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# A Guide on CSR and Human Rights - what does it mean for companies in supply chains?



In partnership with:







# A Guide on CSR and Human Rights - what does it mean for companies in supply chains?

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*A Guide on CSR and Human Rights – what does it mean for companies in supply chains?*

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Publications, International Training Centre of the ILO  
Viale Maestri del Lavoro, 10 - 10127 Turin, Italy  
Telephone: +39 011 6936693  
Fax: +39 011 6936352  
E-mail: [Publications@itcilo.org](mailto:Publications@itcilo.org)

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# 1. Introduction

Business societal responsibility is under the spotlight since many years, notably due to the development of global trade and the emergence of multinational companies. Companies face pressure on their operations from markets but also from a variety of social actors.

Corporate social responsibility (CSR) can be understood in different ways. The traditional understanding has focused on companies' voluntary contributions to community development, charity and other social and environmental efforts. However, more recently, debates have focused on the corporate responsibility to understand and address the impacts of its business on society. Today, the way in which companies express their commitment to CSR still varies markedly.

Over the years, numerous initiatives have been developed to encourage and support enterprises to adopt sustainable and socially responsible policies. At the international level, a number of instruments were adopted in the 70's such as the OECD (Organization for Economic Cooperation and Development)'s Guidelines for Multinational Enterprises or the ILO (International Labour Organization)'s Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration). These instruments formulate recommendations on responsible business conduct and are non-binding for enterprises. In 2000, the former UN (United Nations) Secretary-General Kofi Annan introduced the UN Global Compact - a framework based on ten principles in the area of human rights, labour, the environment and anti-corruption – to which companies can voluntarily adhere. With over 8,000 adhering companies, the UN Global Compact is today the largest global corporate sustainability initiative.

On 16 June 2011, the United Nations Human Rights Council (UNHRC) unanimously endorsed the UN Guiding Principles for Business and Human Rights (UNGPs) - a global framework for preventing and addressing the risk of adverse impacts on human rights linked to business activity. The UNGPs offer an all-encompassing framework: they articulate a lot of what the other international instruments are saying and illustrate the current global consensus on what responsible business behaviour is. Authored by Dr John Ruggie of Harvard University, on appointment by UN Secretary-General Ban Ki-moon, the UNGPs were unanimously adopted by the UN Human Rights Council and received wide support from governments, civil society organisations and the private sector.

The UNGPs are based on three pillars which outline the respective responsibilities of states and businesses:

Pillar I: The state duty to protect human rights;

Pillar II: The corporate responsibility to respect human rights;

Pillar III: Access to remedy for victims of business-related abuses.

The UNGPs are based on three pillars, the so-called “protect-respect-remedy framework”. Within the first pillar, governments are required to protect people on their territories against human rights infringements by non-state players through enacting laws that prevent human rights violation and ensuring the implementation of these. The second pillar highlights the responsibility of enterprises to respect human rights. Companies should implement due diligence procedures to identify adverse human right impacts within their operations and implement measures and actions to prevent or mitigate these. This is all the more important when the legal framework of a country in which they operate is insufficient to ensure human rights’ protection. The third pillar calls for action by governments and enterprises: it refers to the duty of States to ensure that a court system or other legitimate judicial mechanisms are in place to file and solve complaints, as well as to develop and strengthen non-legislative complaint mechanisms to improve redress for human rights infringements committed by enterprises. And companies should establish or participate in operational-level grievance mechanisms for people affected by their operations.

The UNGPs are not legally binding nor do they introduce new international law on Business and Human Rights. Their contribution lies in clarifying the implications of existing Human Rights instruments for states and businesses and in defining the boundaries of their responsibility in one single and comprehensive template. They also make recommendations on how existing practices could be improved.

The UNGPs have been adopted in 2011 and it is still too early to measure concretely their impact. However, it is clear that they are an important milestone in the CSR debate because:

- ▶ They were unanimously agreed by the UNHRC and endorsed by representatives of governments, business and civil society;
- ▶ They are addressed to all enterprises, of all type, size and region;
- ▶ Their implementation is actively promoted by many governments through the adoption of national action plans which might include



supplementary constraints for companies, notably legal obligations. Indeed, the implementation of the UNGPs is understood by many as a global expectation on all companies rather than a voluntary effort a company may decide to engage in.

Today, companies of all sizes are under increased pressure to show how they are respecting human rights as well as improving corporate social performance more broadly. This has direct implications on business to business relations, notably throughout supply chains. It is therefore of utmost importance to raise the awareness of company leaders, of all sizes, on the implications of the UNGPs for their own operations and to guide businesses on how to live-up to their responsibilities in this field.

### **The “Guide on CSR and Human Rights – what does it mean for companies in supply chains?”**

was developed by the ITCILO Programme for Employers’ Activities in the framework of a wider project aiming at building management knowledge and capacity on Global Industrial Relations and CSR. The project is implemented in partnership with BDA, MEDEF and Confindustria and with the active support of BUSINESSEUROPE and the IOE. The Guide was drafted on the basis of initial inputs from Global CSR consultants. The project benefited from co-financing from the EU.

## **1.1 Who is this guidance for?**

You run or work for a small- or medium-sized business.

You know that whatever you do in your business, it may impact people: customers, consumers, your colleagues and employees, people in your neighbourhood, your shareholders or others. These impacts can be both positive and potentially negative, i.e. adverse impacts. Businesses obviously have many positive impacts, but the UNGP’s are focused on identifying and address the negative impacts.

You appreciate that your business is part of society and - on a personal level - you want to behave as a decent person. Some of us spend a lot of time at work struggling to meet targets. Behaving with respect towards our fellow beings and enjoying that respect ourselves enables us to deliver the best results. However, this is not always easy to deal with. Circumstances such as financial pressures or the conduct of our peers may lead to situations where we prioritise economic short term gains

over considerations to the people we impact. Sometimes we are not even aware of such impacts. Moreover, traditions and cultures in the places where we operate may have created blind spots with regards to certain human rights impacts.

The UNGPs designed a process that will make and keep your company aware of the most important adverse impacts; namely those that affect human rights. And this guide offers you the chance to become better acquainted with the UNGPs in relation to your business and your business relationships. In addition the **section 4** contains a full description of all 48 human rights from the International Bill of Human Rights (IBHR) including the core ILO labour rights. It may be useful for you to refer to the annex whilst reading through this guide.

All in all – if you are a business person that wishes to stay in business for years to come; if you are not ill-intentioned; if you want your business and your market to thrive – you should make sure that your business respects human rights.

## 1.2 CSR and Human Rights

### *What are we talking about?*

For a few decades governments, businesses, consumers and civil society (NGOs) have intensely discussed and developed methods for businesses to demonstrate that ‘business does good’ - not only for the people who make money but also for societies. Companies create jobs and prosperity through the production of goods and services. Without companies, there would be no growth and no employment with all the associated positive effects for society. The term Corporate Social Responsibility (CSR) has been used to describe the responsibilities of businesses to society. CSR can be described as running a business in a socially, environmentally and economically sustainable way, by preventing and mitigating the negative impacts of business activities, while boosting their positive impacts.

However, many definitions and variations exist. The EU definition of CSR (Communication from 2011) sums up a universal understanding of CSR today: *“The responsibility of enterprises for their impacts on society”*. The Commission adds: *“To fully meet their corporate social responsibility, enterprises should have in place a process to integrate social, environmental, ethical, human rights and consumer concerns into their business operations and core strategy in close collaboration with their stakeholders, with the aim of:*

- ▶ *maximising the creation of shared value for their owners/ shareholders and for their other stakeholders and society at large;*
- ▶ *identifying, preventing and mitigating their possible adverse impacts”.*

According to the UNGPs (Foundational Principle 11) business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.

In order to meet your responsibility to respect human rights, you should identify your adverse impacts and seek to avoid them. The hallmark will be that you can demonstrate to others that your management of human rights impacts is on-going and that it meets the responsibility to respect established by the UNGPs.

### ***What does adverse human rights impacts mean?***

The UNGPs state that all businesses should know and show that they respect human rights. To do so, they should have certain policies and processes in place. Avoiding adverse impacts on human rights is about more than obeying national law. Causing or contributing to an adverse impact on a human right may not necessarily constitute a violation of national law. Even in countries where human rights enjoy a high level of protection from governments, your business may adversely impact on human rights. Basically all businesses may have adverse impacts.

An adverse human rights impact occurs: *“When an action removes or reduces the ability of an individual to enjoy his or her human rights”* (EU, 2011).

The basic concept agreed with the UNGPs is that your business and all other businesses should become aware of the possible impacts that your business may have and thereafter act to avoid or minimise such impacts. This should be done before the impacts create larger problems for your business, due to aggravated stakeholders, or before the adverse impact eventually amounts to a violation of national law and therefore leads to criminal charges or civil lawsuits.

The UNGPs do not operate in isolation – there are many other international frameworks which cover human rights issues like the UN Global Compact, the OECD Guidelines for multinational enterprises or

the ILO MNE Declaration. The resources mentioned in **section 4** below give an overview of these international instruments that frame your responsibility today. Exploring the links can also provide you with useful guidance to manage any concrete impacts that you identify.

***What is the scope of business responsibility to respect human rights?***

According to the UNGPs (Foundational Principle 13), the responsibility to respect human rights requires that business enterprises:

- (a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur;*
- (b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.*


In other terms, the UNGPs make a distinction between

- ▶ The responsibility of business to AVOID (ie. stop) and ADDRESS (ie. deal with) adverse human rights impacts through their own operations and
- ▶ Business responsibility to SEEK TO (ie. attempt to) PREVENT (ie. keep from happening) or MITIGATE (ie. lessen the gravity of) adverse human rights impacts, which they did not directly cause but were caused by other businesses they are in relation with.

The burning question is: How can you adequately meet this responsibility? The UNGPs make recommendations on how companies can meet their responsibility.

According to the UNGPs (Foundational Principle 15) business enterprises should have in place policies and processes appropriate to their size and circumstances, including:

- (a) A policy commitment to meet their responsibility to respect human rights;*
- (b) A human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights;*
- (c) Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute.*



In the **section 2** of this Guide, we will see in more details how businesses should respect human rights when it comes to their own operations. In **section 3**, we will examine the particular situation of buyers and how they can engage with their supply chain.

### ***What is human rights due diligence?***

According to the UNGPs, business should carry out human rights due diligence in order to identify, prevent, mitigate and account for how they address their adverse human rights impacts.

Human rights due diligence is a crucial element of respecting human rights. It supposes the establishment of a monitoring system, whereby your business regularly identifies its potential and adverse impacts on human rights, establishes actions to address such impacts, tracks the effectiveness of what you do and communicates about it. Establishing human rights due diligence processes allows businesses to take the full scope of human rights into consideration.

We will describe the essential components of due diligence in **section 2.1.2** of this Guide.

## **1.3 Business Case**

### ***Why is it important for Small and Medium-sized Enterprises (SMEs) to deal with CSR and human rights?***

Behaving as a responsible business has become a mainstream expectation for all businesses over the past few decades. Establishing a globally-agreed framework for responsible business in 2011, the UNGPs, promise to enable a much faster and thorough scaling up of business respect for human rights. Since human rights are the core of social responsibility, businesses should constantly seek to minimise adverse impacts. With the UNGPs, now we know how.

And over the coming years, you are also likely to see this filter down to the practical level, i.e. impacting the day-to-day running of your business. For example, you will see that your business partners will expect your business to respect human rights in accordance with the UNGPs. You may already have experienced that your customers have sent you a

*supplier code of conduct*. Your customers, the buyers, no longer need to invent their own requirements; they can now all use the UNGPs.

National governments committed themselves to ensure that all businesses *respect human rights* and implement the UNGPs. Governments may use provisions of the UNGPs in public procurement or as a condition for receiving financial support from the government, for example export credits or guarantees.

Finally, investors and banks are all concerned with the responsible behaviour of their customers and investments, and may base their requirements and screening tools on the UNGPs.

So no matter where you turn *business respect for human rights* is already and will increasingly become a social expectation. This guide aims to help you deal with this. In any case, it is in your own interest that all the persons, who are potentially impacted by your business activities, understand that you care about their dignity. Given the choice, employees will choose to work for a responsible employer. Furthermore, especially b-to-c companies need an excellent reputation. This is the reason why many companies already integrate the UNGP or CSR and sustainability strategies in their core business.

Over the past decades human rights and business have experienced increased international attention. And as companies know too well, stories are not always positive. Now, it has been officially addressed by the UN with the UNGPs. Therefore alignment will have significant social currency and improve stakeholder relationships. Acting will help you preserve your *social licence to operate*.

### ***Why are CSR and human rights important in buyer and supplier relations?***

Many frontrunners in responsible business conduct have for decades asked their suppliers to treat workers in accordance with key labour rights standards defined by the ILO. The revolution in communication technologies means that working conditions in value chains around the world can be disclosed to consumers.

In the last few decades, big brands are increasingly devising codes of conducts for how their suppliers should treat their employees. This is a voluntary commitment, which has been partly driven by criticism of poor working conditions in their suppliers' operations. The brands have

introduced their codes of conduct through their supply chains, and sometimes go as far as embedding the demands in legal contracts.

Today most small businesses, no matter where they operate, are faced with *supplier codes of conduct*. Big and small companies also impose codes on each other (from small to small, or big to big) through stand-alone codes or clauses in procurement documents.

Prior to the introduction of the UNGPs, buyers had no universally endorsed guidance and had to invent their own codes of conduct. Most covered the *fundamental principles and rights at work* from the ILO covering *freedom of association, child labour, forced labour and non-discrimination*.

Big brands also found ways to manage ‘responsible procurement’. However, there is a trend of both buyers and suppliers realising that practices based on close monitoring and auditing are in some cases less than optimal. *Audit fatigue* and *code mania* are notions that big buyers started struggling with. Many suppliers resent the approach, especially if it is harmful to the trust that has been built up, or if there is a perception that the benefits are only for one side, e.g. in terms of ensuring brand reputation. This is not to mention the cost of the procedures.

In order to reduce costs and create benefits both for buyers and for suppliers, collective actions emerged in the 90’s. ILO’s Better Factories, Social Accounting International (SAI), with the SA 8000 system, the Business for Social Compliance Initiative (BSCI), the Ethical Trading Initiative (ETI), AIM Progress, Fair Labour Association (FLA), Better Coal Initiative and Together for Sustainability are all private or multi-stakeholder initiatives that seek to systemize responsible procurement based on best practises. In recent years some attention has been devoted to enable comparison and establish mutual recognition of audits.

### ***What is the business case for CSR and human rights for both suppliers and buyer companies?***

The UNGPs provide you with great opportunities for managing your reputation. For the first time, buyers have a globally recognised framework to refer to when seeking to ensure that suppliers will not become a liability to their brand or reputation. Suppliers can, with the same authority, ask their business relationships to fulfil their part of the bargain – to respect human rights. However, we also recognise that this is a process, and it can take time for the UNGPs to be properly

implemented. This guide offers guidance to start this process, illustrated in more depth in [section 3.3 below](#).

Implementing the UNGPs as a supplier will enable you to adequately meet demands from buyers; even those who have not yet aligned their *supplier code of conduct* with the UNGPs. Since you will be managing your adverse impacts on human and labour rights according to the authoritative global framework, you can even use your efforts to positively engage with your customer.

Your business may already be addressing environmental and economic adverse impacts. Both the OECD and the EU have highlighted that the process described in the UNGPs is fit for managing adverse human rights impacts but also environmental and economic (anti-corruption) impacts.

Defining key concepts:

**'Adverse impacts on human rights'** – when an action removes or reduces the ability of an individual to enjoy his or her human rights

**'Prevent'** – you have identified a potential adverse impact on a human right and will be able to act, so that the impact does not occur

**'Mitigate'** – actions taken to reduce the extent of an adverse human rights impact, where the residual actual impact calls for remediation

**'Cause'** – your company's actions lead or may lead to adverse impacts on human rights

**'Contribute to'** – your company's actions in combination with a third party's actions lead to or may lead to adverse human rights impacts

**'Linked to'** – you are not causing or contributing to; nevertheless adverse impacts are experienced, caused or contributed to by a business or entity that your business is directly connected to through your products or services

**'Potential impacts'** – an adverse impact on human rights that may occur, but has not yet done so

**'Severe impacts'** – human rights impacts are considered severe either because of their scale (gravity), their scope (number of individuals affected) or their irremediability (the ability to restore the situation of the affected stakeholders)





## 2. Guidance for SMEs

### 2.1 Expectations

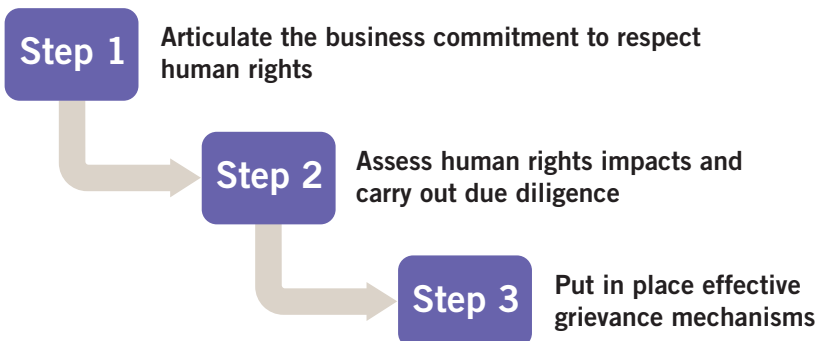
#### *What is expected from SMEs?*

All companies – including SMEs – must comply with national laws and regulations of the State in which they operate. This extends to human rights regulations enacted to fulfil a State’s duties to respect, and protect human rights. However, in addition to complying with national regulations, your business is also expected to manage your adverse impacts on the human rights of individuals and groups.

To respect human rights means that your business follows the recommendations of the UNGPs. The UNGPs presuppose that all businesses, no matter what they do and no matter where they operate, have potential adverse impacts on human rights. To respect human rights is to manage these impacts.

In the past, it was appropriate to “name and shame” those business entities involved in adverse human rights impacts. The public, and businesses, were primarily addressing severe adverse human rights impacts. The UNGPs offer a fresh approach. Today, the expectation is that your business *knows* what its adverse impacts are – severe and less severe - and *shows* what it does to avoid and address such impacts. The result will be that your business deals appropriately with adverse human rights impacts before they become severe; and thus a threat to your business.

The UNGPs make a number of recommendations on how companies can live up to their human rights responsibility.



### 2.1.1 Your Policy Commitment

The UNGPs recommends that your business commits to respect human rights. A UNGPs-aligned policy commitment should include five (a-e) elements:

- (a) The highest governing body in your business should adopt the commitment to respect human rights on behalf of the enterprise.

Different countries have different laws and opportunities when organising a business. For companies in many jurisdictions the board of directors can be considered the highest governing body. It may also be the owner or owners of a smaller business or partnership.

**ADVICE** Have your Chief Executive Officer and Chairperson sign the commitment. A publicly-disclosed, signed copy of your commitment will also save time when documenting that the commitment was actually adopted at the highest level of your company.

**ADVICE** Make sure that your board of directors and daily management understand what they are committing to and that they set aside resources – both time-wise and economically – to fulfil the commitment over time. An implementation plan with estimated budgets could be prepared before you engage your board.

- (b) The commitment should be informed by the necessary internal and/or external human rights expertise.

This recommendation will ensure that your commitment makes sense in relation to a professional understanding of both the UNGPs and human rights. You should be aware that all the expectations under the UNGPs, in terms of the thoroughness of their implementation, are relative to the size of your business, the nature of its products or services, and the context in which it operates. In other words, if your business is small and it operates in a sector or geographical area that does not have high risks of severe human rights impacts, it will meet less stringent demands for use of human rights expertise, when elaborating its policy. Where a large business would be expected to acquire advice from experts, it may be sufficient for a smaller business to study adequate material like this guide.

**ADVICE** Your policy commitment is the first port of call for customers or financial partners that are concerned about whether you are responsible or not. Make sure that the language you are using for your policy commitment is aligned with the UNGPs.



- c) The commitment should stipulate the expectations of your business in terms of human rights for your employees, business partners and other stakeholders that you are directly linked to through your business.

ADVICE Make the policy commitment time-bound and include a proposed revision date. Your expectations to the various groups will change over time once you become more aware of your impacts and how to best deal with them. The purpose of the policy commitment is to embed your commitment in your business. This work will evolve over time.

ADVICE It is important that your employees understand that the policy commitment of the business implies that they consider the impacts of their own actions on human rights. In your policy commitment you can expect your employees to make themselves aware of the human rights contained in the IBHR and to assist your company in respecting human rights.

- d) Your policy commitment should be made public and should be communicated internally and externally to your employees and business partners.

The communication of your commitment to *respect human rights* entails two steps. The first is to make your commitment public.

ADVICE Use your business' homepage or social media profile to communicate your commitment. You may also display the commitment at your business premises, in shops or even - in an abbreviated version - on your products. No matter where you make it public; make sure that you are not overstating your progress. This can lead to allegations of false marketing; for example, if you state that you *respect human rights* you should be prepared to document that you are following the recommendations of the UNGPs. Before you can confidently declare this, use language which describes being committed to respect human rights or striving to implement the UNGPs.

The second step is that you should actively communicate your commitment to business partners and other relevant business relationships. Keep track of how you communicate this and to whom, in order to document your efforts. A good rule of thumb is to communicate your expectations directly to all the business relationships with whom you have contractual relationships. In addition, where your products or activities may have significant or severe impacts on human rights, you should also communicate your commitment to those impacted.

**ADVICE** You can use your current employee representation channels as a hub for communicating your commitment to your employees.

**ADVICE** You can insert a reference to your commitment in your standard “terms of sales & delivery”, in your contracts or as suggestions to amendments where you are met with contracts. After all, it is reasonable to expect that your business relationships will, in turn, come to undertake the same processes to *respect human rights*.

**ADVICE** You will most probably prepare your first *policy statement* before you have established your *human rights due diligence system* and assessed your *human rights impacts*. Thus, you may not be aware of whether or not your business causes or contributes to potential significant or severe adverse impacts on human rights. This is why it is recommended to include a revision date in your policy statement; once you undertake your assessments you will become aware of any significant impacts. You should actively communicate your policy statement to the individuals that you may adversely impact.

- (e) Finally your policy commitment should be reflected within your company’s other policies and procedures.

This recommendation to ensure coherence between the human rights responsibility and other policies and procedures that govern their wider business activities and relationships contains two main elements. Firstly, you should ensure that none of your existing policies and procedures generates risks for adverse human rights impacts. An example could be a policy or practice providing for certain advantages for senior employees; such practice may raise concerns for potential *age discrimination*.

Secondly, other policies and procedures should be amended to ensure that the human rights due diligence system is well described and that potential and actual adverse impacts are handled in alignment with the UNGPs.

**ADVICE** Governing documents – if any are available – may need to be reviewed in light of the UNGPs. You may already have an employees’ handbook or a human resources policy, and you should re-examine them in light of your commitment. For example, your internet policy may contain elements which create risks for adverse impacts on *the right to privacy*. Another example would be employee contracts that constitute adverse impacts on *the right to participate in material gains from a person’s inventions*.

Companies may, after some years in business, realize that their *governance system* needs tidying up. Use this occasion as an opportunity to simplify and strengthen your governance system and to embed your responsibility to respect human rights.

### 2.1.2 Your Human Rights Due Diligence

The motor of the corporate system to respect human rights is *the human rights due diligence system*. You may already be familiar with the concept of *due diligence* as applied to other types of management processes.

Conducting *human rights due diligence* means that you should

- ▶ identify and assess the nature of the actual and potential human rights impacts with which your company might be involved;
- ▶ integrate the findings from their impacts assessments across internal functions and processes;
- ▶ take appropriate action.

The scale and complexity of *the human rights due diligence process* may vary according to your business' size, sector, operational context, ownership, structure and the severity of the adverse human rights impacts. However, your company should identify the actual and potential adverse impacts it may cause or contribute to on an ongoing basis ie. at regular intervals. Moreover, if your business operates from more than one location, you should ensure that human rights due diligence runs throughout all locations as impacts on human rights may vary from one location to the next and will also be different for different activities.

Here is some practical advice on *assessing human rights impacts*:

- ▶ Understanding human rights as such is one of the first challenges faced by your business when assessing human rights impacts. Most business people have limited knowledge of the rights contained in the IBHR or in the ILO's Declaration on Fundamental Principles and Rights at work (the ILO Core Conventions). According to the UNGPs (Foundational Principle 12), your business should assess impacts against all the human rights contained in these two international texts. (see [section 4](#)). Your company's first task is therefore to develop the capacity of at least one or more employees to understand the aforementioned human rights. Given time, all employees in your company should become aware of their respective entitlements to human rights; and the human rights of those people they may impact when acting on behalf of your company.
- ▶ The purpose of the assessment is to understand the specific impacts of your business activities on specific people in a given context of operations. Gauging human rights risks may therefore imply

having conversations with potentially affected groups, civil society organizations or other stakeholders.

- ▶ Assessing human rights impacts is a step towards developing your company's human rights due diligence skills. It will most certainly be challenging the first time but good practices will emerge as you continue working with the UNGPs. Choose a “higher risk” business unit to assess, take the list of human rights enshrined in the IBHR and the ILO core conventions, and focus your assessment where your company may *cause or contribute to* adverse human rights impacts.
- ▶ Processes for assessing human rights impacts can be incorporated within other processes that already exist in your company eg. risk assessments or environmental and social impact assessments. You don't need to have a separate human rights assessment process.

ADVICE

Plan the assessment in good time and make sure that the assessment involves the individuals and groups that you already know that your business may potentially impact; in particular your employees. You may find that your company's existing information and consultation mechanisms are useful starting points.

ADVICE

Approach the assessment in a structured manner. Assess each human right one by one and be aware that your business may adversely impact different stakeholders with respect to the same human right. For example, your business may both *discriminate* against applicants, existing employees and customers. Your business may also have adverse impacts *the right to privacy* of multiple stakeholders; e.g. your shareholders, your customers or your employees

ADVICE

Make sure to make a record of your findings. You will likely find that your business does not cause or contribute to adverse impacts on a range of human rights. Record these human rights as 'no impact'. However, it is important that your business relationships and other interested parties are confident with the quality of your assessment i.e. that your business has thoroughly considered its potential impacts on all the human rights. For example, your business may record that it does not cause or contribute to adverse impacts on indigenous peoples' rights if your business is only operating in regions of the world where no indigenous peoples live and where it is unlikely that your products reach indigenous peoples.



ADVICE

Make sure that your assessment takes note of the particular human rights challenges, which are specific issues in the *country or locality* in which your business is operating. For example, if you operate in a country that is criticised internationally for its human rights performance in relation to freedom of association, your assessment should identify this as a potential adverse impact on which you should demonstrate action. Furthermore, all sectors have specific challenges that they should deal with by nature of their specific field or industry. For example, if your company is an ICT business, you should identify potential adverse impacts on *the right to privacy, freedom of information and expression, and the right to participate in technological development*. A food company should identify potential adverse impacts on *the right to adequate food and its fair distribution, and the right to health*. A healthcare company should consider *the right to health; free, prior and informed consent by medical trials; and the right to privacy*. Finally your business should place emphasis on identifying particular vulnerable individuals or groups that you may impact; e.g. children, people with disabilities, minorities and so on.

Once you have identified which actual or potential adverse human rights may be adversely impacted by your business activity, your business should integrate the findings from the assessments through internal functions and processes, and take action. The scale and complexity of the means through which enterprises meet their responsibility may vary according to their size, sector, operational context, ownership, structure and the severity of the impacts.

Here is some practical advice on *integration* and *taking action*:

ADVICE

You may want to make an employee or team of employees responsible for monitoring actions. Responsibility should be assigned at the appropriate level in the organisation to be effective. You should also set aside the necessary resources to implement the actions.

ADVICE

The actions should be developed in collaboration with those people that are potentially or actually impacted or their appropriate representatives.

ADVICE

Your business should develop indicators that will enable your business and those impacted to evaluate whether or not the efforts are effective in preventing or mitigating the potential adverse impacts or in limiting the reoccurrence of actual adverse impacts. Your business should seek to establish both quantitative (that is, what can

ADVICE

measured by numbers) and qualitative (e.g. outcomes of interviews, stakeholder meetings or employee surveys) indicators for measuring the efficiency of the actions. On top of this, if actual adverse impacts are identified, your business should grant the individual(s) impacted access to remedy. Remedy can be anything from an apology, over restitution to compensation - see more in [section 2.1.3](#).

ADVICE

You should be prepared to communicate what you do. Foremost you should communicate this to the individuals that your business may adversely impact. In addition, you should be ready to communicate how you have dealt with the adverse impacts to businesses or organisations that have a vested interest in your business' ability to manage its human rights impacts. Companies whose operations or operating contexts pose risks of severe human rights impacts should report formally on how they address them.

- Both your investors and your customers, but also other business partners have vested interest in your ability to respect human rights. According to the UNGPs, every business engaged in a business relationship with you should take an interest in your ability to conduct a proper human rights impact assessment. The best way for your investors or business partners to ensure that you do not pose a risk to their business by implicating them in adverse human rights impacts, will be for them to ensure that you implement the UNGPs. You can demonstrate your proper implementation by sharing your business' human rights impact assessments with your business relationships upon request.
- The responsibility to communicate how you assess human rights impacts is the key to the accountability of the system established by the UNGPs. As stated by the UNGPs, your business should “provide information that is sufficient to evaluate the adequacy of an enterprise’s response to the particular human rights impact involved”.

ADVICE

You may find that you operate within a specific context which calls for immediate action on specific adverse human rights impacts. For example, if you operate in a conflict affected area, the UNGPs recommend that you prioritise your efforts to prevent, mitigate or remediate human rights impacts within that specific context. First, you should seek to prevent and mitigate those human rights impacts which are most severe (relative to the other impacts that you identified) or where a delayed response would make the effects of the impacts irremediable.





### 2.1.3 Providing access to remedy through effective grievance mechanisms

*What is “remedy”?* Providing a remedy means correcting a mistake, or in this context making good on an adverse impact on someone’s human rights. It is essentially about taking care of the individual or individuals whose human rights are adversely impacted upon. It is much easier to *make good* upon an adverse impact if your business has systems in place which enable those affected to contact you and open a dialogue, before the issue escalates.

All businesses can cause or contribute to adverse impacts in some way; knowingly or un-knowingly; intentionally or un-intentionally. When it happens and someone’s rights are adversely impacted, your business should make an effort to stop or reduce such impacts and find ways to correct the situation for the aggrieved party or parties.

Righting wrongs may involve apologising, taking measures to ensure that the negative impact does not occur again, financial or non-financial compensation or any other remedy that you and the aggrieved party settle upon as an appropriate response. It is important to consider the affected person(s) perspectives on what is an effective remedy.

The earlier your business detects potential adverse impacts on human rights, the easier it will be for your business to calibrate the expectations of the potentially impacted person(s) to your business reality. A proper due diligence, as mentioned above in [section 2.1.2](#), is vital for you to discover room for improvements in good time.

UNGPs (Operational Principle 22) state that where your business discovers that it has caused or contributed to adverse impacts, it should provide for or cooperate in the remediation of such impacts through legitimate processes.

**ADVICE** Be open; talk to individuals who may feel negatively affected by your business. This might help resolve complaints early and directly, limiting the problem both for your business and for the affected parties.

**ADVICE** Collective bargaining, social dialogue and constructive relations with duly designated employee representatives often provide a good basis for effective remedy of potential and actual impacts involving employees. Some companies also make use of employee suggestion boxes.

**ADVICE** You may consider rewarding your employees if they raise potential adverse impacts with you before the impacts materialise. Rewarding notices on *near misses* can inspire your efforts in dealing with potential adverse impacts on all human rights.

**ADVICE** Consider your business' efforts to enable access to remedy as a welcomed opportunity to develop capacity on human rights with the parties you may affect.

UNGPs (Operational Principle 29) recommend that your business establishes or cooperates in establishing grievance mechanisms for the individual(s) that your business may impact. UNGPs (Operational Principle 22), as mentioned above, also inform us that *legitimate processes* are needed for effective remediation.

UNGPs (Operational Principle 31) establish 8 criteria for the effectiveness of the grievance mechanisms that your business is supposed to establish (or participate in) to enable the parties that are or may be impacted by your company can raise their concerns. Meeting the 8 conditions will ensure the legitimacy of your processes.

The grievance mechanisms that your business establishes should be:

- a) *Legitimate: enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes;*
- b) *Accessible: being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access;*
- c) *Predictable: providing a clear and known procedure with an indicative timeframe for each stage, and clarity on the types of process and outcome available and means of monitoring implementation;*
- d) *Equitable: seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;*
- e) *Transparent: keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake;*
- f) *Rights-compatible: ensuring that outcomes and remedies accord with internationally recognized human rights;*



- g) *A source of continuous learning: drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms;*
- h) *Based on engagement and dialogue: consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances.*

ADVICE

Think of grievance mechanisms already when you assess human rights impacts. This will enable you to engage the potentially impacted individual(s) in the design of the mechanisms and be more cost-effective.

ADVICE

Establish, or collaborate on the establishment of, grievance mechanisms designed to address parties that your business may *potentially impact* so that they can alert you about this. People who feel that they, or others, may safely raise their concerns, will appreciate your openness.

ADVICE

Consider collaborating with others to enable access to grievance mechanisms for some potentially affected parties. Such mechanisms can be administered by an outside organization (for example, by an employer/industry association or a multi-stakeholder group).

ADVICE

The UNGPs use *grievance mechanisms* in the plural sense. It would be difficult to imagine *one* operational level grievance mechanism that could meet the ‘effectiveness’ criteria and reach all potentially impacted stakeholders. However for a small business, simple grievance mechanisms should be sufficient. For example, as an SME you may find it sufficient to hold regular meetings with your employees and offer complaint mechanisms to your customers. However you should be aware that this internal procedure may not reach out to all stakeholders and ensure that your mechanisms encompass their needs. The UNGPs do not foresee a *one-size-fits-all* approach – on the contrary they allow flexible solutions.

## 2.2 Challenges and opportunities

### *What are the challenges and opportunities of being a SME with regards to human rights and business?*

#### **Challenge 1 – time and money:**

- ▶ It requires an investment to become a responsible company. Most SMEs have to focus 110 per cent on doing their business and earning money. Following the UNGPs implies that your management spend valuable time to develop their own capacities. The UNGPs are a political text and can initially seem daunting to understand (hence this guide). Also putting in place the processes and policies recommended by the UNGPs may be costly if your company relies on some external assistance with a return of investment which is neither obvious nor instant.


#### **Challenge 2 – working by intuition:**

- ▶ Many SMEs are not accustomed to establishing and maintaining management systems. Everybody in the company meets each other regularly and the business is run by intuition rather than written policies and procedures which would be perceived as unnecessary and time consuming. The UNGPs promote systematic thinking in regards to managing your core responsibilities: it is impossible to know and show that you respect human rights unless you have certain processes in place to assess and address the human rights risk of your activities and relationships. However, the UNGPs acknowledge that the scale and complexity of the means by which your company lives up to its responsibility shall be relative to the size of your company. SMEs are not expected to be able to document the existence of systems to the same extent as larger companies, provided that your company is not involved in severe human rights impacts. This being said, many SMEs do acknowledge that a CSR or human rights management system adds value to the way they run their business.

Striving to be a responsible business brings many challenges. However you are not alone facing them. Your employer/business association may be able to give additional advice or organize networking opportunities in order for you to share experiences with peers.

#### **Opportunity 1 – timing and money:**

- ▶ You are reading this guide, so you are informing yourself. And you are in good time. Although the UNGPs are currently the focus of global intention, proper implementation is still in its early stages; even with multinationals that are often perceived as frontrunners for business



and human rights. Take your time to become comfortable with the concepts at stake. The fact that your business is an SME makes implementation much smoother; fewer people and shorter distances between management and employees makes implementation faster and more agile compared to the implementation efforts that larger corporations are faced with. On top of that, the scale and complexity of the system is relative to your size; the expectations to your company are less than the expectations that larger companies will meet. And so are the costs.

**Opportunity 2 – surprise your business relationships:**

- ▶ Putting in place the recommended policies and processes and being able to share your experiences with your larger business relationships may prove very valuable for your company. Not only do you satisfy their expectations that your business act responsibly, you can also provide your business partners with invaluable *on the ground experiences* of managing adverse impacts diligently. Your business can become the preferred business partner adding value not only with your products and services, but also as a responsible business.

**Opportunity 3 – your governments focus on SMEs:**

- ▶ Most governments realize that SMEs are essential for a vibrant market economy. SMEs represent a big proportion of GNPs (Gross National Product) and employment. Therefore governments are often focused on assisting SMEs to develop. You may find that government initiatives can both assist you in implementation and in promoting what you are doing.

## 2.3 Where to get support?

The UNGPs offer a blueprint for your business to respond to expectations regarding the respect of human rights. Some useful institutions and websites are listed in **section 4** which can give you further advice and insights – even if mots were not written by or for a business audience, and might not be particularly SME friendly.

If you need assistance in making the UNGPs operational, you can turn to employers' federations and business associations. Also, more and more national institutions, civil society organizations or multistakeholder CSR initiatives deal with business and human rights. You should also be aware that your government may issue further guidance of use to your company.

Recap – UNGPs expectations on companies	
<b>Obey the law</b>	<ul style="list-style-type: none"> <li>▶ Compliance with national law is a fundamental first step regardless of the level of legal enforcement. An assessment against those laws in the countries of operations is essential.</li> </ul>
<b>Respect human rights</b>	<ul style="list-style-type: none"> <li>▶ The UNGPs state that companies are expected to respect human rights and to demonstrate the efforts they make to do so:                             <ul style="list-style-type: none"> <li>○ They should avoid and address adverse human rights impacts through their own operations and</li> <li>○ Seek to prevent or mitigate adverse human rights impacts, which they did not directly cause but were caused by other businesses they are in relation with.</li> </ul> </li> <li>▶ Each company may have adverse impacts on human rights directly (eg. through its own operations) or indirectly (through the company’s involvement with other buyer and supplier companies).</li> <li>▶ Companies are expected to take a public commitment to respect human rights and to have policies and processes in place to make sure they do so effectively.</li> <li>▶ Companies should respect human rights even where national laws are non-existent or in contradiction with international standards.</li> </ul>
<b>Perform due diligence</b>	<ul style="list-style-type: none"> <li>▶ The motor of the corporate system to respect human rights is the human rights “due diligence”. It means that companies should                             <ul style="list-style-type: none"> <li>○ identify and assess the nature of the actual and potential human rights impacts with which it might be involved (impact assessment);</li> <li>○ integrate the findings from the impacts assessments across the company’s internal functions and processes;</li> <li>○ take appropriate action.</li> </ul> </li> <li>▶ Companies should ensure access to remedy to those actually impacted (grievance mechanisms).</li> </ul>



## 3. Guidance for buyers

Like any other business, buyer companies have a responsibility to stop adverse human rights impacts that are directly linked to their operations, products or services and to address them ie. act upon the information. Moreover, they should seek to prevent or mitigate adverse human rights impacts, which they did not directly cause but were caused by other businesses they are in relation with.

In other terms, once your business becomes aware of adverse human rights impacts, it is your business' responsibility to react: either by stopping them directly or by taking steps to improve the situation in your supply chain. Describing how the latter can be done is the purpose of the **section 3** of this Guide.

It is useful to reaffirm here that the UNGPs do not introduce a legal responsibility or liability of companies for human rights abuses in their supply chain – they are an expression *of expected conduct* for all enterprises wherever and however they operate.

The UNGPs can help buyers address major challenges to responsible procurement, such as the lack of harmonisation and convergence between codes of conduct developed in the past. Indeed, the UNGPs offer an authoritative global framework on which to base future responsible procurement approaches.

### 3.1 Expectations

#### *What is specific about buyer companies?*

Buyers companies have the same responsibility regarding human rights than any other business. However, their economic position in the supply chain indicates that they could have leverage over other companies ie. an ability to influence the behaviour of others. This does not change as such the nature of their responsibility but it has an influence on the *way* buyer enterprises will meet their responsibility to respect human rights.

Reading the UNGPs (Operational Principle 19) through “leverage” lenses, three ways can be identified in which companies can be involved with human rights impacts: cause, contribution and linkage.

- ▶ Cause: Where a company causes an adverse human rights impact, it should take the necessary steps to cease or prevent the impact, and

remediate it. While addressing such impacts will frequently be within a company's control, *leverage* may be relevant in certain instances, such as where a company is under pressure to take actions that would harm human rights, for example by a government or by the purchasing decisions of a buyer.

- ▶ **Contribute:** Where a company contributes or may contribute to an adverse human rights impact, it should take the necessary steps to ease or prevent its contribution, and use its *leverage* to mitigate any remaining impact to the greatest extent possible. It should also take steps to ensure the remediation of any actual impact that has occurred.
- ▶ **Linkage:** Where an adverse impact is neither caused nor contributed to by a company, but is nevertheless directly linked to its operations, products or services through a business relationship, the company has a responsibility to seek to avoid the impact continuing or recurring. The business relationship may be a direct one or with an entity more remote in the company's supply chain. In this situation, the company's *leverage* over the entity concerned becomes a central factor in determining the appropriate action:
  - If the company has leverage to prevent or mitigate the adverse impact, it should exercise it.
  - If the company lacks leverage, it should seek to increase it, for example by offering capacity-building or other incentives, or collaborating with other actors.
  - Where this proves impossible, it should consider ending the relationship, taking into account potential adverse human rights impacts of doing so.


### ***What should buyers do?***

The UNGPs are not very explicit on *how* your business shall meet its responsibilities in relation to your suppliers; and you may encounter different interpretations or practices that will claim that they are aligned with the UNGPs.

The following examples will hopefully help you to realise that meeting your responsibility is not that overwhelming after all; actually it may in itself provide you with some opportunities for strengthening your business relationships.

As a buyer, responsibly managing your company's supply chain according to the UNGPs can be achieved following the stages of former best practices, but with different content, tools and actions:



- 
1. Establishing a Supplier Code of Conduct outlining your expectations
  2. Identifying relevant suppliers to engage with
  3. Auditing & monitoring, training and reporting
  4. Corrective measures
  5. Termination policies
  6. Issue management plans

### 3.1.1. Code of Conduct (CoC) & outlining expectations

You should expect that suppliers respect human rights and your CoC should set out this expectation on suppliers. The CoC should mention the expectation that the supplier adopts a policy commitment, establishes human rights due diligence and provides for access to remedy. This governance system can be applied to all three bottom lines covered by the broader CSR agenda: social, environmental and economic sustainability. An example of a Code of Conduct built on this premise can be found at: <http://www.csrcompass.com/setting-requirements>. This model Code of Conduct forms part of the Danish Government's CSR guidance to Danish SMEs.

Many existing CoCs are not sufficiently comprehensive in their human rights coverage. According to the UNGPs, a CoC should make clear that respect for human rights supposes an assessment of impacts on all rights covered by the IBHR, including the ones mentioned in the core ILO Conventions.

Most companies, including your business' suppliers, are yet to establish systems aligned with the UNGPs. As such, it is unreasonable to expect that your suppliers will have these processes established from day one. A reasonable timeframe to establish the expected systems should be granted.

*One effective way to mitigate risks of adverse impacts on human rights in your supply chain is to ask your suppliers to follow the recommendations of the UNGPs and ask them to ask their own suppliers to do so as well.*

### 3.1.2. Identifying relevant suppliers to engage with

- ▶ All of your suppliers are required to comply with national laws in the countries where they operate, and also have a responsibility to respect human rights.
- ▶ The suppliers with which you engage most may pose an extra risk. If they do not manage their impacts on human rights in alignment with the UNGPs, your relatively strong relationship may be jeopardised. You can choose to engage more with these suppliers to make sure that they, concurrently with your own business, start implementing the UNGPs.
- ▶ You should perceive this work as a business opportunity. Instead of having a relationship to these important suppliers that is solely centred on key issues like price, quality and delivery times, your business can interact with your suppliers on subjects that are important to both. The engagement will most likely be dealt with by different functions of your respective businesses.
- ▶ According to the UNGPs, you should also engage more actively with suppliers that have *known risks* of adverse impacts on human rights. Such known risks could be related to the context in which they operate. It will be expected that your business maintains a general knowledge of *severe impacts* that your business could be related to through your value chain.  
The UNGPs suppose that you stay alert and engaged with your supply chain whenever you find that your business is associated with adverse impacts. You may also find out about “known risks” through visiting your supplier’s production site, through the results of your grievance mechanisms, from third parties that contact you or through simple Internet search whenever you engage a supplier. Your business should be wary of associating with a supplier if it cannot demonstrate that it has handled the adverse impacts as expected by the UNGPs.

This introductory research that you do when selecting your suppliers can also include an assessment of common sector and country risks relevant to the suppliers that your company intends to interact with. While this can help qualify the interaction, it is important to note that nationality should not be a criterion when selecting the suppliers that you want to engage actively with. In fact, selecting suppliers this way may lead to adverse impacts on the right not to be discriminated against. You cannot assume that your suppliers do not *respect human rights* because they are based in certain countries. However, it is acceptable not to engage a supplier operating in a conflict affected area, where the UNGPs call for



increased human rights due diligence, due to the imminent risks of being involved in severe adverse impacts.

Many companies also rely on questionnaires to obtain more comprehensive feedback directly from the suppliers; an example of such a questionnaire can be found through the same link that was provided for the model CoC above.

Your business should make sure that preliminary assessments are aligned with the UNGPs. It should contain questions on systems and processes for addressing adverse impacts, rather than an assessment of performance with respect to a limited number of human and labour rights.

### **3.1.3. Auditing and monitoring, training and reporting**

Your business' suppliers should be prepared to communicate on their activities. For the first two to three years, depending on the time-frame you have awarded them, they should be prepared to account for progress in living up to the UNGPs (see **section 2** of this Guide). After that period, you should be in a position to receive the results of the assessments carried out by the supplier on human rights impacts. The assessment will reveal to your business whether your supplier actually followed the policies and processes enshrined in the UNGPs. The supplier should be able to produce information about identified adverse impacts on human rights, and account for its efforts to prevent, mitigate and remediate them.

You can then evaluate the report, both in order to assess the appropriateness of the actions and to assess if the policies and processes appear to work.

*For example, if a supplier failed to identify any potential adverse impacts in relation to non-discrimination, this would – based on the context analysis of country risks - lead to further questioning and investigation. This would similarly be the case where a supplier's system failed to identify the right to rest and leisure as an area for possible adverse impacts.*

Your business may cross-check the report from the supplier with known country and sector risks. If there is a need for further evaluation due to inconsistencies, they should be addressed at this stage; initiating healthy dialogue with the supplier is one way to address these risks.

### 3.1.4 Corrective measures

You may follow up on all your suppliers or selected suppliers to ensure that they make progress in implementing the UNGPs. Corrective action plans to ensure focus on implementation can be agreed with the suppliers.

The UNGPs raise expectations concerning the action taken by a buyer once adverse impacts have been identified in the supply chain. If you have directly caused or contributed to the adverse impact, you should act to enable access to remedy for the aggrieved parties. When you are merely connected to the adverse impact, you should use your leverage to make sure that the entity in the supply chain that causes or contributes to the adverse impacts stops this, to make sure that reoccurrences are prevented and mitigated and your business may also insist that those impacted get access to remedy.

### 3.1.5 Termination policies

When your business becomes aware that it is linked to an adverse human rights impact in your supply chain, and the entity in the supply chain does not appreciate your concerns moving towards ceasing the impact and implementing the UNGPs, you should first seek to increase your leverage over that entity.

If that is not possible you may find that it is necessary for you to end/terminate that (contractual) business relationship.

### 3.1.6 Issue management plans

Most businesses have formal or informal *issue management plans*; i.e. plans that they execute if they meet certain challenges. This would include, for example, if a journalist calls on a certain issue or where the authorities want access to the premises suspecting anti-competitive activities such as price-rigging. *Issue management plans* provide for valuable instructions to the employees in your business, should your business experience criticism from any of your stakeholders. Your business is advised to have an issue management plan ready for the event that your business is made aware that you are linked to adverse human rights impacts in your supply chain. Those involved from your business should be made aware on how best to manage these findings in accordance with the UNGPs.

In short, your business could:

- ▶ Appreciate the information upon receipt, no matter who raises the issue.
- ▶ Communicate to the informant that your business has done what can be expected of your business to prevent such adverse impacts.



- ▶ Communicate that your business will now act upon the appreciated knowledge in accordance with the UNGPs; using the leverage of your business to address the adverse impacts and if your business' leverage is too small – seeking to increase leverage. The UNGPs state:
  - If your business has leverage, your business should use this leverage to make sure that the adverse human rights impact ceases and that reoccurrence is prevented or mitigated.
  - If your business lacks leverage, your business should look for ways to increase this leverage. For example, by offering capacity development or other incentives, or by collaborating with other actors.
  - If your business is unsuccessful in increasing your leverage, so that it leads to appropriate actions with the business entity that causes or contributes to the adverse impact, your business should consider ending this business relationship, taking into account an assessment of potential adverse human rights impacts in doing so.
  - If the business relationship is crucial to your business, you may not be able to terminate the business relationship. In this situation, the severity of the human rights impact should be considered. The more severe the impact, the more imperative to your business that change is achieved under threat of ending the relationship. The best advice for your business in this real dilemma will be to continue your efforts to increase leverage.

## 3.2 Challenges and opportunities

There is increasing evidence that human rights risks posed by business can adversely affect finances of the businesses involved, for example through operational disruptions, reduced productivity and challenges securing new businesses. Practising responsible supply chain management has the potential to achieve direct economic benefits as a result of productivity gains by suppliers. Furthermore, *human rights due diligence* contributes to productivity by providing critical background assessments on both the functioning of the various facets of a business and the external relations that the business has to interact with. It may thus bring advantages in terms of cost savings, access to capital, human resource management and access to business partners.

It is important to acknowledge that integrating the UNGPs into responsible procurement practices may pose a challenge to many buyers. Some may find it too expensive or too cumbersome to implement the

UNGPs themselves or they may have developed different systems for responsible supply chain management prior to the introduction of the UNGPs.

However, the UNGPs oriented approach eliminates some of the challenges traditionally associated with responsible procurement, rendering the process easier: the UNGPs offer clarity on what is expected.

It has traditionally been difficult to establish consistent responsible procurement practices due to variations in location and codes of conduct. Before the UNGPs, the rights picked to be addressed could vary depending on which initiative a company was following.

Another concern has been the soliciting of sufficient infrastructure support from state governments to implement effective responsible procurement approaches. Governments will be more likely to support CSR capacity development where buyer businesses intervene based on a globally agreed framework.

Your business may also encounter some resistance from suppliers' CSR representatives who are accustomed to former risk management practices which are primarily labour-rights oriented. However, as the new global framework established by the UNGPs gains widespread usage, CSR representatives will recognise the legitimacy of the due diligence approach and appreciate its obvious opportunities.

Moreover, the process-oriented approach offered by the UNGPs facilitates business relationships.

By focusing on overall process rather than performance on a few labour rights, companies are able to engage with their relationships on a less invasive level and foster productivity gains to mutual advantage. Suppliers should appreciate that non-compliance may pose considerable risks to your business operations and that it will have an impact on your willingness to purchase goods from them in the future.

### **3.3 Avoiding unnecessary bureaucratic burdens for suppliers**

It is certainly desirable to avoid placing unnecessary bureaucratic burdens on your suppliers. It is important to view the emerging UNGPs-aligned approach as a move to promote a universally accepted expression of expected responsible conduct with increasing currency in the global market, rather than an arbitrary externally imposed requirement.



The UNGPs constitute the first and only universally accepted authoritative reference point for managing adverse impacts on human and labour rights. By adopting this approach, you will align your responsible supply chain management practice with the common global reference point in a field which has been traditionally dominated by competing approaches and codes; often referred to as ‘code mania’.

Following the recommendations of the UNGPs can help streamline the human rights risk management process for suppliers. Once suppliers have the *human rights due diligence systems* in place - *knowing* all their human rights impacts and *showing* how they deal with them – they will be able to answer demands from all customers, investors and public authorities. Moreover, moving away from meeting multiple specific systems means that fewer resources are relied upon for evaluation and auditing – this can reduce costs and increase efficiency for suppliers.

Recap – Responsibility and ways to address the impact		
If we have ...	... then under the Guiding Principles we should ...	
... caused (or may cause) the harm...	...cease or prevent the action causing the harm...	... and remediate the harm.
...contributed to (or may contribute to) the harm...	... cease or prevent the action causing the harm; use leverage to mitigate the risk that any remaining impact continued or recurs...	... and contribute to remediation of the harm.
... identified a linkage between the harm and our operations, products or services, but no cause or contribution...	... use leverage to mitigate the risk of the impact continuing or recurring to the greatest extent possible.	

Source: *Using Leverage in Business Relationships to Reduce Human Rights Risks, SHIFT, November 2013*

## 4. Resources


### 4.1 List of Human Rights as contained in the International Bill of Human Rights and ILO Core Conventions

Business may potentially have negative impacts on all internationally agreed human rights. Therefore, your business should consider all such rights when identifying your human rights risks (see [section 2.1.2](#)).

Listed below are 33 human rights articles that are all contained within the IBHR. They include the core labour rights from the ILO Core Conventions. Below the listing of the rights examples are described of how businesses, if not careful, can be involved in a negative impact in relation to a range of the rights. Please note that several articles contain more than one specific human right; making the total 48 human rights to be assessed against.

1. Right to self-determination (indigenous peoples rights)
2. Right to non-discrimination
3. Right to work (training, contract and termination)
4. Right to enjoy just and favourable conditions of work (including equal pay for equal work, a living wage (minimum wage), safe and healthy working conditions, right to equal opportunity for everyone to be promoted and rest, leisure and holidays)
5. Right to form and join trade unions and the right to strike
6. Right to social security, including social insurance
7. Right to family life (including protection of mothers before and after childbirth and children's and young people's protection from exploitation (no child labour))
8. Right to adequate standard of living (including adequate food and its fair distribution, adequate clothing, adequate housing and clean water and sanitation)
9. Right to health
10. Right to education
11. Right to take part in cultural life, to benefit from scientific progress, and the material and moral rights of authors and inventors (including protection of copyrights)
12. Right to life



- 
13. Right not to be subjected to torture, cruel, inhuman and/or degrading treatment or punishment (including free consent to medical or scientific experimentation)
  14. Right not to be subjected to slavery, servitude or forced labour
  15. Right to liberty and security of person
  16. Right of detained persons to human treatment
  17. Right not to be subjected to imprisonment for an inability to fulfil a contract
  18. Right to freedom of movement
  19. Right to aliens to due process when facing expulsion (asylum)
  20. Right to a fair trial
  21. Right to be free from retroactive criminal law
  22. Right to recognition as a person before the law
  23. Right to privacy
  24. Right to freedom of thought, conscience and religion
  25. Right to freedom of opinion and expression (including freedom of information)
  26. Right to freedom from war propaganda, and freedom from incitement of racial, religious or national hatred
  27. Right to freedom of peaceful assembly
  28. Right to freedom of association
  29. Right to protection of the family and the right to marry
  30. Right to protection of the child and right to nationality
  31. Right to participate in public affairs
  32. Right to equality before the law, equal protection of the law and rights of non-discrimination
  33. Rights of minorities (culture, religious practice and language)

## 4.2 Sources of information on Business and Human Rights

Please bear in mind that these references might not have been written for a business audience and are not particularly SME friendly.

### Human and labour rights:

- ▶ The International Bill of Human Rights:
  - <http://www2.ohchr.org/english/law>
- ▶ UN Office of the High Commissioner for Human Rights:
  - Authoritative online information on human rights: <http://www.ohchr.org>

- ▶ The ILO Declaration on Fundamental Principles and Rights at Work
  - <http://www.ilo.org/declaration/thedeclaration/textdeclaration/lang--en/index.htm>
- ▶ The International Labour Organisation
  - Authoritative online information on International Labour Standards: <http://www.ilo.org>
  - The ILO helpdesk for Business on International Labour Standards:<http://www.ilo.org/empent/areas/business-helpdesk/lang--en/index.htm>

### **Business and Human Rights:**

#### ▶ **The United Nations Guiding Principles (UNGPs)**

The United Nations Guiding Principles on Business and Human Rights, Office of the United Nations High Commissioner for Human Rights, 2011:

[http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

#### ▶ **The Corporate Responsibility to Respect Human Rights, an interpretive guide:**

The Corporate Responsibility to Respect Human Rights: An Interpretive Guide, Office of the United Nations High Commissioner for Human Rights, 2011:

[http://www.ohchr.org/Documents/Publications/HR.PUB.12.2\\_En.pdf](http://www.ohchr.org/Documents/Publications/HR.PUB.12.2_En.pdf)

This interpretive guide explains the meaning, intent and implications of the Guiding Principles.

#### ▶ **Frequently asked questions about the UNGPs**

Frequently asked questions about the guiding principles on business and human rights, 2014:

[http://www.ohchr.org/Documents/Publications/FAQ\\_PrinciplesBusinessHR.pdf](http://www.ohchr.org/Documents/Publications/FAQ_PrinciplesBusinessHR.pdf)


Intended as a companion to the interpretive guide, the FAQ aims to explain the background and contents of the Guiding Principles and how they relate to the broader human rights system and other frameworks.

#### ▶ **UN Global Compact**

Global Compact is the UN's global corporate social responsibility initiative. The initiative can be visited at [www.unglobalcompact.org](http://www.unglobalcompact.org).

For information on the relationship between the UN Guiding Principles on Business and Human Rights and the Global Compact see:

[http://www.unglobalcompact.org/docs/issues\\_doc/human\\_rights/Resources/GPs\\_GC%20note.pdf](http://www.unglobalcompact.org/docs/issues_doc/human_rights/Resources/GPs_GC%20note.pdf)



For a description of all the human rights – see “Human Rights Translated” at <https://www.unglobalcompact.org>

**Supplementary information:**

- ▶ The EU SME guide - [http://ec.europa.eu/enterprise/policies/sustainable-business/files/csr-sme/human-rights-sme-guide-final\\_en.pdf](http://ec.europa.eu/enterprise/policies/sustainable-business/files/csr-sme/human-rights-sme-guide-final_en.pdf)
- ▶ The IOE guide - [http://www.ioe-emp.org/fileadmin/ioe\\_documents/publications/Policy%20Areas/business\\_and\\_human\\_rights/EN/\\_2012-02\\_\\_UN\\_Guiding\\_Principles\\_on\\_Business\\_and\\_Human\\_Rights\\_-\\_Employers\\_\\_Guide.pdf](http://www.ioe-emp.org/fileadmin/ioe_documents/publications/Policy%20Areas/business_and_human_rights/EN/_2012-02__UN_Guiding_Principles_on_Business_and_Human_Rights_-_Employers__Guide.pdf)
- ▶ SHIFT: <http://www.shiftproject.org>
  - The EU guides on business and human rights for three sectors: <http://www.shiftproject.org/ec-sectoral-guides-corporate-responsibility-respect-human-rights>
  - The Reporting and Assurance Framework Initiative (RAFI): <http://www.shiftproject.org/project/human-rights-reporting-and-assurance-frameworks-initiative-rafi>
- ▶ Institute for Human Rights and Business: <http://www.ihrb.org>
- ▶ Business and Human Rights Resource Centre: <http://business-humanrights.org>
- ▶ The Global Business Initiative on Human Rights: <http://www.global-business-initiative.org>
- ▶ The ITCILO eLearning Module on CSR and Business & Human Rights instruments [http://www.itcilo.org/en/the-centre/programmes/employers-activities/resources/online\\_training\\_modules](http://www.itcilo.org/en/the-centre/programmes/employers-activities/resources/online_training_modules)

## 4.3 Example of a Supplier Code of Conduct aligned with the UNGPs

A model code of conduct has been developed by the Danish Government together with the Confederation of Danish Industry (DI) which could give some inspiration for developing your own Code of Conduct. It is accessible here:

<http://www.csrcompass.com/setting-requirements>



### Contact

ITCILO Programme for Employers Activities  
E-mail: [j.schmitt@itcilo.org](mailto:j.schmitt@itcilo.org)  
Phone: +39 011 693 6590

Website : <http://lempnet.itcilo.org/TCAs>