BUSINESS ROUNDTABLE REPORT

ROUNDTABLE FOR ASEAN BUSINESS LEADERS: IMPLEMENTING CORPORATE RESPECT FOR HUMAN RIGHTS

10 November 2011, Kuala Lumpur, Malaysia

ASEAN FOUNDATION

GLOBAL BUSINESS INITIATIVE ON HUMAN RIGHTS

bcsr malaysia

Global Compact Network Malaysia

asean CSR Network

Regional Support Center Asia-Pacific

Dr Makarim Wibisono, Executive Director, ASEAN Foundation

"This is a timely opportunity to bring together business leaders and key experts on human rights in the ASEAN region to discuss issues and exchange ideas pertaining to human rights and business. We are honoured to support this forum as it addresses the mandate of the ASEAN foundation to promote greater awareness of ASEAN and to advance interaction among various ASEAN stakeholders.

Puvan Selvanathan, Sustainability Advisor, Sime Darby Group

"We have seen that global imperatives such as climate change and sustainable development used to echo in halls in New York or Geneva, but now they are on the agenda in our own Boardrooms. Responsibility and sustainability are not fashions or fads – they are here to stay and we should become more adept at dealing with these new business norms. Respecting human rights is part of those norms."

Vanessa Zimmerman, Principal Advisor (Human Rights), Rio Tinto

"The alternative to acting responsibly has a range of negative consequences ... If you do get it right then there are a lot of opportunities in terms of enhanced value and enhanced relationships. ... Familiarisation with the language of human rights is vital and we need to understand what it means to a site manager, procurement department or security operative."

Rafendi Djamin, Chairperson and Indonesian Representative AICHR

"The government and civil society sides are beginning to discuss human rights challenges together in multi-stakeholder forums. These are very strategic, very important and very effective.

Alexandra Guaqueta, Lecturer at the School of International Studies, Flinders University

"Our previous understanding of CSR was around investment and philanthropy. The UN GPs and other codes of conduct and initiatives that have similar writing and similar processes to the UN GPs are really about the core business. These processes will require a lot of dialogue among stakeholders and learning around the challenges that each will face."

Ed Potter, Director, Global Workplace Rights, The Coca-Cola Company

"The genius of the UN Guiding Principles is that they provide us with a very streamlined framework of how business, big or small, can approach that work. The opportunity presented by the Guiding Principles is for business to be proactive in a way that is not being pushed by external stakeholders but for the business to decide in their own way how they are going to go about that. All companies need forums like this to exchange views and learning."

Salil Tripathi, Director of Policy Institute for Human Rights and Business

"Increasingly companies from this region are becoming international ambassadors – they are investing abroad sometimes in fairly difficult places and if they end up operating without a framework or an understanding of human rights they will have problems."

CONTACTS

GLOBAL BUSINESS INITIATIVE ON HUMAN RIGHTS

Katryn Wright
Programme Manager
katryn.wright@global-business-initiative.org
www.global-business-initiative.org

ASEAN FOUNDATION

asean CSR Network

Thomas Thomas
Chief Executive Officer
ASEAN CSR Network
thomas@csrsingapore.org
www.csrsingapore.org

bcsr malaysia

Puvan Selvanathan
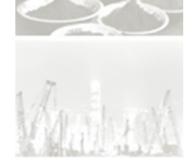President
BCSR Malaysia
puvanjs@gmail.com

Global Compact Network Malaysia

Mr Andrew Bryan Perera
Constitutional/Legal Advisor
Global Compact Network Malaysia

CONTENTS

INTRODUCTION

This report has been written to document key speeches, discussions, insights and outcomes from a one-day business-to-business Roundtable entitled "Implementing Corporate Respect for Human Rights" - held in Kuala Lumpur, Malaysia on 10th November 2011. The Roundtable was aimed at business leaders from ASEAN countries[1] - Indonesia, Malaysia, the Philippines, Singapore, Thailand, Brunei Darussalam, Viet Nam, Lao PDR, Myanmar and Cambodia - as well as Multi National Corporations (MNCs) operating in the region. The session brought together experiences of ASEAN-headquartered and international companies, as well as relevant experts, and explored the challenges, needs and opportunities to progress human rights and business in Malaysia and the ASEAN region generally.

The objectives of the roundtable included introducing the latest international policy developments (in particular the UN Guiding Principles on Business and Human Rights); demystifying the agenda by clarifying the link between human rights and business; building the business case by discussing using human rights as a way to understand and implement corporate social responsibilities; and exchanging experiences by exchanging good practices, dilemmas and challenges for corporations (in ASEAN and around the world) in implementing the corporate responsibility to respect human rights in their operations. The sessions also sought to identify the possible contribution of the ASEAN business community to the human rights and business agenda, and vice-versa and ways forward for exploring human rights and business in the ASEAN region.

The event was attended by over 130 participants including over 90 from business, 9 representatives from UN bodies, 16 from civil society, 10 from academic institutions and 5 from business associations. This meeting was the first of its scale in the region focused on business leaders.

Speakers at the event included representatives from a range of businesses such as Sime Darby, SN Aboitz Power, The Coca-Cola Company, Vale, General Electric Company, Millenia Hotel Private Limited and Flextronics; from regional bodies including the ASEAN Foundation; National Human Rights Institutions (NHRIs); and from NGOs and Civil Society groups including Oxfam and the Institute for Human Rights and Business.

REGIONAL POLICY AND PRACTICE CONTEXT

Integrating Human Rights as an aspect of Corporate Social Responsibility practice is increasingly seen to be a critical component of operating a successful business, aligning with global aspirations and responding to the needs of the communities in which companies operate. Despite significant advances and increased political will, many ASEAN countries still face key human rights challenges which companies, whether headquartered in the region or elsewhere, should be aware of to avoid violations of, or complicity in, human rights abuses within their operations in the region.

ASEAN constitutes both an immense market and human resource and talent pool[2]. ASEAN nations also possess an abundance of natural resources including oil and gas, rubber, timber, minerals (including gem stones) and palm oil together with opportunities for downstream processing of resources. However, this potential can leave the region vulnerable to a plethora of human rights concerns including exploitation of resources, labour issues, environmental degradation and destruction, and threats to indigenous communities' rights. Additionally, ASEAN-headquartered companies are increasingly operating abroad in sensitive areas and are at risk of complicity in human rights abuses. If they had known or should have known or if there is a system whereby they have aided and abetted a particular offence or benefited from or contributed to it, then there are very serious risks to the company of being complicit.

The Roundtable discussions highlighted key areas of high human rights risks to companies operating in the ASEAN region, as well as possible responses. Issues covered included that companies operating in some countries in

---

ASEAN should be aware of challenges such as rights of migrant workers, land issues and indigenous peoples' rights, child and forced labour, and privacy and freedom of expression. These include 'under the radar' industries such as the Thai fishing industry, an example given by the Business and Human Rights Resource Centre representative to the Roundtable. In the Roundtable breakout sessions, Oxfam also pointed to the top three areas of concern as precarious work, poverty wages and poor management/ worker relations. Allied to that, they believe many business practice that undermined labour standards and that there is an overreliance on audits.

GLOBAL CONTEXT

In all countries around the world, an essential part of the individual and collective corporate responsibility journey is the interface with emerging international frameworks and approaches, such as the UN Global Compact, the Global Reporting Initiative and the Millennium Development Goals. Such interaction contributes to fostering a vision of an ethical, fair and sustainable globalization that works for all.

The past decade has seen increased consensus, clarity and commitment about human rights in a business context. This is due to many major corporations seeing the clear, long- term business case for respecting human rights, including improved risk management; improved compliance; efficiency gains; reduced operational disruption; sustained license to operate; new business models; and access to capital and markets. As well as escalating commitment to the UN Global Compact – where human and labour rights content is strong – companies all over the world have practices to share that relate to human rights (even if they are not labelled as such).

The work of the UN Special Representative to the Secretary General on business and human rights Professor John Ruggie (UN SRSG) U has been instrumental in building momentum and convergence in this area of corporate responsibility. In 2011, the United Nations took the unprecedented step of endorsing the UN Guiding Principles for Implementation of the Protect, Respect, Remedy Framework which is described here:

- **THE STATE DUTY TO PROTECT**: The first pillar of the UN Framework is the state duty to protect against human rights abuses committed by third parties, including business, through appropriate policies, regulation and adjudication. It highlights that states have the primary role in preventing and addressing corporate-related human rights abuses.

- **THE CORPORATE RESPONSIBILITY TO RESPECT:** The corporate responsibility to respect human rights means acting with due diligence to avoid infringing on the rights of others, and addressing harms that do occur. This is a global standard of expected conduct acknowledged in virtually every voluntary and soft-law instrument related to corporate responsibility, and now affirmed by the Human Rights Council itself.

- **ACCESS TO EFFECTIVE REMEDY** Effective grievance mechanisms play an important role in both the state duty to protect and the corporate responsibility to respect. As part of their duty to protect against business-related human rights abuse, states must take appropriate steps within their territory and/or jurisdiction to ensure that when such abuses occur, those affected have access to effective remedy through judicial, administrative, legislative or other appropriate means.[3]
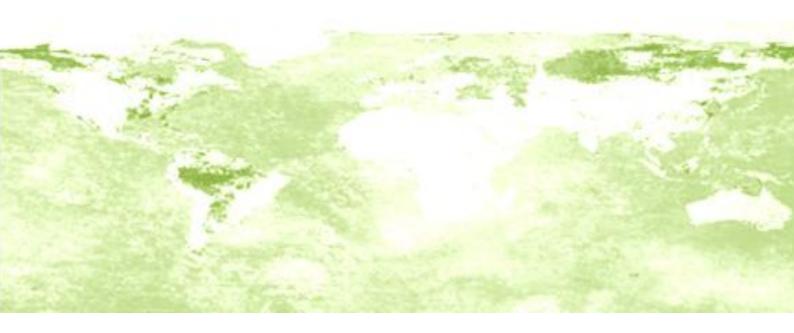
A summary of the Guiding Principles is in the appendix to this report. They cover a range of issues including the role of government, State Owned Enterprises, the state-business nexus, multilateral institutions, due diligence and extra-territorial jurisdiction. Discussions around the GPs at the Roundtable focussed on GPs 15, 16 and 18 under the Corporate Responsibility to Respect, but also touched on the State Duty to Protect and the failure to enforce current legislative attempts in this area.

Business, government and civil society leaders engaged in a pro-active way in the work of the SRSG. In 2006 the UN Special Representative to the Secretary General on business and human rights Professor John Ruggie (UN SRSG) held a regional stakeholder consultation in Bangkok followed by a broader regional meeting in New Delhi in 2009. This included participants from ASEAN member States, including Cambodia, Indonesia, Thailand and the

---

3 *A full breakdown of the "Protect, Respect, Remedy Framework" can be found at: http://www.business-humanrights.org/SpecialRepPortal/Home*

Philippines. In 2008, the SRSG sent a representative to the Asia-Pacific Forum (APF) of National Human Rights Institutions (NHRIs), which that year focused on CSR and human rights. The APF endorsed the U.N. Framework and recommended that NHRIs in the region use it to promote corporate respect for human rights. In 2010, the Special Advisor of the SRSG met with AICHR during its visit to the US and in March 2011 there was a further meeting in Singapore. AICHR submitted a statement in support of the UN Guiding Principles to the Human Rights Council prior to their endorsement[4]. The region has been represented in other aspects of the SRSG's work such as the SRSG's Corporate Law Project.[5] The SRSG's web-based portal for shared learning regarding non-judicial grievance mechanisms also includes examples from the region (international, regional, State, company level, industry led etc)[6].

At its seventeenth session, in resolution A/HRC/17/4, the Human Rights Council established a Working Group on the issue of human rights and transnational corporations and other business enterprises, consisting of five independent experts, of balanced geographical representation, for a period of three years. Two members of the new working group spoke at the ASEAN Roundtable in their personal capacity. The Council established a Forum on business and human rights under the guidance of the Working Group to discuss trends and challenges in the implementation of the Guiding Principles and promote dialogue and cooperation on issues linked to business and human rights, including challenges faced in particular sectors, operational environments or in relation to specific rights or groups, as well as identifying good practices.[7]

---

4 http://www.business-humanrights.org/media/documents/ruggie/singapore-letter-to-ruggie-re-guiding-principles-23-may-2011.pdf
5 Including Singapore, Indonesia and Malaysia www.businesshumanrights.org/SpecialRepPortal/Home/CorporateLawTools
6 www.baseswiki.org
7 http://www.ohchr.org/EN/Issues/Business/Pages/WGHRandtransnationalcorporationsandotherbusiness.aspx

THEMES

THEME ONE - CONVERGENCE IN SUPPORT OF THE ASEAN VISION

ASEAN is moving towards the 2020 vision of an "established a peaceful and stable Southeast Asia where each nation is at peace with itself and where the causes for conflict have been eliminated, through abiding respect for justice and the rule of law and through the strengthening of national and regional resilience" In this context, the role of business is key and it follows that approaches to responsible and sustainable enterprise should converge and cohere. The UN Guiding Principles, having inspired an unprecedented amount of convergence around the world – can offer a basis for the social sustainability of economic growth within and between ASEAN countries.

Indeed, we are beginning to see greater congruence of definitions globally. This is now more a conversation between global regions. There has been talk of Asian exceptionalism, cultural variance, cultural peculiarities, however discussions at the Roundtable mirrored recent global debates on the agenda - that business and human rights has more life in it outside the OECD i.e. in emerging and developing markets. That being said, it should be recognized that the ASEAN region is extremely diverse from political, economic and cultural standpoints. This means that companies coming into the region should ensure they appreciate fully each country's unique human rights context when assessing their potential human rights impacts, and not assume a one-size fits all approach. Likewise companies will face great variation in how host governments deal with business and human rights related issues.

THEME TWO – ASEAN LEADERS ALREADY KEY IN THE HUMAN RIGHTS AND BUSINESS AGENDA

With the work of the ASEAN Inter-governmental Commission on Human Rights as well as civil society and multi-stakeholder initiatives such as the RSPO there is increased understanding of the relevance of human rights to business beyond philanthropy. There has also been increased attention by international and local investors on human rights in the region. Government efforts have shown increasing political will, but to date with little effect as legislations has been largely non-implementable. There have been notable efforts in the region to address business and human rights challenges, including through the ASEAN CSR Network; UN Global Compact Local Networks in Indonesia, Malaysia, Singapore and Vietnam, and networks in development in the Philippines and Thailand; The Business Council for Sustainability and Responsibility Malaysia; and the Roundtable on Sustainable Palm Oil (RSPO)[8]. Also, as part of its mandate, ASEAN Intergovernmental Commission on Human Rights (AICHR) has been mandated to conduct a baseline thematic study on CSR and Human Rights. The purpose of the case study is to accelerate promotion of human rights in business within the region and support policy developments in line with the ASEAN Socio Cultural Community (ASCC) Blueprint (although the Blueprint itself does explicitly refer to the international norms and standards of human rights). Several notable human rights-focused events and meetings have also taken place, including the Workshop on Corporate Responsibility within an ASEAN Human Rights Framework[9] and a panel session at the Asia-Pacific Business Forum on harnessing partnerships to promote responsible business[10].

THEME THREE -THE BUSINESS CASE

Integrating human rights into business in ASEAN will assist economic and social sustainability in an area dealing with widespread social challenges in a new economic era, and assist in maintaining companies in the region as global players and an economic force in the 21st Century. Lessons from the financial crisis are still resounding in companies around the world, and socially sustainable, stable economic growth is seen as *the* viable, solid path for sustained recovery and future prosperity. In this context, there is a strong business case for considering human rights in business ASEAN countries and the wider region. Corporate governance, policies, processes and reporting

---

[8] http://www.rspo.org
[9] http://www.aseanfoundation.org/documents/report/annual_report_af_2010.pdf
[10] http://globalcompactasiapacific.org/gcasia/Home/tabid/40/ctl/Details/MID/493/ItemID/116/Tab_ID/61/Default.aspx

frameworks which takes account of human rights risks and impacts on the most vulnerable can help companies in their local, national and international markets meet expectations of customers, investors and other stakeholders.

THEME FOUR – KEY HUMAN RIGHTS CHALLENGES AT HOME AND ABROAD

Key human rights issues facing businesses operating in the region include the rights of migrant workers, land issues including relating to indigenous peoples' rights, child and forced labour and privacy and freedom of expression. Examples of human rights issues faced by companies which reached the international press over the past decades include child labour allegations and ultimately the case brought against Nike for denial of labour abuses (Kasky v Nike 1998); further child labour allegations against GAP and others in the apparel industry throughout the late 1990s and into the next decade – extending to other industries and areas of production and with increasing focus on responsibility to respect in the supply chain; and the 2008 US legislation HR 3890 imposing of sanctions on gem trade between US and Burma (Myanmar). Most recently we have witnessed cases such as the textile industry strikes in Cambodia (2011); protests over the construction of the Mekong Dam; violent clashes at the Freeport mine in Indonesia (2011); the Penan Tribe's success in halting Shin Yang from forest clearance for palm oil in an area designated for resettlement from the Murum dam construction (Malaysia 2011); and the prominence of the Sarawak Timber and Petaling Jaya over pension funds investment in illegal logging.

Increasingly ASEAN headquartered businesses are operating abroad and need to be aware of potential complicity issues and navigating risks, especially in sensitive areas. International expectations and monitoring of companies practices when operating abroad have intensified. One speaker mentioned "The legal liabilities of a company operating internationally are not limited to the domestic laws in host countries".

THEME FIVE - USING THE LANGUAGE OF HUMAN RIGHTS IN A BUSINESS CONTEXT

Companies operating or based in the ASEAN region have been looking at social and environmental considerations for some time though may not always use the phrase "human rights" and may not always feel comfortable doing so. In some cases there may be a strong rationale for "translating" human rights considerations into different terms, in other cases it will be important to reference human rights explicitly to help deepen approaches and connect to external expectations. One advantage is that human rights offer business leaders objective and universal ways of thinking about social responsibility.

THEME SIX – GOOD BUSINESS PRACTICES EXIST

A multitude of good practices were shared and referenced at the Roundtable by businesses around the world including, for example, that Asia Pulp & Paper Group (APP) is initiating its first-ever comprehensive human rights audit across the company's Indonesian operations, heeding the United Nations call for the global protection of human rights. We have also seen examples of companies working with civil society with positive and effective results, such as the Better Factories Initiative in Cambodia, together with the development of new standards as with Malaysia Smelting Corporation Berhard. The Roundtable on Sustainable Palm Oil has also provided focus for the industry to address the challenges of addressing the responsibility to respect within the sector.

WELCOME PANEL

This session set the context and current state of play of the business and human rights agenda – globally, regionally and locally – and outlined the objectives of the Roundtable. Initial welcome and introductions were given by the conveners, represented by **Puvan Selvanathan, Sustainability Advisor, Sime Darby Group; Dr Makarim Wibisono, Executive Director, ASEAN Foundation; Mr Andrew Bryan Perera, Constitutional/Legal Advisor, Global Compact Network Malaysia;** and **Mark Hodge, Director, Global Business Initiative on Human Rights.**

Puvan Selvanathan, Sustainability Advisor, Sime Darby Group

"In Malaysian we have enjoyed an enviable economic journey over the past 50 years. We have benefitted from growth. We cannot deny that we see the fruits of planning and social justice and the hopes of our own parents and grandparents in the physical and, more importantly, social infrastructure that surrounds us. We are the envy of many nations. So we understand what it is to have 'emerged', and what it is to be 'emerging'. But much of what has happened up to today has been driven by the Government and policy-driven economic values for the 'greater good' and this can often miss the most vulnerable or hidden. A major challenge now, and as we grow further, is that of equity and fairness for all"

Dr Makarim Wibisono, Executive Director, ASEAN Foundation

"This is a timely opportunity to bring together business leaders and key experts on human rights in the ASEAN region to discuss issues and exchange ideas pertaining to human rights and business. We are honoured to support this forum as it addresses the mandate of the ASEAN foundation to promote greater awareness of ASEAN and to advance interaction among various ASEAN stakeholders. More importantly the objective of this dialogue is in line with our mandate of promotion of corporate responsibility in ASEAN under the development action plan of the blueprint for a ASEAN social cultural community."

Mr Andrew Bryan Perera, Constitutional/Legal Advisor, Global Compact Network Malaysia

"This roundtable is extremely timely as our collective efforts must be directed at implementing the UN Guiding Principles. Changing times require business leaders to adopt a fresh approached for corporate growth and sustainability. Central to this is socially responsible business behaviour. Management must take full account of how their decisions impact on the wellbeing of the employees who are also major stakeholders. We are witnessing positive developments. Companies are increasingly supporting human rights and incorporating standards in their business culture in their operations. The more progressive firms in Malaysia and its ASEAN neighbours are acknowledging the benefits of doing the right thing. This is an encouraging trend towards meeting expectations of employees, consumers and investors. However the majority of firms still appear to be unaware of the benefits of adhering to the Global Compact principles on Human Rights and Labour Standards."

Mark Hodge, Executive Director, Global Business Initiative on Human Rights

"We clearly live in a multi-polar world economically. There are emerging and developing markets that are changing the fabric of the globe and of our economy and we are no longer simply in a place where western MNCs will dictate to supply chains. Globalisation has evolved further and there is a relationship around globalisation which is changing the nature of what leadership looks like from business leaders. In this context, business leadership has to come from enterprises throughout the world in order to realise a vision of economy based on human rights that is sustainable for everybody. So, a central question today is how do we operate in a way that is socially sustainable to add on to the dialogue about environmental sustainability – what does that look like in today's world? What does it look like to have socially sustainable workplaces, socially sustainable value chains, socially sustainable relationships with local communities where companies operate."

SENIOR LEADERS PANEL

The first panel of the event provided a chance to hear reactions from senior leaders to the latest international policy developments and related expectations on business. Panellists included **Puvan Selvanathan, Sustainability Advisor, Sime Darby Group; Ed Potter, Director, Global Workplace Rights, The Coca-Cola Company; Manny Rubio, President and CEO, SN Aboitz Power; Noke Kiroyan, Managing Partner, Kiroyan Partners, former President and Director of Newmont Pacific Nusantara;** and **Melissa Kwee, Chairperson, Millenia Hotel Private Limited.**

Key discussion points

- Responsibility for 'the greater good' is as much driven by the market and choice as politics. Governments in the region have shown increased political will, and companies are increasingly recognising the business case for embedding human rights into business practices. However, there is a huge divide between companies who understand and practice, and those who have little appreciation or knowledge of their responsibilities.

- States have the primary responsibility to protect all human rights of its citizens. Because companies take actions with potential human rights impacts, they have a responsibility to respect all human rights and mitigate human rights impacts that occur as the results of their action. The UN Guiding Principles on business and human rights provide a pragmatic and clear framework for business to approach the necessary work in this area.

- Well-intended business and human rights regulation efforts in Indonesia and Malaysia have been notoriously difficult to implement and the risk is a result of multiple divergent approaches and understandings. There is a need for common standards and measurements for companies to meet their responsibilities in this area. The new UN Working Group on business and human rights tasked with operationalisation of the UN Guiding Principles on business and human rights should focus efforts on establishing consistency of interpretation of the Principles in all geographies.

- Companies headquartered in the region and those operating in the region should appreciate that engagement with stakeholders is vital in fulfilling the corporate responsibility to respect.

Puvan Selvanathan, Sustainability Advisor, Sime Darby Group

"Over the past years we have seen how Corporate Social Responsibility has become embedded in the way companies do business, and the way regulators – the Securities Commission and Bursa – frame their messages to the business community. The Government, through GLCs such as Sime Darby, is openly urging companies to become channels for the next phase of our national socio-economic development. We have seen that global imperatives such as climate change and sustainable development used to echo in halls in New York or Geneva, but now they are on the agenda in our own Boardrooms. Responsibility and sustainability are not fashions or fads – they are here to stay and we should become more adept at dealing with these new business norms. Respecting human rights is part of those norms."

Ed Potter, Director, Global Workplace Rights, The Coca-Cola Company

"The genius of the UN Guiding Principles is that they provide us with a very streamlined framework of how business, big or small, can approach that work. The opportunity presented by the Guiding Principles is for business to be proactive in a way that is not being pushed by external stakeholders but for the business to decide in their own way how they are going to go about that. All companies need forums like this to exchange views and learning."

Manny Rubio, President and CEO, SN Aboitz Power, Philippines

"We cannot have a sustainable business if we have issues in the community. Recognition of human rights is something we are all aware of – is it the very basis of respect and dignity, but businesses don't see much cause for concern in our country. We need to make sure there are common standards, methods and indicators so we can measure against others."

Melissa Kwee, Chairperson, Millenia Hotel Private Limited

"Engagement with your value chain is key. For example, we engage with construction companies on the issues of the rights of migrant workers as part of our due diligence. We have dialogue around our concerns and seek permission to engage with their workers direct to discuss and aid fulfilment of their enjoyment of rights. The onus is on us to demonstrate that level of care."

Noke Kiroyan, Managing Partner, Kiroyan Partners, former President and Director of Newmont Pacific Nusantara

"The delegates in this room are not typical of business. Many businesses are not aware of their responsibilities in relation to human rights. Maybe, because of our history as an authoritarian society, human rights have been viewed as an issue of the state or of transgressions of the state within groups. In Malaysia CSR is mostly regarded as charity – as a duty for companies as way to atoll for their sins. Governments are increasingly taking charge of CSR but human rights and CSR are not clear for many people in Malaysia."

LINKING HUMAN RIGHTS AND BUSINESS

This panel discussed the rationale for incorporating human rights into business; examples of the journey to incorporate human rights into management systems and the mechanisms used and internal challenges faced in incorporating human rights – including the language or rights, perceptions, costs and barriers. Panellists included **Bernard Claude, Chairman of the Ethics Committee, Total S.A.; Bill Anderson, Head of Environmental and Social Affairs Asia Pacific, Adidas Group; Vanessa Zimmerman, Principal Advisor (Human Rights), Rio Tinto; Mark Nordstrom, Senior Labour and Employment Counsel, General Electric Company; Maria Angert Poirson, International Social Responsibility Manager, Vale S/A;** and **John Morrison, Executive Director, Institute for Human Rights and Business.** The session was moderated **by Alex Guaqueta, Lecturer at the School of International Studies, Flinders University**.

IMPLEMENTING CORPORATE RESPECT FOR HUMAN RIGHTS
10 NOVEMBER 2011

Key discussion points

- There is a sound and increasingly acknowledged business case for integrating human rights into business. Failure to address human rights can have adverse impacts on companies including operational delays, legal and reputational risks, and employee dissatisfaction.

- Commitment to human rights has to initiate from the top of the organization to be effective. Building a shared understanding of human rights and the language of human rights across the company is also vital to successful integration.

- Consistent and open stakeholder dialogue is also a vital process in successful integration of human rights into business practices.

- Companies headquartered outside the region should not let human rights concerns prevent them operating the ASEAN region provided they have good system, processes, expertise, knowledge and capability in place to ensure best practice is applied.

- Having a human rights policy/statement is useful to frame issues and calibrate a response as human rights issues arise. Companies can use the existing structures and operating processes and allow for a human rights lense to be attached to them to aid integration.

- Companies need to establish an understanding of thresholds of reasonableness. No one should expect more of a business than can reasonably be expected, or reasonably be put into practice. Business needs to learn how to establish and identify what is 'reasonable' but must do so in collaboration with stakeholders if definitions are to become sustainable.

Alexandra Guaqueta, Lecturer at the School of International Studies, Flinders University

"Our previous understanding of CSR was around investment and philanthropy. The UN GPs and other codes of conduct and initiatives that have similar writing and similar processes to the UN GPs are really about the core business. These processes will require a lot of dialogue among stakeholders and learning around the challenges that each will face."

Bernard Claude, Chairman of the Ethics Committee, Total S.A.

"Because of the impact of our activities where we work, because of the different cultures we have everywhere in the world, respecting Human Rights doesn't only encompass 'good will'. We have to be able to organise it, we have to be able to show it and therefore we have to work on it professionally and it has to be part of our business case or our business organisation. Committing to respecting human rights has a sound business case – it gives you stability and a long term view and added security. It has to start with commitment from the top management – if it does not have that commitment, it will not permeate throughout the company."

Bill Anderson, Head of Environmental and Social Affairs Asia Pacific, Adidas Group

"Human Rights presents to some managers, particularly in an Asian setting, as something to be fearful of, something that's dangerous, something that's problematic. But it isn't. It is something manageable if you have a system, a process, expertise, knowledge and capability within your organisation. ... The Beijing Olympics presented us with significant Human Rights issues as a sponsor. There were many issues brought to the door of the sponsors of the Olympics, including ourselves. The strength of the systems we had in place allowed us to address those issues, to engage with stakeholder groups, and to be publically accountable."

Vanessa Zimmerman, Principal Advisor (Human Rights), Rio Tinto

"The alternative to acting responsibly has a range of negative consequences, such as operational delays, legal and reputational risks, and employee dissatisfaction. If you do get it right then there are a lot of opportunities in terms of enhanced value and enhanced relationships ... Some of the challenges of integrating human rights in a large company include building a shared understanding of human rights across a large company. Familiarisation with the language of human rights is vital and we need to understand what it means to a site manager, procurement department or security operative."

Mark Nordstrom, Senior Labour and Employment Counsel, General Electric Company

"We felt it better to be prepared and have a context and framework to address human rights challenges as we expanded in emerging markets. As a result of this and stakeholder input we were advised that we should adopt a Human Rights Policy[11]. As we undertook this there was initial anxiety from General Counsel and the leadership team. As we progressed we realised that many of the things we do in our normal practices and operating systems are already compliant with respect to human rights sensitivities. We tracked what we had in terms of policies and align them against human rights articulations in the UDHR and demonstrated to our management that we were not far off from being a human rights compliant organisation with our existing policies."

Maria Angert Poirson, International Social Responsibility Manager, Vale S/A

"As a mining company we have the potential to influence many human rights. Human rights risks are present in all our operations and human rights issues permeate aspects of our management systems, value chain and the impacts we create. We started with a decentralised approach and we began integration with adoption of the GRI methodology in 2007 through which we realised we could identify many of our gaps, opportunities and impacts. The first gap was the need for a human rights policy which was released in 2009[12]. We developed a human rights guide for training employees and also online training and workshops, and developed, two new due diligence tools for internal and external issues to help to better identify and prioritise our human rights issues.[13]"

John Morrison, Executive Director, Institute for Human Rights and Business

"We should not waste time talking about human rights as not applicable to certain cultures or places. Human rights are essentially about dignity and respect – we all have an innate understanding of what they are - human rights is simply a codification of that. The UN Framework asks business to know and to show – but how much knowledge and how much transparency do we need? Going forward we need to look at thresholds of reasonableness – no one should expect more of a business than can reasonably be expected or reasonably be put into practice. But how do we arrive at these thresholds of reasonableness and how are they set? How do we measure leverage? Is it the business itself that does this in isolation, or does it have to be a multi stakeholder discussion? I think it has to be more of a multi stakeholder discussion or it will lack legitimacy in the medium to long-term.[14]"

---

[11] *GE's Statement of Principles on Human Rights can be found at http://files.gecompany.com/gecom/citizenship/pdfs/ge_statement_principles_on_human_rights.pdf*
[12] *Vale Human Rights Policy http://www.vale.com/en-us/sustentabilidade/direitos-humanos/Documents/FINAL%20VALlaminaingles-110110_ch1.pdf*
[13] *Example given of dealing with Slavery issues in the supply chain through use of human rights policy and use of human rights clauses in contracts with customers and suppliers: www.vale.com/Util/relatorio-de-sustentabilidade/2009/en/agente-direitos-atuacao.html*
[14] *Citing Multi Stakeholder Initiative example of RSPO www.rspo.org*

COMMON THEMES IN THE ASEAN CONTEXT

The session aimed to provide an overview of key business and human rights developments in the ASEAN region, and challenges faced by ASEAN business leaders from the perspective of academics and human rights organizations. Panellists included **Rafendi Djamin, Chairperson and Indonesian Representative, ASEAN Intergovernmental Commission on Human Rights; Loretta Ann Rosales, Chairperson, Philippines Human Rights Commission; Salil Tripathi, Director of Policy, Institute for Human Rights and Business;** and **Gregory Regaignon, Research Director, Business and Human Rights Resource Centre.** The session was moderated by **Marina Mahathir**

Key discussion points

- The positive emergence of MSIs and other strategic groups was noted e.g. on the Voluntary Principles on Security and Human Rights there are already initial discussions between NGO groups, the government, companies and civil society in the region. Business and human rights is also increasingly gaining attention from NHRIs in the region.

- AICHR is trying to develop a regional approach on business and human rights, including through the ASEAN CSR Network[15] and focussing on regional business and human rights case studies.

- Broad stakeholder engagement in decision making processes that impact on human rights can aid business in making the correct human rights impact judgements.

- ASEAN companies investing and operating internationally need a thorough understanding of human rights in order to avoid complicity in human rights abuses when operating in difficult areas.

- Companies conducting thorough and correct due diligence processes will minimise the risk, mitigate the risk and hopefully eliminate the risk. Models are developing in the region to address human rights issues. Companies are working with civil society with positive and effective results.[16]

- Companies headquartered in the region are not currently adopting stand-alone human rights policies. Given the guidance in the GPs this should start to change.[17]

---

[15] *Via www.aseanfoundation.org*

[16] *e.g. Better Factories Initiative in Cambodia; application of the UN Guiding Principles as seen with APP (Asian Pulp & Paper Co) – weblink*

[17] *Of the 291 companies listed on BHRRC with human rights policies it appears no companies headquartered in this region have adopted a standalone human rights policy.*

Marina Mahathir

"Many people in this region think of human rights as something political and not about fundamental rights that every human being enjoys. In Malaysia and elsewhere human rights have been described as a new religion, something not in at all in sync with Asian values – something alien. But people are just asking for right to be treated with dignity even if they might be disadvantaged for whatever reason."

Rafendi Djamin, Chairperson and Indonesian Representative AICHR

"The government and civil society sides are beginning to discuss human rights challenges together in multi-stakeholder forums. These are very strategic, very important and very effective. For example, the Voluntary Principles on Security and Human Rights there is already a beginning of a discussion between NGO groups, the government, companies and civil society. Through these dialogues, and using Chatham House Rules, you can have a very open discussion among different actors. At a regional level we have AICHR[18] which is an inter-governmental co-operation. AICHR is trying to develop a regional approach on business and human rights. We have the ASEAN CSR Network and also AICHR will look at CSR and human rights."

Loretta Ann Rosales, Chairperson, Philippines Human Rights Commission

"Human dignity is a categorical imperative. The principle of human dignity takes care of the issues of wages, benefits, working conditions and others. Business should also include in its decision making processes those who will be effected by its policies of operations, including employees and communities. safety and security of the communities and the resources for them – it becomes imperative for businesses to ensure that the natural resources of these communities are protected not only for the present generation but for future generations to come. Lastly the principle of intergenerational justice reminds us that we are we mere stewards of the earth – therefore we don't have an unlimited right to misuse and abuse it."

Salil Tripathi, Director of Policy Institute for Human Rights and Business

"Increasingly companies from this region are becoming international ambassadors – they are investing abroad sometimes in fairly difficult places and if they end up operating without a framework or an understanding of human rights they will have problems. In the context of the corporate responsibility to respect the whole notion of complicity becomes very critical here. Avoiding complicity requires due diligence. It doesn't ensure that these things won't happen but it helps the company to create a system and that system will ensure if those processes, if properly followed, will minimise the risk, mitigate the risk and hopefully eliminate the risk."

Gregory Regaignon, Research Director, Business and Human Rights Resource Centre

"Positive trends have included increased attention from NHRIs; development of models to address human rights issues; companies working with civil society with positive and effective results, such as the Better Factories Initiative in Cambodia; development of new standards as with Malaysia Smelting Corporation Berhard; and application of the UN Guiding Principles as seen with APP (Asian Pulp & Paper Co). Unfortunately of the 291 companies listed on our site with human rights policies, to the best of our knowledge no companies headquartered in this region have adopted a standalone human rights policy. There are also ongoing issues such as long-running concerns in areas where there has been little or inconsistent progress, such issues of complicity in oil and gas industries in Burma."

---

[18] ASEAN Intergovernmental Commission on Human Rights (AICHR) – www.asean.org

THEMATIC BREAKOUT GROUPS

OPERATING IN SENSITIVE AREAS

Moderator: **Vanessa Zimmerman, Principal Advisor (Human Rights), Rio Tinto**
Leading discussion: **Salil Tripathi, Director of Policy, Institute for Human Rights and Business; Tam Robert Nguyen, Manager, Corporate Responsibility, Global Issues and Policy, Chevron Corporation**

- Sensitive areas include conflict affected areas, weak governance zones and countries where national laws conflict with international standards.
- Security is a major issue, particularly when this is provided by public security which will rarely be in the company's complete control.
- Multi-dimensional responses are needed to ensure that the company is not involved in any human rights abuses linked to security forces, including working with home and host states and being part of multi-stakeholder initiatives.

LABOUR RIGHTS, PRECARIOUS WORK AND VULNERABLE GROUPS

Moderator: **Rachel Wilshaw, Oxfam GB**
Leading discussion: **Andy Li, Senior Director Talent Acquisition Asia, Flextronics; Irene Fernandez, Director, Tenaganita; Bill Anderson, Head of Environmental and Social Affairs Asia Pacific, Adidas Group; Tuomo Poutiainen, Programme Manager, ILO-IPEC Thailand**

- Addressing gender inequality is rising up the agenda for leading companies, and represents opportunity for businesses to deliver development impact and business benefits long term.
- Top three challenges identified were managing migration-related issues; weak legal enforcement and understanding, and meeting UN Guiding Principles (also discussed were weak management worker relations and expectations of clients).
- Other problems cited included tensions between management and unions, for instance in the airline industry; multi-faceted policy issues for business; no definition of what light work means for under 14s; conventions not ratified in Malaysia including one on Discrimination; tension between local workers and migrant workers.
- There is a need for scalable alternatives to audits, and for sustainable interventions i.e. the company does not revert, it internalises/embeds the changes.

HUMAN RIGHTS - HEALTH, WATER AND ENERGY

Moderator: **Sune Skadegaard Thorsen, Founder, Global CSR**
Leading discussion: **Susanne Stormer, Vice President of TBL Management, Novo Anders Nordstrom, Group Sustainability Advisor, ABB; Mark Nordstrom, Senior Labour and Employment Counsel, General Electric Company; Nordisk S/A; Fabio Landazabal, Asia Pacific Area Director, GlaxoSmithKline Pte Ltd.**

- Leading businesses in the field of CSR or Corporate Citizenship have engaged in proactive work to assist in fulfilling human rights that are relevant for their respective sectors.
- Pharmaceuticals are running both comprehensive and innovative programs in relation to their contributions to the right to health.
- The provision of energy constitutes a human right in itself; the right to enjoy the benefits of scientific progress. However, large proportions of the world's population do not even enjoy access to electricity
- Energy providers are engaged in enabling such access while ensuring that increased access does not lead negative environmental impacts with subsequent massive human rights violations.

COMMUNITY CONSULTATION AND LAND ACQUISITION

Moderator: **Rikke Netterstrom, Executive Director, CSR Asia**
Leading discussion: **Mike Hosillos, Vice President for Corporate Services of SN Aboitiz Power, Philippines; Darrell Webber, Executive Director, RSPO; Cynthia Morel, Associate Fellow, Singapore Management University.**

- Land acquisition issues arise because of competing demands. Solutions need to seek mutually beneficial solutions. Companies must always be in dialogue with affected communities and act in good faith. To enable dialogue they should ensure they engage with communities early in the development process.
- Due Diligence in relation to Land Rights ties in with the rule of law.
- Through the UN GPs, companies can draw on new standards to check their processes and responsibilities again.
- Community should be allowed to help shape the outcome for mutually beneficial interactions.
- The importance of thorough due diligence in this area to reduce risks and anticipate challenges before they arise. The use of the World Bank/IFC Free, Prior and Informed Consent standards was also discussed.
- How do you approach the issue of understanding human rights as a company operating in difficult or conflict affected countries? how do you approach cultural differences?
- The importance of partnerships between the company and the national government to address issues along with the need for transparent relationships and respect for tradition.

RESPECT FOR HUMAN RIGHTS IN PRACTICE

The second set of breakout sessions at the roundtable were facilitated in four groups by Vanessa Zimmerman, Principal Advisor (Human Rights), Rio Tinto; Andrew WK Chan, Senior Executive Director, Sustainability & Climate Change, PWC; Kathryn Dovey, Director, Global Business Initiative on Human Rights and Sune Skadegaard Thorsen, Founder, Global CSR. The sessions focused on hearing some examples from companies who have approached the issue of incorporating respect for human rights through corporate polices and processes and the challenges and opportunities they faced in practice. Facilitators gave the background to the Guiding Principles and why the document was so significant (having just been endorsed at UN level).

Presentations were made in each groups, including from Ed Potter, Director, Global Workplace Rights, The Coca-Cola Company; Shane Lucas, Head of Sustainable Development, ANZ; Rajiv Williams, Corporate Head – CSR, JSL Stainless Limited; Ron Popper, Director of Corporate Responsibility, ABB; Mark Wong, Head of Sustainability Reporting Unit, Sime Darby; Bert Fokkema, Issue Manager, Shell; Kelli Schlegel, Human Rights & Global Citizenship Program Manager, Office of General Counsel, Ethics & Compliance Office, HP; Ernest Wong, APJ Supply Chain SER Program Manager, HP; Tam Robert Nguyen, Manager, Corporate Responsibility, Global Issues and Policy, Chevron Corporation and Thomas Wise, Senior Counsel – Upstream, Chevron Corporation; Ines Andrade, Coordinator Social Standards, Cerrejón; Tony Khaw Siang, Director of Corporate Social and Environmental Responsibility, Flextronics; and Mark Nordstrom, Senior Labour and Employment Counsel, General Electric Company.

Key discussion points

- Internal and external engagement are important even when it comes to initial steps such as drafting a human rights policy. Engagement all stakeholders and particularly with affected communities is vital from the outset when initiating new projects or contracts, or examining existing ones to see if they are 'Ruggie proof'.

- The company may need to go through a "journey of learning and translation" when it comes to drafting and implementing a human rights policy and some actors may need more convincing than others to engage. Some of the companies shared their human rights policy journeys and spoke about the challenges of using human rights language and practical ways to approach the use of differing terminology in different cultural contexts without 'watering down' the company's human rights policy commitment. One group discussed whether country-specific human rights policies could be necessary in certain circumstances.

- Many companies will already be fulfilling aspects of their responsibility to respect in many areas of their business, so should not be concerned to review existing policies and examine gaps in order to take corrective action. No company will get it 100% right at the very beginning but it is important to try to set up the right processes so that at least there is capacity for review and improvement.

- Training is crucial when it comes to implementing a human rights policy and integration more generally. In particular it is important that employees know how to escalate a human rights issue and to avoid counter-productive responses.

Other discussions in the groups included the range of materials available on the Business and Human Rights Resources Centre and that many advice channels exist for companies that are new to this agenda. One group touched on how much it costs to have a truly effective human rights policy in place and how much not addressing this issue could potentially cost a company. Some companies were asked whether any surprises had surfaced following review for policy creation and also, what processes they have in place to review and update the policy if necessary.

CLOSING REFLECTIONS

The final session comprised a summary of the day's events by Mark Hodge, and a discussion by two members of the United Nations Working Group on their thoughts moving forward after the roundtable and reflections on their new roles in the Working Group.

Alex Guaqueta, Lecturer at the School of International Studies, Flinders University

"Those of us who have been reflecting on business and human rights for a while often ask ourselves if this is a new agenda or not. Are we requiring companies and states to do new things? The answer is complex. There are many things that companies have been doing for a while on human rights and labour issues, but I think there are two things that do seem new and I would like to call them part of the governance model we have in the 21st Century world. The UN Guiding Principles (GPs) and other codes of conduct and initiatives that have similar writing and similar processes to the GPs are really about the core business. Our previous understanding of CSR where includes actions towards investment and philanthropy. Now this is about what companies are actually doing – it is taking the topic to those other departments - it takes it into the DNA of a company.

Puvan Selvanathan, Sustainability Advisor, Sime Darby Group

"When we have talked about looking for the networks that would assist us in delivering this Working Group mandate, we have discussed creating nodes that would then conduit the ideas through different places and different territories to allow us as the Working Group to see the lay of the land and to come to a practicable conclusion in 3 years time.

"We will need to realise other networks and other institutions. In this respect, working with RSPO has been very informative – learning to appreciate there are other people in the room with different perspectives and have things to say that are meaningful. Working on the business and human rights agenda over the next three years will need an attuning of these senses and an understanding of what consensus means."

CONVENERS

The Global Business Initiative On Human Rights (GBI) is a unique business-led initiative focused on advancing human rights in a business context around the world. GBI currently has 14 corporate members from 11 industry sectors with representation from Latin America, Asia, Europe, North America, and the Middle East. Through core group work streams and business outreach activities GBI seeks to build a global community of business leaders sharing good practices, identifying barriers to corporate respect for human rights in diverse contexts and inputting into international policy developments. Our work plan is divided into two parallel tracks. First, Action-Learning around the UN Guiding Principles on Business and Human Rights; and second, Business Awareness and Capacity Building through events and workshops in emerging and developing markets. GBI works in collaboration with the UN Global Compact Office and is supported by the Swiss Government. For more information visit: www.global-business-initiative.org

Catalyzed by the ASEAN Foundation, the ASEAN CSR Network was established in line with the actions called for in the Blueprint for ASEAN Socio-Cultural Community that aims to engage the private sector in building the ASEAN Community through the promotion of corporate social responsibility (CSR) and in helping ensure that CSR is incorporated in the corporate agenda. The Network aims to spearhead the promotion of corporate social responsibility in the region by becoming a platform for networking, a repository of knowledge and capacity-builder on CSR, and a forum to promote cooperation among ASEAN stakeholders. The ASEAN CSR Network was formally incorporated on 8 December 2010 with founding members, namely, the Indonesia Business Links, International Chamber of Commerce-Malaysia, League of Corporate Foundations (Philippines), CSR Club of the Thai Listed Companies Association, the Singapore Compact for CSR that also hosts the Network secretariat and the ASEAN Foundation. For more information visit: www.aseanfoundation.org

The two-fold objectives of the ASEAN Foundation as reflected in the Memorandum of Understanding establishing it are as follows:

- It shall promote greater awareness of ASEAN, and greater interaction among the peoples of ASEAN as well as their wider participation in ASEAN's activities inter alia through human resources development that will enable them to realize their full potential and capacity to contribute to progress of ASEAN Member States as productive and responsible members of the society.
- It shall also endeavour to contribute to the evolution of a development cooperation strategy that promotes mutual assistance, equitable economic development, and the alleviation of poverty.

In recognition of the fundamental importance of improving the livelihoods and well-being of the peoples of Southeast Asia, and the need to promote ASEAN awareness as well as people-to-people contact through scholarships, fellowships and other exchanges, the Leaders of the Association of Southeast Asian Nations (ASEAN) agreed to establish the ASEAN Foundation on 15 December 1997 in Kuala Lumpur during the Association's 30th Anniversary Commemorative Summit. The ultimate aim was to help bring about shared prosperity and a sustainable future to all ASEAN countries which comprises of Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Viet Nam. For more information visit: www.aseanfoundation.org

The Business Council For Sustainability & Responsibility Malaysia (BCSRM) is a national body of business leaders and interested groups having interest in and concern for responsible and sustainable practices in pursuit of the global sustainability agenda with emphasis on environmental, social and governance issues. BCSRM aims to put current global thinking on sustainability and responsibility into the Malaysian context so Malaysian companies can promote, develop and adopt sustainability within their business.

Key focus areas for the BCSRM are Energy & Climate, Social Development, The Business Role in Driving the Sustainability Agenda and Protection of Ecosystems in a Low Carbon Environment. Activities centre on Thought Leadership, capacity development, advocacy and awareness building. The BCSRM is a Regional Network Partner of the World Business Council for Sustainable Development (WBCSD). For more information visit: www.bcsrmalaysia.org

The United Nations Global Compact is a strategic policy initiative for businesses that are committed to aligning their operations and strategies with ten universally accepted principles in the areas of human rights, labour, environment and anti-corruption. Launched in July 2000, the UN Global Compact is both a policy platform and a practical framework for companies that are committed to sustainability and responsible business practices. As a leadership initiative endorsed by chief executives, it seeks to align business operations and strategies everywhere with ten universally accepted principles in the areas of human rights, labour, environment and anti-corruption. The Global Compact has over 7700 corporate participants and stakeholders from over 130 countries. For more information visit: www.unglobalcompact.org

The Global Compact initiative was pioneered in Malaysia by the United Nations Development Programme in 2003. Further promoted by the Caux Round Table Malaysia since 2007, the Malaysian Local Network achieved independent status in March 2009. The subsequent period was a transitory one with efforts being devoted to the local network becoming a legal entity under the Malaysian's Societies Act. The positive outcome was a new Constitution for the local network in 2011, which now serves as a basis for expanding the network and promotion of the Global Compact's Ten Principles within Malaysia. For more information visit: www.globalcompactasiapacific.org/gcasia/CountryNetworks/Malaysia.aspx

The Investors For Development (I4D) project was launched in 2007 by the Trade and Investment Division of ESCAP with funding from the governments of Sweden and the Netherlands. The project aims at promoting more effective implementation of the UN Global Compact principles and Corporate Social Responsibility (CSR) through the establishment and promotion of a regional Community of Practice in Asia and the Pacific. This Community includes a diverse group of business people, NGO representatives, governments, consultants, researchers and others who work in the CSR field. I4D also performs as the Global Compact Regional Support Center Asia-Pacific by enhancing the capacity of, and cooperation between, Global Compact Local Networks (GCLNs) in the region. I4D offers both an on-line platform and face-to-face meetings for the Community members to engage in discussions on a wide range of CSR-related topics, participate in training courses as well as collect and develop resources, tools and case studies for CSR implementation. All of these resources are openly available on the I4D web portal. For more information, please visit: www.globalcompactasiapacific.org