

# Respect In Practice

## United Nations Third Annual Forum on Business and Human Rights: 1-3 December 2014

- Embedding the UN Guiding Principles in company policies, processes and decision-making
- Applying the UN Guiding Principles in local contexts – cases of collaboration between civil society organisations and business

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This is the report of a session entitled “Respect in Practice” which took place on 2<sup>nd</sup> December 2014, as part of the third UN Annual Forum on Business and Human Rights. The Forum was held in Geneva (Switzerland) from 1<sup>st</sup> to 3<sup>rd</sup> December 2014, organised under the guidance of the UN Working Group on Business and Human Rights. The Global Business Initiative on Human Rights (GBI) and the Business & Human Rights Resource Centre (BHRRC) prepared this report in their capacity as co-organisers of the session. The UN Working Group will issue a separate document, based on the present report, which will be submitted to the UN Human Rights Council in June 2015.

The purpose of the session was to enable a meaningful multi-stakeholder dialogue about good practices, lessons, challenges, shortfalls, innovations and complexities relating to implementation of the second pillar of the UN Framework – The Corporate Responsibility to Respect. It was designed with three premises in mind. First, that there is a genuine commitment of some of the world’s major corporations to align their operations with the UN Guiding Principles on Business and Human Rights (UNGPs), and the UN Annual Forum is an ideal space for these companies to share their progress and practices. Second, much more is needed in terms of human rights outcomes on the ground, even in situations where companies have begun to implement due diligence or engage in remediation. And third, there is often a discourse and trust gap between companies and civil society when it comes to “respect in practice” and the UN Annual Forum should be an opportunity to bridge this gap and showcase examples of constructive engagement (including valuable tensions) between the two.

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## HEADLINES AND INSIGHTS

The organisers identified the following headlines from the session. GBI and the BHRRRC recognise that drawing conclusions from what were short inputs from a small number of business and civil society experiences can only lead to anecdotal themes. Nonetheless, certain interesting patterns were discernible when reflecting on the totality of what was presented. The organisers also “sense checked” these views with the speakers from this session. The hope is that these observations provoke further dialogue including at the next UN Annual Forum on Business and Human Rights, and possibly inform the work of the UN Working Group on Business and Human Rights.

### **Embedding respect for human rights**

- A number of leading companies are approaching their responsibility to respect seriously and thoughtfully.
- Where company commitment exists, the UNGPs are influencing practices and decision making.
- Some convergence is occurring around “foundational” building blocks and an associated suite of “respect in practice” tools/approaches.
- Putting the basics in place within large organisations takes time. Further, implementation is an on-going journey – and things change or go wrong.
- Even leading companies are not always finding ways to fully communicate their progress.

### **Addressing risks to human rights via company / civil society relationships**

- There are some common ingredients for successful relationships including shared commitment to improved results for rights-holders and making the relationship institutional versus only between a few people.
- Grounding the interaction and relationship in the company’s responsibility to respect can be productive.
- Company/civil society relationships seem to be focused on addressing specific rights in specific contexts with specific individuals/groups in mind.
- Timing and shared timeframes matter ... and not everything takes a long time.
- Good relationships should enable not replace further relationship building with other actors, especially at the local level.
- Without government engagement, “Pillar 2” partnerships may only partially address the human rights impacts associated with business.

## Embedding respect for human rights

**A number of leading companies are approaching their responsibility to respect seriously and thoughtfully:** There appears to be a vast amount of activity taking place within companies. The organisers assume this is especially the case for companies represented at the UN Annual Forum. The panel touched upon CEO engagement on human rights; upgraded policy commitments; cross-functional involvement; strong investment in internal capacity building to support horizontal and vertical coherence; methodologies to apply human rights due diligence; embedding human rights considerations into core processes; and enhancing operational grievance mechanisms. What is also clear is that this activity is extremely *thoughtful*, and not being driven by a tick-box or reputation management attitude. This may be because the types of individuals presenting at the UN Annual Forum are at the forefront of innovating and inventing how to apply the UNGPs as they go.

**Where company commitment exists, the UNGPs are influencing practices and decision making:** Speakers noted that the endorsement of the UNGPs provoked a step up or reset of their human rights commitments and work. Equally important, the content of the UNGPs has begun to influence the details of implementation. Speakers described instances where the spirit and letter of the UNGPs is making its way into policies, practices and processes. Examples of this include due diligence that looks at all operations and all human rights (versus one function and a sub-set of rights); wording about addressing conflicts of law in codes of conduct; use of “cause, contribute, and directly linked” when engaging colleagues about the company’s impact; and verbatim inclusion of the UNGPs effectiveness criteria for grievance mechanisms in company standards and operating procedures.

**Some convergence is occurring around “foundational” building blocks and an associated suite of “respect in practice” tools/approaches.** Speakers were invited to speak about one aspect of their human rights work, and how each sector and company establishes an approach to human rights that fits their circumstances. At the same time, it seems a picture is beginning to emerge about some key “foundational building blocks” relating to implementing respect for human rights. Further, speakers presented or referenced tools/resources that have been developed in-house (though often with the help of experts). For example:

- **To establish priorities and a road map**, some companies are developing methodologies supported by in-house XL and Word tools to map human rights risks at a corporate-level (covering all business processes, the value chain and operational contexts; addressing adequacy of current policy and practice; and based on the UNGPs). It is through these methods that companies are establishing current priorities.
- **To strengthen internal coherence and commitment to actions**, some companies are hosting cross-functional meetings/workshops or establishing cross-functional working groups/committees.
- **To build capacity and awareness**, some companies are publishing internal guides or developing training modules that address basic definitional questions while using examples and operational language relevant to the business.
- **To begin to prevent and mitigate adverse human rights impacts**, some companies are using a mixture of self-assessments, studies and impact assessments. These can relate to a specific function, a country, an operation or a product/service in the value chain.
- **To commence thinking about grievance mechanisms**, some companies are beginning to develop tools to assess current mechanisms against the effectiveness criteria set out by the UNGPs.

**Putting the basics in place within large organisations takes time. Further, implementation is an on-going journey – and things change or go wrong:** The session was a reminder of the attention and time it takes for a single company to address one aspect of their human rights work/programme. So even for companies that are actively engaged and committed to implementing corporate respect for human rights, getting the basics in place across vast entities and value chains simply takes time. It is also clear – and evident – that the best tools, processes and systems can be undermined by personnel changes, restructuring, and bad decision-making. This is true of every aspect of corporate life and emphasises the need to build coherence, the correct incentives, robust processes, awareness and culture.

**Even leading companies are not finding ways to fully communicate their progress:** Committed companies may not be sharing and discussing the totality of what they do to stakeholders and the public. A few speakers noted that this reticence often comes from knowledge that there is still much more work to be done. Further, a bad incident or error (i.e. something going wrong) could render communication of progress and action meaningless (or worst, disingenuous) in the eyes of some stakeholders. At the same time, it is likely that stakeholders could interpret limited communication as limited or hollow commitment. The UN Forum and Working Group could seek to address this dynamic.

### Addressing risks to human rights via company/civil society relationships

**There are some common ingredients for successful relationships:** Based on the presentations from speakers on the panel, it became clear that certain things are important for meaningful and constructive company/civil society engagement. For example:

- Shared commitment to improved results for rights-holders.
- Two-way transparency including the company providing open access to documentation, and civil society not “blind siding” the company.
- Formalising relationships via open letters, MOUs, work plans, and even binding/contractual support, clarity and mutual accountability.
- Making the relationship institutional versus only between a few people (e.g., the NGO and someone in the CSR department). This includes meetings involving individuals at company and NGO Headquarters, in country and at a local/operational level.
- All parties must expect to learn, including being prepared to take on new data/facts, and to change perspectives and mind-sets even when they feel they start with a large amount of knowledge and insight.

**Grounding the interaction and relationship in the company’s responsibility to respect can be productive:** From the examples shared, it appears that meaningful relationships include a mutual interest in enhancing the company’s ability to meet its responsibility to respect as defined by the UNGPs. This is distinct from companies closing off genuine policy and practice changes, or civil society using scrutiny or knowledge of a company with the motive of influencing the action of others (such as governments or investors). When civil society proposals/recommendations dovetail with some level of existent company commitment and know-how, this seems to maximise the chances of successful relationships.

**Company/civil society relationships seem to be focused on addressing specific rights in specific contexts with specific individuals/groups in mind:** This seems to relate to the particular mission, agenda, skill set and experiences of the civil society organisation. In every example shared, the civil society actor is a recognised leader in achieving policy and practice change on the issue in question. It is also related to highly significant and severe risks for the company/industry in question which usually means the company itself has a level of knowledge/experience but sees the need to go further in its

efforts (e.g., land in the mining industry; trade union rights in textiles; child labour in agriculture; and freedom of expression and privacy in the ICT industry). Some actors may critique this dynamic for not focusing on all human rights as the UNGPs suggest. In evaluating partnerships in this regard a few things are worth noting. First, the activities linked to the relationship are rarely the sum total of a companies' responsibility to respect efforts. Second, addressing some rights in great depth can enable the protection and respect of others rights (examples from the session included the link of equality for women and tackling child labour in the cocoa supply chain, and the wider benefit to workers rights of trade union rights being protected under Global Framework Agreements).

**Timing and shared timeframes matter, and not everything takes a long time:** It is notable that in the examples involving a report from civil society, the company in question acted very quickly and constructively (sometimes meetings took place within one week and action plans were in place within one month). Importantly, this may be because the civil society group provided a window of opportunity for the company to input and engage before reports were finalised. Another observation is that establishing timeframes for implementing commitments, next steps, publication of reports etc. is important. A few speakers noted that managing expectations is necessary. For example, it helps if all actors are realistic and clear about what is possible by when (ideally with a short, medium and long-term division of actions).

**Good relationships should enable not replace further relationship-building with other actors, especially at the local level:** Multiple speakers emphasised that relationships between corporations and international civil society actors should not replace engagement with local stakeholders and rights-holders. There are, of course, particular strengths that international civil society organisations possess that companies can benefit from. Further, as one speaker noted, relationships with local actors can often be more conflict-ridden or politically complex. A key and positive feature of all the examples shared was that the company/civil society relationship actively encouraged and supported engagement with other actors. This includes local actors (for example local trade unions or affected populations). However, it also includes other international NGOs, academic experts, competitors and even (in the case of the Behind the Brands campaign) consumers and the public. At all levels, open and honest communication is a key ingredient for a successful engagement between companies and NGOs.

**Without government engagement, "Pillar 2" partnerships may only partially address the human rights impacts associated with business:** Ultimately, partnerships between diverse private actors (whether business or civil society) are generally, at some level, trying to fill a governance gap due to a failure of the State to meet its duty to protect (due to lack of political will or capacity). This suggests that more of these relationships need to have government around the table in order to sustain, widen and scale progress. At the next UN Forum, more examples of efforts that address specific cases should be included but with the extra dimension of host and home governments discussing their respective roles also.

## WELCOME AND SESSION OVERVIEW

### FROM UN WORKING GROUP ON BUSINESS AND HUMAN RIGHTS

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To commence the session Margaret Jungk, a member of the UN Working Group on Business and Human Rights, provided the following opening remarks:



*It is important to have this session as part of the Annual Forum, so that we can all (i.e. diverse stakeholders) discuss the complexity of what corporate respect for human rights means in practice. The session is innovative because it will both look inside companies to understand the policies and systems being put in place but also look at how business engages with civil society actors.*

*As we look inside the company, all actors need to appreciate that this certainly includes developing robust policies, operating procedures, processes and systems. But we also need to look at the cultural, people-side of respect for human rights – whether the message is from the CEO or the decision of the manager on the ground. These two dynamics need to work together to achieve effective and sustained human rights due diligence.*

*The UN Working Group wants to see more examples of companies talking publicly about their systems that are in some instances highly sophisticated and robust from a human rights perspective (not just a business management perspective). A major motivation for us to encourage this is to avoid the vast majority of companies that are new to the agenda having to re-invent the wheel. We need to close the gap between leaders and laggards. There is often reluctance for companies to share their approaches and lessons, in part because it is very easy to go from “hero to zero” when things go wrong. Further, good people can make bad decisions, and good systems can sometimes lead to bad outcomes. This reinforces the need to also engage with experts and constructive stakeholders who can support due diligence approaches.*

*As we move to the second part of the session we will be mirroring the balance in the UN Guiding Principles i.e. as well as putting systems in place companies need to engage with effected individuals and civil society organisations. This maximizes the chance of positive outcomes. Sometimes this is a tense engagement but it can be hugely constructive for all parties if done correctly.*

*Finally, we will hear from two governments who will reflect what they heard during the session. This is an important aspect because both business integration and company/civil society relationships are influenced by the context (or operating environment) that the government creates. However, this is also a complex task, meaning that it is key for governments to learn about what it takes to achieve corporate respect for human rights. Governments need to understand the challenges (and even frustrations) of communities, civil society and business in order to be effective in meeting their own obligations to protect human rights and provide remedy.*



## PART ONE

### EMBEDDING THE UN GUIDING PRINCIPLES IN COMPANY POLICIES, PROCESSES AND DECISION-MAKING

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#### Introduction

The UNGPs outline a standard of conduct for both States and businesses. For businesses, respect for human rights requires clear policy commitment to respect human rights, acting with human rights due diligence and engaging in remediation. This is not a check-box exercise. Rather it requires genuine mind-set, culture and systems changes (akin to the journeys we have seen around health and safety, anti-corruption and environmental management). Furthermore, the UNGPs articulate certain concepts and ideas that are intended to improve the quality of, and outcomes from, corporate action.

#### Speakers

In this panel, the following business leaders shared about their company's work to achieve meaningful integration, with reference to some of the key concepts set out in the UNGPs"

Julie Vallat, Group Legal Department, Compliance & CSR and Peter Herbel, Former Senior Vice President & General Counsel, **Total S.A.**

Kasumi Blessing, Senior Project Manager, Corporate Sustainability, **Novo Nordisk A/S**

Ron Popper, Group Vice-President and Head of Corporate Responsibility, **ABB**

Shane Boladeras, Social Performance Manager, **BG Group**

## Panel summary

### Total S/A

#### Establishing policy commitment and the role of CEOs and senior leaders

**Company profile and human rights background:** Total is the world's fifth largest global Oil and Gas company that operates in 130 countries and employs 100,000 people. The company also has 150,000 suppliers. It operates up-stream and down-stream in conventional and renewable energy. Total has made a public commitment to respect human rights (originally in the year 2000 and then updated periodically – outlined below). There are a number of implementation steps that the company has taken over the years including: companywide training and awareness raising; periodic ethical assessments in diverse geographies; and publishing two booklets as part of a Human Rights Internal Guide (the first booklet describes the company approach and detailed information on key topics for Total, and the second booklet illustrates how the approach is put into practice in Total's day-to-day operations, using 14 practical examples inspired by real situations). Total also plays an active role in sector initiatives, most notably IPIECA and the Voluntary Principles on Security and Human Rights.

**Human rights challenges and complexities:** Total operates in high-risk or complex environments. These risks are related to the country context, for example where governance is weak or conflict exists. There are also risk factors connected to industry processes. A number of dilemmas occur, and examples mentioned included building capacity to meet local content obligations; operating where different forms of discrimination are part of local law and culture; situations in which unions are forbidden; and engaging in conflict or post-conflict scenarios. Further, joint ventures are common in the industry and Total partners with IOCs (international oil companies) and NOCs (National Oil Companies). Each present a different set of challenges when it comes to addressing human rights.

## UPDATING OUR CODE OF CONDUCT

Tone from the top



- 3 priority business principles
- References to the UNGPs & VPSHR
- Seek to respect the highest standards
- Identify, prevent & mitigation of impacts
- Stakeholder engagement & Speak up climate

*“ In every business unit, management is in charge of instilling these values and ensuring that our business principles are respected.”*

*“ The Executive Committee and I are confident that each and every one of us will do business in line with the Code of Conduct.”*

Total presentation at the UN Annual Forum on Business and Human Rights 3 December 2014

**Making human rights a priority business principle:** In 2013, Total updated the company Code of Conduct (COC). Respect for human rights are now one of three pillars of the company's business principles alongside Integrity and Health, Safety and Environment. Among other things, where there is a difference between a legal requirement and our COC, Total seeks to apply the higher standard; establishes requirements for identifying, addressing and remediating human rights impacts; reinforces a "speak up" culture related to the business principles; and addresses the need, at times, for the company to raise concerns with host governments including those related to human rights (something the company has done, for example, in the case of Myanmar and Syria). The group ethics committee is responsible for the general oversight of the respect of the COC within Total's operations.

**A road map with a cross-functional human rights committee:** In 2013, the Executive Committee also approved a 3-year road map for implementation of respect for human rights. This road map identifies actions and internal accountability for those actions across diverse functions and Total operations. One aspect of the road map is to apply the lens of human rights due diligence across existing business processes including Environmental and Social Impact Assessments; Human Resources; and Mergers, Acquisitions and Disposals. A Human Rights Coordination Committee meets every two-months to monitor and improve the implementation of the road map. The committee is made up of representatives from diverse functions including legal, security, compliance, human resources, community-relations, ethics, and HSE. Representatives from corporate and branch functions are present. This works to avoid the silo-effect that can occur in large organisations.

**A long journey enthused by the CEO and senior leadership:** Establishing clear direction for human rights within Total has been a long journey that has not been simple. In the early 2000's the company had human rights commitments and actions in place but the approach was not systematic. It has taken time and multiple internal conversations to build knowledge about the relevance of human rights to the company. CEO commitment and leadership has been critical. Upon becoming CEO in 2007, Christophe De Margerie declared that corporate responsibility would be the basis for the company's strategy. In 2008, he publicly endorsed the UN Protect, Respect, Remedy Framework as the correct way forward to address human rights and business challenges. In 2013, John Ruggie, former UN Special Representative on Business and Human Rights was invited to engage with Total's Executive Committee – the first time ever someone who was not an employee had been invited to do so.

**Lessons:** Total identify the following lessons when reflecting on the decade-long journey of embedding respect for human rights at the policy and leadership level. They are to: demystify human rights for colleagues and be prepared to use operational language; tailor the business case to different internal functions and stakeholders i.e. speak about issues that are relevant to them; focus on *costs and opportunities*. On the one hand, good due diligence and remediation does cost money but also, there are always much larger costs when things are not managed and go wrong; take a sector approach i.e. work with competitors; take an integrated approach by working with existing processes and systems; and benchmark via engagement with experts, civil society and peers from diverse industries.

**Company profile and human rights background:** Novo Nordisk is a global healthcare company with 90 years of innovation and leadership in diabetes care. The company also has leading positions within haemophilia care, growth hormone therapy and hormone replacement therapy. Headquartered in Denmark, Novo Nordisk employs approximately 41,500 employees in 75 countries, and markets its products in more than 180 countries. The company has a long history of engaging on human rights. In 1998, Novo became one of the first companies in the world to publicly commit to adhere to the International Bill of Human Rights including the Universal Declaration on Human Rights. The company also conducted its first human rights assessment at this time, and has continued to engage on business and human rights since. The focus of the company's support for human rights work is on the right to health, as seen in the Changing Diabetes® programme worldwide. The company values in the Novo Nordisk Way expect every employee to 'Treat everyone with respect'.

**A refresh and reset due to the UN Guiding Principles:** In 2010, Novo Nordisk publicly supported the draft version of the UNGPs. Since their endorsement in 2011, the company has been re-energised and refocused by the UNGPs' requirements. Novo Nordisk follows the UNGPs as the framework for working with respect for human rights. The immediate question became how to implement the UNGPs and so in 2011 the company undertook a gap analysis to identify initial gaps in policy and management practice. Among other things, this resulted in consolidation of the company's global labour guidelines in 2013. In 2014, Novo Nordisk updated their human rights position (which is the company's public commitment) with attentiveness to the spirit and letter of the UNGPs.

**Corporate-wide due diligence – the framework:** In 2014, Novo Nordisk developed an approach to what they call "corporate-wide human rights due diligence" as an entry point. The applied approach addresses globally-executed processes, and nearly all of these have been scoped as human rights implicated. Within this framework, there are two types of processes: firstly, processes that are core to how the business creates value (products and services). This includes research and bioethics; patenting; clinical trials; production and patient safety. And secondly, support processes that are common to most companies such as human resources; legal; procurement; public affairs; risk management and business development.



Novo Nordisk presentation at the UN Annual Forum on Business and Human Rights 3 December 2014

**Corporate-wide due diligence – the process:** A cross-functional steering committee and focus group was responsible for overseeing the process. The person leading the project entered into dialogue with the owners of each process. This dialogue addressed the following three questions:

- **What are the company's impacts on human rights?** When doing this, Novo decided to make their best interpretation of the UNGPs. As such, they developed a tool to support the conversation that addressed: all human rights (not a pre-defined set); risk to people not just risk to the business; potentially affected people; specific business contexts; adverse impacts that the company may be causing but also contributing to or be directly linked to; actual and potential impacts; the nature of the impact in question (severity, i.e. irremediability, and likelihood).
- **How are these impacts currently managed and is this adequate?** This includes looking at the company's current governance structures, policies, standard operating procedures and assurance systems.
- **Are their grievance mechanisms in place at the relevant operational level and are they adequate?** This step includes reviewing existing processes against the 'effectiveness criteria' for operational level grievance mechanisms set out in the UNGPs.

During this process, Novo Nordisk also engaged peers and acknowledged human rights experts. Although the company did not engage directly with potentially affected people, Novo Nordisk is using existing grievance data and documentation of past consultations with patient groups to inform judgements about how well impacts are being managed.

**Findings, road map and current priorities:** The process described above led to the establishment of a road map and system to address key findings. Key findings included that there were no actual severe impacts that the company does not have a system in place to address. In other words, existing systems are generally of a high quality. Yet findings have suggested that there are areas where the company can and should do more, not only to proactively prevent potential adverse human rights impacts, but also to strengthen grievance mechanisms at the company's operational level. Accordingly, several areas for action were identified of which two require deeper due diligence: supply chain management and patient's rights. In the other areas, examples include seeking to apply best practice regarding security arrangements. As the company act upon these findings and strengthen human rights management through globally-executed policies and processes, the next stage will be to assess operations in specific local contexts by bringing impact assessment and due diligence to the local level.

**Lessons:** Some of the key lessons learned from the process were: Firstly, understanding the business context and reality of process owners and engaging their stakeholders and governance is key. This internal engagement builds buy-in and ownership internally. Second, undertaking corporate-wide due diligence is a good start because it allows a global matrix organisation like Novo Nordisk to address human rights risks through globally-executed policies, processes and tools, which should create an enabling environment for local units globally. It also builds internal capacity among relevant functional experts at the headquarters. This should help them to support their respective local counterparts when bringing impact assessments and due diligence to specific local contexts and challenges. Lastly and very importantly, the UNGPs helped the company to look at their human rights management with fresh eyes and in a more systematic and proactive way.

## ABB

### Capacity building and human rights training

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**Company profile and human rights background:** ABB is one of the world's largest engineering companies. It operates in power, automation technology and robotics. ABB has operations in around 100 countries with approximately 140,000 employees. The company has been engaged in the business and human rights agenda since the time of the Draft UN Norms. In the mid-2000s, ABB carried out a human rights analysis which led to the adoption of a human rights policy (2007) plus the introduction of human rights due diligence in three areas: project risk reviews, supply chain and mergers and acquisitions.

**Training as one of many key building blocks:** ABB recognises that there are multiple building blocks that act as a foundation for corporate respect for human rights. These include leadership commitment; policies; human rights criteria in business processes; due diligence around impacts; and access to remedy for affected populations. Training is another one of these building blocks and is not, as some may think, a "soft" aspect of corporate respect for human rights.

**A multi-faceted capacity building program:** ABB has put in place a number of complementary elements in place to strengthen know-how across the business. These include:

- **Global awareness training for senior and middle managers:** This program has been delivered in 15 countries and in some countries (India and China) in multiple locations. The training addresses: Stakeholder expectations of ABB regarding human rights (in which key instruments like the UNGPs are covered); the definition and meaning of human rights; where and how does the company impact human rights; ABB case studies; and supply chain.
- **Capacity building programme:** The aim of this program is to build a global network of human rights champions who can identify human rights risks and mitigating plans/actions. A network was launched in December 2014. There are currently 12 people in this and by end of 2015 ABB intends the network comprise around 20-30 people.
- **Business unit focused training:** Additional awareness raising training is targeted at business units that may – by virtue of their business activity – be supplying to projects that can have an adverse impact on human rights. One example is the hydropower industry where displacement, resettlement, adequate compensation and other challenges can occur. ABB's human resources function now has awareness raising sections in their training modules for "high potential" candidates and first line managers.

**Lessons/challenges:** ABB shared some key lessons and challenges regarding human rights training and capacity. First, the leadership mandate for training is key. Ensuring ongoing programs in the context of stretched resources is a challenge. Second, achieving coherence across a group of 140,000 people (five hundred times the number of people in the room) is difficult. This becomes even more of a challenge given the number of diverse functions and business units. Third, training is necessary but it is imperative to put the correct processes in place to ensure people make appropriate decisions. One example is that ABB's security function does not undertake human rights training as such but they have built human rights into questionnaires and requirements when contracting with security providers. Finally, it is acknowledged that people who are well trained can become "eyes and ears" on the ground to support overall due diligence efforts.

## BG Group

### The UNGPs effectiveness criteria and operational grievance mechanisms

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**Company profile and human rights background:** BG Group is an international oil and gas exploration and production and LNG company. It is an upstream business with approximately 5200 employees and with operations in 24 countries. The company is engaged in the full lifecycle of a project including exploration; construction; production; and decommissioning. BG Group published its human rights policy in late 2010. A range of functions, each with their own policies, procedures and internal controls, implement this. The company undertakes a number of activities related to this policy commitment including human rights training; applying the Voluntary Principles on Security and Human Rights; and undertaking Human Rights Impact Assessments in high risk contexts.

**Types of grievances that arise:** Human rights related grievances related to BG operations come in many forms. Examples of recent on-shore grievances include noise and odour from operations; rubbish around sites; and local community livestock becoming stuck in a pipeline trench that was not filled in properly. An off-shore example would be complaints from a local fisherman that his fishing nets were broken by a seismic vessel, resulting in loss of property and loss of livelihood prior to the nets being replaced.

**Standards and assurance that explicitly address the UNGPs effectiveness criteria:** BG Group's requirements regarding grievance mechanisms are embedded in the company's Social Performance Standard. The Social Performance Standard is based on the IFC Performance Standards and addresses, among other things: social impact and risk assessment; land acquisition and involuntary resettlement; and community health, safety and security. Grievance mechanisms are addressed in the section related to consultation/stakeholder engagement. The standards explicitly mention the UNGPs effectiveness criteria as follows: "The grievance mechanism shall be readily accessible, follow understandable, transparent and culturally appropriate processes, be designed to resolve grievances promptly, shall not result in any cost or retribution to the party that originates the grievance, and shall not impede access to judicial or administrative remedies". By virtue of being part of the Social Performance Standards, company grievance mechanisms are also subject to the company's assurance cycle. In some cases the internal assurance process has identified the need for deeper, third party analysis of the mechanism's effectiveness.

**Coordinating or supporting other processes/mechanisms:** Addressing cumulative or shared impacts when a number of companies or facilities are operating in the same region can be a challenge. Communities rarely distinguish between different operators, contractors, partners etc. Therefore, mechanisms need to be coordinated, aligned and somehow inter-related. This extends to trying to make the experience for impacted individuals predictable and consistent. In other instances, a mechanism that is operated by a public authority may pre-exist the company's presence. One such situation was identified through BG Group's assurance process. A lack of efficiency and capacity in the district (government) office to record complaints and forward to BG Group was leading to a delay in grievances reaching the company (affecting promptness and accessibility for those voicing grievances). In order to address this, BG Group supported the capacity building of the public system and officials via training, sharing of materials, setting up tools etc. The results have been positive.

**Lessons/challenges related to effectiveness criteria:** There has been some learning about issues that can help or hinder meeting the effectiveness criteria for operational grievance mechanisms. Lessons include: a) Good KPIS are critical. It is important to look at trends and not make judgements about effectiveness based on data at one point in time. One common pitfall is thinking that less grievances is automatically an indicator of success; b) the design of the mechanism should be informed by stakeholder engagement, especially with those who may ultimately use the mechanism. This can help with questions

of accessibility and cultural appropriateness; c) Addressing budget issues up front is important. In one situation, BG Group found that lack of internal clarity on who would cover the costs of compensation led to a delay in closing a case. The company now advises having a budget in place up front which can be used to close off cases. Following this, the company can address which functions or departments need to be “billed” for the payment.

**The Oil and Gas Industry association (IPIECA) toolbox and manual:** Over a two-year process, an IPIECA task force developed has developed two resources related to Community Grievance Mechanisms (CGMs). The first is a toolbox that includes an awareness pack, template operating procedures, and a diagnostic tool for existing CGMs. The second is a manual for site managers as well as those at corporate level.

**This overview pack is part of IPIECA's  
Community Grievance Mechanism (CGM) Toolbox**



Tool	When to use			
	Kick off	Assess Risk	Develop & Implement	Review & Improve
Template Procedure - a generic prototype Community Grievance Mechanism (CGM) to be adapted by a project site			X	
Awareness Pack to introduce CGMs to non-practitioners	X		X	
How to Guide to develop a new or improve an existing CGM	X	X	X	X
Complaint Risk Assessment Tool to assess operation's complaint exposure		X	X	X
Diagnostic Tool to improve an existing CGM		X	X	X
CGM Register to monitor, track and learn from grievances			X	X

Source: [www.ipieca.org/publication/community-grievance-mechanism-toolbox](http://www.ipieca.org/publication/community-grievance-mechanism-toolbox)

## Participant Q&A and Closing

Due to limited time, only one round of questions occurred and the panellists were given limited time to respond. The following areas were briefly addressed in the Q&A.

### **Why do things go wrong when policies and systems seem good?**

In essence because companies are made up of people and people do not always follow the rules. There is not only one reason for this. It can be a result of different cultural understandings of a rule or the idea of rules. It can be a function of an incentive structure that does not prioritise certain rules in favour of other objectives. Sometimes, people (often a very small number) simply do not want to follow the rules. All of this reinforces the importance of coherence, the correct incentives, robust processes, awareness and culture.

### **Are there often inherent tensions between the interests of the company and the interests of the community, especially when addressing issues becomes expensive?**

These tensions can exist. To avoid this as much as possible, it is imperative that the company has cross-functional buy-in, discusses the issues in depth and addresses the budgeting/resource question up front.

### **Given companies are acknowledging that it takes time to put in place the necessary components to respect human rights, how long are suppliers given to meet expectations?**

This is an important question for a number of reasons. The panel noted that: it is rarely black or white whether a supplier or business partner is a good performer or not regarding respect for human rights. Certain rights may be very well respected and others not. The decision then becomes whether to work with the supplier towards improvement; what is non-negotiable in terms of current practice or the timetable for corrective action; and how to work with the supplier to raise performance. A further query that needs to be addressed is what should companies ask of business partners to substantiate the judgment about their performance regarding human rights?

The moderator ended with a reflection on the scale and complexity of fully applying the letter and spirit of the UNGPs in companies. The panel addressed certain 'aspects' of the journey (policy commitment, governance, setting strategy/priorities, capacity building and grievance mechanisms). However, the UNGPs expect all companies to do all of these aspects plus many more (e.g. country or operation-level impact assessments; communication and reporting; managing supply chains; addressing other business relationships ... and more). In reality, business leaders committed to respecting human rights are often juggling at least several aspects of integration at the same time. It is a complex and time intensive change process.

The good news, as one panelist noted, is that there is a vast amount of thoughtful activity occurring within companies spurred on by the UNGPs. There is still more work to be done – not least supporting companies new to the topic on their journey. The landscape of company effort, innovation and practice has dramatically improved in the past decade (and indeed in the last five years since the UNGPs endorsement).

Finally, one participant identified that engagement with stakeholders and rights-holders is, in their view, a critical success factor for achieving meaningful results for vulnerable groups. This offered a helpful gateway to the second part of the session focused on company/civil society engagement.

## PART TWO

### APPLYING THE UN GUIDING PRINCIPLES IN SPECIFIC CASES – CASES OF COLLABORATION BETWEEN CIVIL SOCIETY ORGANISATIONS AND BUSINESS

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#### Introduction

The UNGPs are a means to an end, i.e. better human rights respect and protection for those impacted by business operations, decisions, omissions and actions. So UNGPs' implementation is far more than the development or enhancement of policies, processes and management systems.

As such, companies should, and need to, communicate openly about specific cases and situations including where they have made progress but also where mistakes have been made and lessons have been learned. Further, understanding what good quality and meaningful "respect in practice" looks like is a task that is highly dependent on the specific operating and human rights context, and in this regard cooperation with civil society organisations is crucial. And the UNGPs themselves call for engagement with human rights experts, relevant stakeholders and affected populations as part of due diligence processes.

#### Speakers

This panel brought together businesses and civil society organisations working collaboratively (though not always in full agreement) to apply the UNGPs in specific local contexts.

Simone Rocha Pinto, Human Rights Manager, **Vale** and Nisah Varia, Associate Director, Women's Rights Division, **Human Rights Watch**

Yann Wyss, Human Rights Specialist, **Nestlé S.A.**, Irit Tamir, Special Advisor, Private Sector Department **Oxfam America** and Nick Weatherill, Executive Director, **International Cocoa Initiative**

Felix Poza, Director de RSC, **Inditex** and Isidor Boix, **CCOO de Industria** (Industri-ALL Global Union Spanish affiliate)

Rebecca MacKinnon, Founder of **Ranking Digital Rights** [with apologies from Dan Bross, Senior Director of Corporate Citizenship, **Microsoft**

## Panel summary

### Vale and Human Rights Watch

#### Relocation of Communities around a Mozambique Mine

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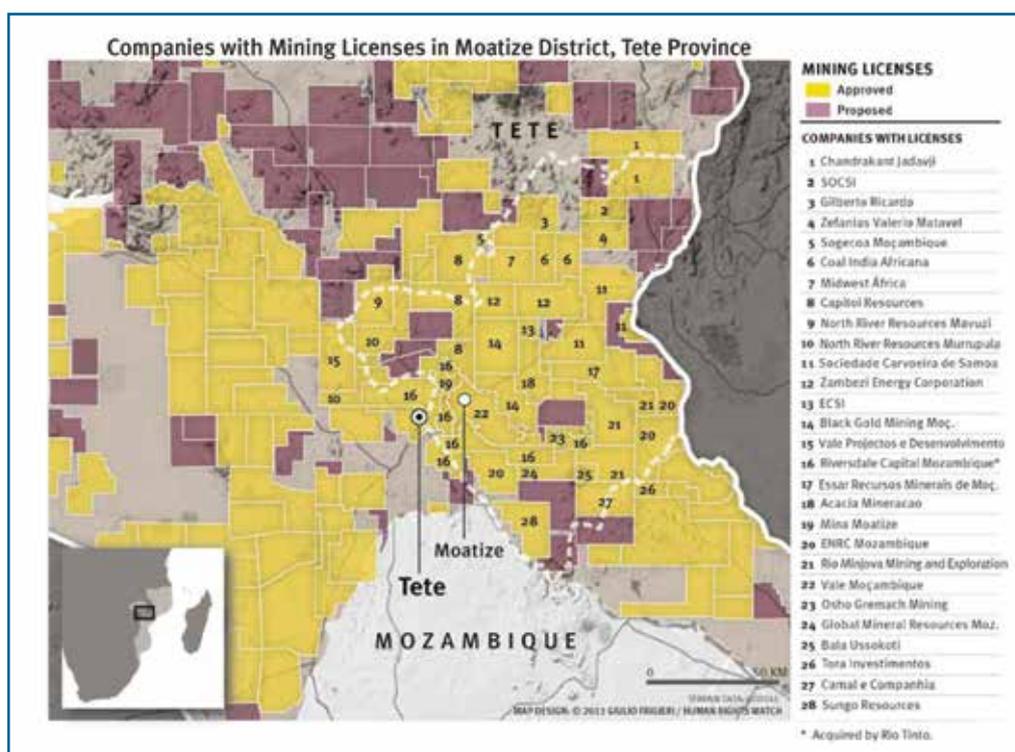
**Background:** One of the poorest countries in the world, Mozambique experienced a mining boom in the recent years that brought mining giants, including Vale, into the country. Human Rights Watch (HRW) has been monitoring the impacts of this boom on local communities, especially regarding resettlements. Between 2006 and 2010, Vale's Moatze mine involved moving 1,365 households living in close proximity. Vale worked closely with local communities on the resettlement, conducting dialogues and consultations undertaken as per company guidelines based on respect for human rights. HRW has worked with Vale to address concerns about resettlements and recognised its efforts throughout the process.

#### Remarks from Vale

- **Mode of engagement:** The relationship between HRW and Vale focused on Mozambique has been an informative and maturing one since 2012. From the company's perspective, certain aspects of HRW approach have been key factors in enabling this. Overall, Vale felt that the relationship was a "two way street" with a strong focus on transparency and being pro-active about changes on the ground as soon as possible. Further:
  - HRW have been very understanding of how a company works. This was reflected in the initial approach to Vale's president and in their support of the company's response and action plans.
  - HRW were very transparent from the beginning about what their research found and what they felt the company needed to correct. HRW shared their initial findings with Vale.
  - Related to the question of transparency, HRW wanted the company to be pro-active from the outset. They were in favour of Vale taking actions that would lead to results as early as possible for the families, communities and the company. Vale was then able to take action immediately.
  - Overall, it was clear that the spirit of engagement from HRW was not to "name and shame" but of course they were clear that this may happen if necessary.
  - HRW research methodology when conducting the investigation was thorough and fact-based.
- **Initial/immediate actions:** Following the initial communication to the company President, the Director of Community Relations was involved, and Vale's Human Rights General Manager met with HRW in Mozambique. The following actions were then taken:
  - Vale opened up the records about the resettlement process in question. They also discussed what was done, what flaws there were and what mistakes were made with HRW.
  - 6 weeks after the initial meeting, and upon the recommendation of HRW, Vale convened a 40-person group of managers within Vale employees in Mozambique to identify lessons learned. The experience of this was very positive for the company.
  - 1 month later, an agreement/MOU between Vale and the local authorities was signed. A plan of action containing 42 actions was agreed upon between these parties (related to water; housing; road maintenance; transportation and income generation). An important aspect of this was being clear about timing of the actions. Vale was clear about what could be achieved in the medium and long-term. Managing expectation about what was possible and by when was very important.

– HRW and Vale held follow-up calls to monitor and discuss progress. Within less than one-year, Vale’s Sustainability Vice President met with HRW in New York to reinstate Vale’s engagement in the process.

- **Report release, lessons and further steps:** “In May 2013, HRW released their report. Vale attended the release in Mozambique as well as dialogues with local stakeholders. At this stage, further actions were added to Vale’s action plan. By way of example, two areas of further work have been on social dialogue and grievance mechanisms. This reinforced existing thinking on these topics taking place within Vale. A key lesson was the need to ensure all human rights are dealt with in the context of Social and Environmental Impact Assessments. The company has applied this, and other, lessons elsewhere including in the port and railway in Mozambique. Further, the company now has a very clear internal norm about resettlement that is very clear about how the process should operate and that everyone in the business must apply.
- **The duty and roles of other actors:** A central challenge is the need to address the State’s duties as some of the issues relate to government policies, legal frameworks and actions related to land and resettlement. Related, the company cannot solve all of the problems unilaterally. There are also other companies involved in the social and human rights impacts on the ground.



Source: [http://www.hrw.org/sites/default/files/reports/mozambique0513\\_Upload\\_0.pdf](http://www.hrw.org/sites/default/files/reports/mozambique0513_Upload_0.pdf)

### Remarks from Human Rights Watch

Due to limited time, only one round of questions occurred and the panellists were given limited time to respond. The following areas were briefly addressed in the Q&A.

- **Introduction:** HRW is an independent not-for-profit organisation working in 90 countries. HRW undertakes fact-finding and investigations regarding a wide range of human rights abuses. They then publicise the findings and also engage with various actors to achieve necessary changes. HRW engage with governments, business and other actors.

- **Why focus on coal mining in Mozambique?** Mozambique is at a relatively early stage of extracting mineral resources. It is at the beginning of a mining boom. Further, the country has out-dated regulation and monitoring when it comes to licensing and oversight of mining operations, including related to land acquisition and use. All of this creates a recipe for an abuse of human rights. In 2012, HRW learned of a protest at a Vale mine related to quality of housing. All of these factors led to the initial investigation.
- **The relationship with Vale:** HRW noted that (compared to a large number of other responses to investigations) the nature of Vale's response/engagement was positive. First, the response to the initial inquiry was immediate and Vale made all the relevant documentation available. So, the company's attitude was timely and open. Second, HRW were given a high level of access to leaders and employees in at all levels of company – from HQ in Brazil, from offices in Maputo (capital of Mozambique), and at the mining operation. This engagement helped with HRW's ability to identify the best ways forward in terms of recommendations to improve the situation.
- **Engagement on the final report:** As mentioned, Vale attended the launch of the 2013 report and they participated in a meeting with local stakeholders. The company was given a version of the final report two-days before the launch. This was not to propose changes to the report but simply part of the open relationship. Due to the nature of the relationship HRW were able to reflect the views of Vale, and the actions taken by them, in the report in any case.
- **Lessons/Reflections:** The relationship with Vale was definitely positive and led to meaningful concrete changes in company action and the situation of the community in Mozambique. HRW is also pleased that Vale will take lessons learned and integrate them into policies and practices in other operations, and hopefully to others operating in Mozambique. Some bigger picture reflections include:
  - A number of issues could have been addressed/prevented if improved due diligence had been done early on.
  - Companies often have good systems in place but HRW find that they often lack an accurate picture of perspectives on the ground. Sometimes, companies hear the issues but fail to accept the gravity of them.
  - Forming relationships with local civil society organisations is critically important, but this can be different from working with international NGOs. Often, there is a heightened sense of conflict between local actors and the company; local actors may have access to fewer resources; can be less sophisticated in their mode of engagement; and some can feel excluded from a process. HRW urges companies to engage with local groups, and to thoroughly investigate any issues or concerns that come their way, without needing the external push/scrutiny that international NGOs bring. This is also true even when management thinks it knows the situation and even when interlocutors, on the surface, appear less credible.

## Nestlé, Oxfam and the International Cocoa Initiative

### Child Labour and Women's Rights in West African Cocoa Farms

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**Background:** In the past decade, a number of civil society organisations brought international attention to the issue of child labour in West African cocoa farms. Major cocoa producers, such as Nestlé, have delivered effective programmes, often in collaboration with NGOs, the Fair Labor Association (FLA), as well as through the International Cocoa Initiative. Nestlé has also worked with Oxfam to improve policies and practices on child labour and equal treatment of women throughout its supply chain.

#### Remarks from Nestlé

- **Context (Nestlé programmes and the cocoa industry):**

- The activities related to child labour are part of the overall Human Rights Due Diligence programme that Nestlé has put in place. The UNGPS have been critical in helping Nestlé design the overall programme, but also in clarifying the responsibility of the company to use leverage in addressing the problem of child labour in the supply chain.
- The Ivory Coast is the world's largest cocoa producer (about 40% of the world's production). In recent years the yield for cocoa has stagnated for a number of reasons including: lack of implementation of good agricultural practices; the small size of fields meaning limited industrial production; aging trees; and an aging workforce (as many young people do not want to work on the cocoa fields). There has been stagnation in prices of the commodity but also a reduction in prices at the farm level – in part due to high taxation and the number actors/tiers in the supply chain. Further:
  - A cocoa farmer earns about \$50/month, barely above \$2/day.
  - Research has shown that there are 800,000 children working in the cocoa supply chain in the Ivory Coast. Some are helping parents after school and are not doing hazardous work, but it is still a large number.
- In response to this context, Nestlé put in place the Nestlé Cocoa Plan made up of three pillars. The first pillar seeks to increase farmers' profits; the second pillar focuses on the social conditions in the supply chain; the third aspect seeks to ensure resilience in the cocoa supply chain to meet production needs.

- **Collaboration and results regarding social conditions:** In 2011, Nestlé partnered with the FLA to conduct a baseline analysis about prevalence of child labour in the cocoa supply chain. Interviews and analysis took about 4-months. The FLA made 11 recommendations. Nestlé adopted all of these including the formation of the Child Labour Monitoring and Remediation System which is supported by ICI. This system seeks to address policies and practices through all tiers of the supply chain i.e. from local grower/farm to cooperative to tier one suppliers to Nestlé. By the end of November 2014, 16 cooperatives had implemented the system. The aim is to have the system implemented by all Cocoa Plan cooperatives by 2016. With the support of ICI, Nestlé has conducted training with company employees (including agronomist who can now identify cases of child labour) and with external actors such as farmers and cooperative owners. A key finding has been that the system surfaces more instances/cases than audits of certification schemes (about 3000 instances of child labour were found that were linked to certified cooperatives).

- **Engagement is critical, including with the government:** The collaboration with the FLA and ICI has been crucial to Nestlé's work on child labour. Civil society organisations have the expertise, credibility and capacity to implement programmes, audits, reports etc. It is also important to try and engage the government in order to coordinate programmes.

## Remarks from the International Cocoa Initiative

- **About:** ICI is a multi-stakeholder coalition with the goal of achieving sector-wide change to protect children in the cocoa industry. The coalition includes experts with the correct human rights and social development skills, plus companies who have knowledge and capacity in managing supply chain. ICI is operationally grounded in the Ivory Coast and Ghana. A key aspect of ICI's work is building capacity of a range of actors in the supply chain (including Nestlé) and engaging communities and governments in the producing countries.
- **Insights/lessons:** In seeking to make productive changes on the ground via collaboration with multiple actors, ICI believes it is important to:
  - Recognise that identifying child labour is complex. It is not easy to walk into a farm and say: "that is child labour and that is ... not." Interventions need to consider time of the day, the nature of the work and the age of the child (which is not always easy to determine).
  - Building on existing capacity makes sense: Cooperatives in the supply chain are institutions with management capability and structures. Working through these is necessary.
  - Real remediation, not policing, is critical: Entering a farm and simply pointing fingers at child labour silences dialogue and pushes the issue under the surface. Farmers and children need good alternatives that work.
  - Innovation can help spread knowledge and good practices: One example is that ICI have implemented a smartphone application that allows data to be gathered and to inform decisions of cooperatives.

## Remarks from Oxfam

- **Oxfam and Behind the Brands:** Oxfam is a development and humanitarian NGO with operations in 90 countries. Taking a rights-based approach to their work is a key feature of Oxfam's work. Oxfam's engagement with Nestlé and others in the second occurs in part through the Behind the Brands campaign. This ranks and scores 10 food and beverage companies on 7 areas, namely land, women, farmers, workers, climate, transparency and water.
- **Behind the brands engagement:** Some issues and lessons to note about Behind the Brands engagement include:
  - It is not just about the relationship between Oxfam and the brands. It is also a dialogue that Oxfam tried to involve the public in.
  - It is not easy to engage all 10 companies on all 7 areas. Companies are often more comfortable/confident addressing some issues versus others.
  - Oxfam find it is effective to use reports and campaigns to highlight specific issues that they feel need stronger attention.
  - Oxfam does not set out to blind-side companies. Before going public with reports they provide the company (or companies) the opportunity to comment and understand Oxfam's demands.
- **Focus on women's inequality in the cocoa supply chain:** As well as recognising that women have rights that need to be protected, Oxfam also focus on women's inequality in the cocoa supply chain as a means to address child labour. This is because 43% of agricultural workers in the world are women, and women invest in their family's healthcare, the children's education and in food. As such, increased income and opportunity for women in the supply chain can get to the underpinning factors driving child labour.

- **Pressing and engaging Nestlé:** In 2013, Oxfam conducted research and highlighted the issue of women's rights in the cocoa supply chain. This process involved engaging Nestlé (and others) both privately and publicly. Shortly after the public engagement/campaign, Nestlé agreed to all of the requests/demands. After engagement between Oxfam and Nestlé (plus Mars and Mondelez), a road map to address the issues has been agreed and can be found on the Behind the Brands website. Oxfam is now engaged with these companies to evaluate progress on this road map.

12 June 2013

**WOMEN COCOA ROADMAP**



### Women and chocolate: an action roadmap

In the Spring of 2013, as part of Oxfam's Behind the Brands campaign, more than 100,000 people urged Mars, Mondelez and Nestle to 'look, listen and act' for women cocoa farmers and their families. By April all three companies had made the important commitments we demanded as a first step toward tackling gender inequality. We're looking forward to working with Mondelez, Mars and Nestle to ensure they stick to their promises to women. This road map shows how these commitments should become reality. As the 'Big 3' chocolate companies move from promises to action we'll update this page show progress and of course, as necessary, suggest further action to keep things on track. [Here](#) is our latest assessment of the Big 3.

<p><b>1 MAY 2013: Make public commitments</b> The companies have publicly committed to Oxfam requests to Look, Listen and Act for women cocoa farmers and their families.</p>	<p><b>MARS</b></p> 	<p><b>Nestlé</b></p> 	<p><b>Mondelez</b></p> 
<p><b>15 MAY 2013: Sign up to UN Women Empowerment Principles</b> The UN Women Empowerment Principles are a set of principles for businesses that help guide their work to empower women in the workplace, marketplace and community. By signing up to support these principles, the</p>	<p><b>MARS</b></p> 	<p><b>Nestlé</b></p> 	<p><b>Mondelez</b></p> 

Source: <http://www.behindthebrands.org/en-us/campaign-news/women-cocoa-roadmap>

## Q&A with participants

### **Does the behind the brands campaign support better internal engagement within Nestlé?**

This work has led to some positive changes within Nestlé regarding attention and alignment from diverse functions. The work by Oxfam is very innovative and they have indeed been pro-active in engaging with the companies. One question that Nestlé has is whether this will spread to other companies, not just the few at the top of the ranking who are competing (such as Nestlé and Unilever).

### **Given ICI are committed to addressing the whole cocoa sector, do you have plans to address pricing disparity because one of the main issues for farmers and farm workers is poverty?**

Addressing pricing of a global commodity is complex but we have to address the issue. For ICI this is ultimately about whether a farming household can receive a living income from growing cocoa. ICI is working on this in a few ways including: addressing productivity and yield; and diversifying income (such as for women whose children are working on the farms). The wider “philosophical” question is whether the market should or will set prices. The problem at the moment is that labour costs at farm level are externalised so the sector has to deal with this. However, a recent NGO study noted that if the top 10 chocolate producers in the world distributed 50% of their profits it would not be enough to bring farmers out of poverty (i.e. there is not enough value in the system). So the question is also about how much consumers are willing to pay for the product.

### **What data is collected on the smart phone system described by ICI?**

This is collected at the community level by Community Liaison Officers. The data relates to child labour cases, and socio-economic issues. It is drawn from interviews and other research. It aids Nestlé and others to better understand the local context.

## Inditex and IndustriAll

From global agreement to local application. From unilateralism to mutual responsibility

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**Background:** Inditex manufactures close to 1 billion garments per year. Approximately 1 million workers in 5000 factories in 40 different countries make these garments. In 2007, Inditex signed a historic agreement with the global union federation IndustriALL. The Global Framework Agreement, renewed in 2014, promotes decent working conditions across Inditex's 6,000 supplier factories worldwide. The agreement emphasises the importance of freedom of association and collective bargaining, enabling workers to monitor and enforce their rights. Inditex's code of conduct underpins the agreement by setting out requirements on zero tolerance for forced and child labour, the guarantee of a living wage, and other core labour rights.

### Remarks from Inditex

- **Our Activity:** a flexible sourcing strategy creates Dynamic Challenges, for that reason the approach to our supply chain requires non-traditional and innovative solutions, our internal and external teams consist on people from various backgrounds and strengths. All of the Group's suppliers are bound by the social and environmental responsibility values that define Inditex and are enshrined in our Code of Conduct for Manufacturers and Suppliers.
- **The Agreement:** However our efforts go beyond mere compliance, a sustainable and robust supply chain is only achieved with constant improvement, which can solely be articulated through social dialogue and coordination with the company's different stakeholders. In Inditex this dialogue is developed through its own tool, the clusters or groups of suppliers, and also through the Global Framework Agreement with IndustriALL Global Union which gives rise to numerous joint actions.
- **Organisation:** Inditex currently works by grouping its suppliers into clusters, which are defined as areas for dialogue and multilateral cooperation. The Group has ten clusters in the geographic areas where it has a larger and more significant presence: Spain; Portugal; Morocco; Turkey; India; South East Asia; Bangladesh; China; Brazil and Argentina. These clusters account for some 90% of Inditex's total production.

The clusters of suppliers are defined as spaces of cooperation that involve suppliers, manufacturers, trade unions, business associations and international buyers with the common objective of promoting a sustainable productive environment in a strategic geographical area to develop the Inditex business model within a framework based on the fulfilment of Fundamental Labour Rights.

- **Engagement:** While we continue implementing our compliance programme, we are looking far beyond, seeking to maximise our positive impact on our supply chain. We understand that the task ahead of us is ambitious and challenging. For this reason, we join our efforts with trade unions; non-governmental organisations (NGOs); trade associations; governments; international purchasers and members of civil society to participate in venues for dialogue together with our suppliers and manufacturers.
- **What does the Global Framework Agreement with IndustriAll mean?**
  - A direct communication line between the workers of our suppliers and their factories and Inditex.
  - A way to involve workers in the continuous improvement of the factories through their representatives.
  - A mechanisms at the factory level to train workers and employers in solving their problems.

## Remarks from IndustriALL

- **Policy framework:** The company started its trade union work in 2002 with a series of unilateral commitments, codes and approaches to implementation. In 2007, both parties signed a Global Framework Agreement (GFA) which was the first such agreement in the garment sector. There are now 42 such agreements in diverse sectors. In 2012, Inditex and IndustriALL signed a protocol on trade union rights. The protocol established the role of trade unions in the implementation of the GFA. In 2014, the GFA was renewed.
- **Application:** By 2013, action under the GFA had led to 3500 factories being active in relation to trade union rights. Other activities included country-level follow-up plans; trade union visits to a number of factories; a pilot project in Turkey involving elected workers' representatives, trade union leaders and managers from factories; conflict resolution in Peru, Cambodia and Bangladesh; and a project to create factory health and safety committees in Bangladesh.
- **Looking forward:** In the first instance, local trade unions need to be involved. This means engaging in bargaining, discussions and factory visits. The role of unions is not just about addressing grievances or complaints. It is also about preventing problems and addressing the root causes of labour rights abuses. In the second instance, it is important to recognise the move to joint responsibility. The time of unilateral corporate commitments should be over in favour of mutual and contractual commitments between actors. Joint responsibility also needs to be about broadening the application and spreading this experience to others in the sector.

## Q&A with participants

### What do the panellists think about an international binding agreement with regards to corporate respect for human rights?

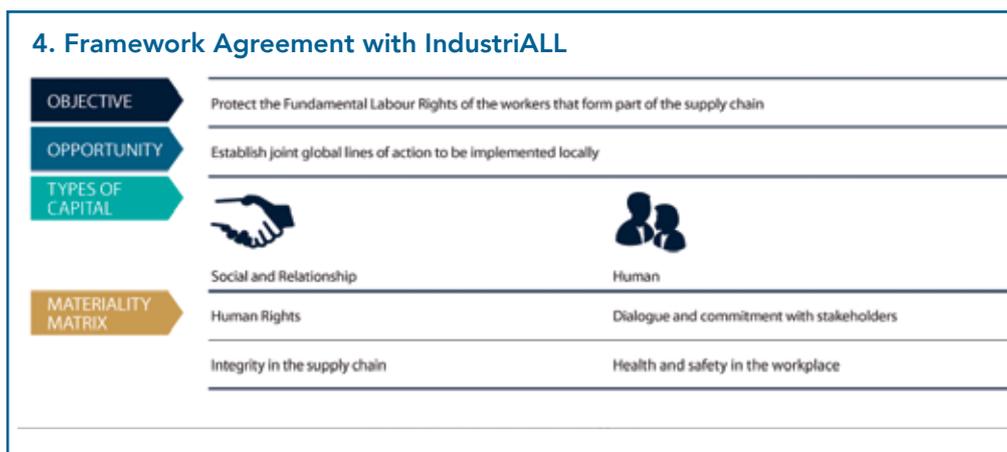
- It is important to recognise that unilateral action and voluntary actions often pre-date frameworks and rules. At this moment, there is no international legal framework that is easy to apply. There have been union proposals for many years to establish global rules regarding worker rights in the context of WTO frameworks and global trade. This would indeed support the journey to more binding/contractual commitments. But until then, GFAs do move us beyond the current status.
- It is key to move to binding/contractual agreements at a local level so mutual responsibility exists. The work with IndustriALL has moved the company in that direction and this already moves us beyond current legal requirements, using the GFA and local arrangements. These are legally binding. An international binding agreement is different and would be more complex but there is work under way.

### The UNGPs require company's to look at all human rights not just a sub-set of rights. How does this work address this new expectation since 2011?

- The work has evolved from the original code of conduct. The evolution takes into account the prevention, correction and remediation concept of the UNGPs.
- From a union perspective, we cannot detect all problems. At the same time, our work with Inditex needs to be focused and we feel that the focus on union rights is correct. At a local level, the first challenge is for managers to invite trade unions in when they knock at the door. This can then lead to addressing a whole range of rights concerns.

### Has this led to better results? Is the impact/success of GFA and local application measured? How does this work relate to the Accord in Bangladesh?

- There are metrics and examples of cases that have been resolved.
- The Bangladesh agreement is key and a new development in the world because it is a contractual/binding agreement between 190 actors. This makes Bangladesh part of the culmination on what has been worked on for many years.



Source: [http://static.inditex.com/annual\\_report/en/Challengesandperspectives/4FrameworkAgreementwithIndustriALL.html](http://static.inditex.com/annual_report/en/Challengesandperspectives/4FrameworkAgreementwithIndustriALL.html)

## Ranking Digital Rights with apologies from Microsoft

### Privacy and Freedom of Expression in China

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Dan Bross, Microsoft, was unfortunately taken ill, but he asked Rebecca Mackinnon, of Ranking Digital Rights to go ahead without him – a clear sign of trust.

#### Remarks from Rebecca Mackinnon

- **The human rights issue:** This example is different from other examples because it focuses on the rights of Internet users online versus workers or local communities. In particular the issue is how information and communication technology (ICT) companies providing web, voice, and Internet access services respect the freedom of expression and privacy of users. The issue first came to the attention of many about 9-years ago in relation to China but it is a concern all around the world. Also, it is often about companies being stuck between a government and the company's users/customers.
- **An evolving relationship between civil society and business:**
  - *Online criticism of the sector:* In January 2006, Microsoft had its first experience with this issue. A story surfaced about Microsoft deleting a blog of a Chinese activist. After investigation it transpired that this followed a phone call from a government official and was a result of action taken by a local Microsoft partner. This was happening at the same time as Yahoo! and Google were involved in related freedom of expression and privacy issues in China. In 2006, the status of the company/civil society relationship was effectively "yelling at each other over the blogosphere."
  - *A binary interaction in the United States:* During 2006, a high ranking U.S. member of Congress called out these cases and in effect claimed that the companies were "morally deficient" for allowing things to happen. At this time, the conversation was binary or black and white. Many argued that companies were wrong to do business in China. The companies argued that their presence was a good thing for realising development and various rights where they operate.
  - *A discussion about subtleties:* At a similar time, certain individuals and organisations within civil society started asking more subtle questions such as: If a company is going to do business in this market, how will it do business? What will or should a company do to be responsible? Were the requests for user information or data take down linked to a legal process? Do Microsoft (and others) have a process in place to evaluate requests or evaluate local partners?
  - *Multi-stakeholder agreement on principles and monitoring:* In 2008, the Global Network Initiative (GNI) was founded based on the "Principles of Freedom of Expression and Privacy." A number of companies, human rights organisations, investors and academics are part of this process to agree guidelines, monitor their implementation and support transparency regarding company practices.
- **The case:** The intention was for Microsoft to discuss their work relating to a business partner in China. In 2011, Microsoft purchased Skype. Skype's Chinese joint venture had been exposed as enabling government surveillance and censorship. Working in close consultation with the GNI's civil society and academic members, Microsoft ended Skype's original joint venture and found a new local partner that allowed Microsoft to maintain control over Skype's security and communications.
- **Lessons:** The relationship between civil society organisations and the major internet service providers evolved over a 9-year period. The Microsoft/Skype example (see below) reflects how the relationship between Microsoft and civil society has evolved from one of public confrontation to shared learning, dialogue, and problem solving. What is important to recognise is that both sides learn from the engagement. A key learning for everyone was that decisions were not black or white (i.e. stay or go). For civil society actors engaged in GNI, an important piece of learning is that companies are often

faced with a range of sub-optimal choices. Sometimes the role of the civil society/company relationship is to support the company to make the least bad choice, and to be open that it has made this choice.

### Reflections from government representatives

*Stephen Lowe, Team Leader, Business and Human Rights Department, Human Rights and Democracy Directorate, Foreign and Commonwealth Office – UK Government*



*It has been highly valuable to see examples of companies and civil society working together. This approach, demonstrating practical examples of collaboration is hugely valuable. A key theme for me has been that both sides learn in the process. The example of addressing child labour in the cocoa supply chain is a reminder that we need to put in place long term-changes that are sector wide. It is also clear that this approach makes sense for businesses that rely on resilient supply chains for production ... So what is governments' role in all of this? It is clear that the government can encourage and reinforce these partnerships. At the same time government is a purchaser and contractor itself and can send strong market messages, supporting best practice. Government can also help by legislating where appropriate. A recent example for the UK government is our work on modern day slavery. And, as we advise and support UK business in the context of trade we have a role to play. Finally, as was the case with the UK National Action Plan, governments can engage both business and civil society in the consultation process.*



*Guillermo Rivera, Consejero Presidencial para los Derechos Humanos y el Derecho Internacional Humanitario de Colombia – Government of Colombia*



*We would like to share two experiences from Colombia of partnerships to further the implementation of the UN Guiding Principles. The first is the Colombia Guidelines, which involves the government with 20 companies, plus civil society actors and is funded by international donors. This initiative focuses on protocols for grievance mechanisms and reporting, but one of the key outcomes has been the creation of more trust between all actors. The second experience involves the Colombia Mining and Energy Committee that addresses how companies contract with private and public security forces. This involves 15 companies plus NGO and government representatives. It is like a national example of the Voluntary Principles on Security and Human Rights.*





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