

Human Rights Reporting and Assurance Frameworks Initiative (RAFI)

Third Round of Expert Multistakeholder Consultations
London, November 19, 2014

CONSULTATION REPORT

1. Objective of the Consultation

On November 19, 2014, the Human Rights Reporting and Assurance Frameworks Initiative (RAFI) project team hosted a one day expert multistakeholder consultation in London. **After 18 months of research and consultation, this meeting provided the first opportunity for expert stakeholders to discuss a full draft of the UN Guiding Principles Reporting Framework (Reporting Framework).**¹

The primary focus of this consultation was to gather views and feedback on the Reporting Framework and its companion Implementation Guide to further the Reporting Framework's development before its launch in early 2015.

2. Organization of this Report

Annex A provides the agenda for the consultation.

Annex B provides the list of participants. The consultation involved a cross section of individuals from companies, nongovernmental organizations, audit and assurance providers, investors, academia and other experts. All participants took part in their personal capacities and not on behalf of their organizations. The consultation was held under the Chatham House Rule in order to stimulate open and frank conversation.

A similar in depth expert consultation took place in Jakarta on November 7, 2014 and New York on November 13, 2014.² All the reports of RAFI consultations that have taken place to date are available on the RAFI web portal.³

This report is designed to record issues raised during the consultation. In early 2015 the RAFI team will publish a "key takeaways" document to summarize the main points that emerged across the various consultations and which will inform the project team's next steps.

¹ See Draft UN Guiding Principles Reporting Framework, available at http://business-humanrights.org/sites/default/files/documents/DRAFT_UNGPRReportingFramework_11Nov2014.pdf and Draft UN Guiding Principles Reporting Framework Implementation Guide, available at http://business-humanrights.org/sites/default/files/documents/DRAFT_UNGPRReportingImplementationGuide_11Nov2014.pdf.

² The first round of expert multistakeholder consultations were held in London on October 17, 2013, in New York on October 23, 2013, and in Jakarta on November 20, 2013. The second round of expert consultations were held in London on April 24, 2014 and in New York on May 26, 2014.

³ RAFI web portal, available at <http://www.business-humanrights.org/Documents/RAFI#127250>.

The Human Rights Reporting and Assurance Frameworks Initiative (RAFI) is a multistakeholder consultative process facilitated by Shift and Mazars to develop two guidance frameworks for launch in 2015:

- *The UN Guiding Principles Reporting Framework: a guide for companies about what good reporting on their human rights performance looks like;*
- *The UN Guiding Principles Assurance Framework: a guide for assurance professionals who assure these reports about how best to do that assurance.*

Further information on RAFI is available on the [initiative's web portal](#).⁴

3. Session 1: Overarching Impressions

The RAFI project team provided an **overview of the key features of the UN Guiding Principles Reporting Framework and Implementation Guide** and how these had been informed by the process of research and consultation over the prior 18 months. These are summarized in Annex A. The project team highlighted the objective of putting the Reporting Framework onto an online platform to make it readily accessible and user-friendly.

a. Extensive consultative process

Participants welcomed the **extensive consultations of the RAFI process**. Many commented that the quality of the multistakeholder process, including the number of people consulted as well as its geographical scope, has resulted in a solid draft of the Reporting Framework for consultation. This in itself was seen as helpful in enabling companies to have the confidence to start using the Reporting Framework.

b. Integrating human rights thinking

Participants emphasized that although the primary objective of the Reporting Framework is to advance better public reporting by companies, **it has additional value in helping companies integrate human rights thinking into their management processes**. Many participants, including from companies, suggested that the process of answering the Reporting Framework's questions should help facilitate more meaningful conversations within companies, support gap analyses and improve internal processes for addressing risks to human rights. Some suggested that companies might first start using the Reporting Framework for this purpose and develop better internal reporting, before issuing the information publicly. Others noted the value of the Reporting Framework for external reporting at a time when regulation in Europe on human rights disclosure is growing fast.

c. Positive improvements to content and accessibility

Participants **welcomed the content** of the Reporting Framework. In particular, participants noted the improvements in the overarching and supporting questions made since the last round of expert consultations. They welcomed the cross references in the Implementation Guide to other reporting initiatives as a way of showing how the Reporting Framework fits in with other types of reporting. Participants supported the idea of having the Reporting Framework on an online platform to make the Framework more accessible.

⁴ Business and Human Rights Reporting and Assurance Frameworks Initiative (RAFI), <http://business-humanrights.org/en/business-and-human-rights-reporting-and-assurance-frameworks-initiative-rafi>

d. Potential additions

Two possible additions to the Reporting Framework were discussed in further detail:

- **An annex with guidance on how business can impact human rights:** A number of participants remarked on the difficulty for some companies to evaluate how their operations could impact human rights other than labor rights, and the need to make the full array of human rights more tangible for companies. There was discussion of including an annex setting out internationally recognized human rights, perhaps with illustrations of how companies can impact them. The online platform could also include other tools for companies that could help them in this regard.
- **A short reader's guide with a description of what to look for when reviewing human rights reports:** A number of participants reflected that better human rights reporting does not necessarily mean providing perfect answers. First and foremost it should mean being open and transparent about challenges faced and ongoing efforts to address them. A short readers guide could help build an informed market for better human rights reporting by guiding readers in what to look for.

e. Burden on small and medium enterprises

Participants discussed whether or not the Reporting Framework should acknowledge that it **may be more burdensome for small and medium enterprises (SMEs)** to disclose this type of information. On the one hand, it can be a larger burden for SMEs to proceed with this type of a reporting exercise. On the other hand, SMEs can also have severe impacts on human rights. Moreover, some suggested they would benefit from more transparency since they often operate within large supply chains with buyers increasingly looking for evidence of suppliers' performance on human rights.

f. Encouraging use of the Reporting Framework

Participants underscored the importance of thinking about **how this Reporting Framework could be linked to market drivers to encourage more companies to report in a meaningful manner**. Drivers of human rights reporting include stock exchanges, regulators (including at the European Union level), export credit agencies and business customers.

4. Session 2: Detailed Discussion of Draft Reporting Framework

a. Overview of key elements of the Reporting Framework

The RAFI project team **explained some key concepts in the draft Reporting Framework**. In particular, the framework calls for companies to focus their reporting on their salient human rights risks: those human rights that stand out as most at risk based on what the company does, where it works and who it works with.

This is a different entry point from materiality. The exercise of defining material information is relative to a particular audience, whether investors alone or a wider group of stakeholders. Its focus is on risk to the business. By contrast, certain human rights risks are salient relative to the broader array of possible human rights impacts, and they are not defined by any one audience. The identification of salient human rights risks flows naturally from human rights due diligence, with the focus on risk to people. At the same time, salient risks to human rights tend to converge with risk to the business: risks to human rights are among the most acute social and environmental risks, and salient human rights risks are the

most acute risks to human rights. The severity of issues therefore involved typically represents risk to the business in at least the medium to long term.⁵

b. Salience welcomed as the entry point to reporting

Participants welcomed the use of the concept of salience, while many noted it **will require careful explanation of the concept and process**. Some suggested that salience could help companies identify important issues that would be ignored through a materiality exercise. There was a perceived tendency for companies to identify material issues as those issues that they are already working on and that are top of mind for a predefined set of stakeholders. The move to salience was seen as welcome from an investor's perspective as well.

Some participants felt that process of identifying salient human rights risks should reduce the number of blind spots companies have when it comes to human rights risks. In the experience of some, a materiality exercise frequently leads to the identification of human rights as material, but does not provide information about which human rights in particular are important to consider.

Participants noted it would be helpful to have further information about how the process of identifying salient human rights risks could be applied alongside the materiality analyses that companies conduct for their broader sustainability reporting.

c. Language of risks may cause confusion

Participants noted that the **terminology of salient human rights "risks" may cause confusion and resistance**, hindering use of the Reporting Framework. They noted that since companies use the term "risk" to mean risk to the business, it could be confusing in this context to redefine the term as meaning risk to people.

A further perceived source of confusion is that risk typically refers to the risk as mitigated, i.e., with the corporate controls in place to mitigate the risk. Companies could be tempted to omit discussion of certain salient human rights risks because they deem that they have adequate controls in place to minimize the risk of their occurrence.

In addition, risk was seen by many to carry a negative connotation that can motivate companies to limit, rather than expand disclosure. Some suggested that the language of "impacts" may be preferable because it resonates also with non-legal processes and functions within companies.

d. Whether or not to include historical impacts

There was discussion on **how the Reporting Framework should address impacts that have happened in the past**, since the key focus of reporting is the reporting period. One suggestion was to make clearer in Section C6 relating to remedy that impacts that still remain to be remedied should be included in the reporting, even if the impact occurred before the reporting period.

Additional specific suggestions on the Reporting Framework were noted by the RAFI project team. These suggestions will feed into the revision process moving forward.

⁵ For further information on the proposed approach for identifying the salient human rights risks to report on, see Draft UN Guiding Principles Reporting Framework Implementation Guide at Part B, p. 25 - 29, available at http://business-humanrights.org/sites/default/files/documents/DRAFT_UNGPReportingImplementationGuide_11Nov2014.pdf. A paper that further explains the concept of salience and how it relates to materiality will be published shortly on the RAFI portal.

5. Session 3: Detailed Discussion of Implementation Guide

a. Thorough, informative and clear structure

Participants **welcomed the structure of the Implementation Guide, which was generally seen as thorough, informative and clear.** In light of the length of the document, many noted that an online platform would be particularly welcome. The “Relevant Information” sections, which describe the types of information that can be relevant in response to that question, were seen as particularly helpful for companies.

Participants highlighted a number of types of information that would be particularly meaningful. For instance, within the section on embedding (A2):

- Asking for the information that reaches the Board level (A2.2) is key to understanding the company’s governance;
- Requesting information on performance incentives (A2.3) is critical for the creation of an alternative incentive to that of making profit;
- Asking for information on the allocation of resources for addressing human rights issues and examples of lobbying (A2) will be particularly welcome by civil society organizations.

b. Pros and cons with concrete examples

Participants discussed the **advantages and disadvantages to including specific examples in the Implementation Guide.**

On the one hand, examples could help illustrate for companies the kinds of information being called for. Examples could also help internal discussions as companies learn from the experience of other companies referred to in the examples.

On the other hand, including examples could lead companies to copy information verbatim and prevent them from thinking meaningfully about what to report on. Examples focused on one sector may lead companies from other sectors to think the questions are not relevant for them. Examples could also become outdated, as today’s leading examples may be improved upon over time.

Discussions suggested that the more specific the examples used, the less risk there would be that they could be copied. Specific examples could come from actual reporting as well as hypothetical examples. Rather than being integral to the Implementation Guide, they might be linked to it on the web platform and be updated over time.

c. Simplify questions and other suggested revisions

The participants discussed a range of thoughts for revising the drafts. In particular, they noted that the **wording of certain overarching or supporting questions could be simplified**, moving certain details from the question to the Implementation Guide. At the same time, there were suggestions that the section addressing salient risks might benefit from more detail in the Framework itself, and not just in the Implementation Guide. Additional drafting suggestions for questions and guidance were provided regarding sections C2 (stakeholder engagement), C3 (assessing impacts), C4 (integrating findings and taking action) and C6 (remediation). This feedback was collected by the RAFI project team and will feed into the revision process before the drafts are launched in early 2015.

6. Session 4: Discussion of progress on the draft assurance framework

a. Overview of key perspectives on human rights assurance

The RAFI project team provided an **overview of the key perspectives heard to date regarding the potential pitfalls for human rights assurance**.⁶ They proposed a number of key approaches to addressing these pitfalls:

- Companies should meet a minimum threshold of reporting on human rights before assurance of that information can be credible and add value.
- Limited assurance is a starting point, but there should be movement towards some form of reasonable assurance where possible.
- Assurance opinions need to provide more complete information about the assurance process and findings than is currently provided in most sustainability assurance.
- Assurance providers need to demonstrate that they have the requisite knowledge, skills and capacity to conduct human rights assurance as well as the necessary assurance process skills and technical expertise in the relevant industry.
- Oversight and accountability for assurance in this field will enhance its value and credibility, helping to address actual and perceived conflicts of interest.

b. Human rights assurance valuable to improve corporate processes

Some participants underlined that assurance should deliver value to people potentially impacted by a company as well as to the company itself. At the same time, company participants remarked that a **human rights assurance framework would be particularly valuable to help improve corporate processes related to human rights**. It could be used by the internal audit function to help that function verify the effectiveness of corporate processes for addressing human rights.

Some participants noted that the informed discussion between a company's management and an assurance provider about the relative strengths and weaknesses of the company's processes could also raise senior management awareness and aid improvements. As such, the value of human rights assurance was not necessarily reflected in the external facing report issued by the assurance provider. A general sense was that the value proposition for assurance was more likely to lie in the improvement of companies' internal processes than directly in what it can offer the company's stakeholders.

c. Expertise in human rights assurance likely to increase

There was discussion of the **need for assurance providers to demonstrate the requisite skills, knowledge and capacity** to carry out human rights assurance. It was highlighted that although there is currently limited expertise in this area amongst third party assurance providers and auditors, it is likely that as the market for human rights assurance grows, so too will relevant expertise. This is what happened in the field of sustainability assurance.

In the meantime, a number of options were highlighted: building university degrees on this topic, building partnerships between third party assurance providers and nongovernmental organizations and structuring multistakeholder panels. In the short term, the market would need to decide which organizations and individuals have the credibility to undertake this type of work.

d. Proving the value of human rights assurance and other challenges

⁶ A paper setting out a vision for human rights assurance will be published on the RAFI web portal in early 2015. The paper is based on inputs from a broad range of stakeholders consulted over the last year.

Participants discussed a range of other challenges with human rights assurance. Topics discussed include:

- The difficulty for assurance providers to take on human rights assurance in anything other than very limited terms, since it is a more subjective area than the assurance of financial information or environmental;
- Perceptions that human rights assurance will be too expensive in the short term, as compared to the value it provides.

Starting out with limited assurance was seen as one way for companies to see the value in assurance: even if the external facing report provides limited assurance to external stakeholders, the internal conversations that take place between the company and the assurance provider would remain helpful for the company. Some felt that the value of assurance could be increased by providing further information in the public assurance opinion that is clear and useful for a range of stakeholders, such as information on procedures used, stakeholders consulted and key issues discussed with management.

e. Timely launch of the assurance framework

Several participants highlighted the importance of moving forward on the assurance framework on the assumption that human rights assurance (and internal audits) can deliver the value of improving companies' internal processes for addressing human rights. It was proposed that this framework should be developed as the Reporting Framework is being finalized over the next year to ensure that they work well together. Many noted the need to build on recent developments in this space, such as the EU non-financial disclosures Directive and French legislation that envisages compulsory non-financial assurance.

7. Next Steps

a. Planning future governance and ownership of the Reporting and Assurance Frameworks

Participants discussed the need to start thinking about future governance and ownership options when the frameworks are finalized. Although the RAFI process is facilitated by Shift and Mazars, the intent is for the ownership of these frameworks to lie elsewhere. At the same time, in the current institutional landscape, there is no single logical owner.

Participants discussed the possibility of building collaborative networks in various regions, for example comprising academic institutions, investors and stock exchanges, to look at company reporting on human rights and analyze it against the Framework. They discussed ways to include the voice of potentially affected stakeholders in this process, either via governance structure or via methods by which companies consult with them. The particular importance of company involvement in the future ownership of the framework was also highlighted, given their central role in its application and dissemination. There were seen to be some risks in the project team stepping back entirely from the involvement, and suggestions they would need to remain engaged in some appropriate way.

The feedback received from the three rounds of expert consultations as well as learning from other workshops and the pilot process with Unilever will feed into revisions to the Reporting Framework in December 2014 and January 2015. The official launch of the pilot version of the Reporting Framework will take place in February 2015, with additional pilots continuing during the year, alongside the development of the Assurance Framework.

Annex A: Agenda for London Multi-stakeholder Expert Consultation

9:30 – 10:00 am	Welcome from Shift & Mazars Introductions Agenda & Objectives Review of project process to date
10:00 – 11:15 am	Overarching Impressions The RAFI project team will provide an overview of the approach adopted in drafting the UN Guiding Principles Reporting Framework, based on prior consultations, and some of the key concepts used. This session will then provide an opportunity for initial, high-level feedback.
11:15 – 11:30 am	<i>Coffee break</i>
11:30 – 1:00 pm	Detailed discussion of draft Reporting Framework The RAFI project team will introduce key elements of the Reporting Framework, including the use of concepts such as ‘salience’ and ‘severity’ and the use of overarching and supporting questions. This will be followed by an in-depth discussion among participants, with a focus on ideas for improvements of the draft.
1:00 – 1:45 pm	<i>Lunch break</i>
1:45 – 3:15 pm	Detailed discussion of Implementation Guide The RAFI project team will provide an overview of the structure and content of the Implementation Guide. This will be followed by an in-depth discussion among participants, with a focus on ideas for improvements of the draft.
3:15 – 3:30 pm	<i>Coffee break</i>
3:30 – 4:30 pm	Further progress on the draft assurance framework The RAFI project team will provide an update on thinking about the overall approach to the Assurance Framework and seek feedback on this as a basis for the development of an initial outline of the Framework.
4:30 – 5:15 pm	Other critical issues This session will provide an opportunity to return to key issues from the day’s discussion that need further debate, or to address new questions that have arisen.
5:15 – 5:30 pm	Conclusions and next steps

Annex B: Participant List

Organizational affiliations are listed for participant identification purposes only. Participants attended in their personal capacities and were not asked in any way to represent the views of the organizations for which they work.

Expert Participants

1. Nicolas Bernier Abad, European Commission
2. Marilyn Croser, Corporate Responsibility Coalition (CORE)
3. Vicky Dodman, Business in the Community (BIC)
4. Damiano de Felice, Access to Medicine Foundation
5. Adrian Henriques, University of Middlesex
6. Christian Honoré, KPMG
7. Jan Klawitter, Anglo American
8. Mauricio Lazala, Business & Human Rights Resource Centre (BHRRRC)
9. Stephanie Maier, Aviva Investors
10. Marcela Manubens, Unilever
11. Amol Mehra, International Corporate Accountability Roundtable (ICAR)
12. Atul Patel, PwC
13. Catherine Pazderka, British Retail Consortium (BRC)
14. Adil Rehman, Next
15. Tim Smith, GKS
16. Sachi Suzuki, Hermes Equity Ownership Management
17. Julie Vallat, Total
18. Elizabeth Wild, BP
19. Mark Wright, National Equality and Human Rights Commission
20. Yann Wyss, Nestlé

RAFI Project Team

1. Caroline Rees, Shift
2. Anna Triponel, Shift
3. Richard Karmel, Mazars