

BDA position on a global reporting and assurance standard on the UN Guiding Principles on Business and Human Rights

BDA comments on the Mazars and Shift project to develop global standards for the reporting and assurance of company alignment with the UN Guiding Principles on Business and Human Rights

August 2013

1. BDA thanks Mazars and Shift for the possibility to contribute to the discussion paper on the development of a global reporting and assurance standard on the UN Guiding Principles on Business and Human Rights (UN GP). BDA supports initiatives to assist companies in implementing the UN GP. However, BDA has some major concerns with regard to the proposed project and calls on Mazars and Shift to considerably revise the project outline before going ahead.

2. As is the case with the other projects, it is of utmost importance to clarify at the beginning, that this process is not intended to provide any form of binding instructions or norms and that under no circumstances whatsoever this initiatives creates any legally binding effect. Furthermore, the project risks jeopardizing the broad consensus the UN GP have enjoyed. They were developed to give guidance to operationalize the “Protect-Respect-Remedy-framework”. Through the development of a certifiable assurance, there is the risk that these principles would become more of a normative framework and lose their original character upon which the support of business was based.

3. German companies actively embrace their responsibility in this field vis-à-vis society and commit well beyond what is required by law. This has a long tradition. The numerous activities and initiatives of German companies at global, European and national level are concrete expressions of this awareness of responsibility. In doing so, companies meet society’s expectations with regard to corporate social responsibility (CSR) and human rights. They communicate their commitment to society in a way that is appropriate for the specific situation of the company in question influenced by sector, international interlinkage, nature of shareholder groups, and requirements of the general public and stakeholders. There is no “one-size-fits-all” solution for either CSR or human rights measures or related reporting. For that reason, the introduction of a new reporting standard should be firmly rejected.

4. Precisely because the company-specific situations which are relevant for CSR and human rights are highly diverse – society’s expectations of a clothing firm are completely different from those of a car maker or bank – companies need discretion to decide for themselves how they want to communicate their commitment. Many companies set their

BDA is the leading organization dealing with social policy on behalf of the entire German private sector. It represents the interests of small, medium-sized and large companies in all sectors and all issues linked to social policy and collective negotiations, labour legislation, labour market policy and education. BDA works at national, European and international level for the interests of one million companies which employ 20 million workers, and which are networked with BDA through voluntary membership of employer federations. These employer federations are organized in 51 national sectoral organizations and 14 regional associations which are direct members of BDA.



own standards that are tailored to their specific situation, others apply existing standards. For this reason alone, the route of setting further detailed standards makes no sense and is also not necessary since companies, in their own interest, already communicate to the extent that they deem to be genuinely useful.

5. In many parts of the document the language is too prescriptive. This must be avoided as it could discourage the full implementation of the UN GP and it would exceed the non-binding nature. Therefore the tone in some parts of the document needs to be towed down and a more balanced and neutral approach should be taken.

6. Since companies of all sizes are covered by the UN GP, the perspective of small and medium-sized enterprises (SMEs) must play an important role. From their perspective this initiative is too complex and detailed and most of the proposals made in the document are not feasible for SMEs. The document needs to be reviewed from the perspective of SMEs to identify where it will be perceived as excessive and unrealistic. There is no “one-size-fits-all” approach to create a standard on international level since this was explicitly not the intention of the UN GP.

Detailed comments

1. p. 1 and p. 3. (discussion paper) support by the UN Working Group on Business and Human Rights

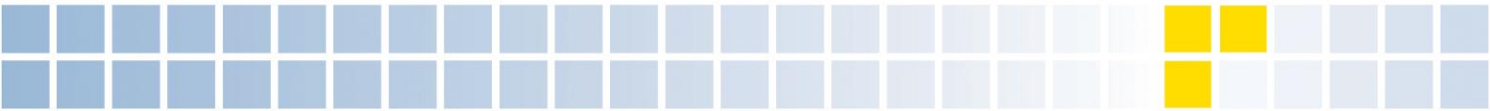
It is confusing that the discussion paper states that the project is officially supported by the UN Working Group on Business and Human Rights. It gives the impression that Mazars/Shift have an authoritative role conferred by the UN, which is not the case.

2. p. 5 developing standards initially in the context of the ASEAN region

The project intends to use the ASEAN region as a trial region for the global standard. We highly respect the importance of this region, but the business and regulatory context in Asia is not representative of the global human rights and business agenda. There are dynamic developments in Europe and North America as well, which must be taken into account when developing any project on this issue since it is stated in the discussion paper and in the “summary” (Evolving summary of points raised, with clarifications, responses and emerging priorities for consultation, 29 July 2013) that standards should be applicable to and used in all other regions.

3. p. 5 and p. 9. non-financial reporting initiatives

According to the discussion paper, until today there is no global and widely accepted process for companies to demonstrate whether their policies and processes are aligned with the UN GP and whether they are therefore capable of meeting their responsibility to respect human rights. This proposition is very problematic since it does not put the proposed project in the broader context of existing initiatives, frameworks,



guides and standards on international (e. g. Global Reporting Initiative, International Integrated Reporting Framework, OECD Guidelines on Business and Human Rights, ISO 26000, ILO Tripartite Declaration of principles concerning multinational enterprises and social policy), regional (European Commission's proposal for a directive amending directive 78/660/EEC and 83/348/EEC as regards disclosure of non-financial and diversity information COM(2013)207, Eco-Management and Audit Scheme) and national level (e. g. regulations and frameworks in many European countries). The initiative will not only create additional administrative burdens for business but will also add to the existing information overload that prevents stakeholders from seeing the wood for the trees. BDA is concerned that companies are faced with an increasing number of uncoordinated reporting standards and obligations.

Furthermore, the UN GP already give clear advice on how companies should communicate about human rights impacts. Further guidance can be found in the Interpretive Guide on the Corporate Responsibility to Respect Human Rights and in the sector Guides on implementing the UN GP. Therefore, an additional standard is not necessary and counterproductive and the added value of the proposed project is questionable.

4. p. 10. key issues with regard to the reporting standards

The discussion paper does not sufficiently reflect the wording of the UN GP. According to principle 21, formal reporting by enterprises is expected where risks of severe human rights impacts exist. It is very important that the concrete wording of the UN GP is taken into account and that the project does not risk jeopardizing the broad consensus the UN GP have enjoyed. The implementation of any additional non-justified burdens for companies is very problematic. Therefore, the

explanation about the additional information in the Human Rights Statement should be deleted.

5. p. 13. verifying assurance of human rights

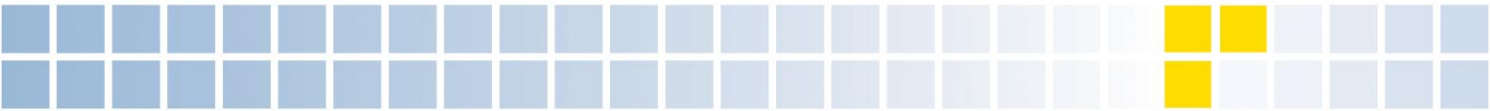
Concerning the development of an assurance standard, it must be taken into account that verifying assurance of human rights cannot simply be undertaken in the same way as verifying financial information, since some information is non-measurable. Human rights assurance according to this proposal would be subjective and would create uncertainty to the potential detriment of the efficiency of the UN Guiding Principles.

6. p. 13. stakeholder consultation

It is stated that the assurance provider should "triangulate the information with stakeholders in order to identify their unique perspective and potential gaps in information". This could lead to time-consuming and expensive processes. It should be emphasized that the involvement of stakeholders is a complex task which demands constructive attitudes and commitment from all sides.

7. p. 14. scoping materiality

The document introduces a new and very problematic form of materiality test regarding human rights reporting. Material thereby means "material for all ... stakeholders – including investors and right-holders". Not the risk for the company will be leading, but also the impact on third parties, probably also including NGOs. It is questionable whether this is a desirable development since this criterion lacks objectivity.



8. p. 15. sources and evidence for the assurance review

The assurance process that is supposed to be carried out by the assurer is very burdensome as it should be based on “relevant and credible evidence, such as interviews, observations, testing including sampling and documentation.”

9. p. 16. level of assurance – reasonable assurance

In the paper it is proposed that any assurance process should necessarily provide for “reasonable assurance” of what is stated in the statement. The standard “reasonable assurance” is normally applied to financial data only. If externally verified, CSR information is normally checked against the limited assurance test. “Reasonable assurance” would lead to a more extensive and therefore cost-intensive assurance process.

10. p. 3. (“evolving summary”) developing new global standards

Promotion of dialogue processes and exchange of best practice both make more sense than the planned development of new standards. The number of companies in Europe that already publish annual reports voluntarily and tailored to their fields of activity has increased in recent years. This demonstrates that companies are prepared to make the transparency and the credibility of their commitment visible even without new standards.

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