INSIGHT 3

Standards & Scope:

Many MSIs adopt narrow or weak standards that overlook the root causes of abuses or risk creating a misperception that they are being effectively addressed

MSI INTEGRITY
INSTITUTE FOR MULTI-STAKEHOLDER INITIATIVE INTEGRITY

The Institute for Multi-Stakeholder Initiative Integrity (MSI Integrity) aims to reduce the harms and human rights abuses caused or exacerbated by the private sector. For the past decade, MSI Integrity has investigated whether, when and how multi-stakeholder initiatives protect and promote human rights. The culmination of this research is now available in our report, *Not Fit-for-Purpose: The Grand Experiment of Multi-Stakeholder Initiatives in Corporate Accountability, Human Rights and Global Governance.*

The full report contains six insights from experience with, and research into, international standard-setting multi-stakeholder initiatives. It also contains key conclusions from these insights, and perspectives on a way forward for improving the protection of human rights against corporate-related abuses.

This is an excerpt of the full report, focusing on Insight 3. The six insights are:

> **Insight 1: Influence** — MSIs have been influential as human rights tools, but that influence, along with their credibility, is waning.
> **Insight 2: Stakeholder Participation** — MSIs entrench corporate power by failing to include rights holders and by preventing civil society from acting as an agent of change.
> **Insight 3: Standards & Scope** — Many MSIs adopt narrow or weak standards that overlook the root causes of abuses or risk creating a misperception that they are being effectively addressed.
> **Insight 4: Monitoring & Compliance** — MSIs employ inadequate methods to detect human rights abuses and uphold standards.
> **Insight 5: Remedy** — MSIs are not designed to provide rights holders with access to effective remedy.
> **Insight 6: Impact** — There is little evidence that MSIs are meaningfully protecting rights holders or closing governance gaps.

Read the full report to find out more about the other insights, our key conclusions, and the background and knowledge base that informs this Insight and our wider analysis. The full report is available at www.msi-integrity.org/not-fit-for-purpose/.

MSI Integrity is now embarking on a new direction: applying lessons learned from the grand experiment in multi-stakeholderism to promote business models that center workers and communities in their governance and ownership. See our new work: Beyond Corporations.

Find out about our new direction at www.msi-integrity.org/beyond-corporations/

Look out for our upcoming blog series, "Rethinking MSIs."

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In this chapter: This chapter examines the ways in which an MSI's standards and scope can shape the human rights agenda for an industry. It analyzes the breadth and rigor of the standards set by some of the most prominent MSIs, and also examines which actors are charged with the burden of complying with these standards.

Summary of our insights: Although MSIs influence industry practices, when closely analyzed from a human rights perspective, certain standards that MSIs adopt are often far from what is considered to be "best practice." An MSI's standards may be too weak to lead to change, may fail to address key human rights issues, or may impose burdens primarily on Global South companies or governments without considering the leverage and responsibilities of Global North actors. Thus, even if a company or government complies with all of an MSI's standards, critical human rights abuses may continue. Yet few external actors—whether policymakers or consumers—have the time or expertise necessary to analyze an MSI's scope or limitations. Rather than transforming the underlying conditions or practices that lead to abuse, MSIs thus risk embedding certain business-as-usual practices and creating a misperception that they are effectively addressing human rights concerns when they are not.

Key findings and observations:

- **MSIs can draw attention away from the full extent of human rights abuses in an industry or create a misperception that they are being adequately addressed:**
  - Some MSI names, mission statements, or communication strategies may suggest that they encompass a broader range of issues than their standards address. Over three-quarters of MSIs in our MSI Database use "sustainable," "fair," "equitable," or "responsible" in their name or mission. However, uncovering the true scope of an MSI's standards requires expertise and close reading of technical documents that many individuals are unlikely to undertake. For example:
    - Although many supply-chain MSIs claim to address the economic wellbeing of workers, an analysis of eight prominent supply-chain MSIs reveals that—while more than half of the initiatives loosely encourage or mention providing workers with a living or fair wage—only one initiative actually requires that workers are paid a living wage within a fixed timeframe.
    - An analysis of seven prominent certification MSIs reveals that "certified" products like coffee, wood, or palm oil might still be tainted with serious human rights violations. This is because these MSIs primarily—if not exclusively—focus on monitoring conditions at the initial point of production, leaving open vulnerabilities for rights abuses when goods are washed, packaged, shipped, and at other later points in the supply chain.
  - Other initiatives, such as the Marine Stewardship Council and Kimberley Process Certification Scheme, have an explicitly narrow focus, but do little to acknowledge the wider human rights problems in an industry beyond those covered by their standards. Some civil society organizations (CSOs) and external stakeholders believe that those initiatives may crowd-out or obscure those wider issues.

- **MSIs sometimes create standards that are too weak to ensure that the underlying issue is actually being addressed.** This tends to happen through: (1) setting standards that are weaker than international human rights norms or are otherwise regressive; (2) using ambiguous language; (3) relying on processes that lack sufficient detail or rigor to ensure they lead to the protection of rights; (4) making key standards "optional"; and (5) only applying to selective aspects of a business operation or supply chain.

- **Many MSIs have set standards that assign responsibility to less-resourced actors—mainly producers and entities in the Global South—while ignoring more powerful actors in the Global North**. These MSIs risk failing to address the underlying drivers of abuse or to harness those actors with significant leverage and power to transform business practices. For example:
  - MSIs that include governments as members have not placed obligations on "home states" (the countries where multinational companies are headquartered) despite the relative power that Global North governments have over those companies and their duty to protect human rights. Instead, they focus on placing obligations on "host state" governments, who tend to have less economic or political power over foreign corporations.
  - Supply-chain MSIs do not tend to address the purchasing practices of powerful brands that drive human rights abuses along the supply chain, such as setting below-cost prices or demanding short lead times. For example, only two of the eight prominent supply-chain MSIs we analyzed explicitly recognize the need for responsible purchasing practices. Nor do MSIs adequately disclose the extent of abuses found in brands' supply chains. Instead, they shift the focus onto the behavior of producers and suppliers.
  - Placing further burdens on producers risks compounding economic pressures that can lead employers to cut costs by creating unsafe working conditions or engaging in harmful labor practices. It also risks excluding the world's poorest farmers and factories from participating in MSIs, thereby exacerbating economic inequality.

MSIs referenced: Bonsucro, Ethical Trading Initiative, Extractive Industries Transparency Initiative, Fair Labor Association, Fair Wear Foundation, Fairtrade International, Forest Stewardship Council, Global Coffee Platform, Global Network Initiative, Hydropower Sustainability Assessment Council, Infrastructure Transparency Initiative, International Code of Conduct for Private Security Providers, Marine Stewardship Council, Rainforest Alliance, Roundtable on Sustainable Palm Oil, Social Accountability International, Sustainable Forestry Initiative, UTZ, Voluntary Principles for Security and Human Rights, and Worldwide Responsible Accredited Production.

Background: Context and Approach

Given the influence of MSIs, and the resourcing that they attract and demand, MSIs' decisions about the standards they set and the approach they take can shape the scope and modality of human rights interventions for entire industries (see **Insight 1: Influence**). The practices that MSIs require companies or governments to follow can establish accepted "good practices" in an industry. The scope of issues that MSIs decide to highlight as important can shape human rights discourse and praxis in an industry. Furthermore, the way that MSIs envision obligations and design processes for implementation signals who ought to be responsible for addressing these issues: producers or retailers, companies or governments, and so forth.

In light of their influence, it is important that MSIs develop standards and approaches that will result in strong human rights protections for rights holders. Otherwise, MSIs may end up entrenching rather than upending corporate practices that lead to human rights abuse, while distracting attention and resources away from more comprehensive solutions.

Yet, MSIs can approach standard-setting in ways that may allow key abuses to persist, even if their members fully comply with their standards. This chapter examines the different problems we have observed with regards to standard-setting in MSIs. Our analysis is not meant to provide an exhaustive list of how MSIs fail to be rights-maximizing or to suggest that these deficiencies apply to all MSIs in the same way. To the contrary, we have observed that, while many MSIs may adopt approaches that risk leaving the door open for abuses to persist under the cover of their operation, the way that they do this varies from MSI to MSI, based on the specific standards, approach, and context of the initiative. The examples presented here are thus meant to illuminate, rather than exhaustively establish, the different ways that this can occur.

While throughout this chapter we reference and base our analysis on a number of different MSIs that address different issues and industries,[1] we also include a close analysis of eight MSIs in different sectors that focus on supply-chain issues. We refer to these collectively as "supply-chain MSIs." We focused on supply-chain MSIs because of their relative ease of comparison given the overlap of labor issues found within supply chains, whereas other MSIs often operate in highly idiosyncratic contexts. The eight supply-chain MSIs are: Bonsucro, Fair Labor Association (FLA), Fairtrade International, Forest Stewardship Council (FSC), Marine Stewardship Council (MSC), Rainforest Alliance, Roundtable on Sustainable Palm Oil (RSPO), and Sustainable Forestry Initiative. These eight initiatives were selected because they are often held up as leaders in their respective industries, have a strong membership base relative to their industries, and cover a range of different industries. All but one of these supply-chain MSIs use a producer certification model, in which producers who choose to seek certification by the initiative are then required to comply with their standards; brands or retailers who buy from those producers can then promote their product as being certified.[2] We refer to these seven MSIs as "certification MSIs." The remaining MSI, FLA, instead adopts a "top-down" approach to monitoring, whereby if a brand, retailer, or university joins FLA, a sampling of its major suppliers is subject to audits, but the individual products or companies are not subject to certification.[3]

1 MSIs can draw attention away from key human rights abuses or create a misperception that they are being adequately addressed

The scope and mandate of an MSI refers to the breadth of the issues or problems that it addresses and its proposed approach for addressing those issues or problems. We have observed that some MSIs may—inadvertently or not—endorse narrow approaches that draw attention away from key human rights abuses or create a misperception that they are being adequately addressed. This means that members of an MSI could comply with all of the MSI's standards, and yet, abuses may persist in a way that consumers, policymakers, or other external stakeholders do not appreciate. There are two different ways we have observed this happening, which we outline below.

A. MSIs' names, mission statements, or communication strategies may suggest that they address a broader range of issues than their standards actually do

MSIs, through their mission statements, names, or communications materials, may create the appearance or suggestion that they address the key human rights issues for a particular industry, or have adopted a robust approach for tackling a particular issue. However, a close analysis of the initiative's context, scope, and standards—which is a technical and time-intensive exercise that many external actors are unlikely to conduct—can reveal that it addresses a narrower range of issues than may be apparent. That there is a gap between the appearance of what an MSI addresses and what its standards actually cover means some MSIs risk contributing to a public misperception that key issues are being addressed, when they are not.

Many MSIs describe their mission and activities in broad language that may give the impression that their standards cover a wide range of issues. Over three-quarters of MSIs in our MSI Database use "sustainable," "fair," "equitable," or "responsible" in their name or mission. Similarly, a review of the mission statements of MSIs in our MSI Database reveals that most are broad, such as "to empower decisions that create social, environmental and economic benefits for everyone";[4] "to promote environmentally sound, socially beneficial and economically prosperous management of the world's forests";[5] and "to create a better future for people and nature by making responsible business the new normal."[6] However, there is sometimes a gap between this messaging and the narrow range of issues that an MSI actually addresses.

To understand the exact issues that an MSI addresses requires a close reading of the initiatives' standards, monitoring systems, and membership base. These are often contained in multiple—often dense and highly technical—documents, which can be difficult to locate, cross-reference, and understand. It also requires assessing an MSI's scope and approach in light of the industry, the key adverse impacts that can occur in the sector, and the history behind the initiative's formation—all of which may require considerable research.[7] Our own analyses of MSIs frequently take hours, if not days, of desk-based research; indeed, the detail and complexity of MSIs mean that to have a comprehensive understanding of the scope and operations of an MSI usually takes in excess of 100 hours of analysis of desk-based material, as well as interviews with MSI staff.[8] In addition, sometimes information central to understanding an MSI's operations and practices is not available on its website, perhaps due to limited resources and communications budgets, which then requires engaging with MSI staff.[9] As a result, assessing the limits of an MSI's scope or the adequacy of its approach is an exercise that many policymakers, investors, consumers, or other external stakeholders may be unwilling or unable to undertake.[10]

To illustrate how this can occur, Spotlight 3.1 examines how the broad language used by supply-chain MSIs can contrast with the limited scope of their standards. There, while many use broad language to suggest they address the economic wellbeing of workers, and more than half of the initiatives loosely encourage or mention providing workers with a living or fair wage, only one initiative actually has standards that require workers are paid a living wage within a fixed timeframe (and even this is only in limited contexts). Similarly, Spotlight 3.4. explains how products like coffee, wood, or palm oil might be labeled with an MSI's certification mark, and yet may have been produced under serious labor violations when the goods were being washed, shipped, or at other points in the supply chain. This is because it is only by closely analyzing the standards of certification MSIs that it becomes clear that very few of these initiatives actually monitor for labor or rights abuses beyond the initial point of production or harvest of a good. While all seven of the certification MSIs monitor at the factory or farm level, only two conduct any on-site monitoring of the conditions of workers or other rights holders at other stages in the supply chain, which thus allows for abuses to occur in certified products undetected.

Certification MSIs, such as the seven we analyzed in this section, are particularly at risk of misleading the public. This is because the labels and certification marks used by certification MSIs on different products are generally simple images accompanied by few words; the language that they do include is generally broad and does not specify the scope of the MSI. They do not provide extensive disclaimers or details about what the certification entails or covers, or information about the limitations of an MSI's standards. Indeed, as the case study on how different initiatives treat the issue of a living wage shows (see Spotlight 3.1), some MSIs use identical terms, but with different meanings: RSPO provides a "sustainable" label that includes a living wage standard whereas other MSIs, such as the Sustainable Forest Initiative and MSC, have a "sustainable" label that does not include a living wage standard. Indeed, MSC certified fish as sustainable for over 15 years without addressing any labor issues, and its revised standard selectively focuses on forced labor and child labor without addressing other relevant human rights issues (see Spotlight 3.2).

This lack of information about what certification covers and the precise meaning of terms used by MSIs creates knowledge asymmetry between consumers and MSIs that heightens the potential for misperception. Indeed, consumer concerns are behind recent legal proceedings alleging that certification by UTZ of Nestlé chocolate is falsely advertised as sustainable, given the prevalence of child and forced labor in the production of cocoa.[11] The duplication of MSIs and other voluntary standard-setting initiatives in some industries, which results in label competition within the same product range, can potentially create further confusion. By way of example, there are at least three different MSIs that certify coffee and five that monitor clothing and apparel factories (although not all provide consumer-facing labels), each with their own standards.[12] This is only within the context of MSIs; there are hundreds of other initiatives, plus many more companies, that also operate in these industries (see **Insight 1: Influence**).

The risk of creating public misperceptions is not unique to certification or consumer-facing MSIs, however. Other prominent MSIs without a certification focus also have language or mission statements that suggest a wider scope than is actually covered by their standards. For example, much of the communications materials of the Global Network Initiative, whose members include large technology companies such as Facebook, Google, and Microsoft, suggest that it has a broad mandate to ensure internet and telecommunications companies "respect freedom of expression and privacy."[13] However, when closely analyzed, its standards do not address key privacy or freedom of expression issues, such as tech companies' sale to private actors of user data or the way in which this data is used for targeted advertising.[14] Rather, most of GNI's standards and records of its activities are limited to how technology companies should respond to *government* restrictions or demands for data.[15] This perhaps explains why GNI did not publicly comment on or reprimand Facebook after the high-profile Cambridge Analytica scandal in 2018, or with respect to other non-government data breaches by member companies.

While the initiative's focus on governments is important and understandable in light of its formation in response to the alleged complicity of tech companies in human rights abuses by the Chinese government (see **Insight 1: Influence**, where we discuss the history of GNI in detail), it is the failure to be explicit and provide a justification for its narrow focus—or to acknowledge those other privacy issues and advocate for them to be addressed elsewhere—that underpins our concerns. This is because it risks creating a misperception that the initiative, and its members, are actively addressing a wider range of rights issues than they actually are. Indeed, we note that, until recently, the initiative claimed a broad public mission to: "protect and advance freedom of expression and privacy in the ICT industry by setting a global standard for responsible company decision making and by being a leading voice for freedom of expression and privacy rights."[16] Shortly after we engaged with GNI staff on this issue in October 2019, the mission statement published on GNI's website was updated, and it now better reflects its focus on government demands.[17] However, it has not made any clarification statement or undertaken any broader changes to its website or communications materials to note its limited focus, or to encourage governments or other actors to address the broader issues surrounding user privacy that are outside of this focus.

SPOTLIGHT 3.1. Supply-chain MSIs might be "Fair," "Sustainable," and "Responsible," but do they guarantee workers a living wage?

MSIs addressing supply-chain issues often make broad claims and use language that suggests they are addressing issues relating to one of the key issues plaguing those sectors: the poverty and exploitation of workers at the bottom of the supply chain and their inability to earn enough to live. But do they actually ensure workers are paid a fair wage?

The economic precarity of farm and factory workers in the Global South is well-documented[18] and explicitly spurred the formation of some MSIs.[19] According to some calculations, the legal minimum wage in Bangladesh, China, India, Indonesia, and Turkey—countries that are heavily relied on for the manufacture of consumer goods and clothing—ranges anywhere from one-half to one-fifth of the amount it costs to live in those countries.[20] The problem of poverty wages in forestry and agribusiness in the Global South is similarly well understood.[21]

Perhaps unsurprisingly, given the significance of this issue, all but one of the eight prominent MSIs that address labor issues in these industries have a mission or have made wider public statements that indicate their commitment to addressing the economic wellbeing of workers (see Table 3.1 in this spotlight). Indeed, several MSIs have also formed the Global Living Wage Coalition, which has produced a standardized methodology for MSIs to determine whether particular workers are receiving a living wage, and has released benchmarks that determine the level of living wages for a given sector and sub-region.[22] The notion of a "living wage"—the idea that "fulltime workers and their families should earn enough to afford a basic acceptable living standard and so not have to live in poverty"[23]—has been codified in major declarations by the International Labor Organization (ILO) and recognized by the broader international community.[24]

Yet, the proliferation of pledges around the importance of a living wage, and creation of a clear methodology for calculating the living wage rate for different regions, has not translated into clear requirements that ensure workers are in fact guaranteed a living wage by either their employers or brands. Instead, while more than half of the eight prominent supply-chain MSIs loosely encourage or mention providing workers of a living or fair wage, only one initiative has a clear standard *requiring* it be implemented within a fixed timeframe, and this is limited to specific contexts (see Table 3.1). While we understand that brands may face implementation challenges with respect to ensuring that their suppliers pay their workers a living wage, if brands were genuinely committed to ensuring workers receive fair pay, we have little doubt that they could overcome these logistical issues. To begin, the requirement that workers are paid a living wage could be a condition entered into contracts with suppliers. If brands then transparently disclosed their supplier details, and made their contracts legally-enforceable by third-party beneficiaries, multiple avenues for monitoring and enforcement by workers, unions, and CSOs would also exist (see **Insight 4: Monitoring & Compliance**). As Table 3.1 and Part 3.A.(i) of this chapter demonstrates, however, MSIs have largely avoided imposing any meaningful obligations on brands to change their purchasing practices and also failed to require that suppliers ensure their workers receive a living wage.

TABLE 3.1. Analysis of "living wages" standards in supply-chain MSIs

MSI and Mission	Examples of materials relevant to economic wellbeing or a living wage for workers	Does the MSI publicly include reference to a living wage in its current standards, even if it is not mandatory?	Does the MSI have a standard requiring that a living wage be paid within a clear timeframe?
Bonsucro "Our mission is to ensure that responsible sugarcane production creates *lasting value for the people,* communities, businesses, economies and eco-systems in all cane-growing origins." (emphasis added)	Publicly states that standards explicitly seek to improve "three pillars of sustainability: economic, social and environmental viability"; At the time of writing, Bonsucro was reviewing its standards. This review includes considering a potential living wage indicator.[25]	No. Its wage standard is limited to "applicable minimum" wages.	No.
Fairtrade International "Our mission is to connect disadvantaged producers and consumers, promote fairer trading conditions and empower producers to *combat poverty,* strengthen their position and take more control over their lives." (emphasis added)	Living wage included as an issue on Fairtrade's website;[26] Member of the Global Living Wage Coalition.[27]	Yes. Some but not all of its standards refer to a living wage.*	In some contexts: The Fairtrade Textile Standard requires that "if wages are below Fairtrade's approved living wage benchmarks, the company must agree with trade union or workers' representatives to a time-bound plan of no more than six years to increase pay to a living wage."[28] However, for other standards, Fairtrade only requires progressive realization without a prescribed or mandated timeline, or does not have a living wage requirement.*

MSI and Mission	Examples of materials relevant to economic wellbeing or a living wage for workers	Does the MSI publicly include reference to a living wage in its current standards, even if it is not mandatory?	Does the MSI have a standard requiring that a living wage be paid within a clear timeframe?
Fair Labor Association "The mission of the Fair Labor Association is to combine the efforts of business, civil society organizations, and colleges and universities to promote and protect workers' rights and to improve working conditions globally through adherence to international standards."	Launched a dedicated "Fair Compensation" portal on its website;[29] Released a "Fair Compensation Strategy";[30] Commissioned several studies on wage levels.[31]	Yes. "Where compensation does not meet workers' basic needs and provide some discretionary income, each employer shall work with the FLA to take appropriate actions that seek to progressively realize a level of compensation that does."[32]	No. The Workplace Code of Conduct requires employers to work with FLA toward progressive realization, but does not set a timeline for reaching a living wage.
Forest Stewardship Council "The Forest Stewardship Council mission is to promote environmentally sound, socially beneficial and economically prosperous management of the world's forests." (emphasis added).	Publicly states that "FSC is committed to the continuous improvement in wages for workers in the forestry sector, and the long term goal that workers are paid a living wage";[33] Released "Living Wage Auditor Guidance" document to aid in the verification of payment of living wages.[34]	Yes. Requires that audited entities "shall pay wages that meet or exceed minimum forest industry standards or other recognized forest industry wage agreements or living wages, where these are higher than the legal minimum wages. When none of these exist, [the entity] shall through engagement with workers develop mechanisms for determining living wages."	No. While FSC provides detailed guidance on how to determine whether companies are paying a living wage, their standards do not require that companies pay a living wage, as either the "minimum forestry standards" or "recognized forest industry wage agreements" are satisfactory.
Marine Stewardship Council "Our mission is to use our ecolabel and fishery certification program to contribute to the health of the world's oceans by recognising and rewarding sustainable fishing practices, influencing the choices people make when buying seafood and working with our partners to transform the seafood market to a sustainable basis."	MSC's primary discussion of labor conditions occurred after labor violations in the seafood market were exposed (see Spotlight 3.2). There, MSC issued a broad response noting, "The MSC Board recognises the increasing importance placed on social issues when considering sustainability." It promised to introduce "a risk based approach that assures stakeholders that labour practices throughout the MSC certified supply chain, from ocean to consumer, meet internationally accepted norms."[35]	No. There is no wage standard. There is not even a requirement to pay the minimum legal wage.	No.

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Rainforest Alliance "We envision a world where people and nature thrive in harmony."	Launched a dedicated portal on its website for living wage issues, "Living Wage: Rainforest Alliance content about our work to advance living wages for workers around the world";[36] Commissioned studies into living wages; [37] Member of the Global Living Wage Coalition.[38]	Yes. The standard requires that "no less than the legal minimum wage or wages negotiated collectively, whichever is higher." However, the standard also has "continuous improvement compliance" indicators that include the living wage.	No. While progressive realization of the "continuous improvement criteria" is mandated, it is technically possible to remain certified indefinitely without ever paying all workers a living wage.**
Roundtable on Sustainable Palm Oil "RSPO will transform markets to make sustainable palm oil the norm."	Released "RSPO Guidance for Implementing a Decent Living Wage" document that sets rules for how its members should calculate living wages.[39]	Yes. "Pay and conditions for staff and workers and for contract workers always meet at least legal or industry minimum standards and are sufficient to provide decent living wages."	No. Producers that fail to pay a living wage are required to establish an implementation plan for closing any gaps between current wages and living wages. However, there is no time-bound requirement for implementing the plan, nor is it clear whether there are repercussions to failing to honor the implementation plan.
Sustainable Forestry Initiative "A world that values the benefits of sustainably managed forests."	While the initiative has some general statements about why it is "better for woodworkers," it does not make any claims or statements addressing the economic wellbeing of workers.	No. Its wage standard is limited to "prevailing wages" (which is not defined) when examining countries outside the US and Canada. The US and Canada are exempted from wage analysis as they each have a "strong legal framework."	No.

* As Fairtrade International has many standards, refer to our dataset for details of these standards (see sources for this table).
** This is a result of two exceptions. First, the living wage standard is only relevant if the Global Living Wage Coalition has provided a living wage benchmark for the specific country or region being audited. At the time of writing, living wage benchmarks were available for 26 different cities or regions of the world.[40] Second, there is no requirement that farmers ever need to comply with the highest "continuous improvement criteria": to pay "a living wage to all workers." Rather, this criterion is part of a group of the highest level of "improvement criteria." Farmers need to overall meet 50% of the criteria in this group in the sixth year of being certified. However, they could choose to implement other criteria in this category, and thus not ever need to implement the living wage standard.

Source: With the exception of "other communications" or other cited material, the source data for this information is available from the spreadsheet, "MSI Trends Dataset," which is available on our website at www.msi-integrity.org/datasets and contains information current as of June 30, 2019. The information in the "other communications" column is based on publicly available information.

B. MSIs with a narrow mandate can risk limiting awareness or focus on the wider range of human rights problems in an industry

While some MSIs have a wide mandate and scope, yet only address a narrower range of issues, others have an explicitly narrow mission. Some CSOs and external stakeholders have raised that, if an MSI picks-and-chooses which issues it will address without drawing attention to its limited scope or to the existence of other problems in an industry, it might deflect attention away from those other—sometimes major—human rights issues. While it is difficult to determine if these MSIs are, in fact, resulting in such crowding-out or the obscuring of other issues, we note that this is often a very real concern of CSOs that do not participate in MSIs, who—over the years—have also raised concerns that these initiatives (and their participants) may be corralling the limited financial and personal resources available to confront the full range of human rights issues in an industry.

We have included two case studies to illustrate this problem of adopting a narrow mission without justification or contextualization. The first is MSC, which is a prominent MSI in the seafood industry (see Spotlight 3.2). For almost two decades, it certified fish as "sustainable" without any examination of labor or broader human rights abuses in fishing. However, when reporting first began to emerge detailing the scale and extent of labor abuses—particularly forced labor—in the fishing industry, the initiative announced it would begin considering forced and child labor in its certification system, as explained in the case study in Spotlight 3.2. While the initiative's focus on environmental issues was very clear when one examined its standards, its limitations on labor abuse protections may not have been known to consumers or other stakeholders for the reasons explored earlier in this chapter around consumer knowledge and perceptions. Such knowledge gaps may have contributed to the industry being able to operate for so long without addressing major human rights violations. The new labor standards it has since adopted risk repeating this problem, as they have a very narrow focus on child and forced labor, as outlined in the case study. As a coalition of human rights organizations noted in a statement criticizing the limitations of the new standard, "[f]orced labor cannot be easily identified or seen as an isolated problem; it is an accumulation of labor rights abuse," and thus the failure of the initiative to now include abuses that are related to forced labor, such as wage theft or retention of identity documents, "jeopardize[s] the credibility of the MSC certification and raise[s] serious cause for concern."[41]

The second case study is the Extractive Industries Transparency Initiative (EITI) (see Spotlight 3.3). The initiative is considered highly influential in promoting norms and good practices around transparency in the extractive sector. However, some commentators are now questioning whether promoting transparency is a sufficient approach to addressing the structural drivers of abuse, corruption, and lack of development linked to the "resource curse" that prompted EITI's formation, or if the focus on transparency might be crowding out more far-reaching approaches that might achieve more transformative change.

Another commonly cited example is the Kimberley Process Certification Scheme. (Note, however, that while the initiative is often referred to as an MSI, it is not in our MSI Database because the companies and civil society it involves as observers do not have decision-making power.)[42] This initiative is sometimes referred to as having been established "to assure consumers that their purchase of diamonds were not financing wars or human rights abuses,"[43] and thus it offers a general assurance that certified diamonds are "ethical."[44] However, the initiative focuses on the trade of rough diamonds "used by rebel movements or their allies to finance conflict aimed at undermining legitimate governments."[45] Thus, unbeknownst to consumers, they may buy certified diamonds that had been sold to fund conflicts perpetrated by *governments*, or that were produced by forced labor, child labor, or under other human rights violations, as these are not covered by the narrow definition. Although the initiative has been put on notice about its failure to address these other pressing issues for many years, it has not adopted a wider definition, nor has it explicitly recognized it has a narrow definition and that such problems fall outside its remit, or taken other advocacy or engagement steps that would address these other human rights issues. This has led to accusations that the initiative is whitewashing the industry by certifying diamonds on such a narrow basis despite the prevalence of child labor and other abuses.[46]

This is not to suggest that MSIs need to address every human rights or accountability problem relevant to a given industry. There may be important reasons for an initiative to adopt a narrow focus, or begin by doing so. However, it is critical that MSIs acknowledge and provide a rights-based justification for adopting narrow approaches if it means that other pressing and serious human rights issues will remain unaddressed or outside its remit.[47] The examples we have noted in this section are problematic because they largely *do not acknowledge* the other problems in their industries or otherwise recognize the limitations of their scope, yet have come to leverage and attract considerable resources within their fields. It is this failure to contextualize an MSI's efforts within the wider issues of an industry—or even to name those other issues—that risks obfuscating or detracting from those wider issues.

SPOTLIGHT 3.2. The Marine Stewardship Council: Can seafood be "sustainable" if it might have been caught by forced labor?

For 20 years, MSC has been labeling fisheries as "certified sustainable" if they meet the initiative's environmental standards.[48] The initiative is influential: it has provided labels for "over 30,000 products," has been referred to on "menus in over 100 countries," and has commitments from major food suppliers like McDonalds and Carrefour to carry MSC-certified fish.[49]

Beginning in June 2014, journalists exposed the presence of slavery in the seafood industry in a series of articles that garnered international attention.[50] These reports drew attention to the fact that the MSC certification did not include labor or human rights standards, as its focus was "environmentally sustainable fishing."[51] In other words, it became clear that consumers buying MSC-certified products might have been buying products made with forced labor or other human rights abuses, as the initiative was not monitoring for these issues given its focus on the environment.

In August 2014, the Board of MSC announced its intention to expand its standard to cover forced labor, although it did not mention it would cover other labor abuses, noting:

> The MSC standard does not include a requirement for the assessment of the social and employment conditions of fisheries and their supply chains . . . However, MSC condemns the use of forced labour.[52]

CSOs working on labor rights in the fisheries sector have noted that there are many other labor and human rights issues that are prevalent in the fishing industry, including wage theft, excessive work hours, and obstruction of workers' ability to change employers.[53] However, these were not included in the revised standard. The decision by MSC to selectively focus on forced labor and child labor was thus criticized by a global coalition of nearly 60 environmental, human rights, and labor organizations as "unacceptable."[54]

MSC stated that it was limiting the scope of labor and workers' rights to forced and child labor, not because of a human rights assessment or input from workers that these were the most pressing issues in the industry, but because it feared that, if it adopted broader labor standards, existing members "could decide to drop out of the MSC program facing the additional cost and time burden of the new requirements, while potential new members could see it as too high of a burden to enter the MSC program."[55]

The standard adopted by MSC to address child and forced labor has also been widely criticized as weak.[56] This is because it is very limited: the relevant standards only prohibit fishing operators who have been convicted of forced or child labor in the last two years, or who do not disclose their internal policies relating to child and forced labor.[57] Only some on-shore companies in the supply chain of those fisheries—determined by the MSC's classification of the risk of the country where they are located—are then monitored on-site for labor abuses.[58] This on-site monitoring system has also been criticized because the third-party labor audit programs it relies on have proven ineffective in other industries.[59]

SPOTLIGHT 3.3. Extractive Industries Transparency Initiative: A narrow focus on transparency may be limiting broader efforts to address good resource governance

EITI requires that countries publish financial information and disclosures relating to natural resource revenue in the extractive sector (mainly oil and gas). The initiative was launched in 2001 following concerns that, in some countries, instead of providing economic or social benefits to their citizens, the income from oil, gas, and minerals disappeared into the bank accounts of corrupt officials or funded ongoing domestic conflicts and associated human rights abuses.[60] In addition, human rights organizations directly linked the profits and actions of some extractive companies to violence or abusive activities in Angola and Nigeria.[61] The approach taken by EITI was to focus on the transparency of the sector by creating a global standard that requires member countries to issue public reports that disclose the payments and revenues made by extractive companies to the state.[62]

EITI has influenced good practice on revenue transparency both within and outside of its membership,[63] and has since expanded to include transparency on related issues such as beneficial ownership of extractive companies and disclosure of companies' legally or contractually required social contributions. Membership in EITI comes with considerable technical assistance and funding for actors seeking to implement it, and it enjoys support from international financial institutions and governments for its transparency-based approach.[64]

However, EITI has been criticized because transparency by itself is "insufficient to address the multifaceted problems resource-rich countries face,"[65] and EITI's success in establishing norms relating to transparency might "be diverting attention away from core structural reforms that are needed to overcome the resource curse."[66] These reforms include: (1) ensuring that resource-rich governments are accountable to their citizens about how public funds are spent; and (2) ensuring that oil, gas, and mining companies do not engage in behavior that results in violence or other human rights abuses.

Indeed, researchers have questioned whether CSOs who receive funding to engage in EITI and other transparency-focused MSIs may feel pressure to engage in the initiatives, while also narrowing their advocacy approaches and "crowding out" other issues.[67] These include electoral reforms to allow citizens to vote out regimes that mismanage funds, strengthened legal protection for civil society, and social mobilization regarding state use of funds derived from natural resource extraction.

There may have been pragmatic reasons behind launching EITI with an intentionally narrow focus on the transparency of payments. However, after almost two decades of operation, unless EITI broadens its focus to more meaningfully address the underlying issues that drove its development—such as public accountability for revenue expenditure, or lack of civic space and human rights protections to voice concerns about corruption, fiscal mismanagement, and related issues—it may face increased criticism for its limited ability to bring meaningful change to the citizens it seeks to benefit (see **Insight 6: Impact**).

2 An MSIs' ability to address key human rights issues can be undermined by weak standards

Another means by which MSIs sometimes create the impression that they are addressing an issue that they are, in actuality, not, is if they set standards for companies or governments that are too weak to ensure the underlying issue is actually being addressed. In other words, a company might be technically complying with an initiative's standards, but that compliance may be insufficient to address the specific abuse at which the standard is targeted. Thus, harms could persist despite a member being deemed compliant.

While it is difficult to undertake a wide comparative assessment of the standards set by all the MSIs in our MSI Database—as doing so requires deep contextual, legal, and qualitative analysis—our general observation is that many MSIs have a significant number of standards that meet the essential elements in our *MSI Evaluation Tool*: that standard-setting MSIs make standards publicly available and accessible to rights holders; make standards mandatory with a clear timeline for compliance; ensure that standards are verifiable; ensure that standards are consistent with international law and norms; and require that standards apply to all business activities of the member companies/governments.[68] For example, the majority of the 10 MSIs that we evaluated when testing the *MSI Evaluation Tool* primarily had standards that meet these criteria.[69] The eight supply-chain MSIs that we reviewed all include at least some reference to the ILO core conventions in their standards.[70] Some MSIs even approach relevant international law as the minimum floor or foundation that they then build on.[71] Indeed, the quality of the standards set by an MSI—and the concomitant promise by its members that they will adhere to those standards—are often central to the hope that the initiative will address the underlying issue that prompted its formation (see **Insight 1: Influence**).

However, we have observed that weak standards can exist alongside those stronger standards. Generally, we have observed that standards tend to be weak if they are related to issues that entail complex structural reforms or considerable expense to meaningfully implement, such as issues linked to freedom of association, freedom of expression, or raising wage rates and prices.[72]

Below we provide examples of five different deficiencies that primarily contribute to weak standards: (1) inconsistency with international or national law, or otherwise the setting of regressive standards; (2) ambiguous language; (3) relying on processes (rather than expecting substantive outcomes) that lack sufficient detail or rigor to ensure they lead to the protection of rights; (4) making addressing issues optional and therefore not central to becoming certified or passing audits; and (5) selective, rather than comprehensive, application to a business's activities or supply chain.

- **(1) and (4): Regressive and/or optional standards:** The Global Coffee Platform seeks to set "minimum sustainable production practices agreed on by the entire sector," which it describes as a "baseline" compared to other MSIs such as Fairtrade International and Rainforest Alliance.[73] However, some of the Platform's standards set the baseline for coffee production regressively low.[74] For example, the standards allow collective bargaining agreements to be "partially applied";[75] for child labor to be "happening" as long as farmers are being encouraged to send children to school and those children are not part of the regular workforce;[76] or to pay wages late or in violation of the contract.[77] While fully implementing collective bargaining, eradicating child labor, and paying wages on time are included as aspirational standards, they are ultimately optional.

- **(2): Ambiguous language:** The Voluntary Principles on Security and Human Rights (VPs) were created after a number of prominent international oil and gas companies were implicated in violence at their extractive sites (see Spotlight 1.1. in **Insight 1: Influence**). As a result, the VPs seek to guide extractive companies on how to provide "security for their operations in a manner that respects human rights."[78] However, their standards contain considerable ambiguities which allow a lot of latitude for behavior, some of which could undermine the stated goal of the VPs if companies engage in bad faith or lack understanding of behaviors that might contribute to abuse. For example, the VPs state that companies should (emphasis added):

    - "record and report any *credible* allegations of human rights abuses. . . to appropriate host government authorities. *Where appropriate*, Companies *should urge* investigation and that *action be taken* to prevent any recurrence."
    - "*to the extent reasonable*, monitor the use of equipment provided by the Company [to public security providers] and to *investigate properly* situations in which such equipment is used in an *inappropriate* manner."
    - "*Where appropriate,* Companies should include the principles outlined above as contractual provisions in agreements with private security providers. . . *To the extent practicable*, agreements between Companies and private security should require investigation of unlawful or abusive behavior. . ."[79]

  These broad terms are not defined nor is interpretation guidance provided by the initiative. While implementation resources have been produced by civil society and government actors, and are available on the VPs's website, these materials are strictly optional.[80]

- **(3) Broad processes that do not ensure rights-consistent outcomes:** The Global Network Initiative sets out the steps that internet and communications companies should take if they receive government demands to divulge their users' private information or to restrict content.[81] These steps recognize that it is "neither practical nor desirable" to challenge the legality of all requests received, and instead permit companies to determine whether to challenge a request based on a range of criteria.[82] While the criteria include weighing the risk of severe human rights impacts and the extent of the company's leverage to address those impacts, they also permit a company to consider the cost and likelihood of success of challenging a decision.[83] There is no guidance about when or how "cost" can be used as a factor, which means that a company may have full knowledge that it is contributing to a human rights violation and choose to do nothing if the company deems it too costly. This weighing process might not be of concern if there was rigorous oversight of these decisions, however, as the initiative's monitoring and disclosure requirements are very minimal (see Spotlight 4.2 in **Insight 4: Monitoring & Compliance**), there is no opportunity for public scrutiny of these decisions. Instead, there is broad discretion left to the companies that may allow for rights-inconsistent outcomes to be made without sufficient oversight.

- **(5) Selective application to business activities:** A brand or retailer's consumer products might be labeled with an MSI's certification mark, and yet, have been produced with serious labor violations, as explored in Spotlight 3.4. This is because very few certification MSIs actually monitor for labor or rights abuses beyond the initial point of production or harvest of a good, which means abuses may be occurring at other points in a company's supply chain without being detected.

SPOTLIGHT 3.4. The chain of custody loophole: How "certified" goods might have been tainted with human rights violations

Most of the certification MSIs we reviewed primarily focus their monitoring and oversight efforts on the point of harvest or production. Yet, after a supplier or producer is certified or passes an audit in a certification MSI, the goods that they produced are often transferred through many other companies before they arrive at the final brand or retailer for sale: coffee beans, palm oil, fish, or agricultural goods may need to be washed, processed, and cooked; electronics or clothing may need to be assembled and packaged elsewhere.

Rights abuses can occur at these other steps in the supply chain, yet most MSIs do little to monitor or account for abuses that might occur after the initial point of production. All of the seven certification MSIs that we reviewed have a "chain of custody" standard that is intended to provide some assurance about what happens to certified goods after they are certified but before they reach the brand. However, these standards can be significantly less detailed and robust than the standards and oversight processes in place for the initial supplier, and instead, tend to focus primarily on the traceability of certified products. Only three of the seven MSIs we analyzed (Fairtrade International, FSC, and MSC) explicitly require compliance with international human rights or international labor standards, and on a very narrow range of issues, such as child and forced labor or the other ILO core conventions. Moreover, one of those three MSIs relies on self-declarations rather than any external monitoring, and another excludes certain actors unless it is in what the initiative considers a "high risk" country (see Spotlight 3.2). Put another way, only one of the seven MSIs does general on-site monitoring of the conditions of workers or other rights holders after the initial site of product certification.

This means there is potential for abuses in supply chains for products that are nonetheless certified by these MSIs. Independently arriving at an understanding of this limitation is not easy; it generally requires an analysis of an MSI's technical "chain of custody" documents and familiarity with the human rights or labor standards mentioned, as well as their monitoring mechanisms. Not only is it unlikely that the average consumer would be able to decipher these, it is also unlikely that they will try.

TABLE 3.2. Deficiencies in Chain of Custody Certification Standards

	Chain of custody certification standard addresses international human rights or labor laws relevant to the issues covered by the MSI?	Chain of custody certification requires on-site monitoring or auditing?
Bonsucro	No.	N/A
Fairtrade International	Limited to the ILO core conventions, which are narrower than the other issues covered by the MSI.	Yes.
Forest Stewardship Council	Limited to the ILO core conventions.	No. Limited to a self-declaration confirming no direct or indirect involvement in violation of the ILO core conventions.
Marine Stewardship Council	Limited to child labor and forced labor.	Only for actors operating in certain countries deemed by the initiative to be of greater risk (see Spotlight 3.2).
Rainforest Alliance	Limited to prohibiting material violations of "labor laws." As it does not specify any international laws, this appears to be a reference only to national or local laws, which may be set below international standards.	No. Limited to a self-declaration confirming no direct or indirect involvement in violation of the ILO core conventions
Roundtable on Sustainable Palm Oil	No.	N/A
Sustainable Forestry Initiative	Limited to avoiding sourcing from "controversial sources," which requires conducting due diligence to ensure compliance with a variety of national and local laws.	No. However, due diligence is required.

Note: FLA was excluded from this analysis as it adopts a top-down approach to monitoring and does not provide any certification or consumer label.

Source: The source data for this information is available from the spreadsheet, "MSI Trends Dataset," which is available on our website at www.msi-integrity.org/datasets and contains information current as of June 30, 2019.

Other cases further illustrate the ways in which an MSI, by virtue of its weak standards, can risk legitimizing irresponsible practices while failing to address an industry's key human rights issues that the MSI otherwise appears to be addressing. For example, the case study on MSC in Spotlight 3.2, as well as the examination of the supply-chain MSIs and their living wage standards in Spotlight 3.1, both provide examples of MSIs with standards that, if analyzed closely, are too weak to reliably ensure human rights protection and therefore may contribute to a misperception that the MSI is adequately addressing the key issue.

3 Some MSIs place more burden on Global South actors than Global North actors, which undermines their ability to address the underlying pressures or root causes of human rights abuse

MSIs also shape the human rights agenda and influence norms through their decisions about which actors they set standards for or *who* they place obligations on. We have observed that some MSIs shy away from focusing on the responsibilities and roles of Global North actors, and focus instead on those in the Global South. That is, they tend to put extensive obligations on the governments and companies who supply goods or produce resources rather than the corporations or governments who demand those resources or goods. This approach translates into focusing on those with relatively few resources, while actors with the greatest resources and spheres of influence are being underleveraged and asked to make relatively few changes. In some cases, additional costs and burdens placed on producers may risk exacerbating the economic pressures that can contribute to abuses or compound the economic vulnerabilities of the world's poorest producers.

In this way, not only do such MSIs risk exacerbating or entrenching relative power imbalances between the Global South and Global North, they also risk failing to identify key underlying drivers or root causes of abuse. Global North actors, through the demands of their producers, can contribute to the pressures that result in abuses. Importantly, these approaches also shield Global North actors from scrutiny, while undermining an MSI's ability to address key human rights issues or to ensure the effective protection from and prevention of abuse.

While this allocation of burdens may not occur in all MSIs, we look at two types of MSIs where we have noticed this trend. First, we examine MSIs that focus on supply chains, by analyzing the eight prominent supply-chain MSIs referred to at the beginning of this chapter. Second, we examine MSIs that include governments as actors within their membership. The analysis may not apply to other types of MSIs, such as those that focus on the provisions of services (rather than goods).

A. Supply-chain MSIs: A risk of exacerbating the economic precarity of the world's poorest and most vulnerable producers, while failing to address how the purchasing practices of large brands can contribute to labor abuses

(i) Many supply-chain MSIs impose obligations on producers, but do not address the purchasing practices of brands that can contribute to abuse

The economic power of large corporate brands and retailers is often significantly greater than the factories, farms, or other suppliers that produce the goods those large corporations sell. For example, just four companies control 70% of the trade in agricultural commodities by revenue.[84] Similarly, just three companies hold about 80% of the global tea market.[85] Even in industries without such concentration of corporate power, like the garment industry, large brands or retailers may have significantly more economic leverage than suppliers.

These large companies often leverage their market power to shift costs and risks to their suppliers, creating downward pressure on wages and working conditions. A survey by the ILO in 2016 of more than 1,450 suppliers in 87 countries from the manufacturing and agricultural sectors—including all of the sectors covered by the eight supply-chain MSIs we reviewed—identified three common purchasing practices that adversely influence working conditions and wages: (1) the setting of low prices, with more than a third of the companies accepting orders that were ultimately below the cost of production; (2) short lead times for orders, which puts pressure on suppliers to require employees to work overtime, hire casual labor, or outsource production in order to meet tight deadlines; and (3) a lack of secure contracts.[86]

The conclusion of the ILO survey, along with many other studies, is that these irresponsible purchasing practices directly place pressure on suppliers to cut costs, which in turn incentivizes labor exploitation and human rights abuses throughout global supply chains.[87] Labor costs can sometimes be the only variable that suppliers control, putting pressure on suppliers to not pay promised wages, pay below the minimum wage, or outsource to more informal producers or agents, where there is a higher prevalence of forced labor and other abuses.[88] Examples are rife: lower commodity prices for coffee and sugar have been linked to rises in debt bondage, forced overtime, and illegal wage deductions; lower garment and electronics prices correlate with the increases in labor violations.[89] Suppliers may also attempt to cut costs on building safety, creating occupational health risks for workers. Notably, a study of the root causes of the Rana Plaza factory collapse in Bangladesh—which killed more than 1,130 people and injured approximately 2,500[90]—found that profit margins in the low single digits "exacerbated a tendency on the part of Bangladeshi suppliers to cut corners on safety."[91]

"Despite the correlation between purchasing practices and labor abuses, most MSIs do not monitor or address the behavior of powerful corporate buyers. . ."

Despite the correlation between purchasing practices and labor abuses, most MSIs do not monitor or address the behavior of powerful corporate buyers even though they likely obtain reputational benefits from participating in them or sourcing materials certified by supply-chain MSIs. Of the eight prominent supply-chain MSIs we reviewed for this chapter, only two explicitly recognize the need for responsible purchasing practices: Fairtrade International and FLA (see Table 3.3).[92] While it is positive that these two MSIs are engaging with brands' performance, we note that their standards about responsible purchasing practices lack details or specificity.[93] These ambiguities risk allowing for the underlying issues or abuses to persist and do not meet essential elements for effective standards as contained in the *MSI Evaluation Tool* (see the earlier discussion on weak standards). As explained further in this chapter, there is also little transparency or public oversight about compliance with these standards by both of these MSIs. The remainder of supply-chain MSIs do not expect the brand or buyer to adopt responsible purchasing practices with respect to feasible lead times or prices, even though these purchasing practices have been linked to human rights abuses.

TABLE 3.3. Standards that apply to buyers among eight prominent supply-chain MSIs

	Requires brand/ buyer to pay a price premium or guarantee a fixed minimum price?	Expects the brand/ buyer to adopt responsible purchasing practices with respect to feasible lead times or prices?	Requires brand/ buyer to monitor all of its product lines or achieve 100% MSI-certified products?	Publishes the aggregate number of abuses found throughout the brand's supply chain or the brand/buyer's portion of product lines that is certified?
Bonsucro	No.	No.	No.	No.
Fairtrade International	Yes.	Yes.	No.	No.
Fair Labor Association	No.*	Yes.	Yes.**	Sometimes.***
Forest Stewardship Council	No.	No.	No.	No.
Marine Stewardship Council	No.	No.	No.	No.
Rainforest Alliance	No.	No.	No.	No.
Roundtable on Responsible Palm Oil	No.	No.	No.	Yes, but very difficult to access and interpret.
Sustainable Forestry Initiative	No.	No.	No.	No.

* FLA has a purchasing principle that places an expectation of "alignment of financial terms with FLA Workplace Standards" on brands but it does not explicitly require a premium or minimum price.[95]
** FLA has exceptions for smaller or less frequently used facilities.[96]
*** This is available for some (but not all) brands that have passed FLA's accreditation measurement. See Spotlight 3.5 for further discussion.

Source: The source data for this information is available from the spreadsheet, "MSI Trends Dataset," which is available at our website at www.msi-integrity.org/datasets and contains information current as of June 30, 2019.

Compounding this failure to focus on brands' purchasing practices is the lack of attention given to highlighting or transparently disclosing the extent of abuses present within a brand's supply chain(s). For almost all of the MSIs we reviewed, it is very difficult—if not impossible—to discern the extent to which brands source from suppliers that have been found to use abusive practices or from certified suppliers (as opposed to suppliers that are not certified or subject to any oversight). While some MSIs publish the monitoring or audit reports on individual producers or suppliers that detail the level of compliance with standards, such as FLA, Rainforest Alliance, and Sustainable Forestry Initiative (see Table 4.2 in **Insight 4: Monitoring & Compliance**), the same level of scrutiny is not applied by MSIs to the behavior of brands. For example, six of the eight supply-chain MSIs do not disclose *any* information about the proportion of a brand's product lines that are certified or the total number of abuses found throughout a brand's supply chain (see Table 3.3). This means, for example, that there is no way to determine the amount of certified sugar that members of Bonsucro, such as agricultural giants Cargill and Wilmar, buy: it could be 2% of their total sugar, or it could be almost all of it.

". . . it is very difficult—if not impossible—to discern the extent to which brands source from suppliers that have been found to use abusive practices. . ."

The two supply-chain MSIs we reviewed that do publish information about brand-level compliance do so in a manner that makes it difficult, and sometimes impossible, to discern the extent to which brands have abuses in their supply chains or source from certified suppliers. RSPO publishes the standardized form that brands, retailers, and other companies are asked to submit annually about their progress in increasing the amount of certified palm oil they purchase.[94] However, the forms are complex and not suitable for a non-technical audience. They do not contain the most essential statistic: the proportion of certified palm oil versus non-certified palm oil purchased by brands annually. Instead, individuals need to look through all the data and calculate those figures manually. The other MSI that publishes information about brands is FLA. However, as the analysis in Spotlight 3.5 demonstrates, the approach taken by FLA makes it difficult to accurately assess a brand's performance. The consequence is that, while individual factories are subject to transparent and standardized reports on their compliance, there is currently no means of easily distinguishing between an FLA company that appears to produce its goods with only very minor or rare instances of noncompliance (or, indeed, whose entire supply chain appears to provide a living wage to employees) versus a company whose supply chains reveal systemic abuses that were addressed superficially upon discovery.

This is all part of a broader tendency of supply-chain MSIs that we have observed: to focus attention on the conduct of individual factories, farmers, and other suppliers/producers in global supply chains, rather than highlight whether, and to what extent, large consumer-facing brands have taken steps to reliably reduce the presence of rights abuses within their supply chains, as well as the extent to which they use problematic purchasing practices that may contribute to abuse. This, combined with limited chain of custody requirements imposed on brands (discussed in Spotlight 3.4), risks deflecting attention away from whether, and to what extent, consumer-facing brands have reduced the risk of rights abuses within their supply chain.

Ultimately, this approach to standard-setting allows brands to gain the reputational benefits of participating in an MSI in return for having done little to improve their practices. Companies may therefore be incentivized to use MSIs to legitimize their problematic behavior and strengthen their market position, without fundamentally changing the behaviors that can contribute to abuse.

SPOTLIGHT 3.5. A blind-eye in fashion: Limited transparency and public reporting on the extent of abuses found in apparel and clothing brands' supply chains, or on their purchasing practices

There are four MSIs in our dataset that primarily focus on the garment industry. The disparities in their transparency and public reporting requirements demonstrate the lack of meaningful standards that are imposed on brands, especially when compared to the attention placed on producers. With little attention on the practices of brands or the extent of their abuses, there may be little motivation for these actors to adopt responsible purchasing practices. This is consistent with the approach taken by other MSIs that include garments among their broader focus, such as Fairtrade International and Ethical Trading Initiative.[97]

We note that the MSI with the greatest transparency on brand behavior, the Fair Wear Foundation (FWF), has two factors that differentiate it from the other MSIs: (1) it has a membership base of small brands; (2) it was formed with support and continued engagement from labor unions.

Worldwide Responsible Accredited Production: No inclusion of brands, and thus no transparency or reporting on their practices

Worldwide Responsible Accredited Production (WRAP) only sets standards for suppliers; it does not have a consumer-facing label or chain of custody standard, nor can brands become members. As a result, there are no obligations placed on brands or final buyers, and no monitoring of their purchasing practices, disclosure of the number of abuses in their supply chain, or any other transparency efforts. Brands and retailers, however, may choose to indicate on their websites that they source from WRAP-certified facilities.[98] WRAP does not appear to have any policies that govern these claims. Put another way, brands can obtain reputational benefits without being expected to change their purchasing practices or disclose the extent of abuses in their supply chain.

Social Accountability International: No transparency or public reporting on brands

Brands and final buyers participate in Social Accountability International's (SAI) "Social Fingerprint" supply-chain management program, which requires that brands complete a self-assessment and independent evaluation.[99] The assessment results are private; all company-specific information is confidential and there is no brand-specific public reporting. To the contrary, SAI commits that it will not release any reports, articles, or statements mentioning company names or that include information that could identify a company without its prior approval. Members engage in dialog with SAI about development and implementation of an improvement plan to remain a member.

Fair Labor Association: Limited and irregular reporting on brands

Under FLA standards, brands and final buyers must subject all of their major suppliers of a certain size to third-party audits.[100] At the end of an initial implementation period, the FLA evaluates companies at the headquarter level "to determine whether they have social compliance systems in place to proactively identify and address risks or instances of noncompliance."[101] The exact process for accreditation is not publicly available.

If the brand receives accreditation, FLA releases a report summarizing the review. While these accreditation reports provide some basic information on a brand's systems and policies, they lack a means for the public to easily assess the practices and performance of brands. For example, FLA has issued approximately 130 reports on the conditions of factories that produce apparel for Adidas, and recent accreditation reports have begun to list complaints that have been filed against the company and other special investigations that have occurred, as well as some generalized analysis of these. However, these reports still do not include any standardized or comprehensive disclosure of the abuses or instances of noncompliance found in a brand's supply chain found through FLA's audits or other mechanisms.[102]

In addition, although brands are supposed to be reaccredited every three years, this timetable is not adhered to. For example, while Nike has been an FLA member for almost 15 years, it has only three publicly available accreditation reports: from 2008, 2014, and 2019. Similarly, New Balance has been a member of FLA since 2008, but the only publicly available accreditation reports are from 2014 and 2018. It is unclear why these timeframes were chosen, whether the other reports are not publicly available or the companies failed accreditation during the other periods, or whether for the first six years the company did not have sufficient processes and practices to pass accreditation.

The consequence is that, while individual factories are subject to transparent and standardized reports on their compliance, there is currently no means of easily distinguishing between an FLA company that appears to produce its goods with only very minor or rare instances of noncompliance versus a company whose supply chain reveals systemic abuses that it addressed superficially upon discovery.

In a promising move towards increased transparency, in 2019 FLA voted to approve a requirement that brands should publicly disclose their supplier lists.[103] However, as at the time of writing, these were not available on FLA's website or included in recent accreditation reports.

Fair Wear Foundation: Annual scorecards that rank the behavior of brands

FWF recognizes shared responsibility between brands and suppliers, acknowledging that "the management decisions of clothing brands have an enormous influence on factory conditions," such that "factory conditions cannot be separated from the purchasing practices of brands."[104] Compared to the other MSIs in the apparel sector, FWF has strong transparency and focuses on brand practices and behavior.

The initiative conducts an annual "Brand Performance Check" that results in a release of a public scorecard for each member brand.[105] As with the FLA accreditation reports, the FWF Brand Performance Checks do not disclose details on the performance of factories in a brand's supply chain. Instead, the scorecards, which are often more than 30 pages long and follow a clear standardized reporting structure, are based on indicators of brand purchasing practices, as well as on a brand's monitoring systems, remediation of violations, and handling of complaints, among other issues. The indicators are directly linked to key issues, such as whether the brand "determines and finances wage increases" through to assessments of how it "mitigates root causes of excessive overtime."[106] Each indicator has a transparent set of instructions for how it should be scored, as well as a narrative evaluation and tailored recommendations for improvement.

This direct and public focus on the policies and practices of member companies that own brands is encouraging; however, it should be noted that FWF does not provide standardized disclosures on the number and type of abuses and violations found in a brand's supply chain.

(ii) Certification MSIs place additional costs and burdens on producers, which risk exacerbating the pressures that lead to rights abuses and compounding the economic vulnerabilities of the world's poorest producers

Not only do most of the certification MSIs we analyzed fail to require buyers to adhere to responsible purchasing practices, but many of these MSIs instead place additional costs and burdens on producers. By doing so, they risk further exacerbating the financial pressures on producers that lead to labor exploitation and human rights abuses, and excluding the smallest producers and suppliers from participating in the certification models—and thus the supply chains—of large brands. In this way, these MSIs might be compounding the economic vulnerabilities of the world's smallest producers by using an approach that favors agribusiness and large-scale production over small-scale production. Given that most of the world's farms are small-scale and family farms—with family farms operating about 75% of the world's agricultural land and thought to be responsible for the majority of the world's food and agricultural production[107]—and that most of those are in rural poor areas of the Global South,[108] the long-term economic effects of this exclusion may be significant.

Certification can be prohibitively expensive for small producers and suppliers. However, all of the seven certification MSIs that we analyzed require the producers to pay for initial certification and follow-up monitoring.[109] A study commissioned by RSPO, for example, found that the cost of preparing and passing initial certification was 5–14% of annual revenue for smallholder farmers in Indonesia, whereas the market premium for selling certified palm oil was only 1–4% of regular palm oil prices—which would "sometimes but not always be sufficient to cover recurrent costs."[110] Maintaining certification also comes with costs. For example, a group of smallholders in Vietnam joined FSC after receiving grant funds to cover the US$12,000 cost of their first monitoring visit. However, annual visits cost approximately US$7,000, which researchers found was "beyond the capacity" of the smallholders, given annual income in the area is approximately US$1,000. Fairtrade International, which is premised on addressing fair pricing and is one of the few MSIs to set fixed certification prices, has monitoring costs that, for smallholder farmers, begin at approximately €2,100 for an initial audit and continue at €1,200 per year thereafter.[111]

These monitoring costs are in addition to other costs. For example, some initiatives charge membership fees, such as RSPO, which charges €500–2,000 per year depending on the size of the producer.[112] In addition, there are documentation costs and the ongoing costs of remaining compliant. For example, for the Vietnamese farmers who sought FSC certification (discussed in the paragraph above), to satisfy ongoing management and compliance requirements, they also had to undertake administrative tasks such as labeling wood and completing necessary paperwork (which most farmers have to enlist the support of a local technical department to do, given its complexity and language barriers).

While some MSIs have attempted to address these concerns by creating new standards for small-scale production, or by creating funds where small producers can apply for support with certification costs,[113] there is evidence that these efforts may not overcome the barriers to participation that MSIs create.[114] Thus, despite the fact that some development organizations, government agencies, and other actors in the supply chain—including sometimes the final buyer—have sometimes voluntarily assisted with certification costs, this may not be a sustainable long-term arrangement.[115]

These costs mean that small producers may be disproportionately burdened in seeking to gain certification, or—because the requirements of many supply-chain MSIs are more manageable for larger and more commercialized producers—the smallest producers and suppliers may be left out of MSI models altogether. This is compounded by the fact that it is unclear whether certification or participation in an MSI will lead to increased revenue for small-scale producers. Only one of the eight MSIs, Fairtrade International, requires that producers are paid a premium or are guaranteed a minimum price, although this is paid into a communal fund for workers and farmers, and it does not guarantee that an entire crop will be sold as Fairtrade-certified; thus, a portion may not earn the premium.[116] The remaining MSIs operate on the assumption that the market will provide a premium for certified products—or that the resulting benefits or practices encouraged by the initiative, such as more effective land or product management, will result in increased profit.[117] However, this is left up to market forces and it is unclear whether certification or otherwise meeting an MSI's standards results in additional net revenue (see **Insight 6: Impact**).

B. MSIs' standards impose obligations for the "host states" but not "home states" of multinational corporations

MSIs that work directly with "home country" governments—the countries where the transnational companies are incorporated or housed—often give these governments decision-making power, but rarely impose any expectations of exhibiting good practice or broader obligations.

The failure to leverage the wide-reaching governing power of home countries is a lost opportunity for MSIs seeking to meaningfully address global governance gaps. There are "strong policy reasons for home States to set out clearly the expectation that businesses respect human rights abroad," as articulated in the *UN Guiding Principles on Business and Human Rights*,[118] and home countries generally have considerably more capacity to regulate corporations than host states. As one commentator has put it:

> "[T]he reality is that for many states, particularly non-industrialised states, the economic power of [a transnational corporation] operating within that state (the 'host state') is such that the host state may be unable or unwilling to control effectively the activities of that corporation, or the host state may be prevented from doing so by other inter-national treaty obligations, such as bilateral investment agreements. This means that, while the host state undoubtedly will be in breach of its human rights obligations if it does not act to prevent these human rights violations occurring, the [transnational corporation] will remain unaccountable and unrestrained, and those whose rights are violated will be without an effective remedy. In contrast, the state where the head-quarters of the [transnational corporation] is incorporated or otherwise has its main centre of operations (the 'home state'), is usually an industrialised state," with the resources, power and legal interests to regulate in relation to the extraterritorial activities of the relevant corporation, if it chooses to do so. [119]

Several of the MSIs in our MSI Database include Global North governments—ordinarily home states—as voting members, yet despite their influence and jurisdiction over key actors, they are not expected to follow any standards or exercise control over companies within their jurisdictions.[120] For example, two MSIs in our MSI Database—the Infrastructure Transparency Initiative (CoST) and EITI—require that countries create rules governing how multinational corporations that they host operate within their territory, yet do not place any obligations on the home countries where these multinational corporations are headquartered. This is not for lack of interest by Global North countries in participating in MSIs. EITI, for example, has 15 "supporting countries," who are all from the Global North and include countries where many major extractive companies are registered, including the United States, Canada, France, Australia, and the Netherlands.[121] The supporting countries have decision-making power within the initiative, including board seats.[122] However, the only obligation on these countries is to make a "clear public endorsement" of EITI.[123] There are no expectations of supporting countries to establish practices or policy environments that advance or "support" the mission of EITI, such as requiring their transnational extractive companies to disclose revenue across all their operations or creating incentives for their companies to operate in countries that are in full compliance with the *EITI Standard*.

Indeed, in 2017, the US did the opposite: it repealed a rule that required US-listed companies to disclose payments made to governments for the development of oil, gas, or minerals.[124] Yet, the US continued to retain a seat on the EITI Board despite its clear undermining of the initiative's mission.

Instead, both CoSt and EITI are premised on countries creating rules for when companies operate within their territory. In both initiatives, these implementing countries are almost exclusively from the Global South: all 19 of CoST's members and 48 of EITI's 52 members are Global South countries.[125] Many of these are fragile or conflict-affected states, including Afghanistan, Iraq, Central African Republic, and the Democratic Republic of the Congo. In both of these cases, this means that the MSIs' ability to address the problems that prompted their development rests largely on the capacity of countries with histories of resource-fueled conflict or corruption to develop robust internal controls, rather than also considering the power, leverage, and responsibilities of countries where many extractive or infrastructure companies are registered or incorporated.

Other MSIs in our MSI Database include governments as voting members on their boards or governing bodies—which are often dominated by Global North representation—and also do not require these predominantly home governments to undertake meaningful obligations that would ensure the advancement of the MSI's mission. For example, the International Code of Conduct for Private Security Service Providers, Hydropower Sustainability Assessment Council, and the VPs all explicitly recognize the importance of home governments, yet put minimal—if any—obligations on home governments, while granting them key decision-making power.[126]

Our Insights

Although MSIs influence industry practices, when closely analyzed from a human rights perspective, certain standards that MSIs adopt are often far from what is considered to be "best practice." An MSI's standards may be too weak to lead to change, may fail to address key human rights issues, or may impose burdens primarily on Global South companies or governments without considering the leverage and responsibilities of Global North actors. Thus, even if a company or government complies with all of an MSI's standards, critical human rights abuses may continue. Yet few external actors—whether policymakers or consumers—have the time or expertise necessary to analyze an MSI's scope or limitations. Rather than transforming the underlying conditions or practices that lead to abuse, MSIs thus risk embedding certain business-as-usual practices and creating a misperception that they are effectively addressing human rights concerns when they are not.

The centerpiece of an MSI is often its standards. These, along with its mission and mandate, consist of the change that an MSI, and its members, claim to be committed to enacting. This vision, at least rhetorically, offers a tremendous improvement to the state-of-play of human rights practices in the industry or broader environment: eliminating child labor, upholding freedom of expression, or promoting access to water.

However, while some of an MSI's standards may be robust and contribute to strong norm development, if examined closely, in critical areas the scope and standards of an MSI can set a low bar for "best practice" and entrench practices that fail to prevent abuses. We have seen these weaknesses and failures manifest in different ways, although they are almost always linked to issues that present the greatest cost, risk, or threat to the most powerful actors in MSIs: large corporations or Global North governments. Difficult or complex issues that would likely entail significant financial or reputational costs, such as reporting alleged abuses by security forces or challenging government requests for internet users' data, may be omitted altogether or only implemented through weak standards.

While it was always understood that, by their nature, MSIs would be a product of negotiation between stakeholders with different, sometimes competing, interests, the degree to which the scope and standards of MSIs both affirm corporate power and risk exacerbating power imbalances is striking. For example, rather than obligate Global North governments who participate in MSIs to take steps to incentivize or mandate that their corporations respect human rights or comply with an MSI's standards—an effective and sensible step given their jurisdictional reach over their corporations—they have been allowed to largely free-ride in MSIs; they are afforded decision-making power with little, if any, expectation to change their behavior.

Similarly, a supply-chain MSI genuinely committed to addressing the economic precarity of workers could, for example, require brands to insert clauses in their contracts with suppliers that a living wage must be paid to workers, and empowering workers with the ability to enforce those clauses as third-party beneficiaries (see **Insight 4: Monitoring & Compliance**, where this is discussed). However, instead, most supply-chain MSIs have either skipped the issue or left it as a matter for suppliers, without any clear obligation or timeframe by which workers must be paid a fair wage. Indeed, with rare exception, brands in these MSIs are not required to pay any levies or increased prices to assist in off-setting the cost of production occurring in a way that respects rights, nor to make changes in their purchasing practices that can contribute to abuse. While we understand that there are challenges in calculating a living wage, if brands were genuinely committed to ensuring workers received a living wage, we have little doubt that they could overcome these logistical hurdles. To us, the issue is more likely bound-up in questions of a brand's desire to preserve its profit margin, pricing, and competitiveness. MSIs have simply been forced to accept these limits, even if it has meant creating barriers to MSI participation on the world's poorest and most vulnerable producers, thus stratifying existing economic inequalities.

In these ways, MSIs are inherently limited by the redlines drawn by corporations or governments. This undermines the potential of MSIs to achieve transformative change in areas where initiatives risk seriously jeopardizing the profit or power of members. The funding and operational models of MSIs—which often rely on contributions from these government or corporate members, or rely on them to "drive demand" for others to participate—put further pressure on initiatives to adopt standards and approaches that are palatable to corporate and government members.

In the case of MSIs, details about how they actually operate and the extent of their mandate matter. Yet, as the approaches set by MSIs are difficult and time-intensive to fully untangle and understand, few actors outside of MSIs are likely to engage in the technical exercise of analyzing their limits. This asymmetry means that some MSIs risk creating a misperception that key human rights issues are being effectively addressed, when they are not; drawing attention away from other human rights issues in an industry or more effective efforts designed to address the root causes of abuse; or deflecting attention away from the role and responsibilities of powerful actors in preventing abuse. In these ways, many MSIs thus risk ultimately embedding corporate power, rather than tackling the root causes and drivers of abuse.

Seen in their worst light, companies may use the cover of MSIs to legitimize irresponsible behavior, while gaining reputational benefits that largely enable them to continue their business-as-usual practices. This is perhaps most overt in MSIs that use messaging to suggest that they encompass a broader range of issues than their mandate or scope actually addresses—particularly those who enable corporate members of MSIs to sell products that carry their "fair," "responsible," and "sustainable" certification marks, thus giving those members a reputational boon. However, insofar as MSIs have influenced the wider field of business and human rights (see **Insight 1: Influence**), and in particular what is considered "good practice," it extends to all MSIs. We therefore seek to reinvigorate discussions about how to deal with the underlying governance gaps that remain from the approach MSIs have taken in partially or tepidly addressing key issues in an industry.

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Endnotes

1 The MSIs referenced in this chapter include: Bonsucro, Ethical Trading Initiative (ETI), Extractive Industries Transparency Initiative (EITI), Fair Labor Association (FLA), Fair Wear Foundation, Fairtrade International, Forest Stewardship Council, Global Coffee Platform, Global Network Initiative (GNI), Hydropower Sustainability Assessment Council, Infrastructure Transparency Initiative, International Code of Conduct for Private Security Providers, Marine Stewardship Council, Rainforest Alliance, Roundtable on Sustainable Palm Oil (RSPO), Social Accountability International, Sustainable Forestry Initiative, UTZ, Voluntary Principles on Security and Human Rights (VPs), and Worldwide Responsible Accredited Production.

2 The source data for this information is available from the spreadsheet, "MSI Trends Dataset," which contains information current as of June 30, 2019, and is available from our website at www.msi-integrity.org/datasets.

3 See Fair Labor Association, *Charter Document* (Washington, DC: FLA, 2017), 6.

4 See "About GRI," Global Reporting Initiative, accessed February 5, 2020.

5 "Mission and Vision: Protecting Forests for Future Generation," Forest Stewardship Council, accessed February 5, 2020.

6 "About the Rainforest Alliance," The Rainforest Alliance, accessed February 5, 2020.

7 See, for example, our Evaluation Methodology for a recommended approach to evaluating an MSI's scope and standards: MSI Integrity and the International Human Rights Clinic at Harvard Law, *MSI Evaluation Tool*, ver. 1.0, (Berkeley: MSI Integrity and IHRC, 2017).

8 MSI Integrity, *Development of the MSI Evaluation Tool and Evaluation Methodology*, (Berkeley: MSI Integrity, 2017), 10.

9 See for example, Dorothée Baumann-Pauly and Justine Nolan, "Mapping the Landscape of Multi-Stakeholder Initiatives: Few MSIs Are Equipped to Address Governance Gaps," NYU Stern Center for Business and Human Rights, July 5, 2017, noting the budget limitations of MSIs affecting their ability to provide public materials.

10 For more, see Cornelia Butler Flora, Carmen Bain, and Caleb Call, "Sustainability Standards and Their Implications for Agroecology," in *Integrating Agriculture, Conservation and Ecotourism: Societal Influences*, ed. W. Bruce Campbell and Silvia López Ortíz, (Dordecht: Springer, 2012), 219.

11 Walker v. Nestlé USA, Inc., Civil Case No. 19CV0723 L KSC, doc. 1,United States District Court, Southern District of California, April 19, 2019. For a discussion of the case, see: Maira Velazquez and Alicia Brudney, "Slave Labor: What Big Chocolate Doesn't Have to Tell You," Corporate Accountability Lab, October 8, 2019.

12 The following are examples of MSIs that certify coffee: Fairtrade International, UTZ, and Rainforest Alliance (the Global Coffee Platform also covers coffee but does not itself directly "certify" members). The following are examples of MSIs that monitor clothing and apparel factories, although not all "certify" factories or provide labels: ETI, FLA, Fair Wear Foundation, Social Accountability International, Worldwide Responsible Accredited Production.

13 For example, the GNI website homepage states, at the top, "Protecting and Advancing Freedom of Information and Privacy in the ICT Sector." Homepage, Global Network Initiative, accessed February 6, 2020, . A summary of the *GNI Principles* states, "GNI Participants commit to implement the organization's Principles on Freedom of Expression and Privacy ("the GNI Principles"), which provide direction and guidance to the ICT industry and its stakeholders in protecting and advancing the enjoyment of these human rights globally." Global Network Initiative, *The GNI Principles* (Washington, DC: GNI, 2017), Its media page, under "how to describe the Global Network Initiative," states, "Launched in 2008, the Global Network Initiative (www.globalnetworkinitiative.org) occupies a unique place in the global conversation about freedom of expression and privacy in the Information and Communications Technology Sector. The GNI's multi-stakeholder approach works to bring together information and communications technology companies, civil society (including human rights and press freedom groups), academics and investors from around the world to protect and advance freedom of expression and privacy, facilitate shared learning and collaborative problem solving, and promote coordinated advocacy." "Media," Global Network Initiative, accessed October 14, 2019. Its Core Commitments page states that the *GNI Principles* include what companies should do when faced with government demands but does not state that they are limited to that issue: "The GNI Principles state the overarching commitment of members to collaborate in the advancement of user rights to freedom of expression and privacy. The Principles provide high-level guidance to the ICT industry on how to respect, protect, and advance user rights to freedom of expression and privacy, including when faced with government demands for censorship and disclosure of user's personal information." "Core Commitments," Global Network Initiative, accessed February 6, 2020. Similarly, its "About" page explains that it formed to address government requests to censor content, restrict access, or hand over user data, but also states, "The GNI Principles ("the Principles") and Implementation Guidelines provide an evolving framework for responsible company decision making in support of freedom of expression and privacy rights." "About GNI," Global Network Initiative, accessed February 6, 2020.

14 While some of GNI's standards include general statements about upholding its principles through business operations and relationships with partners, suppliers, and distributors, most of the detailed guidance relates to how to respond to government restrictions or demands for data. See GNI, *Implementation Guidelines for the Principles on Freedom of Expression and Privacy* (February 2017).

15 See Global Network Initiative, *Implementation Guidelines*.

16 Global Network Initiative, "Our Mission,"Note this webpage has since changed, but the earlier version is available at "Our Mission," Global Network Initiative, accessed August 13, 2019.

17 The new mission statement reads, "The mission of the Global Network Initiative is to protect and advance freedom of expression and privacy rights in the ICT industry by setting a global standard for responsible company decision making and serving as a multistakeholder voice in the face of government restrictions and demands." "Our Mission," Global Network Initiative. During our engagement with GNI, they noted they had "updated" their mission statement as "part of an pre-planned and ongoing review of the content on our website."(Letter from GNI is available on file, November 19, 2019.)

18 See, generally, Rachel Wilshaw, Sloane Hamilton, Julie Théroux-Séguin, and Daisy Gardener, *In Work but Trapped in Poverty: A Summary of Five Studies Conducted by Oxfam, with Updates on Progress along the Road to a Living Wage*, (Oxford: Oxfam International, 2015). There have now been many campaigns by unions and other NGOs for workers to receive a living wage, including "Living Wage," Labour Behind the Label, accessed February 5, 2020; "Living Wage," International Labor Rights Forum, accessed February 5, 2020, https://laborrights.org/issues/living-wage; "Living Wages in Europe," Clean Clothes Campaign, accessed February 5, 2020; "Living Wage: A Global Battle," War on Want, accessed March 15, 2020; see also "Living Wage," Business & Human Rights Resource Centre, accessed February 5, 2020.

19 See Table 1.1 in **Insight 1: Influence**.

20 See Clean Clothes Campaign, *Tailored Wages 2019: The State of Pay in the Global Garment Industry* (Amsterdam: CCC, 2019), 11.

21 See Food and Agriculture Organization of the United Nations, Asia Forest Network, and Asia-Pacific Network for Sustainable Forest Management and Rehabilitation, *Making Forestry Work for the Poor: Assessment of the Contribution of Forestry to Poverty Alleviation in Asia and the Pacific* (Bangkok: RAP Publication, 2012), ; War on Want, *The Living Wage: Winning the Fight for Social Justice* (London: War on Want, September 2013).

22 "The Anker Methodology for Estimating a Living Wage," Global Living Wage Coalition, accessed February 15, 2020.

23 Richard Anker, *Estimating a living wage: a methodological review* (Geneva: ILO, 2011), 7.

24 ILO Conventions 95 and 131, ILO Recommendations 131 and 135. "A Fair Wage: A Human Right," International Labor Organization, December 9, 2013. "One of the funda-

mental human rights is the right to a just remuneration that ensures an existence worthy of human dignity." See also "Living Wage," International Labor Rights Forum, citing Article 23(3) of the *Universal Declaration of Human Rights*, International Labor Organization Recommendation 135 (1970), and international agreements in support of this right.

25 Bonsucro Call for Proposals: *Review of Bonsucro Production Standard Decent/Living Wage* (2020).

26 "Living Wage," Fairtrade International, accessed February 20, 2020.

27 "About the Global Living Wage Coalition," Global Living Wage Coalition, accessed February 20, 2020.

28 Fairtrade International, *Living Wage: Explanatory Document for Fairtrade Textile Standard* (Bonn: Fairtrade International, 2017).

29 "Fair Compensation," Fair Labor Association, accessed February 20, 2020.

30 Fair Labor Association, "Fair Compensation."

31 "Reports," Fair Labor Association, accessed February 20, 2020.

32 "FLA Workplace Code of Conduct," Fair Labor Association, accessed February 20, 2020.

33 "Calculating a Fair Deal for Brazil's Coffee Farmers," Forest Stewardship Council, August 9, 2016.

34 Forest Stewardship Council, *Living Wage Auditor Guidance* (Bonn: FSC, 2017)

35 "MSC to seek stakeholder input on enhanced requirements for labour practices," Marine Stewardship Council, July 20, 2016.

36 "Living Wage: Rainforest Alliance Content about Our Work to Advance Living Wages for Workers around the World," Rainforest Alliance, accessed February 20, 2020.

37 "A Decent Standard of Living for All," Rainforest Alliance, accessed February 20, 2020.

38 "Members and Partners of the Global Living Wage Coalition," Global Living Wage Coalition, accessed February 20, 2020.

39 Roundtable on Sustainable Palm Oil, *RSPO Guidance for Implementing a Decent Living Wage*, June 1, 2019.

40 "Giving Workers a Decent Standard of Living," Global Living Wage Coalition, accessed January 9, 2020.

41 "MSC's Revised Chain of Custody Certification Fails to Adequately Address Forced Labor and Child Labor in Seafood Supply Chains," Human Rights Watch, June 10, 2019.

42 See **Defining the Key Concepts**.

43 "What Is Conflict Diamond?" Cecile Strazzi, accessed February 5, 2020.

44 See, for example, "Discover Diamonds—Ethical Diamonds," Shimansky, accessed February 5, 2020; "Certified Ethically-Sourced Diamonds," Hermes, accessed February 5, 2020; "Conflict Free Diamonds or Blood Free Diamonds," Robbins Brothers, accessed February 5, 2020.

45 Kimberly Process, *Kimberley Process Certification Scheme* (Kimberley Process, 2002), 3.

46 See, for example, "Joint Statement by Civil Society Group's [sic] on Human Rights in the Diamond Supply Chain," Human Rights Watch, November 12, 2018, , signed by Amnesty International, Enough Project, Global Witness, Human Rights Watch and IMPACT; Aiofe Allen, "Kimberley Process 'Whitewashes' Blood Diamonds," *New Internationalist Magazine*, April 1, 2012.

47 MSI Integrity, *The Essential Elements of MSI Design* (Berkeley: MSI Integrity, 2017), 5.

48 "Our History," Marine Stewardship Council, accessed February 5, 2020.

49 "Buy Sustainable Seafood," Marine Stewardship Council, accessed February 5, 2020; "Use the Blue MSC Label," Marine Stewardship Council, accessed February 5, 2020.

50 See Kate Hodal, Chris Kelly, and Felicity Lawrence, "Revealed: Asian Slave Labour Producing Prawns for Supermarkets in US, UK," *The Guardian*, June 10, 2014, ; Aurora Alifano, "Labor Abuse in the Seafood Industry Captures Media Attention," *Fish Wise*, November 26, 2014. Following this, the *Associated Press* published a scathing series of articles exposing slavery in the seafood industry. The Associated Press won the Pulitzer Prize for this reporting. *Associated Press*, "Seafood from Slaves," series, March 2015–July 2016.

51 Marine Stewardship Council, "MSC Board Announces Clear Policy on Forced Labour," press release, August 1, 2014.

52 Marine Stewardship Council, "MSC Board Announces Clear Policy." Note that MSC has stated that this announcement followed a review of its position, which was first initiated in 2012. In correspondence with MSI Integrity, an MSC representative noted, "The Board initially decided to scope a requirement on forced labour in 2012, and continued to approve development milestones after this." However, MSI Integrity was not able to verify this independently, nor were any materials shared by MSC to verify this: Feedback from MSC on file with MSI Integrity, dated February 18, 2020.

53 Human Rights Watch, *Hidden Chains: Rights Abuses and Forced Labor in Thailand's Fishing Industry* (New York: HRW, 2018); Lydia C. L. Teh, Richard Caddell, and Yoshitaka Ota, "The Role of Human Rights in Implementing Socially Responsible Seafood." PloS One 14, no. 1 (January 25, 2019): e0210241.

54 Abby McGill, *Comments to the Marine Stewardship Council Regarding Proposed Labor Requirements* (International Labor Rights Forum, Seafood Working Group, 2017), 3.

55 Marine Stewardship Council, *Consultation Document—On-Shore Labour Practices*, Consultation August 15–October 15, (London: MSC, 2018), 13.

56 See "MSC's Revised Chain of Custody Certification Fails to Adequately Address Forced Labor and Child Labor in Seafood Supply Chains," Human Rights Watch, June 10, 2019. This echoes earlier critiques made during the development of the new rules: McGill, *Comments to the Marine Stewardship Council*, 2.

57 Marine Stewardship Council, *MSC Fisheries Certification Process, vers. 2.1*, (London: MSC, 2018), 14.

58 Note that wider labor issues in the fishing industry, including wage theft, excessive work hours, and obstruction of workers' ability to change employers, are included in these audits, but compliance on these issues is not required by the MSC Standard. Marine Stewardship Council, *MSC Chain of Custody Standard: Default Version*, vers. 5.0, (London: MSC, 2019), 19; Marine Stewardship Council, *MSC Third-Party Labour Audit Requirements*, vers. 1.0, (London: MSC, 2019), 8–10, For other critiques of this process, see Human Rights Watch, *MSC's Revised Chain of Custody Certification Fails to Adequately Address Forced Labor and Child Labor in Seafood Supply Chains* (New York: HRW, 2019).

59 Human Rights Watch, "*MSC's Revised Chain of Custody*."

60 See, e.g., Global Witness, *A Crude Awakening: The Role of the Oil and Banking Industries in Angola's Civil War and the Plunder of State Assets* (London: Global Witness, 1999); Oxfam, Extractive Sectors and the Poor (Boston: Oxfam America, 2001).

61 See, e.g., Human Rights Watch, *The Price of Oil: Corporate Responsibility and Human Rights Violations in Nigeria's Oil Producing Communities* (New York: HRW, 1999); Global Witness, *A Crude Awakening*.

62 The EITI Standard has since evolved to include other important disclosures: see EITI, *EITI Standard 2019* (Oslo, Norway: EITI International Secretariat, 2019).

63 See Cecily Rose, *International Anti-Corruption Norms: Their Creation and Influence on Domestic Legal Systems* (Oxford, UK: OUP, 2015), 168–69, arguing that EITI had a normative influence on the passage of transparency regulations in the European Union and United States.

64 For example, the World Bank provided over US$60 million in grants and technical assistance for the implementation of EITI since 2004. "Supporting Enhanced Transparency in Extractives: The World Bank's Support to EITI," The World Bank, March 12, 2018. **See Insight 1: Influence** for a broader discussion of MSIs' influence and support.

65 J. Van Alstine, "Critical Reflections on 15 Years of the Extractive Industries Transparency Initiative," *Extractive Industries and Society* 4, no. 4 (November 2017): 766.

66 Uwafiokun Idemudia, "The Extractive Industry Transparency Initiative and Corruption in Nigeria: Rethinking the Links between Transparency and Accountability," in *Access to Information in Africa: Law, Culture and Practice*, ed. Fatima Diallo and Richard Calland, (Boston: Brill, 2013), 144.

67 Brendan Halloran, *From Openness to Real Accountability: The Roles of MSIs London*: Transparency and Accountability Initiative, 2015), 3–4.

68 MSI Integrity, *The Essential Elements*, 6.

69 See **Knowledge Base** for information on the development of the *Tool*. The ten MSIs selected for pilot-testing were: Better Cotton Initiative, Common Code for the Coffee Community, EITI, FLA, Fairtrade International, GNI, the Kimberley Process, RSPO, Roundtable on Responsible Soy, and VPs. The pilot datasets are on file with MSI Integrity.

70 See, e.g. Bonsucro, *Bonsucro Production Standard Including Bonsucro EU Production Standard*, vers. 4.2, (London: Bonsucro, 2016), ; Fairtrade International, *Fairtrade Textile Standard*, vers. 1.1, (Bonn: Fairtrade International, 2016); Fair Labor Association, *FLA Workplace Code of Conduct and Compliance Benchmarks* (Washington, DC: FLA,, 2011); Forest Stewardship Council, *FSC Principles and Criteria for Forest Stewardship*, vers. 5.2, (Bonn: FSC, 2015); MSC, *Audit Requirements*; Rainforest Alliance, *Rainforest Alliance Sustainable Agriculture Standard for Farms and Producer Groups Involved in Crop and Cattle Production*, vers. 1.2, (London: MSC, 2017); Roundtable on Sustainable Palm Oil, *Principles and Criteria for the Production of Sustainable Palm Oil* (Kuala Lumpur: RSPO, 2018); Sustainable Forestry Initiative, SFI 2015–2019 *Extended Through December 2021 Forest Management Standard* (Washington, DC: SFI, 2015).

71 See, e.g., ICoCA, *International Code of Conduct for Private Security Provider*, (Geneva: ICoCA, 2010,) 3.

72 This intersects somewhat with the challenges of MSIs in detecting "invisible" issues, as discussed in **Insight 4: Monitoring & Compliance**.

73 In this way, the initiative seeks to bring in a wider pool of coffee producers and gradually improve conditions. See "About the Tool," Global Coffee Platform, accessed February 5, 2020.

74 Note that the Global Coffee Platform has fairly limited public information available about its *Baseline Common Code*. However, a basic explanation of the system is that compliance entails reaching a "yellow" level of baseline standards, as referred to in the following footnotes. See Global Coffee Platform, *Concept of the Equivalence Mechanism*, vers. 1.1, Bonn: GCP, 2016), 6.

75 Common Code for the Coffee Community, *4C Code of Conduct*, vers. 2.3, (Köln: 4C Services GmbH, 2018), 20; Global Coffee Platform, *Baseline Common Code*, vers. 2.1, (Bonn: GCP, 2016), 19.

76 See Common Code for the Coffee Community, *4C Code of Conduct*, 18; Global Coffee Platform, *Baseline Common Code*, 17. In particular, a "green" standard is ensuring children "are not part of the regular workforce," whereas a "yellow" standard has more qualifications, namely that children "are not part of the regular work force at the Producing Entity, buying and processing facilities or coffee estates. The Producing Entity has identified vulnerable regions or producers where child labour may be happening, encourages farmers to send children to school and raises awareness on young workers (below 18 and above legal school age) to not perform hazardous work."

77 Common Code for the Coffee Community, 4C Code of Conduct, 23; Global Coffee Platform, *Baseline Common Code*, 22. In particular, a "green" standard is paying workers "in time/as stated in the labour agreement," whereas a "yellow" standard is merely that wages "are paid," thereby inferring that late payments are acceptable for "yellow."

78 Voluntary Principles on Security and Human Rights, *The Voluntary Principles on Security and Human Rights Backgrounder on Company Implementation*, accessed February 5, 2020, 1.

79 See Voluntary Principles on Security and Human Rights, *The Voluntary Principles on Security and Human Rights* (VPs, 2000), 5–6.

80 "Implementation of the Voluntary Principles," Voluntary Principles on Security and Human Rights, accessed March 4, 2020.

81 For example, GNI requires companies to request that governments follow domestic legal processes, to request clarification and the legal basis for demands that appear unlawful or overbroad, and to interpret government requests and government jurisdiction "so as to minimize the negative effect" on freedom of expression or privacy. See Global Network Initiative, "Implementation Guidelines," 9–10.

82 Global Network Initiative, "Implementation Guidelines," 10.

83 Global Network Initiative, "Implementation Guidelines," 10.

84 Robin Willoughby and Tim Gore, *Ripe for Change: Ending Human Suffering in Supermarket Supply Chains* (Oxford: Oxfam International, 2018), 9, citing Friends of the Earth Europe, Heinrich Boll Foundation, and Rosa Luxemburg Foundation, *Agrifood Atlas: Facts and Figures about the Corporations That Control What We Eat* (2017). See also Genevieve LeBaron, et al. *Confronting the Root Causes of Forced Labour: Concentrated Corporate Power and Ownership*, openDemocracy and SPERI, University of Sheffield, 2018).

85 LeBaron, et al. *Confronting the Root Causes*, 41, citing Oxfam Germany et al., *Konzernatlas* 2017 (Berlin: Oxfam Germany, 2017), 28.

86 Daniel Vaughan-Whitehead and Luis Pinedo Caro, *Purchasing Practices and Working Conditions in Global Supply Chains: Global Survey Results*, Issue Brief No. 10, (Geneva: ILO, INWORK,, 2017), 1–2.

87 See LeBaron, et al., *Confronting the Root Causes*, 50–51; Willoughby and Gore, *Ripe for Change*, 41, 101–02, noting that unfair purchasing practices from supermarkets include short-term contracts, short lead times on orders, and one-sided contractual clauses that allow buyers to withdraw from a contract if margins are insufficient, among several others; Duygu Turker and Ceren Altuntas, "Sustainable Supply Chain Management in the Fast Fashion Industry: An Analysis of Corporate Reports," *European*

Management Journal 32, no. 5 (2014): 837, 839, saying, "Increased time pressures on the order cycles of the fast fashion industry result in employee abuse and other unethical working practices at manufacturing sites." Human Rights Watch, "*Paying for a Bus Ticket and Expecting to Fly*": *How Apparel brand Purchasing Practices Drive Labor Abuses* (New York: HRW, 2019), noting that "low purchase prices and shorter times for manufacturing products, coupled with poor forecasting, unfair penalties, and poor payment terms, exacerbate risks for labor abuses in factories."

88 LeBaron, et al., *Confronting the Root Causes*, 43–44.

89 LeBaron, et al., *Confronting the Root Causes*, 43–44.

90 Paul M. Barrett and Dorothée Baumann-Pauly, "Five Years after Rana Plaza: The Way Forward," NYU Stern Center for Business and Human Rights, April 23, 2018, 5.

91 Barrett and Baumann-Pauly, "Five Years," 9.

92 A third MSI, RSPO, does not have specific standards around purchasing practices although it does encourage brands to commit to buying 100% certified palm oil: see "MSI Trends Dataset" which is available on our website at www.msi-integrity.org/datasets and contains information current as of June 30, 2019.

93 For example, with respect to pricing, FLA requires that brands have written policies and procedures that address "alignment of financial terms with FLA Workplace Standards," but does not provide any further details or guidance on what this means. Fair Labor Association, *Principles of Fair Labor & Responsible Sourcing*, Principle 8, Benchmark 8.1, (Washingotn, DC: FLA, 2015). Fairtrade International states, "Fairtrade does not accept unfair practices that clearly damage producers' or other traders' capacity to compete or the imposition of trading conditions on suppliers that would make it difficult for them to comply with Fairtrade standards." It then provides guidance that includes examples of unfair practices. However, both the standard and its guidance all contain qualifiers to the provisions, like "clearly damage," "excessive transfer of costs," and "generally disadvantageous," that make it difficult to determine which types of practices are, in fact, prohibited. Sean Hawkey, *Fairtrade Trader Standard*, vers. 1.6, (Bonn: Fairtrade International), 2015, 38. While some discretion and flexibility can be helpful given the range of contracts and contexts in which these MSIs operate, in our view the ambiguity in these standards go beyond that and risk being broadly interpreted to encompass that continuation of irresponsible purchasing practices.

94 See "Annual Communication of Progress 2019," Roundtable on Sustainable Palm Oil.

95 Fair Labor Association, *Principles*, Principle 8, Benchmark 8.1.

96 Fair Labor Association, *Charter Document*, 24, indicating that the initial level of monitoring will be 5% of the member company's "applicable facilities." "Applicable facilities" are those that are not *de minimus*. Fair Labor Association, *Charter Document*, 4. "De minimus facilities" are those with which the member company contracts for production for six months or less in any 24-month period ,or in which the member company accounts for 10% or less of the annual production. Fair Labor Association, *Charter Document*, 7.

97 With respect to ETI, brands and final buyers commit to implementing the *ETI Base Code* in their supply chain, and ETI provides support and learning to facilitate their compliance. However, the *Base Code* does not require that its member companies adopt responsible purchasing practices, although guidance on best practices is available. While member companies report to ETI on their progress, none of these reports are made public. ETI has indicated that in the future this might change, but there are no commitments regarding the required level of detail or frequency of issuing such reports. See Ethical Trading Initiative, *Human Rights Due Diligence Framework* (2016), and Ethical Trading Initiative, *Towards Greater Transparency: ETI's Direction of Travel* (London: ETI, 2017), 2, With respect to Fairtrade International, see Table 3.3.

98 "Frequently Asked Questions," World Responsible Accredited Production , accessed February 5, 2020.

99 "Corporate Member Commitment," Social Accountability International, accessed February 5, 2020.

100 Fair Labor Association, *Charter Document*, 24, indicating that the initial level of monitoring will be 5% of the member company's "applicable facilities." "Applicable facilities" are those that are not *de minimus*; Fair Labor Association, *Charter Document*, 4. "De minimus facilities" are those with which the member company contracts for production for six months or less in any 24-month period, or in which the member company accounts for 10% or less of the annual production. Fair Labor Association, *Charter Document*, 7.

101 Fair Labor Association, *New Balance Athletic Shoe, Inc.: Assessment for Accreditation* (Washingotn, DC: FLA, 2014), 3.

102 See, e.g., Fair Labor Association, *Adidas Group: Assessment for Accreditation* (Washington, DC: FLA, 2017), 6, 31–36.

103 "Labor and Human Rights Groups Urge Multi-Stakeholder Initiatives and Business Associations in the Apparel Sector to Adopt Transparency Requirements," Human Rights Watch, March 14, 2019.

104 Fair Wear Foundation, *Brand Performance Check Guide* (Amsterdam: FWF, 2017).

105 See, e.g., Fair Wear Foundation, *Brand Performance Check: Acne Studios*, (Amsterdam: FWF, 2019).

106 Fair Wear Foundation, *Brand Performance Check Guide*, 44, 53.

107 Sarah K. Lowder, Jakob Skoet, and Terri Raney, "The Number, Size, and Distribution of Farms, Smallholder Farms, and Family Farms Worldwide," *World Development* 87, (November 2016): 27.

108 "Smallholders and Family Farming," Food and Agriculture Organization of the United Nations, accessed February 5, 2020.

109 The source data for this information is available from the spreadsheet, "MSI Trends Dataset," which is available from our website at www.msi-integrity.org/datasets and contains information current as of June 30, 2019. To be clear, the analysis in this section is limited only to production certification MSIs and does not include FLA.

110 Indeed, in the case of one smallholder, the recurring costs of certification, such as to cover costs such as developing farm management plans and group membership in RSPO, amounted to 80% of operational costs or 27% of net annual income from palm oil. See Petra Rietberg and Maja Slingerland, *Costs and Benefits of RSPO Certification for Independent Smallholders: A Science-for-Policy Paper for the RSPO* (SEnSOR, 2016), 2.

111 "Cost Calculator," FLOCERT, accessed February 5, 2020.

112 "What Is the Cost of Sustainable Palm Oil?" askRSPO, accessed February 6, 2020.

113 For example, RSPO has created a "Smallholder Support Fund" and customized standards for smallholders. "Introduction RSSF," Roundtable on Sustainable Palm Oil, accessed February 6, 2020.

114 See for example, Jan Willem Molenaar, Annemieke Beekmans, and Pim Pelders, *Producer Groups Models and Certification: An Exploration of Various Producer Group Models in the Agricultural and Forestry Sectors* (2011), 53, finding that smaller or less professional groups, regardless of how they are organized, "may be confronted with difficulties in maintaining certification without external technical and financial support."

115 Rietberg and Slingerland, *Costs and Benefits*, 10.

116 FLA does have a purchasing principle that places an expectation of "alignment of financial terms with FLA Workplace Standards" on brands. However, the ambiguity of this term does not appear to make it meaningfully enforceable by suppliers. Fair Labor Association, *Principles*.

117 See Joshua Levin, WWF, FMO and CDC, *Profitability and Sustainability in Palm Oil Production: Analysis of Incremental Financial Costs and Benefits of RSPO Compliance* (Gland: WWF, 2012), vi.

118 Office of the United Nations High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* (Geneva: UN, 2011), Principle 2, commentary.

119 McCorquodale, Robert, and Penelope Simons, "Responsibility beyond Borders: State Responsibility for Extraterritorial Violations by Corporations of International Human Rights Law." *The Modern Law Review* 70, no. 4 (2007): 598–625, 599–600.

120 These include EITI, VPs, CoST, International Code of Conduct for Private Security Service Providers, Hydropower Sustainability Assessment Council.

121 "Supporting Countries," EITI, accessed February 6, 2020.

122 Supporting members are represented on the Board, and their presence is required for a quorum on any decisions: EITI, *EITI Standard 2019*, (Oslo: EITI, 2019), 59.

123 EITI, "Supporting Countries."

124 Timothy Cama, "Senate Votes to Repeal Transparency Rule for Oil Companies," *The Hill,* February 3, 2017.

125 See "Countries," EITI, accessed February 6, 2020; "Where We Work," CoST, accessed February 6, 2020. Note that while EITI includes some Global North countries, they are merely expected to follow the same standards as other producers and are not given additional responsibilities to acknowledge that they are also the countries where many extractive companies are registered or incorporated.

126 The VPs recognize that "governments have the primary responsibility to promote and protect human rights" and acknowledge "that home governments and multilateral institutions may, on occasion, assist host governments with security sector reform, developing institutional capacities and strengthening the rule of law." Voluntary Principles on Security and Human Rights, *Voluntary Principles*. The International Code of Conduct for Private Security Providers has seven government members, all from the Global North, yet they are merely expected to "provide information related to their implementation [of the standards and relevant international law], including the development of their domestic regulatory framework for [private security company] activities, and to promote compliance with the [MSI] in their contracting practices and policies." International Code of Conduct Association, *The Articles of Association* (Geneva: ICoCA, 2010), 3.3.2. Finally, there are no obligations for "advanced economy country governments" in implementing the Hydropower Assessment Protocol, even though they are represented on the primary decision-making body. "Hydropower Sustainability Assessment Council," Hydropower Sustainability, accessed February 6, 2020.