



14 February 2023

For the attention of: The Global Sustainability Standards Board (GSSB)

Subject: Prioritisation of conflict-sensitivity in GRI Programme of Work

Dear Representatives of the Global Sustainability Standards Board,

As part of the public consultations on the GSSB draft work programme 2023-2025, it is with great pleasure that we — the Investor Alliance for Human Rights; Heartland Initiative; International Alert, PeaceNexus Foundation and TrustWorks Global - write jointly to express our unanimous views on the development of new Topic Standards, and particularly in reference to International Humanitarian Law (IHL) and conflict-sensitivity as noted in Annex 2 of the draft programme.

Who we are

The signatories of this letter have extensive experience working with investors and companies on issues relating to human rights, conflict and peacebuilding in Fragile and Conflict-affected Settings (FCS).

Summary points

We strongly believe that the issues of IHL and conflict-sensitivity must be prioritised as distinct but equally important issues in any new and revised GRI Standards for two key reasons:

1. The failure on the part of companies to comply with IHL has disastrous consequences for communities and contexts affected by conflict and may translate into material risks for companies and investors as the result of criminal and civil liability, regulatory enforcement, operational disruptions, and reputational damage.
2. The inclusion of conflict-sensitivity as a GRI standard represents a historical opportunity to encourage companies and investors to avoid predictable adverse impacts on conflict and to contribute actively to peace and stability at a time when violent conflict is on the rise.

We therefore welcome this opportunity to provide our reflections on why both IHL and conflict-sensitivity are more important than ever before to enable companies, at a minimum, to avoid driving and sustaining conflict and, where possible, to contribute actively to peace and stability when they do business in areas that are characterized as ‘high-risk’ or fragile and conflict-affected.

We have noted the proposal (outlined in Annex Two of the programme of work) put forward by our colleagues at the Australian Red Cross, ICRC and RMIT University to develop new Topic Standards on IHL; we also note the reference to “strengthening of other relevant GRI Standards on conflict sensitivity.” We fully support that proposal and underscore the importance of including conflict-sensitivity as a related but separate GRI Topic Standard as a matter of urgency. In what follows, we



elaborate our rationale for both supporting the development of IHL GRI reporting standards, as well as separate ones on conflict-sensitivity.

Conflict and violence on the rise

The Russian invasion of Ukraine has brought the realities of conflict and instability to the European headlines. War in Europe should not obscure the fact that, elsewhere in the world, 1.9 billion people live in FCS – representing 24 per cent of the global population; besides Ukraine, there are a total of 38 conflict-affected contexts in the world, and a further 37 experiencing high levels of violence, fragility and/or instability.¹ Conflict is becoming a defining feature of 21st century politics, with devastating impacts on lives and livelihoods.

Indeed, conflicts are increasing in intensity, complexity and scope. The number of civil wars has almost tripled over the course of the decade, with a six-fold increase in battle-related deaths since 2011.² Geopolitical power configurations are in flux, contributing to a dramatic increase in proxy warfare by global and regional powers. As a result, conflicts are progressively more internationalised and regionalised, making them bloodier, longer and more intractable. It is estimated that the number of states that have or are likely to experience an episode of wide-spread violence between 2020 and 2022 increased by 56% globally.³

According to the United Nations Secretary-General Antonio Guterres over 71 million people have been forcibly displaced by war, violence and persecution,⁴ resulting in the world's largest humanitarian crisis since the end of World War Two. At the end of 2022, UNHCR reported that over 100 million were fleeing conflict, violence, human rights violations and persecution – an unprecedented 'record'.⁵

The 2021 Economic Value of Peace report demonstrates that the global economic impact of violence was estimated to be \$14.4 trillion in 2019 in constant purchasing power parity terms⁶ - the equivalent of 10.5 per cent of the global gross domestic product or 1,895 dollar per person. These costs are set to increase: global peacefulness has continued to decline for the fourth time in the last five years,⁷ with violent conflicts becoming more protracted, and involving an increasingly diverse set of actors.

The climate crisis, energy transitions and the risk of conflict

The global imperative to mitigate climate change and adapt to its impacts has both positive and potentially negative implications for conflict dynamics. In FCS, the transition away from fossil fuels could disrupt well-knit and highly entrenched political economies. Moreover, many technologies at the heart of the transition are dependent on minerals – copper, iron, lead, molybdenum, nickel and zinc - much of which are currently found in FCS, with potentially devastating socio-economic and environmental impacts given the strong history in FCS of the inter-linkages between mining, violence, and human rights abuses.

Moreover, the transition to 'clean power' in the form of hydro and wind, could require inroads into the natural environment and the securing of land and natural resources, which may well be at the very centre of conflict dynamics. The complexity, scale and unprecedented speed of the transition will inevitably produce winners and losers. If poorly managed, the transition could exacerbate existing conflict dynamics, and create new sources of conflict, such as large-scale migration or land use disputes. Conversely, interventions that are informed by a deeper understanding of conflict dynamics have the potential to contribute in meaningful ways to both preventing conflict and contributing to peace.

We therefore believe the climate crisis presents both an opportunity and imperative to make conflict-sensitivity a corporate duty against which companies are both expected to report, but also actively supported to make a reality.



Policy environment for companies

The policy environment for companies has been evolving over the past twenty years but changes in expectations, duties and responsibilities have yet to be reflected meaningfully in reporting standards, despite their inclusion in several internationally recognised policy frameworks.

The ‘UN Guiding Principles on Business and Human Rights’ and the OECD’s ‘Guidelines for Responsible Business Conduct’, for instance, both indicate that corporate due diligence should be proportional to risk. In FCS, risk is elevated and the standards expected of companies must therefore also be elevated. Indeed, companies are expected to go beyond ‘business as usual’ in those contexts to both know and show that they are managing risks and impacts appropriately through conflict-sensitive operations.

More recently the UN Working Group on Business and Human Rights issued their report on ‘Human Rights and Conflict-Affected Regions: Towards Heightened Action’,⁸ which emphasizes the need for businesses to perform heightened due diligence in FCS in line with the fact that these are contexts where there are increased risks for human rights abuses to occur. And, this year, UNDP published a guidance note on *Heightened Human Rights Due Diligence for Business in Conflict-Affected Contexts*.⁹

In 2023, we expect the EU Proposal for a Directive on Corporate Sustainability Due Diligence to be adopted by the European Commission,¹⁰ thereby establishing a duty for companies to conduct corporate sustainability due diligence to address negative human rights and environmental impacts in their operations in Europe and beyond. While the proposal had significant omissions related to zones of conflict, the EU is under increasing pressure to ensure that the need for heightened, conflict-sensitive human rights due diligence is included in the Directive.¹¹

Practical realities for companies in FCS

Despite the clarity and abundance of normative frameworks, guidelines, initiatives and mechanisms and the clarity of the ‘demand’, meaningful action on the ground remains elusive.

Very few companies understand the implications of IHL and few have incorporated conflict-sensitivity into their internal policies and procedures; even fewer practice it in any meaningful or consistent manner on the ground. The few companies that *have* undertaken to operate in a conflict-sensitive manner have tended to do so *reactively* i.e., when things have, for want of a better term, already “gone south” - at which point the company has already contributed in a significant manner to igniting or exacerbating violent conflict. While commercial investors are becoming more attuned to this issue - especially following the Russian invasion of Ukraine, the coup in Myanmar, the Taliban takeover in Afghanistan, and the crisis in Xinjiang Uyghur Autonomous Region, China - the road ahead remains extremely long.

This is highly problematic both for companies and for the people living in the areas in which they are operating or sourcing. For companies, FCS are extremely complex contexts which can drive their exposure to a range of risks, including reputational, legal, financial, security and human rights risks. Small missteps can make a company a target of communities, advocacy groups, or shareholder actions. They can also impose financial costs – demonstrations can halt operations, advocacy groups may mobilize divestment campaigns, illegal armed groups may attempt to extort the company, and home-state legislatures or regulators may impose fines or penalties. As noted by the International Finance Corporation, companies operating in FCS “face business risks that are much greater than those in other emerging markets.” These include the destruction of physical capital, as well as deaths and injuries, weak state control, lack of security, and supply-chain disruptions.¹²

For the people living in FCS, it is vital to recognise that the impacts of companies are never neutral with respect to conflict. When companies and investors operate/invest in FCS, their presence and activities



interact with the context to shape the impacts that a company has on its stakeholders and on the operating context itself. While companies and investors may deliberately position themselves as neutral actors with respect to conflicts and tensions, their *impacts* are never neutral with respect to conflict. There is a high risk that conflict-*insensitive* companies inadvertently ignite, exacerbate or contribute to conflict dynamics; there are also vast opportunities for conflict-*sensitive* companies to contribute to peace and stability.

The relevance of conflict-sensitivity and IHL to business

Amongst practitioners, policy-makers and academics working on business and conflict, there is widespread understanding that complexity of the operating environment, weak regulatory frameworks, endemic human rights violations and widespread violence create heightened risks for companies. These risks are three-fold: risks to the business (commercial); risks to human rights (people); and risks to the conflict (context).

We agree with the submission by our colleagues at the Australian Red Cross, ICRC and RMIT University that the risks include unique risks under IHL, as distinct from more commonly understood human rights-related risks, such as:

- Committing or being complicit in pillage, that is, acquiring property or natural resources without the freely given consent of the owner;
- Criminal liability risks relating to military occupation, for example involvement, participation or assistance in settling civilians in occupied territories, and maintaining or developing settlements;
- Committing or being complicit in the forced displacement of, or attacks on, civilians for a reason relating to armed conflict; and
- Losing the protected civilian status afforded to businesses by failing to carefully manage their operations, personnel and connections to the ongoing armed conflict, thus becoming a potential military objective (for instance, when company security providers engage in hostilities).

Conflict-sensitivity and IHL reporting standards should be free-standing

We note with great interest the sector program inputs on existing topics, such as GRI Standards Project for oil and gas, for coal and for agriculture, aquaculture and fishing as well as the revisions of GRI 304: biodiversity 2016, labour-related topic standards and climate change-related topic standards, and GRI 201 economic performance 2016, GRI 202: market presence 2016 and GRI 203 indirect economic impacts, amongst others. We also note that the Sector Program will develop Standards for around 40 high-impact sectors, prioritized primarily on their sustainability impacts including: mining; textiles and apparel; food and beverage; banks; insurance; capital markets; utilities; renewable energy; forestry; and metal processing.

It is important to recognise that IHL and conflict-sensitivity *apply irrespective of the sector* in question. Any sector has the potential to contribute to conflict, just as any sector has the potential to contribute to peace and stability. We therefore believe there are vast opportunities for IHL and conflict-sensitivity to become an over-arching topic for GRI, which applies based on the contexts in which operations or value chains occur, mainstreamed across all sectors of work. We would strongly advocate against a sector-based approach to IHL and conflict-sensitivity at the risk of such approaches doing more harm than good.

Recommendations

Respect for IHL is a crucial facet of achieving responsible business conduct in conflict-affected areas and in helping to safeguard the lives and dignity of the local communities affected. It is our hope that continued commitment from the GSSB to consider and integrate conflict-sensitivity and IHL into GRI



standard setting will further global efforts to see the adoption of genuinely conflict-sensitive approaches to business in conflict-affected areas, while also strengthening the quality offerings of the GRI. With this in mind, our recommendations are as follows:

- **Develop a conflict-sensitivity standard, with strong reference to IHL:** Develop a topic specific-standard on conflict-sensitivity for companies operating in or sourcing from FCS - with strong reference to IHL and armed conflict for conflict-affected settings - and with corresponding reporting guidance.
- **Include a conflict-sensitivity provision in GRI 412:** Ensure that conflict-sensitivity/HHRDD is reflected in the GRI provisions on human rights assessments in FCS, in line with the recommendations UN Working Group on Business and Human Rights.
- **Awareness-raising on conflict-sensitivity and IHL:** Support the enhancement of awareness-raising on conflict-sensitivity and IHL amongst businesses.

In closing, we hope that conflict-sensitivity and IHL will become a priority agenda for the Global Sustainability Standards Board in its work programme 2023-2025; as experts on these matters, we would be delighted to contribute to the elaboration of these standards.

We remain available for any requests for further information.

Signed,

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CEO & Founder
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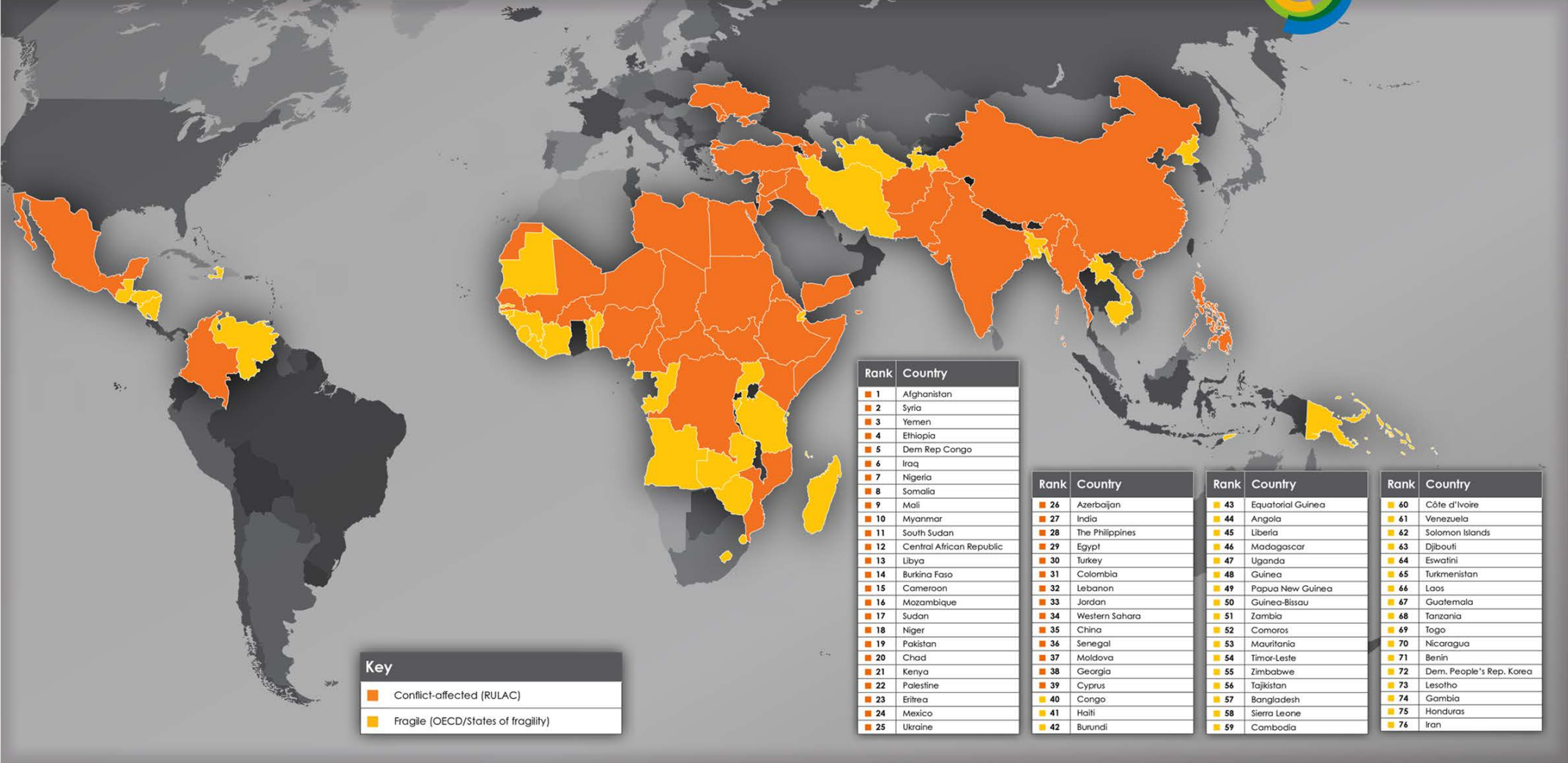
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Fragile and Conflict-affected Settings: A RULAC and OECD-based TrustWorks Index





End notes

¹ See Annex one (above); The TrustWorks Global ranking draws upon two key indices: the Swiss-based Rule of Law in Armed Conflict (RULAC) Project, which identifies conflict contexts where international law around conflict contexts applies –highlighted in orange and organised in terms of battle-related deaths over the last five years (using ACLED data); and, the OECD-DAC States of Fragility Index, which assesses country contexts according to six dimensions: economic, environmental, political, security, human and society; these country contexts are highlighted in yellow and ordered in terms of their ‘fragility’.

² Von Einsiedel, Sebastian; with, Bosetti, Louise; Cockayne, James; Salih, Cale; Wan, Wilfred, ‘Civil war trends and the changing nature of armed conflict,’ United Nations University, Occasional Paper 10, March 2017.

³ Doran, Whitney, and Jonathan D. Moyer. ‘Which development targets are hardest hit by Covid-19,’ *SDG Integration*, 2022. ([link](#))

⁴ 2019 Report of the Secretary-General on the Work of the Organisation.

⁵ UN News. ‘2022 Year in Review: 100 million displaced, ‘a record that should never have been set,’ 2022 ([link](#))

⁶ Institute for Economics and Peace. *Economic Value of Peace 2021: Measuring the global economics impact of violence and conflict*, Sydney, 2021. ([link](#))

⁷ Institute for Economics and Peace. *Global Peace Index 2020: Measuring Peace in a Complex World*, Sydney, 2020. ([link](#))

⁸ United Nations Working Group on Business and Human Rights. *Business, Human Rights, and Conflict-Affected Regions: Towards Heightened Action (A/75/212)*. 2020 ([link](#))

⁹ United Nations Development Programme. *Heightened Human Rights Due Diligence for Business in Conflict-Affected Contexts; A Guide*. New York, United States of America. 2022. ([link](#))

¹⁰ For more information see the European Commission website ([link](#))

¹¹ See for example, the Joint Statement on Conflict and Due Diligence Legislation: ([link](#))

¹² International Finance Corporation, “Generating Private Investment in Fragile and Conflict-Affected Areas,” *IFC Publishing*, 2019, ([link](#)) (accessed February 15, 2023).