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Global Reporting Initiative (GRI) Response - United Nations Working Group on the issue of human rights and transnational corporations and other business enterprises (Working Group on Business and Human Rights).

Call for Inputs: Extractive sector, just transition, and human rights.

GRI would like to thank the Working Group on Business and Human Rights for their continuous efforts in advancing human rights, and we appreciate the opportunity to provide our input on this critically important report of the Working Group. As providers of the world's most widely used global sustainability reporting standards, GRI recognizes the role that businesses play in respecting human rights and enabling a just transition through transparency and accountability.

The GRI Standards, which exist as a free public good, provide a multi stakeholder framework for organizations to communicate and demonstrate accountability for their impacts on the environment, economy, and people. The GRI Standards are a [modular system comprised of three series of Standards](#) to be used together: Universal Standards, Sector Standards, and Topic Standards. The GRI Standards are the world's most widely used reporting standards for reporting on sustainability impacts; 78% of the G250 and 68% of the 5,800 N100 companies use GRI Standards to report on their sustainability impacts, spanning all regions: 75% in the Americas, 68% in Asia-Pacific and Europe, 62% in ME & Africa.¹ Referenced in policies in 85 countries, as well as regional and international instruments, the GRI Standards are adopted across the globe.

The GRI Standards fully integrate the due diligence process as articulated in the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises and include mandatory human rights due diligence reporting.

¹ [KPMG Survey of Sustainability Reporting 2022](#)





GRI Sector Standards recently published include Coal, Oil and Gas, and the developing Mining Sector Standard. GRI brings this background and expertise to this submission, which will cover the following points:

1. The current regulatory landscape of the extractives industry
2. How the extractives industry and reporting can contribute to the 3 pillars of the UNGPs
3. The GRI Standards and the extractives industry

1. Current regulation on the extractive sector

The extractive sector faces a significant number of regulations with a variety of obligations surrounding behavior, due diligence, and transparency. Whilst there is an increasing number of regulations developing on business and human rights, this section will specifically concern those that include the extractives industry within the targeted scopes. This will also particularly highlight the reporting and transparency requirements of these regulations.

Various industry bodies within the extractive sector set out requirements for membership that include an obligation to report with the GRI Standards. For example, members of the International Council on Mining and Metals (ICMM) are required to report in accordance with the GRI Standards. They must also report information on tax, with one of the accepted frameworks for doing so being GRI 207: Tax 2019.² Similarly, The Responsible Jewellery Council requires its members with mining facilities to publish annual externally assured reports using the GRI Standards.³ Other members of the Council must review the GRI Standards for a general orientation about sustainability reporting and consider adopting key elements of the reporting requirements. The Natural Diamond Council also requires its members to report annually against the GRI Standards.⁴ The definitions within The Extractive Industries Transparency Initiative (EITI) guidance also refers to the GRI Standards, and definitions and terminology in GRI's Sector Standard on Oil and Gas and Coal and Mining are aligned with the EITI.⁵

Regionally, various initiatives exist targeting the extractive sector. Within the EU for example, legislation such as the Conflict Minerals Regulation and the De-Forestation Regulation places due diligence and reporting requirements for companies involved in extractive activities both at entity level and product level.

There are a number of national and sub-national legislations targeting the extractive sector that set out various requirements for obtaining environmental licenses which include reporting obligations and due diligence obligations. For example, in Brazil⁶, Indonesia⁷, South Africa⁸, Zambia⁹, The United Arab

² <https://www.icmm.com/website/publications/pdfs/mining-principles/member-admission-process.pdf>

³ <https://www.responsiblejewellery.com/wp-content/uploads/RJC-COP-Guidance-April-2019.pdf> /

<https://www.icmm.com/website/publications/pdfs/mining-principles/assurance-and-validation.pdf>

⁴ <https://www.naturaldiamonds.com/industry-insights/the-framework-for-an-ethical-and-sustainable-diamond-industry/>

⁵ https://eiti.org/sites/default/files/2022-01/en_eiti_gn_6.4.pdf

⁶ [Resolution INEA/PRES no. 64](#)

⁷ [Regulation No. G 24/2012](#)

⁸ [Mineral and Petroleum Resources Development Act, 2002 and its Amendment Bill 2012](#)

⁹ [The Mines and Minerals Development Act 2015](#)





Emirates¹⁰, Zimbabwe,¹¹ and The Democratic Republic of the Congo.¹² Just among these examples are a wide range of topics, reporting requirements, and impacts covered.

The extractive sector is also subject to regulation in Switzerland and the United States¹³ covering the issue of conflict-affected and high-risk areas in supply chains. Companies that comply with an internationally equivalent regulation or instrument such as the OECD Due Diligence Guidance for conflict minerals or the EU conflict minerals Regulation are exempt from the requirements under the Swiss law.¹⁴ Policies requiring transparency around payments made to governments exist at a national level in the UK and Canada, but also at the sub-national level in Quebec, Canada, with the UK legislation also covering logging companies in its scope.¹⁵

At the reporting and disclosure level, requirements vary in frequency of reporting, whether the reporting must be provided publicly, and also what must be reported. There is also a varying level of how descriptive the disclosed information must be, and the specified risks covered, such as conflict or child labor. There are also overlaps among topics in these policies, and divergence in terminology, key concepts, definitions, and disclosure format. This can create the issue of double reporting and impede the ability for tracking and monitoring impacts and progress, as well as increasing the burden on companies. Reduced comparability of information may create difficulties for decision-making and action for policy makers, companies, and civil society. Adopting the GRI Standards in regulation would enable consistency and comparability in information reported across jurisdictions.

2. The role of the extractive sector and sustainability reporting under the 3 pillars of the UNGPs

- Pillar One: State duty to respect, protect and fulfil human rights and fundamental freedoms.

As the UNGPs set out, transparency is a fundamental part of how companies account for their human rights impacts, as well as in the process of access to remedy. When businesses publicly report sustainability information, this provides governments and other policy makers with access to private sector data on operations, activities, supply, and value chains, either of companies registered in their countries, or data of the companies operating in their countries.

Governments in particular need to have access to crucial information on vulnerable and impacted groups, such as migrant workers and Indigenous, First Nations and Aboriginal Peoples. Access to private sector data, in particular when it is in line with global sustainability reporting standards can inform policy making decisions, strategies and partnerships. It can also be a tool to facilitate sustainable trade and sustainable public procurement.

¹⁰ [Due Diligence Regulations for Responsible Sourcing of Gold](#)

¹¹ [Environmental Management Act](#)

¹² [The Mining Code](#)

¹³ [Frank Dodd Act \(S1502\)](#)

¹⁴ [Swiss Conflict Minerals and Child Labor Due Diligence 2021](#)

¹⁵ [Reports on Payments to Governments Regulations 2014, The Extractive Sector Transparency Measures Act, Act Respecting Transparency Measures in the Mining, Oil, and Gas Industries](#)





States should have a duty to hold publicly reported information on sustainability impacts to the same rigor as financial information by mandating sustainability reporting that embeds due diligence in line with the expectations set out in the UNGPs.

One means that States can achieve this is to adopt existing global reporting standards for impact reporting that embed the expectations set out in authoritative instruments, such as the GRI Standards. States should also provide support via guidance, resources, and capacity building, and can also compliment the adopted reporting standards with additional disclosures that reflect the local context and expectations. One example of how this can be implemented is through adopting existing reporting standards, such as the GRI Standards for requiring public reporting against the standards for procurement or licensing for companies in the extractive sector.

- Pillar Two: Corporate responsibility to respect human rights

As stated above, many companies are already reporting on their sustainability impacts using globally accepted standards such as those by GRI. These standards not only incorporate human rights due diligence as a fundamental step¹⁶ of identifying and addressing potential impacts, but also list disclosures to allow stakeholders to scrutinize companies' actual impacts on human rights. Examples of GRI Topic Standards that shed light on human rights impacts include those for child and forced labor, rights of Indigenous Peoples, and various environmental and economic topics that can influence communities' rights to clean water, healthy environment, and development.

Another key concept integral to both due diligence and impact reporting is meaningful stakeholder engagement for identifying and addressing risks and impacts. The GRI Standards aligns with key international instruments that define what meaningful stakeholder engagement entails and includes extensive reporting on the process and outcomes of the company's engagement.

The extractive sector GRI Standards put an additional spotlight on stakeholder engagement, especially in the context of local communities. While the sector can provide economic development and opportunities for communities, they are also causing major negative impacts on human rights across the globe. Meaningful stakeholder engagement, including respect for free, prior, and informed consent and including communities in post-mining land use planning, are key pillars for cultivating good community relations and upholding human rights and livelihoods. The Mining Sector Standard under development provides an additional level of transparency related to enhanced due diligence in conflict and high-risk areas, which often presents additional risks of human rights violations.

The extractive sector also holds a key role in the just transition, with the potential to make significant contributions to economic development, particularly for lower income nations. When poorly managed, communities and workers may suffer from job losses and lack of viable livelihoods. Furthermore, as the low-carbon transition advances, there is an increased demand for minerals required to implement green energy solutions. If this extractive boom is undertaken without proper safeguards and due diligence for environmental and human rights impacts, there is an increased risk of negative impacts for communities and the environment, especially for vulnerable groups and Indigenous, First Nations and Aboriginal Peoples.

¹⁶ Please see recently published paper [Corporate sustainability due diligence policies and sustainability reporting](#) which explores the interconnectivity between sustainability reporting and due diligence.





- Pillar Three: Access to Remedy

Transparency, public reporting, and meaningful stakeholder engagement can facilitate access to remedy, both judicial and non-judicial. For example, the stakeholder engagement step of sustainability reporting enables companies to become aware of human rights risks and impacts and subsequent remediation measures, either in their own activities and operations or in their supply and value chains.

Reporting using standards also enables companies to track their own remediation processes and grievance processes and enables them to identify where there are information gaps, and where there is progress, which should be publicly communicated to stakeholders. Access to publicly reported comparable information on company's impacts, due diligence policies and measures, and activities and operations also facilitates dialogue between civil society and others who work with businesses and rights holders.

As the GRI Standards embed mandatory reporting on due diligence, companies are able to operationalize their due diligence implementation with enhanced ability to monitor and track information relevant to remediation. For example, the GRI Standards require reporting on how critical concerns have been communicated to the highest governance body, which includes concerns about the organization's potential and actual negative impacts on stakeholders raised through grievance mechanisms and other processes.

3. The GRI Standards as a tool for human rights due diligence

The GRI Standards are a modular system comprising three series of standards: the Universal Standards, the Sector Standards, and the Topic Standards. The Universal Standards, which apply to all reporting organizations, consist of GRI 1: Foundation 2021, GRI 2: General Disclosures 2021, and GRI 3: Material Topics 2021. The Universal Standards guide reporters on how to report with the Standards, and they contain requirements and reporting principles that all organizations must comply with to report in accordance with the GRI Standards. The topic Standards are each dedicated to a particular topic and list disclosures relevant to that topic. The GRI Sector Standards list topics that are likely to be material for organizations in the respective sector, and list relevant disclosures.

The revised Universal Standard reflect expectations for responsible business conduct in authoritative intergovernmental instruments, such as the UNGPs, the OECD Guidelines for Multinational Enterprises, and the ICGN Governance Principles. Organizations use the GRI Standards to determine their material topics, which represent an organization's most significant impact on the economy, environment and people, including impacts on human rights, and thus warrant reporting. The materiality assessment as described in the GRI 3: Material Topics 2021, is aligned with the UNGPs. In this process, an organization determines the significance of an actual negative impact by the severity of the impact, while the significance of a potential negative impact is determined by the severity and likelihood of the impact.

The 'materiality assessment', i.e. the process for determining the organization's most significant impacts, or 'material topics', on the economy, environment, and the people, including human rights is strongly interconnected with due diligence as set out in the UNGPs. The GRI Standards embed the UNGPs within the materiality process, as the process in GRI 3: Material topics stipulates that the significance of an actual negative impact is determined by the severity of the impact, and the significance of a potential





negative impact is determined by the severity and likelihood of the impact. The Topic Standards cover a wide range of topics representing the impacts of companies, such as forced labor, child labor, supplier environmental assessments, supplier social assessments, tax, procurement practices, indirect economic impacts, local communities, indigenous peoples, biodiversity, anti-corruption, occupational health and safety, for example.

The GRI Sector Standards are designed to help reporting organizations to determine their material topics. The Standards describe a sector's most significant impacts and reflect stakeholder expectations for public reporting on those impacts. GRI's robust standard-setting process is built upon a multi stakeholder approach to ensure the Standards represent wide perspectives and interests, including those of the civil society, labor, and other parties that deal with human rights topics.

The development of the extractive Sector Standards has included collaboration and engagement with prominent sector-relevant organizations such as ICMM, EITI, the Natural Resources Governance Institute, Earthworks, First Nations Worldwide, South Africa Resource Watch, WWF, and ILO. By using the GRI Sector Standards for reporting, companies have the opportunity to use a globally-accepted standard to communicate on their impacts on economies, environment and human rights, while stakeholders can use it as a tool to hold companies to account and demand information on the impacts that matter most.

Concluding comments

We would like to conclude this submission by reiterating the importance of transparency and publicly accessible information on companies impacts on people, the economy and the environment. GRI strongly recommends that the upcoming report of the UN Working Group on Business and Human Rights emphasizes the need for mandatory public reporting on sustainability, which embeds due diligence in line with the expectations outlined in instruments such as the UNGPs and OECD Guidelines, adopting reporting standards such as the GRI Standards.

GRI would like to thank the UN Working Group on Business and Human Rights once again for its continuous work in this field, and for enabling stakeholder engagement through this public consultation.

We remain available for discussion regarding this submission, and we look forward to reading the upcoming report on this subject.

Sincerely

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