

# CMSI Consultation Response

## Respondent Details

NAME

Not Specified

COUNTRY

NA

PERMISSION

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

STAKEHOLDER

NA

ORGANISATION

Indigenous Peoples

## COMMENTS & QUESTIONS BY DOCUMENT

Document:  
Assurance

### General Comment

COMMENT:

*Integrity of Assurance and Claims*

*Under the current 80/20 performance-scoring rule, companies can offset serious rights violations with unrelated environmental or governance scores. This is especially harmful for Indigenous Peoples because a facility could fail FPIC (a rights threshold), yet still present a high overall score to buyers and investors.*

*Human rights cannot be averaged or offset. The assurance system must:*

- 1. Treat Indigenous Peoples' rights and FPIC as threshold criteria and failure to comply disqualifies any performance claim (no scoring offsets).*
- 2. Require assurance providers to possess demonstrated Indigenous-rights expertise and to consult affected Indigenous communities directly.*
- 3. Mandate public disclosure of FPIC verification reports, grievances raised, and remedy outcomes*

Document:  
Standard

### General comment on Performance Area

COMMENT:

*Indigenous Peoples have engaged in the Consolidated Mining Standard Initiative (CMSI) process since the first consultation both virtually and in person, in good faith, to assert and defend our rights to self-determination, lands, territories, resources, culture, environment and communities. Our participation must not be read as endorsement of the draft or as evidence of shared objectives. We participated with the expectation that CMSI would meaningfully embed our right to free, prior and informed consent (FPIC), however, the second draft makes largely cosmetic edits and the substance on FPIC and Indigenous governance has not changed. Our rights as affirmed in the UN treaty body jurisprudence, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), and regional human rights jurisprudence must be fully respected and implemented. CMSI however continues to treat UNDRIP, as a ceiling rather than the minimum standard that is, disregarding treaty bodies ruling and narrowing FPIC to state-led or relocation contexts rather than applying it to all projects that may affect Indigenous peoples lands and rights.*

*Despite repeated inputs since the first consultation, the second draft makes only textual refinements and does not fully and adequately integrate FPIC and Indigenous governance and respect for our decision making mechanisms as binding requirements. It continues to frame Indigenous Peoples' rights, especially FPIC as management tasks, deferring to the laws and systems of States, which is profoundly concerning as some do not recognize Indigenous Peoples or fall short of the applicable international standards.*

*If the CMSI is to be credible, it must consolidate rights, not dilute them, and respect all rights, not pick and choose which ones to comply with. The final standard must move beyond procedural language to guarantee substantive consent, participation, and governance by Indigenous Peoples at every stage of the mining life cycle."*

---

COMMENT:

*Non-Negotiable Standards for Alignment with International Law*

*A. FPIC is a Binding Right, Not a Procedural Step*

*The CMSI's framing of free, prior and informed consent (FPIC) presents FPIC as a collective, protocol-driven process and explicitly states that FPIC 'does not require unanimity or a veto right.' While this avoids the expectation that all members must agree, it is a half-baked formulation. It fails to recognize that Indigenous Peoples' own decision-making laws and protocols may include consensus-based processes or elders' authority to withhold consent. By pre-determining what FPIC cannot mean, CMSI undermines Indigenous self-determination and substitutes external judgments for Indigenous law. The draft also allows facilities to deem PA14 "not applicable" where Indigenous Peoples are "verifiably not present," and it directs companies to coordinate with State or other authorities to identify affected Indigenous Peoples. This risks reinforcing state systems that do not recognise Indigenous Peoples or fall short of UNDRIP and weakens the practical exercise of FPIC. This approach is inconsistent with UN Treaty Bodies Jurisprudence, regional jurisprudence and UNDRIP, Articles 19 and 32, all of which require obtaining Indigenous Peoples' right to FPIC, before approving projects that affect their lands, territories and resources. The second draft must:*

1. *Make explicit that FPIC requires respect for Indigenous Peoples' decisions and includes the right to give, withhold, or withdraw consent at any time, with binding procedures to pause or halt activities when consent is withheld or withdrawn. Not allow for States to override Indigenous Peoples' decisions and companies to rely on that override to also disrespect those decisions. Ensure that FPIC applies to exploration, operation, expansion, closure, and post-closure phases.*

2. *Prohibit the use of "applicability screens" to bypass FPIC requirements. Do not allow companies to say FPIC "does not apply." If a project could affect our lands, waters, or culture, FPIC must happen without exceptions.*

3. *Require independent verification of FPIC processes, conducted by experts with Indigenous Peoples' rights competence and with the participation of the affected Indigenous Peoples themselves*

---

COMMENT:

*Governance and Representation*

*The CMSI's governance model was not subject to a second public consultation, limiting transparency and Indigenous Peoples participation in its design. A "balanced representation" that excludes Indigenous decision-making power is not genuine parity, nor is token representation. We call for:*

1. *Permanent Indigenous seats with voting rights on the CMSI Board and all advisory bodies, held by representatives self-selected through regional mechanisms determined by Indigenous Peoples (UNDRIP Art. 18).*

2. *Co-chairing of relevant committees by Indigenous representatives; quorum rules that require Indigenous presence for decisions; and consensus-based decision rules so no Indigenous-rights decision proceeds without Indigenous concurrence.*

3. *Resourced participation such as travel, translation and advisory support so that Indigenous Peoples participation is effective, not symbolic.*

*Immediate correction: Hold a dedicated second public consultation on the governance model with Indigenous co-chairs and publish a revision that includes the measures above.*

---

COMMENT:

*Remedy and Protection of Indigenous Human Rights Defenders*

*Although CMSI's Performance Area 17 refers to the UNGP effectiveness criteria,*

*it remains generic and does not require Indigenous co-design or verification that remedies are delivered. It mentions confidentiality and protection from reprisals but does not set clear protections for Indigenous human rights defenders or gender-specific pathways. To meet international norms, CMSI must require a Remedy System with the following minimum features:*

- 1. Require culturally appropriate and gender-sensitive grievance mechanisms, co-designed with Indigenous Peoples. This should include options for traditional dispute resolution with elders or councils; Indigenous women-led pathways for gender based violence and sexual harassment cases; language access; mobile/outreach channels; and the ability to choose between community-based, facility-level, or independent mechanisms.*
- 2. Guarantee non-retaliation and confidential channels for complainants, including Indigenous women and Indigenous human rights defenders, with clear escalation and protection protocols.*
- 3. Require time-bound remedy plans and public summaries agreed with the community, and confirm delivery and effectiveness of restitution, rehabilitation, compensation, and guarantees of non-repetition before any performance claim can be made or maintained*

---

COMMENT:

*Land, Cultural Heritage, and Environmental Stewardship*

*Performance Areas 4, 14, 15, and 19 are interdependent. Any project on or near Indigenous territories must demonstrate that it avoids impacts first, and mitigation and compensation are not substitutes for prevention. CMSI must prohibit companies from claiming "Good Practice" status where avoidance has not been demonstrated*

---

COMMENT:

*The Path Forward*

*To develop legitimacy and trust, CMSI must adopt an Indigenous-led revision process before finalization in 2026, including at least two in-person consultations convened regionally (Americas, Africa, Asia-Pacific) and co-facilitated by recognized Indigenous Peoples organizations.*

*We urge the four industry supporting entities: ICMM, MAC, Copper Mark, and the World Gold Council to publicly commit that the final CMSI will:*

1. Operationalise applicable international standards, including UNDRIP, and the UNGPs as binding operational criteria across all Performance Areas and link them to assurance scoring and claims. Where national law is weaker or conflicts with these instruments, the CMSI requirement must prevail and be followed.

2. Close the applicability loophole. Require independent, Indigenous-led verification of presence and rights. Adopt a rebuttable presumption of Indigenous presence where there is evidence of customary tenure or use. Prohibit reliance solely on state recognition to decide applicability.

3. Make any CMSI claim or certification contingent on verified FPIC and deliver remedy with Indigenous participation. If FPIC has not been obtained or maintained, if defenders face retaliation, or if material grievances remain unresolved, all claims must be immediately suspended until remedy is verified and consent is renewed.

Annexes:

1. IPRI submission: Comments on CMSI Consolidated Standard (Final Consultation Draft, October 2025)

2. Tallgrass Institute: ICMM's implementation of UNDRIP (2024)

---

Endorsed by:

Indigenous Peoples Organization, Region, Name of Representative

Indigenous Peoples Rights International (IPRI), Global, Joan Carling

Tallgrass Institute, Global, Nalori Chakma

Business and Human Rights Resource Center (BHRRC), Global, Alancay Morales Garro

Right Energy Partnership with Indigenous Peoples (REP), Global, Robie Halip

Timuay Justice and Governance, Philippines/Asia, Leticio Datuwata

TONIBUNG, Malaysia/Asia, Joe Baxter

AMAN Chapter Sumbawa, Indonesia/Asia, Febriyan Anindita

Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP), Nepal/Asia, Durga Mani Rai

Katribu Kalipunan ng Katutubong Mamamayan ng Pilipinas, Philippines/Asia, Beverly Longid

Asociación Intercultural Bari Wesna, Peru/Latin America, Susy Gaby Díaz Gonzáles

Asociacion de Mujeres Amazonicas Warmikunapa AMWAKI Tarpui, Putumayo - Mocoa Resguardo Yungukllo / Colombia Latin America, Luz Meri Becerra Jacanamejoy

ORPIBO, Colombia/Latin America, Humberto Riveros

Centro de Reflexiones Nim, Poqom, Guatemala/Latin America, Máximo Ba Tiul

Confederación de Organizaciones Indígenas de la Amazonía Ecuatoriana CONFENIAE, América Latina, María Jose Andrade Cerda

Centre for Research and Advocacy, Manipur, Asia, Jiten Yumnam

Aliansi Masyarakat Adat, Nusantara (AMAN) Indigenous Peoples Alliance of The Archipelago, Asia, Rukka Sombolinggi,

RED ONGS AMERICA LATINA, EL SALVADOR CENTRO AMERICA, JOSE RAUL CORTEZ VASQUEZ

SIRGE Working Committee, Aotearoa - New Zealand/Pacific, Te Ngaehe Wanikau

Focus for Indigenous Girls (FIG), Nepal/Asia, Sabnam Lama

Traditional Bantawa Kirati People's Association Nepal, Nepal/Asia, Ladip Ma

Instituto para el Futuro Común Amerindio IFCA, Honduras, Edgardo Benítez Maclin

Federación Indígena Empresarial y Comunidades Locales de México. A . C, Mesoamérica, Cecilio Solís Librado

Bai Indigenous Women's Network, Philippines/Asia, Kim Falyao

Land is Life - Asia, Asia, Bestang Dekdeken

Cordillera Peoples Alliance, Asia, Bestang Dekdeken

Panaghiusa Philippine Network to Uphold Indigenous Peoples' Rights, Asia, Rikki Mae Gono

Ndrang Kon Nuyh (NKN), Cambodia/Asia, Lorang Yun

Yayasan Anak Dusun Papua (YADUPA), Papua - Indonesia /Asia, Robert Mandosir

Inisiasi Masyarakat Adat (IMA), Indonesia/Asia, Nukila Evanty

Centro Interdisciplinario de Investigación y Desarrollo Alternativo U Yich Lu'um, Mesoamérica, Sara Oliveros López

Community Network Against Protected Areas (CNAPA ), India/Asia, Pranab Doley

Building Initiatives in Indigenous Heritage (BiiH), Asia, June Rubis

The Association of Defenders of Indigenous Peoples of the Archipelago (PPMAN), Indonesia/Asia, Surti Handayani

Lelewal, Africa, Saliwou Mohamed

Adiwasi Mahila Maha Sangh, India/Asia, Ms. Mamta Kujur

Chhattisgarh Tribal Peoples Forum, India/Asia, Mr. Praful Lakra

Dap-ayan ti Kultura iti Kordilyera (DKK), Asia, Alma Sinumlag

Forest Peoples Program (FPP), Europe, Cathal Doyle

Community Empowerment and Social Justice Network (CEMSOJ), Asia, Prabindra Shakya

Asia Indigenous Women's Network, Asia, Ellen Dictaan

Association of Saamaka Communities, Latin America/ Caribbean, Hugo Jabini

Vereniging Van Saamaka Gemeenschappen (VSG), Latin America/ Caribbean, Geoffrey Eenig

Institute for Indigenous Affairs and Development, Asia, Biswash Chepang

Indigenous Rights Advocacy Centre (IRAC), Asia, Dilip Chakma

Coordinador del Area de los Pueblos Originarios RED ONGs AMERICA LATINA, EL SALVADOR, C.A, José Raúl Cortez Vásquez

Action pour le Soutien des Victimes des Rébellions (ASVR), Mali-Afrique, Mahamadou ISSIAKA

Western Shoshone Defense Project, North America USA, Fermina Stevens

Cambodia Indigenous Peoples Organization, Asia, Yun Mane

Indigenous Organization, Kenya/Africa, Simon Ole Kerembe

Batani Foundation, Russia, Pavel Sulyandziga

Saami Council, Norway, Eirik Larsen