



Developing Global Standards for the Reporting and Assurance of Company Alignment with the UN Guiding Principles on Business and Human Rights:

IPIECA Feedback on SHIFT/Mazars discussion paper

IPIECA welcomes the opportunity to provide feedback on the SHIFT/Mazars discussion paper on developing global standards.

We support the alignment of this initiative with UNGPs as it will allow the industry to measure itself in a standardised way. We appreciate the quickly evolving business and human rights landscape where companies are increasingly expected to “know and show” how they meet the UN Guiding Principles (UNGPs). Therefore, IPIECA understands the need for a global standard, however we feel strongly encourage an approach that is realistic about the singularities and limitations of each sector.

IPIECA takes this issue seriously, as demonstrated through our dedicated [Business and Human Rights Project](#). The outcomes of this project are detailed implementation guidance for oil and gas companies when operationalising the UNGPs, as well as the provision of companies’ practical implementation experience in global forums and policy initiatives.

As our experience to date suggests, it takes time for companies to implement the UNGPs and there are no “one size fits all” solutions. Therefore, below we have raised some key issues and concerns for consideration around any expectation placed on companies to standardise the UNGPs through developing an assurance and reporting standard, particularly within a short timeline.

1. Developing an Assurance ‘Standard’ and the expectations of companies of standardizing UNGPs

- Developing a ‘Standard’ on Human Rights is inconsistent with the spirit of the UNGPs. It suggests a prescriptive approach, which was explicitly not the intention of the UNGPs. IPIECA recommends adding a provision that if companies have reviewed and provided input into the UNGPs it does not necessarily mean they automatically commit to the idea of Human Rights Assurance.
- The project intends to use ASEAN as the trial region for the global standard. Indeed there is an important business community in ASEAN region and there are significant human rights issues in Asia. However, the business and regulatory climate in Asia is not representative for the global Human Rights and Business agenda; additionally, it should acknowledge that each region will focus its own challenges and issues in relation to business and human rights. Many of the challenging dilemmas and dynamics on business and human rights are occurring

in North America and the European Union, including the application of Dodd Frank, EU sector guidance, transparency legislation, Dow Jones Sustainability Index, the Global Reporting Initiative, and the Voluntary Principles on Human Rights.

- Even voluntary standards can be used as preliminary steps to EU or US regulation and we need to be conscious of the level of expectation that it raises – both for civil society and EU/US institutions.

2. The Reporting Standard, including reporting on human rights policies, identification of salient human rights risks, and public disclosure of how risks/impacts are addressed.

- Reporting according to the UNGPs is only expected for severe human rights impacts. The project needs to clarify that human rights reporting should not be expected from all companies. The document is unclear about the level of detail that may be reported about company affiliates; for example, the detail which can be included in Human Rights communication is subject to internal governance. The project must ensure that it is relevant and practical for businesses of all sizes and structures.
- As detailed in the above point, we agree with need to focus on reporting severe human rights impacts and we also understand that reporting on one or several business units is a good idea, in order to enable companies to pilot and focus on high-risk, sensitive situations.
- ‘Salient human rights risks’ must be clarified – does the paper mean risks to others, or risks to the company? In many companies, impacts are considered impacts on others, and risks are considered risks to the company. For example, how does one distinguish between and comparatively rank severe impacts that occur in only one or two locations, and not so severe impacts occurring in multiple locations?
- On the proposal to include information about salient human rights risks – we agree with the focus on “severity” but companies should choose to disclose these impacts when appropriate following UN Guideline 21, where it does not require the company to disclose information that would pose risks to affected stakeholders, personnel or to the legitimate requirements of commercial confidentiality, such as information that is legally protected against disclosure to third parties.
- Public disclosure of certain human rights impacts may pose risks to affected stake holders, or have an unintended adverse consequence on the local situation. For example, due to cultural protocols it may not be appropriate to disclose information about impacts on cultural heritage sites that are known only to elders. Likewise, public disclosure of adverse human rights impacts involving state agencies, such as police or security forces, may result in repercussions for impacted stake holders and may be more appropriately dealt with through other avenues of communication. We recommend that this project take into consideration and create exceptions for such circumstances.

3. Determining the scope of assurance, materiality for items to be included in the Human Rights Statement, and levels of assurance

- Because the UNGPs are qualitative and not quantitative, determining the efficacy and suitability of company practices through auditing raises concerns about subjectivity. The

assertion that the process would take a number of weeks/months to conduct, and would require exploring what policies a company has on paper and how well they are embedded within the company's daily operations, does not incorporate respect for confidentiality of proprietary information.

- A determination of the rights the company is most likely to have an adverse impact on is too subjective an issue for auditing. It is far too broad to allow an auditor to determine material weakness in a company's human rights policies. Without much more clearly defined terms this would create confusion and leave companies exposed to arbitrary actions by auditors.
- Human rights must be mainstreamed into existing systems in order to contribute to improving global business and human rights environment. A 'dedicated human rights statement' does not align with this strategy. A human rights approach which integrates into existing systems and uses operational language is most effective in mobilizing companies' resources.
- A definition of what "sustainability and effectiveness of processes and criteria" mean is required. Levels of assurance should capitalize on existing companies' management processes and international auditing standards. It should also recognize the different risk management systems each company operates with depending on the sector and in some cases human rights issue.

The Competence and Independence of Assurance Provider and the need for assurance about the assurance providers, especially regarding their objectivity, experience in the business, qualifications, etc.

- The company will need some assurance about assurance providers before committing money and time to the process. So will the public. The credibility of the assurance provider will depend on:
 - relevant knowledge
 - relevant experience
 - relevant qualifications
 - the way he/she interacts with company representative
- Having an "understanding of the sector" would not be sufficient for an auditor to be able to determine whether a company's internal processes are sufficiently designed to address HR concerns in that sector. There would need to be a higher bar to find auditors with deep experience in or around the business and industry.
- Under what criteria would an independent assurance be defined? What controls (if any) would there be around what auditors report and to whom? Who pays for the assurance activity? It will be difficult to ascertain whether an auditor can be truly independent given the subjectivity of the material. IPIECA recommends a definition and rigorous due diligence process in order to identify who qualifies as a Human Rights assurance provider and a certification mechanism would help companies' tender processes.

Thank you in advance for your consideration of our feedback. We would value an understanding of how the feedback will be integrated into the next steps of SHIFT and Mazars' work and invite any further opportunities for dialogue on the subject of reporting and assurance for the UNGPs.