BUSINESS & HUMAN RIGHTS – PRINCIPLES TO PRACTICE

RECOMMENDATIONS FOR THE EU COMMISSION AND EU MEMBER STATES
Implementation of the UN Guiding Principles building on existing practices and initiatives

The Ethical Trading Initiatives (ETIs) welcome the effort by the EU to encourage greater effort from business in upholding human rights globally. The UN Guiding Principles on Business and Human Rights (UNGP) is an important international instrument to guide business in addressing actual and potential human rights abuses in their global activities. In implementing the UN Guiding Principles, the ETIs call upon the EU Commission to build on existing practices and initiatives and engage the ETIs and other multi-stakeholder initiatives in translating the principles into practice.

The UNGP and existing practices

European businesses are today faced with a number of challenges when it comes to upholding human rights including core labour rights in their supply chains as well as challenges on how to reduce the risk of complicity in breaches of said rights. For more than 12 years the ETIs have been working in a tripartite manner equipping European companies with knowledge, tools and networks in order to meet these challenges.

The UNGP emphasises that all companies have a duty to respect human rights; an initial and important step being to evaluate their actual and potential impacts on all human rights that includes core labour rights. Companies should put in place a process of due diligence to identify the impact their operations have or may have on the rights of others. Based on this, companies have to decide what action they need to take in order to prevent and mitigate their possible adverse impacts on human rights, in direct operations as well as in their supply chains. The UNGP underlines the importance of a process approach, this recognises that different companies and sectors are at different starting points but also that companies need to be dynamic moving beyond merely having the right policies and codes of conduct in place, or being driven solely by compliance audits. It also underlines that business has an independent responsibility to respect human rights – regardless of the states' capacity or willingness to fulfil their duty.

Responsible supply chain management has in the past mainly focused on monitoring compliance in relation to codes of conduct on 8 human rights (core labour rights) and developing corrective action plans. The focus has mainly been on first tier suppliers and increasingly includes training and capacity building. More recently ETI's have led a move to look at rights more holistically with their membership. There is a need to look further down the supply chain and map the root causes of workers and wider human rights abuses. This is in line with the UNGP and the work needed to focus more on process, assessment and remediation, also beyond corrective action plans and towards continuous improvement efforts. This implies that more attention should be given to tackling the root causes of rights abuses, and not only identifying breaches of codes of conduct/ethical guidelines.

On 8th February 2012, the ETIs hosted a debate on the UNGP and its impact on responsible supply chain management and the present and future approach to Ethical Trade. The ETIs are in accordance with the recommendations from the debate:

- positioning work within the framework of new global guidelines and policies
- shaping the concept of due diligence to ensure that real changes are at the core of its application
- generating examples of the business case for responsible supply chain management
- enhancing and deepening the collaboration between different stakeholders including trade unions in order to address the root causes of human rights abuses and complex/endemic labour issues

Thus, the ETIs call upon the EU Commission to build on existing efforts in embracing the UNGP and we point in particular to the fact that the efforts of many existing multi-stakeholder initiatives are consistent with the UNGP.

The ETIs bring together at national level businesses, public institutions, trade unions and NGOs in a joint effort to achieve meaningful progress. We are convinced that both the national and the international dimensions are necessary in order to effectively implement the EU policy. National arenas will facilitate a meaningful arena for stakeholder collaboration and debate, and is likely to be the most efficient way of reaching out to SMEs in particular. The international cooperation is required in order to increase learning and leverage as well as avoid duplication. A strategic collaboration between the existing national multi-stakeholder initiatives ensures coordination of activities and joint actions including sector specific activities and measures. The multi-stakeholder approach holds an important and partially still unleashed potential for enabling European businesses to meet their human rights responsibilities and fight unacceptable working conditions and poor environmental standards in their supply chains in a cost-effective manner. There is considerable potential for achieving synergies in specific activities as well as sharing existing and developing new resources and tools.

The way forward implementing the UNGP

The EU has an important role as a body that can on the one hand encourage EU Member States to embrace the new frameworks, encourage coherence across the EU and at the same time be an interlocutor with business and social partners.

The EU should use its bi-lateral trade and development relationships to help create and support the environment for action in the global south and other funds to support poorer member states to develop effective programmes and institutions.

The EU Commission and the EU Member States should consider the ETIs and other multi-stakeholders as valuable partners in promoting and implementing the UNGP. The EU Member States should promote and support the establishment of national multi-stakeholder initiatives/platforms for engagement and involvement of all key stakeholders including SMEs in the different Member States.

The EU Commission should consider creating a European Framework for national multi-stakeholder initiatives, through sharing information, knowledge, training and tools, equipping European companies to

meet the challenges in their global supply chains. A joint European approach will strengthen the collaboration between Member States and maximize businesses' impact on human rights in their global value chains in an effective way. We also see the potential to extend existing models to the newer member states and call upon the EU commission to support this outreach.

The ETI's encourage the EU Commission to initiate in collaboration with national multi-stakeholder initiatives in EU Member States joint European initiatives that can further strengthen the efforts of European businesses in implementing the UNGP and their contribution to lasting improvements in the working conditions in the supply chains of European companies in the developing countries and the new emerging markets.

Due diligence

Businesses need clear guidance on what is expected of them going forward. Guidance on how businesses should interpret and make best use of the UNGP and to what extent membership of an Ethical Trading Initiative or other initiatives caters to the expectations of the UNGP. However excessive demands can drive industry away so we call for a measured and stretching but realistic agenda for business for the human rights agenda to get traction and involvement from business broadly. The EU should seek to engage with SMEs through representative structures and directly with multinational companies to get input on key challenges to business in implementing the UNGP.

Today a number of initiatives guide business on responsible business conduct and responsible supply chain management. It is important that business engage meaningfully with other stakeholders to hear constructive but critical voices, notably trade unions and NGOs, but also academia and others.
There is, however, a need for alignment and coordination between the initiatives to improve impact. The EU can be a force for better coordination.

The EU Commission and EU Member States should encourage companies to engage strategically and set goals, particularly in areas which do not have a direct bottom line effect, such as human rights and workers' rights as opposed to energy efficiency, reducing waste, better use of raw materials which, in addition to their positive social and environmental effect, do also to a large extent have a positive financial impact.

It is important to go beyond setting standards and codes to effective engagement, learning and actual changes in the way of doing business. In implementing the UNGP the EU should build on initiatives with track record rather than to create new ones in an area which is already proliferating with codes and initiatives. Thus the EU Commission and EU Member States should support efforts of existing initiatives to promote human rights and align their activities with the UNGP.

In the ETIs' approach, due diligence by the means of assessing and dealing with risks of breaching the principles of ethical trade, has been an intrinsic part of the strategy from the very beginning, coupled with a procedural approach to generating improvements / remediation of unacceptable situations.

The EU should promote and facilitate greater cooperation between multistakeholder initiatives and National Human Rights Institutions both at a national and European level to optimize resources and align efforts in order to maximize impact.

Access to remedy – grievance mechanisms

There is a need to establish the roles between states, initiatives, businesses and others in providing access to remedy. It should be considered how the focus on continuous improvements by the ETIs and other multi-stakeholder initiatives can be part of remediation.

The state-based and non-state-based grievance mechanisms should take advantage of the efforts by multi-stakeholder initiatives in promoting dialogue and collaboration between stakeholders and encourage parties to seek solutions through dialogue and collaboration before using a grievance mechanism. The ETIs and other multi-stakeholder Initiatives bring together key stakeholders to jointly find balanced solutions to dilemmas and problems in relation to the global activities of business. The grievance mechanisms should enter into a close dialogue and collaboration with multi-stakeholder initiatives. The EU Commission and EU Member States should involve multi-stakeholder initiatives in the development of guidelines and information and educational activities so resources are optimised and efforts are aligned.

In line with the leadership role played by the EU in the wider trade and development arena there are clear synergies to be developed between action within the EU member states and real investment in sourcing countries. The ETIs call for the support of the commission including through DG Development and DG trade in supporting the establishment and/or strengthening existing mechanisms for dialogue and remediation/ grievance mechanisms in producing countries.