

# Integrating Human Rights Considerations into Mergers & Acquisitions

*21 April 2016 at 9 am ET*



United Nations  
Global Compact



*Putting Principles into Practice*

# Agenda

## 1. Introductory Remarks

- Shubha Chandra, *UN Global Compact*

## 2. Overview of the M&A process with a focus on human rights considerations, steps, and key lessons learned

- Anna Triponel, *Shift*

## 3. Company experience: Total S.A. and Ericsson

- Isabelle Salhorgne, Adebola Ogunlade, and Malvina Letellier, *Total S.A.*
- Lisa Edblom & Camilla Goldbeck-Lowe, *Ericsson*

## 4. Q&A

## 5. Closing Remarks

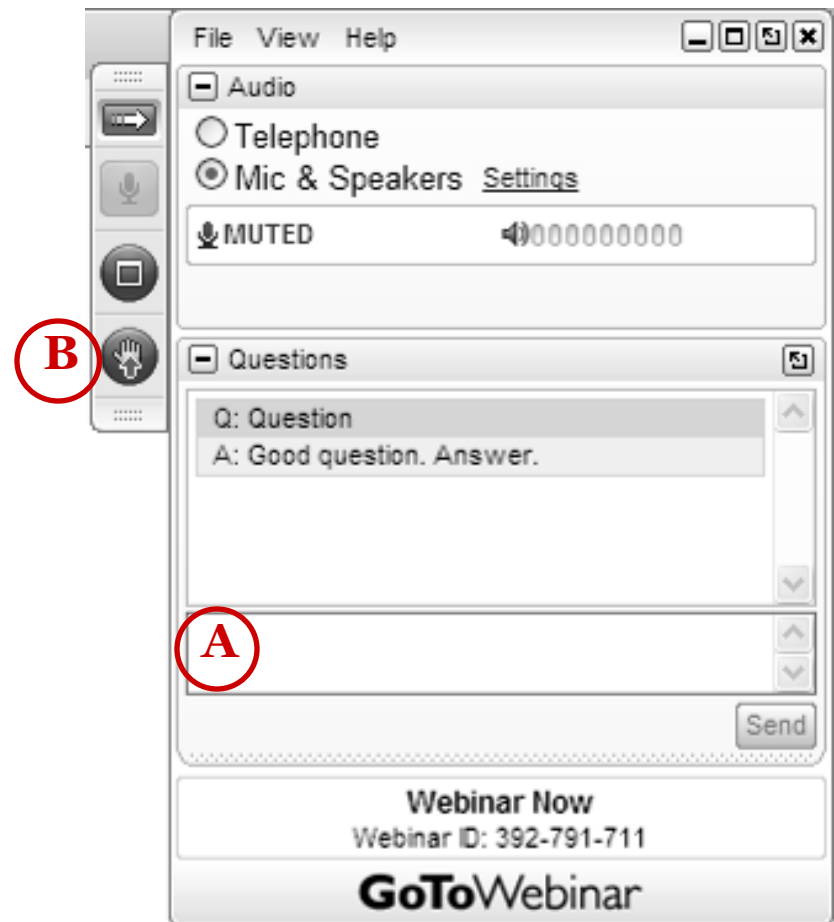
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- Anna Triponel, *Shift*

# Questions

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**Example:** *Question for John Doe: What are land rights?*



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# United Nations Global Compact

## Act Responsibly



## Find Opportunity

### HUMAN RIGHTS

- Principle 1 Businesses should support and respect the protection of internationally proclaimed human rights; and  
Principle 2 make sure that they are not complicit in human rights abuses.

### LABOUR

- Principle 3 Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;  
Principle 4 the elimination of all forms of forced and compulsory labour;  
Principle 5 the effective abolition of child labour; and  
Principle 6 the elimination of discrimination in respect of employment and occupation.

### ENVIRONMENT

- Principle 7 Businesses should support a precautionary approach to environmental challenges;  
Principle 8 undertake initiatives to promote greater environmental responsibility; and  
Principle 9 encourage the development and diffusion of environmentally friendly technologies.

### ANTI-CORRUPTION

- Principle 10 Businesses should work against corruption in all its forms, including extortion and bribery.



SUSTAINABLE DEVELOPMENT GOALS



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# Integrating Consideration for Human Rights into Mergers and Acquisitions

**Anna Triponel**

April 21, 2016



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# Poll Question #1

**How familiar are you with M&A?**

1. Very familiar
2. Somewhat familiar
3. Not at all (but interested!)

## Poll Question #2

**Where is your company in integrating human rights into its M&A processes?**

1. Very advanced
2. Somewhat advanced
3. Not at all (or just starting)



# What does considering human rights during M&A mean?

In short, this refers to equipping the M&A team to:

1. **Identify** salient human rights issues in the course of due diligence
2. **Prioritize** the issues for action (along with other non-human rights related issues to be addressed)
3. **Address** the salient issues in contract negotiations (or pass on to others in the company to address)

# Key Obstacles to Considering Human Rights in M&A

- Confidentiality constraints
- Short timing
- Legal compliance focus
- Silos
  - Within M&A team
  - Between M&A team and rest of the company
- Traditional allocation of risk solutions

# Takeaway #1: Make the business case and tailor it to your company

- Adapt arguments to corporate strategy
    - Strategic expansions? Divestment strategy?
  - Examples
    - Failed/ costly transactions
    - Internal company examples
  - Legal risks
  - Reputational risks
  - Investment risks
- *M&A team leads the work, with input from sustainability/ CR/ HRTs function*

## Takeaway #2: Add human rights lens to company's existing M&A processes

- Map out company's M&A processes
- Identify gaps
  - What is different about human rights when it comes to (i) identifying, (ii) prioritizing and (iii) addressing issues?
- Risk to people
  - Beyond legal compliance
  - Different lens to existing information; new inputs
  - Severity of impact is factor in prioritization
  - Focus on putting right
- Translate the UNGPs' modes of involvement to M&A

# Takeaway #3: Agree on clear allocation of responsibilities

- What is the role of:
  - The M&A lawyer?
  - Others in the M&A team?
  - The sustainability/ corporate responsibility/ human rights team?
  - Others in the company?
- Dependent on a range of factors
- Leading practice:
  - Specific functions -> equipped to identify
  - Lawyers -> wise counselors
  - In-house expertise and/or external expertise

## Takeaway #4: Build channels of communication in the company

- M&A lawyer  $\leftrightarrow$  M&A team
- M&A team  $\leftrightarrow$  sustainability/ CR/ HRTs team
- M&A team  $\leftrightarrow$  other departments
  - Insight into risks from other experiences
  - Take on responsibility after the transaction takes place
- M&A team / sustainability team  $\leftrightarrow$  business development

# Takeaway #5: Build capacity & maintain strengthened capacity

Common questions M&A professionals have:

- What are the human rights implications of the information I commonly receive?
- What additional information do I need from the target company?
- When will I need additional information and where do I go to get it?
- Which human rights issues should be prioritized for contract negotiations?
- What kinds of actions can I suggest?

**→ *Combination of building capacity and revising documents and processes***

The logo for Shift, featuring the word "Shift" in a bold, italicized sans-serif font. The "i" is red, and the "f" has a red dot. The text is white and set against a dark gray background that is part of a larger graphic element consisting of a dark gray trapezoid and a red trapezoid below it.

***Shift***

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***shiftproject.org***



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- Adebola Ogunlade
- Malvina Letellier



## Ericsson

- Lisa Edblom
- Camilla Goldbeck-Lowe



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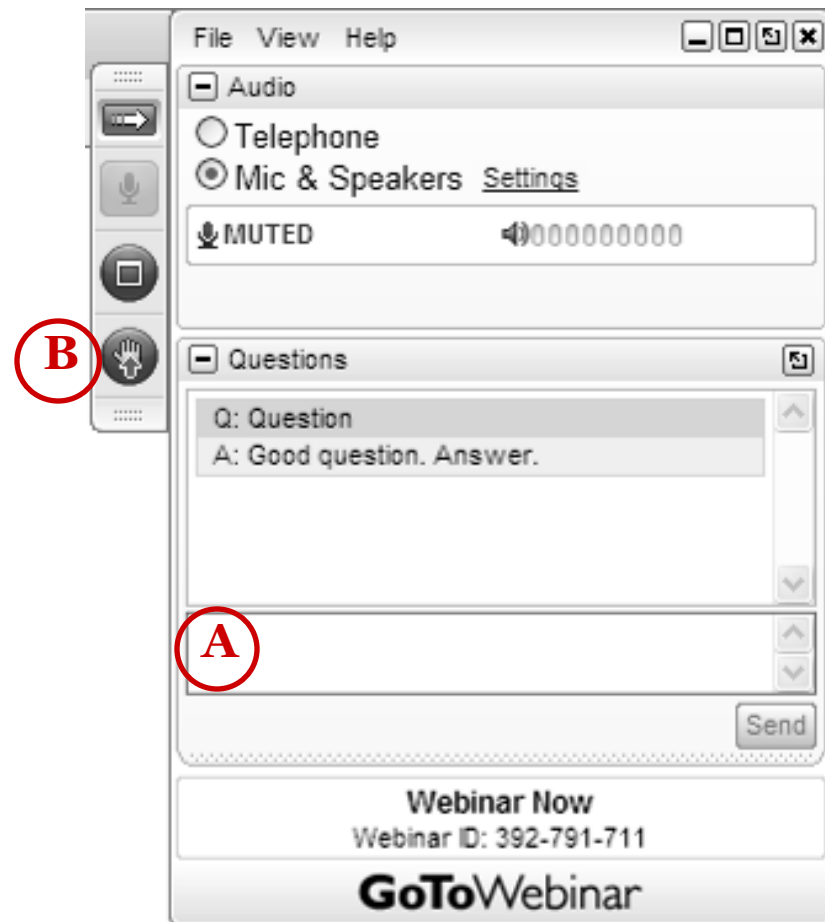


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# Resources

- [What do Human Rights have to do with Mergers & Acquisitions?](#) (Shift)
- [Integrating Concerns for Human Rights into the Mergers & Acquisitions Due Diligence Process](#) (UN Global Compact)
- [Guide for General Counsel on Corporate Sustainability](#) (UN Global Compact/Linklaters)
- [Lawyers as Leaders: The Essential Role of Legal Counsel in Corporate Sustainability](#) (UN Global Compact/IBA/LexisNexis)
- [Portal on Engaging the Legal Profession](#) (UN Global Compact)
- [Lawyers as Professionals and as Citizens: Key Roles and Responsibilities in the 21<sup>st</sup> Century](#) (Harvard Law School –Center on the Legal Profession)

# Thank you!

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**Anna Triponel – Project Associate, *Shift***  
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