external definition of development, which may conflict with Indigenous Peoples' own vision of well-being, autonomy, and cultural continuity.

For Indigenous Peoples, land displacement often severs connections to ancestral territories, disrupting traditional livelihoods and governance systems. Improving livelihoods for Indigenous Peoples requires a culturally tailored approach that addresses more than economic factors, such as sustaining traditional practices, preserving cultural heritage, and ensuring intergenerational resilience.

Moreover, the requirement does not specify whether displaced communities will co-design these programs or how their effectiveness will be monitored over time. A lack of Indigenous leadership in the process risks imposing inappropriate or unsustainable solutions.

Lastly, there is no reference to long-term support mechanisms, which are essential for ensuring that improvements in livelihoods and living standards are not temporary.

Recommendation: Develop and implement programs, co-designed and led by displaced Indigenous Peoples, that improve livelihoods and standards of living in alignment with community-defined goals. Programs must prioritize traditional and sustainable livelihoods, cultural preservation, and long-term resilience. Transparent reporting and Indigenous-led monitoring mechanisms must be established to ensure accountability and adaptability.

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

COMMENT:

Comment: This requirement is problematic as a Leading Practice because it is framed narrowly and lacks transformative value. Providing legal title to resettled people is a basic safeguard that should be part of foundational or good practice, not elevated to leading practice. Additionally, framing it as “if possible, under national law” weakens the commitment by deferring to legal systems that often fail to recognize customary land rights or adequately protect Indigenous Peoples.

For Indigenous Peoples, land is not merely an asset but a cornerstone of identity, spirituality, and governance. Securing legal title under national law may be insufficient or even inappropriate if it conflicts with customary law, traditional governance systems, or Indigenous Peoples’ self-determination. In such cases, recognition of customary land tenure and collaboration with Indigenous leaders to document and formalize land use systems may be more meaningful and aligned with international frameworks like UNDRIP Article 26 and ILO 169 (Articles 13-16).

Furthermore, the absence of any mention of community participation or culturally appropriate processes undermines the requirement’s potential to uphold Indigenous Peoples’ rights and agency.

ecommendation:

Move this to foundational Requirement: Providing legal title to resettled people should be a baseline requirement, as it is essential for ensuring security of tenure and preventing future displacement.

Prioritize Customary and Indigenous Land Tenure Systems: Amend the requirement to recognize and formalize customary land tenure in collaboration with Indigenous Peoples. If national laws do not align with international frameworks, facilities should adhere to UNDRIP Article 26, which affirms Indigenous Peoples’ rights to their lands, territories, and resources.

Mandate that the process of establishing legal title is conducted through FPIC, ensuring active participation and decision-making by resettled communities. This includes Indigenous-led documentation of land use and governance systems.

Where national laws do not permit legal title, require facilities to negotiate long-term land use agreements or other formal mechanisms that ensure displaced people can access and use land securely.

Ensure that communities with newly established legal titles receive ongoing support, such as training on land management or access to legal services, to prevent land loss due to coercion or economic pressures.

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

COMMENT:

Comment: Specify qualifications, neutrality, or expertise of the reviewers. Reviews that lack expertise in Indigenous Peoples rights, cultural heritage, and livelihoods may fail to identify critical gaps in implementation. Revise the requirement to mandate that the review process incorporates FPIC, ensuring that Indigenous Peoples not only provide input but actively consent to the review’s findings and corrective actions

Recommendation: Complete an independent review of the resettlement action plan and livelihood restoration plan with qualified reviewers experienced in Indigenous Peoples rights and cultural heritage. The review process must incorporate FPIC for Indigenous Peoples and be conducted in consultation with Indigenous Peoples and other rights holders.

SECTION: 4.2 Land Acquisition and Resettlement, Leading Practice, 4

COMMENT:

Recommendation:

Confidentiality safeguards should be explicitly defined in consultation with Indigenous Peoples and other affected rights holders.

Where Indigenous Peoples are involved, disclosure should include confirmation of their involvement in the review and validation of findings to align with their right to self-determination under UNDRIP Articles 3 and 32.

Disclosed information should be made available in Indigenous languages and formats suited to the cultural preferences of affected communities. For example: (a) Visual presentations or (b) Oral sessions led by trusted Indigenous representatives.

Establish a grievance process or feedback mechanism to allow affected communities to challenge inaccuracies or omissions in the disclosed information.

SECTION: Intent

COMMENT:

Comment: Where Indigenous Peoples' lands or rights are impacted, FPIC is essential to ensure their consent and meaningful participation in decisions that affect them. The intent should explicitly prioritize avoidance of impacts on Indigenous Peoples' lands, territories, and cultural heritage sites, including intangible heritage, to safeguard spiritual and cultural continuity.

Displacement must only occur if Indigenous Peoples, through FPIC, voluntarily determine that relocation is the sole viable option. In such cases, the mitigation hierarchy must prioritize land-for-land compensation, developed in collaboration with Indigenous Peoples, and ensure that resettlement plans uphold Indigenous-defined livelihoods, governance structures, and cultural preservation while promoting economic autonomy. Additionally, all risk assessments, mitigation plans, and resettlement measures must be transparently disclosed to affected Indigenous Peoples communities in culturally appropriate formats.

Recommendation: Revise the intent to explicitly include rights-holders and recognize FPIC as a fundamental requirement (not just consultation) when Indigenous Peoples' lands or rights are affected. Ensure that the intent aligns with international Indigenous Peoples' rights frameworks, prioritizing avoidance and supporting culturally relevant and community-defined outcomes.

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: 1: Significantly below

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: 1: Significantly below

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: 1: Significantly below

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

We would have welcomed the opportunity to provide input on the Reporting and Claims Policy, but the ambitious timeframe set by CMSI has made it challenging to do so effectively.