

CMSI Consultation Response

Respondent Details

NAME

Callum Rusell

COUNTRY

United Kingdom

PERMISSION

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

STAKEHOLDER

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

ORGANISATION

Survival International

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: 1: Significantly below

No because the Standard falls short of adherence to international human rights law and the global consensus on Free, Prior and Informed Consent (FPIC) which is that there can be no mining or other activities on Indigenous peoples' territories (or affecting them or their territories) without FPIC. This is especially the case for uncontacted Indigenous peoples (those in voluntary isolation) who are unable to provide FPIC and can be wiped out by any contact and especially by extractive activities affecting them and/or their territories. Through failing to clearly show that mining on Indigenous peoples' territories without FPIC (or any mining at all on uncontacted peoples' territories) is completely unacceptable, the current draft CMSI fails to show enough improvement from its original draft.

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: 1: Significantly below

No for the same reasons outlined in the point above. When it comes to Indigenous peoples' rights (including those of uncontacted Indigenous peoples/those in voluntary isolation) CMSI currently still has much weaker standards than that of IRMA. Through failing to adhere to international human rights law and the global consensus which prohibits all mining on Indigenous peoples' territories without FPIC (and all mining on uncontacted peoples' territories because they cannot grant FPIC) CMSI currently falls far short of driving performance improvement across the industry at a global scale. Mining on Indigenous people's territories without FPIC, and in particular mining on the territories of uncontacted peoples, must be treated in the same way as Forced Labor or Child Labor. It cannot be tolerated under any circumstances and this must be clearly communicated in the CMSI.

4. Consolidated Standard External Assurance Process

SECTION: 4.2 Planning, 4.2.13 External Stakeholder and Rights

COMMENT:

Where it says: "Performance Area 14 - Indigenous Peoples - requires engagement with Indigenous Peoples" it should add: (but not with Indigenous peoples in voluntary isolation, who cannot give FPIC and whose territories may not be operated on).

QUESTION 1

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

Response: No Response

Performance Area 14: Indigenous Peoples

SECTION: 14.1 Indigenous Peoples, Good Practice, 0

COMMENT:

1. "aligned with FPIC" - this should instead read: "as part of an FPIC process,"

1. This section should end with: "If there is no consent, the utility must wholly redesign the project to avoid any impact on Indigenous peoples and their territories and if this is not possible, the project must be terminated."

COMMENT:

2. "alignment with FPIC" - this should read: "As part of an FPIC process"

COMMENT:

3. Add here at the end: Note that Indigenous peoples in voluntary isolation cannot be contacted or participate with outsiders, so where they or their territories are identified, the utility must proceed in accordance with the wording identified in point 4.

COMMENT:

5. Bribery is a genuine threat to Indigenous peoples when it comes to land agreements. There should be a clear mention here that the facility must make it clear any such assistance is unconditional and not part of an FPIC or compensation process but as part of a means to support (if necessary) Indigenous peoples to enter into the FPIC process.

COMMENT:

6. *This entire section needs to be moved into Towards Good Practice. FPIC is the bare minimum for any activities on Indigenous peoples' territories.*

COMMENT:

7. *Add at the end: "including a recognition from all parties that FPIC is part of an ongoing process and the affected Indigenous peoples have the right to withdraw their consent and therefore terminate the project at any time."*

COMMENT:

We suggest another point here (point 11) which reads: "If the presence of Indigenous peoples in voluntary isolation is identified, the utility not only immediately refrains from any activities that may affect them or their territories but uses their influence over governments and other corporations to call for no-go zones and associated buffer zones to protect such peoples from all external threats."

COMMENT:

6. *(Footnote 69) "In exceptional circumstances where agreement with affected Indigenous Peoples is not obtained, and where the State has lawfully limited Indigenous Peoples' rights through a process that is necessary, proportionate, and directed toward a legitimate public interest objective, the interpretative guidance under the definition of opposition applies."*

States often use the argument of "public interest" to enable them, or companies, to abuse the rights of Indigenous peoples -to ignore their obligations to obtain FPIC and in violation of international human rights law. This paragraph gives them carte blanche to do this. This should instead read:

"The Facility should not be complicit in efforts by states to ignore international human rights law by declaring a project in the public interest. These are still human rights violations regardless of any national law or policy contexts. Utilities and all companies still have an obligation to ensure that they operate in accordance with international human rights law -including the need to obtain FPIC from affected Indigenous peoples."

SECTION: 14.1 Indigenous Peoples, Leading Practice, 0

COMMENT:

6. *"Where permission is provided by Indigenous Peoples, and in accordance with legal requirements and local norms, publicly disclose agreements or report on the progress towards delivering commitments at defined intervals."*

This should mention international human rights law and read: "Where permission is provided by Indigenous Peoples, and in accordance with legal requirements, international human rights law and local norms, publicly disclose agreements or report on the progress towards delivering commitments at defined intervals."

COMMENT:

We suggest another point here (point 8) which reads:

"Refuse to source any materials from any companies operating on or sourcing from the territories of Indigenous peoples without FPIC (this by definition includes those in voluntary isolation as FPIC in such circumstances is impossible). The utility also educates their suppliers, buyers and other relevant figures and organizations on the rights of Indigenous peoples, including Indigenous peoples in voluntary isolation."

SECTION: 14.1 Indigenous Peoples, Towards Good Practice, 0

COMMENT:

1. *"n line with the UNGP and UNDRIP" - this should read: "in line with international human rights law, including the ILO 169 and UNDRIP, including to no activities that impact their territories and resources without their FPIC."*

1. *This section should end with: Publicly commit to not undertaking any activities which may affect Indigenous peoples and/or their territories without FPIC.*

COMMENT:

3. *We suggest a prior section before this (a new point 3) which reads: 3. "Consult with relevant Indigenous Peoples' organizations or bodies, if they exist, and external experts (e.g., Indigenous organisations and Indigenous rights organisations with expertise in peoples living in voluntary isolation) to determine if the entity's past, present or proposed activities are affecting or may affect the territories, lands and resources of those living in voluntary isolation or initial contact."*

COMMENT:

4. *This should be point 5 instead and should add at the end: "However, if the presence of Indigenous peoples in voluntary isolation (uncontacted Indigenous peoples) is identified as being affected (or having their territories affected) by the actions of the utility, no engagement may take place and the utility complies with the steps identified in point 4.*

COMMENT:

5. *"significant"*

This section should instead state: "Avoid impacts to Indigenous Peoples' critical cultural heritage and the relocation of Indigenous Peoples from their lands or territories. No impacts on the lands, territories, resources and critical cultural heritage of Indigenous peoples can take place without their Free Prior and Informed Consent."

There must be no mention of "Where such impacts are

unavoidable" with a genuine process of FPIC there is no countenance for things being unavoidable -any mitigations should be at the suggestion and instigation of the Indigenous peoples, not the companies.

5. *(FPIC) - This should add at the bottom, if there is no FPIC, the community may not be relocated and the utility must redesign the project to avoid such impacts or if this is not possible, withdraw from the territory entirely.*

COMMENT:

7. *We suggest this is made point 4, and reads:*

Where a Facility's activities have the potential to impact Indigenous Peoples living in voluntary isolation or of their territories, the Facility must redesign the project to avoid all such impacts (meaning completely avoiding their territories and any activities that would impact their territories and resources, eg their water sources, even if outside their territories), or, if avoidance is not possible, cease to pursue the proposed activities; and/or

- If existing impacts on Indigenous Peoples living in voluntary isolation or their territories are

identified, the utility immediately halts any existing project and removes all infrastructure from their territories without contacting these peoples; and/or

- If past impacts on Indigenous Peoples living in voluntary isolation or their territories are identified, the utility consults with representative bodies for Indigenous Peoples, and external experts to determine the appropriate remedial actions; and/or

- If past or proposed activities may affect any Indigenous Peoples living in initial contact, the utility consults with representative bodies for Indigenous Peoples, Indigenous rights organisations, and anthropological, and/or human rights experts to determine whether and how engagement with these groups is appropriate; if it is determined that

engagement is not appropriate, the entity proceeds with these groups as though they were Indigenous Peoples in voluntary isolation.

SECTION: Applicability

COMMENT:

Para 3: *“As per the UNGPs, States are obligated to respect and protect Indigenous Peoples’ rights, including when it comes to decisions about whether projects can initially proceed. In keeping with this obligation, States have the duty to consult and cooperate in good faith with Indigenous Peoples in*

order to obtain their free, and informed consent prior to the approval of any project affecting them or their territories, as per articles 19 and 32 of the UNDRIP.”

This paragraph should add at the end: If Indigenous peoples have not granted their free, prior and informed consent, States are obligated to respect their wishes and not proceed with/abandon any project affecting them or their territories.

COMMENT:

Para 3. *“Companies have the responsibility to respect human rights,” - “Duty” is better than “responsibility” here.*

Para 3. *“meaningful engagement and consultation” - This falls short of International human rights law on the rights of Indigenous peoples. “meaningful engagement and consultation” is not the same as FPIC, which should be required as a binding standard, as mandated in UNDRIP, Article 32.*

Para 3. *“sought the consent of” - This should read: “accordingly, not undertake any activities affecting the lands, territories and resources of Indigenous people unless they have obtained their Free, Prior and Informed Consent”. Seeking consent is not the same as consent.*

Para 3. *“Indigenous Peoples’ consent to impacts on their rights” - This language is concerning. Indigenous peoples’ rights are fixed and non-negotiable. Indigenous Peoples should not be asked to consent to impacts on their rights, but to impacts on their territories and resources.*

Para 3. *“Agreement(s) should be achieved through a process demonstrating free, prior and informed consent (FPIC), reflecting community self-determined decision-making processes, meaningful engagement and good faith negotiation.” - This should read: “Agreement(s) must only be achieved through a process of free, prior and informed consent (FPIC), reflecting community self-*

determined decision-making processes, meaningful engagement and good faith negotiation.”

End of Para 3. This should end with: “As enshrined under international human rights law, CMSI will have no tolerance for any company activities that affect the territories and resources of Indigenous peoples without their FPIC”

SECTION: Glossary and Interpretive Guidance

COMMENT:

Demonstrating free, prior and informed consent (FPIC):

This should read: Ensuring or obtaining, not demonstrating

COMMENT:

Demonstrating free, prior and informed consent (FPIC):

Para 2. "FPIC does not require unanimity and does not confer veto rights to individuals or groups"

Given how often divide and rule is used to destabilise communities and pressure them to give consent, this should add:

"However, lack of FPIC among the general community does mean a veto. Without FPIC there can be no operations affecting Indigenous peoples or their territories. The Facility must not seek to exploit any divisions in an effort to obtain consent."

COMMENT:

Free, Prior and Informed Consent (FPIC)

"FPIC does not require unanimity and does not confer veto rights to individuals or groups."

This should add at the end: "However, lack of FPIC among the general community does mean a veto. Without FPIC there can be no operations affecting Indigenous peoples or their territories."

COMMENT:

Indigenous peoples

Para 2. "discourage people from acknowledging Indigenous identity."

Add here: However, under international law Indigenous peoples are recognized as Indigenous regardless of the extent to which the State recognizes them as such (even if the State refuses to do so altogether).

COMMENT:

Indigenous Peoples living in voluntary isolation

This paragraph should read:

"Indigenous Peoples living in voluntary isolation (also known as uncontacted peoples, isolated peoples, free peoples or by other names), these are Indigenous people who do not maintain regular contact with the majority population and tend to shun any type of contact with outsiders. They have little to no immunity to outside diseases and rely entirely on the intactness of the ecosystems in their territories, so contact with outsiders and the destruction of their territories can and does wipe them out. This makes them among the most vulnerable peoples in the world. As FPIC is impossible with these peoples, there can be no activities affecting them or affecting or on their territories.

[There should be a separate category for Indigenous peoples in initial contact] which reads: People who were previously isolated and have recently come into permanent contact with outsiders, either by choice or coercion, and who are still particularly vulnerable to disease and the destruction of their territories. In some cases, FPIC may theoretically be possible from these communities, but in other cases, their relative isolation and only recent contact with outside society makes this impossible, meaning there can be no activities affecting them or affecting or on their territories.

COMMENT:

Opposition - Para 3.

“with the nature and scale of the impacts.”

This should end with: “All Indigenous peoples affected by the proposed activities of the utility must give FPIC before any activities commence.”

SECTION: Intent

COMMENT:

Para 1. “demonstrating free, prior and informed consent” - “Ensuring” is much more appropriate than “demonstrating” here. FPIC must be ensured, or there can be no mining, (or other activities). This is the only means by which international law can be upheld with regards to FPIC. - We suggest the phrasing: “a process that ensures there is genuinely Free, Prior and Informed Consent” etc”

COMMENT:

Indigenous peoples in voluntary isolation:

The CMSI performance indicator 14.1 should be updated to include specific provisions relating to uncontacted Indigenous peoples, and making clear that no activity on their territories is permissible. While it is encouraging that the CMSI draft mentions Indigenous peoples in voluntary isolation (also known as uncontacted peoples), it is highly concerning that it currently fails to align with international human rights law, which requires a total prohibition against any activities affecting them, or their territories. This is increasingly being explicitly recognized in business and industry standards and procedures.

Uncontacted peoples, while entirely self-sufficient when they and their lands are left undisturbed, are uniquely vulnerable to outsiders’ presence or activity in their territories. They have little to no immunity to outside diseases and rely fully on the integrity of the ecosystem of their territories, so any contact with them or damage to their territories risks wiping them out. This means that they are among the most vulnerable peoples in the world.

Under international human rights law, Indigenous peoples who live without permanent contact with outsiders have the right to be uncontacted (voluntarily isolated). Firstly, the rights to life and health - and the state obligation to uphold these rights -include protecting uncontacted peoples from the fatal effects of forced contact. Crucially, the right to self-determination also necessarily includes the right to be uncontacted. Self-determination is central to both the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the right to it is set out in Article 1.1 of both treaties. Numerous UN human rights bodies and representatives have stated that respect for the self-determination of uncontacted peoples requires complete respect for what they have termed “the principle of no-contact”, and that this right not to have contact or be contacted is absolutely fundamental. See, for example: Draft Guidelines On The Protection Of Indigenous Peoples In Voluntary Isolation And In Initial Contact Of The Amazon Basin And El Chaco, 2009, <https://digitallibrary.un.org/record/659795?ln=en&v=pdf#files>; Final Guidelines (Spanish only) <https://acnudh.org/wp-content/uploads/2012/03/Directrices-de-Protecci%C3%B3n-para-los-Pueblos-Ind%C3%ADgenas-en-Aislamiento-y-en-Contacto-Inicial.pdf>; OAS and OACHR (2013) Indigenous Peoples In Voluntary Isolation And Initial Contact In The Americas: Recommendations For The Full Respect Of Their Human Rights, <https://www.oas.org/en/iachr/indigenous/docs/pdf/report-indigenous-peoples-voluntary-isolation.pdf>; “Free, Prior and Informed Consent: a human rights-based approach, Study of the Expert Mechanism of the Rights of Indigenous Peoples’, 2018 UN Human Rights Council, <https://documents.un.org/doc/undoc/gen/g18/245/94/pdf/g1824594.pdf>; United Nations Special Rapporteur on the situation of human rights and fundamental freedoms of the indigenous, Professor James Anaya, (2013) “Ecuador: Special Rapporteur calls for end to violence between Waorani and Tagaeri-Taromenane

indigenous peoples', available at: <http://unsr.jamesanaya.org/statements/ecuador-experto-de-la-onu-pide-el-fin-de-la-violencia-entreindigenas-tagaeri-taromenane-y-waorani>.

No consent is possible for any activity on uncontacted Indigenous peoples' lands. The requirement for Free, Prior and Informed Consent (FPIC) has specific relevance for uncontacted peoples. According to the FPIC principle, nothing can be done on or to Indigenous peoples' land without Free, Prior and Informed Consent - and this cannot, by definition, be obtained from uncontacted peoples. The impossibility of obtaining consent that is "free", "prior" or "informed" from people who reject contact means that any action taken by outsiders on the land of uncontacted Indigenous people violates international law. Free, Prior and Informed Consent (FPIC) refers to the right of Indigenous peoples to give or withhold their consent for any action that would affect their lands, territories or rights. Free implies that there is no coercion, intimidation or manipulation. Prior implies that consent is to be sought sufficiently in advance of any authorization or commencement of the proposed activities and Informed implies that there is enough information for the affected peoples to make well informed decisions. Source: <https://www.ohchr.org/en/indigenous-peoples/consultation-and-free-prior-and-informed-consent-fpic>

In accordance with these principles, the United Nations has repeatedly made clear that uncontacted peoples must be protected from contact and from all activities on their territories, including mining. In 2025, the International expert group on "The rights of Indigenous Peoples, including those in voluntary isolation and initial contact in the context of critical minerals", endorsed by the 24th session of the United Nations Permanent Forum on Indigenous Issues (UNPFII), stated 'As Indigenous Peoples in isolation are not able to provide free, prior and informed consent due to their isolation, this principle establishes that no mining or exploitation of natural resources should take place on their lands'.

Mining projects violating these principles have been called out for concern by UN bodies. In November 2025, four UN Special Rapporteurs and the Chair, Vice Chair and other experts from the UN Working Group on business and human rights made a statement referring to Indonesian National Strategic Projects and extractive projects being "implemented without free, prior and informed consent from Indigenous Peoples affected, leading to land dispossession, environmental degradation, further exposure to the negative human rights impact of climate change, as well as to militarisation of Indigenous territories and resources." It went on to say, "Some Indigenous Peoples in Indonesia are being pushed to a slow-phased extermination" and "The physical and cultural survival of Indigenous Peoples in voluntary isolation is at grave risk".

While the principles of "no contact, no consent; no consent no contact" and that there must be no mining or other resource extraction on uncontacted peoples' territories are clearly required by international law including ICESCR and ICCPR, as UN bodies have increasingly made these specific requirements explicit, so have industry bodies increasingly done so in their own standards and guidelines. Standards bodies IRMA and RSPO have strengthened their language on uncontacted peoples in 2025 to demand genuine due diligence and respect for human rights when it comes to the issue.

RSPO's current draft standard states: "New lands acquired for New Plantings and/or Developments, shall not be on land inhabited by Communities in Voluntary Isolation... In line with the principle of FPIC, RSPO prohibits oil palm expansion in these [uncontacted] peoples' territories".

IRMA's current draft standard states: "If presence of Uncontacted Indigenous Peoples or Indigenous Peoples Living in Voluntary Isolation or in Initial Contact: Do not initiate contact with them... If presence of Uncontacted Indigenous Peoples or Indigenous Peoples Living in Voluntary Isolation or in Initial Contact: halting all impacting activities, removing infrastructures, determining remedy actions with representative bodies and experts, and redesign/cease proposed activities."

These principles are also being reflected in the positions and policies of a growing number of companies and downstream organisations. In 2024, Tesla described how when it comes to Indigenous rights in Indonesia, the company is exploring: "the need for the establishment of a no-go zone for mining to protect indigenous and human rights, particularly those of uncontacted communities",

Ford and Polestar have also added wording on uncontacted peoples in 2024 and 2025 respectively, with Ford explicitly referencing IRMA in stating: "Our requirement for mining suppliers to seek IRMA certification or third-party certified equivalent, furthers our commitment to respect Indigenous Peoples' rights. IRMA states

that because of the requirement that FPIC be free from external manipulation, coercion, and intimidation, an FPIC process cannot be undertaken in situations where indigenous or tribal peoples are living in voluntary isolation.”

Investors are also demanding that uncontacted peoples’ rights are not being abused. In 2025, the Norwegian Sovereign Wealth Fund divested its \$6.8 million from French mining company Eramet which is operating on the territory of the uncontacted Hongana Manyawa in Indonesia: “due to an unacceptable risk that the company is contributing to, or is itself responsible for, serious environmental damage and gross violation of the human rights of uncontacted indigenous people.”

Industry bodies and commentators have noted this growing consensus. In January 2025, Danielle Martin the Director of Social Performance at ICMM acknowledged this growing concern when she wrote an article in which she stated: “The idea of establishing no-go zones for mining where uncontacted Indigenous peoples live is increasingly pragmatic...Recent moves by major companies like Tesla to consider no-go mining zones in these regions do signal a shift in thinking. It also reflects growing consumer and investor demands for secure, responsible, and ethically sourced materials across the supply chain whilst underlining the risks of failing to protect and respect the rights of these vulnerable Indigenous communities.” See: <https://news.mongabay.com/2025/01/should-mining-companies-consider-no-go-zones-where-isolated-indigenous-peoples-live-commentary/>

The global business community is thus rapidly catching up to international law, which recognizes that uncontacted peoples are at extreme risk of being partially or wholly wiped out by any contact or activities on their territories, and therefore require a particularly strong set of standards to protect them from disease and activities that impact their territories, such as mining. Given that activities on the territories of uncontacted peoples could lead to potential genocides, CMSI’s current framing of the issue -calling for a “precautionary approach” is wholly inadequate and is totally at odds with the global consensus understood by other standards bodies, companies, investors and human rights experts.

Exploration or mining on the territories of uncontacted peoples must therefore be subject to the same level of absolute prohibition as Child Labor and Forced Labor. Relevant downstream companies, such as car manufacturers, face similar levels of reputation risk by being associated with mining on the lands of uncontacted peoples as with child labor. As with these latter categories, a clear line must be drawn to prohibit all activities on uncontacted peoples’ territories and the sourcing of any materials from those who operate on them. No contact means no consent, and no consent means no mining.

In sum, it is vital that CMSI clearly establishes that absolutely no mining or exploration activities can take place on the territories of uncontacted peoples, or anywhere that would impact their territories. No materials should be sourced from these territories or from companies, groups or individuals operating on them.

Free, Prior and Informed Consent and broader Indigenous rights:

While the draft mentions Free, Prior and Informed Consent (FPIC) it is highly concerning that the draft CMSI does not make it explicitly clear that there can be no mining on or affecting Indigenous peoples’ territories without their FPIC. This right is outlined under multiple international human rights laws. In fact, the CESC has explicitly urged States to consult and seek consent of Indigenous peoples in various cases that concern mining projects or land evictions, urging them to act in accordance with ILO 169. CMSI mentions FPIC many times but seems to suggest that FPIC is not always essential and that a lack of consent does not confer veto rights. When it comes to FPIC, no means no. As such, with relation to all mining related activities, an FPIC process must be undertaken and consent obtained from the affected Indigenous communities before any activities which may affect them or their territories take place, and this must be in accordance with UN definitions of FPIC as outlined in the UN’s Human Rights Council’s guide to FPIC. Without FPIC, there can be no such activities.

While CMSI currently frames FPIC as being in line with “good practice”, it must be emphasised that securing FPIC is the only means by which mining can take place on Indigenous peoples’ territories without violating international law and in accordance with CMSI standards. In addition, this means that no mining can take place on the territories of, or the territories used by, Indigenous peoples in voluntary isolation because they cannot give FPIC. Attempts to get FPIC from Indigenous peoples in voluntary isolation is regarded as forced

contact and the UN Human Rights Council describes how “seeking such consent by force or coercion would lead to serious violations of their human rights, including the crime of genocide.” (See UN Human Rights Council, Expert Mechanism on the Rights of Indigenous Peoples Second session 10-14 August 2009).

Furthermore, it should be emphasised that as the sole custodians and sovereign owners and rights holders of their territories, Indigenous peoples reserve the right to withdraw their FPIC or change any part of their agreements with the utility at any time, the former of which must lead to the end of all activities on their territory. It should also be emphasised that Indigenous peoples reserve the right to remedial and compensatory efforts in a manner of their choosing and to their satisfaction, from the utility during and after mining operations, and it should be noted that compensation is not equivalent to FPIC.

Finally, it is concerning that the draft CMSI is far weaker than IRMA in relation to Indigenous peoples, particularly uncontacted peoples. CMSI’s framework on Indigenous peoples should be at least as strong as the IRMA standard) otherwise it fails in its purpose “to drive improved performance on responsible mining at scale.”

COMMENT:

Opposition - para 4.

This language is extremely concerning as it suggests that the State could lawfully limit the rights of Indigenous peoples and that this could be necessary and in the interest of the public. Indigenous peoples themselves have fundamental human rights which cannot be limited and constitute part and parcel of the public themselves. This is in violation of FPIC and therefore international law (regardless of any national law or policy contexts). Survival strongly calls for this entire section to be removed.

Any text on this topic should mention the following:

“Under international law Indigenous peoples are recognized as Indigenous regardless of the extent to which the State recognizes them as such (even if the State refuses to do so altogether). The Facility should not be complicit in efforts by states to ignore international human rights law by declaring a project in the public interest. Facilities still have an obligation to ensure that they operate in accordance with international human rights law -including the need to obtain FPIC from affected Indigenous peoples.”

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

The current draft CMSI is woefully inadequate in relation to FPIC in general and on uncontacted peoples (those in voluntary isolation) in particular, meaning that rather than driving “improved performance on responsible mining at scale”, the consolidated standard is in danger of becoming an instrument to greenwash the abuse of Indigenous peoples rights and the destruction of uncontacted peoples.

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: No Response

The current requirements frame FPIC as not being essential for mining or other activities on Indigenous peoples territories, and do not explicitly make it clear that mining on the territories of uncontacted peoples constitutes a red line that is not only in violation of international law but threatens the genocide of uncontacted peoples.

Companies reading the current draft, especially with its mentions of Indigenous peoples not having veto rights and of the State "lawfully" limiting Indigenous peoples rights etc, may believe they can commit to CMSI and be accurately judged as acting Towards Good Practice/in accordance with Foundational Practice or above while mining on the territories of Indigenous peoples without FPIC (possibly even uncontacted peoples) and even evicting them without their consent. Obviously such human rights violations can never constitute Towards Good Practice or Foundational Practice, let alone Good or Leading Practice. Therefore, CMSI needs to be thoroughly strengthened with regards to Indigenous peoples' rights or it will provide a framework which effectively gives a green light for companies to violate Indigenous peoples' rights under the guise of adhering to CMSI.

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

When it comes to human rights violations towards Indigenous peoples, which are currently the norm when mining companies operate on their territories, companies need to know what is bad and unacceptable practice as well as Foundational, Good and Leading Practice. For example, full FPIC is the bare minimum of any mining on Indigenous peoples' territories and any mining without FPIC constitutes not only bad mining practice but mining in violation of international human rights law. Similarly, any mining on the territories of uncontacted Indigenous peoples is not only in violation of international law but constitutes a serious violation of their rights and could lead to their genocide. Therefore, as things currently stand, the performance structure of the CMSI draft is wholly inadequate for addressing Indigenous rights issues in mining and how they can be improved.

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: No Response