MAKING STRIDES

THE WORLD FEDERATION OF THE SPORTING GOODS INDUSTRY AND THE UNITED NATIONS GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS

2015
The World Federation of the Sporting Goods Industry (WFSGI) is the global authoritative body for the sporting goods industry. Our members include sporting goods brands, manufacturers, suppliers, retailers, national/regional federations, industry and trade associations and other sporting goods industry related businesses.

In our strategic role in the support and promotion of the sporting goods industry worldwide, we:

• Provide a platform for our members to collaborate on initiatives to increase participation in sports, so that the well-being of humankind is improved through sporting activity;
• Keep our members updated on relevant changes to laws, regulations and international accords, e.g., on product safety, standardisation or working conditions;
• Act as the voice of the sporting goods industry towards organisations and federations, governmental and intergovernmental bodies at the international level as well as international sport organisations.

It is in this capacity that we have worked with our members to understand the United Nations Guiding Principles on Business and Human Rights (‘Guiding Principles’), an anchor to the global dialogue around business and human rights.

The Guiding Principles had their genesis in 2005 when then UN Secretary General, Kofi Annan, appointed John Ruggie to address a divisive debate regarding the human rights responsibilities of businesses. Three years later, he presented a framework that rests on three pillars: ‘Protect, Respect and Remedy’, also known as the ‘Ruggie framework’. In 2011, it was operationalised in the ‘United Nations Guiding Principles on Business and Human Rights’. The framework and Guiding Principles have since received widespread appreciation and acceptance among world governments, businesses and the stakeholder community.

The purpose of this paper is to articulate WFSGI’s stand on the Guiding Principles as they relate to our member community.
AN OVERVIEW OF THE GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS

Today’s globalised world is one of opportunity as well as uncertain risks. While the forces of globalisation have driven companies in search of lower costs and economies of scale, the ensuing complications of complex and sometimes opaque supply chains make it difficult to assign clear accountability at each step of the journey.

It is in this context that the Guiding Principles are intended to bring greater coherence, large-scale effects and cumulative change than prior efforts in this space had achieved.

The Guiding Principles are grounded in recognition of:

(a) States’ existing obligations to respect, protect and fulfil human rights and fundamental freedoms;

(b) The role of business enterprises as specialised organs of society performing specialised functions, required to comply with all applicable laws and to respect human rights; and,

(c) The need for rights and obligations to be matched to appropriate and effective remedies when breached.

The second “respect” pillar of the framework is particularly relevant to WFSGI. According to John Ruggie, in addition to compliance with national laws, the corporate responsibility to respect all internationally recognised human rights is a baseline. He goes further to state that “a company cannot compensate for human rights harm by performing good deeds elsewhere ... ‘Doing no harm’ is not merely a passive responsibility for firms but may entail positive steps.”

On their own, the Guiding Principles do not constitute a solution. Rather, they provide frameworks for appropriate company behaviour that can be used either as tools by companies themselves to guide performance, or as a benchmark by which governments and other stakeholders may hold companies to account.

This necessitates specific human rights due diligence. Due diligence here refers to on-going management processes that enable the company to be aware of, prevent and address adverse human rights impacts.

This means companies should take steps to develop and strengthen formal and informal grievance mechanisms and sanction mechanisms to improve prevention of human right abuses and redress of violations.

There are no pan-company templates for tackling these challenges. That said, the framework realises the importance of proper handling of the relevant human rights situation in specific conditions with respect to each individual case.

The Guiding Principles reflect international law obligations but propose no new ones. At the September 2013 session of the United Nations Human Rights Council, the delegation of Ecuador on behalf of several countries acknowledged these guidelines as a ‘first step’ intended to “provide global standards for preventing and addressing the risk of adverse impacts on human rights linked to business activity,” with appreciation of the fact that movement toward a legally binding instrument would take time.
WFSGI appreciates the importance of responsible business practices for the industry and our members. That’s why we work to understand emerging and on-going issues of relevance, assist our members to stay current with those developments, and advocate for appropriate laws and practices. Particularly with respect to human rights, we recognise the complexity of managing distributed global supply chains and support our members in their efforts to apply policies across diverse jurisdictions.

With dedicated teams and management processes to ensure respect for human rights, the vast majority of our members are taking concrete steps and acting responsibly.

To effectively implement the Guiding Principles on Business and Human Rights, the sporting goods industry faces several challenges, including:

**Complexity**
The sector is large and diverse so issues don’t apply evenly to all members. Finding common ground is complex. In addition, laws may vary in intent and implementation across different jurisdictions. While Human Rights principles are global guidelines, we need to bear in mind the sovereignty of individual countries and their legal frameworks and development agendas.

**Increasing scrutiny**
The sporting goods industry and its highly visible brands are subjects of intense scrutiny when it comes to the protection of worker rights and safety conditions. The rise of social media means that stakeholders of all kinds can easily raise awareness and mobilise their supporters around these performance issues. Not surprising, then, that Edelman’s 2014 Trust Barometer indicates that 74% of people in the world do not trust business leaders to correct issues within industries that are experiencing problems.

**Conflicting priorities**
While brands are typically on the frontline of consumer expectations, the responsibility for implementation is often outsourced to contract manufacturers who have to answer to conflicting or overlapping frameworks/guidelines/rules while keeping costs competitive.

**Variable resources**
WFSGI includes a diverse set of members. While some are large retail federations, manufacturers or global brands, many are SMEs with limited resources to systematically and comprehensively assess and act on human rights risks.
Despite the challenges, WFSGI is acting for positive change by advising members across the world to understand and apply the UN Guiding Principles on Business and Human Rights.

Here’s where we stand:

We agree that good corporate citizenship is critical in today’s business environment. Human rights are basic standards aimed at securing dignity and equality for all that may go beyond laws and conventions. As an organisation of responsible citizens, we use our good judgement to make a positive impact in the lives of people we affect. We will continue to assist our members with capacity building to enhance their knowledge and practices. We respect the rule of law and national sovereignty. We respect the laws and social, cultural, and faith-based considerations of the communities and countries our members operate in. We assist our members in understanding and navigating these legal complexities with relevant tools and education programmes.

We recognise that there is no “one size fits all” approach to applying the Guiding Principles. WFSGI members represent a wide array of operational footprints with individually unique human rights impacts. From small to large, they have varying abilities and resources to fulfil their duties in this regard. This acknowledgement is not avoiding our responsibilities but highlights the need for a range of customisable approaches and solutions. That said, we encourage our member companies to be open and honest about their human right issues and challenges.

We expect all members to apply the Guiding Principles to their operations. We advise all WFSGI members to apply the Guiding Principles to their operations as a minimum standard, not only to mitigate reputation and assurance risks but to help grow the industry by expanding access and increasing goodwill. This may necessitate a shift in decision-making and work culture to make human rights considerations central to key decisions.

To that end, we expect members to exercise due diligence and assign accountability for implementation to the appropriate level and function within their enterprise. We also expect them to make these policies publically available and communicate them internally and externally to all personnel, business partners and other relevant parties. The Guiding Principles are a starting point and, with the benefit of our own WFSGI Code of Conduct, we strive to support our members in going beyond minimum legal requirements.

We are proactive in assisting members to apply the Guiding Principles. We bring to bear a range of resources to assist members in applying the Guiding Principles. Recognising that human rights risks may change over time in relation to individual operating contexts, our efforts include:

- Providing a Code of Conduct as a baseline for our members’ programmes for responsible business operations;
- Facilitating the associated dialogue;
- Analysing and sharing the results with members; and,
- Providing tools to systematically assess risks and prepare remedial action plans.

We are active participants in relevant international dialogues and continue to stay abreast of developments. We are the voice of the sporting goods industry in international forums like the International Labour Organisation, the World Trade Organisation and the United Nations as well as international sport organisations like the International Olympic Committee and the International Sports Federations. Beyond their influence, we actively contribute to other progressive public policy initiatives, where relevant. In addition, we will continue to engage a range of experts including policy makers, business leaders and community stakeholders to help inform our approach.

We don’t have all the answers. We invite you to engage with us. We live in unprecedented times where the world is more global, more connected and more informed than ever before. We believe that this open world enables the best ideas to emerge when we share our challenges and solutions transparently. We invite you to share your perspectives with us so that we can continue to evolve and improve our efforts.
SETTING THE SCENE

Workers’ rights to freedom of association (FOA) and representation are enshrined in international labour law and sporting goods and apparel companies call on their suppliers to recognize this right in their codes of conduct. Not only do they want their suppliers to respect the law, they also recognize that worker representation helps to facilitate better communication between management and workers, which in turn leads to better workplace conditions. However, studies show that codes of conduct have had only limited success in strengthening workers’ rights around freedom of association and collective bargaining.

PARTNERING TO CREATE THE FOA PROTOCOL

Industry stakeholders such as unions, NGOs and representatives of major sportswear companies, came together in 2008 to propose concrete measures to tackle worker representation. They agreed to focus on Indonesia – one of the world’s largest producers of sports clothing and shoes – and a country that already had legislation allowing for freedom of association, unlike other major producer countries such as China and Vietnam.

On June 7 2011 in Jakarta, the historic Freedom of Association Protocol was signed by Indonesian trade unions, employers and multinational sportswear brands including adidas, Nike and Puma – with Pentland, New Balance and Asics signing a month later. The protocol gives companies a practical set of guidelines on how to uphold and respect the rights of workers to join together to achieve decent pay and better working conditions.

THE ROLE OF THE WFSGI

Following the meeting in Jakarta, the WFSGI immediately promoted the FOA Protocol to its members, encouraging them to become signatories. It continues to advise and support companies in its adoption and implementation. The WFSGI also administers and acts as a clearinghouse for the protocol, providing the document to companies that wish to sign and keeping an updated list of signatory parties.

RESULTS

The Freedom of Association Protocol has been a success for all parties involved.

More than 700,000 workers in more than 70 Indonesian manufacturing companies are now represented by trade unions. In the case of the adidas Group for example, 38 of its 45 suppliers in Indonesia now have trade union representation in the workplace.

The protocol has enabled direct co-ordination and cooperation between national unions, their direct employers and sporting goods companies, which has improved compliance with company codes of conduct.

Communication between unions has also improved and they are now working as a more unified force, moving towards the same goal. This is a unique development within the fragmented Indonesian trade union movement, which had no tradition of cooperation.

FOA Protocol committees at the supplier level and an established National Committee provide a governance process to ensure the continued roll-out of the protocol.

CASE STUDY: STRENGTHENING TRADE UNION ACTIVITIES THROUGH THE FREEDOM OF ASSOCIATION PROTOCOL
ON-GOING DEVELOPMENTS AND NEXT STEPS

Since 2011, the Guiding Principles have been embraced by many business leaders. To ensure their successful implementation, in June 2014, a majority of the United Nations Human Rights Council agreed to extend the mandate of the Working Group on Human Rights and Transnational Corporations and Other Business Enterprises for an additional three-year term. WFSGI will continue to monitor their work and engage in relevant dialogue on the topic.

As the voice and advisor for the sporting goods industry, in the months ahead we will work with international organisations and experts to build understanding about the Guiding Principles among members and convene dialogues and workshops to help build policies and processes appropriate to the size and circumstances of our members. This is an ever-evolving area of practice and as such the primary focus will be on raising awareness, providing education and assisting in implementation.

SUMMARY AND CONCLUSION

The United Nations Guiding Principles represent an important framework and set of principles that unite the world with a shared understanding of strategies and processes that facilitate a more human-centred approach to enterprise. WFSGI welcomes the Guiding Principles and continues to help member companies in effective operationalisation of human rights policies and processes.

We recognise that the Guiding Principles represent baseline expectations that must be balanced against respect for local laws and national sovereignty. We also appreciate the challenges of complexity, diversity and evolving context in which our member companies operate.

That said, we will continue to encourage our member companies to develop systematic and comprehensive due diligence processes that enable respect and, if required, remedy for human rights impacts. We will proactively spread the knowledge required and make available avenues for dialogue and implementation, and assist our member companies in adopting best practices. We welcome your collaboration.

2 Guiding Principles on Business and Human Rights, UN, 2011
3 In the context of the UNGP, human rights due diligence comprises an on-going management process that a reasonable and prudent enterprise needs to undertake, in the light of its circumstances (including sector, operating context, size and similar factors) to meet its responsibility to respect human rights.
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