

To:

Institute for Human Rights and Business
Calvert Investments
Business and Human Rights Resource Center
VBDO
EIRIS
Aviva Investors

**Submission to the Corporate Human Rights Benchmark
by the European Coalition for Corporate Justice**

01 October 2015

ECCJ welcomes the initiative to create a Corporate Human Rights Benchmark (CHRB), support its objectives and agrees with the proposed approach.

ECCJ believes that a CHRB will be a relevant tool in comparing companies and facilitating dialogue, especially between businesses and investors, regulators or civil society. We share the view expressed by other endorsing organisations that it will serve as a motivator for companies to implement key elements of corporate responsibility to respect human rights.

We appreciate that the CHRB's focus is on measures taken to avoid, mitigate and address adverse human rights impacts in line with the United Nations Guiding Principles (UNGPs), and that it builds on concepts elaborated by the UNGPs Reporting Framework, such as that of salient human rights issues.

The general cross-sector approach it proposes, coupled with specific indicators aimed at comparing companies across industries, is a good starting point, but we must recommend proceeding with caution to avoid that the benchmark favours industries which have more serious human rights impacts.

Also, we are of the opinion that excluding the "aggregated industry impacts" is not the best choice of action. It is impossible to separate the global environmental impacts from specific human rights impacts, even if the two may not seem immediately causally linked. In fact, we believe the project should explore ways to factor in four main resource use indicators¹: global land footprint, overall material use, water footprint, and carbon footprint. These indicators are reasonably easy to measure, yet give an important indication of a company's contribution to systemic impacts on human rights that depend on the environmental factors. Failing to integrate such impacts may lead to absurd results and undermine credibility of the benchmark.

¹ [Friends of the Earth Europe has developed a set of four indicators](#) to measure resource use in order to monitor resource use levels and to develop reduction targets. The European Commission has already broadly adopted them in its 2011 [Resource Efficiency Roadmap](#). In May 2012 the European Parliament overwhelmingly [supported their adoption](#)

General comments on the development process

ECCJ calls for ensuring participation, consultation and transparency in the process of elaborating the CHRB. The consultation process should be transparent and publicly list all consulted individuals and organisations. It should also be structured in a way that ensures it is relevant, accessible and easily operated by those who will feed into it, use it or be ranked by it. Involvement of affected groups or their representatives, directly or via Southern coalitions or organisations working on human rights issues targeted by the CHRB, would help improve the indicators.

It is important that the CHRB clarifies the definition of a “company” to ensure that the tool does not lead to benchmarking of particular components of the corporate family instead of the corporate family as a whole.

General comments on the approach

We observe that a lot of emphasis is put on disclosure of process, policy, statements of commitment, and on description and monitoring. However, we advise that in developing performance indicators and allocating weight to them, more attention should be given to measuring outcomes of companies' policies and impacts of their activities, including steps taken to mitigate or remedy harm. Reducing the number of process indicators could allow for a narrower set of more meaningful indicators.

In order for it to be truly relevant and effective, the benchmark should be extended further into the value chain. The current CHRB formula falls short of being able to accurately appraise the level of adherence to human rights standards throughout a company's supply chain.

While calling for more robust disclosure of outcomes and impacts, ECCJ wishes to raise the question of how the CHRB will make sure that companies will not cheat in the process of self-reporting. The recent Volkswagen scandal is an example of how companies can manipulate data collecting mechanisms, even when they are overseen by an independent authority. The use of data generated by third parties, via a portal, can be one way to deal with the limits of self-reporting (even though this raises other questions about how this information will be curated and how human rights allegations will be evaluated). Other assurance mechanisms may be considered as well.

Finally, we suggest that the related concepts of Human Rights Due Diligence and salient human rights issues should be better linked to Leadership (A), Governance (B) and Embedding Policy in Management (C1) sections.

Specific comments on indicators

1. ECCJ supports the comments made by ICAR, specifically the following:

- Key symbols:

The CHRB should clearly explain the reasoning behind an indicator being classified as either essential or desirable.

- A. Leadership:

It is not clearly specified what constitutes an example worthy of a 1 compared to one worthy of 2 points. In our view, all activities listed by companies should be linked to salient issues.

- A.3.1. Activities with multi-stakeholders initiatives:
In the case of extractive industries and use of private security, mentions of ICOCA standards are missing.
- B.1.2, E.1.7, E.1.8:
Respecting human rights cannot be a matter of choosing between which conventions to adhere to. It is inappropriate to reward any points to companies that fail to respect, at a minimum, the International Bill of Human Rights and ILO conventions.
- B.1.7 Commitment to remedy:
A clear description of the form of remedy being assessed is absent from the indicator. The benchmark should make it explicit that companies must commit to enable access to remedy and receive a full score only if commitment is proven throughout the whole corporate group.
- C. Management system:
Outcomes resulting from a company's operations in a particular context are minimized in the indicators. Little mention is made of how a management system addresses negative outcomes when they occur, as indicators rather focus on processes. Therefore, a company could still score high by communicating processes, while in reality producing negative impacts. To fully account for key elements of robust management system the indicators need to go beyond policy and process to include tracking, assessing, mitigating and remedying harms when they occur.
- C.3 Remedies and grievance mechanisms:
Indicators need to include an assessment of a company's participation in lobbying efforts seeking to minimize remedial avenues and challenging human rights protections.
- C.3.2 Effectiveness of channel(s)/mechanism(s):
Companies should meet the full effectiveness criteria outlined in UNGPs and current indicators only measure according to two the criteria items. Companies should bring evidence in support of matching the full UNGPs criteria.
- D.1.13. Land use and acquisition:
We agree with ICAR's recommendation that this indicator explicitly addresses whether a company discloses its policies on land acquisition and admit zero tolerance for payment or receipt of benefits in exchange of land titles
- E.1.6. HR screening / investments or contracts including HR clauses:
It is unclear how scores will be determined.

2. ECCJ also makes the following comments:

- A. Leadership:
An additional condition for scoring could be reflecting lobbying activities performed against better human rights protection.

- C.2 and E1.4:
We see an overlap (to a certain extent) between C.2 and E1.4. This links to an earlier comment that outcomes resulting from a company's operations in a particular context are minimized in the indicators in section C. These two parts should be better linked and balanced in favour of the outcomes of a company's operations.
- B.2.5. and C.1.4:
The relationship between indicators B.2.5. and C.1.4. is not clearly defined, as both speak about performance incentives for senior management.
- E.1.10:
E.1.10 should be given extra importance because the data supplied by companies concerning indicator E cannot be easily verified by users of the report. In future, RAI's Assurance Guidance could be referred, as companies could easily provide misleading/inaccurate data.
- Overall, ECCJ believes it is extremely important that dividing the human rights performance of a company into Score 1 and Score 2 does not result in the CHRB going against key principles in the UNGPs.
- An additional indicator could be introduced to E: Reliability of reporting. In addition, if a company was caught providing false data under E, it would receive score penalization.

Conclusion:

ECCJ believes that CHRB is a promising opportunity for development and implementation of a reliable and effective benchmark that can further corporate responsibility and accountability. We think it is essential that it is developed through a robust consultation process and improved with respect of giving more weight to measuring performance over process.

Sincerely,

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