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|  | Christy HoffmanGeneral SecretaryUNI Global Union |
| UN Working Group on Business and Human Rightshrc-wg-business@un.orgNyon, 6 October 2023 |

**Re. United Nations Call for input: investors, ESG and human rights**

Dear Working Group on Business and Human Rights,

We are writing to provide comment on your call for input ‘Investors, ESG and Human Rights’, on behalf of UNI Global Union, the global union federation for the skills and services sectors representing over 20 million workers across 150 different countries. We firstly would like to welcome the UN Working Group on Business and Human Rights attention to this critical area. Since 2008, UNI Global Union has engaged with investors regarding stewardship in relation to the human rights of workers. We also work extensively in supporting investors to advance their knowledge, policy and practice on labour rights. This consultation submission draws from this experience.

***An overview of investors engagement on human rights (In relation to questions 1, 4, 10 of Corporate Responsibility to Respect Human Rights)***

Within the current approach to incorporating ESG factors, the often-noted neglect of the S in comparison to the E and G remains firmly the case for the majority of investors. For example, 50% of investors highlighted ‘Environment’ as the top issue compared to only 23% choosing ‘Social’, in a [survey](https://d.docs.live.net/dbd0b57b5e3a1037/UNI%20Global%20Union/Adhoc/Investors%20increase%20ESG%20support%20despite%20headwinds%3A%20ESG%20CIO%20survey%202022%20%28db.com%29) undertaken by Deutsche Bank. Within the pool focusing on the S, we have witnessed an increase in the number of investors with an interest in human rights and encouraging investee companies to meet the UNGPs. For example, the UN PRI’s Advance initiative on human rights has secured the support of 255 investors with $37 trillion in assets under management.

However, many investors still do not acknowledge or implement their own responsibilities to respect human rights. There remains a tension between a focus on financial materiality and the UNGP approach of focus on the greatest risk to people. Most investors have tended to act on human rights concerns only in those cases where both a financial case and human rights case can be made. This leaves these investors failing to fulfill their responsibilities in many cases in which a business case for human rights cannot be directly demonstrated.

In part reflecting this approach, even when investors have acted upon the ‘S’ or Human Rights, fundamental labour rights are often given less attention and resource than other human rights. Rather investors have selected a small number of human rights to focus efforts on human rights such as diversity and inclusion, modern slavery and child labour, which are critical topics but not necessarily the most or only salient topics across investment portfolios. The fundamental labour rights of freedom of association and collective bargaining are enabling rights, as their fulfilment allows for workers to protect their other human rights. Alongside this human rights case, there is a strong body of evidence for its relevance for investors in relation to systemic risk and corporate performance, as outlined in the report which we co-authored in the the Global Unions Committee on Workers’ Capital [‘Shared Prosperity: The investor case for freedom of association and collective bargaining.’](https://uniglobalunion.org/wp-content/uploads/cwc_foa_cb_report.pdf) Fundamental labour rights is still, however, far too rarely reaching the top of investors’ priorities. For example, in PWC’s [2022 investor survey](https://www.pwc.com/gx/en/global-investor-survey/PwC-Global-Investor-Survey-2022.pdf), only 19% named ensuring positive labour relations as a priority.

***Investor consultation with stakeholders (Question 11 of Corporate Responsibility to Respect Human Rights)***

Despite responsibilities under the UNGPs for meaningful engagement with affected stakeholders, this is an underdeveloped area of practice amongst investors. However, we have found that the value that this engagement can bring to investors in their mitigation of ESG risk is being increasingly recognised, particularly given challenges in accessing data on companies’ labour practices. Thus we have an increasing number of investors reaching out to engage with us and our affiliate trade unions. However, this is still predominantly after there has been a controversy within a company, rather than proactively to identify potential risks. We, and other global trade union federations, have been working to shift these dynamics. For example, we act as the Secretariat for the Investor Initiative for Responsible Care, which focuses on improving the quality of jobs and care in the long-term care sectors. The initiative is supported by 138 investor signatories with $4.4 trillion in assets under management, who have worked with UNI Global Union and affiliated unions to inform their engagements with companies in the sector. However, this type of engagement is still quite unique and we are not aware of another similar initiative currently.

A key challenge impeding this type of meaningful stakeholder engagement between investors and trade unions is that investors still perceive information from trade union sources as biased, beyond other stakeholders such as NGOs, let alone what companies self-report. For trade unions, overcoming this perception requires considerable resource to dedicate to documentation and presentation of evidence. The lack of two-way dialogue with investors, such as through updates on what they have done with information provided, because of real or perceived confidentiality restrictions also inhibits communication from being meaningful engagement in line with international human rights standards.

***The role of ESG rating agencies (Question 4, General)***

ESG rating agencies play an important role in the development of sustainability indices, investment products and evaluation of companies’ sustainability practices. Often they are a principal source of data on social issues for investors, [with 71% of asset managers reporting](https://cdn2.assets-servd.host/shareaction-api/production/resources/reports/Point-of-No-Returns-2023-Part-III.pdf) that they integrate third party data on social issues into their in-house assessment methodologies. However, there is little transparency about how ESG ratings include social issues, as not all have public methodologies and those that do often do not include detailed information on how they collect data on social issues or how it is weighted alongside other topics on the environmental or governance in scores.

This lack of transparency raises questions of whether and how labour rights violations have been incorporated. We have experienced in several cases that companies with widespread and public records of labour rights violations still maintain favourable ratings, despite having specifically informed rating agencies of this information.

Moreover, social issues are largely incorporated by rating agencies in the inclusion of ‘controversies’ once an alleged violation has already gathered sufficient public media attention. At this reactive stage, they are primarily highlighting where remedy is needed, rather than in risk identification or assessment of mitigation efforts, despite many investors relying upon these tools to support their risk identification process.

UNI as part of the Global Unions Committee on Worker’s Capital are currently undertaking research on how the 10 largest ESG rating agencies are incorporating the fundamental labour rights of freedom of association and collective bargaining and engaging with affected stakeholders in their evaluation of companies’ ESG practices. More can be read about the research [here](https://www.workerscapital.org/our-resources/trade-unions-to-assess-how-esg-rating-agencies-incorporate-workers-rights-into-ratings/) and the report will be published in 2024.

In summary, from our experience of engaging with investors on labour rights, we believe there is a growing cohort taking action on human rights, however, there is still a long way to go to embed implementing investors’ own human rights responsibilities in mainstream practice. While there are many important efforts to shift this, we believe that the report of the UN Working Group on Business and Human Rights can play an important role in reinforcing these responsibilities and what they should tangibly look like in practice, including on areas such as meaningful stakeholder engagement.

If it would be helpful to have further information or discuss any of our comments in more detail, please contact Lisa Nathan at Lisa.Nathan@uniglobalunion.org.

Yours sincerely,



Christy Hoffman

UNI Global Union General Secretary