

LOOKING CLOSER

BUSINESS AND HUMAN RIGHTS BY DUTCH COMPANIES

VBDO
IN COOPERATION WITH
CNV INTERNATIONAAL,
ICCO COOPERATION, PwC



cnv Internationaal



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and in cooperation with CNV Internationaal, ICCO Cooperation and PwC.



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Looking closer: business and human rights by Dutch companies

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FOREWORD VBDO

Since our first publication and conference on the implementation of human rights policies by companies last year, we have seen considerable progress in the field of human rights and business. This positive trend is not only visible in the plentiful reactions we received from our partners at listed companies; it is also confirmed by the PwC Sustainability Barometer and the responses during the Annual General Meetings (AGMs) that the VBDO visited this year.

The VBDO is an organization connecting parties who jointly work on progress concerning human rights, and sustainability in general, in the policies and practices of companies and investors. During the annual Conference on Human Rights and Business, this year held on 13 June, we brought together 180 representatives from large corporations, investors and civil society. After the opening by Mrs. Ploumen, the Minister for Foreign Trade and Development Cooperation, participants discussed in detail how to implement a relevant human rights policy during a large variety of breakout sessions. This publication builds on that constructive approach taken during the sessions, and shares inspiring practices of businesses on the one hand, and updates on human rights regulations and implementation on the other hand. With the description of case studies, based on the conference's break out sessions, we hope to inspire all of you that are looking for informative examples in this intriguing, highly relevant and complicated domain.

This publication has been developed in close cooperation with CNV Internationaal, ICCO and PwC. I would like to thank them wholeheartedly for their commitment.

Please keep us posted with your reactions, comments and suggestions. Fostering the application of human rights in business is one cornerstone of the VBDO mission.

Therefore it is an intrinsic ambition to continue to provide our stakeholders with annual conferences and publications on human rights in the following years.

With this publication the VBDO aspires to further facilitate the implementation of policies and practices aimed at guaranteeing human rights in large companies as well as in small and medium sized ones. In addition, the VBDO is currently looking into the feasibility of measuring the progress of companies with regard to this domain in a benchmark. We take this opportunity to invite all our stakeholders to actively contribute to this process.

We hope you enjoy reading the publication.

Giuseppe van der Helm, Executive Director VBDO
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THESE PARTNERS CAN HELP YOU

“CSR is an important part of our general policy on collective bargaining agreements (CBA’s). The Ruggie Principles provide concrete tools for putting this into practice. They provide a good fundament for our CBA-negotiators to put CSR high on the agenda to companies and industries. In addition, CNV has an extensive international network of trade union partner organizations who can fulfill the role of watchdogs of human rights in business throughout the entire supply chain.”



Jaap Smit, CNV Confederation, President

“The Ruggie framework is providing essential guidance for organizations to embed human rights in the core business. In our view, it is also essential that companies report on progress made to their stakeholders; concrete, strategic and measurable. That is where PwC offers support.”



*Robert van der Laan, PwC
Partner Sustainability & Responsible Governance*

“As an international NGO, ICCO Cooperation has a unique role as linking pin between local people and companies. Because of our history and regional offices worldwide, we are embedded in local communities and understand their circumstances. Therefore, we are able to advise and support companies in their activities towards more respect for human rights.”



*Marinus Verweij, ICCO Cooperation
Chairman Executive Board*

Human life is inextricably linked with business, and human rights questions are piling up on the corporate agenda as never before. Companies have a responsibility not to undermine human rights, but at the same time businesses generate jobs, revenues, innovations and services, which are all prerequisites for the realization of human rights.

In China, the proportion of the population living below the poverty line of 1.25 dollar a day fell from 85% in the early 1980s to around 10 % today. This is a huge step forward for human rights and many other emerging countries are going through a similar development.

But it comes at a price, and economic development is putting human rights under pressure. Earlier this year more than one thousand people lost their lives in a single accident at the Rana Plaza factory in Bangladesh. Worldwide, 2.3 million people die annually as a result of work related accidents and occupational illnesses. This is equivalent to six Rana Plazas per day.

The price of adverse human rights impacts of business is not limited to the suffering of the victims. As some examples will show they also come at a huge cost to society. Environmental degradation threatens not only the right to health of people but also threatens the economy. The World Bank has estimated that the cost of pollution in China is equivalent to 9 % of the country's gross domestic product. A huge amount of money.

CAN WE AFFORD NOT TO?

Corruption, abuse of power and lack of transparency lead to human rights violations on a daily basis, and are also a monumental cost to society. The Tax Justice Network, an NGO, has estimated the global scale of tax evasion to be 3.1 trillion dollars each year. A staggering 5 % of world GDP, which far exceeds funds provided in international development assistance.

In a final example, it has become well-known that societies that discriminate against women do so to their own impoverishment. The British government has estimated that Africa could increase its agricultural output by 20 % if the continent's women had the same access to agricultural inputs as men.

In other words, the question is not whether we can afford to invest in good business practice on human rights. The question is whether we can afford not to. The UN Protect Respect Remedy Framework provides the first internationally

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agreed standard for what is expected of business and government in order to address the adverse human rights impact of business.

YOU CAN FIX IT

For the vast majority of companies, human rights and human rights due diligence are still unfamiliar concepts. By some estimates there are about eighty thousand multinationals in the world and according the latest survey by the Business and Human Rights Resource Centre, an NGO, less than 400 companies have a human rights policy statement. We have a long way to go.

But managing human rights need not be a tall order for companies whether large or small. Human rights are basically about respect for people whether they be workers, suppliers, communities or customers. Think about who might be worse off because of what you do – and then fix it. It's not easy but it's not rocket science either.

To help you get started these are four simple questions that your CEO should be able to answer at 3 a.m. in the morning:

1. What is the human rights context in which we do business? Knowing where local laws and practices fall short of human rights tells you where you need to go the extra mile.
2. How do we impact on people – and what are the consequences for their human rights? What might seem like a small impact to you can have big consequences for vulnerable people. In order to understand your impacts you have to understand the people you are impacting.
3. What relationships do we have that can give rise to human rights impacts? Look at your supply chain, your business partners, your government relationships and your customers. Where would you expect to find human rights problems?
4. What is my action plan? List the human rights impacts that are likely to occur in your own company and through your relationships and then deal with them in order of severity.

I am optimistic that in my life time this simple principle will become a second nature to the vast majority of companies - to their benefit and society's too.

Allan Lerberg Jørgensen

Department Director for Human Rights and Business, Danish Institute for Human Rights

Keynote speaker on the Human Rights and Business Conference on June 13 2013, Amsterdam



GLOSSARY

DUE DILIGENCE

This concept describes the steps a company must take to identify, prevent, mitigate and address adverse human rights impacts. The process should include assessing actual and potential human rights impacts, integrating and acting upon findings, tracking responses, and communicating how impacts are addressed. The due diligence process should cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships.

GRIEVANCE MECHANISM

A grievance mechanism is non-judicial and addresses disputes or grievances that arise between individuals or groups and an enterprise about a human rights impact that the enterprise has on them. It can be used to seek remediation. According to the UN, a minimum grievance mechanism must be legitimate, accessible, predictable, equitable, rights-compatible and transparent in order to be effective.

HUMAN RIGHTS IMPACT

An adverse human rights impact occurs when an action of an enterprise removes or reduces the ability of an individual to enjoy his or her human rights. An 'actual human rights impact' is an adverse impact that has already occurred or is occurring, whereas a 'potential human rights impact' is an adverse impact that may occur but has not yet done so.

HUMAN RIGHTS POLICY COMMITMENT

A policy commitment is a high-level and public statement by an enterprise to set out its dedication to meet its responsibility to respect human rights. It translates this commitment into a clear, overarching policy that determines particular actions. Such a policy forms the first essential step towards embedding respect for human rights into the values of an enterprise.

INTEGRATED REPORTING

Integrated reporting is a form of corporate reporting that provides a clear and concise representation of how an organization creates value, now and in the future. An integrated report is one that provides material information about an

organization's strategy, governance, performance, and prospects. It includes financial information as well as environmental and social performance data.

MITIGATION

Mitigation of human rights impacts refers to actions taken to prevent or reduce its extent, in which case remaining impact requires remediation.

OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES

Principles and standards for responsible business conduct for multinational corporations on topics such as human rights, employment, environment and taxation set by the Organization for Economic Cooperation and Development.

REMEDIATION

Process or act of providing remedy to victims of an adverse human rights impact to counteract, or make good, a specific adverse impact. This remediation can consist of apologies, restitution, rehabilitation, financial and non-financial compensation and punitive sanctions (whether criminal or administrative, such as fines) as well as the prevention of harm through, for example, guarantees of non-repetition or injunctions.

UNITED NATIONS GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS (UNGPS)

The UNGPs are also referred to as Ruggie Principles, after Special Representative John Ruggie who designed the principles. The UNGPs are the first framework on corporate human rights responsibility endorsed by the UN after unanimous approval of the United Nations Human Rights Council. The framework contains three pillars: the state duty to protect, the corporate social responsibility to respect human rights, and access to remedy for victims of business-related abuses.

VALUE CHAIN

A business' value chain encompasses the activities that convert input into output by adding value. It includes entities with which an enterprise has a direct or indirect business relationship and which either (a) supply products or services that contribute to the enterprise's own products or services, or (b) receive products or services from the enterprise.

INTRODUCTION

In June 2011, the United Nations Human Rights Council unanimously endorsed the Guiding Principles on Business and Human Rights (UNGPs). These Principles form an authoritative global reference point for preventing and addressing the risk of adverse impacts on human rights linked to business activities. The Protect, Respect and Remedy Framework has been introduced in the UNGPs by Professor John Ruggie, UN special representative for business and human rights. In the Ruggie Principles, as the UNGPs are also named after the representative, it is stated that companies should conduct due diligence to respect human rights. Due diligence is meant to find out which human rights are (potentially) violated by a company's business activities. The due diligence process should lead to an assessment of the actual and potential human rights impacts, the integration and response to findings, monitoring of the response and communication on the results of the process. The remedy pillar of the framework refers to grievance mechanisms and remediation for victims of human rights impacts, whereas the pillar of protection refers to the state duty to protect human rights. The UNGPs are also incorporated into the revised OECD Guidelines for Multinational Enterprises in an added chapter on human rights.

DEVELOPMENTS 2012-2013

In 2012, the VBDO, Beco and HumanRights@Work introduced the report Take a closer look with the objective to provide insight into the current status of the implementation of the OECD Guidelines for Multinational Enterprises and the UNGPs in the Netherlands, and to provide further ideas and inspiration. Since then, various relevant developments have taken place. The Global Reporting Initiative (GRI) launched their G4 update of Guidelines for Reporting with increased emphasis on human rights. On another level, the Dutch Social and Economic Council (SER) announced due diligence, with special attention to human rights including labor rights, to be this year's special theme within their international corporate social responsibility program. Furthermore, in June 2013, the Dutch government released their policy letter 'CSR pays'¹ in which many references to human rights are made. Lastly, the UN Working Group organized the first UN Annual Forum on Business and Human Rights.

¹ Beleidsnota 'MVO loont' June 2013, <http://www.rijksoverheid.nl/documenten-en-publicaties/notas/2013/06/28/beleidsbrief-maatschappelijk-verantwoord-ondernemen-loont.html>

OBJECTIVES

The above mentioned developments affect companies. Correspondingly, the overall objective of *Looking closer* is to stimulate companies and investors to actively pick up the topic of human rights for their business, to implement the UNGPs in their business activities, and to prevent and mitigate the risks of adverse impact on human rights. In doing so, the publication helps to map out the current situation of implementation of human rights within Dutch businesses. Therefore, we provide a brief update on the current status of human rights and business within the Netherlands. This update is providing a reflection on various research outcomes such as the Sustainability Barometer results and outcomes of the research on Annual General Meetings of companies.

While a summary of the state of implementation of human rights in the Netherlands is a first step, real life examples are typically even more successful at nourishing new ways of thinking within companies as they demonstrate successful routes for change and provide food for thought for companies on how to take it to the next level. Therefore, in the second part, this publication maps out inspiring cases derived from various sectors on different topics within the human rights and business domain. These cases and topics have been presented during the multi stakeholder Human Rights and Business conference in Amsterdam in June 2013. Although not all elements of the UNGPs receive an equal amount of attention, we aimed to link the cases to the UNGPs.

Lastly, as developments within the human rights and business domain occur rapidly and collaboration often turns out to be a key process component, we also paid attention to a selection of relevant initiatives from different organizations focusing on further implementation of the UNGPs and revised OECD Guidelines.

TARGET GROUP

Despite the fact that these guidelines affect a variety of stakeholder groups including governments, civil society, companies and investors, this publication primarily targets the latter two groups: investors and companies. They represent both the supply and demand sides of the capital market, which we aim for to become more sustainable. Nevertheless, we hope that the findings will seem applicable not only in the context of larger organizations, but could also serve as input for smaller ones. Whereas companies may differ in size and industry they all deal with people- both within their own organizations or in their value chains and through their community impact.

Yet, companies achieve most outstanding results through cooperation with other stakeholder groups. In that sense we address other stakeholder groups and the broader public with this publication as well.

METHODOLOGY

Whereas last year an extensive research was conducted, this year's update on human rights and Dutch business is based on two research activities. Firstly, between March and June 2013 the VBDO visited over 60 annual general meetings of Dutch stock listed companies. At many of these AGMs the VBDO questioned the board level of those companies about their human rights efforts. To prepare those questions, the VBDO investigated the human rights policies and annual reports of the companies. Accordingly the questions were sent to the companies and most of the time addressed during the AGMs. Secondly, as a result of the PwC Barometer adjustment to an exclusive human rights focus, the PwC Barometer was used to gain additional information on the current status of implementation of human rights in the Dutch business environment. Over 80 respondents of companies filled in the Sustainability Barometer and thereby contributed to Looking Closer.

The inspiring practices and dilemmas provided in the case studies and topics given in this publication are mostly derived from relatively large organizations, since they, generally speaking, were frontrunners in introducing the topic of human rights or at least in reporting on them.



LOOKING CLOSER AT...

CURRENT REPORTING AND PRACTICES ON HUMAN RIGHTS OF DUTCH BUSINESSES

The global debate on business and human rights is reflected in the discussion on corporate reporting of companies and organizations. Transparency is highlighted as an important principle in informing stakeholders about progress made on human rights. But how should companies report in order to provide stakeholders with better insight into business and human right policies and the execution thereof?

DEVELOPMENTS FOSTERING THE ROLE OF HUMAN RIGHTS IN BUSINESS REPORTING

The International Integrated Reporting Council launched its consultation draft on April 16, 2013, which addresses the need for focus on material issues only in reporting. Around the same time, the European Commission published a draft proposal for mandatory non-financial reporting in the European Union, containing an obligation to report on business and human rights plus on anti-corruption. The Dutch government supports such mandatory non-financial reporting. However, before the proposal can enter into force as an EU Directive, it has to pass the complex mechanisms of EU decision-making. If accepted by the relevant EU organs, the Directive is established and subsequently has to be transposed into domestic law by the single EU member states. A final decision on the proposal is expected within the following three years.

Today's debate on reporting is well reflected in the new framework of the Global Reporting Initiative, called G4, which has been launched in May 2013. It is the first reporting framework by a widely known organization that explicitly makes references to business and human rights. Various principles are taken into account; those of the United Nations (UN) International Bill of Rights including work conducted by John Ruggie and the International Labor Organization (ILO) 'Declaration on Fundamental Principles and Rights at Work'.

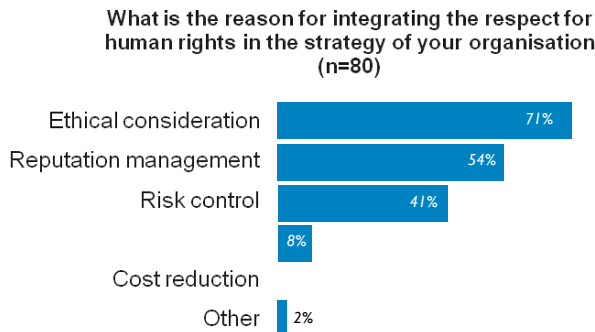
The human rights aspects in the G4 framework were elaborated in close collaboration with various stakeholder groups and cover indicators for issues such as non-discrimination, gender equality, freedom of association, collective bargaining, child labor, forced or compulsory labor and indigenous rights.

² Policy References made by large EU Companies to Internationally Recognised CSR Guidelines and Principles- Caroline Schimanski for the European Commission Directorate-General for Enterprise and Industry, p. 10).

SUSTAINABILITY BAROMETER: COMPANIES ARE STARTING TO REPORT ABOUT THEIR HUMAN RIGHTS STRATEGIES

Currently, quite a number of companies do report about sustainability, and some companies make reference to human rights in the context of employees or the entire value chain that they are part of. The biannual Sustainability Barometer conducted by PwC (www.pwc.nl/pwc-barometers/pwc-duurzaamheidsbarometer) shows that in the Netherlands three-quarter of the companies have a human rights policy that is approved by highest management (N=80, 75% above 250 employees). For companies to start reporting and being transparent it is key to demonstrate to them the added value of addressing human rights issues along a company's value chain. According to the 80 decision-makers surveyed by PwC, reasons for developing a human rights policy lie with ethical considerations or reputation management. Surprisingly, none of the Barometer respondents considered cost reduction as a reason to implement a human rights policy. Similarly, only 8% named an increase in profitability as a motive for integration of the respect for human rights into the company strategy (see Figure 1).

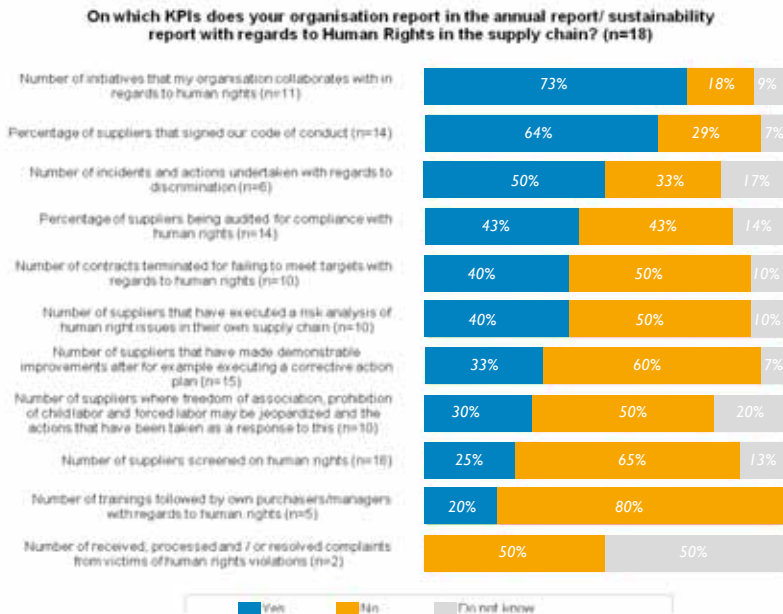
Figure 1 Reason for integration of human rights in strategy- Sustainability Barometer



The Sustainability Barometer shows that while half of the companies have incorporated human rights policies as such only 22% measure progress made along the supply chain. Even less - 14% - indicated to have a grievance mechanism in place. When companies were asked whether they report on achieved results with regard to human rights, only 18 respondents replied positively (see figure 2). Eleven of them pointed out that they report on the number of initiatives they collaborate in related to human rights. Having suppliers sign and understand a company's human

rights policy or organization's code of conduct (entailing human rights aspects) is considered to be relevant (64% of N=18), yet not all organizations subsequently audit their suppliers on adherence to human rights issues (43% of N=18). Further, those companies that do audit on human rights aspects often find that results of the audits are unsatisfactory.

Figure 2 Human rights KPIs in reporting- Sustainability Barometer



Although thorough incorporation of human rights into a business' strategy can mean initial confrontation with unpleasant facts, reporting serves as legitimate means to demonstrate willingness for progress to stakeholders and the general public. By linking strategy to performance in terms of concrete and measurable human rights' indicators, stakeholders can track engagement and eventually actual progress made. Contrary to prevailing expectations of some companies, this can contribute to a positive brand image, rather than sweeping inconvenient truths under the carpet. Therefore PwC advises that companies' actions should consist of:

1. Linking the importance of human rights to business performance
2. Integrating human rights policies into mainstream systems, processes (especially if material to the business and/or key stakeholders)
3. Measuring progress
4. Reporting on progress made and difficulties encountered along the way
5. Translating progress and lessons learnt into an adapted strategy

The most significant conclusion of the Sustainability Barometer is that companies claim to have an approved human rights policy, approved however this is not yet integrated in the strategies as such. Measuring progress on human right issues is in our vision a crucial area of improvement; 'that what you do not measure, you do not manage and what you do not manage, does not get done'.

Conclusively, both measuring and reporting are crucial in facilitating a common language between company's management and investors on the one hand and other stakeholders on the other with the aim to facilitate trust and respect in the area of human rights.

LOOKING CLOSER AT...

HUMAN RIGHTS IN GENERAL SHAREHOLDER MEETINGS AND ANNUAL REPORTS

In 2012, the VBDO has introduced human rights as one of four core themes (others: biodiversity&ecosystem services, responsible tax and sustainable remuneration) to guide the organization in its engagement with companies and investors.

The VBDO was inspired to place human rights even more at the forefront, amongst others due to the increasing global attention of international organizations. The recent revision of the OECD Guidelines for Multinational Enterprises and the endorsement of the UN Guiding Principles for Business and Human Rights are two important examples in this regard. Additionally the VBDO had increasingly realized in its multi stakeholder dialogues that companies' CSR efforts were generally more directed towards environmental issues whereas human rights were not equally taken into account yet. Therefore, since 2012, the VBDO has integrated human rights as a fixed agenda point in its company and multi stakeholder dialogues. Further, in its visits of annual general meetings of shareholders (AGMs) of nearly 60 Dutch stock-market listed companies, the VBDO included critical questions on companies' human rights' performance.

In 2013, the VBDO visited 64 annual shareholder meetings to critically and constructively inquire companies' sustainability performance. This included human rights issues but also more general questions of social justice such as companies' tax policies (i.e. are taxes paid in those countries where companies operate). With regard to the domain of human rights, the VBDO focused on the following main themes: human rights policy, supplier codes, due diligence, living wage and external research on human rights aspects. In the following, we provide an insight into the results of this research and into the outcomes of the VBDO's AGM visits. This is supplemented with concrete examples and quotes of companies to illustrate the VBDO findings on human rights and business.

HUMAN RIGHTS POLICY

"Policy statements are not an end in themselves. Ultimately what an enterprise does, matters far more than what it may say in a policy statement. A credible policy statement is, however, an important starting point, especially for larger enterprises adopting a more formal approach to CSR than smaller enterprises. CSR policies that are clearly built with

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reference to internationally recognized CSR guidelines and principles are likely to gain in credibility. The more enterprises openly refer to the core set of internationally recognized CSR guidelines and principles, the more it becomes possible to have a similar set of expectations regarding responsible business wherever enterprises operate in the world.” (analysis of policy references made by large EU companies to internationally recognized CSR guidelines and principles- C.Schimanski, EU Directorate-General for Enterprise and Industry).

According to the research on EU companies’ policies and guidelines, Dutch companies score average compared to other EU countries in terms of policies on human rights³.

According to the VBDO 2013 AGM statistics, reporting on human rights by companies has increased remarkably over the last year (to 89% of the companies visited by VBDO). An increasing number of companies also implemented a human rights policy or implemented these aspects into their supplier codes.

In addition, several companies have further detailed their policy such as Reed Elsevier. Still, it has to be remarked that also in those companies with extensive human rights policies, performance indicators measuring progress are often absent. Companies do recognize the need to deal with human rights but so far companies react to international guidelines and standards rather than going beyond provisions set out in these guidelines.

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On the other hand, several companies, for instance Royal DSM, the Royal BAM Group, Unilever and Akzo Nobel have trained (or plan to train) staff and suppliers on the company's code of conduct, and the incorporated human rights' aspects, in particular. There is also a small proportion of companies that plan to specifically audit on human rights; for example Heineken has stated its intention to audit its human rights policy during its 2013 AGM. Encouraging initiatives in taking human rights policy to the next level thus exist, and will hopefully be extended.

SUPPLIER CODES

The UN Guiding Principles on Business and Human Rights clearly state that businesses have to address human rights impacts that occur as direct result of a company's activities (firm-level), as well as those that follow from a company's business relationships with other parties along its supply chain³. Whereas many companies have developed a supplier code and criteria for compliance, there are yet a considerable number of companies that do not publish data on non-compliance. However there are companies that do not (yet) have supplier codes. For instance, AMG yet lacks a code. At the 2013 AGM of AMG it outlined to investigate the feasibility of a supplier code considering it *'a potential asset that might help AMG to distinguish itself within its market'*.

DUE DILIGENCE

The VBDO AGM research also found that more and more companies have started looking into their supply chain; be it in the form of supplier codes (procedural tools) or through comprehensive (human rights) risk assessments (analytical tools). Whereas this is encouraging, the number of companies transparently reporting on actual human rights goals and due diligence is still low. There are hardly any reports on assessments of actual and potential impacts of human rights provisions of businesses, the integration thereof, monitoring, and –not surprisingly– communication along the supply chain (the due diligence process in the UNGPs) and transparency of criteria and compliance of supplier codes. Very few companies did fulfill all steps of the due diligence process and reported on this. A positive example in this regard is AirFrance-KLM. The business did not undertake assessments yet but took measures to counteract risks along with a pilot on CSR audits.

³ How to use the UN Guiding Principles on Business and Human Rights in company research and advocacy, SOMO, p.11

LIVING WAGE

A relatively new theme within the human rights domain concerns securing a living wage versus a minimum wage for workers. Some companies have taken a clear position in this regard. For instance, the supplier code of Reed Elsevier reads “We expect Suppliers to recognize that wages are essential to meeting employees’ basic needs.” Elsevier’s CFO could not guarantee comprehensive implementation yet though. Heineken is involved in a number of pilots on living wage and management, for example, in Rwanda and Burundi. Heineken is still in the process of defining the concept and developing a policy on living wage. On page 49 this topic is further discussed.

EXTERNAL RESEARCH

The 2013 AGMs show that cooperation between companies and external researchers (universities/NGOs etc.) on supply chains is growing. Oxfam GB has carried out independent research on Unilever’s supply chain in Vietnam, focusing on labor rights such as freedom of association and the issue of a living wage⁴. In another research, Heijmans involved Nyenrode Business University in a stock-taking of the relationship between Heijmans as a construction company and the broader human rights spectrum⁵. The examples clearly show that businesses increasingly recognize the value-added of independent feedback; NGO-business relationships turn into partnerships which contrasts with the classic image of NGOs and businesses being adversarial entities.

In conclusion, despite the clear advancement in sustainability issues in general, and also specifically with regard to human rights, there is still considerable room for improvement. The number of companies reporting on a human rights policy has increased considerably however hardly any of these companies have set indicators for progress in their policies, making it hard to measure their improvements. The introduction of and reporting on supplier codes does seem to imply a form of limited and partial impact assessment. Yet, transparency on what happens to suppliers in case of non-compliance or information on (unannounced) audits is often missing. Moreover, whereas having a supplier policy is a good start, it does not relieve companies of the obligation to do an in-depth assessment of all potential human rights impacts of their suppliers and the company’s own activities, as is

⁴ <http://bit.ly/1bOL2Se>

⁵ <http://bit.ly/1eDT8Pk>

required by the due diligence concept in the UNGPs. A new theme in the field of human rights is the concept of living wage; some companies are starting to pay more than the minimum wage. Also relatively new, and an encouraging development, is the cooperation of companies with external researchers to get independent feedback on their operations and policies.

The lack of in-depth assessments on human rights impacts (both internally and in the supply chain), integration of findings, monitoring and transparent communication indicates that there is still quite some work to be done before the UNGPs are fully implemented. One could think of full due diligence, training of staff and suppliers, action plans, transparent internal and external reports, audits, implementation of grievance mechanisms, supplier's codes and stakeholder dialogues.

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LOOKING CLOSER AT...

CASES AND TOPICS FOR INSPIRATION

Previous chapters mapped out the current status of human rights within Dutch businesses. The implementation of procedural (policies etc.) and analytical (e.g. assessments) tools aimed at securing human rights was sketched, as well as the current methods of business reporting on human rights. In order to further stimulate companies to actively integrate the domain of human rights into their business activities, including implementation of the UNGPs, real life cases are discussed next. These cases show how other peers deal with the domain and can profoundly assist companies that seek a 'human rights strategy' but are unsure about how to realize their ambitions. It was decided to concentrate on inspiring cases that formed the basis for the breakout sessions during the second Human Rights and Business Conference on June 13 2013. The selection of cases represents a broad range of sectors, countries and addresses various topics within the human rights and business domain.

Case 1: Beyond certification

Case 2: Policies into practice

Case 3: Grievance mechanisms and remedy

Case 4: Breaking the link with conflict

Case 5: Joint approach: what companies and NGOs can gain by joining forces

Topic 1: Living wage

Topic 2: Myanmar: doing business in states that do not fulfill their duty to protect

Topic 3: Blind spot: trade with Israel in relation to the occupied territories



CASE I BEYOND CERTIFICATION

STATE MONITORING
TRAINING/CAPACITY BUILDING
GRIEVANCE MECHANISM
STAKEHOLDER INVOLVEMENT
CERTIFICATION



RIGHT TO FREEDOM OF ASSOCIATION

INTRODUCTION

As part of their CSR strategies, many companies have started to audit their supply chains with the aim to certify products or suppliers. Although auditing or certification can help to identify and reduce human rights risks and impacts, the gap between the human rights performance of the supplier and the requirements set-out in the audit protocol is often considerably large. Most suppliers need training or technical assistance to improve their skills. It has become apparent that in order to solve more complex human rights issues, some cases demand involvement of other parties such as unions or governments.

To illustrate this process we will look at Project Cultivar, executed by Social Accountability International (SAI). The project took place in Nicaragua, Honduras

Looking closer: business and human rights by Dutch companies

and the Dominican Republic and covered the banana, sugar cane and coffee sector. To demonstrate the impact of the project we zoom in on one of the involved banana farms in Nicaragua.

The Finca Coquimba farm with the support of SAI applied a successful approach to improve the working conditions of its staff at the banana plantation. At the same time turn-over of labor was reduced and productivity increased. The farm also improved relations with the unions and government. Both entities worked constructively in cooperation with the Finca Coquimba to improve the situation. Read below how they were able to achieve large scale improvements.

FOTO Photography: Bernd Out

DETAILS

Country: Nicaragua

Year: 2007 – 2011

Industry: Fruit (Banana)

PEOPLE AND ORGANIZATIONS INVOLVED

Company: Finca Coquimba farm

NGO: Social Accountability International (SAI) and PASE

Government: Ministry of Labor, Nicaragua

Union: Luis Anduray Neyra

Laborers: Local banana workers

THE CASE

Farms can often be characterized by high turn-over of staff due to relatively poor working conditions. In this case there were issues like absence of knowledge rights, absence of grievance mechanisms and other management mechanisms for human rights and absence of inspection law enforcement. Involvement of government and unions and training of workers was found to be important to address issues in the workplace.

OBJECTIVE

Correcting the issues mentioned above. Improving labor law compliance through better understanding of labor rights among workers and management, setting up of management systems and grievance mechanisms on farm level and capacity building of labor inspectors on enforcement of labor laws.

PROCESS

In Nicaragua, approximately 80% of the banana workers are union-affiliated. However, the unions did not always have an unanimous approach. As a first step,

SAI brought unions together and convinced them of the value to collectively collaborate in the project. Next, SAI set up meetings between producer companies and government agencies. Together these key stakeholders prioritized the human rights issues to be addressed, which included occupational health and safety, lack of grievance mechanisms, and the low productivity of the sector. In the third phase SAI trained union representatives who would in turn train workers in their sector via a 'train the trainer' approach. Workers were trained on how to exercise their rights, via increasing their understanding of labor standards and laws, training on occupational safety and health. In this way working conditions and relations with management were improved. Employers were trained in understanding standards and labor responsibilities and also increased their capacity to comply with labor standards via the implementation of management systems. Finally, SAI trained the government by strengthening the capacity of labor inspectors with technical tools for labor inspections and increased knowledge of labor conditions in agriculture.

At farm level occupational health & safety (OH&S) management systems were implemented. Together, the union and the Finca Coquimba management started to implement an internal training program for all workers on issues such as safe pesticide use and the use of safety equipment. The plantation's infrastructure was also improved. A grievance mechanism for workers was set up and simultaneously training on how to benefit from the mechanism was provided.

OUTCOME

As a result of the social dialogue and the actions taken, the number of accidents on the farm was significantly reduced and the relations between farm management and the union and workers improved. Relations with the government were also enhanced as the farm now complies with the regulations of the Ministry of Labor. The turnover of personnel decreased and worker satisfaction increased. Further, the measures led to higher productivity on farm level and made it possible for the farm to successfully apply for the Rainforest Alliance Certification. The latter two examples highlight the business case for the farm involved.

Within the sector, other banana farms have also become interested in developing a similar OH&S management systems on their farms. Finca Coquimba has become a role model in the industry.

CONCLUSION

Suppliers need help in preparing the ground for certification. In the banana case, certification rounded up the process. It was the result of hard work of all involved stakeholders. Human rights risks were successfully addressed, skills were enhanced and the farm's bottom line was also improved. The case shows that it pays off to respect human rights both from a human rights and financial perspective.

WHAT CAN YOU DO AS A COMPANY?

- Complement certification with technical assistance. Stimulate training of workers on labor standards
- Involve unions, local civil society and government where possible or needed. Promote social dialogue by sharing cases
- Work towards a business case for the suppliers involved as it enhances commitment and long term sustainability.

REFERENCES

For more information, please check the following link for this case:

If you like to read more, please see the following links for this case:

- The case above is part of project Cultivar. For a full report on this project please visit <http://bit.ly/19ne2jH>
- For a summary or brochure of project Cultivar please visit: <http://bit.ly/1b6XPyl>

"80% of consumers expect products to be safe, of good quality, safely produced etc. To reach sustainability, other activities are needed besides certification and visiting. Agrofair stimulates training through a local support organization"

Hans Willem van der Waal - Managing Director - Agrofair

"Certification is a tool to solve negative human rights. But it is not the only tool. In most cases certification needs to be complemented with training, technical assistance and social dialogue in order to create real change"

Edwin Koster – European Representative – Social Accountability International (SAI)

CASE 2 POLICIES INTO PRACTICE

SUPPLY CHAIN
IMPACTS ASSESSMENT
MONITORING
COOPERATION COMPANY AND NGO
STAKEHOLDER INVOLVEMENT
TRANSPARENCY



FREEDOM OF ASSOCIATION

THE RIGHT TO JUST AND FAVORABLE CONDITIONS OF WORK

REMUNERATION WITH FAIR WAGES

REASONABLE LIMITATION OF WORKING HOURS

INTRODUCTION

In Vietnam, Oxfam reviewed the reality on the ground of Unilever's operations and wider supply chain, and compared the findings with the company's high level policy commitments. Unilever co-operated fully with the study, providing access to its staff, operations, data and suppliers. This gave Oxfam a rare opportunity to assess the labor standards of a multinational company in the context of international standards and local conditions. The study focuses on issues -Freedom of Association and Collective Bargaining; a Living Wage; Working Hours and Contract Labor- which are important to workers but difficult for companies to measure and manage. The global and local management processes have been assessed using the UN Guiding Principles for Business and Human Rights and other authoritative international standards. Oxfam's report includes many recommendations, which are meant to be of wider interest than for Unilever only. Unilever itself also made some important commitments in the report and wants to share the lessons learned with other companies.

DETAILS:

Country: Vietnam

Year: 2011-2012

Industry: Fast moving
consumer goods

Company: Unilever

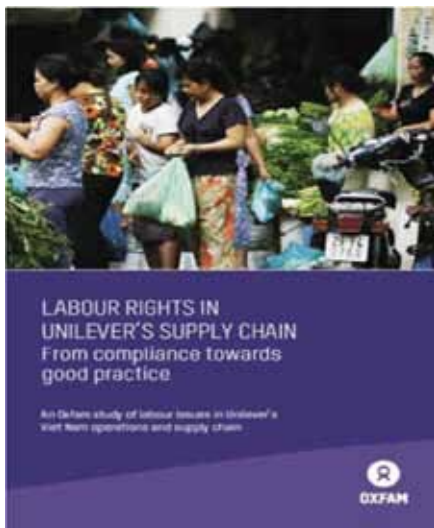
PEOPLE AND ORGANIZATIONS INVOLVED:

Factory: Cu Chi Factory, owned by Unilever, 48 suppliers
and three of their factories

NGO: Oxfam GB en Oxfam Vietnam

Government: several stakeholders in the Vietnamese
government

Laborers: kept confidential



THE CASE

As a result of previous dialogue on the issue of labor rights, Unilever agreed that Oxfam could review its impact on four labor issues in one of its countries of operation, Vietnam. To ensure the study had wider relevance for Unilever and other companies, Oxfam looked at a range of international frameworks relevant for labor rights, in particular the UN Guiding Principles on Business and Human Rights, which guide companies in meeting their responsibility to respect human rights.

OBJECTIVES

1. To assess the labor standards in Unilever's operations and wider supply chain, taking international standards and local conditions into account
2. To develop a set of principles and measures to guide Unilever, and other companies, in fulfilling their social responsibilities, as a complement to the better defined environmental measures available

PROCESS

Oxfam designed the study in ways that would enable it to assess to what extent people were able to exercise their rights and whether the company's policies and processes helped them to do so.

The study had both a global and national scope. A framework of principles and good practice indicators was developed based on eight international standards. Oxfam studied Unilever Vietnam and its supply chain within the country, to take into account a range of external and internal factors influencing labor standards. Managers and workers were interviewed. Worker interviews were a mix of individual and group formats, both on-site and off-site. The research included

telephone interviews with 48 suppliers and a site visit of three suppliers. The findings, conclusions and recommendations were presented to Unilever. The company then provided its comments on the findings, and corrections were only made where facts were proven to be incorrect. Unilever made its commitments for follow up of this study an integrated part of the public report.

OUTCOME

All findings of the study can be read in the final report, below the main findings are outlined. The outcomes present what measures Unilever agreed to undertake after the research to improve its management of labor rights. The commitments are made on global as well as on local level in Vietnam

- Human and labor rights training workshops in Vietnam for internal stakeholders and key suppliers
- Work with the 80 top suppliers to ensure the supplier code is understood and suppliers know what is expected of them when it comes to ensuring workers' rights. Unilever's global objective is to ensure that by 2014, 100 per cent of its top 13,000 first tier key suppliers have positive assurance statements as well as corrective action programs
- Ensure that Unilever's own manufacturing facilities are subject to the same transparency and assessments as those of suppliers
- Review the grievance mechanism for both permanent and temporary workers to assure it is more accessible, predictable and transparent
- On global level, Unilever is undertaking a 'sustainable living' review of the 180 countries in which it operates, by the end of 2015, in order to assess whether the entire workforce is fairly and competitively remunerated
- Mitigate the casualization of labor within their workforce wherever possible. Unilever had already started reviewing the use of temporary workers worldwide
- Partner with others to scale up and accelerate mainstreaming human and labor rights integration by business
- Work to define relevant key performance indicators for labor and human rights, by the end of 2013, and annually report on progress

CONCLUSION

Despite major commitments a company may have, only impact assessment of a company's own operations and that of suppliers, can enable companies to identify what needs to be done to guarantee respect for human rights, and to identify priorities for action. This allows a company to be more pro-active instead of reactive to negative findings by others. The common social audit systems do not give a company all the information it needs, especially because most social audits do not verify the findings with workers off-site. Full transparency and independent assessment of these issues, as Unilever has done, have internally put the issue high on the agenda and has resulted in the company taking major steps forward.

WHAT CAN YOU DO AS A COMPANY?

- Assess whether your policies and practices are in line with the UN Guiding Principles on Business and Human Rights and if these have the potential to deliver better quality jobs for workers
- Better align business processes with policy, such as training for buyers, incentives for suppliers, and communicate expectations clearly to partners along the supply chain
- Strengthen the due diligence process in order to take people's vulnerability into account; make the risk management system more sensitive to the situation of vulnerable workers and develop targets to help monitor the effectiveness of measures taken
- Work with NGOs or other (local) experts on human rights to identify potential and actual negative and positive impacts on human rights. An independent perspective often helps to put the issue on the agenda internally
- Ensure that a social audit program is complemented with training and dialogue with suppliers e.g. about corrective action plans. Check whether certification schemes applied (or which are intended to be applied) enable the realization of labor rights.

REFERENCES

If you like to read more, please see the following links for this case:

- <http://bit.ly/1bOL2Se>
- <http://bit.ly/10luDCH>

“Regarding the local grievance mechanism we thought we had done everything we needed to do, and actually that is one of the situations where you don’t get much feedback, so we thought we did it right, but then you find out that people are nervous about posting something”

Miguel Pestana- VP Global External Affairs and Media Relations- Unilever

“Good intentions are not always effective. Without measuring the impact, you will not know. You will assume they are effective, while they are not.”

Liesbeth Unger- Human Rights@Work

Unilever is a major producer of food, beverages and consumer goods. It sources production items (raw materials and packaging) from more than 10,000 suppliers worldwide, and indirect procurement items (IP) from a further 160,000 suppliers. It has a presence in over 190 countries, directly employing 171,000 employees (in 2011). Nearly 55 per cent of its business is in emerging markets, and it has 72 subsidiaries globally.

www.unilever.com

Human Rights@Work bridges the gap between companies and human rights globally. With international experience and a pragmatic attitude it provides advice and training to businesses, governments and NGOs. Human Rights@Work does risk assessments, impact analysis, development of KPIs and helps with the internal and external communication on human rights. Liesbeth Unger was the technical advisor for the Oxfam-Unilever labor rights study.

www.humanrightsatwork.nl

CASE 3 GRIEVANCE MECHANISMS AND REMEDY

GRIEVANCE MECHANISM
REMEDICATION
STAKEHOLDER INVOLVEMENT

RIGHT TO HEALTH
RIGHT TO SOCIAL SECURITY, INCLUDING SOCIAL INSURANCE



INTRODUCTION

The third pillar of the UN Guiding Principles on Business and Human Rights covers state-based and non-state based judicial and non-judicial remedy. Currently, there is a need for better understanding of non-judicial remedy on side of companies and workers. There are several types of non-judicial grievance mechanisms (GM) on different levels like: company, industry, multi industry, national, regional and international levels, and ad hoc dialogue. This case highlights the process and effectiveness of the complaint and remedy mechanism of the Fair Wear Foundation in the textile industry, which is complemented with information from Access Facility; the organization provides support on GMs across industries.

The Fair Wear Foundation (FWF), a multi-stakeholder initiative for the textile industry set up a non-judicial grievance mechanism in line with the UNGP. This grievance mechanism allows access for workers of FWF member's suppliers. The case below explains how the Fair Wear Initiative works.

DETAILS

Country: China

Year: 2011

Industry: Textile

PEOPLE AND ORGANIZATIONS INVOLVED

Company: J. Lindeberg Sweden
(affiliate member of FWF)

Factory: Kept confidential

NGO: Fair Wear Foundation

Government: Local insurance bureau
Dong Guan

Laborers: Kept confidential

THE CASE

A Chinese Lindeberg's suppliers' worker was hit by a private car at the factory compound on her way to work. As a result of the accident the worker suffered



brain concussion and physical injury. She called the local complaints handler at the Fair Wear Foundation (FWF).

OBJECTIVE

Allowing access to the grievance mechanism as a way to remediate the workers' right to occupational health.

PROCESS

The factory claimed that there was no relationship between the factory and the car involved in the accident and the management denied responsibility. As a result, the worker was not provided with the required documents for the social insurance bureau. This meant that the injured worker was unable to process the case at the social insurance bureau. In addition, the factory management, at that time, did not agree to pay normal salary to the plaintiff for on-the-job injury leave.

The FWF decided that the complaint was admissible as it relates to the FWF Code of Labor Practices⁶ and the involved factory is producing for an affiliate FWF member. FWF conducted a detailed interview with the plaintiff to get a full

⁶ <http://bit.ly/10luDCH>

understanding of the accident and the factory management's position concerning the refusal to support the injured worker in obtaining compensation. In addition, FWF asked J. Lindeberg to contact the factory management to get additional understanding of their perspective on the matter.

OUTCOME

FWF concluded from the investigation that the complaint was grounded and subsequently the accident was defined as work related. Since the accident happened on the factory premises, the factory was found to be accountable for the accident. During the investigation, factory management informed the respective worker that all required documents for the local social insurance bureau would be provided to the worker. It was confirmed that the factory would pay the plaintiff the regular salary for the period of the worker's sick leave. The factory committed itself to this while critically remarking that the worker had failed to formally apply for insurance.

CONCLUSION

A grievance mechanism or multi stakeholder initiative (MSI) can help producer companies to encourage their suppliers to solve the human rights issues faced by workers. FWF was able to carry out an independent investigation and mediated between the worker and the factory with support of the company.

WHAT CAN YOU DO AS A COMPANY?

- Ensure that a complaint mechanism is in place and that staff and management are aware of it.
- Laborers should be aware of the complaint mechanism and be trained on how to use it
- Trust should be built between the laborers and management through dialogue facilitation.
- Buyers should be prepared to take part in the process to find a solution for remedy.

"Parties need to be able to trust that non-judicial GMs provide solid and effective solutions indeed that are rights-based and sustainable."... "It is the interplay and combination of the various remedy options both judicial and non-judicial, that need to ensure access to effective remedy for those that are affected by business-related human rights abuses."
Serge Bronkhorst – managing director - Access Facility

“Not knowing about complaints, does not mean they do not exist”
Ivo Spauwen, senior verification coordinator, Fair Wear Foundation

REFERENCES

If you like to read more, please see the following links for this case:

- <http://bit.ly/HafUTK>
- www.fairwear.org/506/resources/
- www.accessfacility.org/case-stories

Fair Wear Foundation is an independent, non-profit multi stakeholder organization that works with companies and factories to improve labor conditions for garment workers. FWF verifies efforts and results by its members to implement its Code of Labor Practices. As a part of its verification approach FWF has a helpline in 14 countries for workers in the supply chain of its 90 member companies. FWF has also set up its Workplace Education Program (WEP), which is a training program for workers and managers to support workplace-level grievance systems and strengthen awareness of labor rights. www.fairwear.org

Access Facility is a global non-profit organization that supports rights-compatible, interest-based problem solving to prevent and resolve conflicts between companies and communities. They offer access to cases, grievance mechanisms and professional facilitators. www.accessfacility.org

CASE 4 BREAKING THE LINK WITH CONFLICT

SUPPLY CHAIN
IMPACT ASSESSMENT
CERTIFICATION
MONITORING
STAKEHOLDER INVOLVEMENT
TRANSPARENCY



RIGHT TO FREE CHOICE OF WORK
RIGHT TO LIBERTY AND SECURITY
RIGHT TO SAFE AND HEALTHY WORKING CONDITIONS

INTRODUCTION

In September 2012, the Netherlands Ministry of Foreign Affairs, industry partners and other stakeholders initiated a pilot directed at sourcing conflict-free tin from a mine in Eastern Congo, the Conflict-Free Tin Initiative (CFTI). In the following case the main results achieved so far are outlined, and how the government, together with companies and civil society, share responsibility not only to avoid human rights violations, but also to promote security and prosperity. The case offers a good example of how companies can go beyond compliance, creating a positive impulse for local economies.

DETAILS

Country: Democratic Republic of Congo (DRC)
Year: September 2012 - Summer 2013
Industry: Mining industry (Tin extraction)

PEOPLE AND ORGANIZATIONS INVOLVED

Companies: AIM Metals & Alloys, Alpha, Blackberry, FairPhone, HP, ITRI, Malaysia Smelting Corporation Berhad (MSC), Motorola Solutions, Nokia, Royal Philips, Tata Steel, Traxys and local business.
Civil society: Pact, local civil society
Government: National, provincial and local governments of DRC, The Netherlands Ministry of Foreign Affairs

THE CASE

The Conflict-Free Tin Initiative (CFTI) is the response of the Dutch government, together with several companies importing from DRC, to the perceived need for conflict free sourcing and economic development in the DRC. The Eastern provinces of the DRC (North and South Kivu) possess abundant valuable metal ores and mineral resources, such as for example cassiterite (tin), which is an important basic metal for electronic devices. Yet, in this region plagued by conflicts, the metals and minerals trade has become part of the economy of war. In an attempt to deal with this problem, the US Congress has adopted Section 1502 of the US Dodd-Frank Act: It requires companies publicly trading in the US to disclose the use of 'conflict minerals' from the DRC and adjoining countries in their products. Further, company measures applied to ensure that the purchase of minerals does not fund illegal armed groups operating in the DRC, has to be described. However, the war situation in the country makes traceability extremely difficult. Consequently, the US legal response has led to a de facto embargo of minerals from the region, which resulted in social unrest, and many miners losing their livelihoods. In order to enable companies to comply with the US legal requirements, a tightly controlled supply chain including confirmed buyers of conflict free minerals from the Kivus region was urgently needed.

The CFTI was designed to meet this demand. The program has started as a pilot focused on the tin produced in one mine, the Kalimbi mine in the province of South Kivu. The tin is tagged and followed from the mine, to smelters, through to end users. Due diligence and other checks are performed at each stage. The Dutch Ministry of Foreign Affairs acts as the facilitator of the process, bringing all the partners along the supply chain together. The DRC Government and local civil society are closely involved in the initiative. The tagging is currently financed by development institutions like the Dutch Ministry of Foreign Affairs and USAID, but an export levy is intended to cover these costs in the near future.

OBJECTIVE

The CFTI aims at piloting new tracking and tracing procedures to ensure the conflict free status of the tin supply chain in Eastern DRC. It intends to provide other parties with information on how the implemented conflict-free minerals system works and how it can be improved in such a way that it is credible, sustainable and expandable. The Initiative also aims at showing other market actors

that one can source conflict-free minerals from Eastern DRC. Furthermore, it is assumed that if the initiative is successful, it will lead to more formalized conflict-free mining, increased employment for artisanal miners, and contribute to economic development and regional stability inside the DRC.

PROCESS

The idea for setting up a conflict-free tin supply chain was born in November 2011, at a meeting of the OECD on due diligence. In January 2012, a first field visit was organized, during which the Netherlands Special Envoy Natural Resources and two of his colleagues from the Netherlands Ministry of Foreign Affairs, a representative of USAID, and the civil society organization Pact, visited mine sites in the Kivus region. The group also met local government officials and civil society representatives. After this first field visit, the initial concept for conflict-free mineral sourcing was presented at the OECD meeting held in Paris, in May 2012. Subsequently, interested parties began serious discussions on the implementation of the initiative. After formal contacts with the central government of the DRC the first conflict-free tin purchasing order was placed by Malaysia Smelting Corporation Berhad, in August 2012.

The public launch of the CFTI took place, in September 2012, and the CFTI officially started on 24 October 2012, with the first bags of tagged conflict-free tin leaving the mine in South Kivu. This marks the beginning of the flow of minerals through a controlled supply chain outside the reach of armed groups. The first container with 24 tons of conflict-free tin was transported from the comptoir to the trader, in December 2012. The lot is equivalent to around 14 tons of tin metal once smelted. In January 2013, the first two containers departed to the smelter in Malaysia. The shipment was received in March, and in July 2013, the material finally arrived in Taiwan, at the gates of the Soldering Companies of Alpha.

The CFTI also builds on already existing initiatives. Thus, the traceability and due diligence mechanism in itself is developed by ITRTI (a non-profit membership based organization representing the tin industry): the Tin Supply Chain Initiative (iTSCi), a due diligence mechanism for minerals in the Great Lakes. The local partner for implementation in the DRC is the NGO Pact. Similarly, the CFTI has partnered with the Conflict-Free Smelter (CFS) Program, a voluntary program in which an independent third party evaluates the smelter's procurement activities (in this case the Malaysia Smelting Corporation Berhad), and determines if the smelter

demonstrated that all materials processed originate indeed from conflict-free sources.

OUTCOME

The pilot has not been completed yet, but several results have already been achieved. In terms of production, the mine has been able to produce 200 tons of proven conflict free material. This has had a positive effect on the situation of mineworkers. At the start of the project, employment rates were low, with less than a 100 artisanal diggers working in the mine. Currently, the mine site offers jobs to about 1200 people. Moreover, the income of miners has increased, depending on the quality of the tin and the world price. Furthermore, working conditions and the security situation at the mine have improved, since local cooperatives are starting to buy equipment such as helmets, boots, and water pumps for the miners. Infrastructure is enhanced as well, mineshafts were stabilized with wooden piles in order to prevent accidents. An interesting effect of the project is the formalization of the sector. Transparency allows the Congolese government to tax the materials sourced.

CONCLUSION

The CFTI has been able to achieve highly positive results in particular due to four elements:

1. Industry partners like Philips, Tata Steel and Motorola Solutions have been on board from the start and expressed their commitment to the initiative;
2. The initiative benefits from a neutral broker, the Netherlands/Dutch Ministry of Foreign Affairs, who brings all the partners in the supply chain together, from mine, to smelter, through to the end-user;
3. Development aid provided by the Dutch government covered initial costs of tagging and tracing the material in the DRC;
4. The local government of DRC and Congolese civil society have been closely involved in the initiative from the start;
5. And finally; the CFTI has built on already existing initiatives in the Great Lakes such as Tin Supply Chain Initiative (iTSCi). Thus, the approach focused on strengthening what is already in place instead of inventing something new.

WHAT CAN YOU DO AS A COMPANY?

- If you are a company sourcing tin from the DRC, you can commit to the CFTI



- If you are a company buying raw materials from conflict-affected or high risk areas, check what initiatives have already been developed to ensure that these products are conflict-free and explore how you can join, collaborate or extend these engagements with other interested parties
- If there is no such initiative, attempt to form alliances with other key stakeholders, such as other companies, governments, knowledge institutions and civil society organizations working on these themes. Clearly, together you can do more to improve the situation.

REFERENCES

For more information, please see the following link for this case:

- www.solutions-network.org/site-cftil/
- www.oecd.org/daf/inv/mne/mining.htm
- www.pactworld.org/dr-congo



CASE 5 JOINT APPROACH: WHAT COMPANIES AND NGOS CAN GAIN BY JOINING FORCES

STATE RESPONSIBILITY
MONITORING
GRIEVANCE MECHANISM
IMPACT ASSESSMENT
SUPPLY CHAIN
TRAINING/CAPACITY BUILDING
STAKEHOLDER INVOLVEMENT



FREEDOM OF ASSOCIATION
RIGHT TO JUST AND FAVORABLE CONDITIONS FOR WORK
RIGHT TO SOCIAL SECURITY

INTRODUCTION

From 2010 until its closure in early 2013, Alianza Fashion, a South Korean garment factory located in Guatemala, was accused of systematically violating the rights of its employees. Violations included forced overtime, salaries that did not satisfy worker's basic needs, misappropriation of workers' social security contributions, and the denial of the right to freedom of association. A leading actor in raising public awareness on the problems in the factory was CEADEL, a local human rights organization with a strong focus on labor rights. CEADEL's strategy ranged from spreading information in Guatemala and the USA on the poor working conditions in the factory, to actively searching the involvement of the North American fashion labels that were buying from the factory. The case offers some insights into the added value that local civil society organizations like CEADEL, can have for those companies that are looking for products made in a way that is respectful of human rights.

DETAILS

Country: Guatemala

Year: 2010-2013

Industry: Textile

PEOPLE AND ORGANIZATIONS INVOLVED

Company: Alianza Fashion, a South Korean garment factory located in Chimaltenango, Guatemala

Fashion labels: Adidas Group, Alfani, American Eagle Outfitters, Briggs New York, Calvin Klein, Fashion Bug, Gap, JM Collection, Liz Claiborne, Nike, Nordstrom, Sag Harbor, Tommy Hilfiger, Under Armour, Van Heussen and VF Corporation

Civil Society: CEADEL, Fair Labour Association (FLA), National Labor Committee (NLC) – currently the Institute for Global Labour and Human Rights

THE CASE

In 2010, a Guatemalan labor organization, CEADEL, was informed for the first time about the difficult working conditions at Alianza Fashion after a group of 18 workers had been fired for trying to organize into a union. The organization started to investigate the case and came across the human rights violations mentioned above. The focus in this case description is on the role of CEADEL and its way of networking with international fashion labels in order to deal with these violations.

OBJECTIVE

Supporting (former) workers of Alianza Fashion in being able to exercise their rights and in gaining access to remedies.

PROCESS

CEADEL started with documenting the human rights situation in the factory and sharing this information with a wider public. Through an alliance with a North American civil society organization, the National Labor Committee (NLC), CEADEL was able to reach not only a Guatemalan public but also the public in the United States, where most of the products of Alianza Fashion were bought. In a first elaborate document on the Alianza Fashion case, CEADEL and NLC requested the fashion labels buying from the factory to use their leverage to urge the factory owners to improve the working conditions. At that time, however, they received no response from the fashion labels.

Under increased public pressure, the owners of Alianza Fashion responded by threatening the workers of being fired if they would go to CEADEL or to the Ministry of Labor to talk about the situation in the factory. CEADEL responded by publishing a research demonstrating how the institutional fragility in Guatemala

made it possible for Alianza Fashion to violate the rights of its employees without suffering juridical prosecution. Simultaneously, CEADEL accused the fashion labels of being co-responsible of the situation for not acting to improve the working conditions in the factory.

Throughout 2012, the situation for the Alianza Fashion workers worsened, the management even failing to pay the end year bonus throughout 2012 and the first three months of 2013. The growing involvement of the Ministry of Labour, which denounced the factory on several occasions throughout 2012, could not improve the situation for the denunciations were not taken up to the judiciary. Still, the factory felt pressured and was looking for a way out. On 22 March 2013, the factory management took advantage of a general inspection to declare the factory bankrupt and close it, leaving 647 employees without a job, without payment of their salary for March, and without social security.

As this happened, CEADEL decided to search for a more active involvement of the fashion labels, some of which were members of the FLA. The organization filed a complaint to the FLA, but also directly contacted one of its associates, the group PVH, including major labels such as van Heussen, Calvin Klein, Tommy Hilfiger and Nordstrom, who were all selling clothes sewed in Alianza Fashion. The group agreed to meet with CEADEL, with the human resource manager of Alianza Fashion and with the workers of the factory. Assuming its share of responsibility, it made the commitment to find the workers new employment in other garment factories in Guatemala and to look for payment mechanisms for the money the factory was indebted to its workers.

OUTCOME

The owners of Alianza Fashion have fled to their home country to evade legal charges. The involvement of the fashion labels came too late to prevent the closure of the factory. Still, their active commitment to find the former factory workers new employment in the garment industry and arrange for financial compensation should be valued in its own right. Without the support of the fashion labels the former Alianza Fashion workers would hardly be able to find a new job in the garment industry.

CONCLUSION

The Alianza Fashion case points out that the involvement of those at the end of the supply chain, the buyers, is crucial to improve working conditions at the bottom of the chain, especially in a context of institutional fragility like Guatemala. In the case

Looking closer: business and human rights by Dutch companies

of Alianza Fashion, buyers' involvement came rather late, and the situation might have turned out less dramatic if the fashion labels had assumed a certain level of responsibility at an earlier stage in the process. But even when late, buyers can still play an important role, for example in setting up grievance mechanisms and compensation. The case also shows the importance of taking into account small local organizations like CEADEL, who have an extensive knowledge of local working conditions, knowledge that does generally not surface through regular audits.

WHAT CAN YOU DO AS A COMPANY?

- Ensure you know about the local situation and visit local unions and NGOs when doing business in a country. Assess potential and actual impact
- Engage with the factories you buy from on labor rights
- Take calls of labor representatives on rights violations seriously from the start; avoid viewing NGOs as finger pointers (even if they address your responsibility) and view them as assistants to join forces with in order to improve the situation
- Conduct unannounced audits at factories suspected of violations, ideally with independent parties (NGOs etc.), and talk to the workers outside the factory setting
- Buy from certified factories where possible and stimulate training for workers on how to claim their rights
- Check for a grievance mechanism and set-up one if non-existent; educate workers on the independence of the mechanism

REFERENCES

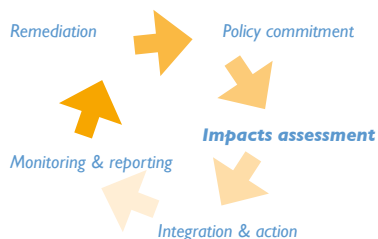
If you want to read more information, please see the following links for this case:

- Presentation CEADEL on the case: <http://bit.ly/GXHHpB>

CEADEL: the Centro de Estudios y Apoyo al Desarrollo Local, is Guatemalan human rights organization with a strong focus on labor rights. They are dedicated to the monitoring, and, if necessary, defense of the workers of the 10 garment factories and 40 agro-export companies working in Chimaltenango. Since 2006 they have forged an alliance with the North American Institute of Global Labor and Human Rights (formerly the National Labor Committee – NLC).

TOPIC I > LIVING WAGE

PROCESS OF WAGE LADDER ENGAGEMENT



RIGHT TO A JUST AND FAVORABLE REMUNERATION

INTRODUCTION

The right to just and favorable remuneration that ensures an existence guaranteeing human dignity, is a basic human right. This is also called a living wage. If workers earn a living wage, they are by definition able to support themselves and their dependents. How can buying companies support implementation of living wages throughout their supply chain? When assessing impacts and identifying what human rights are potentially violated in supplier countries, how can a company know what the living wage is at the local level when it is clear that the country's minimum wage is not sufficient? What can investors, that would like to encourage a living wage, expect? The FWF has experience with this process and shares impressions in this case.

THE TOPIC

FWF, a multi stakeholder initiative with the aim to improve working conditions in textile factories, started to act and to help textile companies concerning the implementation of living wages. FWF produces wage charts for all factories audited by its local specialists in order to help brands and factories understand gaps between what people earn in a certain garment department and income/ wage benchmarks collected from local stakeholders. The Wage Ladder is a publicly available tool on the FWF website. A uniform definition of a living wage does not yet exist and likely differs per country. In this context, the Wage Ladder gives stakeholders the information on different wage levels that are likely suitable in different countries.

OBJECTIVE

Start piloting a step by step introduction of living wages in the supply chain.

PROCESS

In order to start improving wage structures it is necessary to carry out research first. Therefore FWF:

- has collected 20 case studies and made an estimated impact on price;
- looks at the Factory Working Minute Cost (a factory's working costs per minute) and assesses how these costs would change if higher wages would be paid; this exercise is performed in cooperation with an increasing number of brands;
- is facilitating brands in giving new insights by showing member companies how increased wages at factory level would affect buying and retail prices.

Further, FWF found that in order to start improving wage structures, in practice, it is necessary for companies to first:

- identify root causes of low wages;
- distinguish overtime from regular working hours;
- raise awareness among workers on how their wage is calculated;
- define scale for evaluating job positions and department;
- involve workers in the process from the start

After having conducted this step, two main challenges remain:

1. monitor that wage increases do not lead to excessive retail price increases
2. adopt scalable models to ensure that workers benefit from a living wage system

There is a need for collective bargaining agreements that result in a credible living wage. Furthermore, detailed examples on how companies in different sectors implement living wages are needed, so other companies can learn from these examples and follow suit. Therefore, FWF is now developing case studies with members (companies) in Bangladesh, Bulgaria, India and Macedonia on 'living wage engineering'. FWF also facilitate the learning process with brands through projects that assess how productivity-level increases could contribute to higher wage levels.



It is time for the concept of living wage to be operationalized. Waiting for the correct overall definition of living wage is not an option. It is important to acknowledge that there is no clear definition or consensus on what living wage represents but that in itself is not a reason not to act.

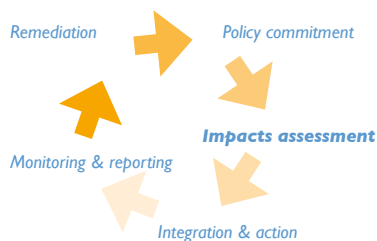
REFERENCES

For more information, please see the following link for this topic:

- www.fairwear.org/563/wage-ladder

TOPIC 2 > DOING BUSINESS IN STATES THAT DO NOT FULFILL THEIR DUTY TO PROTECT

STATE RESPONSIBILITY
IMPACT ASSESSMENT
STAKEHOLDER INVOLVEMENT
ENGAGEMENTMENT



INTRODUCTION

Myanmar, formerly known as Burma, has been ruled by a military regime for almost a quarter of a century. Due to the widespread human rights violations that took place during regime reign⁷, sanctions were imposed on Myanmar by the EU, US, Australia and some other countries. Myanmar, once a prospering country called the rice-bowl of Asia, rich in natural resources and arable land, but most foreign investors wandered off during the regime period. The main investors remaining were Asian countries.⁸

From 2010 onwards political and economic reforms have been taking place. For example: the banking and financial system have been reformed. A new Foreign Investment Law has been passed and new environmental, land and labor laws have been drafted. Workers have the right to form trade unions and to go on strike. NGOs, including those working on human rights, can now officially register, and, in June 2013, for the first time in history a human rights festival took place in Myanmar's capital Yangon.

The EU has completely suspended the sanctions. Similarly, the US suspended the economic sanctions but has left an embargo on arms trade in place. Multinational companies representing various industry sectors are now eager to enter this country with 60 million inhabitants, which is geographically well-located between the two economic powers China and India. But how can you as a company ensure, investment in Myanmar is conducted in a responsible manner?

⁷ These human rights violations include reports of forced and child labour, sexual violence as a weapon of war, media censorship and unlawful imprisonment. For more information on Myanmar's human rights record, see reports by Human Rights Watch: <http://www.hrw.org/world-report-2012/world-report-2012-burma> and Amnesty International: <http://www.amnesty.org/en/region/myanmar/report-2012>

⁸ These include China, South Korea, Taiwan, Province of China, Thailand, Malaysia, and Singapore.



CHALLENGES WHEN ENTERING MYANMAR

Below an outline of some of the challenges companies may face when entering Myanmar.

Labor: Enforcement of labor laws is still weak.

There is still forced and child labor for example in the tourism sector and in tea shops. Health and safety hazards remain, in particular in the construction sector.

Land: In 2012 two new land laws were passed, which are considered much stronger than previous versions. However the laws are still criticized as they are perceived pro-business and do not provide sufficient protection of land rights for smallholder farmers. Many farmers do not have official land titles or deeds to demonstrate land ownership. This forms a challenge for companies who want to acquire land and need to ascertain who the rightful owners of the land are.

Community impacts: Large scale investment has led to numerous negative impacts on communities. For example, the environmental impacts such as deforestation and contamination of drinking water, directly affect communities, who protest. These protests can lead to delay or suspension of projects and potential reputational risks for the multinational companies involved.

Transparency and corruption: Transparency and corruption: Myanmar is taking steps towards becoming member of the Extractive Industries Transparency Initiative (EITI) and the Open Governance Partnership. But corruption still exists and it is a challenge for multinational companies to identify with whom to engage and with whom not when doing business in Myanmar.

Ethnic conflict: Myanmar has 135 different ethnic groups. For the past decades there have been conflicts between ethnic minorities, armed political groups and the government. Since 2012 the government has signed ceasefire agreements with all but one group. However, fighting is still ongoing in ethnic areas such as Kachin State. Multinational companies entering Myanmar must realize that there is no 'one size fits all' on how to engage with the people of Myanmar.

Education and infrastructure: Myanmar lacks a well-educated workforce. Multinational companies entering Myanmar will need local staff to understand the local context. They also need local staff to comply with the requirement to hire a certain percentage of local employees, but this poses a challenge. Finally, Myanmar's infrastructure, including roads, ports, public transport, electricity supply and telephone networks, as well as public services such as schools and hospitals are in dire need of an upgrade.

EXAMPLES OF DUTCH BUSINESSES IN MYANMAR

Several Dutch companies and financial institutions have entered Myanmar. For example, Philips and APG.

Philips, a company with high ethical standards, entered Myanmar in 2012 and is now active in the country in three areas: Philips Lighting, Philips Healthcare and there is a Philips Consumer Store. Before entering the country, Philips developed a checklist on responsible business and human rights specific to the Myanmar context. These guidelines are based on international standards as well as the Philips Business Principles.

The first step Philips took was to build a strong local team and engage with local NGOs. Secondly, Philips has been very explicit on how it wants to do business in Myanmar, including a zero tolerance policy on facilitation payments and corruption. Another example of the extra steps that Philips has undertaken in Myanmar is the development of a grievance mechanism for handling complaints. The mechanism was developed through consultations with a local NGO and has been adapted to the Myanmar context: there is a physical post box to lodge complaints instead of a hotline or an email address.

APG, a Dutch asset management and service provider for pension funds, invests its funds in companies that operate worldwide. APG bases its investment decisions on the Responsible Investment Policy. APG enters into dialogues with companies to achieve sustainability and good corporate governance and it expects companies to act in accordance with the ten UN Global Compact Principles.

If a company can conduct business in the right way in Myanmar, local people can benefit from this and in turn, pension funds can benefit as well. APG continued investing in companies operating in Myanmar during the military regime and supported the companies to do business the right way by asking them to speak out against Daw Aung San Suu Kyi's house arrest and by supporting initiatives to promote revenue transparency.

Looking closer: business and human rights by Dutch companies

To make an informed decision on whether or not to invest in companies doing business in Myanmar, APG first of all asks if companies are aware of the relevant (human rights) issues in Myanmar. During a visit to Myanmar in 2012, an APG representative was inspired to see that companies are taking their human rights due diligence very seriously. Secondly, APG asks if companies are communicating on how they are handling these human rights issues.

WHAT CAN YOU DO AS A COMPANY?

- With Myanmar opening up, western companies can be the example of what responsible business practices mean and can contribute to Myanmar becoming an economically prosperous country. Due to its past, it will require companies to go that extra mile when entering Myanmar. Extra human rights due diligence will have to be practiced, for example by developing a set of principles specifically applicable to the Myanmar context, by building relationships with local partners and civil society organizations who can inform on the current reality on site, by carrying out thorough background checks of business partners and by being transparent.
- Companies should communicate on how they are addressing human rights issues in Myanmar, which is already a requirement for US companies investing more than 0,5 million USD in Myanmar.
- Finally, companies should take it one step at the time and not rush into the country. Reaping the fruits of investing in Myanmar will require a long-term commitment.

REFERENCES

For more information, please see the following links for this topic:

- <http://www.humanrightsbusiness.org>
- <http://bit.ly/1c8fU4b>
- <http://myanmar-responsiblebusiness.org/index.html>

The Danish Institute for Human Rights and **the London based Institute for Human Rights and Business** have jointly founded the Myanmar Centre for Responsible Business. The Centre will be based in Yangon and will provide a trusted, impartial forum for dialogue, seminars, and briefings on responsible business in Myanmar to relevant parties as well as access to international expertise and tools.



TOPIC 3 > THE BLIND SPOT: TRADE WITH ISRAEL IN RELATION TO THE OCCUPIED TERRITORIES

Legal expert Phon van den Biesen explained the blind spot for a Dutch professional audience during the 'Human Rights conference 2013' on June 13th 2013. The following are notes taken during his presentation.

INTRODUCTION

As many regard the Israeli occupation of Palestine as a political issue, companies often turn a blind eye on the legal implications. However, are they aware of the risks they take, the international law and the legal consequences?

EU & INTERNATIONAL LAW

The EU is critical regarding Israeli settlements and sees them as being illegal under international law. In 2004 the International Court of Justice issued an Advisory Opinion called 'Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory'.

Paragraph 120 of the opinion states that the Court found that the Israeli settlements were 'established in breach of international law.' This opinion has far reaching consequences: nobody may aid this violation and everybody should do everything within their power to end the violation. The EU as well as the UN General Assembly use this opinion as their main legal reference for issues related to the occupied territories.

RESEARCH IN THE DUTCH CONTEXT

In 2006, UCP (the Dutch network of ICCO, Oxfam Novib, Cordaid and IKV Pax Christi) and Profundo, (a Dutch economic research consultancy), started to map Dutch-Israeli economic relations which profiting from the occupation.

In May 2013, the new report 'Dutch links with the Occupation'⁹ was published. One of the reports key findings is that 18 Israeli companies sell products from the settlements to the Netherlands and 38 Dutch companies have links with the occupation.

CHALLENGES FOR COMPANIES ARISING FROM THE EU POSITION

Businesses have so far often regarded the Israeli occupation of the Palestinian settlements in the Golan Heights, the Gaza Strip and along the West Bank, a political

⁹ <http://bit.ly/Hagf8P>

Looking closer: business and human rights by Dutch companies

issue. For some it was convenient to declare the controversial state business unrelated, so a blind eye could be turned.

For the latest from 2014 onwards, companies will have to ensure that their trade with Israel does not relate to businesses that directly or indirectly support illegal settlements in the territories occupied by Palestinians. In addition, they have to abstain for investments or any other direct engagement in this defined part of Israel. Hereby we provide insight into the main risks companies have to take into account for doing legal business with and in Israel.

a. Something legal from something illegal?

The question a company should always ask itself is; does my business fuel armed conflict or does it in one way or the other contribute to the continuation thereof? In the case of the illegal settlements a company needs to realize that something legal can not come from something that is not legal. Trade with illegal settlements may be regarded as illegal in itself, since the trade supports and maintains the continued existence of the illegal settlements, which is clearly forbidden under international law.

b. Consumers

Export from Israel that mixes settlement produce with Israeli produce, sold as 'made in Israel' to the Dutch consumers market, can be regarded as misleading the public, under Dutch Consumers Law.

c. Tax

Products originating from the settlements which are imported under the advantageous conditions provided for by the EU Association Agreement as 'made in Israel' illegitimately profit from European tax exemptions. This has been established by the European Court of Justice, in Luxembourg.

d. Tort law

Collaborating with Israeli partners or the Israeli Government in activities that in effect facilitate, support or strengthen the continued existence of the settlements may qualify as "tort" under Dutch Civil Law.

A BRIEF EXAMPLE: CASE RIWAL

Riwal is a Dutch construction company that rented cranes to construct the wall and the settlements set up by Israel. In 2010, the Dutch Ministry of Justice filed

Looking closer: business and human rights by Dutch companies

a criminal investigation against Riwal concerning the construction of the wall and one settlement. Riwal's involvement had been detected as part of a research investigation on the commission of war crimes by foreign public authorities. This research was done in light of the fact that Dutch companies are required to respect the Geneva Conventions and is to refrain from becoming a complicit in the commission of war crimes by foreign public authorities. As Riwal fully cooperated on the case and withdrew from its activities the Dutch public prosecutor dropped the case, under the condition of non-repetition¹⁰.

The case of Riwal clearly shows that businesses cannot afford to turn a blind eye- this may result in serious legal and reputational consequences and therefore has the potential to threaten business survival.

AN OUTLOOK: WHAT LABELING OF GOODS FROM ILLEGAL SETTLEMENTS COULD LOOK LIKE

UCP and other research organizations advance that produce from the occupied Palestinian Territories should be labeled as 'made in Palestine', and be exported under the Palestinian Association Agreement with the EU. Importers may demand Israeli companies not to mix produce from the illegal settlements with that from Palestine or from Israel proper. It is suggested that importers may demand the Israeli exporters to provide exact location of the origin of the produce. In this regard, NGOs can also serve as a valuable source of information to companies on what are legal versus illegal locations.

WHAT CAN YOU DO AS A COMPANY?

- map trade and economic activities of your companies in Israel and the Golan Heights, the Gaza Strip and the West Bank
- abstain from trade or economic activities that can potentially or directly support or strengthen the continued existence of the illegal Israeli settlements.
- if no engagement in trade or economic activities exists, examine the supply chain and inform suppliers of the risks and possible legal implications
- check for whether produce from Israel is correctly labeled under the EU Association Agreement as well as under consumers law

Phon van den Biesen-Van den Biesen Klootstra Advocaten: "Be aware of the implications of importing items made in settlements, as you may be complicit to a war crime"

¹⁰ <http://bit.ly/1OUUR90>

LOOKING CLOSER AT...

BUSINESS AND HUMAN RIGHTS INITIATIVES

The number of initiatives of (groups) of companies, NGOs, knowledge institutions and governments in the field of human rights and business is growing. This is an overview of initiatives that may help companies in further developing and implementing their human rights policies and practices.

ACCESS - A GLOBAL PLATFORM SUPPORTING DIALOGUE-BASED RESOLUTION OF COMPANY-COMMUNITY CONFLICTS

www.accessfacility.org

Inspired by the UN Guiding Principles on Business and Human Rights, ACCESS Facility aspires to enhance access to effective non-judicial remedy. ACCESS is a global platform, resource and catalyst for more effective and sustainable ways of working together among companies, communities and governments in order to prevent and resolve company-community conflicts.

CSR RISK CHECK

www.mvorisicochecker.nl or www.csrriskcheck.com

This freely available online tool provides insight into risks companies might encounter through international business operations and trade. The CSR Risk Check helps entrepreneurs estimate social and environmental risks in their supply chains and production (or investments) abroad, which helps prevent and mitigate issues like child labor, pollution and corruption. The CSR Risk Check provides businesses and consumers with specific CSR risk information per country, product or raw material. After answering a few simple questions, a report is generated that contains risk information and possible mitigating measures specific to the company's business endeavors.

BUSINESS & HUMAN RIGHTS RESOURCE CENTRE

www.business-humanrights.org

The Business & Human Rights Resource Centre has a website with news and reports about companies' human rights impacts worldwide – positive and negative. They seek responses from companies to allegations of misconduct: ensuring that coverage is balanced and encouraging firms to address concerns, raised by civil society.

Looking closer: business and human rights by Dutch companies

The Resource Centre also provides a tool and guidance on how companies can respect and manage human rights. On their portal one can find the following information: general guidance on business & human rights, guidance by issue, sector-specific guidance, principles & standards, company policies, impact assessment, training, reporting.

MYANMAR CENTRE FOR RESPONSIBLE BUSINESS

www.myanmar-responsiblebusiness.org/

The Myanmar Centre for Responsible Business –currently under formation- is being established by the Danish Institute for Human Rights and the Institute for Human Rights and Business to encourage businesses entering the newly opened market in Myanmar to work according to the highest international human rights standards. It aims to become an independent knowledge center and platform on challenges, opportunities and dilemmas for responsible business practices in Myanmar.

DUTCH NATIONAL ACTION PLAN HUMAN RIGHTS AND BUSINESS (NAP)

<http://bit.ly/1bONQIJ>

In 2012, the process to develop a National Action Plan for the implementation of the UN Guiding Principles on Business and Human Rights has started under the coordination of the Netherlands Ministry of Foreign Affairs. Corporations, civil society organizations, implementing organizations and experts have provided input for the Action Plan that will be presented to the Parliament in the near future (expected in fall 2013).

CENTRE FOR RESEARCH ON MULTINATIONAL CORPORATIONS (SOMO)

www.somo.nl/publications-en/Publication_3899

The Centre for Research on Multinational Corporations (SOMO) has recently launched its publication *How to use the UN Guiding Principles on Business and Human Rights in company research and advocacy; a guide for civil society organizations*. This guide provides a clear and detailed methodology to check the performance of multinational corporations by using performance indicators and assessment questions. The objective of the guide is to help civil society organizations in their research, campaigns, advocacy and engagement towards companies. But companies can also use the framework for self-assessment.

www.grievancemechanisms.org

SOMO has also recently launched a program on Human Rights and Grievance Mechanisms to strengthen the capacity of individuals, workers and civil society organizations to stop and prevent negative human rights impacts by corporations and to assist them in accessing grievance mechanisms. The program also aims to improve the effectiveness of grievance mechanisms as well as advocate for new mechanisms to respect human rights and guarantee access to remedy.

CNV INTERNATIONAAL- PUBLICATION HUMAN RIGHTS

<http://bit.ly/1gxRtiz>

CNV Internationaal has developed a guide on what employees can do to ensure their companies will start with CSR. This practical guide provides you with tips, ideas and examples and is based on the Ruggie Principles (only in Dutch).

EUROPEAN COMMISSION, INSTITUTE FOR HUMAN RIGHTS AND BUSINESS AND SHIFT- HUMAN RIGHTS SECTOR GUIDES

<http://bit.ly/1Wf1o1>

The European Commission has issued Human Rights Sector Guides for the 1) information and communication technologies (ICT) sector; 2) employment and recruitment sector and 3) the oil and gas sector. The guides give practical advice on how to implement the UNGPs in day-to-day business operations.

GLOBAL REPORTING INITIATIVE- G4 SUSTAINABILITY REPORTING GUIDELINES

<http://bit.ly/16NDmkj>

The Global Reporting Initiative (GRI) has published an update of the reporting guidelines of sustainability reports with reporting efforts now focused on materiality and a reduced number of indicators. The updated guidelines offer reporting principles, standard disclosures and an implementation manual for sustainability reports by companies (and other organizations), regardless of their size, sector or location. One of the changes in the G4 is the harmonization with other important global frameworks, including the OECD MNE Guidelines, the UN Global Compact Principles, and the United Nations Guiding Principles on Business and Human Rights.

HUMAN RIGHTS@WORK

www.humanrightsatwork.nl

Human Rights@Work is a consultancy based in the Netherlands, specializing in the field of implementing the respect for human rights in business. They provide advice and training to businesses, governments and NGOs putting the international guidelines on human rights and labor rights into practice. Human Rights@Work does risk assessments, impact analysis, development of KPIs and helps with the internal and external communication on human rights.

SAI AND ICCO- TRAINING: HOW COMPANIES CAN IMPLEMENT THE UN GUIDING PRINCIPLES FOR BUSINESS & HUMAN RIGHTS

<http://bit.ly/Ne8aMT>

In 2012 SAI and ICCO started a training course for companies on how to transform the UN Guiding Principles into practice. The course includes the six steps of the principles: human rights policy commitment, assessment of human rights impacts, integration into policies, procedures and responsibilities, monitoring of human rights implementation, communication on human rights impact and remediation.

SER- THEMATIC PUBLICATION ON DUE DILIGENCE, HUMAN RIGHTS AND LABOR RIGHTS

<http://bit.ly/1h00PBI>

The Social and Economic Council's International Corporate Social Responsibility program decided in 2012 to launch yearly thematic reports based on the OECD Guidelines. This year's theme is due diligence, with a particular focus on human rights and labor standards. The report aims to clarify how companies can tackle due diligence, what roles other stakeholders can play and how they can encourage companies to undertake due diligence. The Council is welcoming companies to share their examples on the website.

SHIFT PROJECT - BUSINESS LEARNING PROGRAM

www.shiftproject.org

Shift Project is an independent, non-profit center for business and human rights practice, helping businesses, governments and their stakeholders to put the UN Guiding Principles into practice. Their Business Learning Program advises companies on the implementation of the Guiding Principles on a tailor-made basis with a strong

peer-learning component. Through this program they also produce general practical reports and tools for public use.

VBDO- PUBLICATION ON RESPONSIBLE INVESTMENT, HUMAN RIGHTS AND THE EXTRACTIVE INDUSTRY

<http://bit.ly/1i83GE>

Almost all pension funds in the Netherlands have developed a responsible investment policy, but the actual implementation of Environmental, Social and Governance issues into their investment decisions is different. This report deals with this implementation in practice, in particular with human rights violations by companies in the extractive industry. In this report, VBDO aims to provide pension funds some guidance in dealing with these issues.

UNICEF- CHILDREN'S RIGHTS AND BUSINESS PRINCIPLES

www.unicef.org/csr/12.htm

The Children's Rights and Business Principles, developed by UNICEF, the UN Global Compact and Save the Children is the first comprehensive set of principles to guide companies on the full range of actions they can take in the workplace, marketplace and community to respect and support children's rights. The Principles help to elaborate both expectations of, and opportunities for business, in relation to children; who are often overlooked as stakeholders of business. Depending on where your company is in the human rights due diligence process, you can follow the steps as written or vary the order as due diligence is an ongoing and dynamic process.

UNILEVER AND OXFAM GB- LABOR RIGHTS IN UNILEVER'S SUPPLY CHAIN STUDY

<http://bit.ly/1bOL2Se>

Oxfam GB studied into the labor rights in Unilever's supply chain in Vietnam based on the UN Guiding Principles, resulting from long-term dialogue on sustainable agriculture between the company and the civil society organization.

CONCLUDING REMARKS

In 2012, the VBDO and HumanRights@Work published the first publication - *Take a closer look* - on current human rights practices of Dutch business. The aim of this publication was to inform businesses and to trigger more engagement of companies in a yet often under-addressed domain of sustainable business conduct – human rights. *Take a closer look* mainly investigated the kind of policies, impact assessments, monitoring systems and communication and reporting tools used by Dutch companies as means to integrate human rights into business. Furthermore, it provided guidance on the use and interpretation of the UN Guiding Principles on Business and Human Rights.

This 2013 publication goes beyond a study of the state of affairs and towards offering more practical guidance for businesses on how to ensure sound integration of human rights in company operations and along the supply chain in order to increase overall business performance. To do so, case studies and special topics function as a main input.

CURRENT REPORTING AND PRACTICES ON HUMAN RIGHTS OF DUTCH BUSINESSES

Chapter 2 provided an update on progress achieved in the domain of human rights by Dutch businesses. This year's overview was based on outcomes of the PwC Sustainability Barometer survey and research conducted in the context of the 64 AGMs visited by the VBDO in the first half of this year.

As expected, progress within companies over the last year has not been extraordinarily high. Currently, only about half of the companies have incorporated human rights policies and even fewer use supplementing tools (e.g. audits, assessments) aimed at safeguarding human rights at company and supplier levels. Very few companies have formulated concepts on how to integrate human rights aspects into their main and long-term business strategy or fulfilled all steps of the due diligence process.

HUMAN RIGHTS IN GENERAL SHAREHOLDER MEETINGS AND ANNUAL REPORTS

Nevertheless, in particular the results of the VBDO AGM research show that businesses increasingly understand that respect for human rights is not about

altruism or extra costs that cannot be justified in a business realm. On the contrary, Dutch businesses start to realize that safeguarding human rights along the supply chain (such as living wage), potentially increases profitability, whether directly or indirectly through reputation and brand value gains. Still, it has to be remarked that also in those companies with extensive human rights policies, performance indicators measuring progress are often absent. Companies do recognize the need to deal with human rights but so far companies react to international guidelines and standards in a minimal way rather than going beyond provisions set out in these guidelines.

INSPIRATION THROUGH CASES AND TOPICS

With the recent engagement of (international) governmental and non-governmental organizations in the field of 'business and human rights', market players increasingly receive guidance from outside actors in the realization of their aspirations for more socially sustainable supply chains. The development of guidelines for companies such as laid-down in the Ruggie framework, and creation of other tools, like for instance reporting frameworks that integrate human rights aspects (GRI's G4) are examples of important assistance provided by outsiders. Cooperation with a variety of stakeholders, and benefitting from experiences of peers or other parties related to business is also the main message revealed by the case studies that were presented in the second part of this report. Joint approaches can be vital for accelerating high positive impacts – and for lowering the upfront costs that respect for human rights can indeed entail before pay offs are attained.

Many companies would like to improve the working conditions of their employees and supplier workers. They may have analyzed issues faced but do not exactly know how to make a difference in practice. In particular small and medium sized businesses feel that reaching several supply chain tiers is virtually unattainable and costly, not at last because of their lack of specific expertise. Therefore, businesses should actively look for cooperation with other parties that offer the knowledge needed. In business environments where peers offer examples, businesses should additionally actively look out to attain knowledge on how advanced peers managed to integrate human rights aspects and where gaps remain. Peers, and in many instances also businesses from other industries can offer important knowledge and be potential partners for collaboration and projects.

The Unilever case outlined how even companies showing advanced efforts in social sustainability can benefit from cooperating with outsiders. The case demonstrated that having the necessary tools in place is not equal to achieving the desired impact. The independent study on Unilever's operations and supply chain in Vietnam by Oxfam showed that involving outsiders brings the fore remarkable insights and results. Through taking advantage of the critical outsider perspective, Unilever adapted its policies ensuring that it works more successfully in the local context. Again, involving knowledge and independent analysis of others can facilitate securing human rights along one's supply chain.

A severe example of what may happen when peers, governments and other organizations hesitate too long to cooperate has been illustrated by the Guatemalan 'garment factory' case. Criticism on multiple forms of human rights violations had not been acted upon until conditions deteriorated and in the end the factory even went bankrupt. However, this appeared to be a wake-up call for the government and American buying companies who now increasingly cooperate with a local labour rights NGO in supporting workers.

Such serious consequences do by no means need to happen, and on the contrary, safeguarding human rights can turn into a full-fledged business case, as has been shown by the cases of the Finca Coquimba Farm and the Conflict Free Tin Initiative (CFTI). Although both initiatives differ, they both clearly are forms of business cases where a) basic respect for human rights is strived for, and where at the same time b) created value is shared along the chain in a more equitable form. Both in the Farm case, in which certification secures a better treatment and a better income for farmers, and in the CFTI case, workers enjoy better working conditions and have a higher share of the value they created for the chain. Moreover, also the business at the end of the chain profits of these improved human rights situation through price premiums, sales or improved reputation.

Lastly, Myanmar is an example of a country with untapped market potential, lately facing lots of interest from investors and businesses. Also for this 'case', the same message applies: in order to know how to conduct ethical business in this unknown terrain, knowledge of local conditions is needed. Knowledge which currently only (non)-governmental organizations and those few Dutch and European businesses with longer country presence possess.

It is vital for other businesses to realize that experienced businesses, governments, and organizations represent resources and potential partners in the realization of human rights in Myanmar - and everywhere else in the world. If all of these actors are involved cooperatively, considerable effects can be achieved that go beyond the effects any single party could attain by trying to learn about, understand and implement human rights individually. Therefore, have a look at the overview of business and human rights initiatives (p. 62) and see how you as a company can foster the progress needed to fully implement the UNGPs.



ACKNOWLEDGEMENTS

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VBDO

The Dutch Association of Investors for Sustainable Development (VBDO) works to create a sustainable capital market, a market that considers not only the financial criteria but also the non-financial, social and environmental criteria. VBDO's vision is to increase sustainability awareness among companies and investors.

OUR PARTNERS

CNV Internationaal is a civil society organization that is part of the National Confederation of Christian Trade Unions in the Netherlands (CNV). The objective of CNV Internationaal is to reduce poverty and to contribute to Decent Work in 16 countries in Africa, Asia, Latin America and Eastern Europe, based on the principles of international solidarity, own responsibility, social dialogue and pluralism.

ICCO Cooperation is a non-governmental organization for development cooperation. Our identity and work is characterized by three crucial values: compassion, justice and stewardship. Our mission is to contribute to poverty alleviation and social justice in local communities.

As partner to enterprising people, we work in 44 countries where we support programs that contribute to a dignified human existence and a strong local economy.

At **PwC** in the Netherlands, over 4,500 people work together. PwC has extensive experience with strategic alignment of sustainability and reporting. Corporate Reporting is changing and accountants are too. PwC is leading the change through Integrated Reporting, helping our clients to report information which is truly relevant to their stakeholders. We do so by translating theoretical standards like GRI and Ruggie Framework into practical operational steps, tailored to the specific client situation.

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