

## **Comments on Corporate Responsibility to Respect Human Rights Sector Guidance Project Sector Discussion Papers issued for Public Comment**

We welcome the opportunity to comment on the sector guidance drafts for the ICT, Oil & Gas and Employment and Recruitment Agents sectors. We make some general comments about these documents and the approach, and then some specific comments on the individual sector guidance.

By way of background, Hermes is a leading asset manager in the City of London. As part of our Equity Ownership Service, we also respond to consultations on behalf of many clients from around Europe and the world, including the UK's Lothian Pension Fund, PNO Media Pensioenfond's of the Netherlands, the Public Sector Pension Investment Board of Canada, and Australia's VicSuper (only those clients which have expressly given their support to this response are listed here). In all, EOS advises clients with regard to assets worth a total of €106 billion.

On behalf of these clients, which as long-term owners of companies have an interest in seeing that those companies effectively manage all the material long-term risks that they face, we engage with companies across the world on a range of key, environmental, social and governance issues. Among those issues on which we engage are human rights concerns, where we believe that these are material to the future sustainability of the company and its business model. We have engaged with companies across the three sectors covered and in many cases have raised material and relevant human rights issues. Our role is to seek change where we believe this is necessary for the creation and preservation of long-term value, and we are pleased to have had a number of such successes in our human rights engagements.

These comments are informed by our active and ongoing dialogues with relevant companies on these risks.

### **General comments**

We note that the Project Team indicates that the sector guidance as published is the product of various discussions and does not represent fixed conclusions, noting that ongoing research and analysis is needed. We would agree with this view: the guidance as it stands includes a wide range of issues of varying levels of significance. We would argue strongly that the guidance needs to be shaped and edited strongly in order for it to be helpful and influential.

At present, the guidance does not live up to the aim of identifying the *most* serious and *most* likely issues that companies face; these most important issues have become masked by the number of issues covered, and the value of highlighting them is lost. The underlying aim of this guidance must be for companies to respond appropriately to the most significant risks that they face, and perhaps to focus the concerns of wider society on those most significant

issues. It is most likely to deliver this aim if it is widely read throughout the corporate sector, meaning that brevity and focus are vital. We would welcome each sector guidance being focused on the three or four issues which are of greatest significance – genuinely identifying the most serious issues – with other items covered at most at the level of brief bullet points.

We note that each sector guide includes the same sections (5 and 6) which discuss the development of internal processes on human rights risk management and the nature of the guidance. We can understand why this is done, so that each is a stand-alone document for its sector, covering all that is necessary to understand the issues. But again we think that the length of the document will make it less likely to be used by people throughout companies, and would recommend that these sections are referred to only through a weblink, so that they are accessible but do not bulk out the guidance in a way that makes it appear prohibitive. We also feel that section 2 (defining the sector) will be off-putting for the corporate community; perhaps if it is necessary for other users this section might become an appendix instead.

### **Comments on ICT sector guidance**

We believe that the following are the key human rights risks for the ICT sector:

- (1) impacts on freedom of expression
- (2) impacts on the right to privacy
- (3) impacts through the supply chain

We believe that the discussion on both freedom of expression and right to privacy covers the appropriate issues, though we believe that each could be dealt with much more briefly. We strongly believe that the former should lead with what is currently 3.1.2, which is effectively about companies managing the risk of becoming complicit in human rights abuses by governments or other authorities.

With regard to supply chain issues, we note that the guidance discusses the issue of conflict minerals. This is a crucial issue on which we have a number of active engagements with ICT companies, but we believe it is only one aspect of a broader issue: corporate impacts through their supply chains. A further clear and current example might be with regard to the treatment of workers in the fabrication operations which produce the hardware sold by ICT companies. This broader issue is also of crucial importance, and we believe that the guidance would be significantly enhanced by broadening the discussion in this area, while still including something specifically on the issue of conflict minerals.

As indicated above, we believe that the other areas identified in the current guidance should be included at most as bullet points so that there is clarity over the messages being given and so that corporate management is more likely to read and use this guidance.

### **Comments on oil & gas sector guidance**

We believe that the following are the key human rights risks for the oil & gas sector:

- (1) impacts on the rights to free, prior and informed consent
- (2) impacts on the right to property
- (3) impacts on rights to health, clean water and food
- (4) impacts on the rights to life, security of person etc

(1) and (2) are clearly closely related: where free and informed consent is obtained, the property that is acquired from the local community, or the rights which they are no longer able to access (and we would suggest that the segment on the right to freedom of movement is simply a restatement of the right to property issues), must have been recompensed in a way that is sufficiently appropriate to gain that consent. Companies need to take great care in acquiring assets where informed consent may not have been obtained freely prior to development so that they do not become complicit in expropriation.

We believe that the right to health, clean water and food is in some senses a further articulation of similar issues to the right to property. However, given the risks of environmental degradation through oil and gas operations we believe that it is worth articulating separately.

The issue of rights to life and security of person are vital ones where the oil and gas company operates in places where there are issues between the local community and the government and/or security or police forces. We would welcome the Voluntary Principles on Security and Human Rights being given more prominence in this area; we believe that this is a strong industry-led approach to a difficult issue and we regularly encourage companies (whether in the oil and gas sector or not) to adhere to its standards.

As indicated above, we believe that the other areas identified in the current guidance should be included at most as bullet points so that there is clarity over the messages being given and so that corporate management is more likely to read and use this guidance.

### **Comments on employment and recruitment agency sector guidance**

We believe that the following are the key human rights risks for the employment agency sector:

- (1) impacts on freedom of association and rights to collective bargaining
- (2) impacts on just and favourable conditions of work
- (3) impacts on potentially vulnerable groups

Again, we believe that (1) and (2) are closely related and are one of the most potentially detrimental impacts of greater agency workforces. These risks thus need to be actively managed by companies in this sector.

With respect to (3), we believe that this issue encompasses all the various concerns highlighted in paragraphs 3.1, 3.1.1, 3.1.2 and 3.1.3, and that the document would be stronger were these issues placed within this overarching context, and not given the degree of prominence that the current ordering of the document affords them. We agree with the comment that the issues covered in 3.1 occur less frequently within the EU than elsewhere and in that context we believe that their current prominence is unhelpful.

As indicated above, we believe that the other areas identified in the current guidance should be included at most as bullet points so that there is clarity over the messages being given and so that corporate management is more likely to read and use this guidance.