

ASEAN REGIONAL CONSULTATIONS

18-22 NOVEMBER 2013

Synthesis Report on the Regional ASEAN Consultation Meeting on the Reporting and Assurance Frameworks Initiative Held in Bangkok on 22 November 2013

Introduction

1. On 22 November 2013, Shift, together with global accounting firm Mazars and in liaison with the Human Rights Resource Centre for ASEAN (“HRRC”) held a multi-stakeholder meeting in Bangkok, Thailand to discuss the **Reporting and Assurance Frameworks Initiative** (“RAFI”). RAFI is a project facilitated by Shift and Mazars to develop public reporting and assurance frameworks based on the UN Guiding Principles on Business and Human Rights (“UN Guiding Principles”). A separate expert consultation on RAFI was held in Jakarta on 20 November, as well as a consultation with civil society organisations alone. Reports of these meetings are available on the project portal [<http://www.hrrca.org/business-and-human-rights>].

2. The meeting in Bangkok involved civil society organizations, businesses and government representatives working in Southeast Asia, particularly from the Cambodia-Lao PDR-Myanmar-Vietnam (“CLMV”) region, as well as Thailand. It was conducted in accordance with the Chatham House Rule. As a result, this report provides a summary of the principal discussions without attributing views to individual participants. The project team is grateful to the Swedish government for providing financial support to the meeting.

Overview of Discussions

3. The consultation, the first of its kind to be held by the Project Team involving participants from the CLMV region, served as an introduction of RAFI and sought initial feedback from stakeholders working in the region. Discussions focused on the following topics:

- a. Overview of the UN Guiding Principles on Business and Human Rights
- b. Global Practices and Challenges in Implementing the UN Guiding Principles on Business and Human Rights
- c. Overview of the Reporting and Assurance Framework Initiative: Where the Initiative Stands Today
- d. Stakeholder Discussion: Opportunities and Challenges for a Reporting Framework in Southeast Asia

4. During discussions, a number of general questions were raised in relation to business and human rights. One concern was raised about how the effort required to link human rights abuses to corporations, bearing in mind that such actions would harm a company’s reputation. It was agreed that, in looking at a company’s

responsibility, it is necessary to look at whether the company has caused or contributed to the human rights impact, as well as any action it has taken in response. While a company may not be directly at fault in instances where it has not contributed to an impact that is linked to its products, under the UN Guiding Principles it should still adopt measures to prevent such harms recurring, including by using its influence over those who caused them.

5. The need to get civil society more involved in discussions of business and human rights was highlighted. Better dissemination of information is necessary for this to happen. It was pointed out that, at the moment, information on compliance by companies with agreed standards is not easily available. Similarly, government agencies in ASEAN and the business community need sufficient information to be more engaged in the issue.

6. Compliance with human rights standards in the context of the anticipated establishment of the ASEAN Community in 2015 was also raised. This included questions relating to protection of human rights across borders, such as whether or not there would be credible mechanisms to hold companies registered in ASEAN or those operating in ASEAN countries accountable.

7. With regard to the Reporting and Assurance Frameworks Initiative, the group also had questions as to the extent the Project Team engages with ASEAN. The project team assured participants that discussions with representatives from ASEAN bodies were part of the process; moreover, H.E. Rafendi Djamin, Representative of Indonesia to the ASEAN Intergovernmental Commission on Human Rights (AICHR), and H.E. Makarim Wibisono, former Executive Director of the ASEAN Foundation, sit on RAFI's Eminent Person's Group.

8. Following presentations on global practices and challenges in implementing the UN Guiding Principles, stakeholders noted that more has to be done in terms of "localization of information." It was recognized that UN agencies are working very hard in the area of business and human rights, (*e.g.* the ILO has been assisting in the drafting of national labour codes that incorporate international human rights principles). Nonetheless, people need to feel that international human rights mechanisms (including those of the United Nations) are strong at the "ground" level. Participants suggested that this could be done through translation of the UN Guiding Principles into different languages, as well as producing concise and simplified versions of the UN Guiding Principles. It was noted that, while it is well written, the UN Guiding Principles document is lengthy and composed in a "UN language." Business executives may not be interested in setting time aside to comprehend it in its original form. Other suggestions included appointing a national focal point in each country and forming a collaboration among representatives from the government, business sector and civil society.

9. The group noted the different intensities ASEAN countries thus far have put into realizing business and human rights. Until recently, some member states have focused solely on the economic impact of investments and are only now beginning to demand that businesses observe human rights principles. Aside from ensuring that the rights of workers are respected, ASEAN states need to consistently increase vigilance

on the impact of business decisions, for example on the environment and access to medical services and treatment.

10. Some good practices were noted. In Thailand, Thai Listed Companies are required to report their CSR activities in accordance with reporting guidelines issued by the Stock Exchange of Thailand. A national CSR policy is also currently being drafted. The AICHR, albeit constrained by diverse political and legal systems as well as its need for unanimity in decision-making, has also pinpointed CSR as an area of study and has expressed its intent to safeguard human rights.

11. As regards the procedure involved in reporting on implementation of the UN Guiding Principles, the group sought clarifications relating to who would be responsible for reporting, as well as how much burden it would impose on businesses. How much time and money will reporting cost? Will it duplicate current human rights or CSR reporting efforts already being done by some companies? How much information (and in what format, *i.e.* quantitative versus qualitative data) should be included so that it is reasonable for companies and, at the same time, useful for investors and civil society? The group stressed that incentives should be given to companies to engage in human rights reporting. In ASEAN, it was also noted that some economies are largely driven by SMEs and “family-dominated” business enterprises; thus, a “one-size-fits-all” strategy in reporting might not work in this nuanced environment.

12. The group also reminded the Project Team that, while it might be natural for reporting to target specific locations where companies operate, methods to supervise observance of human rights standards (such as against exploitation through child labour) in the supply chain should also be considered.

13. Lastly, the group asked how effective a self-regulating process would be. Some expressed the view that, while a reporting process on a voluntary basis would be helpful, voluntary procedures have weak impact. Thus, RAFI and any other voluntary reporting procedures cannot be considered a substitute for domestic laws. In this connection, the group was interested to know if it would be possible to include a complaints procedure for raising concerns about the nature or extent of information being reported. While such complaints would not give rise to legal sanctions, they would be helpful for the purpose of allowing interested persons to submit information relative to a company’s human rights practices.

Conclusion

14. Overall, the group agreed that the consultation had raised some important questions and there was a need to sustain and steadily intensify the discussions on RAFI. They agreed that it would be helpful to get the business community more involved in the development of the reporting framework, as well as to conduct further more in-depth consultations with stakeholders.