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NEWSLETTER ISSUE NO. 4 – MARCH 2007

FROM OUR DESK

BLIHR

The Business Leaders Initiative on Human Rights (BLIHR) is a business-led programme to help lead and develop corporate response to human rights (www.blihr.com). The association has 13 corporate members and two expert advisors affiliated; Sune Skadegaard Thorsen, director and partner in Lawhouse.dk being one of them. The 13 members of the Business Leaders Initiative on Human Rights are: ABB, Alcan, Areva, Barclays, Ericsson, General Electric, Gap, Hewlett-Packard, MTV Networks Europe, National Grid, Novartis Foundation for Sustainable Development, Novo Nordisk and Lawhouse client Statoil ASA.

With the objective of finding “practical ways of applying the aspirations of the Universal Declaration of Human Rights within a business context and to inspire other businesses to do likewise”, currently, a work stream within the BLIHR initiative has been initiated to define minimum standards in relation to human rights as they could apply to business. Sune Skadegaard Thorsen has been responsible for the work on formulating such basic obligations by going back to the Universal Declaration of Human Rights and the two covenants to identify and describe aspects of the individual rights relevant to all sectors. BLIHR has expressed their interest in defining essential business obligations on human rights as an acknowledgement of the need for a level playing field. The initiative will enable this group of progressive corporations to set the agenda on business and human rights and to remain at the forefront of developments in the field.

Recently, Ericsson and GE joined the BLIHR initiative and as Bob Corcoran, vice-president for corporate citizenship at GE, says, his company believes that a level playing field for business works and plays to its advantage. According to Corcoran, good business transacted on a level playing field with integrity and ethical behavior wins not only in the long term but in the mid and short term, too. Regarding Human Rights, GE is working to establish a clear set of principles that are enforceable and provide guidance and clarity around the world. BLIHR is a good vehicle for doing so as the group focuses on human rights in the business context and aims to provide a “business voice” to its set of standards.

GHANA BUSINESS CODE PART III

The assignment from Danida to prepare a Ghana Business Code with guidelines specifically aimed at small and medium enterprises has been completed and the code based on the UN Global Compact 10 Principles is available at:

<http://www.ghanabusinesscode.com/pages/abt/principles.php>

NEWS

Chinese employees set for better conditions

The Chinese parliament is processing legislation that will mean significant improvements in working conditions for employees in China. Employers around the world are objecting to the draft legislation, since it is claimed to increase their expenses. In late December 2006, a committee within the Chinese parliament, The National People's Congress, processed the second draft of a new labour market law meant to improve the rights of Chinese employees. It will make employment contracts mandatory, and minimize short term, temporary employment with poor employment conditions, which is widely used in the Chinese labour market. At the same time, the union's role is to be strengthened, and rules for minimum wages tightened. The draft will probably be passed at The National People's Congress in March, possibly with a few adjustments.

The draft bill has spurred a heated debate, not only in China, but also among employers and unions abroad. The European and American chambers of commerce in China represent companies active in China, and oppose the legislation, because they believe it will increase costs for the companies, and lessen their flexibility – one reason being the fact that it will be more difficult to fire employees. It is indisputable that many Chinese people work under conditions far below European standards. China has a significant amount of workers, particularly unskilled workers, and this causes a situation where employers are able to push employees to work for low wages and under bad conditions. Also, short-term contract work is very common due to expectations that persons employed for a short period of time, are not as inclined to complain as persons permanently employed.

Furthermore, many employees are forced to work overtime without compensation. In

addition to this many employers do not provide for social security to their employees. Despite that fact, employers should be taking out pension-, health-, and unemployment insurance for the employees already, but not many do this. Immigrant workers, in particular, are not insured. Similarly, law requires minimum wages, yet many companies do not comply. If the new draft bill is passed employers will be punished more severely if they do not comply with the rules. However, this may not necessarily change the fact that local authorities often turn a blind eye to the behaviour of such companies toward employees. European and American unions are generally positive about the Chinese draft, which will also strengthen the role of the unions. It is, however, doubtful how active the unions will be, as there are no actual independent unions in China. The only permitted union is All-China Federation of Trade Unions, which has close connections to the communist party, and which has traditionally been accused of emphasising production rather than safeguarding the interests of the employees.

<http://www.ugebreveta4.dk/.view.asp?ID=12583&shwFld=0>

Comment:

The Labour Contract Law is seen as an important step in increasing the power and protection of the workers and in eliminating the current gap between standards in domestic Chinese and international companies. However, even though the new draft labour law is appreciated, China's proposed legislation will not eliminate its labour problems. The law will not provide Chinese workers with the right to independent trade unions or the right to strike. Since law enforcement in general is a considerable impediment to progress in China, actual results will remain to be seen.

In conclusion, the Chinese government should pay equally as much attention to focus efforts on improving the implementation measures of existing regulations as to draw up new.

UN report on the mining industry

According to a forthcoming report, the Canadian mining industry is moving in the right direction. This is one of the conclusions in a report on Corporate Social Responsibilities (CSR) from John Ruggie, the Special Representative of the UN Secretary-General (SRSG) on the issue of human rights & transnational corporations & other business enterprises after the final session of a four-part national roundtable. Particularly, concern about trials and being held publicly responsible is claimed to have spurred the positive development.

Activists participating in the conference pointed out that there still might be issues of human rights violations, specifically in weak government zones. In these cases, Canada is known to be reluctant to intervene in relation to companies suspicious of human rights violations, as this is seen as an interference with sovereignty of the country. John Ruggie points out that the issue of extraterritoriality must be treated with caution. In the light of these considerations there is wide support for the establishment of an industry ombudsman.

http://www.embassymag.ca/html/index.php?display=story&full_path=/2006/november/22/responsibility/

Comment:

In mid February 2007, John Ruggie submitted his final report to the UN human rights council. The report will not be available before it is on the agenda in the council in March 2007. A separate report on human rights impact assessment, primarily based on the work of Christine Bader who was seconded to the SRGS from BP was made public at submission. Several other reports are awaited in support of the main report. The report on the performance of mining companies will be one of a number of reports written on the request of Ruggie. The human rights and business area continuously enjoys increased awareness

although some of the reports will point in different directions. As for the much-expected final report specific recommendations are not to be expected - particularly not in relation to how increased accountability for business on human rights should be established. Not only is the field still surrounded by misconceptions and rigid reactionary opinions, making it difficult to establish consensus. The thoroughness demonstrated by John Ruggie during his mandate would make it very hard to envisage that the SRGS submit progressive recommendations within the 18 months that were effectively delegated to the task. Alone to consolidate the vast amount of information received by the special representative on this moving target would demand a substantial amount of time; and considering that most reports have just been finalised or are yet to be finalised would make fixed views haphazard.

Formally, John Ruggie's mandate runs two years from the date of appointment (June 2005) but it is not to be expected that the special representative will undertake further commitments before it is decided whether his mandate will be extended with a year as he has requested. The expected decision in favour of extending his mandate could be announced in June or July during the next assembly of the Council.

NGOs demand stronger regulation of companies

On December 6th, The European Coalition for Corporate Justice and FIDH (a network to the protection of human rights) proposed the development of legal frameworks for corporations on social and environmental conduct. The organizations label the European Commissions approach to Corporate Social

Responsibility (CSR) as unprofitable. The criticism, which has caused a number of organizations to stay away from the 7th of December meeting at the European Multi-Stakeholder Forum, is targeting the EU Commissions agenda to limit corporate social responsibility to voluntary initiatives only. According to the organizations, voluntary initiatives alone will not solve the economic and social problems we are facing. An alternative conference with the participation of representatives from governments, trade unions and European institutions aiming to ensure that corporations will be held accountable, will be organized in lieu of participation in the multi-stakeholder forum. The organisations demand a level playing field, which they claim will be in the interest of the public as well as corporations. On the agenda of the conference, a number of issues related to stronger regulation will appear. The intention is among other things that the initiative will lead to an increased level of transparency in the field of CSR.

http://www.fidh.org/article.php3?id_article=3878

Comment:

The environmental and human rights area could be considerably strengthened if the business community would accept basic global regulation of corporate responsibilities. Regrettably, we are still, in the 21-century, experiencing states competing to attract investments by offering reduced standards on environmental and human rights protection. An international minimum would not only provide a needed basis on which corporations can compete in terms of contributing to sustainable development, but would also provide corporations with needed clarity in relation to

what society expects as a minimum.

Michelin guilty of negligence in asbestos case

In November 2006, Michelin was ordered to pay large compensations, as they were found guilty of gross negligence for exposing workers to dangerous levels of asbestos. Michelin was convicted in a court in southern France and it is one among many cases in France involving asbestos. A former employee and the widows to three deceased employees (who died of lung cancer) filed the lawsuit. The group representing the employees and their families regard the ruling as a psychologically important victory over Michelin, which the company is yet to decide whether to appeal.

http://www.iht.com/articles/ap/2006/11/16/europe/EU_GEN_France_Michelin_Abestos.php

Comment:

Health and safety in the workplace is among the human rights, which have been given the most attention within Corporate Social Responsibility (CSR). The French case demonstrates that the challenge for companies in relation to human rights is not limited to the scrapping of ships on the shores of India or Côte D'Ivoire. All over the world health and safety of the workers will pose a challenge to companies, not least in these years with growing acceptance of the psychological working environment being a part of a safe and healthy working environment and therefore corporate responsibility.

CASE STORY

Small study on the Extractive Industry and Human Rights

Human Rights and Business is an emerging area of global concern and attention. The extractive industry is often perceived as leaders as well as laggards in this respect. Human rights concerns are increasingly included in company and industry codes and initiatives, indicating that the extractive industry acknowledges human rights as outlined in the

Universal Declaration of Human Rights (UDHR) and the subsequent International Covenants as the appropriate foundation for their social behaviour when engaging Corporate Social Responsibility (CSR).

However, it is apparent that industry focus is limited to areas where previous criticism has been rampant, namely in the areas of security forces, the rights of indigenous peoples and labour rights, particularly the right to a safe and healthy working environment. A cause for such 'limited' human rights engagement within the industry may be the traditional strategic use of human rights as damage control, by merely reacting or considering human rights as part of business responsibility when actual issues or violations occur. From Shell in Nigeria, to BP in Columbia and Unocal in Myanmar (Burma), to mention a few, the track record of most oil companies in relation to human rights is fairly disappointing. An equally long list could describe the challenges experienced in mining. Reactions to these experienced calamities appear to have set the agenda for the issues that the extractive industry includes under its initiatives in relation to CSR and human rights.

In light of these assumptions, Lawhouse.dk has initiated a small study on the level of commitment to human rights in the extractive industry. It is our aim to establish the level of commitment to human rights in the industry by analyzing the extent of adherence to the articles in UDHR through the lens of the more specific articles from the two covenants (on civil and political rights (ICCPR) and economic, social and cultural rights (ICESCR)) when constructing their CSR initiatives. This will serve to establish greater understanding of the level of commitment within the field and but also the potential for development within the industry. The following findings are initial indications from our small study, which we will finalise Q3 2007.

Framework

The study was initiated end 2006 with the goal of establishing an overall picture of the human rights commitment within the extractive industry. Corporations in the extractive industry from countries all over the world have been selected for analysis of their engagement in the area of human rights. In selecting the companies, the aim has been to screen the largest players/industry leaders within the oil & gas segment of the industry. By analyzing the CSR efforts of different companies, it is the aim to identify areas where companies place emphasis, and consequently pinpoint neglected areas of concern where more attention with advantage could be allocated in order to enhance risk management and increase corporate social opportunities.

The framework for the research is based on the key basic human rights requirements that Lawhouse.dk developed as a tool to inform the basics of CSR performance. By visiting corporate websites, we are able to view Codes of Conduct, Mission & Vision statements, annual reports, etc., and thereby to identify which human rights the companies take into consideration when constructing CSR initiatives. 'Internet' reviews carry natural limitations, as we are aware that not all companies openly share every strategy or initiative implemented within the company. Likewise, it should be noted that there may be discrepancies between level of commitment and engagement presented on the company website and actual performance. The study will suffer from such incompleteness, but we believe that in the area of human rights in particular corporations are generally interested in communicating.

The measurement of company performance will be based on a score system developed for the purpose. As the analysis is not completed, no final conclusions can be reached at this point. However, the expectations in relation to the presence of solid CSR policies and, specifically, human rights as integral part of company strategy were low and limited from the outset. This prejudice has so far not been brought to shame. Indications point towards statements of general commitment without specifying implementation measures and the scope of company actions required. Consequently, the initial findings point toward a restricted commitment to human rights within the industry and indicate that the extractive industry is not aware of the potential in using human rights as a risk- and opportunity management tool.

Making human rights the foundation of a company's CSR approach is recommendable, as this will support sustainable development AND makes good business sense. As Chairman of BP; Peter Sutherland states: "Business is essential to the development and protection of human rights for the six billion people on this globe. Responsible companies see human rights issues as part of their business environment". Ideally, this statement should be broadened to include that good business sense is not merely seeing human rights as part of the business environment but acknowledging the fact that active contribution to the respect and fulfillment of human rights provides for corporate opportunities.

The findings of the Lawhouse study will be made public in a forthcoming edition of "Business & Human Rights"

UP-COMING EVENTS

13-14 April 2007, Nairobi, Kenya: 'Business Partnership for Sustainable Development'
<http://www.unhabitat.org>

17-20 April 2007, Cambridge, UK: 'Prince of Wales Business & Environment Programme UK senior executives seminar'.
www.cpi.cam.ac.uk/bep

19-20 April 2007, London, UK: 'CSR Delivery, Engagement & Leadership'
http://www.csrleadership.com/event_view_link.asp?eid=74

24-25 May 2007, Bangkok, Thailand: 'TBLI Conference 2007'

<http://www.tbli.org>

15-17 July 2007, Devonshire Hall, University of Leeds, UK: The CRR Conference 2007

<http://www.crrconference.org/>

20-21 September 2007, Barcelona, Spain: '6th EABIS ANNUAL COLLOQUIUM on "The Emerging Global Governance Paradigm: The Role of Business and Its Implications for Companies, Stakeholders and Society". The Official Colloquium website will be available by March 15th

<http://www.esade.edu/eabis>

23-26 October 2007, San Francisco, USA: '2007 BSR Annual Conference'.

<http://www.bsr.org/BSRconferences/index>

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