



Keynote remarks by

Anita Ramasastry, Chair UN Working Group on Business and Human Rights

“Implementing human rights due diligence in global supply chains”

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Ladies and gentlemen, dear colleagues and friends,

Greetings from Seattle, Washington! I am sorry I cannot be with you live today given the time difference.

I want to begin with thanking the Geneva Center for Business and Human Rights, the International Chamber of Commerce and the World Business Council for Sustainable Development for this kind invitation to briefly address you today.

I am pleased to have the opportunity to share reflections on ways we can ensure respect for human rights in global supply chains. As we celebrate Human Rights Day today, we need to pause and reflect and think of the millions of workers toiling in global value and supply chains, bringing us the products we use and consume regularly. As we think of them, we need to redouble our collective efforts to build a sustainable future for all.

It is at the core of the mandate of the UN Working Group on Business and Human Rights that I chair, as we have been given the task to promote global implementation of the UN Guiding Principles on Business and Human Rights – or as we call them, the UNGPs.

We see the Guiding Principles as a bedrock document to help achieve the Sustainable Development Goals.

Making human rights due diligence part of standard business practice is a key issue for our ongoing project focused on the next ten years of business and human rights. With the 10<sup>th</sup> anniversary of the Guiding Principles just around the corner, coming up in June next year, we have undertaken a project – known as the Next Decade of BHR. We will take stock of the first ten years of the Guiding Principles and design a roadmap for global implementation in the next decade.

Under the UN Guiding Principles, all business enterprises have a responsibility to respect human rights, and the process of continuously conducting so-called human rights due diligence is a core requirement for businesses in fulfilling that important responsibility.

Human rights due diligence was introduced as a core concept in the Guiding Principles. Since its debut, it has seen a wide uptake in standards for responsible business conduct. Notably ILO and OECD frameworks are closely aligned with the Guiding Principles, particularly around human rights due diligence as entry point for preventative management of negative impacts. It is now also at the centre of regulatory developments, of course, with increasing backing from business and investors.

Human rights due diligence provides the tool for companies to identify and address salient human rights risks in their own activities and value chains; whether we are talking about endemic impacts such as forced and child labour, or harassment of human rights defenders. We have also seen that it has been vital to address human rights impacts that have surfaced in 2020: workers risking their lives without adequate protection against the COVID-19 coronavirus, or racial discrimination that is deeply rooted in our societies and the economy.

Companies that have had human rights due diligence in place have been able to act proactively and creatively to address these challenges and issues.

The Working Group therefore considers that human rights due diligence is a key tool in the global efforts to build forward better in the wake of the COVID-19 pandemic. It enables companies to focus their attention on the most severe human rights risks and identify actual or potential impacts to people as part of any response to the pandemic.

We see human rights due diligence as well as key to so-called future proofing business activities so that companies can address impacts to people and planet rapidly and proactively as they emerge.

We heard this at the annual UN Forum on Business and Human Rights last month, where companies and investors reaffirmed that having strong human rights due diligence systems, supplier relationships and supply chain visibility in place prior to the pandemic have been crucial for companies to navigate the challenges of COVID-19. So, we really looked at “the haves”, the companies that have taken this on board, versus the companies that have not, and what this means to sustainable and resilient models.

While this reflects the lessons learned of leading companies that have been taking steps to translate commitments to action, the reality is that too few companies are moving towards effective human rights due diligence.

We have a strong evidence-base that voluntary measures aren’t getting us where we need to be. The recent Corporate Human Rights Benchmark results affirm other data we have seen over the last few years. They highlighted that out of the 230 companies assessed, 79 scored zero for human rights due diligence.

Another tracker, Just Capital, has looked to see which companies invested in COVID-19 protection for workers. Interestingly, the Just 100, as they are called, companies that have invested, seem to be outperforming other companies who have not taken such steps in the market.

But with this bleak backdrop that most companies are not investing in due diligence, the consensus among participants across all sectors and all geographies at the UN Forum was both that laws are needed at this point, and that laws are coming. Our future is one now of mandatory measures.

Of course, the UN Guiding Principles set out the legal and policy implications for how to operationalize the State duty to protect through a so-called “smart mix” of measures that **include** legally binding measures, particularly where voluntary measures continue to leave significant gaps in human rights protections.

The Working Group is therefore encouraged by the current momentum toward mandatory human rights due diligence regimes across a growing number of jurisdictions, particularly in the EU. With respect to the Swiss context, even if the Swiss Responsible Business Initiative was rejected by the Cantons, the message from the majority of the people was loud and clear: mandatory due diligence is needed.

The concept is a prime example of the impact of the UN Guiding Principles since 2011. The Working Group has noticed a rapid sea change in 2020 with governments and companies alike committing to mandatory human rights due diligence in multiple fora.

Indeed, building out regulatory responses is a key issue for the Working Group's ongoing efforts to develop the roadmap to advance implementation of the UN Guiding Principles in our next decade project.

The Working Group has issued recommendations to the EU in the context of the legislative proposal. Allow me to mention a few key points that may be relevant for your discussion today. In our letter to the Commission we highlighted that it is critical for mandatory measures to:

- First, cover all internationally recognized human rights and all types of adverse human rights impacts.
- Second, apply across value chains, not just within supply chains, and apply to both groups' extraterritorial operations and business relationships.
- Third, go beyond reporting regimes and require meaningful processes and outcomes.
- Fourth, require businesses to take measures that facilitate access to effective justice and remedy. We know that this is going to be a difficult issue to tackle. But the issue of accountability and remedy is key to an effective due diligence mechanism.
- We also want mandatory human rights due diligence to set out clear compliance monitoring and enforcement structures and procedures that do facilitate access to effective justice and remedy. This reflects the fact that remedy is one of our most important tools for prevention.

As part of the UNGPs 10-year project, we also give focused attention to another key driver for scaling up due diligence: the role and leverage of financial sector actors, including institutional investors. Of course, investors themselves have a responsibility to respect human rights and to undertake human rights due diligence under the UN Guiding Principles, like any other business.

In conclusion, let me also stress that even if government-led legal and policy change in many regions lags behind, that does not mean companies cannot or should not move. On the contrary. Their responsibility to respect human rights applies regardless of government

performance. And effective due diligence is a key part of meeting that responsibility. We saw that in home State jurisdictions that traditionally consider themselves strong protectors of human rights, that often the law was absent during the COVID-19 pandemic to protect workers. It was human rights due diligence and company action that filled the gap. Emerging practices demonstrate it can be done. It is also encouraging that business organizations are taking up the challenge. We hope that more will follow the example set by the World Business Council of making human rights due diligence a membership criteria.

We look forward to continued dialogues with stakeholders to envision a coherent and effective way forward for making human rights due diligence part of standard business practice.

Thank you again. And I am really delighted that my colleague and Vice-Chair, Dante Pesce, will be with you for the discussions today. He can share more about our 10-year project, which he is leading on behalf of the Working Group.