

Improving implementation of the UN Guiding Principles on Business and Human Rights at PUMA - Summary Report

Prepared by Shift | January 2016

I. Background

PUMA has over a decade of experience seeking to do business with respect for human rights. However, the company itself recognizes that it is timely to review its existing policies and practices and seek to align them with the 2011 global standard on business respect for human rights: the [UN Guiding Principles on Business and Human Rights](#) (UNGPs). To support this review of PUMA's existing approaches, PUMA asked Shift¹ in the fall of 2015 to review the company's existing policies and practices, conduct a cross-functional workshop with employees to build understanding of PUMA's top human rights risks, and provide high level recommendations about key areas where PUMA could make improvements and adjustments to better implement the UNGPs. This document summarizes those recommendations.

II. Summary recommendations

These recommendations are designed to help PUMA better implement the UNGPs. For the most part, implementing these recommendations requires building on existing policies and practices at PUMA. Further information about these recommendations can be found in the next section of this report.

Summary recommendations:

¹ Shift is the leading center of expertise on the UN Guiding Principles on Business and Human Rights. Founded in 2011, Shift's team of experts works globally with businesses, governments, civil society and international organizations to embed the Guiding Principles into practice. Shift was established

In its 2014 annual report, PUMA stated, "Human rights are an essential part in our Codes of Conduct and Ethics, and Manuals of Standards. In recent years, PUMA has faced issues in the supply chain that have prompted a review of our Codes and overall business practices to better align our company policy with risks and rights impacts that are not fully captured in our Code of Conduct. There are 35 Universal Human Rights, 13 of which are explicitly cited in the Code of Conduct. PUMA is currently in the process of incorporating the UN Guiding Principles on Business and Human Rights into its overall sustainability approach, defining what it means to include other salient human rights throughout its whole operational value chain and beyond just addressing labor issues in the supply chain."

- **Develop a comprehensive human rights policy** that addresses the full spectrum of internationally recognized human rights;
- Put measures in place to **ensure that all functions understand how their role helps PUMA meet its human rights commitments**, and acts in accordance with that understanding;
- **Take a complete value chain approach**: ensure that PUMA's policy commitments, human rights due diligence and remediation processes appropriately take into account the entirety of PUMA's own operations and those of its business relationships (including actors throughout its value chain);
- **Make the perspectives of stakeholders an integral part of human rights due diligence**, particularly risk assessment and tracking performance;
- **Analyze whether or not risk management approaches adequately focus on risk to people** and make changes where necessary;
- **Communicate on PUMA's salient human rights issues**, not only on general activities undertaken to manage human rights issues;
- **Undertake a comprehensive review of remediation processes within PUMA's own operations** in order to see if PUMA needs to strengthen its systems, either alone or in collaboration with others, as well as how it can support more effective grievance mechanisms at the supplier level.

III. Detailed recommendations

As discussed with key PUMA staff, the recommendations are organized around the eight elements of the responsibility to respect as defined in the UNGPs.

Element 1: Policy commitment

Recommendation: Develop a comprehensive human rights policy that addresses the full spectrum of internationally recognized human rights.

As PUMA recognized in its 2014 annual report, the company's existing policies related to human rights (particularly its Code of Conduct and Code of Ethics) pertain to only some human rights that companies are expected to respect under the UNGPs. This gap in the scope of existing policies means that PUMA's subsequent actions to implement those policies may fail to take into account the ways in which PUMA may be connected to impacts across the full spectrum of internationally recognized human rights.

Following on that overarching recognition that the policy pertains to the full spectrum of internationally recognized human rights, it would make sense if the policy then focuses on PUMA's salient human rights issues². The policy would, of course, have to be updated if the list of salient issues changes.

² Salient human rights issues are those human rights at risk of the most severe negative impact through a company's activities and business relationships. For more, see <http://www.ungpreporting.org/key-concepts/salient-human-rights-issues/>

PUMA's human rights policy should also clarify that PUMA understands its responsibility to respect human rights extends across its own operations and throughout its business relationships: a total value chain approach.

Additional resources:

- Guiding Principles 12 and 16 and their commentary³
- UNGP Reporting Framework⁴ questions A1, A1.1, A1.2, A1.3 and their implementation guidance
- UN Global Compact and UN Office of the High Commissioner for Human Rights, *[How to develop a human rights policy: a guide for business](#)*

Element 2: Embedding respect for human rights

Recommendation: Put measures in place to ensure that all functions understand how their role helps PUMA meet its human rights commitments, and acts in accordance with that understanding.

As discussed with workshop participants, the implementation of PUMA's human rights-related policies currently rests with human resources (own operations) and the sustainability department (supply chain). While some individuals in other departments may help implement those policies, PUMA has not systematically sensitized, trained and incentivized its employees across different functions to understand their role in helping the company live up to its human rights commitments.

PUMA's current efforts to mainstream human rights issues into its sourcing company may help rectify this gap for the supply chain, so long as human rights impacts are appropriately considered in the course of risk management. That means that employees beyond the sustainability team – for example, sourcing managers – need to be trained and incentivized to integrate human rights thinking into their daily work. Practically speaking, that may begin with their terms of reference as employees. Those terms can require them to conduct risk management in a way that not only considers risks to the business, but also risks to people, and that decisions are made taking both types of risks into account.

However, sourcing and human resources staff are not the only staff responsible to implement PUMA's human rights-related policies. It may be helpful for PUMA to do a complete mapping of functions at the company, like legal, design and retail, and work with those functions to understand how their role can help deliver on the company's commitment to respect human rights. Employees need to understand the types of human rights risks that can arise when they don't incorporate human rights thinking into their daily work.

³ For all UNGPs references, see the downloadable PDF of the UNGPs:

http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

⁴ The UN Guiding Principles Reporting Framework is the first comprehensive guidance for companies to report on human rights issues in line with their responsibility to respect human rights. While this report is not focused on the topic of corporate reporting, the questions-based approach of the UNGP Reporting Framework provides companies a helpful entry point into understanding specific expectations of them under the UNGPs. The implementation guidance to the UNGP Reporting Framework provides detailed information about what constitutes good answers to the Reporting Framework questions – and thereby, what constitutes good practice under the UNGPs. The [implementation guidance to the Reporting Framework is available online](#).

Finally, PUMA's incorporation of environmental sustainability factors into employee's performance expectations is a good practice that could be built upon by adding human rights considerations. PUMA could consider varying those performance expectations by function, to best match the function's role in implementing PUMA's human rights commitments.

Additional resources:

- Guiding Principles 11, 13, 16, 19, 20 and their commentary
- UNGP Reporting Framework questions A2, A2.1, A2.2, A2.3, A2.4, A2.5 and their implementation guidance
- Shift, [*Embedding the Corporate Responsibility to Respect Human Rights within Company Culture*](#)
- UNGC and Shift, [*Good Practice Note: Organizing the Human Rights Function within a Company*](#)

Element 3: Human rights due diligence – assessing impacts

Recommendation: Assess the entirety of PUMA's business – all of its own operations and its entire value chain – for potential human rights impacts, and prioritize which impacts to concentrate on initially, based on the severity of the impact on people.

PUMA currently assesses a significant degree of its value chain for potential human rights impacts, albeit related to only some internationally recognized human rights (see above, Element 1). However, this assessment focuses primarily on PUMA's closest business partners and less on other actors in PUMA's value chain that are farther removed from PUMA itself. This approach is particularly risky in the apparel industry where some severe potential human rights impacts are known to occur at the beginning of the value chain, such as in the production of cotton.

To build a comprehensive picture of potential risks to people connected to its business, PUMA would benefit from the following sequential actions. The concept and methodology to implement each of these actions was discussed and practiced at the workshop.

1. Develop a thorough value chain mapping. Based on information shared by participants in the course of the workshop, PUMA staff do have in-depth knowledge of the company's value chain and the company is further helped by its strong on-the-ground staff presence in production countries. This knowledge could be compiled to begin building a picture of PUMA's business relationships.
2. With that picture, PUMA can then work to determine potential human rights impacts that could happen at various points in that value chain. Again, PUMA staff have fairly extensive knowledge, at least in some countries and some supply chain tiers, about the most common human rights impacts that could occur. PUMA could compile staff experience as well as the company's years of audit data to build a comprehensive picture of common risks.

3. Once potential impacts are identified across the value chain, PUMA can proceed with the next step of assessing: determining the nature of PUMA's connection to the potential impacts (cause, contribution or linkage).
4. Finally, where necessary, PUMA can prioritize which potential impacts to concentrate on initially. The methodology for these decisions was discussed with participants at the workshop and further resources are listed below.

At the workshop, participants also discussed the value of this type of risk assessment to determine the "known unknowns." Particularly at more removed tiers of the value chain, PUMA can make good use of its growing industry connections, such as through the Better Cotton Initiative, which may be helpful for both assessing and addressing human rights risks at the cotton production level of the value chain.

This comprehensive approach to human rights risk assessment may fit neatly with PUMA's efforts to strengthen its overall risk management, including related to the restructuring of its sourcing company.

Additional resources:

- Guiding Principles 18, 21 and 24 and their commentary
- UNGP Reporting Framework questions B1, B2, B3, B4 and their implementation guidance
- Shift, *Business and Human Rights Impacts: Identifying and Prioritizing Human Rights Risks*
- ILO-IOE, *Child Labour Guidance Tool for Business*, p. 20-21. While this guidance is specific to child labor, the methodology on those pages to explain the concept of cause-contribution-linkage is the same for other types of human rights impacts.

Element 4: Human rights due diligence – integrating findings and taking action

Recommendation: Focus more on effective human rights risk management systems that emphasize engagement and dialogue and less on audits.

PUMA is currently heavily reliant on audits to determine human rights-related risks as well as to mitigate them. However, over the last several years the company has increasingly sought to address supplier adherence to its human rights commitments via capacity building and dialogue. Workshop participants openly recognized that this engagement approach is typically more impactful in the long term and is also more cost efficient for the company than audits.

Given PUMA's current review of its auditing model and participation in the Sustainable Apparel Coalition's joint audit scheme, now may be an opportune time for PUMA to make a strategic decision about how much it uses audits for risk management as compared to engagement models. Again, PUMA is helped by its strong on-the-ground presence and many years of experience of several key staff members. These staff know what worked and what didn't to get a supplier to act with greater respect for human rights. They also know which PUMA

policies and processes are most helpful in practice, whether supplier contracts, supplier roundtable events, weekly phone check-ins or other practices.⁵ They also probably have a sense of the root causes of human rights risks in the supply chain, including where PUMA's own purchasing practices could be contributing to negative human rights impacts.⁶

This knowledge could be compiled and analyzed to build a picture of which approaches work best and should be strengthened, and which approaches may be phased out or modified to increase their usefulness.

As a methodology, once PUMA has built a picture of which risk management approaches have proven most effective, it can layer these approaches on top of the human rights risk map from the assessment phase, to connect identified risks with tested management approaches.

Additional resources:

- Guiding Principles 19 and 23 and their commentary
- UNGP Reporting Framework questions C4, C4.1, C4.2 and C4.3 and their implementation guidance
- Shift, [*From Audit to Innovation: Advancing Human Rights in Global Supply Chains*](#)
- Ernst & Young, [*Human rights and professional wrongs: rethinking corporate social compliance in the supply chain*](#)
- Leading company practices: multiple company case studies are included in the above report by Shift.

Element 5: Human rights due diligence – stakeholder engagement

Recommendation: Make the perspectives of stakeholders an integral part of human rights due diligence, particularly risk assessment and tracking performance.

PUMA has clearly invested over the years in hearing the perspectives of stakeholders, as shown by its Talks at Banz initiative. PUMA also engages in dialogue with some stakeholder groups in production countries, such as with union leaders in Cambodia.

While PUMA's willingness to engage with critical stakeholders is to be commended, it is unclear to what degree those stakeholder's perspectives are routinely incorporated into PUMA's human rights risk assessments and PUMA's tracking of the success of its human rights risk management measures – particularly the perspectives of potentially affected stakeholders or their legitimate representatives.

⁵ Several workshop participants shared the approaches that worked best over a multi-year period, focusing on a key concept: trust. Participants shared "best case" experiences, where trust between the supplier and PUMA was so good that suppliers phoned or visited PUMA offices proactively when they were concerned about an issue arising related to human rights.

⁶ As part of risk management in the supply chain, leading companies take a close look at their own purchasing practices to see if they are contributing to root causes of negative impacts on people in the supply chain. Typically those practices including placing orders with limited lead time with no additional financial compensation for meeting the delivery date, or expecting suppliers to bring in additional labor to meet delivery dates using third parties (labor brokers), yet not paying additional financial compensation for this labor surge. This type of self-reflection by buying companies is also an expectation of members of the Fair Labor Association, of which PUMA is a member.

From a human rights perspective, companies need to consider at least three general stakeholder group categories: potentially affected people or their legitimate representatives, stakeholders with credible insights into the perspective of potentially affected people (such as local NGOs or trade unions), and human rights experts. Many multinational companies struggle to engage with the first two groups and focus almost exclusively on the third group. However, PUMA's strong on-the-ground presence and participation in multistakeholder initiatives like the Better Work Programme should help it engage in dialogue with potentially affected people and their legitimate representatives.

PUMA would likely benefit from a stakeholder mapping exercise to inform its stakeholder engagement strategy. Which stakeholders should PUMA consult with, where, and when? Which specific decisions should those stakeholders inform, and at what time during human rights due diligence processes and decision making points?

Additional resources:

- Guiding Principles 18, 20 and 21 and their commentary
- UN Guiding Principles Reporting Framework questions C2, C2.1, C2.2, C2.3 and their implementation guidance
- Shift, [Bringing a human rights lens to stakeholder engagement](#)
- [H&M's recent International Framework Agreement \(IFA\)⁷ with IndustriALL](#) includes strong measures for dialogue with workers around the world.

Element 6: Human rights due diligence – tracking performance

Recommendation: Analyze whether or not risk management approaches adequately focus on risk to people and make changes where necessary.

PUMA's on-the-ground staff clearly have a sense of which risk management measures are working and which are not. However, it is unclear to what degree PUMA systematically and comprehensively analyzes the performance (impact) of its human rights risk management measures beyond simple audit-based indicators like a closed corrective action plan.

After PUMA has determined which risk management measures it can use and are most effective (see above, Element 4), that judgment call about which measures are most effective can be strengthened by identifying a performance tracking approach for each management measure. This supports continuous improvement.

⁷ The Deutsche Gewerkschaftsbund does recommend that German multinationals consider signing International Framework Agreements (IFA) given that the integration of employee representatives in German companies within Germany is not necessarily extended to companies' operations outside of Germany. For information about what an IFA is, see the ILO, http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_080723/lang-en/index.htm.

It can be challenging to know the best way to track performance for a given human rights issue and management approach. To help manage this challenge, PUMA could consult with other companies to hear about their approaches. PUMA could also talk with stakeholders, particularly on-the-ground stakeholders, to improve its understanding of what is and is not working. Again, PUMA should be in a good position to get the on-the-ground perspective because of its teams based in production countries.

Emerging experience suggests that moving too quickly to quantitative metrics in the human rights space may miss the importance of developing qualitative measures, although ultimately both are needed. See the UNGP Reporting Framework for more information (specific elements below under additional resources).

Additional resources:

- Guiding Principles 20 and 21 and their commentary
- UNGP Reporting Framework questions C5 and C5.1 and their implementation guidance

Element 7: Human rights due diligence – communicating performance

Recommendation: Communicate on PUMA's salient human rights issues, not only on general activities undertaken to manage human rights issues.

PUMA's current disclosure and transparency about its activities to respect human rights is strong on many points. The key area where PUMA could improve, however, is in regards to being transparent about the top human rights risks the company faces in its own operations and value chain. For example, in its 2014 annual report, PUMA shared extensive information about auditing and generalized audit findings, yet it is still unclear what top human rights risks the company faces and is seeking to prevent and address.

PUMA should consider using the UN Guiding Principles Reporting Framework to support its reporting on human rights issues. Answers to the questions of the UNGP Reporting Framework can help inform PUMA's broader sustainability or annual reporting, or can be contained in a standalone report.

Additional resources:

- Guiding Principle 21 and its commentary
- UN Guiding Principles Reporting Framework (entirety)
- Leading company examples:
 - Early adopter companies that have reported thus far using the UNGP Reporting Framework:
 - [Ericsson](#) (eight overarching questions only)
 - [Unilever](#) (overarching and supporting questions)
 - Examples contained in [Examples of Good Corporate Reporting on Human Rights](#), Shift

Element 8: Remediation⁸

Recommendation: Undertake a comprehensive review of remediation processes within PUMA's own operations in order to see if PUMA needs to strengthen its systems, either alone or in collaboration with others, as well as how it can support more effective grievance mechanisms at the supplier level.

Remediation was discussed only briefly in the course of the workshop and Shift's interviews with PUMA staff. Given this caveat, it appears that PUMA's remediation measures related to human rights impacts that have already occurred do exist, but could be strengthened.

Specifically in the value chain, PUMA would benefit from a comprehensive review of what measures are available at different levels of the value chain, to identify gaps and determine if PUMA can take measures, either on its own or with others, to create or strengthen remediation. Any remediation actions PUMA takes should be guided by a clear distinction between what PUMA needs to have by way of processes to address impacts it *causes or contributes to*, as compared to PUMA's efforts to strengthen remediation by other actors who are causing impacts that PUMA is *linked to*.⁹

PUMA can also take advantage of its participation in multistakeholder initiatives that work to strengthen companies' grievance mechanisms, like the Fair Labor Association and the Better Work Programme, as well as PUMA's relationships with unions in some production countries.

Specifically in regards to its own operations, PUMA could consider developing a comprehensive strategy for countries where its employees do not benefit from unions as the primary means to address grievances. PUMA has some measures in place in these countries (e.g., United States, China), but those measures would likely be more effective if PUMA developed a comprehensive strategy to support effective grievance mechanism processes in all countries where PUMA operates. PUMA could also engage with its European and global union representatives to gain insight into good practices in these challenging country contexts, and consider if an International Framework Agreement would be helpful.

Additional resources:

- Guiding Principles 21, 22, 29 and 31 and their commentary
- UNGP Reporting Framework questions C6, C6.1, C6.2, C6.3, C6.4, C6.5 and their implementation guidance

⁸ "Remediation refers to both the process of providing remedy for a negative human rights impact and the substantive outcomes that can counteract, or make good, the negative impact. These outcomes may take a range of forms such as apologies, restitution, rehabilitation, financial or non-financial compensation, and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition." Source: <http://www.ungpreporting.org/resources/glossary/>

⁹ For a table illustrating where PUMA needs to provide for remediation as compared to choosing to support others in remediation, see the specific pages of the ILO-IOE Child Labour Guidance Tool for Business resource cited above.

- Shift, *Remediation, Grievance Mechanisms and the Corporate Responsibility to Respect Human Rights*. See particularly p. 21 regarding how to discuss grievance mechanisms with suppliers.
- Leading company examples: see Shift report cited above.