



Stichting Onderzoek Multinationale Ondernemingen  
Centre for Research on Multinational Corporations

# RESPONSIBLE SUPPLY CHAIN MANAGEMENT

POTENTIAL SUCCESS FACTORS AND CHALLENGES  
FOR ADDRESSING PREVAILING HUMAN RIGHTS AND  
OTHER CSR ISSUES IN SUPPLY CHAINS OF  
EU-BASED COMPANIES

## EXECUTIVE SUMMARY

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# Executive Summary

## Introduction

Companies have faced and are increasingly facing challenges in their efforts to identify, manage and mitigate their adverse impacts on human rights and other rights along their entire supply chain. In this light, Responsible Supply Chain Management (RSCM), as part of a company's Corporate Social Responsibility (CSR) policies, has become a key part of the strategy of many companies. However, at the same time RSCM has not fully succeeded in eliminating CSR challenges of supply chains of EU-based companies.

This study aims at providing suggestions as to why certain CSR challenges still remain in supply chains. It also provides an overview of potential success factors and challenges companies and States are facing in their attempt to eliminate these issues from their supply chains. Additionally, the study aims at providing EU policy makers and Member States with recommendations for defining possible strategies or policies, or for providing support to (existing) initiatives. The results of this study are presented in this executive summary.<sup>1</sup>

RSCM concerns a company's responsibility to protect stakeholders from possible harm. RSCM can only take place in close cooperation with others and therefore it cannot be seen in isolation. Successful implementation of sustainable practices in supply chains heavily depends on the involvement and contribution of other actors, like governments, suppliers, NGOs and communities.

In this study, the interaction between stakeholders, mainly the government and companies, in the supply chains are mapped against the three pillars of the 'Protect, Respect and Remedy' UN Framework. This framework was proposed by the Special Representative of the United Nations Secretary General on business and human rights, Professor John Ruggie and contributes to the global debate on business and human rights. The framework consists of three pillars:

1. The **State duty to protect** against human rights abuses, including those by companies;
2. The **corporate responsibility to respect** human rights; and
3. The need for better **access to remedy** when company-related abuses occur.

Regarding this study, the UN Framework provides a solid basis for the analysis of the duties of States; the responsibilities of companies to avoid infringing on the rights of

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<sup>1</sup> This study has been undertaken for DG Employment, Social Affairs and Inclusion of the European Union and was executed under the service contract to "Support the Work of the Corporate Social Responsibility (CSR) High-Level Group of Member States Representatives" [Contract Ref. No. VC/2009/0532].

others; but also emphasises the importance of grievance mechanisms. The latter have a substantial role in addressing CSR challenges in supply chains.

The study looks at five prevailing CSR challenges and three particular supply chains which have an economic relevance to the EU and also relate to the prevailing CSR challenges.

This resulted in the following five CSR issues which are the basis for further analysis:

1. Child labour
2. Freedom of association and collective bargaining
3. Adequate standards of living
4. Loss of biodiversity
5. Unfair price levels

Each of these issues might still be prevalent in many different European based supply chains, however examples for the analysis in this study were found in three sectors with a significant importance to the EU. The focus is on garments from cotton, sugar from sugar cane and mobile phones supply chains. These supply chains provide relevant good practices and challenges with regard to addressing the selected CSR issues, in a wide variety of supply chain stages such as agricultural production, extraction of raw materials, manufacturing industries and waste. The opportunities and challenges were derived from twelve selected case studies from the three sectors.

## **Prevalence of CSR-issues in supply chains of EU-based companies**

Although some overarching characteristics of contemporary supply chains in the global business arena - like the lack of transparency, the question of a level playing field, and ambiguity regarding the 'scope of responsibility' - contribute to the prevalence of outstanding CSR challenges, the main focus of this study is on why for five CSR challenges/issues RSCM has not proven to be a solution. In the light of this focus, each CSR issue has its own characteristics and these play a role in the effectiveness of eliminating them from supply chains:

### ***Child labour***

Child labour is tackled in many international business codes; however it often takes place in the informal economy of a country and is therefore difficult to trace, monitor and fully eliminate. Whereas child labour is often regulated by legislation, enforcing it tends to fail. Minors, often working in informal sectors or illegally, also may be

vulnerable and not in a position to seek remedy. Fear of retaliation and loss of jobs as well as lack of representation prevents them from adequate access to justice.

### ***Freedom of association and collective bargaining***

With regard to freedom of association and collective bargaining, in many important trade countries for the EU, the right to associate is neglected in the national laws of the countries, or poorly enforced. In other instances it is reported that union leaders and members are being threatened and cannot openly practice their right to associate. Although EU-based companies tend to find other ways to organise workers, acceptance of the suppliers' management is crucial for the effectiveness of worker committees.

### ***Adequate standard of living***

An adequate standard of living is influenced by many different factors; some of these factors can be directly related to RSCM. An important factor is the payment of living wages. A clear univocal definition of living wages is, however, difficult to find. This challenges business in implementing living wages along their supply chains. In relation to this the pressure imposed on suppliers with regard to lead time and production costs, causes unfair price levels in supply chains. This may cause unfair practices towards workers, but also affect price levels for farmers and SMEs down the supply chain.

### ***Biodiversity***

The complexity of the effects of businesses on biodiversity places businesses in a difficult position to fully eliminate the loss of biodiversity throughout their supply chains.

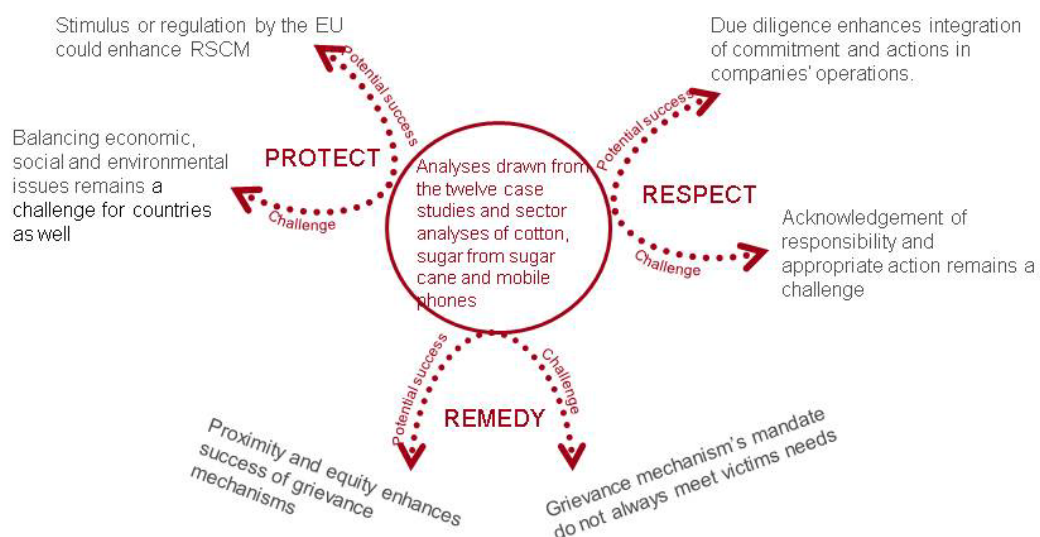
### ***Unfair price levels***

Tackling unfair price levels as a sustainability issue within supply chains is difficult to approach because it is related to market mechanisms. Moreover, it is particularly influenced by macro-economic and investment policies and hardly influenced by one single company. Another mechanism creating unfair price levels is caused by import barriers and domestic subsidies. The latter is recognized as such, but this remains a (sensitive) issue with regard to RSCM in which States play an important role.

## Opportunities and challenges with regard to Protect, Respect and Remedy for governments and companies

Certain characteristics of the CSR issues, as discussed above, contribute to the effectiveness or ineffectiveness of eliminating the issue from supply chains of EU businesses. In addition, the involvement of stakeholders, the approach chosen for implementing RSCM and other factors also play a role in eliminating the issue from supply chains. The analysis in the study is supported by a number of case studies, which present either success stories or challenges with regard to the five CSR issues. From the three selected sectors, the CSR-issues and the twelve case studies, opportunities and challenges for governments and companies with regard to RSCM were identified.

A summary of the opportunities and challenges determined is presented in the figure on the previous page (what figure, what previous page?). Each is defined in the light of one of the pillars of the UN Framework.



### ***State duty to protect***

Although twelve case studies is a limited number to draw general conclusions from, a few trends can be highlighted after having studied these case studies with regard to the pillar '**State duty to protect**'.

There is potential for State intervention to contribute to solving CSR issues. Effective solutions to specific CSR issues may be provided by States through specific regulation. On occasions these could even substitute voluntary measures to enhance RSCM. It is the governments and companies responsibility to find an acceptable balance between regulation and voluntary measures.

Moreover, thorough review of existing and future policies and laws should ensure the State to map the positive impacts of their proposed regulation, but also give insight in adverse or unintended effects. Effectiveness of State interferences, especially those with extraterritorial effects, could be enlarged by international cooperation between States, as observed from the case studies.

Nevertheless, States also face challenges which slowdown the process of offering a solution to still existing CSR-issues. Defining State measures to improve RSCM remains a challenge due to contradictory implications. In several case studies conflicts between economic and social and environmental interests were observed. Measures to assure sustainable economic growth could have adverse effects on for example labour rights, for example an attempt of States' industries to remain competitive in the international business arena could put pressure on wages or on other occasions land (and hence biodiversity) is sacrificed for industrial development.

### ***Company's responsibility to respect***

Therefore, State's involvement in RSCM cannot stand alone and goes hand in hand with companies taking their '**responsibility to respect**' seriously. It is a complex and long process to integrate RSCM at all levels of an organisation and requires a continual process and continuous improvement. In this process companies are facing many challenges to overcome. GRI, codes and standards provide important guidance for companies to face these CSR-challenges and define appropriate action. Together with the due diligence these tools also provide guidance on identification of CSR-issues, prioritizing those and proactively define appropriate actions. It remains a challenge to be comprehensive, since tackling one issue may conflict another issue, or a limited range of issues tackled by certain codes and standards. Companies are facing a complex web of codes and standards, all having their own focus; even when actively involved in CSR, company actions may still infringe on rights of others.

### ***Access to remedy***

According to Ruggie, **effective grievance mechanisms** are essential to the state duty to protect and corporate responsibility to respect. States' mechanisms to investigate, punish and redress will only work when there are procedures to address violations of regulations stating where they can be filed and how. Avoidance of negative human rights impacts can never be 100 percent guaranteed by companies. Grievance mechanisms will therefore allow those who are harmed to bring this to the attention of the company and seek remediation.

Current existing grievance mechanisms seem to function within their mandate, but are also facing several challenges. Most successful seem to be grievance mechanisms visible for the (potential) victims, making proximity to the (potential) victims an important success factor. Although, proximity is not enough in itself, a complete

package of capacity building, information provision, involvement of stakeholders (including supplying and buying company), and publicising reports seems to be necessary.

Many grievance mechanisms have only a limited reach or complex procedures and therefore many (potential) victims are left out of the system.

## **Recommendations to EU and Member states**

The report concludes with recommendations to EU policy makers and EU Members states and lists a variety of different policy options to consider which aim at contributing to solving CSR issues for which current RSCM has not yet proven to be a solution.

The analyses provides insights into where CSR initiatives have not yet proven to be a solution by effectively solving social and environmental challenges that EU businesses may face in their operations and value chains throughout the EU and in developing countries. The analysis also provides insight into good practices and areas where CSR initiatives have shown promising results. Both these perspectives provide the basis for a range of recommendations, ranging from regulatory measures the EU and Member States could adopt as well as recommendations to further support and upscale voluntary approaches to CSR. The recommendations are put forward on the basis of the analysis that they would further promote CSR through smart regulation and provide regulatory tools to ensure uptake of CSR issues on a larger scale than is currently the case. Such measures may be of voluntary or mandatory nature, depending on the aim of the policy measures, and the assessment of what is needed to upscale CSR efforts from “niche to mainstream”.

The following recommendations are presented and substantiated:

### ***Increase supply chain transparency***

The first set of recommendations outline regulatory measures to increase supply chain transparency. The complexity of many of the global supply and production chains makes more transparency a prerequisite for enhancing RSCM.

The recommendations are threefold and aim to

- require business to disclose essential supply chain information and their (risks to) adverse impacts;
- provide consumers with a right to information; and
- increase traceability through complex supply chains.

More transparent supply chains, better access to information for consumers and other “*drivers for change*” such as investors, may provide the necessary push towards uptake of responsible business conduct on a large scale.

***Strengthen the OECD Guidelines for Multinational Enterprises (MNEs)***

The second set of recommendations focus on strengthening the OECD Guidelines for Multinational Enterprises, which are a unique instrument due to their government endorsement and grievance mechanism at national level, including most EU Member states. Their broad coverage of issues means that they are relevant for almost all RSCM issues identified in this report. The OECD Guidelines will be updated in 2011 and will therefore provide a good opportunity for policy makers to enhance their effectiveness and application to supply chain issues.

It is recommended that the EU and EU Member states support broadening the scope of the OECD Guidelines to include supply chains of MNEs to

- improve the performance of EU National Contact Points (NCPs);
- to strengthen the instrument (and improve policy coherence) by attaching consequences in terms of public support to negative NCP findings; and finally
- by ensuring that the update of the OECD Guidelines delivers a human rights chapter and clear expectations on business with regards to climate change.

***Enhance access to remedy for victims in supply chains***

The voluntary nature of the OECD Guidelines for MNEs means that only a limited number of cases dealing with issues in the supply chain of EU-based companies can be solved through this instrument, namely those where the company voluntarily agrees to enter into a process of mediation and conciliation. On the other hand, judicial avenues provide many barriers for those adversely affected by corporate conduct, in particular in supply chains where the alleged violation takes place outside a company's own entities and in third countries.

It is therefore recommended to the EU and Member states:

- to consider the establishment of a monitoring body or commission to investigate, sanction and provide remedies for abuses committed by EU companies abroad; and
- to help fill the gap in existing frameworks for the protection of human rights of people affected by corporate activities.

***Support multi-stakeholder initiatives aiming to enhance RSCM***

The good practices highlighted in this study make a strong case for further EU support by way of recognition, promotion and financing of RSCM initiatives that are multi-stakeholder in nature. A multi-stakeholder approach, whereby all relevant stakeholders have a sense of ownership and cooperate on an equal basis, is most likely to lead to sustainable solutions that are acceptable to all.

Despite their voluntary nature, the effectiveness multi-stakeholder initiatives can be further enhanced by improving the regulatory environment in which they operate by:



- recognising and rewarding multi-stakeholder initiatives that are credible and conform to the EU's standards and principles in the area of RSCM; and
- using other reward systems, such as export credits, public procurement, trade missions, etc

### ***Address competition affecting labour rights***

Some of the underlying causes for the persistence of many problems with regards to social and environmental conditions in the supply chains of EU-based companies is: competition between developing countries attracting foreign investors and buyers offering low wages and little (or no) enforcement of regulation.

The EU and Member States could therefore

- address the issue of RSCM in their state level relations (for example in the negotiation on trade and investment agreements, in trade missions, through embassies) with third countries.
- avoiding trade and investment agreements that undermine a state's ability to regulate and take their responsibility to protect against human rights abuses and environmental damages.
- initiate the formulation of a (possibly global) approach to policy coherence.

### ***Due diligence for high risk sectors/countries***

Introduced by Professor Ruggie in his UN framework, the concept of "due diligence" beyond the traditional financial sphere is increasingly being accepted as a useful general principle for responsible business conduct. In particular in areas with a high risk of violations, it is not unreasonable to ask companies to undertake due diligence through commitment to human rights and other rights and execute impact assessments, with the aim to prevent, mitigate and address real or potential adverse impacts.

The EU could require EU-based companies

- to exercise and disclose due diligence when operating in or sourcing from high risk regions or sectors, such as weak governance zones, the extractive industries and other areas prone to risk in production.

The selection of areas or sectors with a high risk to social and environmental violations would need further detailed research into the root causes of the persistence of the violations, and the beneficiaries of the commercial activities (such as local communities or military groups).

***Promote RSCM through public procurement***

The EU and Member States are important consumers of a large quantity of products that are produced through complex global supply chains where the CSR issues highlighted in this report are prevalent.

In their public procurement policies EU and Member States could

- include obligations on suppliers to analyse their supply chain and provide evidence for either compliance to internationally recognized standards or that all reasonable steps have been taken to avoid violations of rights and standards throughout the supply chain.

When adverse impacts are detected, companies are therefore encouraged to take all reasonable steps to mitigate and remedy the abuses with the identified supplier. Labelling and certification could function as proof for both, which are equally acceptable modes of responsible supply chain management.

**In summary**, a combination of voluntary measures to support the efforts of frontrunners with regulatory measures to ensure laggards meet minimum standards may be chosen. Whilst there may be an ongoing debate regarding the *voluntary versus mandatory* nature of CSR and EU policies, there is scope for both approaches to exist alongside and actually reinforce each other. For example, a required due diligence for companies operating in or sourcing from high-risk countries or regions, may be demonstrated by participation in a relevant voluntary multi-stakeholder initiative. A right combination of voluntary and regulatory initiatives to tackle prevailing CSR issues may bring the EU closer to operationalise the UN Framework by better balancing the duties to protect, the responsibilities to respect, and providing access to remedies throughout the EU.



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