SUMMARY REPORT

Insights from GBI's roundtable discussion for business practitioners on effective value chain due diligence

3 September 2024, Mumbai, India

The evolving global regulatory environment, increasing reporting requirements, and a growing number of national guidelines on business and human rights are raising expectations for companies to conduct effective human rights due diligence across their value chains, including both upstream and downstream. The global direction of travel is towards mandatory measures; however, the UN Guiding Principles on Business and Human Rights (UNGPs) can guide companies in navigating this ever-changing legal landscape.

The UNGPs lay out the framework for companies to respect human rights. By developing human rights due diligence processes that companies can trust, companies can best prepare for changes to the regulatory landscape.

GBI's roundtable discussion on effective value chain due diligence focussed on some of the challenges and practical approaches that companies can take in conducting effective human rights due diligence upstream and downstream in the value chain.

Building supplier capacity and streamlining processes for suppliers is a priority for companies.

As companies engage with their suppliers, there is a growing awareness of the increased requirements for suppliers on human rights and environmental impacts.

To build supplier capacity, companies are organising forums for their suppliers to engage with one another to discuss challenges and approaches to respecting human rights. One company had implemented a supplier CEO forum to engage suppliers to further develop their aspirations and align their expectations to respect human rights. Another company had been exploring ways to streamline processes so that the same supplier did not have to submit numerous reports to different companies.

Practitioners recognised that incentivising and engaging suppliers was more effective than using "sticks" to encourage respect for human rights.

Companies were exploring various incentives to build supplier capacity to respect human rights. One company had recognised that for each supplier there was an associated financial cost, and so focussed on securing loans to pass the benefits and incentives along to their suppliers. Another company was seeking to eliminate child labour in its supply chain with smallholder farmers. The company built schools in communities that did not have any identified cases of child labour.

Effective downstream due diligence may require companies to develop guardrails for negotiating sales and commercial contracts.

International standards on the corporate respect for human rights expect that companies conduct human rights due diligence to identify, mitigate and address adverse human rights impacts across their entire value chain, including downstream. This is the expectation for companies under the UNGPs, which was also reaffirmed in 2023 in the revised OECD Guidelines for Multinational Companies on Responsible Business Conduct.

Ongoing and completed litigation on company products and the use of those products has also solidified the legal expectations for companies. Despite the omission of downstream due diligence from some emerging regulations such as the EU's CSDDD, omitting downstream human rights due diligence can create critical blind spots, potentially harming the human rights of those affected by a company's products or services.

This may not only expose the company to legal risks but also damage its reputation with customers and partners, jeopardise its social license to operate, and hinder market expansion. Large settlements or remediation efforts may be necessary if adverse impacts arise. GBI's report on effective downstream due diligence provides additional insights on the drivers and risks, and practical examples of how companies are approaching downstream due diligence.

As part of effective downstream due diligence, companies may wish to raise internal awareness, particularly among sales and commercial colleagues, about potential human rights risks. Companies may wish to develop guardrails for contracts with new business opportunities.

One practitioner recognised that it was particularly difficult to engage with sales and commercial colleagues on the company's new policy on downstream due diligence. The practitioner explained that it took a significant time to raise internal awareness on downstream due diligence. They also recognised that it took some time to adapt policies and processes on downstream due diligence to reflect the Indian context.

Companies may also need to turn down opportunities because of their commitment to respect human rights.

Companies shared examples of turning down opportunities because they were not in line with the company's policy on downstream due diligence. One company explained that when opportunities that raised internal red flags were brought to the company's executive committee, the committee stood by the company's downstream due diligence policy to turn down the business opportunity.

Companies raised the challenge of business opportunities going to their competitors who may have more lenient approaches to human rights. For that reason, one company recognised the importance of increased regulation in their sector to level the playing field when it comes to misuse of their products.

GBI's external engagement programme seeks to convene business practitioners in India to engage in peer learning to advance the corporate respect for human rights. Business practitioners who are interested in participating in future GBI discussions should contact sophia.areias@gbihr.org.