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RESPONSIBLE BUSINESS AND HUMAN RIGHTS FORUM
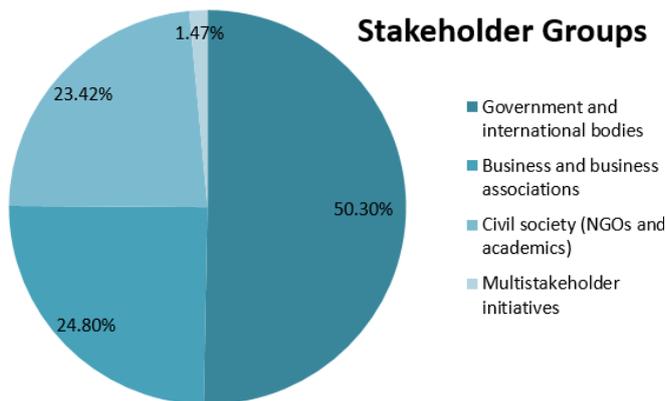## 12-13 June 2019 - Bangkok, Thailand

SUMMARY REPORT

Agenda | Venue | Website | Flyer | Side-events | Webcast

The **Responsible Business and Human Rights (RBHR) Forum** took place in Bangkok, Thailand (12-13 June 2019) in the framework of the Bangkok Business and Human Rights Week. This two-day, multi-stakeholder event was co-organised by the Royal Thai Government, Organisation for Economic Co-operation and Development (OECD), United Nations Development Programme (UNDP), United Nations Economic and Social Commission for Asia and the Pacific (ESCAP), the International Labour Organization (ILO) and AICHR Thailand, with the participation of the Working Group on Business and Human Rights. The Forum was organised with support from Sweden and the European Union.

Stakeholder Groups

1.47%
23.42%
50.30%
24.80%

- Government and international bodies
- Business and business associations
- Civil society (NGOs and academics)
- Multistakeholder initiatives

With over 700 registered participants from 42 countries, the RBHR Forum was one of the largest events in Asia on responsible business conduct / business and human rights in 2019.

Of the total number of participants 54% were women; 50% were from government (all 10 ASEAN members were present); 25% came from business and 25% from civil society. In addition to the co-organising partners, several UN agencies were actively involved, including UN Environment, UNFCCC, UNICEF and IOM.

- **The** Forum agenda **included 16 sessions covering a wide variety of priority topics**, such as food and agriculture, electronics, project finance and infrastructure, migrant workers, climate change, gender issues in global supply chains, decent work, and trade and investment agreements.

- The Forum took place in the framework of the Bangkok Business and Human Rights Week, which also included the ASEAN Interregional Dialogue on Business and Human Rights (10-11 June 2019) and the [ASEAN Institutional Investors Forum](#) (14 June 2019).

- The week was equally notable for over **[14 side-events](#)** hosted on an array of topics, including the environment, decent work in value chains, special economic zones, child-labour, mining, and anti-corruption. The side-events were **organised by and with partner organisations,** which included the United States Council for International Business, the International Organization of Employers, Business at OECD (BIAC), the United Nations Conference on Trade and Development (UNCTAD), UN Environment, Japan Ministry for Economy, Trade and Investment, EU Directorate-General GROW and others. In addition, there were numerous side events happening on the margins of the forum, which included trainings of human rights experts in the region, workshops on responsible business conduct (RBC) in electronics supply chains and a conference organised by OECD Watch for NGOs.

- The forum was opened by and included **high-level participants**, including Pongsatorn Sajjacholapund, Vice Minister of Justice, Royal Thai Government; Masamichi Kono, Deputy Secretary-General of the OECD; Haoliang Xu, Assistant Secretary-General of UNDP; Hilde Hardeman, Director of EU Foreign Policy Instruments; and Young Tae Kim, Secretary General of International Transport Forum.

The forum provided a space for policy makers, industry leaders, and civil society champions to explore responsible business and human rights issues, including links to trade and investment policy, sustainable development, gender equality, new technologies, climate change, and the future of work.

Opening panel: The 2030 Agenda and the role of business in achieving the Sustainable Development Goals

This opening session explored the role of businesses in achieving the 2030 Agenda for Sustainable Development and its 17 Sustainable Development Goals (SDGs) through more responsible business conduct and greater respect for human rights. It was noted with some urgency that the Asia and Pacific region was not on track to reach any of the 17 SDGs, and that partnerships with business are key. Panellists highlighted the role of corruption as a potential obstacle to reaching the SDGs, as corruption destabilises democracy, limits the rule of law and undermines the legitimacy of a government. Panellists referred to key instruments guiding business conduct, including the UN Guiding Principles on Business and Human Rights, the OECD Guidelines for Multinational Enterprises and related guidances, the United Nations Global Compact Principles and the ILO Core Conventions.

Governments Taking Action: Deepening Policy Coherence

This high-level plenary explored how governments can deepen policy coherence and ensure cohesive action on responsible business and human rights. The discussion reinforced the importance of government action. It was noted that governments should consider a smart mix of policies, actions, and initiatives and that there are multiple ways of supporting businesses while also ensuring that public interest is protected. In particular, it is important to note that while governments often operate in silos responsible business and human rights issues are cross cutting, which makes it difficult to bring about coherence. Even if there is a lead ministry on a certain topic (e.g. gender), it is important that other ministries have an understanding of issues involved. Panellists noted that National Action Plans have been an important way in which governments have tried to overcome silos. When National Action Plans are being developed, this triggers cooperation and coordination. It was noted that involvement of stakeholders, including business, is critical.

Stakeholders normally do not deal with issues in a compartmental way and can play an instrumental role in pushing for more coherence. A key message from the discussion was that governments should be realistic about what is possible and set priorities and milestones. Finally, panellists noted that joint forums like the RBHR Forum can facilitate coherence and promote partnerships.

Tools to address climate change and human rights impacts

The session explored linkages between climate change and human rights impacts and the tools and mechanisms that might guide a transition to low carbon economies. Panellists agreed that climate change needs to be framed in the context of human rights to ensure pointed action; yet significant challenges remain due to disparities in conceptualizations and definitions. Panellists suggested highlighting human rights principles found in the Paris Agreement. An increase in governmental and private sector dialogues was called for as a crucial building block for multilateral efforts. Panellists also encouraged more intergovernmental cohesion to ensure that policies complement each other and avoid working at cross-purposes. A business representative suggested that currently available climate change tools were unhelpful. Panellists stressed that a "level playing field" would encourage more businesses to take up climate change and human rights agenda effectively. Essentially, the government must provide clear regulatory framework with incentives and disincentives for tackling these issues, holding all firms accountable for their actions. Panellists noted that government policies that allow for continued levels of carbon-emissions undercut incentives, innovation and implementation of climate friendly business policies. A representative for the OECD National Contact Point (NCP) of the Netherlands provided a reflection on a recent case involving changes in due diligence policy of a large European bank toward climate change. A Commissioner from a National Human Rights Institution described their work bringing energy companies to task for their contributions to climate chance, highlighting the impact of their methods as a non-judicial mechanism.

Due diligence in global supply chains: FOOD AND AGRICULTURE

The challenges for the food system are a crucial aspect of the broader challenges facing humanity as a whole. Of the 17 SDGs, nearly all link either directly or indirectly to the global food system. Agricultural supply chains and investments in the food and agricultural sector can significantly benefit host countries and societies. However, they can also have adverse social and environmental impacts, in particular relating to human rights, labour rights, tenure rights over natural resources, and sustainable use of natural resources. This session with contributions from the Royal Thai Government (Ministry of Agriculture, Standards Division), Nestlé, Thai Union, Cargill, and Sherpa explored progress and ongoing challenges in promoting responsible business conduct and supply chain due diligence in the region. Key takeaways include:

- Supply chain due diligence is being implemented across a variety of commodities to identify and address negative impacts, including in fisheries and palm oil. Despite the complexity of the supply chains, companies are able to put in place systems and steps which meet international standards and recommendations such as the OECD-FAO Guidance for Responsible Agricultural Supply Chains.
- However, challenges remain in constructively engaging with affected communities, safeguarding those who bring problems to light and offering remediation to address the negative impacts.
- Government policy and legislation remains an important tool to promote responsible business practices and sustainable development.
- Systemic problems such as labour (child labour, migrant labour), poverty and including smallholder farmers require collaboration across a range of stakeholders.

Due diligence in global supply chains: INFRASTRUCTURE

Infrastructure is a critical input for development, but little has been done to date to define strong social and environmental performance indicators for infrastructure projects. Getting and keeping the social license to operate is often an underestimated and under-priced risk that threatens the success of projects, while costs for communities are often higher and more serious than estimated. Due to their size and complexity, projects are also highly vulnerable to corruption and negative social and environmental impacts. This session gathered representatives from business and civil society to discuss these risks and how integrating and carrying out due diligence in the infrastructure project life cycle can lead to better project outcomes. Panellists highlighted the importance of infrastructure projects to achieve the SDGs and explored several challenges in this regard. In particular, the complexity of supply chains in the sectors covered by

infrastructure was discussed, as well as the difficulty of engaging with stakeholders given that space for civil society is closing in several regions. The development of due diligence strategies through strong local presence by multinational companies involved was therefore cited as a key factor for effective due diligence in relation to infrastructure projects.

Decent Work in Global Supply Chains: Trends, Practical Tools and Experiences in the Region

Global supply chains have created significant employment and opportunities for economic and social development in the region. In China, for instance, wages in the textile industry have tripled in ten years. However, cost competition and characteristics of the region's governance have seen deficits in decent work widen in some contexts. The panel heard that implementing decent work, such as paying fair wages, empowering women and increasing opportunities for social dialogue can be a driver of business performance and overall productivity. Decent work should be seen as an opportunity for businesses in global supply chains, not a burden. However, delegates were told that while buyers have an advantage in encouraging the implementation of standards in supply chains, surveys show that some do not view all labour standards as priorities. The international community, for its part, needs to work with its partners to help businesses develop the tools they need to follow international guidelines and implement existing standards. Meanwhile, the sustainability clauses of trade agreements are being used to raise the visibility of respect for fundamental labour rights and responsible business conduct. Companies with a good record on responsible business conduct are likely to find greater access to business opportunities.

Due diligence in global supply chains: PROJECT FINANCE

This session highlighted the increasingly important role of financial service providers in driving global sustainability agendas and heightened expectations of this sector with respect to responsible business conduct (RBC). The session focused on due diligence in project and asset-based finance activity, as significant human rights and environmental risks are often associated with projects based in contexts where economic development and poverty alleviation are most needed. Participants heard from banks BNP Paribas and ABN Amro as well as from representatives of Fair Finance and the Australian Treasury Department.

Key takeaways include

- Strong responsible business and human rights due diligence processes can help ensure that banks and other financial sector providers respond to heightened expectations and put financing towards responsible assets and projects, which support sustainable development
- Some banks have developed strong due diligence processes: integrating environmental and social risk management into the functions of deal teams, evaluating and responding to risks on an ongoing basis and meaningfully engaging with clients to drive better conduct were some of the approaches highlighted. However, globally many banks are not adequately managing these risks. Speakers noted that a lack of a level playing field in this sector could result in penalties on industry leaders seeking to promote responsible business. Furthermore, speakers acknowledged that both banks and clients would profit from achieving harmonization in approaches to environmental and social risk management. In this respect, international standards can provide a useful baseline.
- Speakers underscored that regulators can play an important role in levelling the playing field and civil society can contribute by facilitating identification and responses to environmental and social risks on the ground.

Due diligence in global supply chains: ELECTRONICS MANUFACTURING

This session highlighted practical experience in implementing international expectations on responsible business conduct in the electronics sector in Asia. Participants heard from HP Thailand, Seagate Malaysia, Sony Japan, Good Electronics Network (NGO) and Asia Resources Monitor (NGO). Panellists highlighted the risks facing workers in the electronics supply chain, as well as the challenges electronics manufacturers and brands with operations on the ground in Asia are faced with in meeting global sustainability goals.

Key takeaways include:

- Shared standards, clear expectations and codes of conduct are critical in promoting responsible business conduct along the supply chain.
- Equally important are efforts at capacity building with suppliers on what due diligence means, clarifying the role of audits, and reporting on due diligence.
- The cost of due diligence and how this could be shared more equitably along the supply chain, as well as the push for more transparency to build trust were also raised by panellists.

Responsible Business and Human Rights in Global Trade and Investment

The session explored how global trade and investment is connected with human rights, and how to embed sustainability in the trade and investment ecosystem. Panellists noted that while trade and investment agreements present opportunities to strengthen responsible business conduct in supply chains, in practice such clauses had so far not had much teeth. The trans-pacific agreement (Comprehensive and Progressive Agreement for Trans-Pacific Partnership, CPTPP) was said to be the most advanced when it comes to labour provisions. To address potential issues linked with trade and investment agreements, CSOs are advocating for ex-ante human rights impact assessments in all processes, as they can provide information for mitigating potential impacts and increase transparency in negotiation processes. CSO's also advocated for developing complaints mechanisms within trade agreements; and encouraging brands to work through collective action in addressing difficult issues in supply chains, such as in the case of the Bangladesh Accord.

At the same time, it was cautioned that there might be a need to reflect on to which degree trade agreements can actually nudge improvements of labour conditions in supply chains, as countries who historically had bad labour conditions now often have very good conditions in spite of no such clauses existing in trade agreements at the time. Rather, the change may have come about through increasing income levels enabled by trade-led growth. Finally, it was noted that sustainability of trade is no longer of the concern of wealthy countries alone, and that some of the lower and middle-income countries are performing well as regards trade sustainably, as measured by the Sustainable Trade Index.

Learning from Practice: Accountability and Access to Remedy

This panel included civil society actors and representatives of two types of mechanisms active in facilitating remedy for harm resulting from business activities: OECD National Contact Points for Responsible Business Conduct (NCPs) and National Human Rights Institutions (NHRIs). Panellists discussed the respective mandates of NCPs and NHRIs in facilitating access to remedy, as well as the interplay between their operations as non-judicial grievance mechanisms in the field of business and human rights, with a focus on cooperation in ensuring the widest possible access to remedy for victims of corporate abuse. Panellists gave examples of cases in which NHRIs and NCPs have contributed to providing access to remedy, and highlighted instances in which NHRI-NCP cooperation has or could have improved such access. Panellists then discussed opportunities for further engagement and cooperation that could help in closing gaps in access to remedy for victims. Panellists insisted that NCPs and NHRIs, despite their differences, were complementary and should increase cooperation. Several avenues for enhanced cooperation were identified. First NCPs and NHRIs can establish ongoing dialogue in order to share their expertise, e.g. on how to protect human rights defenders from retaliation. Second, they can establish forms of cooperation in respect of particular cases, e.g. an NHRI providing advice to an NCP in respect of the human rights aspects of a case. Third, NHRIs could be encouraged to file NCP cases where their mandates permit so, on behalf of victims.

Human Rights Defenders and Responsible Business

This session focused on the role of Human Rights Defenders (HRDs) in enabling businesses to respect human rights. The particular vulnerabilities of women HRDs were underscored throughout the session. Panellists detailed the burden and challenge women HRDs face defending human rights while also experiencing lower wages, demands for care work, and expectations of meeting wider community obligations. Discussions also involved the role of governments and strategies to support human rights. Strategic lawsuits against public participation were highlighted as a means often deployed to silence defenders. To counter this, the panellists recommended that judges and lawyers be trained to be better able to

identify and support HRDs and the unfair application of evidentiary matters related to the reversal of the burdens of proof. Panellists also explored the role of business in preventing threats and intimidation against HRDs. Businesses were encouraged to support defenders. One panellist suggested that more defenders work in the companies interested in responsible businesses and help to raise awareness on the risks related to overseeing a company's extensive supply chain. A panellist also noted that Thailand's National Action Plan on Business and Human Rights included recommendations on addressing the needs of HRDs. Several clauses were noted such as the inclusion of extended witness protection, setting up community-based grievance mechanisms and more court discretion in defamation cases taken against defenders.

Applying a Gender Lens to Global Supply Chains

Existing and persistent gender inequalities mean that women and men are impacted in very different ways by business operations across global supply chains. Employing a gender perspective is vital to identify the adverse impacts of business operations, as well as in preventing and mitigating those impacts. If companies are gender neutral and do not adopt a gender perspective, they run the risk of perpetuating and worsening existing discriminatory practices present in our societies. An upcoming report on the gender dimensions of the UN Guiding Principles on Business and Human Rights highlighted the pervasiveness of discrimination, exclusion and violence faced by women in all spheres of life. However, existing state and business policies and practices do not go far enough to address this reality. Legislation, like that on modern slavery, is often gender neutral and thus does not account for women and girls as the most impacted group. The report stresses that gender equality must be respected and promoted by all duty-bearers – as a matter of rights. Despite existing challenges, industry experiences demonstrate that a business case for implementing a gender perspective does indeed exist – in fact, it is the only way to operate sustainably. Businesses employing gender-responsive codes of conduct and policies have reported positive benefits for stakeholders - higher revenues and increased customer satisfaction for buyers; higher staff morale and reduction of sexual harassment for workers; and increased productivity and access to new markets for suppliers. The gendered experiences of millions of workers across the world's supply chains must be adequately reflected in businesses' and governments' policies and practices in order to achieve true gender equality.

Measuring and Communicating Impact

This deep-dive session explored measuring and communicating impact as related to responsible business conduct and action in supply chains. Enterprises are expected to account for how they identify and addresses actual or potential adverse impacts in their company and supply chains. Sustainability reporting and due diligence are key tools for monitoring and improving responsible business practices and ensuring accountability. Communicating information on due diligence processes, findings and plans is part of this. It enables the enterprise to build trust in its actions and decision-making and demonstrate good faith. The main takeaway from the session was that measuring human rights impacts remains an under-developed area of research and that there is a risk in equating efforts to promote due diligence with actual impact of due diligence. Additionally, while more and more firms and industry associations are investing in measurements, it is important to note that we need more and better research on how to understand the impact of one company or one industry as a whole when practices may vastly differ country-to-country and industry to industry. Finally, panellists noted that we often focus on looking at processes/measurements related to eliminating negative impacts. However, understanding what positive contributions look like in terms of responsible business conduct is also important. From a measurement point of view, it is difficult to disaggregate whether this may mean the absence of negative impacts or some other sets of indicators.

New Technologies and New Norms: A.I., privacy protection, cyber security and beyond

In this session, panellists explored risks and opportunities presented by new technologies such as artificial technology (AI), and gave further definition to the need to build norms to ensure safeguarding of human rights. It was noted that human rights defenders are already feeling many of the risks of new technologies such as facial recognition, surveillance technologies and social media. At the same time, AI also presents many opportunities to promote social good. The issue most actors are grappling with, including big tech companies, is how to get the balance right between challenges and opportunities. Microsoft informed the audience that they had set out five principles guiding development and use of AI:

1) non-discriminatory use of AI; 2) reliability and safety; 3) privacy and security; 4) inclusiveness and; 5) transparency and accountability. APRU noted that there were significant concerns related to the power of new technologies to manipulate civil society and widen the gap between rich and poor. Panellists noted that data is the 'currency' of AI and that data may sit in the hands of a few powerful companies or organizations. This centralisation of power can become an issue where rights need to be taken into consideration. Given rising concerns around the use of data and technology, investors have started asking for more tools to do impact assessments in human rights issues in the ICT sector, including around freedom of opinion and expression, privacy and data protection, security and conflict. As investors need data to back up their investment decisions, the ranking digital rights index was mentioned as an instrumental tool for investors and business. Human rights due diligence processes are also highly relevant. As regards the need for norms, it was noted that international human rights norms and frameworks continue to be highly relevant. However, with the quick pace of development, there will likely be a need to rethink some norms and frameworks, for example in relation to questions around agency.

Migrant workers and responsible business conduct

Migrant workers play a significant role in our economies, but many of them face vulnerable conditions, particularly low-skilled migrants exposed to exploitative recruitment and employment practices when operating in contexts with limited legal protections. This session addressed how companies can implement due diligence in the recruitment and employment of migrant workers, both in their own operations and supply chains. It also stressed the important role of governments in creating a level playing field for the recruitment industry through better regulation and enforcement, and enabling protection of all workers, including migrants. It emphasised the role of civil society and trade unions, with special attention to collective bargaining as critical to enable workers to negotiate the conditions of recruitment and employment. Finally, panellists raised that further efforts will be needed at the domestic level, as many migrant workers in vulnerable working conditions are part of domestic-oriented industries, which are not linked to global supply chains.

The Future of Work

Together with rapid regional and global integration, the labour market is facing unprecedented challenges brought by recent technological innovation. The panel explored ways to address the risks posed in the future of work while emphasising the need to prioritise a human-centred agenda. While innovation is likely to increase both productivity and profit, the digital economy also risks increasing inequalities. This may have a disproportionate impact on skilled workers in middle-income countries, accelerating the trends of inequality. At the same time regional integration in the Asia-Pacific region enables migrant workers to take up jobs in labour-intensive sectors, in particular in those sectors which are slow to implement new technologies and innovation. Acceleration of regional and global integration, growth of automation and ICT, and the expansion of social inequalities were identified as foreseeable challenges for the world of work in the near future. The panel noted that addressing current challenges such as fundamental labour rights (only 18 out of 38 member states in the region have ratified the ILO collective bargaining convention) will be critical in assuring a coherent response. More attention should be put on developing institutional frameworks to protect fundamental labour rights. Human-centred, transformative change should aim for a brighter future and deliver economic security, equal opportunity and social justice to the world of work.

Find the programme, documents, photos and more at www.rbhrforum.com