



United Nations Responsible  
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*Anchoring Progress and Strengthening  
Regional Leadership on Human Rights through Crisis*



## Deepening due diligence: Navigating human rights risks in extended supply chains

### *Session insights*

#### **Background**

GBI and Pillar Two's workshop on "Deepening due diligence: Navigating human rights risks in extended supply chains," explored with business practitioners the varying challenges and opportunities associated with responding to adverse human rights impacts beyond Tier 1 in the supply chain. The workshop brought together participants from a wide range of sectors including consumer goods, IT, logistics, oil and gas, and manufacturing. Participants worked across various internal functions such as sustainability, legal, and procurement functions, each bringing a different perspective about how they would approach responding to the identified issues.

Participants discussed a fictional case study involving allegations in a retail chain store's garment and chocolate supply chains. Specifically, business practitioners discussed in small groups and in plenary:

- Steps to take when human rights incidents or allegations arise, including gathering additional information and assessing a company's level of involvement
- Approaches to building and using leverage in situations where there is not a direct contractual relationship
- Strategies for engaging external stakeholders to support remediation efforts

#### **Assessing the situation and a company's level of involvement**

Once a company is made aware of a concern, complaint or allegation within its extended supply chain, whether through an audit, grievance mechanism, media report or other channel,

participants highlighted the importance of verifying the incident or allegation with additional sources of information. This can be done through a number of avenues. For example, companies could engage with trusted civil society organisations (CSOs) to understand more about the nature of the complaints and open pathways to engage with those impacted. Having pre-established relationships with CSOs was highlighted as critical for ensuring timely and trusted engagement.

In some cases, companies may not initially know whether a reported incident in a relevant sector is occurring within their own specific supply chain. To address this, supply chain mapping may be necessary to determine the presence and location of the impact, understand the company's level of involvement, identify relevant stakeholders and inform an appropriate response. Companies may also choose to conduct a human rights impact assessment to further explore the nature of the impact, and any additional impacts, and clarify their level of level of involvement and how they should respond.

For issues deeper in the supply chain, the importance of engaging directly with the intermediary Tier 1 supplier was also underscored by participants. As the direct business partner, Tier 1 suppliers may have further information about the sub-supplier involved, including its operating context, and the issues raised. Participants also used the cause, contribute, directly linked framework (also known as the 'continuum of involvement') under the UN Guiding Principles on Business and Human Rights (UNGPs) to assess the hypothetical company's level of involvement. The continuum of involvement helps companies to understand their level of involvement in a particular adverse human rights impact and how they should respond. Often, adverse impacts beyond Tier 1 are situations of contribution or direct linkage.

In the discussion, participants recognised that sometimes it can be challenging to determine if a company has contributed to an adverse harm or is directly linked. It was also noted that different stakeholders may have different views on a company's level of involvement. Additionally, participants explored potential factors that could shift a company's involvement in an adverse human rights impact from being directly linked to contributing to it. For example, a company's level of involvement could shift from directly linked to contribute where it had prior knowledge of the adverse impact(s) occurring and chose not to take action or its purchasing practices significantly enabled or incentivised the impacts to occur. It was emphasised that each situation must be assessed on the specific facts and context.

### **Building and using leverage to address impacts**

In contribution and direct linkage situations companies are expected to build and use their leverage to respond to the adverse human rights impact, even when the impact occurs deeper in the supply chain. In line with the UNGPs, they may also consider playing a role in remediation and should consider whether to remain in the business relationship. The nature

and extent of leverage a buying company has over a Tier 1 supplier can depend on a range of factors, including contractual terms, the duration and scope of the contract, and how much human rights was emphasised in initial contractual negotiations. Companies can potentially build leverage in a range of ways, such as by increasing the scope of a contract to increase the commercial value of the relationship to the supplier. Companies can choose to make human rights “business critical,” which can help to build leverage and increase awareness with business partners. For example, including human rights in early discussions and contract negotiations with business partners can help to build leverage from the beginning of a relationship. For impacts in the extended supply chain, the discussion highlighted that building and effectively exercising leverage nearly always requires collective action. This may involve collaboration with Tier 1 suppliers, industry peers, governments or CSOs. Companies should also consider engaging in sectoral or multistakeholder initiatives where relevant to build help build leverage.

The workshop also explored situations where companies lack sufficient leverage and are unable to build more leverage over time. In these situations, it was noted that companies should consider terminating the relationship as a last resort. However, when there is no other option but to terminate the relationship, companies should take a responsible exit approach, including conducting the appropriate human rights due diligence to identify and address any potential impacts resulting from this decision.

### **Stakeholder engagement in enabling remediation**

Engaging meaningfully with stakeholders, particularly those who have been directly impacted by the company or its business partners, can be essential for designing and delivering effective remediation for adverse human rights impacts. The discussion explored some of the challenges of playing a role in remediation where the impact occurs deeper in the supply chain and highlighted the role of third parties, such as CSOs, in supporting stakeholder engagement.

While companies should focus on remediating the immediate harm, participants highlighted the importance of also preventing the recurrence of the harm by addressing the root causes of the impact. Engagement in multistakeholder initiatives can also assist companies to address root causes more holistically. The discussion also emphasised that the appropriate remedy should ultimately be informed by those that have been impacted. Examples of types of remedial actions explored included providing financial remediation (such as repayment of recruitment fees) and engaging in capacity building activities either with the Tier 1 supplier or the supplier directly involved to help ensure the harm did not re-occur.

The UNGPs outline that companies are expected to communicate how they respond to adverse human rights impacts, including where concerns are raised by or on behalf of affected stakeholders. Communicating about grievances can be challenging for a company when there are concerns about legal risk or liability. In these situations, companies may need to find ways

to carefully share updates on their actions with stakeholders, including those that have been adversely impacted.

### **More information**

If you have questions about the session, or would like additional information, please contact [Sophia.areiass@gbih.org](mailto:Sophia.areiass@gbih.org), or [sarah.mcgrath@pillar-two.com](mailto:sarah.mcgrath@pillar-two.com) and [alexander.coward@pillar-two.com](mailto:alexander.coward@pillar-two.com).