**Comments on the Corporate Human Rights Benchmark**

**Revised Draft Measurement Themes and Indicators**

**February 26, 2016**

**INTRODUCTION:**

We appreciate the opportunity to provide comments to the revised draft measurement themes and indicators. Before getting into specific suggestions on the five sections, we outline below some key over-arching comments to help strengthen the initiative.

1. Alignment with UNGPs. This draft is stronger because it takes the UNGPs and especially the human rights due diligence process as the frame for management systems.
2. Sector focus on enabling factors and business processes as well as key industry risks helps to organize the indicators in the three sectors for the pilot.
3. Raise the bar. In a number of instances the language needs to be stronger. For example in the “Embedding Respect” section: “Companies shouldstrive for coherence between their responsibility to respect human rights and the policies and procedures that govern their wider business activities and relationships.” This could be strengthened: “Companies shouldalign their responsibility to respect human rights and the policies and procedures that govern their wider business activities and relationships.”
4. Specified timeframes and accountability mechanisms in many instances are missing.
5. Focus on outcomes. The scoring is often based on descriptions of processes in place, out outcomes.
6. Extent of action. There needs to be more emphasis on an evaluation of the extent to which a company takes action. For example, one section evaluates whether a Company has described how day-to-day responsibility, resources and decision-making process are allocated across the range of relevant functions. However, what is not evaluated are the actual responsibilities and if they are sufficiently extensive, appropriate and effective.
7. In some instances, sections do not sufficiently address the underlying problem that is presented. For example, the Serious Allegations section does not seek to assess the allegation itself.  Similarly, some the titles of certain indicators do not reflect what is presented in Scope 1 and 2. For example, “B.1.8. Framework for engagement with potentially affected stakeholders”is more about identifying impacted stakeholders than engagement. “B.2.5. Communicating: Accounting for how human rights impacts are addressed,” is more to be about how human rights impacts are communicated rather than addressed. Indicators on engagement and human rights impacts are critical and need to be properly described and assessed.
8. Supply Chain scope. In several instances a company receives a score based on its disclosure regarding suppliers. It isn’t clear if that is direct or indirect suppliers.
9. We suggest strengthening ways companies earn points**.** For example, the company scores points by merely “indicating” that it has an incentive or performance management scheme linked to aspects of its human rights policy commitment(s) for “at least one” manager. It would be far more rigorous to require that the company disclose whether it is a financial incentive, that the company discloses the metric upon which the incentive is based and the extent of the incentive as a portion of total compensation. It is important that the incentive is provided to managers with the greatest responsibility for and closest ties to human rights performance on the ground.
10. Affected communities. While there is a section on stakeholder engagement and the inclusion of free prior and informed consent, there is not enough emphasis on performance related to ongoing engagement with rights-holders as essential.

**A.GOVERNANCE AND POLICIES**

*Overall Comments*

*Similar to the OECD Guidelines for Multinational Enterprises, the policies should be informed by relevant internal and/or external expertise*

*According to the glossary,” Human rights - Basic international standards aimed at securing dignity and equality for all. Every human being is entitled to enjoy them without discrimination. They include the rights contained in the International Bill of Human Rights – meaning the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. They also include the principles concerning fundamental rights set out in the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work.” In the governance section, companies can be awarded points for referencing the Universal Declaration of Human Rights, but companies are not awarded points for referencing the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Please clarify the discrepancy.*

*Government: May want to consider a policy commitment to engage with government officials as it relates to human rights and the company’s operations.*

*May want to consider a policy regarding fair wages.*

A.1.1. Commitment to respect human rights

*Comment: Policy should cover actual and potential human rights impacts*

A.1.5. Commitment to incorporating human rights into business relationships

*Comment: Should specify that it covers the activities of subcontractors and suppliers or of joint venture partners*

A.2. Board Level Accountability

A.2.1. Commitment from the top

Score 2:

*Comment: States that “a Board member or Board committee is tasked with addressing one or more areas of respect for human rights.” How would it be determined if a Board member (opposed to a Board Committee) is tasked with addressing human rights? Will Board committee responsibilities be based solely on charter language?*

A.2.2 Board agenda

In assessing the overall measurement theme and indictors of the section, are there any elements missing?

In assessing the indicators:

Is the indicator stated clearly?  Is there something missing as to how the indicator is defined?

Does the reporting of the indicator get at the information that is relevant?

Is the indicator scored appropriately?

Would a positive rating indicate improved corporate performance?

**B.1. EMBEDDING RESPECT FOR HUMAN RIGHTS IN CULTURE AND MANAGEMENT SYSTEMS**

***What do the UN Guiding Principles on Business and Human Rights expect?***

The Company’s statement(s) of commitment should be publicly available <add “in a prominent location”> and communicated actively to workers, business relationships and others, including investors and stakeholders so that they are aware of the Company’s commitments.

Companies should <“delete strive for coherence between” and replace with “align” their responsibility to respect human rights and the policies and procedures that govern their wider business activities and relationships. The purpose of human rights due diligence is to “know and show” that the

Company understands, is addressing and accountable for the specific impacts on specific people, <add ,”communities and on the natural environment in a reasonable timeframe”>, given a specific context of operations.

***Why is this Important?*** These steps of embedding policy commitments into broader management systems and reinforcing them with specific due diligence processes ensures that a Company takes a systematic and proactive, rather than ad hoc or reactive approaches, to respecting human rights.

**B.1.1. Responsibility and resources for day-to-day human rights functions**

The Company outlines senior level responsibility for human rights within the Company as well as the organisation of the day-to-day responsibility for human rights across relevant internal functions. *(Note: Board level responsibility is assessed under indicator A.2.1. and therefore not considered in this indicator). (Sources: UN Guiding Principle 19, UNGPRF A2 and A2.1, GRI G4-35 and GRI G4-36)*

Score 1 The Company indicates the senior manager(s) responsiblefor human rights within the Company (i.e. responsibility for human rights has been assigned to a senior manager and this includes the ILO core labour standards as a minimum).

Score 2 The Company also describes how day-to-day responsibility, resources and decision making process are allocated across the range of relevant functions of the Company. <add In addition, the company demonstrates how responsibilities appropriate and sufficiently extensive for the company’s business line?

AP For Score 2, the Company has also outlined and assigned day-to-day responsibility for managing human rights issues with its <add “direct and indirect”> suppliers. Add “The company describes the frequency with which it engages suppliers and the manner of contact.”>

AG For Score 2, the Company has also outlined and assigned day-to-day responsibility for managing human rights issues with its suppliers.

EX For Score 2, the Company has also outlined and assigned day-to-day responsibility for managing human rights issues with its on-site contractors <add “and subcontactors” and operating partners.

***Disclosure point:*** GRI G4-35*-*a. (*Limited to social topics)* ***OR*** *GRI G4-36-a.* (*Limited to social topics)* ***OR*** *UNGPRF A.2.1.* ***OR*** *equivalent information.*

**B.1.2. Integration with enterprise risk monitoring**

The Company integrates attention to human rights risks into its broader enterprise risk management system. *(Source: UN Guiding Principle 17)*

Score 1 The Company describes how attention to human rights risks are integrated as part of its broader enterprise risk management systems and <add “and outlines the audit process to evaluate that integration.” It also specifies that its enterprise risk management systems go beyond simply identifying and managing material risks to the Company itself, to include risks to rights-holders. How to ensure that human rights risk is given sufficient attention compared to other aspects of risk

Score 2 The Company also describes how the Audit Committee of the Board or another relevant Board-level committee reviews or makes an independent assessment of the adequacy of the enterprise risk management systems in managing human rights during the Company’s last reporting year <add: and the frequency of that review and how often human rights get raised at the board. In addition, the company has a board member with human rights expertise.”>

**B.1.3. Incentives and performance management**

The Company provides incentives to senior managers linked to implementation of the Company’s human rights policy commitments and/or targets. *(Sources: UN Guiding Principle 19, UNGPRF A2.3 and GRI G4 51)*

Score 1 The Company indicates that it has an incentive or performance management scheme linked to aspects of its human rights policy commitment(s) for at least one senior-level manager. The company discloses the metric and the extent of the incentive as a portion of total compensation.

Score 2 The criteria linking managers’ remuneration to the Company’s human rights performance is also made public.

AP For Score 1, this includes procurement managers and covers at least one <add: “issue deemed material”> of the following: child labour, freedom of association, forced labour, health and safety, women’s rights, working hours <add: “and provides an explanation of the metric and how it was determined. ”>

AG For Score 1, this includes site managers and / or procurement managers and covers at least one of the following: access to water and sanitation, child labour, freedom of association, forced labour, health and safety, land rights, women’s rights.

EX For Score 1, this includes managers (site managers, local community managers on-site and /or procurement managers) and covers at least one of the following: access to water and sanitation, health and safety, <add: “worker rights, security forces, and resettlement,”> indigenous peoples rights, land rights,

**B.1.4. Communication / dissemination of policy commitment**

***B.1.4.a. Communication / dissemination of policy commitment within***

***Company’s own operations***

The Company communicates <add: “annually”> its human rights policy commitment(s) to employees and other workers as well as to external stakeholders, in particular potentially affected stakeholders <add: “in a comprehensive manner. ”> (Note: In order to get any Score under this indicator, the human rights policy communicated must include the ILO core labour standards at a minimum.) *(Sources: UN Guiding Principles 12 and 16 d and UNGPRF A.1.3)*

Score 1 The Company describes how <add: “and how often ”> it communicates its policy commitment(s) to all workers, which languages the commitment(s) have been translated into, and whether the commitment(s) have not been translated into any local languages where the company has operations or workers and why.

Score 2 The Company also describes how it communicates its policy commitments to stakeholders (see the industry locks below), including local communities and potentially affected stakeholders.

***B.1.4.b. Communication / dissemination of policy commitment to business* *partners***

The Company communicates its human rights policy commitment(s) to its business relationships. In addition, it reflects its human rights commitments within the terms of its contracts (or other equivalent, binding arrangements) with business relationships.

*(Note: In order to get any Score under this indicator, the human rights policy communicated must include the ILO core labour standards at a minimum.)*

*(Sources: UN Guiding Principle 12 and UNGPRF A1.3.)*

Score 1 The Company describes the steps it has taken to communicate its human rights policy commitment(s) to its business relationships, <add:”the frequency and type of communication, and steps it takes to ensure adherence to and comprehension of the policy.”>

Score 2 The Company <add”also”> describes how its human rights policy commitments are included within contractual or other binding arrangements with its business relationships <add:”and steps it takes to ensure adherence and comprehension. ”>

AP For Score 1 and 2, this must include suppliers.

AG For Score 1 and 2, this must include suppliers.

EX For Score 1 and 2, this must include security and other on-site contractors and operating partners.

**B.1.5. Training on human rights**

The Company trains its workers on its human rights policy commitment(s). *(Sources: UN Guiding Principle 12, UNGPRF A1.3 and GRI G4-HR2)*

Score 1 The Company describes how it trains all relevant managers and workers (see the industry locks below) on the Company’s human rights policy commitment(s), <add:”the frequency of training, and how it measures training effectiveness.”> The training covers at least the ILO core labour standards.

Score 2 The Company also indicates that all workers are trained on its human rights policy commitment(s) and the frequency of training. The training covers at least the ILO core labour standards. <add:”Training effectiveness is evaluated.”>

AP For Score 1, relevant managers and workers include procurement and audit teams.

AG For Score 1, relevant managers and workers include procurement and audit teams.

EX For Score 1, relevant managers and workers include all <add:”mine site managers,”> security personnel (employed or contracted, public or private), and community relations personnel.

***Disclosure point:*** *GRI G4-HR2 OR equivalent information.*

**B.1.6. Monitoring and corrective actions**

The Company monitors the implementation of its human rights policy commitment(s) across its operations and business relationships and follows up on corrective actions and necessary changes to policy or processes. *(Note: In order to get any Score under this indicator, the human rights policy commitment must include the ILO core labour standards at a minimum.) (Sources: GRI G4-HR11, GRI G4-LA15, SASB CN0501-05, SASB CN0501-06 and SASB CN0103-21)*

Score 1 The Company describes how it monitors its implementation, <add: measures the effectiveness, and reviews and updates> its human rights policy commitment(s), which include the ILO core labour standards at a minimum, which covers the Company globally and relevant business relationships (see the industry locks below). <add: The company describes how it monitors implementation as it relates to those at heightened risk of vulnerability or marginalisation.>

Score 2 The Company also describes its corrective action process(es) and numbers of incidences, <add: actions taken to address and resolve incidences, and> provides an example of its corrective action process(es) in practice and any necessary changes to policies or processes.

AP For Score 1, the description includes how it monitors its suppliers and the proportion of suppliers monitored.

For Score 2, the Company also describes how it also uses external monitors.

AG For Score 1, the description includes how it monitors its suppliers and the proportion of suppliers monitored.

For Score 2, the Company also describes how it uses external monitors.

EX For Score 1, the description includes how it monitors all on-site contractors and operating partners.

For Score 2, the Company also describes how it uses external monitors.

**B.1.7. Engaging business relationships**

The Company takes human rights considerations into account when deciding to engage (or terminate) business relationships. *(Sources: UN Guiding Principles 13 and 19, UNGPRF A2.4, HRIB 2014 7.1.1., GRI G4-DMAb, GRI G4-HR10, GRI G4- HR11, GRI G4-LA14 and GRI G4-LA15.)*

Score 1 The Company describes how human rights performance is taken into account in the *identification* of potential business relationships and how it can affect decisions to enter into or select business relationships.

Score 2 The Company also describes how the human rights *performance* of business relationships interacts with decisions to renew, expand or terminate business relationships.

AP For Score 1, the description includes how this applies to the identification of suppliers and the human rights issues considered.

For Score 2 the Company also describes how it works with suppliers to improve human rights performance and provides an example.

AG For Score 1, the description includes how this applies to the identification of suppliers and the human rights issues considered.

For Score 2 the Company also describes how it works with suppliers to improve human rights performance and provides an example.

EX For Score 1, the description includes how this applies to the identification of on-site contractors and operating partners and the human rights issues considered.

For Score 2, the Company also describes how it works with on-site contractors and/or operating partners to improve human rights performance and provides an exam

**B.1.8. Framework for engagement with potentially affected stakeholders**

**Comment: B.1.8. should be revised so that companies are assessed not only on steps they have taken to identify stakeholders but also on the effectiveness of their engagement strategy and implementation. In addition, extra points should be assigned to companies that demonstrate that stakeholder feedback has been integrated into policies and practices.**

The Company identifies affected and potentially affected stakeholders and engages in regular dialogue on human rights issues with them. In doing so, it pays particular attention to those at heightened risk of vulnerability or marginalisation and prohibits bribes or other favours that may divide communities. *(Sources: UN Guiding Principle 18, UNGPRF C2 and C2.1, GRI G4-25 and GRI G4-26)*

Score 1 The Company describes its systems and/or processes to identify affected and potentially affected stakeholders, including those at heightened risk of vulnerability or marginalisation (where applicable), <add: the frequency it has met with those stakeholders, the major findings from these meetings, and ways the company can demonstrate it has integrated these learnings into policies and practices> **OR** it describes the frequency and triggers for engagement on human rights issues by type or by stakeholder group.

Score 2 The Company meets both the requirements under Score 1 and provides an analysis of the input/views given by the stakeholders on human rights issues <add: and ways the company has incorporated this input into informed policies and practices> **OR** provides examples of <add: and learnings> from the engagement <add:as well as key topics covered>.

AP For Score 2, the Company also facilitates dialogue with affected or potentially affected stakeholders by providing relevant information about its supply chain and its exposure to human rights risks.

AG For Score 1, affected and potentially affected stakeholder include local communities (where relevant) **AND** the Company also describes how it provides them with free, public access to meaningful information in accessible formats and language.

For Score 2, the Company also facilitates dialogue with stakeholders by providing relevant information about its supply chain and its exposure to human rights risks **AND** provides an example of how stakeholder engagement happens with affected communities (including indigenous people where relevant).

EX For Score 1, affected and potentially affected stakeholder include local communities <add:(including indigenous people) **AND** the Company also describes how it provides them with free, public access to meaningful information in accessible formats and language.

For Score 2, the Company also provides an example of how stakeholder engagement delete: happens <add: occurs> with affected communities (including indigenous people where relevant), <add:including the frequency, topic areas, findings and demonstration that engagement has resulted in meaningful changes to policies and practices.>

**B.2. HUMAN RIGHTS DUE DILIGENCE**

Human rights due diligence is the set of ongoing processes through which the company “knows and shows” that it is respecting human rights in practice. This involves assessing actual and potential human rights impacts, integrating the findings and acting to prevent or mitigate the impacts, tracking and communicating on how effectively impacts are addressed.

**Assessing**

***What do the UN Guiding Principles expect?*** Companies need to identify and assess any negative impacts on human rights with which they may be involved. This includes actual impacts (past or current) and potential impacts (those possible in the future), as well as impacts from the company’s own activities and from its business relationships – direct relationships and those one or more steps removed. The focus must be on risks to the human rights of people, as distinct from risks to the business itself, although the two are increasingly related.

***Why is this important?*** Assessing is the process by which the company gathers the basic information it needs in order to know what its human rights risks are so it can remove or reduce them. It is the starting point for a company to understand how to translate its human rights policy commitment into practice. Therefore, involving different parts of the company in the assessment process helps to build shared responsibility for addressing the potential impacts identified.

**B.2.1. Identifying: Processes and** triggers **for identifying human rights risks and impacts**

The Company identifies <add: and reports> its human rights risks and impacts on an on-going basis, including when these are triggered by key moments of the Company’s activities (e.g. policy change, market entry, new project, amongst others). *(Sources: UN Guiding Principle 17 and 18, UNGPRF B2 and C3 and HRIB 2014 1.2.2.)*

Score 1 The Company describes the process(es) to identify its human rights risks and impacts in certain locations or activities, covering its own operations (i.e. impacts to which it may cause or contribute) as well as through relevant business relationships (i.e. impacts to which it may be directly linked) (see the industry locks below). <add:The company details how it has determined material human rights risks and the steps it has taken to understand them.>

Score 2 The Company also describes the global systems in place to identify AND REPORT ON human rights risks and impacts on a regular basis across its activities, in consultation with affected of potentially affected stakeholders and internal or independent external human rights experts. These systems are also triggered by new country operations, new business relationships or changes in the human rights context in particular locations and also includes risks and impacts to which the Company may be directly linked (see the industry locks below).

AP For Score 1, relevant business relationships include add: directand indirectsuppliers.

AG For Score 1, relevant business relationships include suppliers.

For Score 2, the description includes an explanation of when human rights impact assessments (HRIAs) or environmental and social impact assessments (ESIAs) including human rights are/will be carried out.

EX For Score 1, relevant business relationships include on-site not just on-site contractors and operating partners.

For Score 2, the description includes an explanation of when HRIAs or ESIAs that include human rights are/will be carried out and disclosed.

**B.2.2. Assessing: Assessment of risks and impacts identified (salient risks and key industry risks)**

The Company assesses its potential human rights risks and actual human rights impacts for new activities and regularly reviews these for on-going activities.

*(Sources: UN Guiding Principle 18, UNGPRF B1, B2 and C3, HRIB 2014 1.2.2.,GRI G4-HR11 and GRI G4-LA15)*

Score 1 The Company describes its process(es) for assessing its human rights Risks, <add: ways it measures progress and effectiveness, and what it considers to be its salient and material human rights issues. This description includes how geographical, add: economic, social and other relevent> factors are taken into account.

Score 2 The Company publicly discloses the results of the assessment, key learnings and steps to measure progress and effectiveness. The company outlines ways it has consultated with affected or potentially affected stakeholders and internal or independent external human rights experts. If the Company’s salient and material human rights issues do not include any of the key industry risks (see the industry locks below), it describes why these were not considered salient for its activities.

AP For Score 2, key industry risks: child labour, excessive hours, forced labour, freedom of association, health and safety, and women’s rights.

AG For Score 2, key industry risks: child labour, freedom of association, forced labour, land rights (including indigenous peoples rights and resettlement), livelihoods (may include access to water and sanitation and natural resource use), health and safety and women’s rights.

EX For Score 2, key industry risks: indigenous peoples rights, land rights (including resettlement), health and safety, security forces, livelihoods (may include access to water and sanitation and natural resource use).

**B.2.3. Integrating and Acting: Integrating assessment findings internally and** **taking appropriate action**

The Company integrates the findings of its human rights assessments into relevant internal functions and processes to identify appropriate actions to prevent, mitigate and/or remediate its salient human rights issues. *(Sources: UN Guiding Principle 19, UNGPRF C4)*

Score 1 The Company describes the processes to integrate and act on the findings of its human rights assessments, <add: including goals, timeframes and accountability measures>.

Score 2 The Company also provides <add: at least two examples> of the specific conclusions reached and actions taken or to be taken on at least one of its salient human rights issues as a result of assessment processes in at least one of its activities/operations (while accepting that some conclusions or actions may be needed to be confidential). <add: The company will note how the conclusion impacted affected or potentially affected stakeholders.> *(Note: If no salient human rights issues were publicly identified in B.2.2 then Score 2 will not be met.)*

AP For Score 1, this includes describing how it integrates and acts on findings related to its Note: Clarify: direct And/or indirectsupply chain.

For Score 2, the Company also provides an example of the specific conclusions reached and actions taken or to be taken on at least one of its salient human rights issues as a result of assessment processes.

AG For Score 1, this includes describing how it integrates and acts on findings related to its direct? Tier 2 or more? supply chain.

For Score 2, the Company provides an example of the specific conclusions reached and actions taken or to be taken on at least one of its salient human rights issues as a result of assessment processes.

EX For Score 1, this includes describing how it integrates and acts on findings related on-site contractors and operating partners. For Score 2, the Company provides at least 2 examples of the specific conclusions reached and actions taken or to be taken on at least . <add: The company will note how the conclusion and actions impacted affected or potentially affected stakeholders.>

**B.2.4. Tracking: Monitoring and evaluating the effectiveness of actions to** **respond to risks and impacts** The Company tracks the effectiveness of actions taken in response to its risks and impacts assessed and acted on to integrate that information into improving processes and systems on an ongoing basis. *(Sources: UN Guiding Principle 20, UNGPRF C5 and GRI G4-DMAc)*

Score 1 The Company describes the system(s) for tracking the actions taken in response to risks and impacts assessed and for evaluating whether the actions have been effective or have missed key issues or not produced the desired results.

Score 2 The Company also provides an example of the lessons learned on effectively tracking the effectiveness of its actions on at least one of its salient human rights issues as result of the due diligence process. *(Note: If no salient human rights issues were publicly identified in B.2.2 then Score 2 will not be met.)*

***Disclosure point:*** *UNGPRF C5* ***OR*** *equivalent information.*

**NOTE: This section is more about how human rights impacts are communicated rather than addressed. This indicator must cover both.**

**B.2.5. Communicating: Accounting for how human rights impacts are****addressed**

The Company communicates externally how it addresses its human rights impacts in a manner that is accessible to its intended audiences, especially affected stakeholders who have raised concerns, providing enough information to evaluate the adequacy of the response(s) and does not pose risks to affected stakeholders, personnel or legitimate requirements of commercial confidentiality. This concerns company self-reported impacts only. Third-party allegations will be considered in the Serious Allegations Measurement Theme. *(Sources: UN Guiding Principle 21 and* *UNGPRF C2)*

Score 1 The Company describes its process(es) to communicate externally with its intended audiences on how it addresses the human rights impacts of its own activities (i.e. impacts to which it has caused or contributed) as well as via its business relationships (i.e. impacts to which it has been directly linked), with particular attention on communicating with affected stakeholders who have raised concerns.

Score 2 The Company provides an example of how it has ensured the form and frequency of the information communicated actually reflects its impacts and in a way accessible to its intended audience **OR** provides an example of how it has ensured the information is sufficient to evaluate the adequacy of its response to the impact **OR** provides an example of how it has ensured the communication(s) have not posed risks to affected stakeholders, personnel or legitimate requirements of commercial confidentiality.

AP For Score 1, the description includes communications covering human rights impacts involving suppliers.

AG For Score 1, the description includes communications covering human rights impacts involving suppliers.

EX For Score 1, the description includes communications covering human rights impacts involving operating partners and on-site contractors.

***Disclosure point:*** *UNGPRF C2* ***OR*** *equivalent information.*

**C. REMEDIES AND GRIEVANCE MECHANISMS**

The summary is clear and useful and is a helpful addition.

Generally speaking, the remedies and grievance mechanism section appears to be missing reference to a grievance or remedy for impacts linked to a company’s operations, products, or services. If it is intended that this is an overarching part of the indicator, that should be spelled out specifically. While the company’s responsibility may be more complex here and may not be required, it would be helpful for stakeholders to understand the extent to which it is dealing with grievances linked to its operations, products or services. For example, in the first sentence of the summary of the Remedies and Grievance Mechanisms, you might consider including the clarification in the first sentence “actual human rights impacts have occurred where the company has caused or contributed to those impacts or those impacts are linked to its operations, products, or services.”

For the indicator to help improve performance, there might be an addition to one of the existing indicators about (1) is the grievance mechanism used and (2) does its use help address harms. As it is currently outlined, the indicator focuses on the existence of the grievance mechanism, but it may also be helpful to collect some information that would allow stakeholders to assess the effectiveness of the mechanism. This could potentially fit within C1. Score 2 and C2. Score 2 OR C 7 (noting suggestion below). For example: “The Company also publicly discloses data about the ~~practical operation of~~ effectiveness, number of reported incidents, and number of incidents addressed through the channel(s)/mechanism(s) and provides an example from at least one location about use of the mechanism.

Suggest the underlined text be added to C1 Score 1: “The Company indicates that it has one or more channels/mechanisms, or participates in a shared mechanism, accessible to all workers to raise complaints/concerns, including about human rights issues related to the Company AND the Company describes how it ensures the channel(s)/ mechanism(s) is/are legitimate, trusted, and accessible to relevant stakeholders, including in local languages.” This suggestion could also be incorporated into C2 Score 2.

C1. On Suppliers – Is “encourages and supports” strong enough, or would you use language like “requires and incentivizes”? How will they demonstrate encouragement? I would imagine this would be verified by looking at the supplier code of conduct, contracts or RFPs, and it may be difficult in practice to determine encouragement and support rather than a requirement.

C2.Score 2. The accessibility indicator could be further expanded for individuals outside the company. In addition to the reference to local languages, the indicator might also include efforts to address: lack of awareness of the mechanism, literacy, costs, physical location and fears of reprisal, and access is equitable.

C2. On Suppliers – is monitoring of suppliers the appropriate threshold or should it be a requirement that suppliers engage users in design?

C.4. Procedures related to the mechanism(s) / channel(s) are publicly available and explained to maintain predictability. This point might also include reference a way to ensure that users are able to monitor grievances and are informed of progress. This point might also include communication about outcomes of the mechanism.

C5. Include: “commits to no retaliation and takes steps to ensure there is no retaliation.”

C7. – Suggest this be separated into two parts as it had been before the revision to help assess corporate performance on the discrete points: (1) remedy adverse impacts and (2) incorporate lessons learned. A response on remedy will help understand the effectiveness of the mechanism and assess performance, while points on lessons learned go to improvement of performance and prevention of future harms.

The indicator should include that the remedy is “rights compatible” not only that it describes its approach. As it is written, a company may describe an approach that is not compatible with protection of rights, but could still receive points for this, which may not actually improve human rights performance.

The element of timeliness of response to remediation should be incorporated into whether there has been remediation.

In addition to the separation of the two elements in this point, it the following underlined clarification is suggested to C.7 to reinforce the point about prevention of future impacts. “C.7. Remedying adverse impacts and incorporating lessons learned to prevent future impacts.”

**D. PERFORMANCE: COMPANY HUMAN RIGHTS PRACTICES**

Pages 37-38. The explanatory section focuses on “Enabling Factors and Business Processes” and “Key Industry Risks” for Extractives, Apparel and Agricultural Products. Importantly, “Living wage” is identified as the enabling factor for all three sectors. “Enabling Business Processes” include “Transparency” for all three and “Aligning purchasing decisions with human rights” for apparel and agricultural products. This is helpful in setting the framework for this section. The section is trying to define an approach that identifies “overall proxy measures for the human rights performance of a company,” yet many of the indicators and scoring criteria are not as strong as they need to be to get the benchmarks closer to getting companies to report on their performance.

In the table describing the key industry risks, we recommend a few additions: a) Excessive hours to the Ag products sector, since farm workers experience long hours, often paid on a ‘piece rate’ basis;

b) Water and sanitation should be added to the apparel sector given the amount of water needed to grow cotton and the water used in dying fabric is a major source of pollution, and c) Freedom of Association should have a X in the chart on page 38 for the Extractives sector since it is included in EX D.1.8.

**NOTE:** Throughout the Performance section, we recommend that in the scoring sections “provide an example” be replaced with “provide evidence”.

**D.1 Extractives**

**Enabling factors & business processes**

EX D.1.1. Living wage in the Company’s own operations. Add to the explanation that a living wage is paid based on a regular work week not including overtime hours.

Score 1: The Company discloses its target timeframe for paying all workers a living wage AND the Company describes how it determines a living wage for the regions where it operates, which includes involvement of relevant trade unions or worker councils, taking into account the variance of purchasing power from location to location (regional as well as urban/rural differences in cost of living).

Score 2: The Company provides evidence how it has achieved the payment of a living wage to all its employees, and if there are areas where a living wage is not paid, it provides an explanation of why these were not met and its progress toward meeting the target. AND the target is regularly reviewed and negotiated with relevant trade unions OR the Company demonstrates progress towards determining a living wage for the regions where it operates, which includes involvement of relevant trade unions or worker councils.

**Key Industry Risks**

EX D.1.3 Land Rights

Score 1: The Company discloses how it identifies tenure rights holders and includes participation of affected or potentially affected communities in the process.

Score 2: Insert “plans” in place of “seeks” which is too aspirational especially in a “Performance” section.

EX D.1.4 Indigenous Peoples/Free Prior and Informed Consent (FPIC)

Score 1: Add at the end of the paragraph, “based on the definitions in the UN Declaration on the Rights of Indigenous Peoples adopted in 2007.

Score 2: The Company provides evidence where it has obtained free prior and informed consent and where it decided not to pursue corporate operations based on a community’s withholding of consent.

EX D.1.7. Access to water and sanitation. Add at end of paragraph reference to “the UN General Assembly’s Resolution 64/292 of 2010 on the Human Right to Water and Sanitation.

Score 2: The Company discloses its specific water stewardship targets and performance against those targets AND provides evidence of regular engagement of communities affected by the company’s operations to ensure the safety, quality and accessibility of clean water to fulfill the communities’ needs.

EX D.1.8 Delete the phrase “in accordance with national law” which is a qualifier of the basic human right to freely associate.

Score 1: Delete “dialogue” and insert alternative “means for worker empowerment.”

Score 2: The Company “acts” (delete “indicates”) to prohibit intimidation….”

And delete “an example” and insert “provides evidence.”

**D.2 APPAREL**

Enabling Factors & Business Processes

AP D.2.1. Living wage (in the supply chain)

Include in explanation “a living wage is paid based on a regular work week not including overtime hours.”

Score 1: Instead of OR use AND so both are a requirement for this score

Score 2: The Company provides an analysis of trends in the progress made and establishes clear timelines for its suppliers to achieve payment of a living wage to their workers.

AP D.2.2 Company coherence---aligning purchasing decisions with human rights (page 42)

After the explanation of coherence between purchasing decisions with human rights, there is a Note: which gives an example. No other section has this type of note. It would be helpful to include notes in the other sections which would provide guidance to the reporter. In this section we recommend adding another example: “In addition, cutting lead times, but not changing delivery dates, may result in excessive hours of work.”

Score 1: End with first sentence.

Score 2: The Company provides evidence of implementing a product lifecycle management system that takes into account each stage of the purchasing process AND provides evidence of specific positive incentives it provides its business relationships to act with respect for human rights (e.g. price premiums, repeat business, increased orders or longer contracts with good performers).

AP D.2.3. Mapping and disclosing Suppliers

Score 1 The Company maps its suppliers beyond tier one, including direct and indirect suppliers, and describes its approach.

Score 2 The Company also publicly discloses it major suppliers and describes how it implements the requirement of its suppliers to provide visibility into its suppliers and sub-contractors.

**Key Industry Risks**

AP Forced Labour

AP D.2.4. Forced labour (in the supply chain)

AP D.24.a. Debt bondage and other unacceptable financial costs (in the supply chain)

The Company ensures its suppliers refrain from charging fees to the workers which must be covered by its suppliers, including recruitment fees and related recruitment costs and imposing financial burdens on workers by withholding wages and imposing illegal deductions.

Score 1 The Company includes debt bondage guidelines in its supplier code of conduct and describes how these practices are taken into account positively in the identification of suppliers OR the Company describes how it works with suppliers to eliminate imposing financial burdens on workers.

Score 2 The Company meets both of the requirements under Score 1 AND provides an analysis of progress made.

AP D.2.4.b. Restrictions on movement of workers (in the supply chain)

The Company ensures its suppliers refrain from restricting workers’ movement, including through the retention of passports or other personal identification or travel documents or ATM cards or similar arrangements for accessing wages.

Score 1 The Company includes guidelines on workers’ freedom of movement in its supplier code of conduct and describes how these practices are taken into account positively in the identification of suppliers OR the Company describes how it works with suppliers to ensure there is no worker’s document retention.

Score 2 The Company does both of the above AND the Company provides an analysis of progress made.

AP D.2.5. Child labour: Age verification and corrective actions (in supply chain)

The Company ensures its suppliers verify the age of job applicants and workers. If the Company learns that it has child labour in its supply chain, it ensures that the child receives legal schooling, while at the same time sustaining the family's income level. The child should have the option to work once he/she has reached the legal working age. The Company requires its suppliers to protect young workers from hazardous work.

AP D.2.6. Women’s Rights (in supply chain)

Score 2 The Company meets both of the requirements under Score 1 AND requires its suppliers to have policies in place to address equality of opportunity for women in the workforce that are monitored and maintained throughout all levels of employment.

AP D.2.7. Freedom of Association and Collective Bargaining

Delete “in accordance with national law.”

Score 2 The Company also discloses its supplier requirements that prohibit…..”

AP D.2.8. Working Hours (in the supply chain)

Score 1 Delete “OR the Company describes how it works with suppliers… “ and shift the concept to Score 2 below.

Score 2 The Company also requires transparency from its suppliers in disclosing actual hour worked (avoiding the practice of keeping “double books”) and describes its engagement with suppliers to improve their practices in relation to working hours with a clear timeline to limit the number of hours based on international standards and national laws.

**Note:** add section on water and sanitation for the apparel sector.

**D.3 AGRICULTURE**

AG D.3.1.a Living wage (in the Company’s own operations)

Include the explanation that “a living wage is paid based on a regular work week not including overtime hours.”

Score 1 The Company discloses its target timeframe for paying all workers a living wage AND the Company describes how it determines a living wage for the regions where it operates, which includes involvement of relevant trade unions or worker councils, taking into account the variance of purchasing power from location to location (regional as well as urban/rural differences in cost of living).

Score 2 The Company provides evidence how it has achieved the payment of a living wage to all its employees, and if there are areas where a living wage is not paid, it provides an explanation of why these were not met and its progress toward meeting the target. AND The target is regularly reviewed and negotiated with relevant trade unions OR the Company demonstrates progress towards determining a living wage for the regions where it operates, which includes involvement of relevant trade unions or worker councils.

AG D.3.1.b. Living wage in the supply chain

Score 1: Instead of OR use AND so both are a requirement for this score

Score 2: The Company provides an analysis of trends in the progress made and establishes clear timelines for its suppliers to achieve payment of a living wage to their workers.

AG D.3.2. Company coherence – aligning purchasing decisions with human rights

Score 1: End with first sentence.

Score 2: The Company provides evidence of implementing a product lifecycle management system that takes into account each stage of the purchasing process AND provides evidence of specific positive incentives it provides its business relationships to act with respect for human rights (e.g. price premiums, repeat business, increased orders or longer contracts with good performers).

AG D.3.3. Mapping and disclosing suppliers

Score 1 The Company maps its suppliers beyond tier one, including direct and indirect suppliers, and describes its approach.

Score 2 The Company also publicly discloses it major suppliers and describes how it implements the requirement of its suppliers to provide visibility into its suppliers and sub-contractors.

**Key Industry Risks**

AG D. 3.4. Land Rights

Score 1: The Company discloses how it identifies tenure rights holders and includes participation of affected or potentially affected communities in the process.

Score 2: Insert “plans” in place of “seeks” which is too aspirational especially in a “Performance” section.

AG D.3.5. Access to water and sanitation

Add at end of paragraph reference to “the UN General Assembly’s Resolution 64/292 of 2010 on the Human Right to Water and Sanitation.”

Score 2: The Company discloses its specific water stewardship targets and performance against those targets AND provides evidence of regular engagement of communities affected by the company’s operations to ensure the safety, quality and accessibility of clean water to fulfill the communities’ needs.

AG D.3.6. Forced Labour

AP D.24.a. Debt bondage and other unacceptable financial costs (in the supply chain)

The Company ensures its suppliers refrain from charging fees to the workers which must be covered by its suppliers, including recruitment fees and related recruitment costs and imposing financial burdens on workers by withholding wages and imposing illegal deductions.

Score 1 The Company includes debt bondage guidelines in its supplier code of conduct and describes how these practices are taken into account positively in the identification of suppliers OR the Company describes how it works with suppliers to eliminate imposing financial burdens on workers.

Score 2 The Company meets both of the requirements under Score 1 AND provides an analysis of progress made.

AP D.2.4.b. Restrictions on movement of workers (in the supply chain)

The Company ensures its suppliers refrain from restricting workers’ movement, including through the retention of passports or other personal identification or travel documents or ATM cards or similar arrangements for accessing wages.

Score 1 The Company includes guidelines on workers’ freedom of movement in its supplier code of conduct and describes how these practices are taken into account positively in the identification of suppliers OR the Company describes how it works with suppliers to ensure there is no worker’s document retention.

Score 2 The Company does both of the above AND the Company provides an analysis of progress made.

AG D.3.7. Child Labour

The company verifies the age of job applicants and workers in its own operations. In addition, if the Company learns that it has child labour in its operations, it ensures that the child receives legal schooling, while at the same time sustaining the family's income level. The child should have the option to work once he/she has reached the legal working age. The Company requires its suppliers to protect young workers from hazardous work.

AG D.3.8. Freedom of Association and Collective Bargaining

AGD.3.8.a. Exclude the phrase “in accordance with national law” which is a qualifier of the basic human right to freely associate.

Score 1: Delete “dialogue” and insert alternative “means for worker empowerment.”

Score 2: The Company “acts” (delete “indicates”) to prohibit intimidation….”

And delete “an example” and insert “provides evidence.”

AG D.3.10. Women’s Rights

(Own operation)

Score 2 The Company meets both of the requirements under Score 1 AND has policies in place to address equality of opportunity for women in the workforce that are monitored and maintained throughout all levels of employment.

(Supply chain)

Score 2 The Company meets both of the requirements under Score 1 AND requires its suppliers to have policies in place to address equality of opportunity for women in the workforce that are monitored and maintained throughout all levels of employment.

**PERFORMANCE: SERIOUS ALLEGATIONS**

Scoring: We do not believe it is useful to cap this section at 20% of a company’s total score, when serious allegations, for many investors, may be the most important aspect of a company’s human rights profile. If, for example, a company that otherwise scores well faces credible evidence of slave labor, it would be reasonable to call the adequacy of its policies and procedures into serious question. For many investors, poor performance, evidenced by serious allegations over time, may be sufficient to downgrade or exclude the company. They may also present the most material financial risks, which strong policies and procedures will do little to mitigate.

 “… indicators in the Serious Allegations section seek to assess a Company’s *response* to an allegation that an impact has occurred.

The Serious Allegations section does not seek to assess the allegation itself.

These introductory statements are unclear. A company’s response to an allegation is contingent upon the credibility and accuracy of the allegation. In addition, a useful corporate human rights rating must, at some stage, draw conclusions about actual performance, rather than simply responses to allegations. It is understood that many allegations cannot be confirmed and that it is beyond the scope of this benchmark to investigate allegations. However, there will be allegations that are confirmed, such as those that are adjudicated, acknowledged by the company, or well documented by a reputable third party. These should be treated with greater seriousness than unconfirmed allegations.

It is unclear whether the list of issues under “Clear human rights link” is intended to be all inclusive. We would suggest that it be clarified that this is not meant to be an exhaustive list of the types of issues that will be covered.

Sources: Will any standards be established to evaluate the credibility of third party sources? What is the rationale for excluding company-reported impacts? Such impacts may be serious and, we believe, should be included here. Otherwise, a company may be able to achieve a better score by reporting a very serious impact, improving its level of transparency but not its impact on human rights. We support the incentive to report, but believe it is critical to separate reporting from performance.

The word “substantiated” is misplaced. An allegation naming a company does not substantiate the truth of the allegation, it merely establishes itself as an allegation relating to a particular company.

Level 1 Allegations:

First, it is unclear why allegations are divided by level, and how this will impact a company’s score. It should be clarified that an impact can be serious if it meets the scale, scope *OR* remediability factors.

It is unclear what is meant by the requirement to name a victim (is a name required or simply “a victim”?). This may set too high a bar. Public reports of corporate human rights impacts rarely name individuals. Presumably the requirement for a “clear location” would be waived for offenses at sea.

The example provided – a company is fined for violence and dismissals of unionized employees – clearly demonstrates the problem. Investors should be able to rely on a government fine (assuming the government itself has a good reputation in this area) as verification that the impact has occurred. It should not be necessary to confirm the names of individuals. Investors regularly rely on such government disclosures in their human rights evaluations of companies.

Here, a US Department of Labor fine would not meet the standard, but a report by an NGO that names individuals, would meet the standard. We do not believe that investors are likely to accept this.

In addition:

* Reliable press accounts of an oil spill that has seriously polluted a community’s water supply may not meet this standard.
* The Guardian’s reports of slave labor in the Thai shrimp fishery may not meet this standard, although the strict libel laws in the United Kingdom support the veracity and thoroughness of the research and the existence of these crimes has been substantiated by other reliable third parties.
* Reports of slave labor in Brazil may not meet this standard, for failure to name individual victims, despite the very credible multi-stakeholder process to verify claims of slavery.
* A verified land grab that fails to name the displaced community members may not meet this standard.
* Factory audits may turn up very serious impacts without naming any workers.
* In some cases, names of victims may be withheld to protect their safety.

Practical and Concrete Thresholds

We would recommend removing the numerical thresholds, such as “over 60% of workers …”, numbers of working hours, accidents and deaths. These appear arbitrary and are inconsistent with the independent nature of each severity indicator.

E 1.1.: Above, the standard states that company reported incidents will not be counted here. Here, however, the benchmark looks to company responses to allegations raised by third parties. Again, it is unclear why these serious impacts are treated differently. We would recommend combining these indicators and possibly providing companies with extra credit for self-identifying the problem, rather than responding to an allegation raised by a third party.

E 1.2: It is unclear why companies will be credited for having a policy in place that failed to prevent a serious impact. Policies are graded in a separate section of the benchmark. We would recommend deleting this section.

E 1.3: The actions required to achieve scores under this indicator do not appear to be strong enough for a “serious” impact. First, companies that deny the impacts will receive equal scoring to companies that acknowledge wrongdoing. Clearly, as discussed above, the CHRB is not in a position to substantiate allegations, but companies that deny credible allegations should not receive equal scoring. Perhaps a narrative entry is more appropriate here, with a range of scores awarded on a case by case basis.

Under Score 1, it is unclear what “other remedies” refers to. Remedies unrelated to the allegation?

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