

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

Not Specified

COMMENTS & QUESTIONS BY DOCUMENT

QUESTION 1

Overall does the revised version of the Consolidated Standard system (including Standard, Assurance Process, Governance Model* and Claims Policy) meet your expectations for improvement relative to the original public consultation version?

Response: No Response

QUESTION 2

From your perspective, does the updated Consolidated Standard system, including Standard, Assurance Process, Governance Model* and Claims Policy meet expectations for driving performance improvement across the industry at a global scale?

Response: No Response

Document:
Assurance

QUESTION 1

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

Response: 1: Significantly below

Document:
Standard

Performance Area 14: Indigenous Peoples

SECTION: 14.1 Indigenous Peoples, Good Practice, 1

COMMENT:

Comment: Clearer requirement to collaborate with Indigenous Peoples to design engagement and decision-making processes, aligned with FPIC and community protocols. This is stronger than the first draft. The issue was raised in the first draft and remains partially addressed.

The clause still lacks legitimacy safeguards, independent verification, community-set timelines and a clear rule on what happens if consent is not achieved including whether claims are paused. This is important because “co-design” can become symbolic without independent observers, conflict of interest rules and community control of timelines and information. Without a clear pathway when consent is not achieved, companies may continue advancing activities while negotiations drag on (“operate while engaging”). Assurance needs objective evidence that the process is legitimate and conducted in good faith.

Recommendations:

Non-interference and legitimacy safeguards: The Facility will respect a strict non-interference rule in community decision-making. It will adopt conflict-of-interest safeguards for company and third-party actors, including rules on gifts, payments, employment offers, and prior relationships.

Recognise who decides and how: Together with the community, document the recognised collective decision-making body and the process by which collective decisions are reached.

Community-set timelines and notice: Timelines and meeting notice periods are set by community protocols, including time for internal deliberation. The Facility will not seek approvals on compressed or company-driven schedules.

Minimum information package: Provide a minimum information package covering impacts by phase, alternatives including avoidance and no-go, benefits and risks, uncertainties and limits of mitigation, and grievance and remedy options.

Capacity support and independent advisors: Provide capacity support, including funding for Indigenous-selected independent advisors, translation, and logistics.

Independent observation or facilitation (where agreed): Where communities request it, the Facility will engage independent observers or facilitators agreed with Indigenous Peoples to help ensure legitimacy and good faith.

Records, verification, and change log: Co-validate engagement records with designated Indigenous representatives before using them in assurance. Provide a short change log showing how Indigenous input altered project design, mitigation, or management plans.

If consent is not achieved: If consent is not achieved for consent-dependent activities, those activities do not proceed and any related CMSI claims are paused. The Facility will offer independent facilitation agreed with communities and will escalate to the company board for oversight.

Role of State authorities (as relevant): Where State authorities are involved, the Facility will ensure company-level non-interference, uphold Indigenous protocols, and not substitute State procedures for the community’s FPIC process.

Non-retaliation and safe participation: Adopt an explicit non-retaliation commitment and ensure safe participation for women, elders, youth, and defenders, including separate spaces or schedules and practical support when requested.

Recommended text: Collaborate with potentially affected Indigenous Peoples to co-design engagement and decision making processes aligned with FPIC and their protocols. Document the recognised decision-making body, community defined timelines, conflict of interest safeguards, the minimum information package (impacts by phase, alternatives including avoidance, benefits and risks, uncertainties, grievance and remedy), and capacity support for Indigenous selected advisors. Engagement records shall be co-validated by Indigenous representatives and show how input changed project design. If consent is not achieved, pause any related claims, offer independent facilitation agreed with communities, and escalate to the company board. Assurers verify these elements and the legitimacy of the process.

Assurance signal: Assurers should confirm non-interference and conflict-of-interest controls, the documented decision-making body, community-set timelines and notice, delivery of the minimum information package and capacity support, co-validated records with a change log, and that activities and claims paused where consent was not achieved.

SECTION: 14.1 Indigenous Peoples, Good Practice, 10

COMMENT:

Comment: This is a positive step: the text now asks facilities to collaborate with Indigenous Peoples on training for workers whose decisions affect Indigenous Peoples rights. However, the clause still lacks the details needed to make training meaningful in practice such as who must be trained, what the core content should cover, how often sessions occur, and how their effectiveness is evaluated.

In the first draft, we recommend that CMSI specify Indigenous-led or co-designed training, include contractors, land agents, and security personnel, and require regular refresher cycles and an evaluation component. These elements remain absent. Without them, "training" risks becoming a one-time awareness lecture rather than an ongoing learning process that improves behaviour and decision-making across the workforce.

To address these gaps, CMSI should:

Require training for all personnel whose work or decisions may affect Indigenous Peoples, including contractors, joint-venture partners, land agents, and security staff.

Define a minimum curriculum covering local Indigenous history, cultural protocols, UNDRIP and FPIC practice, cultural-heritage protection and confidentiality, non-retaliation and defender protection, and appropriate engagement with Indigenous communities.

Mandate onboarding and periodic refreshers, co-designed or led by Indigenous Peoples, with accessible formats and scheduling that allow full participation.

Include effectiveness checks (pre and post learning assessments, participant feedback, and review of incident trends) and tie results to manager and contractor performance indicators.

Require assurance evidence such as training rosters, curricula, completion and refresher rates, feedback summaries, and records of corrective actions following incidents.

SECTION: 14.1 Indigenous Peoples, Good Practice, 2

COMMENT:

Comment: Compared with the 2024 draft, CMSI has strengthened this clause by aligning HRDD with the UN Guiding Principles and referencing FPIC. However, key operational details such as cumulative impacts, re-opening FPIC when impacts change, and safeguards for high-risk contexts are still missing.

Without cumulative-impact analysis and material-change triggers, HRDD can miss real-world risk (e.g., expansions, new waste streams, altered water use, pipeline or road corridors).

FPIC is not one-off. If salient risks change, consent must be revisited.

Many severe impacts are driven by contractors, JV partners, land agents, and security providers. HRDD has to reach them.

Assurance needs objective evidence that risks were identified, prevented/mitigated, and that Indigenous Peoples actually participated in decisions.

Recommended additions:

Cumulative and indirect impacts: HRDD covers cumulative, indirect, downstream, transboundary, and associated facilities impacts, including roads, power and transmission lines, pipelines, quarries, ports, tailings and waste facilities, water abstraction, and downstream users. Link to PA19 (biodiversity/nature) and PA4 (new projects/expansions).

Material-change triggers and FPIC re-opener: Define material change to include any new or expanded footprint, route or siting change, new technology, new waste or tailings streams, increased water abstraction or discharge, production scale changes, ownership or JV changes, or State actions that affect Indigenous rights. Where material change alters salient risks, the Facility re-opens FPIC for the relevant phases and impacts before proceeding.

Avoidance first: State explicitly that HRDD prioritizes avoidance of impacts to critical cultural heritage and involuntary resettlement; mitigation/offsets are not substitutes without FPIC specific to that impact (tie to PA15 and TGP-5).

Coverage of third parties: Extend HRDD to contractors, suppliers, explorers, JV partners, land agents, and security providers (cross link to PA3). Include contract clauses, onboarding screening, and stop-work triggers for FPIC or rights violations.

Safeguarding and defenders: Include GBV prevention, safe participation measures (separate spaces/times, childcare/transport), non-retaliation, and specific assessment of human rights defenders risks (including security force conduct).

Indigenous knowledge and data sovereignty: When using Indigenous knowledge, follow Indigenous data sovereignty principles (OCAP and CARE) with MoUs defining permissions, custody, access, and confidentiality.

Access to lands and water: Require concrete measures that maintain Indigenous access and use (seasonality, ceremonial access, safety protocols, dispute resolution), and integrate them into agreements and CH plans (PA15).

Assurance evidence and public summary (non-sensitive): Assurers verify salient risks identified, alternatives/avoidance analysis, FPIC re-openers and outcomes, third-party controls, safeguarding measures, and how Indigenous input changed decisions. Publish a non-sensitive HRDD summary: top risks, avoidance decisions, re-opened FPIC processes, and commitments.

SECTION: 14.1 Indigenous Peoples, Good Practice, 3

COMMENT:

Comment: This requirement moves in the right direction by naming specific groups (women and girls, elders, youth, peoples in voluntary isolation or initial contact). To be effective in practice, it needs clear safeguarding protocols, resources to enable participation, and assurance evidence otherwise "inclusive engagement" can still exclude those most at risk.

The highest risks such as harassment, GBV, retaliation, loss of access to services often fall on women, youth, elders, and defenders, especially during exploration, land access, security operations, and hiring decisions.

Without explicit measures such as safe spaces, logistics, confidentiality and non-retaliation, participation can be tokenistic or unsafe.

Assurers need objective indicators to verify that vulnerable groups could participate without added risk and that input changed decisions.

Recommended Additions:

Safeguarding plan co designed with Indigenous representatives: The Facility will maintain a written safeguarding plan that is co-designed with Indigenous representatives. The plan covers gender-based violence prevention, confidentiality, informed consent for participation, non-retaliation, safe complaint channels, and incident response. Cross-link to the grievance performance area.

Safe participation measures with resources: The Facility will provide practical supports that enable safe participation, including separate and culturally appropriate sessions on request, childcare, transport or travel stipends, interpretation, accessible formats, and meeting times set with the community.

Security and defenders protection: Assess risks from private and public security; align conduct with the Voluntary Principles on Security and Human Rights; prohibit surveillance or intimidation of participants; include specific protections for human rights defenders. When establishing and maintaining security protocols, it is crucial to assess all potential risks emanating from both private and public security forces. This assessment should go beyond a surface-level review and delve into the historical conduct, training, and operational procedures of these entities. A fundamental requirement is to ensure that the conduct of all security personnel, whether directly employed or contracted, is in strict alignment with the Voluntary Principles on Security and

Human Rights (VPSHR). These principles provide a framework for companies to ensure that their security arrangements respect human rights and do not contribute to human rights abuses.

Furthermore, a zero-tolerance policy must be enforced regarding any form of surveillance, intimidation, or harassment directed at participants in any program or activity. This includes, but is not limited to, monitoring communications, physical shadowing, or any actions that could create an environment of fear or discourage legitimate engagement.

Special attention and explicit protections must be extended to human rights defenders (HRDs). HRDs often operate in challenging and sometimes dangerous environments, advocating for the rights of others. Therefore, any security framework must include specific provisions to safeguard their safety, freedom of movement, and ability to carry out their legitimate work without reprisal or undue interference. This could involve, for instance, clear protocols for engaging with HRDs, ensuring their access to safe spaces, and establishing mechanisms for reporting and addressing any threats or violations against them. These protections are not merely a matter of policy but a fundamental commitment to upholding international human rights standards..

Vulnerability screening and re-screening: The Facility will build and use a simple screening tool to identify heightened-risk groups at each project phase from exploration, construction, operations, to closure. It will re-screen when context changes. It will use the results to tailor engagement, mitigation measures, and re-sourcing.

Link to FPIC and HRDD decisions: The Facility will record how views from Indigenous Peoples and other affected communities changed route choices, schedules, staffing, access arrangements, or other design features. Material changes to impacts will trigger FPIC re-openers for the relevant phases and impacts. cross-link to GP-2 and PA14 TGP-3

Data handling and confidentiality: The Facility will obtain explicit consent before recording sensitive views. It will handle all such information under Indigenous data governance agreements, including rules on permission, custody, access, confidentiality, and retention.

Assurance evidence (disaggregated): Require assurers to verify: attendance and participation by group (non-identifying where sensitive), the safeguarding plan, incidents and responses, and concrete design changes made due to input. Publish a non-sensitive summary.

SECTION: 14.1 Indigenous Peoples, Good Practice, 4

COMMENT:

Comment: The direction is right: seek Indigenous knowledge and get permission first. That's important but "permission" only protects people when it's clear who gives it, what it covers, and how information is kept safe.

Recommended additions:

Clear, community-based permission

Permission should come from the recognized Indigenous authority, following the community's own process.

It should be written and spell out what knowledge can be shared, for what purpose, and for how long.

sensitive material should be automatically off-limits unless the community decides otherwise.

Respect for Indigenous data governance

All information gathered must follow Indigenous data sovereignty principles and frameworks.

Communities should decide who holds the original data, who can access it, and how it's stored.

Agreements that protect both local Indigenous communities and knowledge

Use short Memoranda of Understanding or protocol agreements written in the community's language.

Each agreement should note the limits on use, expiry date, confidentiality rules, and benefit-sharing terms if the knowledge saves costs or improves outcomes for the company.

Benefit-sharing and credit: When Indigenous knowledge shapes a design or monitoring plan, the community should be acknowledged and, where appropriate, compensated or co-credited. Example: community monitors are funded to lead biodiversity tracking based on their own seasonal indicators.

No-go for sacred or restricted knowledge: Companies should agree upfront not to collect, publish, or digitize information that could cause cultural or spiritual harm. If the knowledge is needed for avoidance decisions, use general descriptions (“restricted cultural zone”) rather than precise coordinates.

Transparency and assurance checks: Assurers should verify: (a) that permission agreements exist and are signed by the correct authority; (b) how confidentiality and storage are handled; (c) that Indigenous knowledge actually influenced project design or monitoring and a non-sensitive summary can describe the change without revealing details.

Assurance Signal: Assurers should confirm the existence and use of the safeguarding plan, the practical supports provided, the security and defender protections, the vulnerability screening and re-screening records, the change log that shows how input altered project design, and the confidentiality and data-governance arrangements. The assurance report should include a non-sensitive summary that demonstrates participation by vulnerable groups and the results achieved.

SECTION: 14.1 Indigenous Peoples, Good Practice, 5

COMMENT:

Comment: This requirement finally acknowledges that Indigenous Peoples need capacity support to negotiate in good faith, something we stressed in 2024. But as written, it’s still too vague. Without clear rules on who controls the funds, what costs are covered, and how independence is guaranteed, this support risks being symbolic.

Recommended additions:

Let communities choose their own advisors: Indigenous Peoples should be free to select their own legal, technical, and cultural heritage advisors, with no company interference or veto. Advisors should report directly to the community, not to the company’s consultant team. Assurers can verify this: a signed note from the community confirming who they chose and that the company didn’t influence the choice.

Use an independent or jointly managed funding channel

Funds should be provided through an independent mechanism. For example, an escrow account or a third-party trust managed by an agreed financial intermediary or Indigenous Peoples organization.

This protects both sides: the company can show transparency, and communities avoid the perception that accepting support compromises their independence.

Funding for participation and advisors is not contingent on expressing support for the project. The Facility will not claw back funds due to positions taken in the negotiation.

Clarify what “reasonable” assistance means: It should at minimum cover:

Translation and interpretation;

Travel and childcare costs;

Meeting venues and logistics;

Internal community meetings and deliberation time (so the community can discuss privately before replying);

Fees for independent advisors (legal, technical, cultural heritage, FPIC specialists).

These are not extras; they are the baseline for an equal negotiation.

Make capacity support an FPIC enabler, not a side activity

The requirement should link directly to the FPIC process: if support is delayed or denied, FPIC cannot be considered valid.

Add a line such as: "Where capacity support has not been provided as agreed, FPIC processes shall be paused until the issue is resolved."

Transparency and assurance: Assurance reports should confirm:

that capacity support was provided;

how it was delivered (direct, third-party, or escrow); and

that communities confirmed they could participate effectively.

A short, non-sensitive note, for example, "Funding for advisors and translation p

SECTION: 14.1 Indigenous Peoples, Good Practice, 6

COMMENT:

Comment: This requirement is stronger than last year: it links agreements to a process demonstrating FPIC, and lists core contents (mitigation, benefit-sharing, monitoring, review, redress, life-of-mine changes and closure). To make agreements credible and enforceable, CMSI should tighten five areas that we flagged in 2024 and remain only partly covered.

Recommended Additions:

Scope, phases and impacts. Consent must be obtained before any consent-dependent activity begins and must be specific to defined phases, locations, and impacts.

State exactly what is consented to: List the phases covered such as exploration, construction, operations, expansions, and closure and list the specific impacts, for example a tailings facility, water abstraction, road corridors, blasting zones, or cultural heritage access.

Attach an FPIC Scope Annex: Add a simple annex that spells out which activities and phases are covered by FPIC and under what conditions. Make it clear enough for assurance, flexible enough to update with version control, and respectful of community boundaries and confidentiality rules agreed with the community.

Cross-link: Reference PA4 (new projects and expansions), PA15 (cultural heritage), and PA24 (closure) so updates in those areas trigger a review of scope and, if needed, a FPIC re-opener.

Duration, renewal, and withdrawal

Consent is not one-off. Agreements should specify duration, renewal triggers, and conditions for withdrawal or suspension (e.g., material change in impacts, breach of terms).

Pause rule for activities and claims. Where FPIC is withheld, withdrawn, or materially contested, consent-dependent activities do not proceed and any CMSI performance claim is paused until an agreed, rights-respecting resolution is verified in assurance.

Enforceability and non-derogation of rights

Enforceability and escalation. State that the agreement is enforceable. Define a clear escalation path that begins with the joint implementation forum, then moves to independent facilitation or mediation, then to agreed arbitration, and finally to courts where available. Include interim measures so harmful activities are paused while disputes are being resolved

Non-derogation of rights. Include a clause confirming that nothing in the agreement limits or waives Indigenous Peoples' rights under UNDRIP, national law, treaties, or customary law.

Governance, monitoring, and KPIs

Joint implementation and resources. Establish a joint implementation committee with Indigenous representatives. Define key performance indicators, a ring-fenced budget, roles and responsibilities, and a regular review schedule

Monitoring approach and data governance. Where communities choose, use Indigenous-led or co-led monitoring. Apply Indigenous data-governance rules to any knowledge used, including permissions, custody, access, confidentiality, and retention.

Assurance and public summary. Assurers verify delivery against the agreed KPIs and confirm that the ring-fenced budget and monitoring arrangements are in place and functioning. Publish a brief, non-sensitive summary of progress in the assurance report.

Redress vs. grievance

Separate pathways. Keep day-to-day grievance handling under the grievance performance area. Create a distinct redress pathway for breaches of the agreement, with remedies such as penalties, make-good measures, and guarantees of non-repetition.

Non-retaliation and independence. Commit to non-retaliation for anyone using either pathway. Provide access to independent mechanisms for breach-of-agreement cases, and explain how people can reach them.

Assurance check. Assurers confirm that both pathways exist, are documented, and have been communicated to communities, and that at least one independent mechanism is available for redress.

Pre-conditions and independence

Pre-conditions before concluding negotiations. Confirm that capacity support described under GP-5 was in place and functioning, and that a documented alternatives and avoidance analysis under TGP-5 was completed and reviewed with Indigenous Peoples before negotiations were concluded.

Bind related parties and successors. Bind joint-venture partners, contractors, land agents, and suppliers that act on the Facility's behalf to the agreement's obligations. Include a succession clause requiring any transferee or change of control to assume all obligations before the transfer takes effect.

Address the "opposition remains" sub-requirement: The new text requires disclosure of steps taken when some communities oppose. That helps, but it still risks proceeding amid significant opposition. Add:

Pause rule. Where material opposition from affected Indigenous communities remains, consent-dependent activities do not proceed and any CMSI performance claim is paused. Do not expand activities that would increase impacts in contested areas until the opposition is resolved in a rights-respecting way.

Define "material opposition". Treat opposition as material when any recognised decision-making body of an affected Indigenous community issues a formal statement of non-consent or opposition, or when credible evidence shows that community deliberations have not yet concluded. Record the reasoning and evidence for this determination in a short, non-sensitive note for assurance

Independent facilitation or mediation. Engage an independent facilitator or mediator agreed with the opposing communities. Ensure their role, terms of reference, and selection process are documented and shared with the communities.

Re-engagement plan and do-no-harm. Publish a brief non-sensitive re-engagement plan that confirms a do-no-harm approach and non-interference with community decision-making. Include practical steps, indicative timelines set with the communities, and safeguards for safe participation.

Board-level oversight. Escalate the issue to the company's board or equivalent governing body. Record board oversight actions and decisions in the assurance evidence set.

Assurance check. Assurers confirm that consent-dependent activities and claims were paused, that the definition of material opposition was applied, that independent facilitation or mediation was community-agreed, and that a re-engagement plan with do-no-harm and non-interference commitments is in place. They disclose a brief non-sensitive status note in the assurance report.

SECTION: 14.1 Indigenous Peoples, Good Practice, 7

COMMENT:

Comment: This requirement on “maintaining and monitoring” is a necessary baseline. It now recognizes that agreements are living documents, not one-time events. But as drafted, it still doesn’t explain how this monitoring should happen or who is responsible for it. In the first draft, we asked CMSI to require joint implementation committees, measurable indicators, and transparent reporting so that communities can see whether commitments are being honoured. Those pieces are still missing.

Recommended additions

Joint implementation committee

Each agreement should establish a small joint committee of company and Indigenous representatives chosen by the community.

The committee should have a clear mandate, meeting schedule, and a dedicated budget to review progress, commission studies, and support community participation.

Measurable indicators

Require a short list of key performance indicators (KPIs) linked to the specific clauses of the agreement. e.g., access, benefits, training, avoidance measures, and environmental monitoring.

KPIs should have an owner, evidence source, target, and timeline so both sides can track progress.

Accessible progress reporting: Provide communities with a clear, traffic-light dashboard that shows whether key commitments are on track in green, delayed in yellow), or not met in red, without disclosing sensitive details.

Information sharing under Indigenous data governance: Monitoring data and reports must follow Indigenous data sovereignty principles. Communities decide who holds master data, who can access it, how long it’s stored, and what can be disclosed publicly.

Adaptive management

When monitoring shows gaps or unexpected harms, require a corrective action plan with responsibilities and deadlines.

If the project changes in ways that create new or significantly larger impacts on Indigenous lands, waters, or rights, the facility must re-engage affected Indigenous Peoples and obtain FPIC again for those specific changes before proceeding.

Escalation and enforcement: Persistent non-compliance should trigger independent mediation on request, escalation to senior management or the board, and may lead to pausing related CMSI claims until corrective actions are verified.

Link to grievance and remedy

Tie day-to-day grievances (PA17) back to agreement obligations so systemic issues feed into agreement review.

Track remedy outcomes and community satisfaction, not just closure rates.

Assurance evidence and public update:

Assurers verify the committee’s terms of reference and meeting records, the KPI tracker and evidence of progress, the data-sharing and confidentiality protocols, and any corrective action plans and escalations.

The assurance report includes a concise non-sensitive summary of implementation status and any corrective steps underway.

SECTION: 14.1 Indigenous Peoples, Good Practice, 8

COMMENT:

Comment: This is a meaningful step from the earlier draft, which did not clearly connect access to binding agreements. Our first submission to the first draft asked CMSI to make access operational and verifiable. The current clause remains high-level and leaves key elements unresolved. Without a co-designed protocol, "continued access" risks becoming symbolic. Communities frequently lose practical access once operations begin because of safety rules, shift schedules, or security practices unless access is planned, resourced, and trackable. Tying access to agreements is good; specifying how it works is what ensures it actually happens.

Recommended additions

Require a Joint Access Protocol (annex to agreement): Create a short, co-signed Access Protocol with Indigenous representatives that defines:

Who may access including roles, maximum group size, accompaniment if any.

Where access is permitted, described in non-sensitive terms, and for what purposes such as ceremony, visiting ancestors, harvesting, or research.

When access may occur, including seasonality, preferred times, required notice, and an emergency or short-notice path for funerals, ceremonies, or urgent cultural needs.

How access occurs, including site entry, PPE, escorts if needed, transport, staging areas, and points of contact at both the company and community.

Replace the safety loophole with safety-by-design: Instead of "where safe to do so," require a co-designed safety plan embedded in site procedures (traffic, blasting schedules, security briefings) so access is planned and enabled, not refused.

Protect privacy and sacred practices: Include clear rules on privacy (e.g., no photography and recording unless invited), noise limits, and confidentiality for sacred or restricted knowledge; handle sensitive information under Indigenous data governance protocols.

Provide a dedicated implementation budget: Specify a dedicated budget for access such as transport, interpretation or translation, cultural materials, escorts/safety staff time so logistics are not a barrier.

Ensure continuity through closure and post-closure: State that access rights continue during operations, closure, and post-closure unless changed by new FPIC; integrate access into PA24 closure plans such as safe routes, restored areas suitable for ceremony, harvest, long-term stewardship).

Simple dispute route and non-retaliation: Add a straightforward access-related grievance path (linked to PA17) with non-retaliation protections and quick timelines to resolve denied entry, scheduling conflicts, or disrespectful conduct.

Assurance checks and non-sensitive public summary

Assurers verify the Access Protocol and its budget, evidence of access events such as co-validated visit logs, integration into safety and closure systems, privacy and confidentiality treatment, and how access grievances were resolved.

Publish a brief non-sensitive summary that confirms the protocol is active and notes the number of visits or access events during the period, without locations or sacred details.

Cross-references for coherence: Reference PA15 (Cultural Heritage) for confidentiality and site protection, PA17 (Grievance) for the dispute path, and PA24 (Closure) for post-closure access and stewardship.

SECTION: 14.1 Indigenous Peoples, Good Practice, 9

COMMENT:

Comment: In the first draft, PA14 did not have a separate requirement on remedy. The section ended with "Maintain and monitor implementation of agreements" (then GP-9). Remedy and redress were only discussed

indirectly under GP-6/7 (agreements and monitoring) and in PA17 (Grievance Management), where we recommended UNGP-aligned grievance mechanisms, zero-retaliation, and Indigenous participation. The second draft introduces a new GP-9 focused specifically on remedy, linking it to PA17.

This addition is positive, as it recognizes that companies have a responsibility to provide or cooperate in remedy when their actions infringe Indigenous Peoples rights. However, the clause remains high-level and omits essential details needed for it to function effectively in practice, it lacks operational clarity. It does not define what an effective remedy entails, how it will be delivered or verified, or what protections ensure Indigenous Peoples can use these mechanisms safely. The language “provide, or cooperate in, remedy” aligns generally with the UN Guiding Principles on Business and Human Rights (UNGPs), but without incorporating the UNGP effectiveness criteria or specifying outcomes, it risks being interpreted narrowly as internal company processes or ad-hoc compensation rather than rights-based redress.

These recommendations are not new. They reiterate the substance of what was raised in our first submission where we called for UNGP-aligned, culturally appropriate grievance and redress mechanisms, explicit non-retaliation safeguards, clear remedy outcomes, and assurance evidence that remedies were delivered. The second draft clause on Remedy now partly reflects that discussion but still omits the essential details needed to make it operational.

UNGP effectiveness criteria: Require that all mechanisms meet the UNGP principles of effectiveness and are co-designed with Indigenous representatives.

Define remedy outcomes: List possible forms: restitution, rehabilitation, compensation, guarantees of non-repetition which must be decided in collaboration with affected communities.

Safeguards and defender protection: Include explicit non-retaliation language, safe and confidential channels, and special procedures for sensitive or gender-based cases.

Multiple pathways and independence: Allow Indigenous Peoples to choose between facility, community-based, independent, or judicial mechanisms.

Process and accountability: Require clear timelines, escalation to senior management or independent mediation, linkage to GP-6 redress clauses, and collective complaint options.

Assurance and transparency: Have assurers verify that remedies were delivered and effective; publish a non-sensitive annual summary of remedy outcomes and systemic improvements.

SECTION: 14.1 Indigenous Peoples, Leading Practice, 0

COMMENT:

omment: In the first draft, benefit-sharing sat inside GP-6 (agreements) and GP-7 (monitoring). In the second draft it's pulled out as a stand-alone Leading Practice requirement. To achieve true Leading Practice, benefit-sharing needs to be tied to self-determined community priorities, transparent reporting, and joint evaluation of results.

Recommended additions

Explicit linkage to community development plans: Require that benefit-sharing objectives draw on the affected Indigenous Peoples' own governance and planning frameworks.

Indicators and monitoring: Define that progress must be measured through jointly agreed indicators and reviewed at least annually.

Transparency and reporting : Mandate a non-sensitive public summary of benefits delivered, progress toward objectives, and next-period targets.

Independent evaluation: Every three to five years, commission an evaluation led or co-led by Indigenous experts.

Assurance verification: Assurers confirm joint objectives exist, review progress evidence, verify that Indigenous representatives co-validated the report, and check for alignment with FPIC agreements.

Too often “benefits” end up as donations or one-off projects the company chooses. Leading Practice should flip that. It means the community sets the goals, and the company commits to deliver on those goals and report back on progress. When both sides agree on clear targets and track them together, benefits are useful and lasting (not just nice-to-have), and trust grows because people can see what was promised and what actually happened—all the way through the life of the mine.

SECTION: 14.1 Indigenous Peoples, Leading Practice, 1

COMMENT:

Comment: This clause represents a clear step toward leadership by requiring training that is Indigenous-led or co-designed and made available to all workers. It also recognises that the goal is not a one-time session but ongoing intercultural understanding. That framing moves beyond procedural compliance into relationship-building.

To truly embody Leading Practice, however, training should generate measurable, lasting change, both in how people work and in how institutions value Indigenous knowledge. Facilities at this level would treat training as a co-governed learning partnership, not an HR activity. Indigenous educators and elders would jointly design, deliver, and evaluate programmes, and lessons learned would feed back into company policies, contractor onboarding, and community engagement strategies across the operation.

Demonstrating leadership in practice :

Full inclusion: every employee, contractor, land agent, and security provider completes the programme during onboarding and through periodic refreshers.

Depth and relevance: the curriculum covers local Indigenous histories, cultural protocols, UNDRIP and FPIC practice, cultural-heritage confidentiality, non-retaliation, and defender protections.

Indigenous oversight: content and facilitators are approved by the recognised Indigenous authority, and elders or knowledge-holders are fairly compensated.

Evidence of impact: pre- and post-training assessments, feedback surveys, and reduced incidents of cultural disrespect or grievance show that learning is translating into behaviour change.

Knowledge sharing: the facility documents its approach and outcomes and shares them with peers through CMSI or industry forums, modelling how intercultural awareness can strengthen safety, trust, and performance.

Leading Practice on training is about culture change, not compliance. When Indigenous Peoples help lead and shape the training, workers learn the local history, protocols, and rights directly from the source. That builds trust, cuts down on misunderstandings and disrespectful behaviour, and makes day-to-day interactions safer and smoother. And when the training actually shows results—fewer incidents, better engagement, clearer decisions—you can share what worked so other sites can raise their game too. That’s the difference between basic compliance and real leadership.

SECTION: 14.1 Indigenous Peoples, Leading Practice, 2

COMMENT:

Comment: This is a promising direction. To truly count as Leading Practice, participation should be Indigenous-led or co-governed, tied to real outcomes (not branding), and clearly separate from FPIC agreements—reconciliation cannot be used to offset or bypass consent obligations

Demonstrating leadership

Indigenous-defined priorities: The initiative’s goals are set with Indigenous organizations (e.g., councils, elders’ bodies, treaty orgs).

Concrete contributions: Time, funding, and staff are committed to actions like truth-telling, language and culture programs, Indigenous business procurement, land access restoration, or youth training.

Facility linkage, not substitution: Participation advances repair and relationship-building but does not replace FPIC, agreements, or remedy for site impacts.

Evidence of outcomes: Public, non-sensitive updates show what changed (e.g., number of Indigenous suppliers onboarded, scholarships delivered, cultural access restored, co-developed curricula).

Learning shared: The facility documents what worked and shares it across CMSI to help others replicate it.

Recommended additions

Co-governance: State that participation should be Indigenous-led or co-governed, with priorities set by Indigenous Peoples.

No offset clause: Clarify that reconciliation participation cannot substitute for FPIC, agreements, or remedy under PA14/PA17.

Defined contributions: Require a time-bound plan and budget (e.g., staff hours, funding, in-kind support) aligned to the initiative's objectives.

Outcome tracking: Report non-sensitive outcomes annually (e.g., Indigenous supplier spend, internships/apprenticeships, cultural access days supported, language/culture programs funded).

Assurance evidence: Assurers verify the plan, Indigenous partner confirmations, contributions made, and outcome summaries.

SECTION: 14.1 Indigenous Peoples, Leading Practice, 4

COMMENT:

Recommended Additions:

Define the review cycle: Set a minimum frequency (e.g., every two to three years or after major project changes).

Co-leadership: Specify that Indigenous representatives co-chair or co-facilitate the review.

Documentation and follow-up: Require a short action plan with clear responsibilities, timelines, and monitoring of follow-through.

Transparency: Share a non-sensitive summary of key findings and improvements.

Assurance evidence: Assurers must verify that the review took place, Indigenous Peoples co-validated it, and actions were implemented.

SECTION: 14.1 Indigenous Peoples, Leading Practice, 5

COMMENT:

Comment: This clause strengthens accountability and moves beyond simply delivering sessions to measuring real learning and behaviour change. This reflects a learning culture, not a compliance culture, an important step toward continuous improvement.

It's easy to run training sessions and tick the box but much harder to know if they actually changed how people behave. Reviewing training together with Indigenous Peoples keeps it grounded in their experience and ensures it stays relevant as conditions and communities evolve. It also shows that "Indigenous-led" training isn't a one-time partnership but an ongoing relationship that keeps improving over time

Recommended additions

Set a minimum frequency: for example, every two years or after major project or staff changes.

Co-lead reviews: Indigenous representatives co-design evaluation tools and interpret results.

Identify indicators: such as improved understanding of FPIC, reduced cultural-heritage breaches, or positive feedback from Indigenous partners.

Publish a short, non-sensitive summary of what was learned and how training will improve next cycle.

Require assurance evidence: meeting notes, feedback summaries, and revised curricula showing improvements made.

SECTION: 14.1 Indigenous Peoples, Leading Practice, 6

COMMENT:

Comment: This clause introduces a long-needed emphasis on transparency in Indigenous agreements. It gives facilities permission to disclose agreements or progress reports with Indigenous Peoples' consent, balancing accountability with the protection of confidential or sacred information. This is a clear sign that CMSI expects facilities to be open about their commitments and progress, which supports both investor confidence and community trust.

Facilities should demonstrate the following points as a Leading Practice:

Consent-based transparency: Disclosure happens only with the explicit permission of the Indigenous Peoples concerned and in line with confidentiality clauses, cultural protocols, and legal requirements.

Progress reporting, not just publication: When full disclosure isn't appropriate, facilities still publish regular progress summaries showing how commitments are being delivered without revealing sensitive details.

Co-approval of redactions: Indigenous representatives jointly approve what is or isn't disclosed; redaction rules are co-defined in advance.

Accessible format: Reports are shared in local languages where needed, and made publicly available (e.g., company website, CMSI portal).

Regular intervals: Disclosure or reporting occurs at least annually or as agreed with Indigenous partners.

Assurance verification: Assurers check that disclosure was consented to, that progress summaries are accurate, and that redactions follow jointly agreed protocols.

Too often, agreements stay confidential, leaving communities and the public unsure whether promises are kept. Sharing progress with permission builds trust and shows real accountability. When Indigenous Peoples help decide what can be shared, transparency becomes a tool for empowerment, not exposure. It lets investors, and other Indigenous communities see that commitments are alive, not forgotten in filing cabinets.

SECTION: 14.1 Indigenous Peoples, Leading Practice, 7

COMMENT:

Comment: This clause raises the bar by calling for joint environmental and social monitoring with Indigenous Peoples. It recognises that communities are not just observers but rights-holders and knowledge-holders whose participation improves accuracy and legitimacy. To meet the intent of Leading Practice, monitoring must be co-designed, transparent, and tied to decision-making AND not symbolic or occasional.

Indigenous Peoples often see environmental changes long before technical sensors do. When they co-lead monitoring, data becomes trusted, problems are caught early, and solutions are grounded in both science and traditional knowledge. Joint monitoring also strengthens local capacity and ensures information flows both ways instead of being held only by the company.

Leading facilities should

Co-design monitoring programs with Indigenous representatives: deciding together what to monitor (e.g., water, wildlife, noise, social wellbeing), what indicators to use, and where sampling happens.

Integrate Indigenous knowledge systems alongside scientific methods; respect cultural protocols for knowledge sharing and intellectual property.

Train and employ Indigenous monitors, compensating them fairly and recognising data ownership.

Ensure open data access: share raw and interpreted results with the community in plain-language formats and local languages.

Act on findings: create a clear process for joint review of results, corrective actions, and reporting back on changes made.

Link monitoring to governance: include the program under PA19 (Biodiversity), PA13 (Community Benefits), and PA24 (Closure) so it informs major site decisions.

Share learning: document methods and results for other facilities to replicate through CMSI or local networks.

Assurance evidence should include but not limited to:

Signed terms of reference or MoU for the joint monitoring program.

Records of Indigenous participation, training, and remuneration.

Monitoring data and plain-language summaries shared with communities.

Meeting minutes showing joint review and follow-up actions.

Evidence that results influenced management decisions or mitigation plans.

SECTION: 14.1 Indigenous Peoples, Towards Good Practice, 1

COMMENT:

Comment: The explicit reference to UNDRIP, UNGPs, and FPIC at the baseline level corrects a major gap from the first draft. However, this issue was raised in 2024 and remains only partially addressed. The clause does not make this commitment binding across all phases, nor does it connect it to assurance or claims verification, and there is no requirement to publicly disclose FPIC status and scope (e.g., granted, withheld, contested, withdrawn). Without these additions, companies could meet TGP-1 by issuing a general corporate statement without verifying its application to each site or phase. Binding it to all phases and to assurance makes the commitment real, not symbolic.

Recommendation:

Make the commitment binding across all project phases: The current wording does not specify whether the public commitment covers exploration, construction, operation, expansion, and closure. This can allow companies to commit at a corporate level but not apply it to all project phases. Add: "This commitment applies to all project phases and material changes that may affect Indigenous Peoples' rights."

Link the commitment to claims and assurance: Public commitments should not stand alone; they should be tied to what is verified in assurance. Add: "Assurers shall verify that the facility's public commitment to Indigenous Peoples rights and FPIC is publicly available, applies to all phases, and is implemented through policies and procedures that can be assessed under PA1 Corporate Requirements."

Require accessibility and co-validation: The text says "communicated in a culturally appropriate manner," but doesn't define what that means. Add: The commitment should be communicated in languages and formats defined with Indigenous Peoples, and confirmed as accurate by Indigenous representatives before publication.

Require disclosure in the assurance report: CMSI should ensure public accountability for this baseline expectation. Add: Assurance reports should disclose whether the public commitment is published, translated, and verified by affected Indigenous Peoples.

SECTION: 14.1 Indigenous Peoples, Towards Good Practice, 2

COMMENT:

Comment: How CMSI defines “identification” determines who gets FPIC and who gets left out. The emphasis on earlier identification of affected Indigenous Peoples before new activities began is an important step forward. However, the requirement still leaves identification largely in the hands of States or companies, which risks excluding self identified or non recognized Indigenous Peoples. CMSI must strengthen this clause to align with UNDRIP and best practice under IFC PS7 and IRMA. We raised this issue already in 2024 and it is not addressed. In many jurisdictions, formal recognition is incomplete or politicised. If identification relies on government lists, entire Indigenous communities could be denied FPIC.

Recommendations:

Prioritise self identification: Identification is led in collaboration with Indigenous Peoples and relies on self-identification and Indigenous governance systems. State registries and third-party sources may be consulted but do not limit identification

Include Indigenous-defined boundaries and seasonal use: Identification incorporates Indigenous-defined territorial boundaries, traditional and seasonal use areas, and overlapping or contested claims, documented through participatory mapping and community validation.

Cover indirect and cumulative impacts: Identification includes Indigenous Peoples potentially affected by indirect and cumulative impacts (e.g., access roads, quarries, transmission lines, tailings, waste rock, water abstraction, downstream pollution).

Include transboundary and mobile groups: Where relevant, identification covers transboundary communities, mobile or nomadic users, and diaspora with use or custodial ties to the area.

Protect Indigenous Peoples in Voluntary Isolation and initial contact: For Indigenous Peoples in voluntary isolation or initial contact, apply a precautionary approach and avoid disclosing sensitive locations; handle all information under Indigenous data-governance protocols.

Maintain a living, transparent identification process: The Facility maintains a living register of potentially affected Indigenous Peoples, with a documented method, community-validated maps, and a simple process for Indigenous communities to contest exclusion. Updates are made when new information or material changes arise.

Cross-link to PA1 and PA19 so baselines align: Identification aligns social and environmental baselines (PA1 due diligence; PA19 biodiversity and ecosystem services) to ensure Indigenous use and values are integrated into cumulative-impact assessment.

Assurers should confirm the identification methodology, use of self-identification and participatory mapping, consideration of indirect or cumulative impacts and overlaps, existence of a living register and appeal pathway, and appropriate handling of sensitive data with co-designed redaction.

SECTION: 14.1 Indigenous Peoples, Towards Good Practice, 3

COMMENT:

Comment: Welcome this requirement as it aligns engagement with Indigenous procedures, protocols and governance structures and to support an informed understanding of risks, impacts and benefits. This is a meaningful improvement. However, this issue was raised in 2024 and remains only partially addressed. The clause still lacks specifics on decision-making bodies, information quality, timing, and the pathway to FPIC. Early engagement only works if it follows the community’s own decision-making system, provides the full information package in accessible ways, and allows sufficient time and resourcing for communities to decide. Without these elements, “early engagement” can slide into company-driven timelines and partial information.

Recognise the legitimate decision-making body: Require the facility to document, with the community, who makes collective decisions and how those decisions are reached.

Define the minimum information for an informed decision

Impacts by phase and by topic, for example: land, water, cultural heritage, resettlement, security.

Present all project alternatives that were assessed, including different locations, designs, or technologies, and clearly outline options to avoid or not proceed with the activity altogether.

Explain both the potential benefits and adverse impacts, as well as any uncertainties and the limits of proposed mitigation measures..

Describe the grievance mechanisms available to Indigenous Peoples and the processes for accessing remedy if rights are infringed.

Guarantee accessibility

Community-defined languages and formats. Provide all information in the languages and formats chosen with the community, and offer interpretation whenever it is needed.

Community-defined timeframes. Set timelines according to the community's protocols rather than company schedules, including

Capacity support. Provide resources so communities can review the information, including funding and access to independent advisors selected by the community.

Inclusion and safeguarding

Ensure that women, elders, youth, and defenders can participate safely.

Provide separate spaces or schedules when requested, along with travel and childcare support.

State a clear non-retaliation commitment and explain how concerns will be handled confidentially.

Record-keeping and verification

Engagement records to be co-validated by Indigenous representatives before use in assurance.

Include a short summary of the changes made to project design as a result of Indigenous input.

Link to consent and avoidance

Make clear that early engagement is a pathway to FPIC and is not a substitute.

Where critical cultural heritage or involuntary resettlement could occur, engagement must include alternatives analysis and an avoidance-first approach.

Assurance deliverable

Assurers should confirm the recognised community decision-making body, the completeness of the information package, the timelines and accessibility measures agreed with the community, and the presence of co-validated engagement records that show how Indigenous input changed the project design.

Recommendations to the text: Establish early engagement processes with potentially affected Indigenous Peoples in accordance with their procedures, protocols, and governance structures. Document the recognised decision-making body and the agreed languages, formats, and timeframes. Provide a minimum information package covering impacts by phase, alternatives including avoidance, potential harms and benefits, uncertainties, and grievance options. Ensure inclusive and safe participation, with capacity support for Indigenous-selected advisors. Engagement records shall be co-validated by Indigenous representatives and used to demonstrate how project design has changed in response. Early engagement is a pathway to FPIC and does not substitute for consent.

SECTION: 14.1 Indigenous Peoples, Towards Good Practice, 4

COMMENT:

Comment: We welcome the explicit instruction to "maintain engagement on an ongoing basis" and to "document engagement with potentially affected Indigenous Peoples." This is a small but meaningful improvement

from the 2024 draft, which did not require documentation. However, this issue was raised in 2024 and remains only partially addressed. Our earlier submission asked CMSI to (a) make documentation co-validated by Indigenous representatives, (b) require disclosure of how Indigenous input shaped decisions, and (c) ensure that engagement records are usable as evidence for assurance rather than internal company notes. These aspects are still missing

If the company is the only one producing or holding the “record,” Indigenous Peoples have no way to verify accuracy or correct omissions.

Engagement notes are often used as proof of FPIC later, so if they’re not co-validated, they can be one-sided.

Continuous engagement should include feedback loops showing what was changed in response to Indigenous concerns; otherwise “ongoing” just means “repeated meetings.”

Recommended additions:

Co-validation of records: Engagement records shall be reviewed and validated by Indigenous representatives before they are used in assurance or published.

Feedback loop: Facilities must provide a summary back to communities explaining how input has been considered and what changes were made to project design, mitigation measures, or management plans.

Accessible archive: Maintain a secure, shared archive of engagement records accessible to designated Indigenous representatives and assurers, with appropriate confidentiality protections.

Inclusion tracking: Records should indicate participation by women, elders, youth, and defenders to verify inclusivity.

Assurance: Assurers should confirm that engagement records are co-validated, that feedback summaries have been provided to communities, that a secure shared archive exists with confidentiality protections, and that inclusion and avoidance decisions are documented before credit is given for this requirement.

Recommended text: Maintain ongoing engagement with potentially affected Indigenous Peoples and document each engagement in records that are co-validated by Indigenous representatives. Provide clear and accessible feedback that explains how Indigenous input influenced project decisions. Keep a secure, shared archive of engagement records that is accessible to Indigenous representatives and assurers, with agreed confidentiality protections. Track participation to show that women, elders, youth, and human-rights defenders have been included in the process.

SECTION: 14.1 Indigenous Peoples, Towards Good Practice, 5

COMMENT:

Comment: We welcome the explicit use of the term “avoid” and the requirement to obtain agreement through FPIC where such impacts are “unavoidable.” This is an important advancement from the 2024 draft, which used weaker “mitigation hierarchy” language without naming FPIC in the avoidance clause. However, this issue was raised in 2024 and remains only partially addressed. CMSI has strengthened the text but still blurs two key points: (a) whether avoidance is a binding requirement or only “explored”; and (b) whether FPIC is required before proceeding or merely after an impact is deemed “unavoidable”.

Avoidance is a right-based obligation, not a technical option: Under UNDRIP Articles 8, 10, and 11 and IFC PS7 para 15-16, Indigenous relocation or cultural heritage impacts can only proceed with FPIC. Treating “feasible alternatives” as optional allows companies to decide internally that impacts are “unavoidable.”

Agreement through FPIC must occur before impact: The current phrasing could allow the company to determine “unavoidable” first, then seek agreement later, which reverses the prior in FPIC.

Scope gaps remain: The clause does not define what counts as “critical cultural heritage,” nor does it require joint identification, documentation, or confidentiality protocols. These elements sit in PA15 but are not cross-linked here.

No reference to alternatives analysis or independent review: Exploring feasible alternatives” is too weak without specifying how alternatives are assessed and who validates the conclusion that avoidance is not feasible.

Recommended text: The Facility must avoid relocating Indigenous Peoples including both physical and economic displacement, and must avoid significant adverse impacts to Indigenous Peoples’ critical cultural heritage. If the Facility believes impacts are unavoidable, it will first complete a documented analysis of alternatives that includes avoidance and no-go options and compares locations, designs, technologies, timing, and scale. The Facility will review this analysis with affected Indigenous Peoples, and obtain an independent check by qualified experts. Where relocation or impacts to jointly identified critical cultural heritage would still occur, the Facility must obtain FPIC before any approvals are sought or activities begin for those phases and impacts. The Facility will apply agreed confidentiality and Indigenous data governance protocols to sensitive information and will explain how Indigenous input changed project design and management measures. The assurance report will disclose non-sensitive status on the avoidance finding, the FPIC outcome by phase and impact, and completion of the independent check. Where FPIC is withheld, withdrawn, or contested, consent-dependent activities will be paused and claims will not be made or maintained.

SECTION: 14.1 Indigenous Peoples, Towards Good Practice, 6

COMMENT:

Comment: We welcome the baseline requirement to provide training on the history, traditions, and rights of Indigenous Peoples to staff who interact with or make decisions affecting Indigenous Peoples. This is stronger than the first draft. Last year we asked that training be Indigenous-led or co-designed, include contractors and security, be refreshed regularly, and be evaluated for effectiveness. Those elements are still missing at this level.

Recommendations:

Indigenous-led or co-designed training: Training is Indigenous-led, or co-designed and delivered with Indigenous Peoples, and approved by them.

Who must be trained: Training covers all workers who interact with Indigenous Peoples or whose decisions can affect Indigenous Peoples rights, including contractors, subcontractors, security personnel, supervisors, senior management, and the board.

Frequency and onboarding: Provide training at onboarding and at defined intervals thereafter. Refresh training after material changes in project scope or impacts.

Minimum curriculum: The curriculum includes local Indigenous histories and governance, FPIC and decision-making processes, cultural protocols for engagement, land and water stewardship, cultural heritage protections, grievance and remedy options, and non-retaliation expectations.

Evaluation and improvement: Evaluate training effectiveness through pre- and post-training checks, on-the-job observations, and community feedback. Update the curriculum where gaps are identified.

Incident-triggered refreshers: Require immediate refresher training after any substantiated incident involving disrespect, interference with Indigenous decision-making, cultural heritage breach, or retaliation.

Records and accessibility: Keep attendance records, role coverage, dates, curriculum outlines, trainer credentials, and evidence of Indigenous approval. Make non-sensitive summaries available to Indigenous representatives.

Resource commitment: Allocate a dedicated budget for Indigenous-led or co-designed training and for translation and interpretation.

SECTION: 14.1 Indigenous Peoples, Towards Good Practice, 7

COMMENT:

Comment: This is a major improvement over the 2024 draft, which only mentioned “consideration of rights” without an avoidance clause. The new and explicit commitment to avoid contact and impacts on the territories of Indigenous Peoples living in voluntary isolation or initial contact is a good step. Again, we raised this issue last year but it remains partially addressed. While the avoidance principle is now stated, there are still no practical safeguards for how to identify such peoples, establish buffer zones, respond to accidental encounters, or ensure oversight. The absence of these steps risks rendering the “precautionary approach” symbolic.

International standards (IACHR, OHCHR, Amazon Cooperation Treaty Organization (ACTO)) require a no-contact, maximum-protection regime.

Many “isolated” Indigenous Peoples are highly vulnerable to disease, intrusion, or violence. Even unintentional overflights, exploration, or data gathering can cause harm.

“Precautionary approach” needs concrete procedures for companies and States to avoid intrusion, report sightings, and cooperate with Indigenous and conservation authorities.

Recommendations:

Define a “no-go” buffer zone: Facilities must establish, in consultation with independent experts and Indigenous Peoples organizations, a no-go buffer zone around territories inhabited or used by Indigenous Peoples in voluntary isolation or initial contact. The size and parameters should be defined by the precautionary principle, using the best available knowledge and traditional evidence.

Prohibit all forms of contact and disturbance : Prohibit any physical, aerial, or digital intrusion (e.g., surveys, overflights, noise, data collection, or outreach) in or near these territories.

Emergency and accidental contact protocol: Develop and maintain an emergency protocol coordinated with competent state and indigenous authorities- detailing procedures if accidental contact occurs. The protocol should prioritize withdrawal, immediate medical containment, and independent reporting

Independent oversight and reporting: Assurers and competent authorities must verify compliance with no-contact measures and report breaches publicly.

Cross references: PA15 (Cultural heritage) for identification and protection of sacred and ancestral areas; and PA 19 (Biodiversity, Ecosystem Services and Nature) for monitoring and protection of isolated territories

Data sensitivity: All spatial data, maps, or reports related to Indigenous Peoples in Voluntary Isolation territories must remain confidential and protected under Indigenous data sovereignty principles to prevent misuse.

In the remedial phases create transparent mechanisms to repair harm caused by previous violations, ensuring accountability and restitution.

Assurance signal: Assurers should confirm the existence of a documented no-contact and no-impact rule, the defined buffer zone and the basis for its size, the emergency protocol and training records, contractor and aviation controls with stop-work triggers, incident logs and corrective actions, and appropriate handling of sensitive data with non-sensitive public reporting.

SECTION: 14.1 Indigenous Peoples, Towards Good Practice

COMMENT:

We welcome CMSI’s decision to replace “Foundational” with “Towards Good Practice” and to clarify that this level is an on-ramp, not a destination, with no performance claims permitted. This is a meaningful improvement. However, the current definition still leaves room for confusion in how it applies to Indigenous Peoples rights. In particular, there is no timeline for improvement, no safeguard to prevent companies from operating before obtaining FPIC, no requirement to disclose FPIC status publicly, and no condition linking FPIC to public claims. These clarifications are important to ensure that “Towards Good Practice” reflects genuine progress, not a holding pattern, and that CMSI’s transparency and accountability commitments extend to Indigenous Peoples’ rights. To avoid confusion in how TGP applies to Indigenous Peoples’ rights, please add safeguards so TGP reflects genuine progress rather than a holding pattern.

1) *Time-bound improvement at TGP: Please state that facilities at TGP must have a time-bound, public improvement plan with milestones and accountability to reach Good Practice in the next assurance cycle, with progress reported in the assurance report. This aligns with the PDCA framing and continuous-improvement intent. The draft mentions “continuous improvement,” but it does not require specific timelines or milestones at the TGP level. Facilities at TGP shall maintain a public improvement plan with milestones to achieve Good Practice by the next assurance cycle, with progress reported in the assurance report.*

2) *Prevent “operate-while-engaging” loopholes under PA14: Clarify that TGP does not permit advancing activities that would create significant impacts on Indigenous Peoples rights or critical cultural heritage without verified FPIC for those specific phases and impacts. This avoids a situation where TGP language plus “engagement underway” functions as de facto permission to proceed. This is consistent with the “on-ramp, not a destination; no claims at TGP” rationale. At TGP, consent-dependent activities affecting Indigenous Peoples’ rights or critical cultural heritage shall not proceed unless FPIC has been verified for the specific phases and impacts.*

3) *Non-sensitive transparency while at TGP: Confirm that the assurance report will always disclose non-sensitive status information needed for accountability, including PA14 applicability, FPIC status and scope, be it granted, withheld, contested, withdrawn, phases/impacts), and any “not applicable” determinations with reasons. This matches the public scoring and “N/A” justification rules. Assurance reports shall disclose non-sensitive PA14 status, including FPIC status and scope and reasons for any “not applicable” determinations*

4) *Claims guardrail linked to PA14: CMSI should clearly state that no claim can be made or maintained where PA14 applies unless FPIC has been verified for that project’s specific phases and impacts. Facilities may not make or maintain CMSI claims for consent-dependent activities where PA14 applies unless FPIC status and scope for the relevant phases and impacts have been verified.*

SECTION: Applicability

COMMENT:

Comment: We welcome the clearer alignment with UNDRIP and the UNGPs, and the explicit recognition of State and company duties. This is a meaningful improvement from the first draft . Still, to ensure FPIC is treated as a right and not only a process, the section needs several refinements:

Applicability: Make the trigger comprehensive and phase-based

PA14 should apply to all phases from exploration, construction, operations, expansions, closure and decommissioning and to material changes in impacts.

It must cover impacts to lands, territories, waters, cultural heritage, livelihoods, and governance rights and not only “operational activities.”

Identification relies on Indigenous self-identification, including communities not formally recognized by the State.

This Performance Area 14 must apply to all project phases and any material changes to impacts, including exploration, construction, operations, expansions, and closure/decommissioning. It must cover effects on lands, territories, waters, cultural heritage, livelihoods, and other collective rights, and rely on Indigenous Peoples’ self-identification, including where State recognition is absent.

Company responsibility: Shift from “seek” to “obtain and maintain”

The text says companies should “establish that they have sought the consent...”; this risks treating consent as optional.

Replace with “obtain and maintain FPIC”, with phase and impact-specific scope, duration or renewal, and withdrawal conditions, aligned to community decision-making systems.

As part of due diligence, companies shall obtain and maintain FPIC from affected Indigenous Peoples for specified phases and impacts, consistent with Indigenous governance and decision-making systems. FPIC documentation should specify scope (phases and impacts), duration and renewal, and withdrawal conditions.

Agreements ≠ consent by default

The current line says consent is “most clearly demonstrated” by an agreement. That can conflate benefit agreements with consent.

Clarify that agreements are one possible means of evidence only when they expressly record FPIC for defined phases/impacts, and that consent can be withdrawn if terms aren’t met or impacts change.

Agreements may evidence FPIC only where they explicitly state that FPIC was granted for defined phases and impacts; agreements should set out renewal/withdrawal terms, and Indigenous Peoples retain the right to withdraw consent upon non-compliance or material change.

Avoidance before mitigation (anchor it here too): Bring the “avoid” principle into this intro so it governs the whole PA14. Companies shall prioritise avoidance of irremediable harms (e.g., critical cultural heritage, involuntary resettlement) before proposing mitigation where avoidance is not feasible, any proceeding must rely on FPIC specific to that impact.

Assurance & claims linkage (non-sensitive transparency): Tie responsibilities to what assurers must verify and what is always disclosed. Facilities seeking a CMSI claim where PA14 applies must show verified FPIC status and scope (phases/impacts) in assurance (non-sensitive), with claims paused where FPIC is withheld/contested or “exceptional circumstances’ are invoked.”

Close common loopholes (downstream actors & land agents): Extend company responsibility to explorers, JV partners, contractors or land agents acting on its behalf. Companies shall ensure that FPIC obligations are cascaded to third parties acting for them (e.g., explorers, JV partners, land agents), including contractual FPIC clauses and stop-work triggers if FPIC is withheld/withdrawn.

Data sovereignty & grievance access: When the applicability mentions “good faith and meaningful engagement,” add that collection or use of knowledge follows Indigenous data sovereignty (OCAP and CARE). Reiterate access to culturally appropriate and, where needed, independent grievance options and non-retaliation protections for complainants and defenders.

Assurance signal: Assurers should confirm FPIC status and scope (phases/impacts), timing prior to permits/activities, documentation of conditions and renewal/withdrawal terms, and that consent-dependent activities paused when FPIC was withheld or withdrawn.

SECTION: Glossary and Interpretive Guidance

COMMENT:

AGREEMENTS:

Comment:

The relationship between “agreement” and “consent” is ambiguous: The definition states that agreements “can reflect consent and/or be a means to demonstrate consent.” This risks treating the existence of any agreement as proof that FPIC has been achieved, even if the FPIC process was incomplete, not prior, or not collective. The definition should state clearly that an agreement is evidence of FPIC only where it is the outcome of a rights based FPIC process that follows Indigenous Peoples’ own governance, is prior to approvals and activities, and reflects a collective decision.

The scope and maintenance of consent through agreements are not defined: There is no clarity on what phases, activities, or impacts an agreement covers, or how the parties will demonstrate that consent is maintained and renewed when impacts change. Agreements should specify which activities and stages they apply to and should include processes for review and re-negotiation when there are expansions, new risks, or unforeseen impacts.

There is no non derogation safeguard: The definition should clarify that agreements must not be interpreted or used in ways that reduce or waive Indigenous Peoples' existing rights. Agreements should reinforce the protection of rights and set out equitable terms for impacts and relationships, not diminish rights recognised under domestic or international law.

The definition does not clarify who is bound by the agreement: There is no requirement that agreements bind joint venture partners, subsidiaries, contractors, and successors. Without this, agreements may only bind one legal entity while other operators or future owners proceed without being bound by the same commitments. The standard should require that agreements are structured so they are enforceable across joint ventures and successors.

Withdrawal is mentioned but lacks operational consequences: The definition says Indigenous Peoples can withdraw their agreement if there is non compliance or changes in impacts, but it does not explain what happens next. The standard should state that when agreement is withdrawn for consent dependent activities, relevant activities are paused or stopped and related CMSI claims are suspended until non compliance is remedied and a new or revised agreement is reached.

Governance, grievance, and monitoring elements are missing: There is no reference to grievance or redress mechanisms under the agreement, to joint monitoring and governance structures, or to Indigenous data governance for information generated through the agreement. Agreements should include clear clauses on dispute resolution, grievance processes, joint monitoring, information sharing, and ownership and use of data in line with Indigenous data governance principles.

Assurance expectations are not articulated: The definition does not say what assurers should look for beyond the mere existence of an agreement. Assurers need guidance to assess whether the agreement reflects a legitimate FPIC process, whether its scope is clear, whether rights are protected, whether withdrawal and remedy pathways are in place, and whether all relevant entities are bound.

COMMENT:

BENEFIT SHARING: Comment: The definition distinguishes benefits from compensation and acknowledges both financial and non-financial forms of value, however it remains framed largely from a company-centric perspective. Without grounding in Indigenous Peoples' governance systems or FPIC-based agreements, the concept risks being interpreted as a discretionary act of corporate goodwill.. The reference to "equitable allocation of benefits" is promising but ambiguous. Unless benefits are defined by, negotiated with, and governed through Indigenous Peoples' own decision-making institutions, this language could allow companies to design and deliver benefits unilaterally, based on what they consider "equitable," rather than what communities define as fair and aligned with their priorities and consent processes.

Another major weakness lies in the absence of governance and transparency requirements. The current definition is silent on who decides what benefits are delivered, who manages or administers the funds, and how progress or results will be reported. This omission is not merely technical, it strikes at the core of accountability. In practice, benefit-sharing arrangements without clear governance frameworks often lead to elite capture, community disputes, companies failing to meet commitments, delivery of projects that are of only short-term value to the community, and loss of trust. Transparency mechanisms, such as joint decision-making committees, independent audits, and periodic public summaries, are necessary to ensure that benefits reach their intended recipients and that Indigenous Peoples can verify outcomes.

The definition also lacks safeguards for more complex financial arrangements such as equity or ownership stakes. While the inclusion of equity and participation in supply chains suggests a desired shift toward shared value, it introduces significant risks if not accompanied by protective clauses. Without guarantees around anti-dilution, decision-making rights, non-recourse debt, exit conditions, and independent financial advice, Indigenous communities could be exposed to the downsides of ownership such as financial loss, loss of control, or forced buy-outs, while companies retain ultimate power over strategic decisions.

Equally concerning is the absence of any reference to indicators or independent evaluation. Measuring the number of programs or total spending does not reveal whether benefits have improved livelihoods, protected

culture, or strengthened governance. Without clear metrics and community-led evaluations, benefit-sharing risks becoming a bookkeeping exercise rather than a genuine tool for self-determined development. It also overlooks intergenerational mechanisms such as trusts or endowments that ensure continuity of benefits beyond mine closure. Many communities face the abrupt end of support once production stops, undermining the long-term wellbeing that benefit-sharing is meant to secure.

Finally, the definition blurs the boundary between benefit sharing and remedy. It does not explicitly state that benefits are additional to compensation, mitigation, and redress. This gap creates a risk that companies might use benefits as a substitute for fulfilling FPIC or remedy obligations, effectively trading benefits for consent. To uphold international standards, benefit sharing must be presented as a separate, additional outcome of an FPIC-based agreement, not as an offset for impacts or an incentive to accept harm.

COMMENT:

DEMONSTRATING CONSENT: Comment:

The definition blurs the meaning of consent by listing “permission,” “non-opposition,” contractual terms, or expressions of support as possible outcomes. These signals can result from engagement, but they are not consent unless the community itself defines them as such through its own governance. Without this clarification, Facilities could treat silence or conditional support as if it were FPIC.

The definition does not restate the four core elements of FPIC. It should explicitly affirm that FPIC must be free of coercion, must occur prior to approvals and project decisions, must be informed through accessible information and adequate time, and must result in a collective decision that can be given, withheld, conditioned, or withdrawn.

The definition does not explain that consent must be specific to defined phases or activities. It also does not require renewal when project impacts materially change. This gap creates a risk that a Facility might treat early engagement as a blanket approval for the entire project lifecycle.

The phrasing “FPIC does not confer veto rights” is unsafe and can be misused as justification to proceed without consent. The better framing is that unanimity is not required, but Indigenous Peoples have a collective right to give or withhold consent through their own governance systems. Decision making systems among Indigenous communities vary widely. CMSI cannot impose limits on Indigenous Peoples’ own governance. Some Indigenous decision systems require unanimity as an expression of collective will. Others rely on consensus through elders or council structures. These governance protocols are forms of Indigenous law. CMSI cannot predetermine that unanimity “is not required,” because that interferes directly with Indigenous Peoples’ right to self-determination and their right to determine how they express consent.

The definition asks Facilities to outline steps if consent is not achieved, but it does not explain the operational consequence. Where consent is not obtained for consent-dependent activities, those activities must not proceed. The standard also needs to clarify that related claims should be paused when consent is absent.

The definition does not describe what evidence demonstrates that consent has been given or withheld. Assurers need a clear standard of proof. Evidence can include community resolutions, minutes validated by the community, agreed communiqués, and audio or visual records where culturally appropriate.

FPIC is a collective right exercised through Indigenous governance systems. It must be free, prior, and informed. Consent must be specific to defined activities and phases and must be renewed when impacts change. The terms “permission,” “support,” or “non-opposition” only represent consent when the community has explicitly chosen these expressions through its own decision-making. Where consent is not obtained, the activity does not proceed. Assurance bodies must verify the legitimacy, scope, conditions, and evidence of consent as defined by the community.

COMMENT:

FPIC: Comment: It is important to refine this definition because it will be the main reference for how Facilities and assurers understand FPIC in practice. If the core elements and consequences are not clear, FPIC can slide from a rights based safeguard into a general engagement process.

“Prior” needs stronger grounding in timing: The definition says “before key decisions are made and impacts occur,” but it does not state “before permits and approvals are granted” or “before activities begin.” Without that clarification, “prior” can be interpreted as engagement that happens in parallel with permitting or construction rather than before authorization. This weakens the protection that FPIC is meant to provide.

Scope and maintenance of consent are missing: The definition does not require that consent be tied to specific phases and activities. It also does not require that consent be sought again when there are expansions, new impacts, or other material changes. This gap allows Facilities to treat consent at one point in time as a blanket approval for the entire life of the project.

Outcome options are under specified: The definition mentions that Indigenous Peoples can “grant or withhold” consent, but it does not mention conditional consent or the right to withdraw consent if agreed conditions are breached. FPIC under international standards includes the possibility that communities grant consent subject to conditions and withdraw it if those conditions are not respected.

“No veto” phrasing can be misused and oversteps Indigenous governance: The sentence that FPIC “does not confer veto rights to individuals or groups” can be read by Facilities as permission to proceed without consent. It is not the role of CMSI or a Facility to decide whether unanimity or consensus is required. Some Indigenous Peoples use elders’ councils, consensus processes, or unanimity as their own law and governance. The appropriate framing is that unanimity is not required in all cases, yet the community retains the collective right to give or withhold consent according to its governance system. The standard should not predetermine that veto or unanimity are off the table where communities themselves require them.

Capacity and information quality need explicit recognition: The definition describes people being “fully informed,” but it does not mention translation, culturally appropriate formats, accessibility, or support for communities to build their own capacity. For FPIC to be genuinely informed, the standard should explicitly refer to language access, culturally appropriate information, independent advice where requested, and enough time for internal deliberation. This also gives clearer guidance to assurers who need to verify whether communities had meaningful access to information.

Evidence and assurance requirements are not defined: The definition does not explain what proof of consent or non consent looks like for assurers. Without minimum expectations, assurance will depend heavily on the interpretation of each Assurance Provider. The standard should require community validated evidence such as resolutions, meeting records agreed by the community, communiqués, or audio and visual records where communities consider these appropriate.

COMMENT:

OPPOSITION: Comment:

The current definition is not clear about how dissent relates to FPIC: As written, the definition risks implying that ongoing opposition is compatible with having “met FPIC.” It needs to be clearer that when there is opposition, companies should pause and assess whether the dissent signals a lack of consent, poor engagement, inadequate information, or unresolved harms. Assurers should be able to determine whether consent has genuinely been achieved and what form dissent takes in the community. At no time should dissent in the community be ignored or quashed by the company. It should be treated as a signal to re-engage and to reassess whether FPIC has been obtained through Indigenous Peoples’ own governance processes.

In the current definition, the State override clause does not meet international norms: The text refers to the State “lawfully limiting” Indigenous Peoples’ rights but does not require checks against international standards such as UNDRIP Articles 19 and 32, nor does it spell out tests of necessity, proportionality, legitimate public interest, and non discrimination. It also does not require independent verification beyond the company’s own view of whether those conditions are met.

There is no clear operational consequence when opposition persists: If opposition continues and collective consent has not been given through Indigenous governance, the definition does not require companies to pause operations or to refrain from proceeding with consent dependent activities. This creates a risk that operations continue in a context where FPIC has not been achieved.

Safety and retaliation risks are not addressed: The definition does not include explicit non retaliation language or any reference to the protection of Indigenous human rights defenders, leaders, or community members. Opposition contexts are often associated with heightened risk of threats, criminalisation, and violence. The absence of safeguards is a serious gap.

Conflict and harm safeguards are missing: There is no requirement for a conflict sensitivity assessment, a do no harm plan, or heightened due diligence where opposition remains. Without these, the standard does not guide companies on how to prevent escalation or avoid contributing to human rights abuses.

Accountability and oversight are weak: The expectation that companies “disclose the justification for proceeding” is too thin. There is no call for independent oversight, third party review, or an ombudsperson. There is also no requirement for periodic, time bound re-evaluation of the decision to proceed in a context of ongoing opposition.

The assurance signal is not defined: The definition does not offer assurers a simple test to evaluate whether proceeding in the face of opposition was truly exceptional and rights compatible, or whether it has become routine practice. This undermines the credibility and consistency of assurance.

The following points need clarification:

Distinguish dissent from non consent: Opposition can exist even when a community has collectively decided to consent. However, where collective consent has not been given through Indigenous governance systems, FPIC has not been achieved. The definition should make this distinction explicit so that companies and assurers do not treat opposition as compatible with an absence of consent.

Operational consequence: Where FPIC has not been obtained for consent dependent activities, the definition should clearly state that those activities do not proceed. CMSI related claims should be paused while engagement continues, alternatives are considered, or the project is redesigned or withdrawn.

Heightened safeguards where opposition persists: The standard should require a conflict sensitivity and do no harm plan, non retaliation and defender protection commitments, and independent facilitation or mediation if requested by Indigenous Peoples. These are minimum measures when opposition is present.

Guardrails for “exceptional circumstances” and State action: Proceeding in reliance on a State limitation of Indigenous Peoples’ rights should only be possible if all of the following are met and independently verified:

the State action meets tests of necessity, proportionality, and legitimate public interest under international standards;

the State conducted good faith processes to seek FPIC;

the company conducts heightened human rights due diligence that shows there is no feasible rights respecting alternative; and

there is a time bound independent oversight mechanism, enhanced remedy, and a clear exit point if harms escalate.

Transparency that does not expose communities to risk: Any public disclosure about proceeding in contexts of opposition should be co approved with Indigenous Peoples and follow Indigenous data governance protocols. It must not reveal information that could increase risks to communities or individuals who have expressed dissent.

SECTION: Intent

COMMENT:

Comment: We welcome the inclusion of UNDRIP, UNGPs, and FPIC in the Intent statement, which is a clear improvement over the first draft. However, to meet international norms and ensure FPIC is treated as a right rather than a process, we ask CMSI to please add the following clarifications

Make FPIC applicable to all phases and material changes: Clarify that FPIC applies to all project phases and any material changes, and not just anticipated impacts at a single point in time.

Tie FPIC to claims and assurance: Specify that claims and assurance outcomes must depend on verified FPIC status and its scope (phases, impacts, and duration). Where FPIC is not obtained for consent-dependent activities, activities do not proceed and related claims are paused.

Prioritising avoidance before mitigation: Add that facilities must prioritise avoidance of impacts to lands, waters, and cultural heritage before seeking FPIC for mitigation measures.

Recognising Indigenous decision-making and ongoing consent: Make explicit that FPIC processes must demonstrate collective decision-making according to Indigenous governance systems, and that facilities must maintain consent overtime (i.e., re-engage if circumstances or impacts change).

QUESTION 1

Does the scope, content, and narrative style of the consolidated standard meet your individual expectations 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 (Towards Good Practice, Good Practice, Leading Practice) 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

Does the level of transparency provided by the Claims Policy (i.e. through disclosing scores for each Performance Area, aggregated scores to indicate overall progress towards Good Practice, and Performance Claims) meet your expectations to incentivise continuous performance improvement?

Response: 1: Significantly below