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Global Compact
Network
Switzerland & Liechtenstein

In the context of the National Action Plan on
Business & Human Rights

Human Rights Due Diligence in conflict-affected areas with focus on the current situation in Russia and Ukraine

06.04.2022 | 15:00 – 16:30 | Online



HUMAN RIGHTS



LABOUR



ENVIRONMENT



ANTI-CORRUPTION

The Ten Principles of the UN Global Compact

Corporate sustainability starts with a company's value system. By incorporating the Ten Principles into strategies, policies and procedures, and establishing a culture of integrity, companies are not only upholding their basic responsibilities to people and planet, but also setting the stage for long-term success.

Companies operate responsibly



HUMAN RIGHTS

1. Businesses should support and respect the protection of internationally proclaimed human rights; and
2. make sure that they are not complicit in human rights abuses.



LABOUR

3. Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;
4. the elimination of all forms of forced and compulsory labour;
5. the effective abolition of child labour; and
6. the elimination of discrimination in respect of employment and occupation.



ENVIRONMENT

7. Businesses should support a precautionary approach to environmental challenges;
8. undertake initiatives to promote greater environmental responsibility; and
9. encourage the development and diffusion of environmentally friendly technologies.



ANTI-CORRUPTION

10. Businesses should work against corruption in all its forms, including extortion and bribery.

Companies contribute to progress

SUSTAINABLE DEVELOPMENT GOALS



Let's make Global Goals Local Business

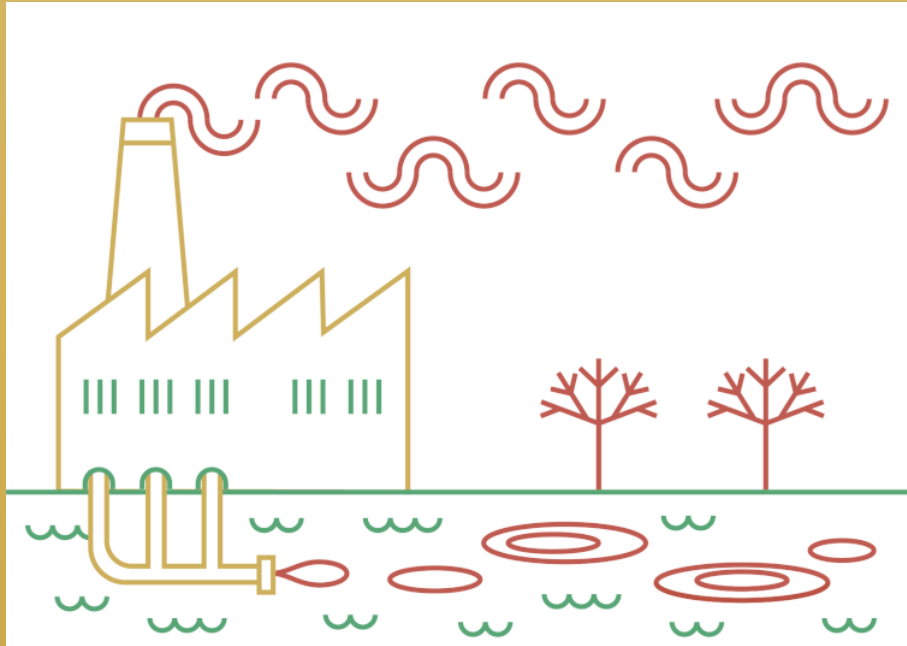


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SIBYLLE BAUMGARTNER,
FOCUSRIGHT

Introduction to HRDD & typology of company responses

WHAT IS HUMAN RIGHTS DUE DILIGENCE?



The aim of human rights due diligence is to **avoid negative impacts** on people and the environment caused by the company itself or by actors in the value chain.

KEY ELEMENTS OF HRDD

According to OECD Guidelines & UNGPs



WAR IN UKRAINE: TYPOLOGY OF COMPANY RESPONSES* RELATED TO UKRAINE

Support for own staff / business partners

- Some companies with offices in Ukraine, such as **Grammarly**, **Lyft**, and **Wix**, have relocated their employees to safer locations, and are increasing their paid time off
- **IKEA** support the personal safety and security of IKEA co-workers and their families

Continuing or starting operations / business relationships

- **Space X's** Starlink satellite internet service expanded its coverage in Ukraine
- **Meta/Facebook**: temporary changes in its content policy for Ukraine aimed to allow for forms of political expression that would normally violate its rules

Stopping operations / business relationships

- **Google** has temporarily disabled Google Maps live traffic data in Ukraine following reports that the tool could be used to track the movements of civilians and troops
- **KFC and McDonalds** have closed their restaurants in Ukraine due to security concerns

Providing humanitarian relief / support for refugees

- **Adecco**: job portal for Ukrainian refugees
- **Airbnb** has announced free accommodation for 100,000 Ukrainian refugees
- **KFC and McDonalds** have kept their kitchens open providing food for local community councils, the army, hospital workers and volunteers

WAR IN UKRAINE: TYPOLOGY OF COMPANY RESPONSES* RELATED TO RUSSIA – OWN OPERATIONS

Complete Exit / Divestment

- **Shell** : exit of from Russia in a phased manner
- **Coop**: Transgourmet has decided to withdraw completely from its business operations (Selgros and Global Foods) in Russia through a management buyout
- **Holcim**: decided to initiate the process to exit the Russian market

Partial Exit / Divestment / Suspension

- **Sonova Group**: Suspended supply of non-medical consumer hearing devices while continuing the supply of medical hearing devices
- **Nestlé**: Halted non-essential imports and exports, advertising and capital investment. Continues provision of essential food

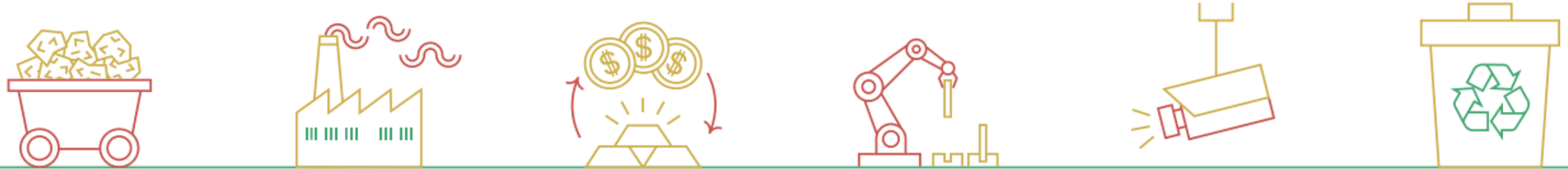
Full Suspension

- **Warner Bros, Disney, and Marvel** suspended new film releases in Russia
- **H&M** withdraw temporarily from Russia
- **IKEA** has paused operations in Russia and Belarus, including deliveries from all sub-suppliers
- **Visa, Mastercard, American Express and PayPal** suspending Russian operations

Stay and continue

- **Stadler Rail** is keeping up its production in Belarus with 1200 employees
- **Ems-Chemie**: continues production in Russia (but paused currently due to lack of production orders)

WAR IN UKRAINE: HOW CAN COMPANIES BE LINKED THROUGH BUSINESS RELATIONSHIPS IN THE VALUE CHAIN OR OWN ACTIVITIES?



Extraction & Production

Smelting & Refining

Trading

Manufacturing

Use

End of life

Example: buying / sourcing / using raw materials extracted in Russia

Example: local production in Russia and payment of taxes to the government

Example: products or technology being used in the war

Global Compact Network Switzerland & Lichtenstein

Human Rights Due Diligence in conflict-affected areas - with focus on the current situation in Russia & Ukraine

Dr Evelyn Dietsche, swisspeace

swiss
peace

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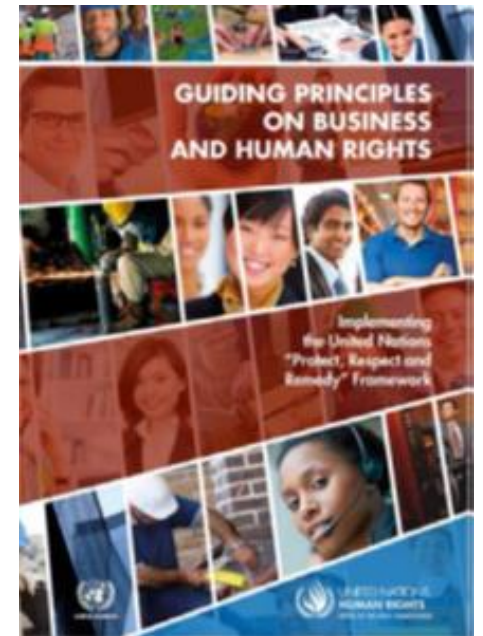


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of Basel

The Basics of HRDD in conflict-affected areas

United Nations Guiding Principles on Business & Human Rights (UNGPs) – since 2011

- Companies must respect internationally recognized human rights as well as international humanitarian and criminal law **wherever** they work.
- Working in **conflict-affected areas** warrants **enhanced Human Rights Due Diligence** - on operations and the whole supply chain - to avoid contributing to violations of human rights and international law.
- The **corporate responsibility to respect** human rights is independent of the **state duty to protect** human rights.
- The corporate responsibility to respect applies to **all companies**, irrespective of size. But the approach a business takes should be commensurate to its size and the risks it faces.



UNGPs: HRDD in conflict-affected areas (1)

Pillar I: The State duty to protect Human Rights

- In **conflict-affected areas**, there is a heightened risk of **gross human rights abuses (Principle 7)**
- Where a **‘host’ State itself is involved in human rights abuses**, the **‘home’ State has a role to play** in ensuring that businesses are not linked to or contributing to such abuses.
- *‘conflict-affected areas’ – within States & between States.*



HRDD in conflict-affected areas (2)

Pillar II: The Corporate responsibility to respect Human Rights

- In conflict-affected areas the corporate responsibility to respect HRs warrants **enhanced HRDD** to ensure:
 - (a) business activities are **not causing or contributing to adverse impacts**, and
 - (b) such activities are **not linked** to adverse impacts via **operations, products, or services**.

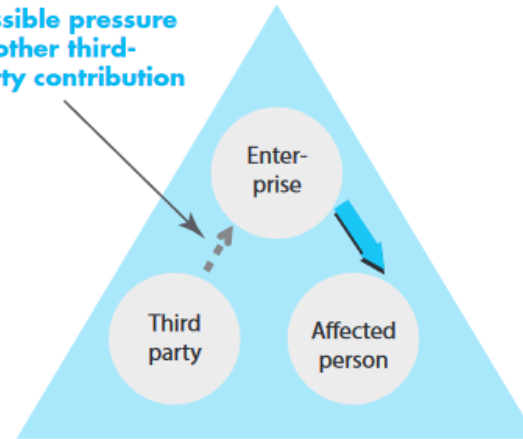


Causing, Contributing, or Linked?

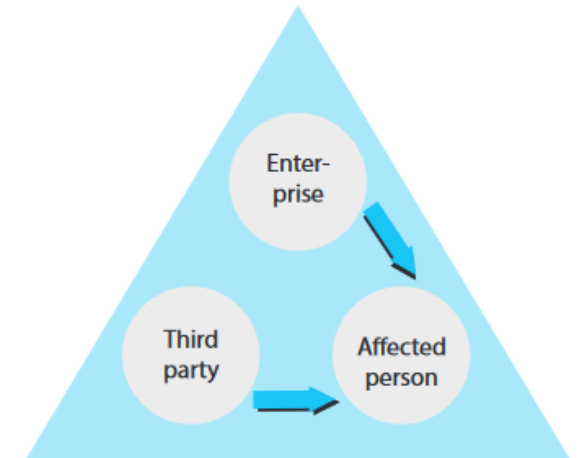
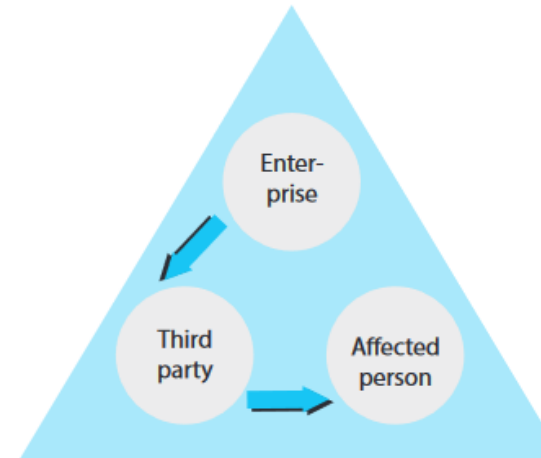
(Principle 13)

I. Cause

Possible pressure
or other third-
party contribution

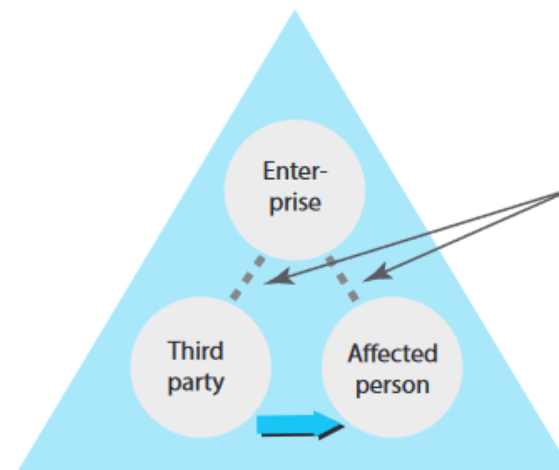


II. Contribution

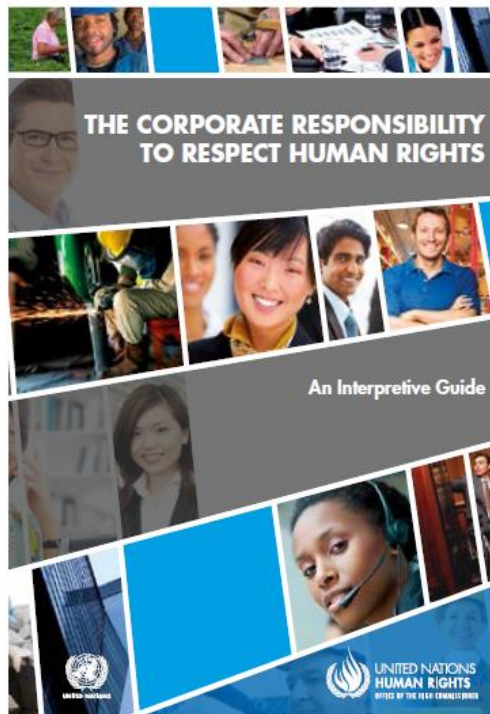


III. No contribution, but linkage

Linkage via operations,
products or services



‘Third party’: State authority or other non-state actors (e.g. armed groups)



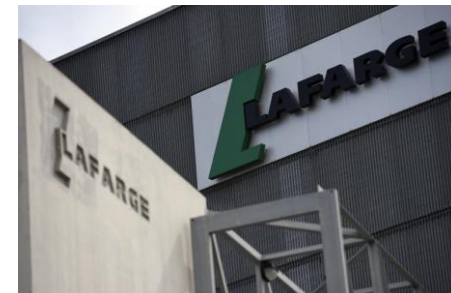
Enhanced Human Rights Due Diligence

What does “**enhanced HRDD**” entail?

1. **Analyze and understand the conflict**, integrate **conflict (sensitivity) analysis** into risk and impact assessments, and put effective measures in place to ensure no harm is done. This includes analyses of the political-economy, macro-fiscal, geopolitical risks...
2. **Mapping and analyzing stakeholders** to understand the power-relations amongst them, including mapping state and non-state armed groups.
3. **Develop scenarios** to identify and anticipate the ways in which business operations, products, or services impact upon existing political, economic and social tensions and relationships between the various groups, and/or could create new or exacerbate existing tensions or conflict.

France: Lafarge loses ruling in Syria crime against humanity case

France's top court overturns decision to dismiss charges brought against company for complicity in crimes against humanity.

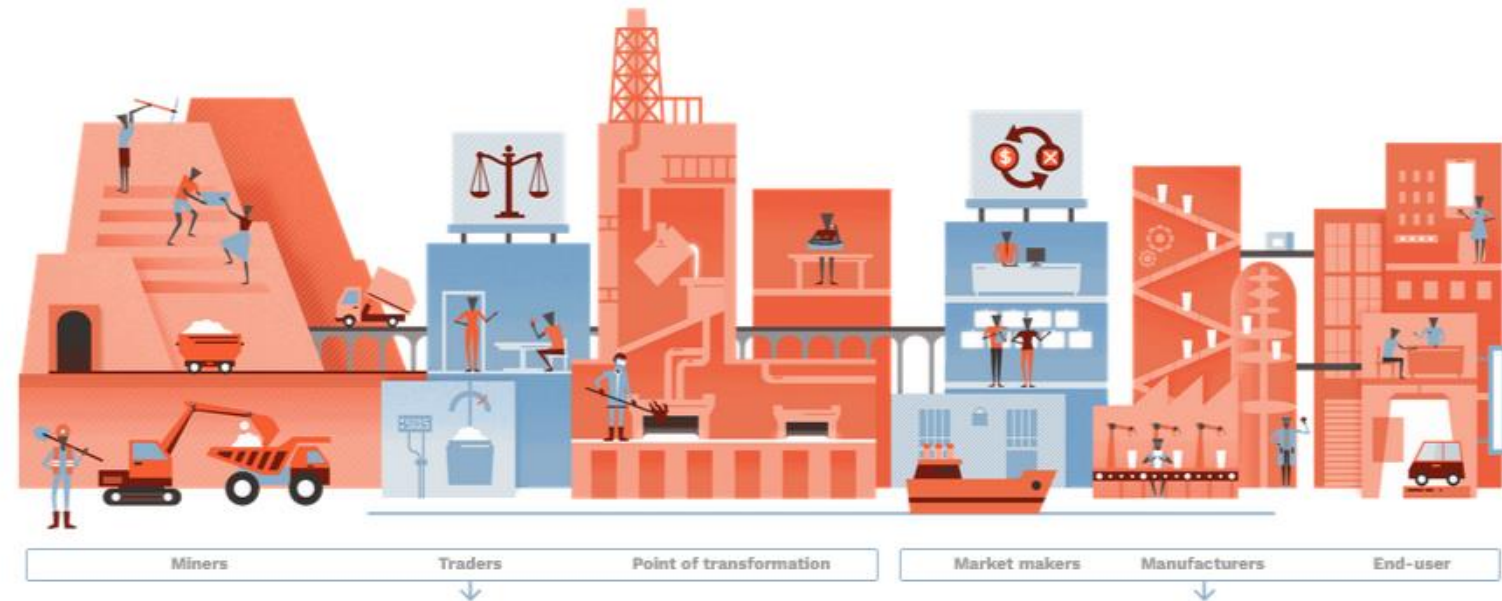




The Commodity Trading Sector

Guidance on Implementing
the UN Guiding Principles
on Business and Human Rights

A summary of supply chain due diligence

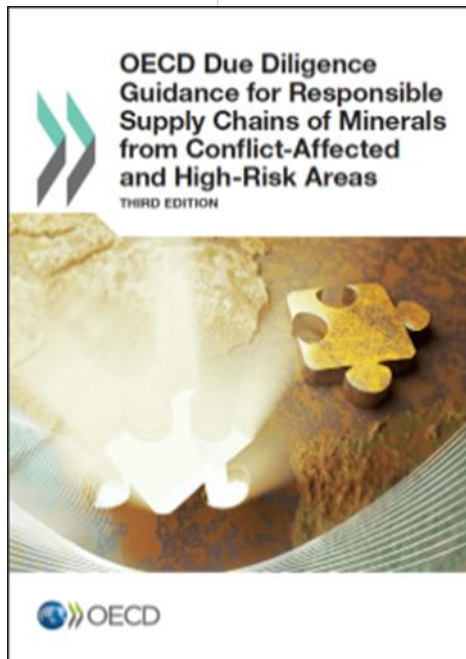


Upstream

- Establish a system of transparency to gather information on country of origin and suppliers, and undertake a **red flag** review
- For red flagged supply chains, undertake **on-the-ground assessments** of mines, producers, and traders for conflict, serious abuses, bribery, tax evasion, fraud, money laundering
- Collaborative engagement with local government, CSOs, local business to prevent and mitigate impacts, monitor
- Report publicly on due diligence efforts

Downstream

- Identify 'choke points' in supply chain (e.g. metal smelter or refiners)
- Collect information on their upstream due diligence (e.g. both through individual efforts and industry auditing)
- Use collective industry leverage to encourage improvement of upstream due diligence
- Report publicly on due diligence efforts



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Education and Research (SECO)
State Secretariat for Economic Affairs (SECO)



<https://www.duediligenceguidance.org/>

Enhanced HRDD in the context of Russia & Ukraine

I. Sanctions

Economic and financial **sanctions** imposed by EU and other Western & Asian countries, including CH:

→ condemnation of aggressive military intervention, breaking of international law, and human rights violations.

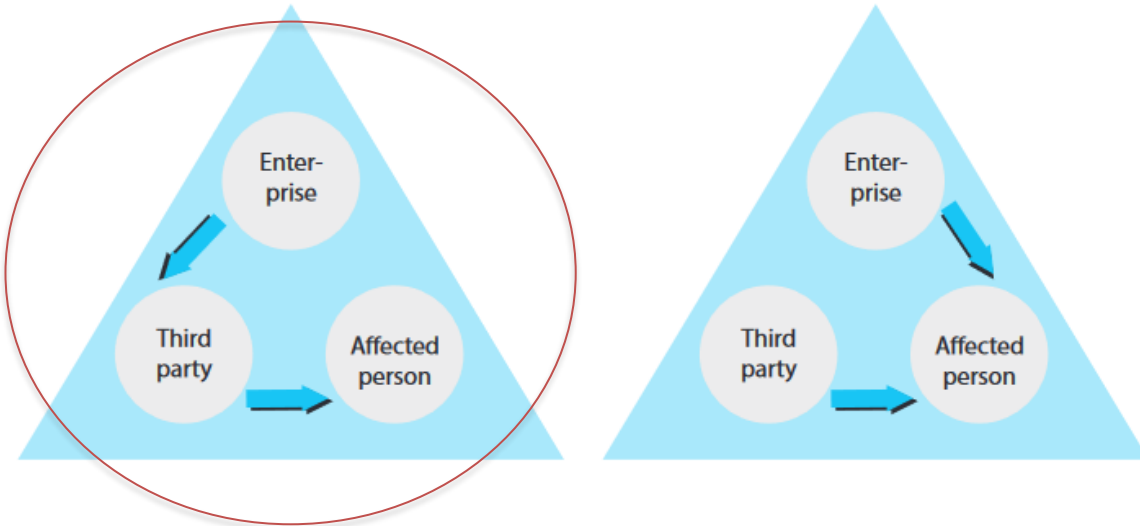
→ **corporate obligation to refrain from undermining 'home' State sanctions against the aggressor State.**

II. Enhanced HRDD

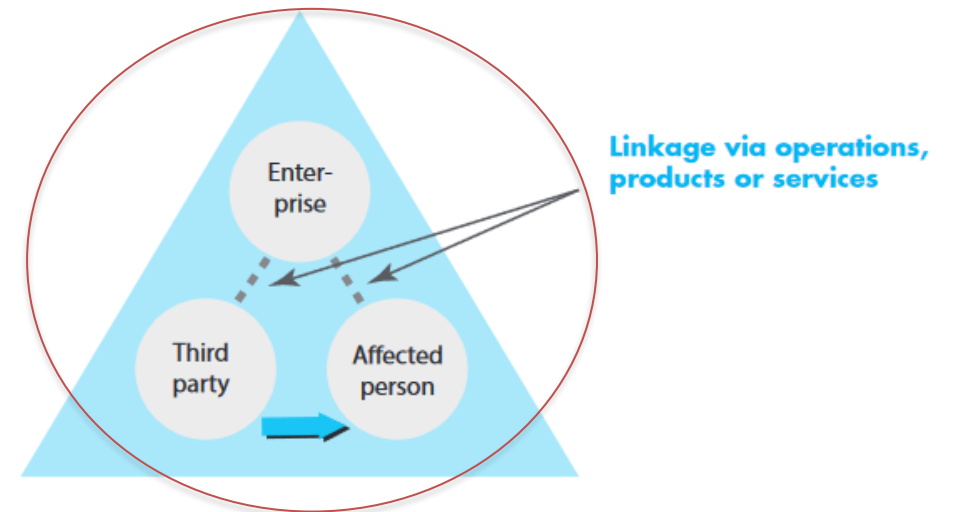
Do business operations, products and services **contribute** or are they **linked to HR violations**?

→ including propping-up aggressive and oppressive regime etc.

II. Contribution



III. No contribution, but linkage



III. Hiring private security providers

- To protect assets in the case of (temporary) 'exit'
- To deliver humanitarian assistance

IV. Occupied territories

- Specific international law applies to operating in and trading with occupied territories.

V. Impact on global Trade & Investment

Supply Chain Diversification → geopolitical risks upturn commodity markets

- **Fossil fuels/Security of Supply:** securing alternative sources of supply - while also trying to reduce emissions.
- **Food:** securing alternative sources of supply → weather risks due to changes in climatic conditions → deforestation, loss of biodiversity etc.
- **Transport:** sourcing and transporting goods from where, trading with whom, at what prices and (economic) costs etc – self-censorship is happening

Reduce Fossil Fuel dependence by scaling Clean Energy Technologies

- **Transition:** speeding up clean energy technology developments and scaling investments in new technologies
→ state support & industrial policy playing a key role.
- **Clean energy minerals:** sourcing clean energy minerals from elsewhere, trading with new partners, developing new supply chains...

Increasing Human Rights risks elsewhere

- Alternative sources of supply from other **fragile, conflict-affected & high-risk areas and contexts**.
- **Fast-tracking investments** → e.g. linked to rights to land/ land use, rights of Indigenous Peoples, negative environmental impacts, presence of state and non-state armed groups etc → 'conflict-minerals', 'land grabs' etc.
- **Climate litigations** → HR and Environmental DD.

Key messages

- Sourcing and trading commodities from and through **fragile, conflict-affected and high-risk** contexts always calls for **enhanced HRDD** and putting in place effective **risk mitigation measures**.
 - In addition to general HRDD guidance: conflict (sensitivity) analysis, analysis of the bigger geopolitical and political economic context, stakeholders and their political and economic power relationships → drawing on third party expertise.
- Russia-Ukraine conflict poses **legal, economic and reputational risks** for companies, especially those trading with state-owned enterprises/businesses that are tied and are seen to be benefiting the Russian regime.
 - Adaptation of existing guidance on enhance HRDD - from primary focus on intra-State conflicts to this particular inter-State conflict.

Many thanks



Schweizerische Friedensstiftung
Fondation suisse pour la paix
Fondazione svizzera per la pace
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TOOLS AND RESOURCES RELATED TO HRDD IN CONFLICT-AFFECTED CONTEXTS

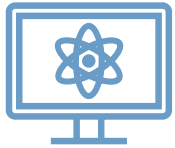
- **Report of the UN Working Group on Business & Human Rights:** Issue of human rights and transnational corporations and other business enterprises: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N20/190/21/PDF/N2019021.pdf?OpenElement>
- **Operating in conflict-affected contexts: An introduction to good practice:** Business & Human Rights Resource Centre, based on tools from the ICRC, DCAF, and the Geneva Centre for Business and Human Rights
<https://www.business-humanrights.org/en/blog/operating-in-conflict-affected-contexts-an-introduction-to-good-practice/>
- **Security and Human Rights Knowledge Hub**
<https://securityhumanrightshub.org/>
- **Security and Human Rights Toolkit** (new version coming in June)
<https://securityhumanrightshub.org/toolkit>

Human and Labour Rights - offers of the UN Global Compact



Live Sessions

- Webinar series on: Impact of Human Rights Due Diligence regulations on companies based in Switzerland and Liechtenstein (Sign up [here](#))
- Human Rights Due Diligence Peer Learning & Networking Group (Sign up [here](#))



E-Learnings

- Business and Human Rights: How Companies Can Operationalize the UN Guiding Principles ([link](#))
- How Procurement Decisions can Advance Decent Work in Supply Chains ([link](#))
- Improving wages to advance decent work in global supply chains ([link](#))



Publications

- What does effective human rights risk management look like? 5 insights from practice ([link](#))
- Selection of other publications of the UN Global Compact ([link](#))



Tools

- Decent Work Toolkit for Sustainable Procurement ([link](#))
- Business and Human Rights Navigator ([link](#))

Ukraine Humanitarian Crisis Business Guide ([link](#))



More E-Learnings:



Academy

For more information visit globalcompact.ch

Please don't hesitate to reach out to: alice.harbach@globalcompact.ch



Global Compact
Network
Switzerland & Liechtenstein

HRDD Peer Learning & Networking Group

- Virtual (After-) Lunch Videocalls every three months with informal discussions on questions, learnings, insights and challenges with peers.
- Platform for regular exchange among business and human rights professionals in Switzerland and Liechtenstein
- Chatham-House-Rule
- Language: Englisch
- Facilitated by the Global Compact Network Switzerland & Liechtenstein and focusright
- Microsoft Teams channel to continue group exchange between calls

Sign up: <https://www.globalcompact.ch/hrdd-peer-learning-and-networking-group>

Objectives:

- Provide a platform for regular exchange among business and human rights professionals in Switzerland
- Create opportunities for peer learning and networking
- Entry point for bilateral contacts and more in-depth peer exchange

Participation requirements:

- Active participation in informal group discussions in a virtual setting
- Willingness to share own experiences and learn from others
- Professional link to business and human rights
- Being a Participant of the Global Compact Network Switzerland & Liechtenstein or having attended at least one NAP- Event facilitated by focusright.



MANY THANKS

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