

Business & Human Rights 2/4

FIBS Focus

IN PARTNERSHIP WITH



FIBS Focus on Business & Human Rights

- Wednesday 20.2. Systematic approach to human rights management
- Wednesday 29.5. Integrating human rights into company operations & a look at grievance mechanisms
- Wednesday 11.9. Trends and tools that are currently shaping the best practice for human rights reporting
- Tuesday 3.12. Managing and avoiding human rights crisis



In partnership with:



Other FIBS services related to human rights in 2019

- o Tuesday 4.6. OECD:n asianmukaisen huolellisuuden ohjeet pähkinänkuoressa –webinaari (in Finnish)
- o Monday 10.6. EU & yritysvastuu missä mennään ja mitä on tulossa? –webinaari (in Finnish)
- Tuesday 11.6. Yritysvastuu ja lainsäädäntö vinkkejä tulevan sääntelyn seurantaan (in Finnish)
- Wednesday 25.9. Ihmisoikeusvalmennus Perusteet haltuun! (in Finnish)
- Wednesday 25.9. Ihmisoikeusvalmennus Osaaminen käytäntöön! (in Finnish)
- Wednesday 6.11. Pre-meeting for the FIBS delegation to the UN Forum on Business & Human Rights
- Monday 25.11. Wednesday 27.11. FIBS delegation to the UN Forum on Business & Human Rights
- Information about human rights reporting analysis will be released in the autumn of 2019 -> analysis in 2020







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FIBS Newsroom

an vastuullisesta

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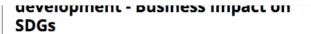
Latest blogs, bulletins, news, research reports and event presentations www.fibsry.fi → Uutishuone

Strategies dering

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BLOGIT

EU:n muovistrategia – Miten tämä



15. KESÄKUUTA 2018

This one day FIBS training organized in collaboration with DNV GL introduced the participants to SDG impact assessment: how to define why your...

SDG



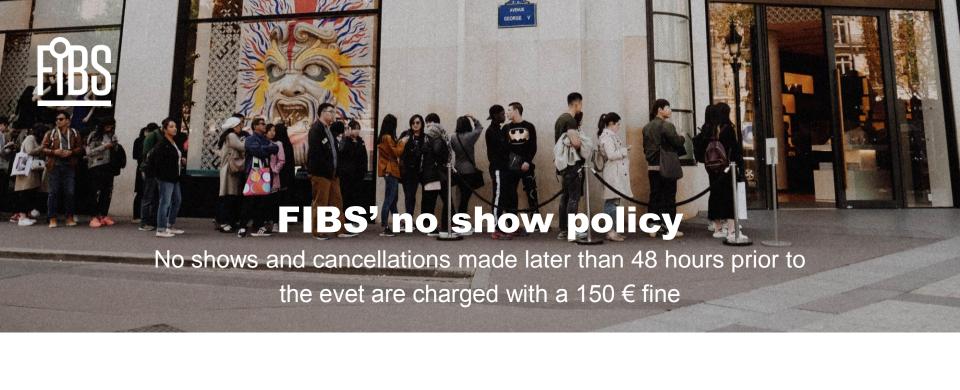




Kestävän kasvun rahoituksen laaja toimintasuunnitelma EU:lta

21. TOUKOKUUTA 2018

Olemme kaikki kuulleet että ilmastonmuutoksen ja luonno monimuotoisuuden häviämisen pysäyttäminen on nykyis riittämätöntä....





The Chatham House Rule

Participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed

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Agenda



Registration, coffee and breakfast

OECD and Human Rights Due Diligence, (Linda Piirto, Head of the National Contact Point for OECD in Finland)

10.15 Introduction, expectations & principles

Reflections & Discussion

How to build your human rights due diligence (Thomas Trier Hansen)

Short break

Maersk's approach to HRDD (Allan Lerberg Jorgensen, Maersk via Skype)

Introduction to building a complaints and grievance mechanism – experiences & challenges (Thomas Trier Hansen)

12.00 Lunch & networking

Recent developments (Mattias Iweborg)

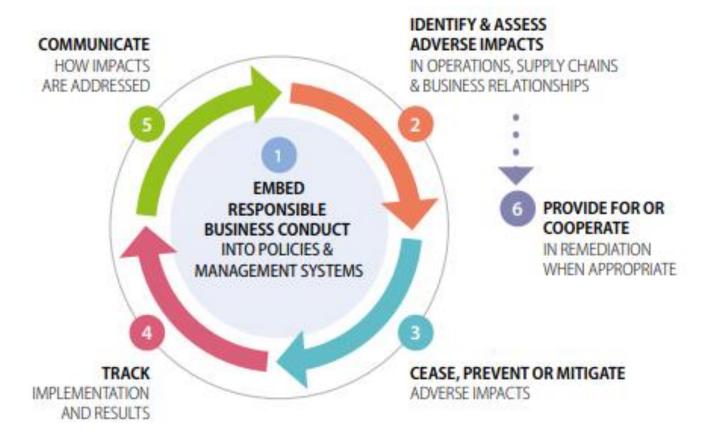
12.45 SOK's approach to HRDD, their model for HRIA and a pilot study (Sanni Martikainen, SOK Vastuullisuus)

16.00 End of day

How to build your human rights due diligence

Thomas Trier Hansen

Due Diligence Process & Supporting Measures



The FIBS Focus Group on Business & Human Rights

Policy embedding according to UNGP

| UNGP |
|--|
| Policy & Embedding (UNGP 12 & 16) |

Indicator

for human rights

1. Commitment & Statement of Policy
Reference to the responsibility to respect for human rights

2. Governance Process & Accountabilities

3. Operational Policy & Procedures
Has operational procedures in place to give effect to
(embed) the commitment to respect human rights,
e.g. by using leverage when relevant

Clear governance process & explicit accountabilities

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4. Capacity & Expertise
Has sufficient in-house capacity and expertise on
human rights

HRDD according to

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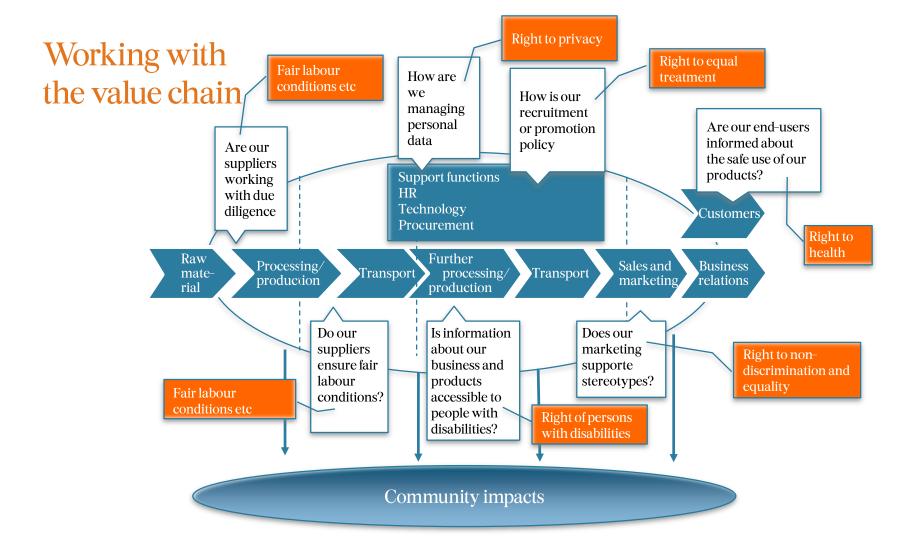
UNGP **Indicator** 1. HRDD General Systematically apply human rights due diligence at the outset of new projects, throughout life cycle and on an ongoing basis. Human Rights Due Diligence (UNGP 18-21) risks/impacts stakeholders 7. Reporting impacts

2. Assessing Impacts Conducts human rights impact assessments: the higher risk circumstances – the more comprehensive 3. Managing Impacts Responds to impacts and integrates findings from impact assessments, including use of leverage and assessment of relationship with impact 4. Monitoring performance Tracks and monitors performance for adverse human rights impacts 5. Severe impacts Priority action to severe or salient human rights 6. Stakeholder Communication and engagement Communicates and Engages with (affected) Reports publicly on management of human rights

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Grievance and remedy according to UNGP

| UNGP | Indicator |
|-------------------------------------|--|
| Grievance & Remedy (UNGP 22, 29-31) | 1. Commitment Committed to remedying negative impacts, including use of leverage |
| | 2. Mechanism Provides mechanism to report adverse impacts |
| | 3. Accessibility Grievance mechanism is accessible to both workers and local communities |



Six steps to identify and prioritise (if required)

1. If not possible to assess the entire organisation, start with a broad scoping exercise to identify all areas of the business, across its operations and relationships, including in its supply chains, where RBC (human rights) risks are most likely to be present and most significant (most salient). This could be a product, the company's operations; supply chain, geograhical issues etc)

- 2. Start with the identified risk areas to do further assessment in order to identify and assess specific actual and potential adverse RBC impacts (human rights) a HRIA.
- 3. Assess your company's relations with the impacts (caused, contribution or directly linked)
- 4. Assess the severity based on scale, scope and remediability of each impact.
- 5. Prioritise the risk and impacts for action, based on severity and likelihood (the poorer managment of the impact the higher risk that it will materialise and have a greater impact on the human right). Prioritisation will be relevant where it is not possible to address all potential and actual adverse impacts immediately. Once the most severe/salient/ significant impacts are identified and dealt with, the enterprise should move on to address less severe (significant) impacts.
- 6. Identify your leverage related to the impacts.



Prioritisation

Scale refers to the gravity of the adverse impact

- Extent of impact on workers' health or safety
- Whether the violation concerns a fundamental right at work

Scope concerns the reach of the impact, for example the number of individuals that are or will be affected or the extent of environmental damage.

- Number of workers/employees impacted
- Extent to which impacts are systemic (e.g. to a particular geography, industry or sub-sector)
- Extent to which some groups are disproportionately affected by the impacts (e.g. minorities, women, etc.)

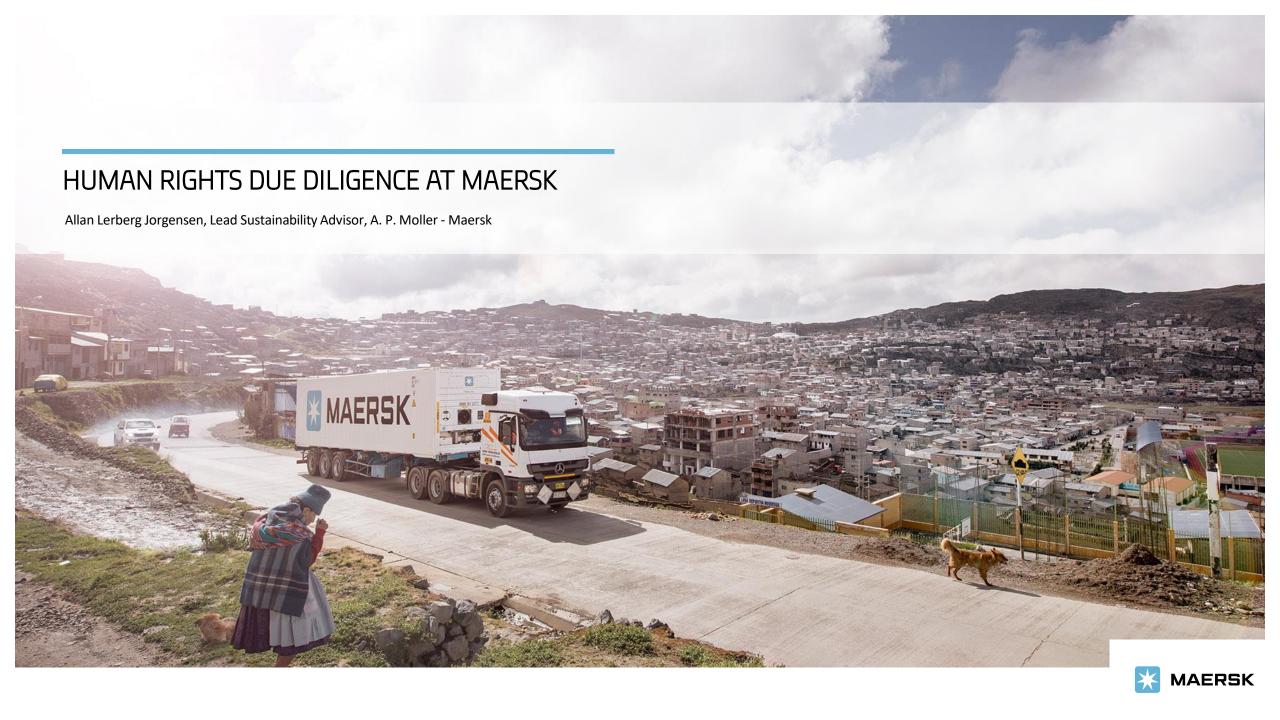
Irremediable character means any limits on the ability to restore the individuals or environment affected to a situation equivalent to their situation before the adverse impact:

- Extent to which the impact can be rectified (e.g. through compensation, reinstatement, etc.)
- Whether the workers affected can be restored to the prior enjoyment of the right in question
- The extent to which intimidation of workers for forming or joining a trade union will effectively deny workers the right to representation

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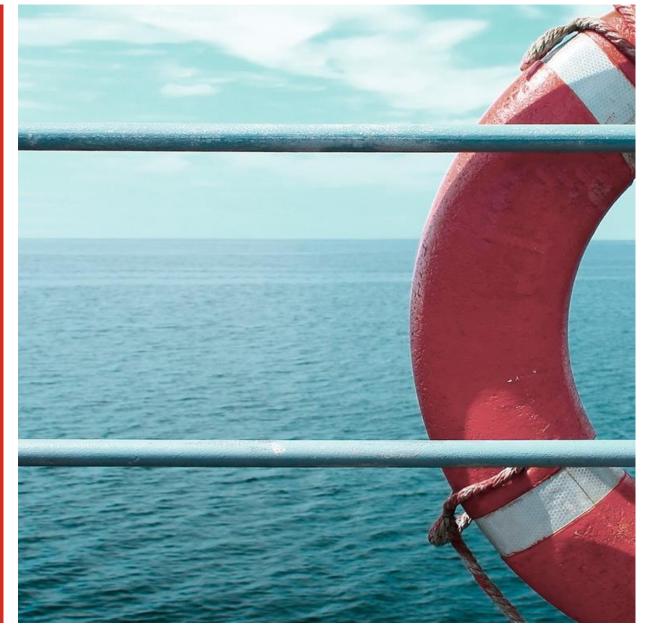
Practical steps

- Mandate from top management/Board
- Clarify tasks and set clear expectations
- Allocate roles, responsibilities and resources
- Adopt a Code of Conduct and communicate internally and to business relations
- Integrate due diligence into business model, core business processes and decision making.
- Use a pilot or a step-by-step process keep a fair balance between efforts, capacity and resources systematic approach is key



1. Embedding human rights due diligence

2. Salient issues





Materiality

Our materiality approach assesses and groups issues as responsibility, shared value, or risk

RESPONSIBILITY

Where do we have a responsibility to mitigate significant potential negative impact on people, society, or the environment?

Injuries and fatalities

Labour rights in indirect hiring and of subcontracted workers

Diversity & inclusion

Tax practices and transparency

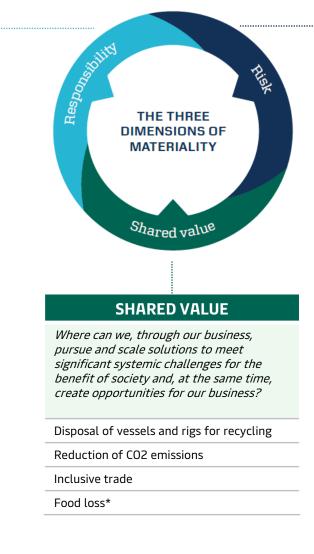
Transport to and from conflict zones

Land acquisition and resettlement by linked third parties

Disaster response

Armed security services

Health of the oceans*



RISK

Where do sustainability issues pose a significant financial or reputational risk to our business?

Major accident / oil spill / chemical spill

Major non-compliance with corruption regulations

Supplier non-compliance with A.P. Moller – Maersk Third-Party Code of Conduct

Uneven playing field in the enforcement of global SOx regulations

A.P. Moller – Maersk 2017 Sustainability Report





Our sustainability priorities



HELP DECARBONISE LOGISTICS



CONTRIBUTE TO HALVING FOOD LOSS



HELP MULTIPLY
THE BENEFITS OF TRADE



LEAD CHANGE IN THE SHIP RECYCLING INDUSTRY

RESPONSIBLE BUSINESS PRACTICES

Strong management approach to material issues, notably health, safety and environment, human and labour rights, anti-corruption and responsible tax practices

Ensure order in our own and our customers' end-to-end supply chains through a strong responsible procurement programme

Proactively drive diversity and inclusion in our workforce

Be a responsible citizen of the oceans



Embedding human rights due diligence

There are many aspects of our business that touch on human rights.

We seek to embed human rights principles and due diligence into how we manage these aspects.

- Policies
- Assessing and addressing impacts
- Integration and reporting
- Access to remedy

| ♦ Employee Relations ♦ Diversity and Inclusion ♦ Responsible Procurement ♦ Use of security services ♦ Ship recycling ♦ What's in the box ♦ Air emissions | ♦ | Safety |
|---|----------|--------------------------|
| Responsible Procurement Use of security services Ship recycling What's in the box | ♦ | Employee Relations |
| Use of security services Ship recycling What's in the box | ♦ | Diversity and Inclusion |
| Ship recyclingWhat's in the box | ♦ | Responsible Procurement |
| What's in the box | ♦ | Use of security services |
| | ♦ | Ship recycling |
| ♦ Air emissions | ♦ | What's in the box |
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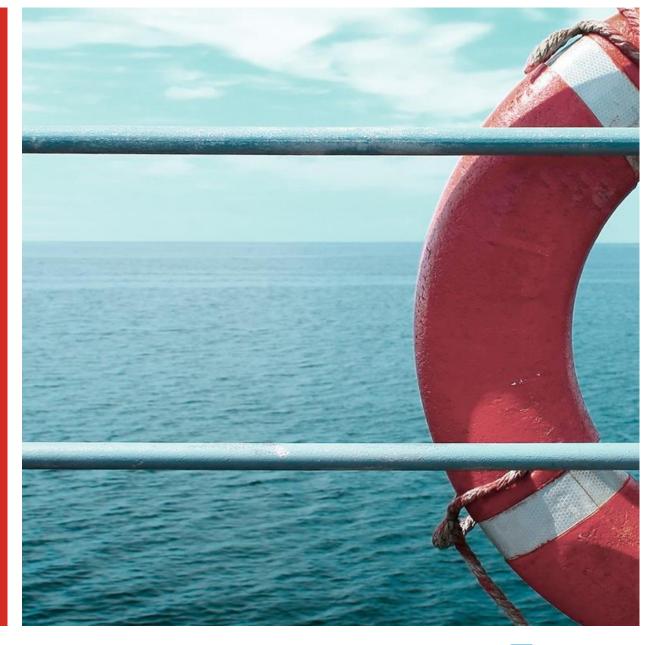






1. Embedding human rights due diligence

2. Salient issues





Safety

Each of our businesses carries out the safety activities and campaigns that are most relevant to their operations.

Safety is integrated across the business using five key areas:

- 1. Leadership
- 2. Behaviour and culture
- 3. Innovation and technology
- 4. Competence and capability
- 5. Knowledge sharing

2017 AMBITION

2017 PERFORMANCE

7
fatalities
fatalities

"Safety is not something we merely pay lip-service to.

Safety is part of our heritage and is central to running a good, sound business. We're disappointed when we fail to meet our own standards. When we lose people, we are devastated. The number of fatalities we see this year is our biggest regret. Going forward, my colleagues and I will actively ensure even more management attention to safety"

CLAUS HEMMINGSEN Vice CEO, Chair of the Sustainability Council, A.P. Moller - Maersk





Employee Relations

Principles on Global Employee Relations based on international labour standards.

Assessment every 2-3 years in all our 180 entities.

Training on labour rights for all staff.

Salient issues

- Working hours
- Equal treatment

In specific countries:

- Freedom of association
- Modern slavery



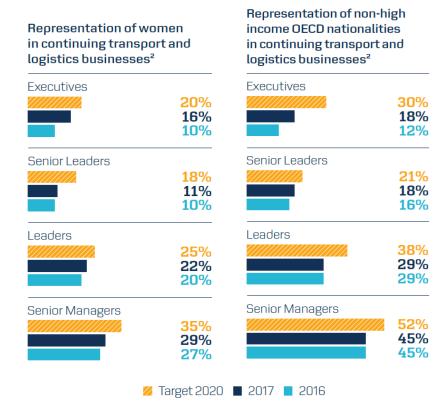




Diversity & inclusion

The right not be discriminated against on the basis of race, gender, religion and sexual orientation is a fundamental human right.

In the past two years we have focused on building capabilities in our human resources organisation to help identify and challenge potential bias within our HR processes.



Progress has been made on gender diversity but the pace of change needs to be accelerated. A new strategy for diversity and inclusion has been approved.







Responsible Procurement

Our programme for responsible procurement is focused on suppliers in high-risk categories.

Our commitment to responsible procurement is set out in A.P. Moller-Maersk's Third Party Code of Conduct and in our Commit Rule on Responsible Procurement.

The programme addresses anti-corruption, respect for human rights, safe and decent labour practices, and environmental protection.

SUPPLIER CATEGORIES WITH HIGHEST POTENTIAL IMPACT

- 1. Trucking / intermodal
- 2. Warehousing services
- 3. Facility Management
- 4. Outsourced labour
- 5. Terminals
- Shipbuilding yards / Drydocks
- 7. Security offshore
- 8. Promotional items
- 9. Customs agents
- 10. Security onshore
- 11. Construction
- 12. Chemicals / Paints
- 13. Equipment / Maintenance / Repair (EMR)
- 14. Container manufacturers
- 15. Manning Seafarers

1,500

Number of suppliers engaged i 2017 (approximately)

33

Number of training workshops carried out in 2017

327

Number of employees across the business who participated in training workshops







Category guides

Chemicals Supplier Category Guide

Construction Materials Supplier Category Guide

Construction Services and Maintenance Supplier **Category Guide**

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Equipment and Components Supplier Category Guide

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Facility Management and Administration Supplier Category Guide

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Human Resource Services (Manning Agencies) Supplier **Category Guide**

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Promotional and Branded Items Supplier Category Guide Download PDF

Security and Safety Supplier Category Guide

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Shipyards Supplier Category Guide

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Trucking Supplier Category Guide

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Warehouse lease Supplier Category Guide

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Carriers

Suppliers

Services Offshore

Ports



Q

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Bulk

Container

Tanker

North Korean laborers may have worked on Maersk vessels

BY NIKLAS KRIGSLUND Published 02.10.17 at 09:16

Offshore carrier Maersk Supply Service has had parts for six vessels constructed on the yard in Poland which has employed North Korean workers. It is likely that North Korean workers contributed to building the vessels, explains Maersk to ShippingWatch.









Further reading

Global tensions weaken Maersk Line's expectations

Big banks incorporate climate considerations into shipping loans

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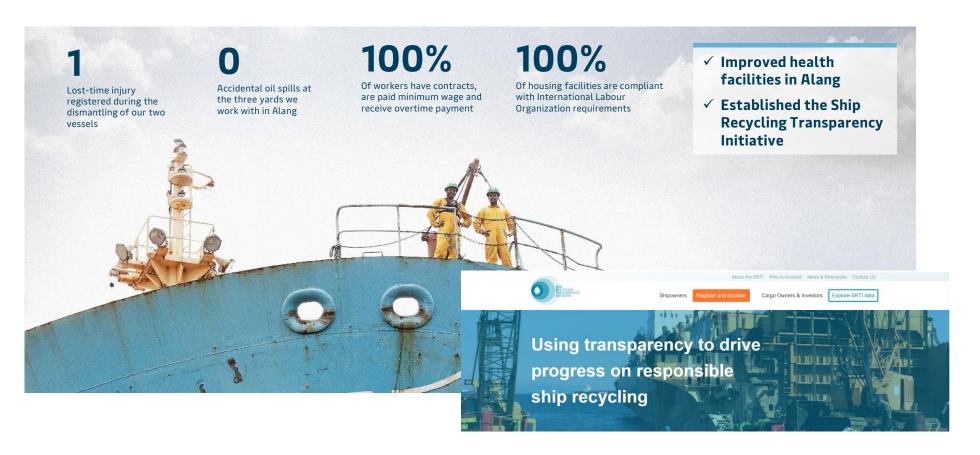
Terms



Responsible ship recycling

85% of all ship recycling globally takes place at substandard facilities in mainly South Asia, in spite of significant environmental and social challenges.

A.P. Moller – Maersk invests and works on the ground with selected ship recycling yards in Alang, India. We aspire to be part of transforming the global ship recycling industry to promote responsible practices and greater transparency.













Human rights and ship recycling – dialogue with United Nations experts



What's in the box?

We acknowledge that there is a link between our transport and logistics businesses and the potential misuse or abuse of the transported goods. However, there are legal limitations to what actions we can take. The first being that we are prohibited from opening the containers.

Increased control of cargo requires a collaborative approach, enhanced implementation of already existing conventions, as well as more regulation of goods or tradelanes.

One example of collaboration is the United for Wildlife Transport Taskforce, of which Maersk Line is a member. In 2016, signatories from 40 airlines, shipping firms, port operators, customs agencies, intergovernmental organisations and conservation charities agreed to adopt a zero-tolerance policy against illegal wildlife trade. Mechanisms and systems for implementing this decision are under development.

1 Is the cargo and transport regulated?

For instance, is trade in the product transported regulated? Is the country sending or receiving the cargo under sanction? Is the sender or recipient on a recognised watchlist?

If so, Maersk Line applies screening processes that enable us to control the cargo, as is the case with weapon shipments, for example.

Could the cargo be misused and have negative impacts on human rights?

Examples include electronic equipment, which might be used for unlawful surveillance, and fertilisers, which might be used as components in bombs.

Maersk Line does not have the necessary information to establish the intent of the sender or recipient to be able to determine potential impacts on human rights.



Should we transport cargo that might be detrimental to sustainable development?

With no established definitions of which products would be in this category, the basis for possible action is far too weak.



Environmental impacts

We operate fossil fuel-powered vessels resulting in the release of CO2, SOx and NOx into the air. Our operations also come with the risk of accidental spills of potentially harmful substances.

We strive to minimise our operations' negative impact on the natural environment and are committed to full compliance with regulatory demands. In each our businesses, management systems and responsible practices are in place to mitigate both potential and actual impacts.



0

Uncontained oil spills over 10m³

531

Thousand tonnes of SO, emitted

826

Thousand tonnes of NO_{x} emitted

IMPACT ON SUSTAINABLE DEVELOPMENT GOALS









Working towards carbon-neutral shipping – a pledge and a call to action

1.0° Climate change is already here



1.5°

degree average global warming is the threshold for runaway climate change

Shipping is responsible for

2-3%

of global emissions⁵

CREATING A PULL TOWARDS ZERO CARBON

Efficiency is not enough. Decarbonisation requires massive innovation and fuel transformation, and R&D will be the cornerstone. We are calling on the shipping industry and suppliers to join the journey, and we are committed to lead and invest.



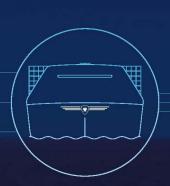
Working to ensure conducive public and private policies for carbon-neutral shipping.



R&D for new technologies, fuels and supply chains.

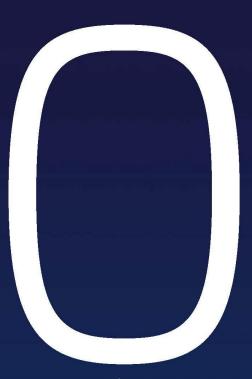


Engaging customers to accelerate the demand for low-carbon transportation.



2030

By 2030, commercially viable zero emissions vessels must be a proven, realistic option.



2050



S Group's approach to human rights

Fibs focus group on human rights and business, 29.5.2019

Corporate Responsibility Manager, Sanni Martikainen, SOK

Human rights in practical terms

Right to safe and healthy

Rights of indigenous peoples

29.5.2019

SOK Vastuullisuus

environment

No discrimination Freedom of association and collective bargaining Personnel Safety at work Decent working hours S Group Product safety Communit Customer Accessibility, inclusiveness ies Safety at business locations Producer and worker communities No discrimination Living wage Workers at Safety at work supply Decent working hours chains No forced or child labor

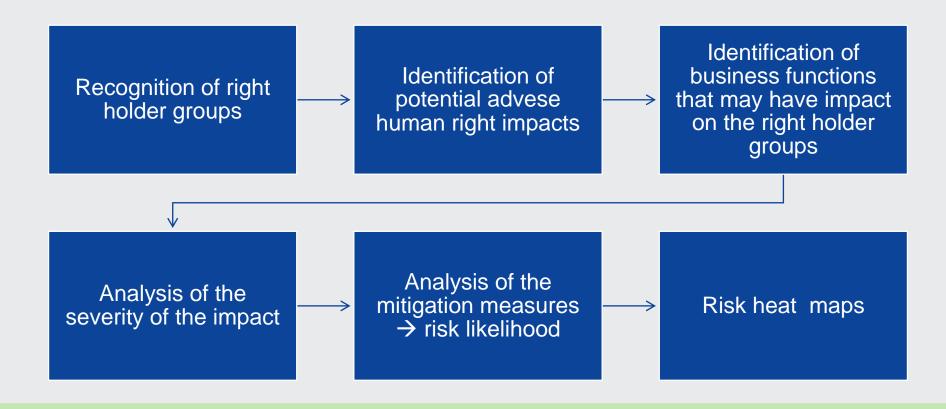


Do good



Do no harm

Human rights risk assessment process



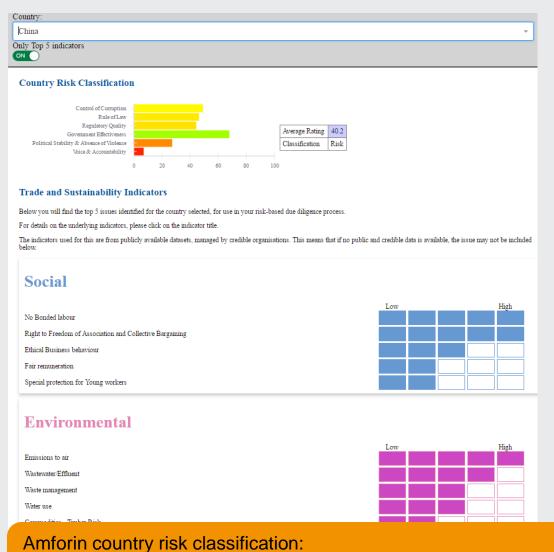
Different stakeholders and external experts consulted during the process to understand better specific topics e.g. childens rights or other vulnerable groups



High risk countries







http://www.amfori.org/sites/default/files/amfori%20BSCI%20CRC

%20V2018 HM AD.pdf



Supplier assessments

Third party audits

Regular surveys

Dialogue

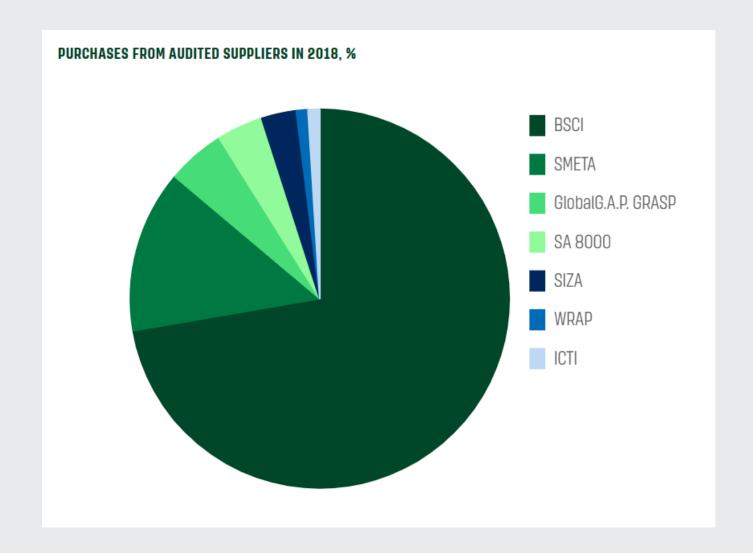
Knowing the supply chain

Expectations for sub-suppliers and monitoring practices

Memberships at sustainability initiatives

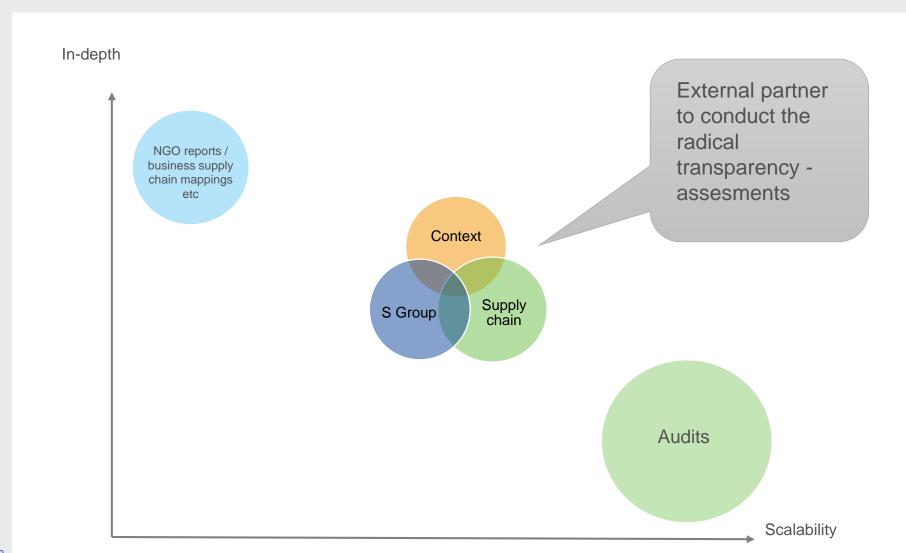


Third party audits





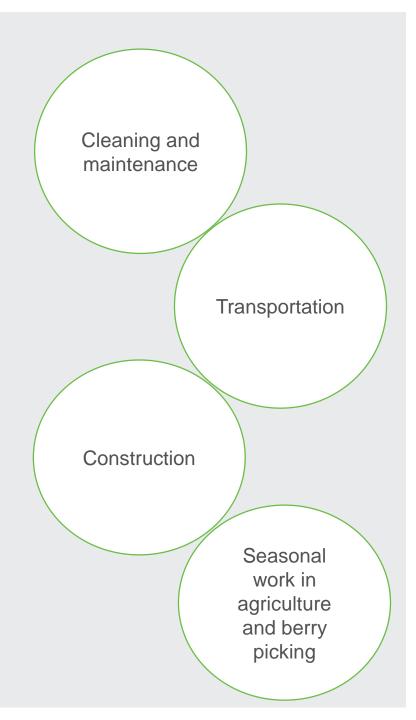
Understanding root causes



Look close too

- Service sectors with long supply chains and many sub-contractors.
- Recruits commonly not unionized migrat labor and/or young workforce with no understanding on their rights and Finnish legislation.
- Work is often done in the invisible of others, for example in the cleaning industry in the evening, early in the morning or at night.

According to the Assistance system for victims of human trafficking, the most commonly used abuse in Finland is in the restaurant sector, construction and agriculture. The people are mainly from the Eastern Europe, the Balkans and Southeast Asia.





Why Italy?

- Lot of vulnerable workforce available.
- Challenges in conducting independent social audits.
- Focus on migrant workers at processed tomatoes supply chains in South Italy.



Key findings

- Excessive working hours → Working hours according to collective agreement in Foggia 6,5h/day
- Daily wage 40-60€ → Collective agreement in Foggia 7,85€/h.
- Intermediaries in recruitment, up to 40-50 % deductions from salary. Elements of froced labour.
- Poor housing conditions.



Root causes identified

Political reasons

Weak official recruitment channels

Criminal activity

International competition

Broad approach needed

Advocacy for legal recruitment channels and migrant workers position

Development of production

Dialogue, training and monitoring suppliers

International collaboration needed as similar issues occur in other European countries too

Hearing workers voices

Transparency pays off



An assessment carried out by the non-governmental organisation Oxfam for the S Group in Southern Italy reveals problems in the production conditions of tomato preserves. The greatest of these involved the use of illegal workers and the poor housing conditions of the migrant workers in the area. Next, the S Group aims to improve the workers' conditions in Italy.



fulness and abuse

The full report is available at www.s-ryhma.fi/vastuullisuus. We will follow up our actions by open communication in our communication channels in the months to come

Suomeenkin tuotavien tomaattisäilykkeiden tuotanto rikkoo ihmisoikeuksia – kansalaisjärjestö pitää S-ryhmän teettämää selvitystä harvinaisena

S-ryhmä teetti selvityksen siirtolaistaustaisten tomaattityöläisten oloista. Selvisi, että kerääjien palkat ovat huonoja,



Selvitys laski, mikä ruokavalio on Levillä kolmen lapsen kuolemaan nuhtikuussa johtanut tulipalo sytty lattialämmityksestä ampuu matkaan 367 hevosen voim HS testasi Tesla 3:n, ja tuhannen Yhdeksälle varusmiehelle syyttee

Keskustan käännös vasempaar ämmentää luha Sipilän kotikunnassa Kempeleessä: "Surkea käänne"

Rehellisiä tomaatteja

Italiasta

Minna Huotilainen @min... · 16.2.2019 Kiitos avoimuudesta, S-ryhmä! Autatte ihmisiä tekemään eettisiä valintoja, siitä nostan hattua. En aio teidän tomaattisäilykkeitä boikotoida enkä raporttia kauhistella, vaan odotan lisää vastaavia. Tofuraportti ja kalaraportti kiinnostaisi. @srvhma



Kolumni: S-rvhmä iulkaisi tomaattisäilykkeidensä tuottaiista ka...



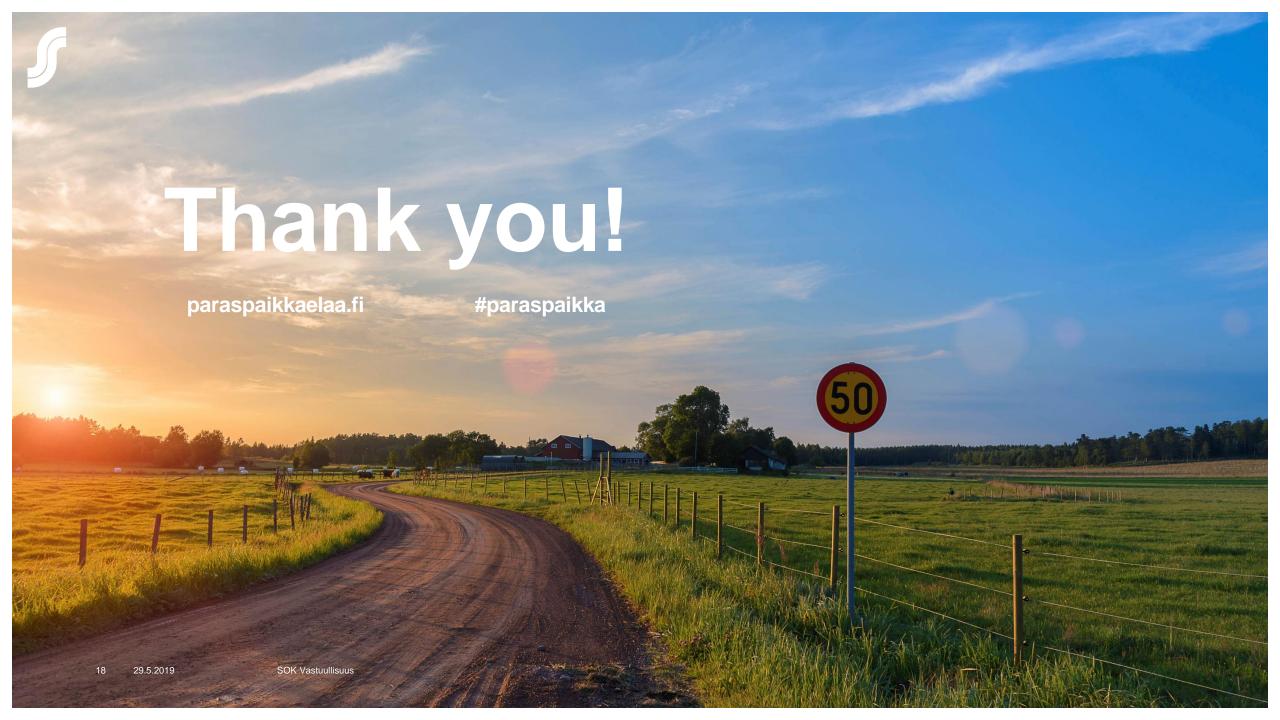
Tapio Laakso @TapioLaa... · 27.2.2019 ∨ Mistä se kertoo, kun @sryhma julkaisee tomaattiensa tuotantoketiun ongelmista raportin, jollaiset ovat yleensä olleet järjestöjen tekemiä skandaalipaljastuksia?

Blogi: Edelläkävijäyritykset yritysvastuun asialla | pelastakaalapset.fi/blogi/ edellaka...

#ykkösketjuun #yritysvastuu #vaalit2019



Edelläkävijäyritykset yritysvastuun asialla • Pe... pelastakaalapset.fi



OECD Due Diligence Guidance for Responsible Business Conduct

Linda Piirto, Senior Advisor on RBC
FIBS Focus Group on Human Rights and Business
29th May 2019



What is this new in depth guidance?



1. Foreword: the OECD Guidelines

2. Introduction to the new in depth guidance

3. Why is this new guidance needed?

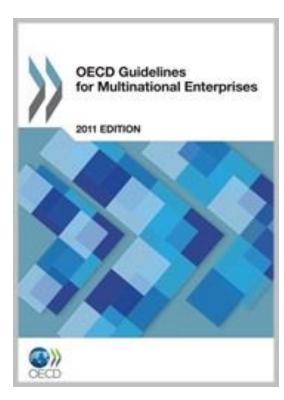
4. Essential content of the guidance

5. Questions

Foreword: OECD Guidelines for Multinational Enterprises



- Originally published 1976, latest update 2011
- Recommendations by governments to multinational enterprises on what is RBC and cover all major RBC areas: disclosure, human rights, employment and industrial relations, environment, anti bribery and corruption, consumer interests, science and technology, competition, and taxation
- The only multilaterally agreed RBC standard that 47 governments, including Finland, have committed to promoting (multilaterally = negotiated by governments, employers, employees, and civil society)
- National Contact Points (NCPs) promote and follow how enterprises observe the Guidelines



What are those NCPs again..?

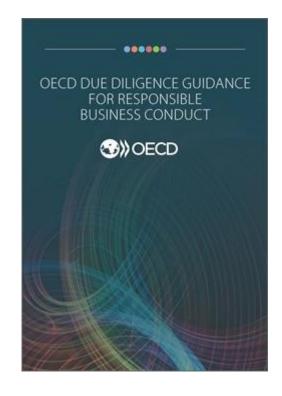


- Every OECD adherent state needs to set a National Contact Point, which promotes the Guidelines and handles complaints regarding observance to the Guidelines
- NCPs can be one person, people from various Ministries, tripartite, quadripartite... as long as they fulfil the criteria set out in the Guidelines (visible, accessible, transparent, accountable manner)
- Finnish NCP is the Ministry of Economic Affairs and Employment together with the CSR Committee
- Anyone can file a complaint to an NCP if they think a company has not followed the Guidelines
- 425+ complaints in over 100 countries since 2000
- Most adverse impacts occur in countries which do not adhere to the Guidelines and have no NCP -> need for a more detailed guidance

Introduction: the new in depth guidance



- Adopted by OECD Council at Ministerial level on May 2018
- Complements the OECD Guidelines
- OECD Adherent states' task to promote the Guidance and support and monitor its usage
- Guidance is meant for all companies regardless of size, sector or location (geography or supply chain position)
- Covers due diligence on disclosure, human rights, employment and industrial relations, environment, anti bribery and corruption, and consumer interests



Why is this new guidance needed?



- OECD Guidelines and the UNGPs have standardized due diligence as <u>key expectation</u> and base for responsible business conduct
- Not the same due diligence as in investment decisions or contract negotiations -> key difference: impact on people or planet vs. impact on business
- More substance to due diligence: what is meant by identifying, preventing and mitigating adverse impacts + how to deal with actual and potential impacts

So what now then?



- It is likely that the Guidance will be the most influential standard on due diligence on responsible business conduct (see the time used for negotiations, involved parties)
- The Guidance will have an effect on best practise, policies and legislation because it is a negotiated result
- It is worthwhile to get to know the Guidance, if one wants to keep up with the times

How is the Guidance structured?



- 1. Overview of due diligence: adverse impacts and risks, the need for action, features of due diligence
- 2. Due diligence <u>process</u>: embedding RBC into policies and systems, risk assessment (identifying and assessing risk), ceasing, preventing, and mitigating adverse impacts, tracking and communication, remediation
- 3. In depth questions with answers: what, where, when

What is essential in the content of the Guidance?

Primary goal: to prevent adverse impacts



- Preventing adverse impacts is the basis for <u>decision making and perspective</u> to examine if company actions are appropriate and adequate
- In other words: when it comes to risk management, risk preventation, mitigation or remediation are not on the same level, as <u>risk preventation</u> has more weight

Due diligence should be proportionate to the risk

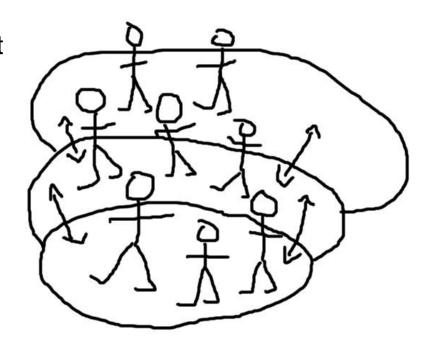


- Due diligence = company actions are set in proportion to the adverse impact's severity and likelihood
 - Need for appropriate resources so actions are effective
- If there are no appropriate resources, should risky actions continue?

Priorisation of most significant risks while moving towards managing all risks



- Although risk management <u>can be priorised</u>, all risks should be dealt with (also an UNGP line)
- Priorisation of risks is based on the severity and likelihood of the adverse impact (but with human rights, severity has more weight than likelihood)
- What is essential: <u>communicate</u>, why all risks cannot be dealt with at once



Proactive risk management in business relationships



- Starting point for risk management is the significance of risks or impacts, not the closeness of a business relationship or its importance
- Proactive ways to manage risks and impacts:
 - Gathering information on risks and impact of distant suppliers
 - Assessing, if suppliers have appropriate processes in place
 - Plans how to prevent and mitigate business relationship's adverse impacts, based on findings
 - Assessing business relationships regularly (so not a static exercise)

Stakeholder dialogue: an essential part of due diligence



- Elements of a meaningful stakeholder dialogue:
 - Two-way communication and in good faith
 - Timely communication (i.e. not informing afterwards)
 - Accessible information (both physically and understandably)
 - On-going (not a one-off exercise)

Consulting rights-holders



- Rights-holder = a person, who's rights are or may be affected
- What rights? Human rights or collective rights (for example indigenous peoples)
- Stakeholder consultation can be a human right by itself, for example Free, Prior and Informed Consent of indigenous peoples
- Common obstacles for meaningful dialogue: language, distance, lack of understanding, fear of revenge
- Note: When there is a vast number of impacted or potentially impacted stakeholders, it is
 ok to engage with credible stakeholder representatives!

Sharing information: respect for the right to information



- Guidance calls for companies to disclose how impacts are managed
- Three principles of disclosure:
- 1. Information on due diligence: policies and processes, findings and actions taken
- 2. Information should be <u>sufficient to demonstrate the adequacy</u> of a company's response to the human rights impact involved (i.e. giving all necessary facts so affected people can make informed decisions regarding their interests)
- 3. Commercial confidentiality and competitive concerns should be seen as the <u>exemption</u>, not a regular reason NOT to disclose information

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It's not us, it's the other company!



- Expectation that companies seek to prevent or mitigate adverse impacts directly linked to them is not meant to shift responsibility from the entity behind the adverse impact
- However, even though the company might not be able to address the impact itself, it should seek to influence its business relationship to prevent or mitigate adverse impacts
- Being linked to business relationship's adverse impact can change into contribution, if the linked company does not follow OECD Guidelines (especially if inadequate response continues)

Which due diligence actions should a linked company take?



- Example from an OECD complaint against a Danish clothing company: the company did not cause the harm (collapse of the building, fatalities), but it had not done its homework either
- These <u>due diligence actions</u> were missing according to the final statement by the Danish NCP:
 - Contractual obligations concerning RBC policies
 - Conducting risk analysis and self-assessment
 - Determining what to inspect based on supplier, industry, country risks
 - Communication and reporting
- Follow-up was agreed, one year later the company had made significant changes to management and risk systems, including management oversight, revised its RBC policy and implemented Code of Conduct among suppliers

OMG! This is all too confusing!



- Just remember three things:
- 1. The Guidance will become an influential international standard
- 2. Prevention of harm is the primary goal
- 3. Meaningful disclosure helps stakeholders to understand what the company is doing and why

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Thank you!

linda.piirto(at)tem.fi

More information: https://tem.fi/en/social-responsibility

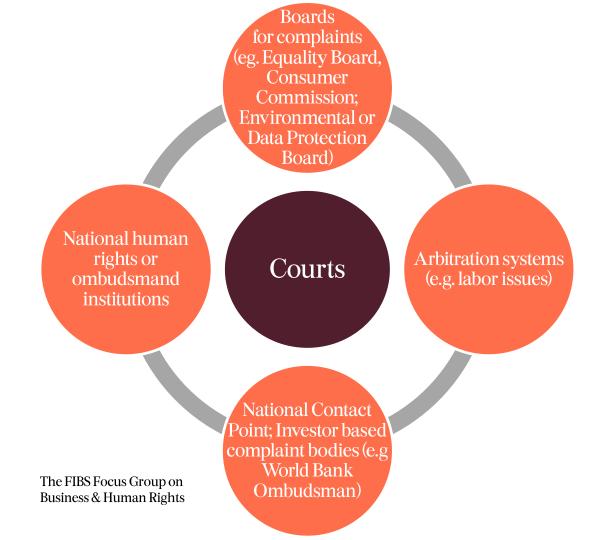
Developing Human Rights Complaint Mechanisms

- l. Introduction
- 2. Why Remediation, Access to Remedy and Complaint Mechanism?
- 3. Designing a mechanism
- 4. Examples of mechanisms
- 5. Q & A

Thomas Trier Hansen

Introduction

The world of remedy mechanisms



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Remedies in a business context UN Guiding Principles: Duty to Respect

Commitment Policies Due diligence Mitigation Prevention Addressing human impacts after they h occurred • Use of leverage Remediation The FIBS Focus Group on **Business & Human Rights**



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Concepts

Remediation
A process or act of providing remedy
- correcting an error

Remedy

Apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition.

Grievance

Grievance is understood to be a <u>perceived</u> injustice evoking an individual's or a group's sense of entitlement, which may be based on law, contract, explicit or implicit promises, customary practice, or general notions of fairness of aggrieved communities

Why Remediation, Access to Remedy and Complaints Mechanism?

'Not knowing isn't safer

- It is just risk that isn't managed"

Development

• The Economist Intelligence Unit Survey 2015

Which of the following, if any, are priorities for your company over the next 12 months? 23 % of the companies (853 senior corporate executives) identified operational level grievance mechanisms, the 2nd most common priority

Resolution 38/13 adopted by the Human Rights Council on 6 July 2018.

Business and human rights: improving accountability and access to remedy

OHCHR Accountability and Remedy Project

Improving accountability and access to remedy in cases of business involvement in human rights abuses (https://www.ohchr.org/EN/Issues/Business/Pages/ARP_III.aspx)

Phase III: Enhancing effectiveness of non-State-based grievance mechanisms in cases of business-related human rights abuse.

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The extent of the responsibilities

| The nature of the negative impact | Action 1 | Action 2 |
|--|---|--|
| Caused, or may have causes, the impact | take the necessary steps to cease or prevent the impact | and provide a remedy |
| Contributed, or may have contributed, to the impact | take the necessary steps to cease or prevent its contribution and use its leverage to mitigate any remaining impact to the greatest extent possible | and contribute to the remediation of the negative impact (e.g. through cooperation) |
| Not contributed to the adverse human rights impact, but the impact is nevertheless directly linked to its operations, products or services by its business relationship with another entity | use leverage to mitigate adverse impacts; consider ending the relationship; able to demonstrate ongoing efforts to mitigate the impact and be prepared to accept any con–sequences of the continuing connection | the responsibility to respect human rights does not require that the enterprise itself provide for remediation, though it may take a role in doing so. |

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How is the term "grievance" mechanism perceived in your company?

What could be the rationale behind introducing remediation of human rights impact in your company?

Designing a mechanism

Effectiveness criteria for nonjudicial grievance mechanisms

What should be the characteristics of a grievance mechanisms?

Effectiveness criteria for nonjudicial grievance mechanisms

Any grievance mechanism whether State or Non-State mechanism should be:

- 1. Legitimate
- 2. Accessible
- 3. Predictable
- 4. Equitable
- 5. Transparent
- 6. Rights-compatible
- 7. Source of continuous learning

A non-state operational-level mechanism should also be:

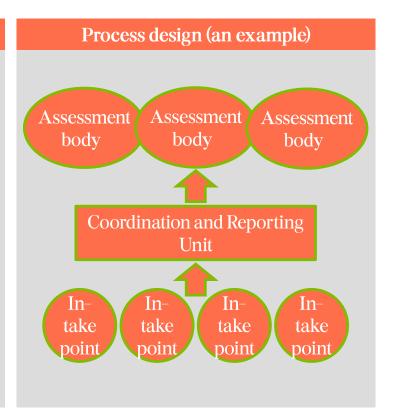
8. Based on dialogue and engagement

Grievance mechanism: A mechanism for those that have their rights potentially impacted, caused or contributed, by the company

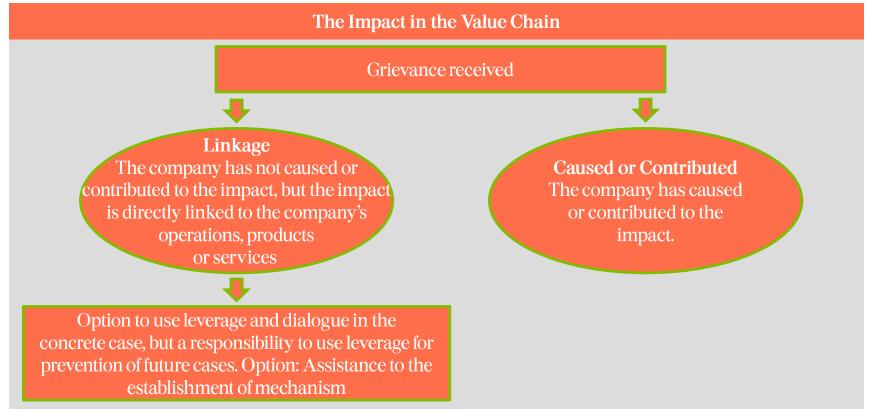
Consideration

What kind of system are you looking for:

- Identification of the grievance subject/scope (e.g. human rights vis-a-vis other related mechanism)
- Identification of the potential impacted (site; product, production, suppliers, workers, costumers etc.) and potential extent of responsibilities
- Design of avenues (local/site, national, corporate)
- Design of process (from in-take, decision, and possible referral to other mechanism is relevant) and responsibilities taking into consideration the issue at stake and severity
- Design of communication and stakeholder strategies
- Identification of available resources
- Design of data collection for KPI



Grievance Mechanism: A mechanism for those that have their rights potentially impacted, caused or contributed, by the company



Examples of mechanisms

Grievance mechanisms - Examples

Nestle

http://www.nestle.com/aboutus/businessprinciples/report-your-concerns

Heineken

https://secure.ethicspoint.com/domain/media/en/gui/25903/report.html

Q&A

Update

New and hot within the field of business and human rights



EU development on investments

European Parliament

2014-2019





TEXTS ADOPTED

Provisional edition

P8_TA-PROV(2019)0435

Disclosures relating to sustainable investments and sustainability risks ***I

European Parliament legislative resolution of 18 April 2019 on the proposal for a regulation of the European Parliament and of the Council on disclosures relating to sustainable investments and sustainability risks and amending Directive (EU) 2016/2341 (COM(2018)0354 – C8-0208/2018 – 2018/0179(COD))

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(Ordinary legislative procedure: first reading)

EU development on investments



Political agreement reached by the European Parliament and EU Member States on new provisional regulation on disclosure requirements related to sustainable investments and sustainability risks.

- ✓ Financial market participants and financial advisors must integrate ESG risks and opportunities in processes.
- ✓ Uniform rules on how financial market participants should inform investors about their compliance with the integration of ESG risks and opportunities.
- ✓ Addresses information asymmetries on sustainability issues between end-investors and financial market participants.
- ✓ The regulation requires the disclosure of adverse impact on ESG matters (e.g. in assets that pollute water), to ensure the sustainability of investments.

EU development on investments



Disclosure requirements on sustainable investments and sustainability risks: Three pillars

- l. Elimination of greenwashing (misleading claims about sustainability characteristics and benefits of an investment product) and an increase of market awareness on sustainability matters.
- 2. Regulatory neutrality: the rules introduce a disclosure toolbox to be applied in the same manner by different financial market operators. Gradual convergence and harmonisation of disclosures in all the sectors concerned.
- 3. Level playing field: the regulation covers the following financial services sectors: (i) investment funds; (ii) insurance based investment products (life insurance products); (iii) private and occupational pensions, (iv) individual portfolio management; and (v) both insurance and investment advice.

Child Labour Due Diligence Bill adopted in the Netherlands May 21, 2019



- Submit a statement to regulatory authorities declaring that they have carried out due diligence related to child labour in their full supply chains.
- Fines and instructions to actually carry out due diligence
- Companies registered in the Netherlands, but also companies from anywhere in the world that deliver their products or services to the Dutch market. Transport exempted.

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Hire more women in leadership roles. We're all worth it.

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March 2019

- An International Women's Day campaign from L'Oréal Paris with a strong message on the benefits of female leadership.
- Numbers drawn from global surveys connecting diversity in the workplace and the boardroom to three key measures of success: profitability, innovation and employee satisfaction.
- Ads ran in both top business and fashion magazines.



April 2019

UK Supreme court rules Zambians can sue Vedanta in English courts

"...for the maintenance of proper standards of environmental control over the activities of its subsidiaries, and in particular the operations at the Mine, and not merely to have laid down but also implemented those standards by training, monitoring and enforcement."



Does A owe a duty of care to C in respect of the harmful activities of B?

Implications for supply chain relationships and group-wide sustainability policies

- ✓ Assumption of Responsibility vs. Duty of Care
- ✓ Supply chain relationship in cases as tight as in certain parent-subsidiary contexts
- ✓ A balancing act cautious approach to drafting policies, tight control over internal communication vs. increasing stakeholder pressure on group—wide responsibility and control, increasing regulation, mandatory reporting requirements and transparency initiatives
- ✓ Increasing need for cross-functional and interdisciplinary approach (Group management, Legal, Sustainability)

Human Rights and Business: Nestlé

95% COMPLETE

- ▼ SECTION 1: UNDERSTANDING HUMAN RIGHTS
- ─ SECTION 1:: Introduction

 ✓
- ☐ What are human rights?
- Where do they come from?
- Where do they come from?

What do human rights have to do with business?

Businesses impact human rights wherever, and however,





April 2019: Nestlé is the first company to publicly share its human rights training for employees



3 chapters:

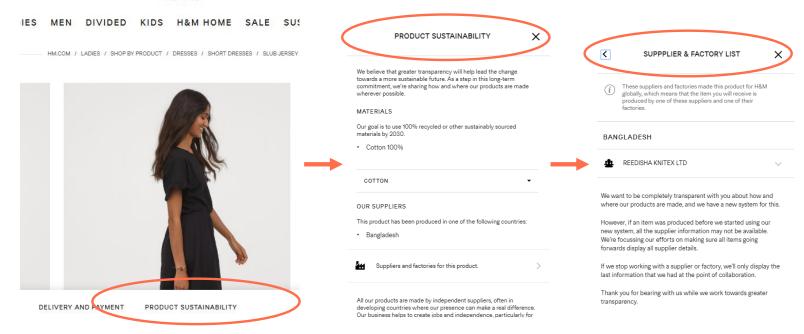
- ✓ Understanding human rights
- ✓ Human rights challenges
- ✓ Hands-on approach connected to Nestlé's policy and commitments



- ✓ Complex concepts made simple
- ✓ Legal and technical language reduced to minimum
- ✓ Contextual and relevant









Time to act: Governments as catalysts for business respect for human rights



Rights Benchmark



Q Search

Corporate Human Rights Benchmark

Download Data

Preventing adverse impacts on workers, communities and consumers is one of the most pressing challenges almost every company faces in today's globalised marketplace. The CHRB seeks to tap into the competitive nature of the market as a powerful driver for change in confronting this challenge.

OVERALL SCORES

2018 Results

The 2018 Corporate Human Rights Benchmark assesses 101 of the

Links

FIBS webpage for blogs, bulletins, newsletter, research reports and event presentations

Human Rights Due Diligence:

UN Guiding principles

OECD Guidelines for Multinational

Enterprises, Due diligence guidance and Due

diligence guidance by sector

Grievance Mechanisms:

The Economist Intelligence Unit (The EIU)

Resolution 38/13 adopted by the Human

Rights Council on 6 July 2018

OHCHR Accountability and Remedy Project

Neste's grievance mechanism

Heineken's grievance mechanism

Companies sharing in the meeting:

<u>Maersk</u>

S Group

Updates:

Disclosures relating to sustainable investments

and sustainability risks

On Child Labour Due Diligence Bill adopted in

the Netherlands May 21, 2019

This is an ad for men (L'Oréal)

Financial Times on Zambians vs. Vedanta

Human rights training for employees, Nestlé

<u>H&M – click to a product and click on Product</u>

Sustainability below the picture

<u>UN Forum on Business and Human Rights</u>,

<u>Geneva, November 25-27, 2019</u>

Corporate Human Rights Benchmark



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