GBI

GUIDANCE BRIEFING SERIES

WHAT "GOOD" LOOKS LIKE

Engaging suppliers



Contents

Why this practice-based series? 3

Why engaging suppliers is essential 4

What does engaging suppliers look like in practice? 5

Good practice for engaging suppliers 8

Key considerations for policymakers 12

Further Resources 13

Disclaimer

The views expressed in this publication are those of the author and do not necessarily represent the views of GBI's member companies. Nothing in this document constitutes legal or commercial advice and it should not be relied upon as such. Instead, all information, content, and materials contained and linked to in this publication are for general informational purposes only. If you require professional advice, please seek support from a qualified legal or commercial advisor.

What "good" looks like

Engaging suppliers

"When companies treat suppliers as partners, it can lead to stronger human rights outcomes for workers and ensure more resilient and long-term supply chains."

Anita Ramasastry, GBI Senior Advisor

As large, multinational companies grapple with the practical realities of human rights and environmental due diligence (HREDD), the most severe risks to people often sit deep within their value chains, and well beyond tier one of the supply chain. Addressing supply side risks requires building trusted relationships – viewing suppliers as partners.

This guidance briefing examines why engaging suppliers is essential to effective HREDD, some of the barriers companies face, and tools and approaches that have helped businesses make progress. Drawing on company practice, we also offer insights to help policymakers design smart, enabling regulation and equipping companies to move beyond box-ticking supply chain approaches towards more genuinely responsible conduct. In line with the United Nations Guiding Principle on Business and Human Rights (UNGPs), companies should identify and address risks and impacts across their value chain. More information on this can be found in GBI's guidance briefing on Identifying and addressing human rights risks and impacts.

Why this practice-based series?

In 2011, the States in the UN Human Rights Council unanimously endorsed the UN Guiding Principles on Business and Human Rights (UNGPs). The UNGPs have enjoyed broad support by companies, industry groups, sustainability and human rights experts, civil society, and affected stakeholders because the UNGPs were based on years of rigorous research and broad global engagement

The Global Business Initiative on Human Rights (GBI) is the only business-led initiative solely focussed on supporting companies through peer learning to improve the implementation of their responsibility to respect human rights under the UNGPs and carry out human rights due diligence. That work has resulted in a substantial and detailed repository of practice-based insights and knowledge about what human rights due diligence means when facing real-world challenges, and what can reasonably be expected of companies in their pursuit of respecting human rights and the environment.

As regulations such as the European Union's Corporate Sustainability Due Diligence Directive (CSDDD) and other national laws establish binding obligations that largely codify and operationalise the core principles of the UNGPs, GBI is now sharing its experience and practice-based insights in a guidance series about "what good looks like."

The aim of this series is to help further the development of mandatory due diligence legislation on sustainable business in the European Union and elsewhere in ways that are practical, realistic, and in line with the UNGPs. This guidance also aims to help companies to understand what "good" looks like when it comes to implementing mandatory human rights and environmental due diligence.

Why engaging suppliers is essential

As companies seek to implement human rights and environmental due diligence (HREDD), their engagement with suppliers is essential to identifying, mitigating or addressing potential or actual adverse impacts in their supply chain. This is because for many companies, their most salient human rights risks relate to workers in their supply chains, often beyond tier one.

However, engaging with suppliers can be a challenging part of HREDD. For many companies, the scale and scope of engaging with their suppliers is immense. Often suppliers are small- and medium-sized enterprises (SMEs), meaning they might have more limited capacity to implement HREDD. Additionally, some suppliers might be reluctant to engage with their customers on human rights due to the perceived or actual financial costs of ensuring rigorous risk evaluations.

Differing legal frameworks can also cause suppliers to resist focussing on certain issues, as there may not be a legal requirement to do so. There may also be a difference in norms on engaging on human rights issues. Suppliers may also feel the burden of different customers having varying expectations on human rights, including different reporting requirements.

Despite these challenges, when it is done well, engaging with suppliers can lead to suppliers becoming partners in identifying and addressing adverse impacts to people and being multipliers for company human rights commitments. Engaging suppliers is key to effective human rights risk management but can also help to build resilience in company supply chains. Developing strong partnerships with suppliers can help companies to maintain a competitive advantage, access sustainable finance opportunities, and improve consumer trust.

Engagement with suppliers should begin as early as possible in the relationship and should continue, even as adverse impacts are identified and remediated. If issues are identified, companies should be prepared to use their leverage to influence the supplier to respond to adverse impacts.

There may be some situations where a company may need to terminate a relationship with a supplier, if a supplier refuses to mitigate or address an adverse human rights impact or if the same adverse impact continues to occur. Companies should always anticipate and consider the human rights impacts to the supplier and its community of terminating a relationship, in line with the UNGPs.

What does engaging suppliers look like in practice?

1. Clarify human rights expectations early on

Analysing the potential human rights risks associated with a particular supply chain before entering the supply chain can help companies to prepare for their engagement with suppliers. Companies should analyse their purchasing practices and attempt to identify potential human rights risks that might arise due to their own policies and practices. For example, pricing that could lead to low wages for workers or short lead times that translate into excessive overtime.

By aligning expectations in the pre-bid and tender processes, companies can start to build a commitment to human rights into their relationships with suppliers from the beginning of the relationship. Some companies choose to assess suppliers' human rights and ethical practices whenever new suppliers are being considered. Companies may wish to use pre-bid questionnaires to ask suppliers about their approach to identifying and addressing human rights risks and impacts, and to outline the company's own commitments and expectations. Companies can augment this initial information with the approaches below.

2. Align on human rights through contracting

Contracting can be a powerful tool for advancing HREDD as contracts can help companies and suppliers mutually agree on their human rights obligations. However, contracting is not without its challenges. Power imbalances in negotiations can lead to one-sided clauses incompatible with human rights outcomes and commitments, Companies should seek to be clear about human rights expectations and allocating responsibilities in contract terms.

Involving human rights teams in contract negotiations is critical to ensuring that human rights expectations are embedded meaningfully and realistically into supplier relationships. Human rights practitioners can bring the necessary expertise to identify potential human rights risks and priority issues before negotiations begin, enabling companies to focus on what matters most. Ensuring that contract requirements consider the broader context and are pragmatic can help to make human rights demands more reasonable for parties. Companies should seek to be clear about allocating responsibilities in contract terms.

Companies may also translate their codes of conduct on human rights into contractual terms with suppliers. This can help to foster alignment but must also be accompanied by measures to ensure suppliers understand and are implementing the code of conduct. Frequently asked questions or illustrations of what the terms mean can be very helpful. Contract terms should clearly allocate responsibilities and be paired with efforts to support suppliers in addressing human rights risks, rather than shifting the full burden onto them.

3. Build capacity and raise awareness of human rights issues with suppliers

Capacity building and awareness raising for suppliers can involve many different forms and approaches. Some companies directly train suppliers to have more impact, being able to build capacity with the riskiest or work to further the capacity of the most advanced. While online trainings are less expensive and can be done to scale, in-person, on-site trainings can enable more engagement with suppliers and their workers.

Some companies develop train-the-trainer programmes to train suppliers further upstream. Mature suppliers can help to expand the reach of training and tools up the supply chain. Suppliers may also need additional capacity building that may come with costs to the supplier. Some companies have financially supported certain costs for suppliers to identify and address human rights and environmental risks in their supply chain.

4. Look beyond audits and engage suppliers to identify risks

While many companies use audits to identify human rights risks, audits have limitations in their ability to detect the full extent of human rights risks. Audits can sometimes encourage a selective and "Band-Aid" approach to addressing issues, which spots only some superficial issues rather than offering intelligence about the extent of problems and their root causes. This hinders a clearer analysis of impacts and the development of strategies to address issues over the long term.

Rather than relying completely on audits, companies should seek to engage suppliers by effectively communicating human rights standards and best practices, building trust and shared ownership over challenges, acknowledging and rewarding good practice, and approaching the relationship as a partnership.

Scale is a challenge for engagement beyond audits – particularly for companies with thousands of first-tier suppliers – so some companies choose to focus further on the highest risk and critical suppliers. Encouraging suppliers to be transparent about their challenges and to seek advice, can help a company and supplier build open partnerships. Some companies also engage collectively with other companies in their sector to identify and address human rights risks with common suppliers. Collective action can help to address issues with scale, as well as varying expectations for suppliers

5. Consider a range of tools to engage workers in the value chain

A range of ancillary support tools can also be used to connect to workers in the value chain, including in-person discussions with workers and employee surveys. Many companies are piloting or implementing worker voice technologies to supplement their audits. Worker voice tools should be designed with workers in mind and if possible, with their feedback, to ensure they are fit for purpose. Trust building and empowering workers to bring forward complaints is an important part of any worker voice exercise.

Empowering workers to report issues can prevent harm, lead to mitigation, and identify grievances which, if left unresolved, may also develop into major risks over time. Ensuring anonymity and non-retaliation for workers is also essential.

Suppliers may need support to build their grievance mechanisms and ensure that they are fit for purpose. Some companies may wish to extend their own or a third-party grievance channel as workers may feel more comfortable accessing an outside grievance mechanism. However, companies should consider the impact to workers and communities if there are multiple channels for all the suppliers' customers. This may create confusion for workers and communities about the correct channels to use. Industry initiatives for grievance mechanisms may help companies avoid multiple grievance channels. Trade unions and worker representatives can also facilitate channels for workers to communicate grievances.

6. Use leverage with suppliers to mitigate or prevent harms

Whenever possible companies should seek to engage the supplier to mitigate or prevent harms and use leverage to change their practices. Some companies have found that acknowledging good performance can help incentivise other companies to improve their human rights performance. For example, in response to identified risks, companies will require Corrective Action Plans and put suppliers on Improvement Plans to be completed in an agreed period of time. These should be designed in partnership with the supplier and should serve to alleviate the abuse or improve access to remedy from the supplier. Sometimes when companies are unable to terminate a supplier relationship for business reasons, they should continue to engage with their supplier on human rights and seek to build leverage over time. If a company lacks leverage and is unable to increase it over time, the company should consider terminating the relationship.

7. Support suppliers in remedying impacts

Where there is a contribution to an adverse impact, companies have a clear responsibility to remediate. As actual adverse impacts are identified, companies should be prepared to use their leverage with suppliers to ensure that remedy is provided.

Companies may also support suppliers in remedying adverse impacts by assisting with financial remediation or helping to build supplier capacity to do so. Direct engagement in remediation may seem counterproductive in terms of building suppliers' capacity, but sometimes there are circumstances where direct engagement may be appropriate. Some companies have found that solutions mediated by the company can present a good and relatively simple way to build trust between suppliers and their workers.

Good practice for engaging suppliers



The following good practices and accompanying examples of company action are based on insights from GBI's multi-year work with companies. The lessons drawn indicate how companies have been working towards good practice. Some of these lessons may be more relevant than others depending on the corporate context.

GOOD PRACTICE | Clarify expectations on human rights early in the relationship with suppliers

Lessons drawn from practice:

- Some companies develop their own Human Rights Guide or Human Rights FAQs to help explain what human rights means for the company. This can help companies to clarify expectations with suppliers.
- Companies can incorporate questions about suppliers' policies and practices regarding human rights in their pre-bid questionnaires to vet suppliers early.
- The human rights function should raise awareness with procurement colleagues about potential red flags to look for with suppliers in the bidding stage. While raising awareness with procurement colleagues is important, companies should also seek to promote cross-functional collaboration between procurement, legal, compliance, human resources, and sustainability to strengthen supplier engagement and HREDD implementation.

GOOD PRACTICE | Use contracts to embed human rights into the relationship

Lessons drawn from practice:

- Many larger companies include human rights issues in their Supplier Code of Conduct which can be included as a contractual obligation. Companies should ensure that Supplier Codes of Conduct are understood by suppliers, which can include Human Rights FAQs or capacity building exercises.
- Some companies use risk-based approaches to analyse contract terms, factoring in the partner company's value, relationship type, exposure, and prioritising human rights issues. For example, depending on these factors, they may recognise that smaller contracts can pose higher risks.
- When a supplier's policies are not aligned with the UNGPs, companies can engage to help build the necessary supplier capacity. For example, a company may provide regular support and capacity building to a supplier to enable it to establish HREDD processes related to forced labour. This support may also include a maturity assessment tool to track supplier progress and encourage the development of systems aligned with the UNGPs, rather than focusing solely on contract compliance.

- Risk mitigation clauses can be used with key suppliers to help ensure transparency and accountability, such as the right to conduct audits, inspect records, and the right to engage with workers.
- Some companies may choose to develop formal MoUs with suppliers to help balance power dynamics by outlining mutual commitments and setting realistic expectations for supplier compliance, with the aim of avoiding unenforceable clauses. The MOUs are put in place separately from the contract and create a collaborative framework for ongoing collaboration on human rights issues, enabling dialogue, more effective risk assessment, and the sharing of best practices.

GOOD PRACTICE

Develop capacity building and awareness raising tools for suppliers

Lessons drawn from practice:

- Online tools and resources can be an initial first step to train suppliers at scale. Some companies offer suppliers a suite of online tools and resources to help suppliers align with the UNGPs and key legal requirements. Basing these on key risks and real-life examples can help participants to understand what they need to do in practice. For example, one company has developed toolkits for suppliers that focused on in-depth issues that were identified as part of its due diligence, such as traceability, grievance mechanisms and reporting. To accompany these toolkits, the business offered in-person workshops for suppliers.
- Some companies organise "supplier forums" for CEOs to help raise awareness about respecting human rights, but also to reward suppliers which have demonstrated good performance. Positive recognition can help to incentivise suppliers to further implement respect for human rights in their operations.
- Where a company's leverage with suppliers and other business partners is low, some companies find that collaborating at an industry level can increase influence, communicate common expectations to suppliers, and enable the costs of delivering training to be shared.

GOOD PRACTICE

Supplement audits with additional engagement with suppliers and workers

Lessons drawn from practice:

- Some companies supplement audits by holding confidential follow-up conversations with workers. For example, a company practitioner shared "contact cards" with workers during audits, so that workers could follow up with them directly if they had concerns that they were not comfortable raising during the audit. Interviewing workers directly and without the presence of their managers can help companies to understand the situation on the ground. This can also help to overcome trust barriers for future surveys or use of worker voice tools.
- If audit reports identify little or no issues, consider adding additional approaches -surveys, worker voice tools or worker interviews to supplement the information. Also consider the way an audit is being or has been conducted; are they designed in a way that may lead auditors to miss issues?

- One company set up an advisory council to help independently assess a significant supplier's practices, including human rights in the community where the supplier was operating. Because direct stakeholder engagement was difficult in the community, the advisory council was meant to address the company's inability to engage with stakeholders to understand the supplier's potential impacts. The council was composed of experts with knowledge of the context. An ombudsman who was acceptable to rightsholders, served as an observer, enabling the concerns of stakeholders to be brought to the council's attention. The council was tasked with advising on the supplier's human rights practices and to build trust with rightsholders so that the council could become a viable avenue for stakeholder input into the due diligence process.

GOOD PRACTICE | **Recognise that worker voice tools are not a panacea**

Lessons drawn from practice:

- Some companies pilot worker voice tools to ensure that the technology being used, the questions asked, and the types of responses they receive are effective in terms of identifying human rights risks. These tools need to be designed with the users in mind, and consider the ease of use, language and confidentiality, among other factors.
- When worker voice tools include surveys, companies should ensure that the questions can be easily understood by workers and elicit information that can be confidently interpreted by the company.
- The usefulness of worker voice tools depends on workers' trust. Building trust with suppliers is also important to implementing these tools effectively. Worker trust can be undermined if there is confusion about which mechanism (worker voice tool, supplier hotline, company hotline etc.) workers should use and if using such channels does not lead to concrete responses or measures.
- Companies should seek to develop relationships with civil society organisations (CSOs), human rights defenders (HRDs) and trade unions to identify, prevent, and mitigate or address risks with workers, and take similar steps in communities where the suppliers are located.

GOOD PRACTICE

Reward progress and terminate relationships only as a last resort

Lessons drawn from practice:

- One company's strategy for mitigation of forced labour risks relies on engagement with suppliers and involves a 'menu of choices' which allow it to offer targeted measures of support depending on the supplier's level of knowledge and experience. Measures include various forms of training, site visits and funded consultancy support. These steps stem from a recognition that capacity building is necessary to address the risk of forced labour. The company has worked with peer companies which source from the same suppliers to deliver joint workshops.
- In seeking to overcome a reliance on 'check box' exercises, another company has focussed on positive reinforcement. This process encompasses a supplier award programme which recognises good practices developed by suppliers to remediate forced labour.
- Another company works with suppliers on their improvement plans. It encourages suppliers to visit the company's own factories to see how it implements its human rights policy.

GOOD PRACTICE

Collaborate to ensure the effective delivery of remedy

Lessons drawn from practice:

- In addition to directly engaging on remedy with suppliers, some companies also build the capacity of suppliers to be able to improve their approaches to remediation. For some companies, this includes financially supporting the repayment of wages or recruitment fees. Some companies also help to build capacity with suppliers afterwards to prevent repetition of the harm.
- One company was contacted by workers in its supply chain about issues they had with recruitment agencies threatening the workers and their families about the repayment of fees. The company exercised its leverage with the supplier to ensure it refunded the recruitment fees to the workers. The company also recognised that non-financial forms of remedy might be important and encouraged the supplier to move the workers to safer housing, and also work with a non-governmental organisation to ensure their wellbeing.

GOOD PRACTICE

Engage with multi-stakeholder initiatives to address the root causes of human rights issues

Lessons drawn from practice:

- Engaging with multi-stakeholder initiatives has also helped companies and their suppliers to try to respond to the root causes of human rights issues as part of their remediation. For example, the International Cocoa Initiative brings together businesses and civil society to address human rights issues in the cocoa sector.

Key considerations for policymakers

Mandatory human rights and environmental due diligence (mHREDD) legislation will impact suppliers across jurisdictions. To prevent concerns that legislation will create undue burdens on suppliers, policymakers should seek to design legislation that encourages and facilitates company engagement with suppliers rather than creating additional burdens. Policymakers should consider the following:

Encourage engagement with suppliers

Legislation should seek to encourage companies to partner with their suppliers to build capacity rather than encourage disengagement. Engagement with suppliers should be encouraged at all stages of the relationship, from the early stages of procurement discussions through to if an adverse impact is identified. Legislation should also encourage companies to engage and support their suppliers in mitigating or remedying potential or actual adverse human rights impacts, rather than terminating the relationship.

Recognise the role of leverage

The UNGPs expect companies to use their leverage with suppliers when potential or actual adverse impacts are identified. Legislation should recognise the role of leverage and encourage companies to use it to engage with suppliers to mitigate or address adverse impacts. Companies should be encouraged to use their leverage or build leverage over time to address human rights risks, rather than terminating the relationship.

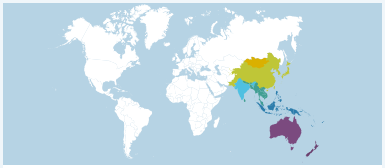
Avoid facilitating tick-box exercises with suppliers

Where possible, legislation should avoid promoting HREDD to be conducted solely through social audits in order to prevent the process from becoming compliance-based, tick-box exercise. Instead, HREDD should consist of a range of processes, informed by meaningful stakeholder engagement, including with suppliers. Legislation that allows for companies to be flexible in their engagement with suppliers, while maintaining guardrails, will help to ensure that legislation is meaningful.

Promote and enable capacity building

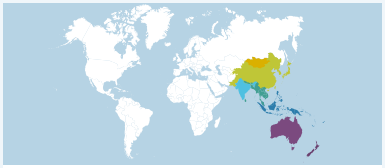
Legislation should seek to encourage companies to partner with their suppliers to build capacity rather than cascading their human rights responsibilities on to suppliers. Encouraging capacity-building and awareness-raising initiatives for suppliers, potentially at industry levels, would be useful for facilitating stronger engagement with suppliers on human rights. Regulators can also support legislation by developing guidance for companies on engaging with suppliers on implementing HREDD.

Further Resources



Summary: GBI workshops on engaging suppliers in human rights due diligence

GBI's business practice portal



Webinar: Going beyond audits value chain due diligence in India 2022

GBI's business practice portal



Addressing modern slavery

GBI's business practice portal

Developed by business for business, these evolving resources draw on practical insights across various areas of company practice.

Credit: Cover image vural.



Global Business Initiative on Human Rights
19c Commercial Road, Eastbourne, East Sussex, BN21 3XE, UK
engage@gbihr.org www.gbihr.org