

A large, stylized hand icon in a lighter shade of orange, positioned in the upper right quadrant of the cover. The hand is open, with fingers spread, and is set against a circular background of the same color.

ASSESSING HUMAN RIGHTS RISKS AND IMPACTS

Perspectives from corporate practice



Network Germany

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Deutsches Institut
für Menschenrechte

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Network Germany

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The Global Compact was launched by the United Nations in 2000. It is a strategic and international platform for learning and dialogue on sustainable and responsible corporate management involving civil society organisations, businesses and national governments. Working with its partners, the Global Compact has shaped the international debate on corporate sustainability, and the development of strategies and tools for its implementation. As a platform for multi-stakeholder learning and dialogue, the Global Compact uses webinars, workshops, coaching, conferences and expert discussions in its work. Through the local networks, which organise and run many of these events, businesses can advance sustainability topics that they feel should be addressed and then play an active role in shaping the dialogue. The Global Compact Network Germany is one of the most active in the world with more than 390 participants.

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twentyfifty is a management consultancy that builds the capacity of companies to understand and address their impacts, enabling them to lead change that benefits both business and society. twentyfifty has over a decade's experience of helping companies to put their commitments to respect human rights into practice and implement the UN Guiding Principles on Business and Human Rights. Working in many countries, it has particular expertise in the extractives, technology, pharmaceutical, chemical, tourism, food and garment industries. twentyfifty combines core capabilities of organisational development and stakeholder engagement with intimate knowledge of the United Nations and the international human rights framework. It supports its clients in developing and leading corporate responsibility programmes, incorporating human rights due diligence into strategies, policies and processes; and building capacity through training, coaching and individual support for decision-makers in implementing responsible business practices.

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Disclaimer

This publication provides an insight into the corporate practice and experience of companies in assessing human rights risks and impacts. It is not a general guide, nor does it attempt to provide a comprehensive evaluation of the approaches in question. The examples and lessons learned are presented from the perspective of the companies concerned. They were selected with a view to providing an overview of several different approaches used by companies to assess human rights risks and impacts. The examples describe only one element of the full range of human rights due diligence measures implemented by each company. They do not represent an endorsement of the overall performance of the company in question in the field of human rights.

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About this publication

All companies worldwide have a responsibility to respect human rights, regardless of their size, structure or sector. This basic societal expectation was confirmed and substantiated with the adoption of the Guiding Principles on Business and Human Rights ('Guiding Principles') by the United Nations Human Rights Council in 2011. Respecting human rights means that businesses should not infringe on human rights and that they respect the dignity and fundamental rights and freedoms of all individuals affected by their activities, products or services. These individuals include those potentially affected directly by a company's own activities (such as its own employees, consumers and communities in the vicinity of its production sites). In addition, they also include persons who could be affected indirectly by the business relationships linked to the company's products and services (such as workers along the value chain or unrelated third parties).

To meet their responsibility to respect human rights, companies must proactively practise human rights due diligence. For a company to know and show that it is respecting human rights, it should assess on an ongoing basis where there is a risk of potential negative impacts and what actual negative impacts it is having on people through its business activities and relationships. This allows it to take appropriate measures to prevent and mitigate adverse impacts, as well as taking steps to remedy the situation where adverse impacts have already occurred. An increasing number of companies are beginning to establish and strengthen their own human rights due diligence processes. Corporate practice in this area is continuously evolving. Because of the wide range of business models and business activities and the related variety of risks of adverse human rights impacts, human rights due diligence must be operationalised within the specific context of each individual company. Approaches for assessing human rights risks and impacts and for dealing with the identified challenges will thus also vary from company to company.

This publication provides an insight into the different contexts, motives, requirements and approaches of five companies that have begun to assess the human rights risks and impacts of their business activities and relationships. It gives an impression of the benefits and limitations of each chosen approach and outlines the challenges faced and the lessons learned by the companies interviewed. It does not offer universal guidance on how companies should assess human rights risks and impacts. Instead, it provides an insight into corporate practice and experience, issues that have so far been discussed mainly behind closed doors.

This publication aims to contribute to broadening the range of stakeholders involved in the debate on how to implement human rights due diligence, in order to enable a greater number of companies to make a positive contribution to upholding human rights. We hope that it encourages companies to take further steps to assess human rights risks and impacts. Ongoing human rights due diligence is not about companies waiting until they have found the ‘perfect’ approach before taking action, nor is it about not allowing any mistakes. Rather, the focus is on being open to continuous improvements and to further developing one’s own approach. To quote the manager of one of the companies interviewed:

‘My only advice is ‘get started’, ‘just do it’! [...] Implementing human rights is a journey and you need to get started at some point. If you don’t get started by yourself, someone will actually make you do it, whether through a crisis, investor pressure or pressure by NGOs. It’s always better to get started yourself than being pushed by someone to do it.’

Background and overview

The Guiding Principles as a framework

The United Nations Guiding Principles on Business and Human Rights describe the assessment of potential and actual human rights impacts as a core element of corporate human rights due diligence. Assessing human rights risks and impacts provides the basis for defining and fine-tuning appropriate measures to prevent, mitigate and remedy adverse impacts. The Guiding Principles themselves do not prescribe one specific method that companies should use, but rather address the need for companies to continuously assess, evaluate and address their human rights impacts. In this way, they clarify that neither an individual risk assessment, nor a human rights impact assessment (HRIA) alone is sufficient for meeting the requirements of human rights due diligence.

In the Guiding Principles, **human rights risks refer to the potential adverse impacts** that a company can have on the enjoyment of human rights. These risks depend on a company's business activities, products and services, its countries of operation, business relationships, and the appropriateness of its existing prevention and mitigation measures. Certain sectors and products carry a greater risk of adverse human rights impacts than others (for example, a mining project in the Philippines compared to a family-run garden centre in Germany). Nonetheless, no company is completely free of human rights risks.

Examples of human rights risks include inadequate occupational health and safety measures at a construction site, procurement of components from countries or sectors with poor working conditions without applying suitable standards or auditing mechanisms, and the sale of faulty or hazardous products.

Actual human rights impacts refer to situations where adverse human rights impacts have already occurred. These impacts must be stopped and remediated in an adequate manner. Examples of actual impacts include a company preventing trade unions from organising, a factory polluting a nearby community's drinking water supply, and the systematic discrimination against women in hiring and promotion processes.

Guiding Principle 18 sets out the following basic requirements:

‘In order to gauge human rights risks, business enterprises should identify and assess any actual or potential adverse human rights impacts with which they may be involved either through their own activities or as a result of their business relationships. This process should:

- a. draw on internal and/or independent **external** human rights **expertise**;
- b. involve meaningful **consultation with potentially affected groups** and other relevant stakeholders, as appropriate to the size of the business enterprise and the nature and context of the operation.’

The explanatory commentaries on each Guiding Principle and the Interpretive Guide issued by the United Nations Office of the High Commissioner for Human Rights provide additional guidance on how companies should assess human rights risks and impacts:

- All **internationally recognised human rights** should serve as a reference point.
- Both **potential (risk of adverse impacts) and actual adverse human rights impacts** should be assessed.
- The assessment should encompass adverse human rights impacts resulting from a **company's own activities** as well as those directly linked to its operations, products and services by their **business relationships**.

- **Direct consultations** should be held with internal and external potentially affected groups (such as employees and nearby communities) **in order to understand their concerns**, taking language and other barriers to effective communication into account.¹
- Particular attention should be paid to the potential impact on **groups at heightened risk of vulnerability and marginalisation** as well as different risks faced by women and men.
- Given the dynamic nature of human rights situations, human rights risks and impacts should be reviewed **at regular intervals** (for example, prior to new business activities or relationships; prior to major decisions and changes in operations, e.g., market entry, product launch, policy or strategy change; in response to or in anticipation of changes in the business environment and periodically throughout the duration of an activity or relationship).
- For **complex value chains**, companies should identify areas where the risk of adverse human rights impacts is most significant and **prioritise** these for further assessments.
- The appropriate scope of a company's own approach and its priorities are primarily determined by the **severity of its (potential) human rights impacts**.² Other aspects such as likelihood and risk for the company should be used as secondary factors for decision making.
- **Elements** for assessing impacts include the evaluation of the human rights context, identification of (potentially) affected groups, cataloguing the relevant human rights standards and issues, and recognizing which business activities and relationships (could) have adverse impacts on those (potentially) affected.
- Processes for assessing human rights impacts **can be integrated** into other assessment and management processes (such as environmental and social impact assessments), provided consideration is given to the risks to rights holders, not only the risks to the company.
- Once identified, potential impacts should be **prevented or mitigated** and actual impacts **remediated**.

1 Where this is not possible, other credible, independent expert resources and/or stakeholders may be consulted. Further information on stakeholder engagement in human rights due diligence can be found in DGCN/twentyfifty, 2014: Stakeholder Engagement in Human Rights Due Diligence – A Business Guide.

2 This is determined by the scale, scope and the degree to which it is possible (or not) to remedy the impacts.

While companies are becoming more skilled at assessing their human rights risks and actual impacts, core criteria are emerging from the accompanying debate, for what constitutes a good approach in accordance with the Guiding Principles. For instance, the Danish Institute for Human Rights (DIHR) defines the following **eleven criteria** for process and content **quality** in its Human Rights Impact Assessment (HRIA) Guidance and Toolbox³:

PROCESS

- Participation
- Accountability
- Non-discrimination
- Empowerment
- Transparency

CONTENT

- International human rights standards serve as a benchmark
- Consider the full scope of impacts
- Take into account the interrelatedness of various human rights and impacts
- Assess impact severity based on the scope, scale and potential for remediation, taking into account the views of rights holders
- Address all identified impacts; prioritising actions primarily based on the severity of the human rights consequences and addressing identified impacts following the mitigation hierarchy of 'avoid-reduce-restore-remediate'
- Ensure access to remedy

The practice of assessing human rights risks and impacts

Guiding Principle 18 and its commentary leave scope for interpretation and provide companies with flexibility to develop a range of approaches to assessing their human rights risks and impacts. Companies test and use various approaches to human rights assessment in practice, each one serving different purposes and entailing its own disadvantages and advantages. Under the umbrella terms of 'Human Rights Risk Assessment' (HRRA) and 'Human Rights Impact Assessment' (HRIA) we can find a large number of risk analyses and impact assessments that vary greatly in depth and quality. They reflect different needs, goals and degrees of maturity with regard to companies' approaches to human rights due diligence.

³ Danish Institute for Human Rights, 2016: Human Rights Impact Assessment Guidance and Toolbox.

A number of companies begin addressing the topic by first analysing the risks of adverse human rights impacts at a global level. This allows them to gain an overview of issue areas for their entire company. Building on this they identify areas where more in-depth human rights due diligence measures are required (such as stand-alone HRIAs and activities for integrating a human rights lens into existing processes). Other companies start by assessing potential and actual impacts in a specific context, such as one of their locations, a certain product or a specific supply chain. These analyses serve as a basis for developing additional measures tailored to the specific business context or are aimed at improving the centrally managed processes. Other businesses prefer to incorporate aspects of human rights into existing risk and compliance management processes and integrate them into existing assessments.

FIGURE 1: Assessing human rights risks and impacts – schematic process



The processes used by companies to assess human rights risks and impacts vary in a number of regards, such as:

SCOPE & FOCUS

- Assessment of human rights risks (risks of having negative human rights impacts, HRRRA) or potential and actual impacts on human rights (e.g. through HRIA)
- Consideration of all internationally recognised human rights or a focus on specific ones (such as children's and women's rights)
- Consideration of adverse human rights impacts only or also of potential positive impacts
- Level of coverage of own business activities and business relationships
- Level and focus of assessment: general processes at company level, individual company departments or functions, business activities in a specific country, selected locations or company projects, selected products, individual supply/value chains etc.

METHODOLOGY & IMPLEMENTATION

- Time: prior to (ex ante), during or after (ex post) a business activity or project
- Stand-alone human rights assessment or integration into other risk/impact assessments (such as environmental and social impact assessments, ESIA)
- Degree of standardisation of the data collection methodology (for instance, quantitative vs. qualitative, audit/checklist-based vs. open investigation approach)
- Degree of identification, consultation and participation on the part of stakeholders and (potentially) affected groups (especially vulnerable and marginalised groups) in planning, implementation and follow-up measures
- Implementation only using own resources or with the support of external advisors or independent experts

Many companies find it difficult at first to shift their perspective from only looking at the risks to their own organisation (in terms of reputation, legal issues etc.) to considering the risks of impacting rights holders. However, such a shift in perspective is necessary in order to ensure a human rights based approach in accordance with the Guiding Principles. A number of companies refer to their approaches indiscriminately as HRIAs, even where they are only looking into risks and actual impacts cannot be assessed using the selected approach. Barely any of the examples we have seen to date, which companies refer to as HRIAs, fully meet the quality criteria outlined in the previous section.

While the approach in question makes sense within a company's own context, companies are well-advised to be clear from the outset about what it is exactly that they wish to find out with the chosen approach, and communicate this transparently. For instance, are they primarily concerned with risks to their own organisation or do they consider the risks to the (potentially) affected rights holders as intended by the Guiding Principles? Is their approach largely limited to assessing potential impacts or does it also allow to assess actual impacts? And why did they choose that particular method? Such openness takes courage on the part of companies, as they are also providing their stakeholders – and ideally the rights holders – the opportunity to appropriately evaluate and critically discuss the chosen approach. At the same time, this requires a greater understanding on the part of stakeholders, especially civil society, of the practical challenges associated with a structural and gradual embedding of human rights due diligence within the company. The following case studies present a range of approaches with their specific results, challenges and lessons learned. They can hopefully provide companies and their stakeholders with impetus for further discussion and practical implementation of human rights due diligence measures.

Case studies in this publication ⁴

The five case studies presented here illustrate a variety of individual experiences and learning processes with regard to assessing human rights risks and impacts. Selected from more than 40 assessments commissioned or carried out by companies, they are intended to cover both HRRAs and HRIAs and a range of different sectors, regions of the world as well as several different levels of assessment (company-wide, country, location etc.). A key selection criterion was a discernible effort to implement effective follow-up measures where potential and actual adverse impacts have been identified.

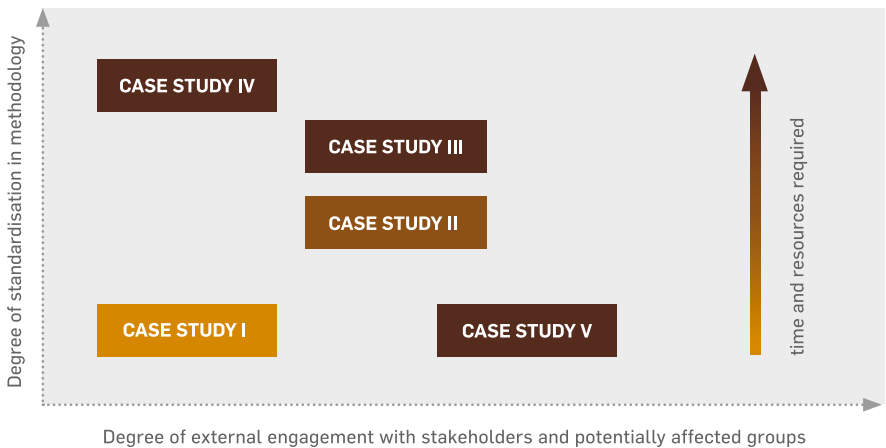
The case studies of the five companies are based on interviews with the responsible managers from corporate responsibility, group operations/supply chain and legal affairs departments. In addition, publicly available and internal company documents were also evaluated where possible. The examples are described from the perspective of the companies interviewed; the details have not been externally validated. They have been anonymised to allow for an open presentation of the approaches and challenges. The examples present one element out of the human rights due diligence measures practised by each company. The five companies in question

⁴ The author of the case studies served as a consultant at two of the companies.

had between 10,000 and more than 300,000 employees and the annual revenues ranged between 5 billion and over 120 billion Euro in 2014. They all have global value chains and operate in many regions of the world.

The case studies vary in scope, focus, methodology and implementation with regard to the aforementioned dimensions. Figure 2 orders the case studies by the degree of engagement of external stakeholders and potentially affected groups against the degree of standardisation in the methodology used.⁵ The overview on the next few pages provides an insight into the purpose for which each approach is best suited, what the approach does not take into consideration and where challenges may exist.

FIGURE 2: Five case studies organised by degree of external engagement, standardisation, and the resources required.



⁵ This diagram builds on the analysis grid in INEF 2011, Human Rights Impact Assessments for Implementing Corporate Responsibility, p. 23.

I INITIAL COMPANY-WIDE RISK ASSESSMENT

Sector: Pharmaceutical and chemical

Approach suitable for/enables:

- Initial overview of the areas where the company could have a potential impact on human rights
- Analysis of the extent to which the company is vulnerable to known human rights risks in the sector
- Examination of the company's guidelines and processes to identify any gaps in regard to human rights due diligence as set out in the Guiding Principles
- Definition and prioritisation of the next steps for implementing human rights due diligence, for example, areas where more in-depth HRIAs are required
- Definition of key human rights issues for the company, for instance as the basis for corporate policy development

Limitations and challenges of this approach:

- No in-depth consideration of the actual performance of existing management processes
 - Little opportunity to assess actual human rights impacts
 - No participation by external stakeholders and (potentially) affected groups
-

II ASSESSING IMPACTS AT COUNTRY LEVEL

Sector: Tourism

Approach suitable for/enables:

- A more in-depth analysis of how the human rights situation is linked to the company's business activities and value chain in a key location/country with a higher level of human rights risk
- Better understanding of the root causes of human rights impacts and development of suitable solutions for the specific country and local business context
- Fresh perspectives and the identification of previously unknown risks and impacts through direct exchange with (potentially) affected groups
- Establishing a basis from which general lessons learned and action areas for other foreign subsidiaries and central departments of the company can be derived

Limitations and challenges of this approach:

- Results depend on the quality of stakeholder engagement
 - Challenges involved in directly engaging with (potentially) affected groups
 - Open investigation nature of data collection methodology hampers standardisation and comparison across countries
 - Time-intensive process may not be suitable for application across all locations
-

III REGULAR ASSESSMENT OF COMPLIANCE RISKS AND IMPACTS AT ALL SITES

Sector: Mining

Approach suitable for/enables:

- Ongoing monitoring of compliance with the company's own human rights policy and quality of local implementation
- More in-depth understanding of human rights contexts and challenges faced by local management
- Standardisation and flexibility achieved by the continuous improvement of the methodology and its risk-based application depending on the country context
- Leverage for follow-up measures through compliance orientation and firm integration into corporate governance

Limitations and challenges of this approach:

- Resource-intensive data collection and follow-up process
 - Identification of actual impacts dependent on degree of direct engagement of (potentially) affected groups and quality of grievance mechanisms at the location
-

IV COMPLIANCE ASSESSMENT AT SELECTED PRODUCTION SITES

Sector: Automotive

Approach suitable for/enables:

- Increasing internal awareness of human rights issues
- Overview and comparison of various locations in terms of how compliant the company's policies and processes are with human rights standards
- Identification of key topics and possible inconsistencies across locations
- Basis for further human rights due diligence measures

Limitations and challenges of this approach:

- Not sufficient to identify actual human rights impacts
 - Participation of external stakeholders and (potentially) affected groups needs to be intensified
-

V ASSESSING IMPACTS ALONG A SINGLE SUPPLY CHAIN, FOCUSING ON LABOUR STANDARDS AND CHILDREN'S RIGHTS

Sector: Food

Approach suitable for/enables:

- Profound insight into human rights contexts and specific impacts at different levels along a supply chain
- Definition of locally adapted courses of action for problem-solving in cooperation with suppliers and other stakeholders on the ground
- Supplementing or adding to perspectives on the company's own programmes and certification audits

Limitations and challenges of this approach:

- Limited to selected human rights
 - Resource-intensive data-collection, follow-up and remediation processes
-

Case studies from corporate practice

The case studies presented in this brochure reflect the views and perspectives of the respective interviewees and the statements made by the companies concerned. The information has not been externally verified. The use of the indirect speech was deliberately avoided in favour of making this document more reader-friendly. The case studies represent selected aspects of the respective company's human rights due diligence processes (a selected HRRA or HRIA, for example).



I Initial company-wide risk assessment

SECTOR IN WHICH COMPANY OPERATES: Pharmaceutical and chemical

TYPE OF ASSESSMENT: human rights risk analysis to determine areas in which the company has a potential impact on human rights and assessment of current capacity for implementing the Guiding Principles. The risk assessment formed the basis for further human rights due diligence measures, such as a deep dive assessment in an Asian subsidiary. This assessment is not examined further here, as the assessment of impacts at country level is addressed in Case Study II.

‘You first have to develop an understanding within your company of how human rights relate to what your company does, and not just in terms of frequently discussed issues such as working conditions.’

‘Human rights reach across your company’s departmental borders, which is why it is so important that the company’s leadership and board support the process.’



BACKGROUND

The issue of human rights has been on the agenda of the company's Corporate Responsibility (CR) Committee for a number of years, increasingly so since the adoption of the Guiding Principles. The rise in expectations from investors but also sustainability indices and reporting standards such as the Global Reporting Initiative's Sustainability Reporting Guidelines, and discussion of regulation in a number of countries, have helped encourage the company to devote more attention to human rights due diligence.

The company's Social Charter and other guidelines already addressed aspects of human rights, especially in the area of labour standards. However, there was no systematic overview yet of how human rights could be linked with its business areas and activities beyond addressing labour standards and environmental issues.

Against this backdrop, the CR committee, headed by the CEO, decided to conduct an analysis of the company's human rights risk areas. Respecting human rights is consistent with the enterprise's corporate values, which is why it was especially important for managers to identify and address risk areas in their own organisation. Nonetheless, the scope of the process had to allow that the relevant corporate departments could implement it alongside their existing duties.

PROCESS & METHODOLOGY

The risk assessment was conducted over a period of approximately four months, with support from a management consultancy firm. To this end, an analysis framework was developed, building on the human rights due diligence requirements in the Guiding Principles and based on internationally recognised human rights.

Among other things, the analysis framework was based on the Human Rights Compliance Assessment (HRCA) Quick Check developed by the Danish Institute for Human Rights (DIHR) and on the Organisational Capacity Assessment Instrument of the Global Compact Network Germany and twentyfifty.

The process involved:

1. Researching known human rights risk areas, country risks and the practice of human rights due diligence in the pharmaceutical and chemical industry
2. Evaluating internal corporate guidelines and documents on existing management processes for dealing with the identified risk areas and comparison with the requirements laid out in the Guiding Principles
3. Interviewing 13 internal stakeholders in the business units and central corporate functions in order to complete desk research findings and identify additional risk areas as well as gaps in the management processes
4. Workshop with key representatives of the relevant central departments (such as Compliance, Human Resources and Procurement) and sustainability counterparts in the business units in order to verify the research findings and prioritise measures to be taken
5. Preparing a final report, documenting the research and workshop results, assessing the current organisational capacity for implementing human rights due diligence and potential next steps

RESULTS

The risk assessment identified eight areas of key importance to the company from a human rights perspective (including, among others: rights at work, working conditions in the supply chain, impacts on local communities, product misuse and access to health). Potentially adverse human rights impacts, potentially affected groups and higher-risk countries were identified for each of these areas.

The risk assessment helped the company to assess where existing management processes already meet the human rights due diligence requirements of the Guiding Principles and where there is room for improvement. It also revealed that a number of processes still require adjustment in order to monitor risks more effectively on an ongoing basis and to reduce them (for example, in the area of external subcontractors' working conditions). Room for improvement was also identified with regard to grievance mechanisms and the integration of human rights aspects into acquisitions and mergers. The risk assessment also demonstrated the need for an overarching framework and more proactive communication on existing human rights due diligence activities within and outside of the company.

The study helped to increase awareness and understanding of human rights risks within the company, thereby paving the way for further human rights due diligence measures. There was a snowball effect in some cases, with individuals from the business units and central functions initiating additional investigation or implementation measures of their own accord.

Based on the risk assessment and consultation with internal and external stakeholders, the company developed and adopted its own human rights policy relating to the eight topic areas. This policy is designed to meet the requirements of the Guiding Principles and to serve as a central point of orientation within and outside of the company. Two working groups were then set up, dedicated to dealing with internal communication and the implementation of the policy. Human rights aspects were also further integrated into the company's processes in the area of compliance and supply chain management. The company has since conducted a more detailed assessment of the potential and actual impacts of its business activities and relationships as well as of existing human rights due diligence processes in a key emerging market in Asia with higher human rights risks.

LESSONS LEARNED

What was helpful:

- **Commitment at the senior management level** was a key driver
- **Broad-based involvement of internal stakeholders** provided new perspectives and helped to generate support and motivation for ongoing due diligence. Existing expertise within the company is needed, especially when dealing with special topics (such as drug safety)
- **Good preparation, expectation management and a clear process** helped all involved parties to gain a precise idea of the steps involved and the reasons behind these
- **Face-to-face discussion** allowed questions to be raised directly and enabled a better understanding of the relevance to the business unit in question; something that would not have been possible with a questionnaire
- Combining the **expertise of internal stakeholders** and the business and human rights expertise of the **external consultancy** proved helpful. The interview terminology was adapted to the respective area of activity or responsibility of the involved parties so that no prior knowledge of the specialist human rights terms was required. The consultants subsequently 're-translated' the terminology and compared and matched the interview results with human rights standards and the Guiding Principles

Challenges:

- Using interviews and a workshop **did not allow for comparison and standardisation** across the company. However, this is generally difficult in the area of human rights, as you quickly run into specialist topics
 - The cross-cutting nature of human rights **makes it necessary to consult and coordinate internally**, which requires time and capacity
 - It was difficult to follow up on measures **in the absence of a central mandate or clear responsibility** for the issue of human rights. This responsibility lies in part with the human resources department, in part with the health and safety department, and in part in the individual business units. All involved parties are driving the processes forward over and above their normal duties
 - Working within the company to address human rights touched on **unique cultural features and hierarchies**. The process shed light on the different ways the issue is perceived within the company (for instance, a number of departments had a strong compliance mentality)
-

II Assessing impacts at country level

SECTOR IN WHICH COMPANY OPERATES: Tourism

TYPE OF ASSESSMENT: potential and actual impacts of business activities and business relationships on human rights in one selected country.

‘There is more than one way to conduct HRIA – you need to consider the context in question and adjust accordingly.’

‘You need to have the courage to say: ‘We are only going to look into this area right now.’ It is also okay to take an in-depth look at an issue.’

PARC NATIONAL DE LA PENDJÉ CIRCUITS TOURISTIQUES



BACKGROUND

In its CR risk assessment and materiality assessment, the tourism company identified human rights as a key issue that directly or indirectly affects many other sustainability topics. As a result, a dedicated human rights policy was developed under the leadership of the CR team and in consultation with external stakeholders. In this policy the company also committed to implementing additional human rights due diligence measures. Top management views human rights due diligence as a relevant issue. Key drivers for this are legislative projects and national action plans in the company's country of origin and key markets.

The company collaborated with a management consultancy specialised in human rights due diligence and an NGO working on human rights issues in the tourism industry to pilot a human rights impact assessment in an African destination. The goal was to develop a methodology tailored to the tourism sector and the company's own activities and use it to assess the human rights impact of its activities and business relationships in the country. To support the HRIA process, the company set up a stakeholder advisory group consisting of representatives of international organisations, NGOs and research institutions working in the field of tourism and human rights. Based on experiences with the HRIA pilot, the company decided to conduct another country HRIA in a key market in Asia, which is the focus of this case study.

PROCESS & METHODOLOGY

The country was selected on the basis of a broad risk assessment of all destinations in terms of the country human rights risk (evaluated on the basis of publicly available indicators of human rights situations), the customer volume for each destination and the options for exerting influence locally (own team or representation by external partners). The CR team selected the Asian country from among the higher-risk countries, as it has a high customer volume and the national subsidiary already has an established CR function.

The methodology was based on that of the pilot HRIA. The consultancy firm turned this methodology into a toolkit which the CR team developed further for the second project in Asia (taking greater account of gender aspects, for example). The methodology is built on instruments such as the DIHR HRCA Quick Check, Rights & Democracy's 'Getting it Right' tool, and UNICEF's Children's Rights in Impact Assessments guide. Taking into account all internationally recognised human rights, it focuses especially on children's rights, workplace rights and women's rights, areas identified by the company as involving particular risk. The methodology revolves around semi-structured assessment questionnaires for interviews with the different stakeholder and rights holder groups locally. A specific approach for conducting consultations with children was also drawn up in cooperation with a child welfare organisation. The global CR team carried out the HRIA in the selected Asian country with the support of a contact person from their local team.

PROCESS & METHODOLOGY

The assessment took around seven months and consisted of the following phases:

1. Kick-off: defining goals and drafting a project plan; training the contact person from the local team
2. Preparation: researching known human rights risks in the local tourism sector; mapping the value chain in the country; briefing the local management team; adapting data collection methods
3. Country visit: undertaking a 12-day visit to three regions of the country involving workshops and interviews with stakeholders and rights holders (including the company's own management and employees, selected business partners such as souvenir shops, hotels, transport providers and their staff, local NGOs and experts, consultations with children and with representatives of local communities in one region)
4. Analysis and documentation: analysing and encoding data; discussing results at headquarters and with local management; preparing the final report
5. Follow-up measures: defining an action plan and monitoring its implementation

RESULTS

The results of the HRIA were presented and published in aggregated form in a report. The report summarises the areas of potential and actual human rights impact identified in the HRIA, and lists existing mitigation measures, affected groups, risks to the company and possible actions for each topic. The report also summarises good practices and lessons learned identified by the company and offers a look ahead to the next steps.

With the help of the impact assessment, the company identified a number of areas for improvement, including insufficient grievance mechanisms for affected groups, inadequate working conditions for contract workers and casual labourers, excessive working hours, discrimination against trade unions, unequal opportunities regarding hiring and promoting women, adverse impacts of tourism activities on the local population (on their environment, privacy, food security and traditional way of life etc.). Many of the potential and actual adverse impacts identified in the report affect the value chain of the company and the tourism sector as a whole.

Following the HRIA, the company started to implement measures for the various topic areas. The implementation of these measures is reviewed on a regular basis. For example, the company has increased its activities to promote its code of conduct to local suppliers. It has also stepped up efforts to review the excursions it offers in order to develop more sustainable options and market them more effectively. Additionally, the company introduced measures to adjust the grievance mechanism for its own local employees, to raise awareness of gender equality issues, to train hotel partners and to establish local partnerships.

At the same time, it made adjustments to its centrally managed internal processes (including internal auditing) on the basis of the results of the two HRIAs. In future, it intends to increasingly assess individual corporate units from a human rights perspective and to tackle the cumulative impacts of the sector by taking part in sector-wide HRIAs and sector initiatives.

LESSONS LEARNED

What was helpful:

- Clear **assignment of responsibilities and capacity building** for the local team. This made it easier to take ownership of the process and the results, generating momentum locally and allowing innovative solutions to be found
- **Expectation management** played an important role, as the HRIA process created and raised expectations on the part of those involved locally (such as workers in the value chain)
- Using a **wide range of information sources** and triangulating the information gathered (for example, comparing statements by business partners with observations and informal discussions with workers during the visits)
- **Debriefing** local management on the **initial results** at the end of the country visit. This allowed the next steps to be discussed at an early stage and a foundation to be laid for ongoing due diligence
- **Support from external stakeholder advisors**, who comment on the approach, establish contact with stakeholders and potentially affected groups and provide feedback on the planned measures
- The company found it helpful to present the results according to the **risk posed to the business and its own ability to exert influence on these risks** in order to facilitate understanding of results and encourage support in the managing board. This differs from the method of prioritisation by severity of impact suggested by the Guiding Principles
- Focus on **specific, feasible measures**, without losing sight of the systemic issues

Challenges:

- Carefully **mapping local stakeholders** takes time and expertise. Deciding which NGOs should be consulted in the local context and who is a legitimate representative of a potentially affected group was a difficult task
 - It is not easy for a company to conduct **direct consultations with potentially affected rights holders**; it requires competent local partners. Carrying out truly representative consultations requires a relatively large investment in terms of time and budget. It was not possible to conduct separate consultations with women, as no suitable partner was found during the project
 - **Cultural sensitivity** was needed in order to engage in discussions with workers and other potentially affected groups. It was not easy to build the necessary level of trust and allay fears to conduct an open discussion in a short period of time. In some cases, statements had to be understood and interpreted in line with the specific cultural context to properly grasp their meaning
 - On the ground, the **term 'human rights'** was partially misunderstood and rejected, leading to the use of other terms (such as social impacts)
 - Dealing with **cumulative and systemic impacts** that affect the country's tourism sector as a whole and that must be tackled together (such as excessive working hours, lack of transparency in the souvenir supply chain)
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III Assessing compliance risks and impacts at all sites

SECTOR IN WHICH COMPANY OPERATES: Mining

TYPE OF ASSESSMENT: regular assessment of human rights compliance risks and impacts at all mining locations

‘The single biggest challenge is trying to make sure everybody understands that this is part of a holistic process. Anybody who says ‘This is it!’ is deeply mistaken.’

‘Take bite-sized pieces, don’t try to do it all at once. Phase it in and appreciate that this is going to be a multi-year process before it gets fully implemented. [...] At this point, it is just an integrated part of our business [...]. It is like health and safety, and environment, and human rights, and human resources, it is just one part of what we do and it is not seen as different to other issues.’



BACKGROUND

After developing and adopting its own human rights policy, the mining company started to establish a company-wide programme for human rights compliance, with regular assessments of human rights risks and impacts at its mining sites as one cornerstone. The Guiding Principles served as an important frame of reference in this process.

The key objective was to create a human rights compliance programme that has operational effectiveness for the business. This decision was backed by the company's managing board. The issue of human rights was high on the company's agenda, not least after cases of sexual violence by security staff at a site in Asia came to light and further investigations at an African site revealed similar incidents.

The compliance programme is firmly integrated into the company's corporate governance system. It is headed up by the General Counsel and monitored by the CR committee of the managing board. Current developments are discussed regularly with the heads of the corporate functions and sites at fortnightly business progress meetings.

PROCESS & METHODOLOGY

Due to the wide range of its activities and locations all around the world, the company was aware that it would be unable to analyse the complex landscape of human rights risks and impacts without bringing in external expertise. Consequently, it commissioned an external consultancy firm with previous experience of carrying out assessments based on the Voluntary Principles on Security and Human Rights (VPSHR). In order to avoid a conflict of interest, the firm was not allowed to provide consultancy services on implementation measures at the same time.

The company decided to look at higher-risk locations first, before the programme was gradually rolled out to all sites. In order to set priorities, a risk analysis was conducted using 12 publicly available country risk indices (such as the Corruption Perceptions Index and the Fragile State Index). The results confirmed the company's own perception of where its high-risk sites are located.

The methodology built on all human rights as anchored in the International Bill of Human Rights. The company treats these human rights as binding legal requirements in its compliance programme. In order to conduct the assessments, the company worked with the external consultancy to develop its own instrument, building on the HRCA of the DIHR. The questions and indicators were transferred to a dedicated Excel template and supplemented in the areas of health and safety, environment, supply chains and business partners. The resulting instrument contains over 1,000 indicators in seven areas: working conditions; indigenous peoples; economic, social and cultural rights of local communities; environment, health and safety in local communities; land rights; security forces; anti-corruption.

When applying the tool, an assessment is carried out in each area to determine whether the company's processes are consistent with its responsibility to respect human rights, which measures and actions could be used to practically implement its own commitments, and whether rights are respected, and accordingly whether stakeholders perceive them to be respected, in practice. The dedicated company instrument continues to be developed on an ongoing basis, drawing on experience with the compliance assessments already carried out. It has, for instance, been reviewed with a view to ensure children's rights are properly integrated. The first year of the programme was a comprehensive internal learning process. Over time, both the external consultancy and the company have become more experienced and confident in applying the methodology and implementing the programme.

PROCESS & METHODOLOGY

Risk and impact assessment at the sites involve the following steps:

1. Researching the country context and human rights risks and analysing internal documents (such as audit findings), guidelines and processes
2. Defining the scope of the assessment
3. Observations, interviews and focus groups with internal and external stakeholders (such as NGOs and government agencies) during a visit to the site and its surroundings. Assessors also consult potentially affected groups, for example, by means of interviews with representatives of the local communities at and around the mining site or interviews with employees at the site and on the premises of subcontractors
4. Analysis and documentation, drafting action measures

Over the last few years, the human rights assessments have been more heavily integrated with other types of existing assessments of non-financial risks. The results of numerous assessments and audits (environmental, safety, community relations etc.) are now coordinated and only one set of recommendations is discussed with the site. Based on these recommendations, the sites develop their own action plans, which they are responsible for implementing. These plans in turn form an integral part of the subsequent assessment.

RESULTS

The assessment results for each location are presented in a risk matrix according to the severity and likelihood of the adverse impacts. This lays the foundation for prioritising action measures. Colour coding is also used to map the level of risk to the company, although this is not the primary factor for prioritisation. Additionally, the assessors analyse whether the company is causing, contributing to or directly linked to the potential or actual impacts, in accordance with the Guiding Principles. While a clear allocation to these categories is not always easy, it proves necessary in order to determine whether responsibility for remediation lies with the company itself or, for example, with business partners. Where they identify them, the assessors also record any (potential) contributions that the location is making to promoting human rights. At the same time, they note in their report any inconsistencies between the company's processes or practices and the requirements of the Guiding Principles, along with other observations not directly related to human rights.

Each location draws up an action plan detailing the measures agreed for the different corporate functions and listing the individuals responsible and the implementation periods. The measures must be implemented anywhere from right away up to in one year's time, depending on the risk of adverse impacts. All locations are assessed every three years or more frequently if they are identified as higher risk.

The programme has helped to identify weaknesses in the implementation of global requirements at the sites. The right to water, to an adequate standard of living and to a healthy environment, freedom of association and the lack of access to grievance mechanisms at the level of subcontractors and in the supply chain were identified as risk areas at a number of sites. Examples of follow-up measures include specific adjustments to guidelines and corporate processes (including tendering and hiring processes, in order to ensure non-discrimination; improvements in access to complaints mechanisms), more in-depth studies (for example, on the impacts of worker influx on the rights of local communities), more training and information provision (e.g. for security staff at the sites and training for local communities on potential environmental impacts), improvements in supplier checks and specific projects on individual aspects of human rights (such as the prevention of sexual violence).

Adjustments were made not only at individual sites, but also across the company to its own guidelines and management processes wherever systematic challenges were identified. For example, the guidelines for dealing with resettlement were revised to allow risks to be anticipated at an earlier stage and proactively addressed. The compliance programme has helped to increase understanding and awareness of human rights risks within the company as well as helping to identify and remedy weaknesses in its existing control systems. It is accompanied by comprehensive training measures and company-wide processes for reporting and investigating potential adverse human rights impacts, and by remediation initiatives where adverse impacts have already occurred.

While the assessments reports are confidential, aggregated results across sites are summarised on the company's website. An annual progress report on the compliance programme is provided to external stakeholders upon request. In future, the company aims to integrate human rights indicators to a greater extent in its other non-financial assessments (such as environmental, security, health and safety assessments and audits), especially at lower risk locations, without affecting the quality of its assessment of human rights impacts

LESSONS LEARNED

What was helpful:

- Using the **same assessors at all sites** in order to build on experience gained, introduce ongoing improvements at the local level and ensure that the company's own approach is made consistently sounder. Having built trust over time, the assessors are informed of problems by staff and local stakeholders when they conduct follow-up assessments
- Having a **recurring process**. While the first assessments helped to establish an overview and focused primarily on internal processes, later ones took an in-depth look at external subcontractors and suppliers, and individual topics such as children's rights etc.
- Intensive dialogue and **coordination of results with other risk analyses and assessments** (such as environmental assessments) and the development of a single set of recommendations for each site
- **Integration** of human rights-specific results into a **risk matrix** using a coding method and terminology which was already **established** within the company

Challenges:

- Initially, the sites often perceived the programme as **one more audit** and it **took time to build trust** and facilitate open discussion of the issues
 - Ensuring that all involved parties had a clear understanding of the **process-nature of the assessment** and that it was not a one-off exercise
 - **Prioritising the risks and action measures**. Sometimes there were internal discussions regarding which measures should be implemented as a priority, especially those measures that were in competition with other issues
 - Convincing the sites to **invest resources in preventive measures** that have no visible short-term benefit, especially at a time when cost pressure is mounting in the mining industry
 - **Building internal capacities** to integrate human rights indicators into other internal audits and assessments as well and to reduce reliance on external consultants
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IV Compliance assessments at selected production sites

SECTOR IN WHICH COMPANY OPERATES: Automotive

TYPE OF ASSESSMENT: conducting human rights compliance audits at selected production sites to provide a basis for developing a management system to implement the responsibility to respect human rights.

‘In order to identify and assess human rights risks at the company, I had to slowly raise awareness of the issue. [...]. Addressing the issue of human rights is like standing in front of a huge mountain. If you want to make it to the top, you need to be pretty clear about which route you are going to take.’

‘The more closely you gear your human rights approach to daily business activities and the processes established and implemented as part of these activities, the more willing colleagues are to explore these topics.’



BACKGROUND

By taking part in the UN Global Compact and organising their own annual sustainability dialogue, the company has been monitoring the issue of human rights for many years and discussing the distinct responsibilities of companies and the state in this context. Specific problem areas were discussed in a dedicated working group during the sustainability dialogue and initial approaches developed with regard to what actions the company could take. Taking impetus from this preliminary work, the company decided to systematically analyse the level of compliance with human rights standards in its own organisation, even before the Guiding Principles were adopted. This involved conducting an in-depth human rights compliance analysis of countries with their own majority-holding production sites. Almost 20 countries were examined over a period of five years. The company's location in its home country was also included in the analysis, as it is from here that many global processes with human rights implications (such as compliance and security) are managed.

PROCESS & METHODOLOGY

The DIHR's HRCA tool provided the basis for the assessments. During this first step, the company felt it was important to have an independent, widely recognised tool to rely on rather than having to develop its own questionnaire. The company used almost all of the approximately 200 questions and 1,000 indicators of the HRCA. The analysis was managed centrally by the company and implemented without any external advisory services.

The CEOs of the selected foreign subsidiaries appointed individuals at each location to manage the process for that particular subsidiary. Most of these individuals were the local compliance or public affairs managers. In preparation, the company discussed the HRCA instrument with those responsible locally and answered questions. The HRCA questions were then used to assess the guidelines and processes of the foreign subsidiaries in terms of compliance with human rights standards and the compiled information was evaluated at head office. Business partners and the supply chain were dealt with separately, and potentially affected parties were consulted in individual cases only.

The company analysed the compiled data for each country and then consulted the local units to decide on what should be done to tackle the issues identified. For measures that would entail significant costs, decision papers were prepared for the managing board. Lessons learned from the first round of country assessments were used in subsequent years when assessing other subsidiaries.

RESULTS

The compliance assessments demonstrated that company guidelines and processes at the assessed production sites largely met human rights requirements. The company has not uncovered any major violations with its chosen approach. However, the assessments did reveal room for improvement in a number of cases, for example, the equal treatment of non-traditional families with respect to social benefits and the selection and training of private security service providers. Adjustments have been initiated in these areas.

At both company and country level, the compliance assessments helped to increase awareness and understanding of the broad nature of human rights and to establish more effective dialogue between different corporate functions. This will make it possible to identify and remedy risks more quickly in future.

As a result of the project, the sustainability and compliance functions have come to work more closely together, making it possible to jointly plan and implement additional human rights due diligence measures. In future, the human rights risk monitoring process will make greater use of the experience and established instruments of the company's compliance system. The assessments also raised awareness of human rights risks in the procurement department. At the same time they placed diversity more strongly on the agenda, something identified as a challenge in many countries.

The company is now using the compliance assessments as a basis for developing a system for analysing and monitoring human rights risks on an ongoing basis, including other locations not previously assessed. In future, the company intends to align the scope and depth of the human rights due diligence measures more strongly towards the degree that each subsidiary and business activity is exposed to human rights risks. It intends to shift the focus from the individual countries to the respective business units and business models and the associated risks in terms of human rights impacts. In doing so, it also aims to incorporate sector-specific elements more heavily into the assessment methodology in order to conduct more in-depth analyses with a smaller number of questions.

LESSONS LEARNED

What was helpful:

- In order to ensure internal support for the process, it was necessary to adopt a **sensitive, step-by-step approach** and to focus initially on selected sites only, even though this meant that it was not possible to conduct in-depth analyses of all countries with high human rights risks in the first step
- Identifying and involving **the right colleagues** who were responsible **at the respective locations**
- Critical, but fair **support of the process by external stakeholders** through the sustainability dialogue
- Engaging at an early stage in a **dialogue** on the knowledge, expertise and established instruments already available in **other corporate departments**, which could be built on and applied in the human rights due diligence process
- A strong, **risk-based approach** helps to focus the company's own resources on those areas with highest risk. Experience already gained in the area of compliance management can be beneficial in this regard

Challenges:

- **Human rights are a complex issue**; they affect many corporate departments and have a bearing on the spheres of responsibility of different internal stakeholders who need to be won over to backing the process and potential implementation measures. It was necessary to explain the value added by a human rights based approach as opposed to the existing compliance audits
- Using a comprehensive tool such as the HRCA at so many locations required a high degree of **internal coordination** and generated a **large volume of data** that had to be processed
- Using closed yes/no questions and having the sites work through the questionnaires on their own made it difficult to **interpret the results**, as the questions were understood and answered differently, according to the context of each country
- By assessing its own processes based on human rights criteria, the company discovered **room for improvement** in other areas beyond mere legal compliance. The internal discussion about appropriate follow-up measures to ensure such improvements is time-consuming, but worthwhile

V Assessing impacts along a single supply chain, focusing on labour standards and children's rights

SECTOR IN WHICH COMPANY OPERATES: Food

TYPE OF ASSESSMENT: potential and actual impacts on labour standards and children's rights along a raw materials supply chain

‘There are various ways of assessing impacts and you should choose the one that is most appropriate for you and what you are seeking to achieve – to suit different types of companies, different purposes.’

‘With certification, the perception is often that of compliance, that is, you are either in or out [...] Here the perception is, “We know that child labour exists, because it’s almost unavoidable at local community level, but we will work together to address it.”’



BACKGROUND

For some time, the issue of child labour in supply chains for an agricultural product from West Africa has been at the centre of joint sustainability discussions and initiatives in the food industry. Despite this, no major improvements have been achieved on the ground. The UN Guiding Principles strengthened the company's resolve to define its own approach, as they provided greater clarity about the responsibility of companies for human rights risks in their supply chain. The company wanted to conduct a detailed study in order to better understand what respecting human rights and leverage mean in the local context, and to identify corresponding opportunities for action.

The company selected one agricultural raw materials supply chain from an African country for deeper analysis on account of the high risk posed, both in terms of legal compliance and reputation. There has already been already a high level of awareness on the issue within the company, and a working group on child labour had already been established. Consequently, the project was well received and was supported internally by the Head of Operations.

PROCESS & METHODOLOGY

In order to ensure the independence and credibility of the assessment and incorporate expertise on the topic, the company sought an independent cooperation partner to implement the project. It chose a multi-stakeholder initiative (MSI) working in the field of sustainable supply chains. At the same time, it decided to make all the project results available to the public. The MSI has expertise in human rights issues along value chains in the technology and textiles sectors, but at the time had little prior experience in the particular challenges of agricultural supply chains. The project helped both parties to expand their knowledge and capacities. The assessment was carried out on the basis of the proven sustainable compliance methodology of the Fair Labour Association (FLA), which combines elements of independent auditing and capacity building at supplier firms. The questions and sampling methods used for the assessment were tailored to the specific agricultural supply chain. While the company itself had no influence on the methodology, it supported the implementation process by helping establish contact with traders, cooperatives and farmers and providing logistical support.

20 experts (15 local and 5 international) were involved in conducting the assessment. The goal was to more accurately map the steps and actors involved in the supply chain, and to identify relevant stakeholders and affected parties as well as the risks for labour and children's rights associated with each step. At the same time, the company sought to identify gaps in its existing management system, especially with regard to child labour risks. The assessment examined the company's main traders and other suppliers at local level, covering almost 80% of the volume purchased from the country being assessed. It addressed the formally organised part of the supply chain, as well as the informal part, the latter accounting for the majority of purchase volume. It covered both suppliers involved in the company's supplier development programme and those not yet involved.

PROCESS & METHODOLOGY

The assessment comprised the following phases:

- Desktop research
- Stakeholder engagement (with NGOs, experts and within the company)
- Preparations for the field assessment
- Interviews with the company's local team and suppliers in the capital of the country
- (mainly pre-announced) Field visits to and interviews with cooperatives, sorting centres and local communities in the cultivation area and subsequent analysis of initial findings with the local team
- Additional, unannounced field interviews with various actors, including affected parties in villages and local communities
- Triangulation of data and preparation of final report

The data was gathered from individual and group interviews, document analyses and observations made during visits to cooperatives, industry associations, farms, distribution centres and villages. Data collection took place over a period of field research lasting around one month. The study examined almost 90 farms and involved over 500 interviews (more than 100 of them with children). These interviews were conducted without the company's involvement.

RESULTS

The results of the assessment were used by the experts to produce a comprehensive report containing information about the methodology, field research findings and clear recommendations for the company. These results were discussed with the responsible strategic unit within the company, which devised a corresponding action plan. This plan was discussed with the key commodity traders in order to agree on a joint approach. The MSI conducts regular follow-up reviews.

The assessment revealed risks and also actual adverse impacts in the areas of child labour, forced labour, fair pay, health and safety, and non-discrimination. It became clear that the identified problems could only be tackled as part of a joint effort, as large parts of the supply chain are shared with other companies. The results of the assessment were fed back to the involved cooperatives and the lessons learned integrated into farmer training.

The assessment helped to gather baseline data that the company can use to measure the effectiveness of its programme over time. Since the assessment was conducted, a number of action plans have been developed in the risk areas identified. For example, a comprehensive, monitoring and remediation system has been established for child labour along the company's own supply chain. This involved assigning responsibilities for data collection and follow up at each stage of the supply chain, including local communities.

The monitoring system helps to provide clarity on why child labour arises at community and household level, and to tackle existing problems and potential remediation directly at this level (for example, strategic investment in education in cooperation with the government to tackle a shortage of schools in a particular community; cooperation with the government to address the issue of children having no birth certificate and therefore being unable to enrol at school). In this way, the company is able to assume responsibility for its own supply chain and the working conditions within it, thereby meeting the requirements of the UN Guiding Principles. Other examples of measures include the revision of the supplier code of conduct, the development of an illustrated code of conduct for farmers, further strengthening of local training programmes on labour standards and child labour, and the improvement of access to complaints channels.

LESSONS LEARNED

What was helpful:

- Choosing suitable **partners and expertise for the right purpose**, such as one organisation to conduct independent audits and another as a partner for implementing the action plans
- The complex nature of the issues means that there was a need for both **internal bridge-builders in the company** to translate interests and expectations of civil society into corporate language, as well as for external expertise
- Close **coordination with and involvement of the legal department** in the company's strategy. Transparency regarding the company's own approach and the results was seen as an opportunity for preventing legal action and judicial proceedings and for settling existing legal disputes
- Effectively **involving local stakeholders and affected parties** in the process for identifying and implementing follow-up measures (such as the monitoring system for child labour at local community level)
- **Raising sensitive issues** such as child labour **directly with the relevant actors in the supply chain**. Where such practices were considered 'normal' on the local level, it was especially important to communicate why they were unacceptable to a multinational company

Challenges:

- **Transparent reporting**. This also requires that companies are willing to tackle the identified problems, otherwise the assessment loses its credibility
- Effectively **tackling the identified challenges to their full extent**. The study revealed that audit and certification systems alone are not enough to address systemic issues such as child labour. Time and again, the monitoring system helped to identify cases of child labour at cooperatives where a range of recognised certification systems were in place

Outlook – moving towards better practice

The case studies illustrate the diversity of approaches companies can take to assess human rights risks and actual human rights impacts. Some businesses opt for a broad approach in the first instance in order to pave the way for subsequent, more specific human rights due diligence measures. Other companies examine one specific aspect or location of their business activities and business relationships and define concrete measures in response to the results. In practice, companies often need to begin by taking small steps towards a more comprehensive approach in order to take their own organisation along with them and build internal support for further human rights due diligence measures.

When deciding on an approach, companies should consider what they wish to assess and which method is most suitable for doing so, as well as most appropriate, given their human rights risks, their business activities or the countries they operate in. For example, if legitimacy considerations are a major factor, tensions exist with stakeholders and/or affected parties, or internal expertise is lacking, it might be important to bring in an independent external partner to conduct the assessment. If a company wishes to build internal capacity for ongoing due diligence, then this should be a key element of its approach. If the focus is on ensuring that their own processes and guidelines comply with human rights standards, then companies may find it helpful to use a checklist or audit-based approach. When it comes to gathering data on sensitive issues such as discrimination, child labour or freedom of association and collective bargaining however, these approaches have their limitations. If the initial aim is to establish a general overview of human rights risk areas for the company as a whole, a primarily desk-based study or gathering data on general country risks may be useful.

While an overview-type risk analysis may be a good starting point, more is required if the goal is practising ongoing human rights due diligence in line with the Guiding Principles. Human rights impacts occur in specific contexts. **If a company wishes to assess and address its potential and actual human rights impacts** – as envisaged in the Guiding Principles – **then this is virtually impossible to achieve without an open and unbiased, qualitative assessment and dialogue with (potentially) affected stakeholders** (or their legitimate representatives).

Particular attention should be paid to identifying members of vulnerable or marginalised groups, as they are often at higher risk of being affected by adverse impacts (depending on context, such groups may include children, women, religious or ethnic minorities or people with disabilities among others). If companies opt for a participatory approach that is open to new findings and gives a voice to rights holders, then this will enable them to identify previously unknown impacts and to define measures that are more effectively tailored to the respective context and that make a real difference to the affected parties.

Despite their differences, the case studies show a number of similarities when it comes to the success factors and challenges for companies when assessing human rights risks and impacts. These should also be taken into account in further discussion of approaches and support needs of companies:

- Effective involvement of managing board and senior management in order to gather support for the process and any follow-up measures that might entail costs
- Build acceptance and capacity and define clear responsibilities within the company for implementing the assessment and any necessary follow-up measures
- Benefits of linking human rights assessments with existing corporate processes and instruments; whilst acknowledging the challenge of meeting the specific requirements of a human rights assessment
- Importance of an intelligent, risk-based approach to prioritisation, where more in-depth studies are required, especially if a company has many country operations or business partners
- Challenges of identifying legitimate partners for stakeholder engagement and direct consultation of (potentially) affected rights holders
- Need to cooperate with other companies in the same sector or across sectors to prevent and mitigate systemic issues and cumulative impacts
- Opportunities and limitations of communicating transparently on identified potential and actual impacts

Companies often build on known and recognised instruments when conducting assessments, and operationalise them for their own activities, sector and corporate structure. Indicators for sector and country risks as well as instruments for human rights assessments are increasingly being made available to the public. What is lacking are not the technical methods, information and standards, but rather **clear qualitative process criteria, guidance for decision-making and capacity** for applying these methods and standards in practice in line with the requirements of the Guiding Principles and a human rights based approach. There is also a lack of **dialogue skills** to meaningfully engage affected groups, without turning the stakeholder consultation process into a mere formality to be ticked off the list.

At the same time, efforts should be made to convince more companies to adopt a proactive human rights due diligence approach. Too often, it becomes evident in discussions with companies that they underestimate the significance of human rights risks to their own business and that they devote too little attention to the positive effects improved human rights conditions can have on their product quality, supply chain security and economic sustainability among others. Whether knowingly or unknowingly, they thus accept a higher level of human rights risk, although it could be addressed or turned into positive impact with a solid risk management approach. If government agencies were to require human rights due diligence to a greater extent and do more to promote it, this could help to encourage more companies to proactively engage with the issue and could increase the visibility of positive effects. For example, promoting ‘good HRIAs’ could be a joint area of activity for development cooperation and foreign trade promotion.

Not all companies will be prepared or have the capacity to implement comprehensive human rights assessments on their own. The case studies also show that the identified human rights risks often cannot be tackled by one company alone. This is where joint initiatives involving several companies in the same sector or across sectors could work together with civil society actors to help identify and address human rights impacts more effectively. Such sector initiatives are suitable where parts of a supply chain are shared, a joint risk has already been identified or several parties are operating in a high risk area. They could help to collect shared baseline data in future, on the basis of which companies could define individual and joint measures that make a real difference to those affected.



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