

**21 June 2013**  
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Hi Anna,

Hope all is well! Please find below DNV Two Tomorrow's comments on the discussion paper *Developing Global Standards for the Reporting and Assurance of Company Alignment with the UN Guiding Principles on Business and Human Rights*.

We think that the document is a great start, and we're very encouraged by the developments made through your work with Mazars and other stakeholders. The bulk of our comments below are general responses to the approach to development of the standard or specific practical queries regarding the assurance process itself. We appreciate that at this time the document is a discussion document and therefore subject to reasonable change. If you'd like to discuss any of the below points, please don't hesitate to let us know.

*Overall Feedback:*

- The overall approach, whilst comprehensive, doesn't promote long-term, strategic forward thinking on corporate human rights management, but rather focuses on the retrospective view. Whilst the reporting and assurance standards and associated process will identify key gaps, when undertaken annually as is proposed, there appears to be insufficient consideration for moving from identification of gaps towards comprehensive plans for addressing those gaps through effective implementation. Our worry is that this will prevent the holistic development of corporate human rights management, and rather promote discrete annual checks/responses. (P. 7) Would be good to see this addressed in a supporting guidance document.
- That said, the coordinated public publishing of the Assurance Statement alongside the Report Statement is an effective way to stimulate companies to coordinate the management of their human rights, and will hopefully encourage forward-thinking. (P. 7)
- Generally, it feels as if the reporting and assurance standards are trying to do too much, without sufficient information as guidance for companies going through this process. There is a need for greater guidance and clarity on how the standards can be applied, what the over-arching long-term vision looks like, etc. in order to ultimately support the building the capacity and understanding on the part of companies to effectively manage their human rights performance.
- On capacity building specifically, it doesn't currently feel that the standards are being developed to incentivise and support companies to develop their approaches to managing human rights. Again, further guidance on how

existing mechanisms can be used to develop internal human rights management systems may be beneficial, e.g. how can existing stakeholder engagement mechanisms be used to support the identification and management of human rights risks, and/or be used to obtain timely stakeholder feedback.

- Scope – There needs to be greater clarity on what is considered to be ‘in scope’ in terms of reporting. Whilst the Discussion Document proposes the identification and communication on salient human rights risks, in line with the UN Guiding Principles, it allows the company to determine the operational boundary of its reporting, i.e. where it starts. For multinational companies with complex supply chains this may enable some individual companies to ‘play the system’ and present an inaccurate view of their internal human rights management system.
- Annex B: We assume that greater granulation of specific assurance elements will come during development of the Standard. When this takes place, we would strongly support the development of quantifiable indicators and audit tests to be applied. We assume that as the process evolves and learning is shared, the audit protocol will develop and strengthen accordingly.

#### *The Company:*

- *“Moreover, for any company operating in complex and changing environments and through multiple relationships, policies and processes will need to adapt over time...”* (P. 7) – How will the reporting & assurance process support solution identification and therefore development/adaption over time? Companies operating in multiple sectors/locations may find the current proposed approach challenging to understand and internalise without sufficient guidance to support identification of human rights issues across the breadth of the value chain.
- *“The Standards would enable a forward-looking focus on the ability of a company’s management systems to address effectively the risk of future impacts on human rights in connection with its operations, products or services.”* (P. 9) – This is not clear. Whilst the proposed approach supports the identification of existing gaps in human rights management, it isn’t clear how it can support solution identification, and importantly consideration for how these companies can implement specific measures to address gaps.
- *“...the Statement and the Assurance review would consider risk not just from the perspective of the company but also from the perspective of those potentially impacted.”* – Greater clarity on the process supporting this is required. Using stakeholder consultation to inform identification of risks is one thing, but beyond this, is there potential to engage stakeholders to help identify effective mitigation measures and how will participating companies be expected to respond to such findings? (P. 9)
- *“...public disclosure of how specific risks or impacts are addressed...”* (P. 10) –

There needs to be some guidance on what constitutes effective disclosure. Weak or interpretive statements/audit tests will enable companies to circumvent transparent and complete disclosure on this, e.g. GRI disclosures and reporting approach.

- How does a company define the scope of its reporting? (*"The company could decide..."* (P. 10). There needs to be clearer definition of what is 'in scope' from a company perspective. Otherwise this will raise the challenge of tracking and measuring year-on-year progress if scope isn't clearly defined. This will be particularly challenging for companies operating in multiple sectors/locations and especially for their assurance providers.
- *"...possibility that companies may limit a Statement to certain aspects of their operations."* (P. 10) / Identification of 'salient human rights risks' – There is a need for greater guidance on the definition of what constitutes material issues / salient human rights risks / operational boundaries, and less onus on allowing the company to decide.
- It is easier for a company to articulate and report on generic policy responses but it is more impactful for the company to identify specific salient human rights risks. Therefore, what is the appropriate incentive mechanism to support effective and meaningful disclosure?
- How should multi-sector companies prioritise risks based on severity, i.e. *"scale, scope and irremediable character"*? (P. 12)
- *"View on the degree of disclosure about how the company addresses potential or actual severe impacts in the Statement would be welcomed."* (P. 12) – We propose applying an explicit timeframe requirement to such disclosures, in order to promote effective management of potential or actual severe impacts (as opposed to grand statements).
- *"Views on the inclusion of additional matters in the Human Rights Statement, beyond the baseline requirements proposed in sections 2.1, 2.2 and 2.3. would be welcomed."* (P. 13) – Whilst it's important to capture a holistic view of how a company manages its human rights performance, we feel that the inclusion of additional information in the Statement may dilute the focus of Statement. Additionally, as the company gets to grips with understanding what is required of it to disclose and communicate, the provision of additional information not included in the technical audit may cause confusion on the part of company reporting. We therefore propose clearly communicating this point to participating companies in an accompanying guidance document.
- *"The starting point should be a thorough understanding of the human rights risks posed by the company's activities and business relationships (e.g. value chain, joint ventures, etc.)"* There is a need for a clear definition of 'scope'. The Discussion Document seems to imply that companies are empowered to determine the limits of their reporting boundaries as they see fit, however, there is also a clear requirement to disclose 'salient human rights risks'. We feel that this may cause problems later on in the disclosure process, and in

particular may highlight challenges associated with the need for credible, transparent disclosure, year-on-year tracking, etc.

- Would be good to understand how the Assurance Standard intends to measure the suitability and effectiveness of any policy in place, as this may prove to be a particularly challenging assessment point for an assurance provider. E.g. would this assessment apply cross-sector, trans-boundary, only look at the effectiveness of the policy in relation to issues identified by the company as being 'in scope'? (P. 17)

#### *The Assurance Provider:*

- There is a strong need to define what a '*competent and independent human rights assurance provider*' looks like (P. 6). From our experience, we know that non-financial reporting assurance is tricky because of the lack of universal prescriptive and quantifiable measures and standards by which to assess and assure. This has led to a boom in non-financial reporting assurance from providers with limited experience and questionable backgrounds or motivations, e.g. maintaining independence. The same situation will occur with human rights assurance unless greater definition (and potentially restriction) is placed on the qualifying characteristics of the assurance provider. This may include being an accredited supply chain auditor, familiarity with other assurance standards, human rights practitioners, etc.
- On the 3 points for assurance providers: b - "*This will require an assessment of numerous areas of the business where these risks and impacts may arise*" We question the practical application of this assessment approach, given the sensitivity of some internal business functions, geographic spread, varying internal awareness on the process and support required by the business to the assurance provider, etc. We therefore raise the potential for issues of access for the assurance provider. (P. 13 & 14)
- "*This should be left to the sound judgement and methodology of individual assurance providers.*" (P. 14) – Far too subjective, and will cause problems.
- "*This will require the assurance provider to triangulate information with stakeholders in order to identify their unique perspective...*" (P. 16) – There needs to be a clear, consistent and standard approach to stakeholder engagement conducted to prevent too much interpretation.
- "*...the assurance provider would also convey to the company any misstatements, omissions or other concerns that are considered more than 'inconsequential' but less than 'material'.*" (P. 16) – Need to define what these are and look like.
- Reasonable versus limited assurance (P. 16) – It's of little value to socialise the concepts of reasonable versus limited assurance in this instance, and not helpful to convey message that limited assurance is inherently negative. We agree that a more comprehensive approach to assurance is more useful (e.g. reasonable assurance), but that a new term which captures and clearly defines

the boundaries of such an assurance process is made, specific to this unique form of assurance being developed.

· *“Views regarding the competencies of human rights assurance providers...”*

(P. 18) – How do you define the competencies of human rights assurance providers and how can this be verified or check?

With best wishes,

Anna

Best regards

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