

**ADDENDUM No 1 TO CONTRIBUTION AGREEMENT**  
**No PI/2019/410-348**

The European Union, represented by the European Commission ('The Contracting Authority'),

of the one part,

and  
The United Nations Development Programme (UNDP)  
International Organisation  
1 United Nations Plaza, New York  
NY 10017, USA  
(the "Organisation")

of the other part,

have agreed as follows:

The following provisions of the Contribution Agreement "**Business and Human Rights in Asia: Enabling Sustainable Economic Growth through the Protect, Respect and Remedy Framework**", **Contract No. PI/2019/410-348**, concluded between the Contracting Authority and the Organisation on 22 November 2019 (the 'Contract') are hereby replaced/supplemented as follows:

**SPECIAL CONDITIONS**

**Article 3 - Financing the Action**

3.1 The total cost of the Action is estimated at USD ("Currency of the Agreement") 7,282,037, as set out in Annex III. The Contracting Authority undertakes to provide a contribution up to a maximum of EUR 6,500,000 (EUR 5,500,000<sup>1</sup> + EUR 1,000,000<sup>2</sup>), which is estimated at USD 7,282,037 (USD 6,108,328<sup>3</sup> + USD 1,173,709<sup>4</sup>) (the "EU Contribution").

The final amount will be established in accordance with Article 18 to 20 of the annex II.

**Article 4 – Payment Arrangements and Reporting**

4.2 Payments shall be made in accordance with Article 19 of Annex II. The following amounts are applicable, all subject to the provisions of Annex II:

First pre-financing instalment:	USD 1,530,263.33
Second pre-financing instalment:	USD 1.921.537,91
Third pre-financing instalment:	USD 1.908.697,91
Fourth pre-financing instalment:	USD 1.921.537,91
Forecast balance:	USD 0

These amounts are indicative and subject to modification in accordance with the provisions of Article 19 of Annex II.

The sum of the payments in the accounting currency of the Organisation shall not exceed the total EU contribution in EUR.

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<sup>1</sup> Original contract

<sup>2</sup> Addendum no 1

<sup>3</sup> Exchange rate 1 USD = 0.90041 EUR (original commitment)

<sup>4</sup> Exchange rate 1 USD = 0.852 EUR (additional commitment)



**Article 6 - Annexes**

6.1 The new version of Annex I (Description of the Action, including the Logical Framework of the Action), and Annex III (Budget for the Action) are attached to this addendum.

All other terms and conditions of the Contract remain unchanged. This addendum shall enter into force on the later date of signature by the Parties.

Done in English in two originals, one original being for the European Commission and one original being for the Organisation.

**For the Organisation**

Name Christophe BAHUET  
Title Deputy Regional Director of Asia-Pacific  
United Nations Development Programme  
(UNDP)

Signature 

Date 6<sup>th</sup> December 2020

**For the Contracting Authority**

Name Paolo ZINGALE  
Title Head of Foreign Policy  
Instruments Regional Team for  
Asia-Pacific

Signature 

Date 30/11/2020



## ANNEX I: Description of the Action (DoA) PI/2019/410-348

Revised DoA  
Update November 2020

### Programme:

Project No. :  
Geographical Coverage : Asia (India, Indonesia, Malaysia, Mongolia, Myanmar, Sri Lanka and Thailand)  
Department ID :  
Thematic Areas :  
Project Title : **Business & Human Rights in Asia: Enabling Sustainable Economic Growth through the Protect, Respect and Remedy Framework**  
Project Short Title : **B+HR Asia**  
Expected Start Date : January 2020  
Duration : 48 months  
Implementing Partner : United Nations Development Programme (UNDP)

Funds Non-Core Funds (total) : EUR 6,500,000

Sources : European Union Partnership Instrument (EUR 6,500,000)

## Table of Contents

Executive Summary .....	3
1. Introduction.....	5
2. Justification and rationale .....	23
3. Programmatic Strategy and Partnerships .....	26
4. Programme Description and Results Framework.....	35
5. Implementation and Management Arrangements .....	51
6. Monitoring, Evaluation, Reporting and Learning .....	58
7. Communication and Visibility.....	59



## Executive Summary

Asia has long been synonymous with economic dynamism. Over several decades, the value of capital investment and trade flows in the region has increased exponentially, lifting hundreds of millions of people out of poverty. By some estimates, Asia-Pacific will become the world's largest economic region by 2030. Undoubtedly, these gains are primarily due to private sector forces, unleashed by pro-growth policies, backed by foreign direct investment (FDI), and driven by growing consumer demand. Stronger education and health care provision in the region has resulted, incomes have risen, and new industries and domestic markets have taken root. Heightened consumer awareness of the impact of industry has also followed, leading to increased protective measures for the environment in some countries.

However, rapid growth has not been without costs and risks. In many countries in Asia, economic growth is linked to environmental and social challenges relating to, for instance, labor exploitation and environmental degradation with long-term implications on human rights and the well-being and prosperity of states, communities and individuals.

The overall aim of the action is to promote the agenda on Business and Human Rights and ensure that it is further taken up by Asian governments and business, through an EU-UN partnership, thereby promoting multilateralism and levelling the playing field for businesses that integrate human rights considerations into their operations and supply chains.

To this end, the EU and UNDP will jointly promote the implementation of the UN Guiding Principles on Business and Human Rights (**UNGPs**) in Asia through National Action Plans, policy discussions and awareness raising programmes in seven countries—India, Indonesia, Malaysia, Mongolia, Myanmar, Sri Lanka and Thailand—while strengthening policy coherence and emerging corporate governance standards involving Human Rights Due Diligence. Importantly, both the EU and UNDP will work together in these countries to enrich the enabling environment in Asia for greater access to remedy for those whose lives have been impacted by business-related human rights abuses.

This joint EU-UNDP effort, *Business and Human Rights in Asia: Enabling Sustainable Economic Growth through the Protect, Respect and Remedy Framework (B+HR Asia)*, will contribute to ensuring inclusive economic growth, environmental sustainability, and strengthened human rights conditions in business operations and global supply chains. As such, this joint initiative will facilitate sustainable trade relations between EU and Asia, reduce risks of disruption to supply chains and engender greater awareness of the positive role that EU-Asia trade and investment plays in the region, including in furtherance of sustainable development.

B+HR Asia will reach its objectives through three (3) component workstreams: 1) awareness raising of the UNGPs and peer-to-peer exchange on lessons learned among key stakeholders to build knowledge and political will in furtherance of policy convergence and compliance; 2) communication and public diplomacy efforts to build public support of business and human rights agenda and; 3) promotion of access to remedy to ensure rights-based solutions and prevent future human rights abuses.

UNDP will bring multiple stakeholders together for collaborative action by leveraging its longstanding relationships with government and civil society, its substantial technical expertise on Business and Human Rights, and its in-country presence around the region. The EU will provide for deep private and public



sector partnerships across multiple sectors as a significant actor shaping global trade and investment policy. Through a partnership which involves joint planning, technical provision, and public engagement the EU and UNDP will generate substantially more influence than they would operating in the same space but separately.

The project will be supported by EUR 6,500,000 from the EU (initial allocation EUR 5,500,000, followed by an additional EUR 1,000,000 for the expansion of activities and addition of Mongolia) and will be implemented by UNDP through a project team of eleven (11) full-time staff, including seven (7) National Specialists, a Knowledge Management and Communications Officer, a Monitoring and Evaluation Officer, a Project Specialist, and a Finance and Administration Associate, led on a part time advisory basis (corresponding to 25% working time) by a UNDP Project Advisor. The project will commence in January 2020, beginning with an inception phase of 6 months, and followed by an implementation period of 42 months. National Specialists at the UNDP Country Office will ensure collaboration and implementation in the focus countries, working closely with respective EU Delegations.



## 1. Introduction

The overall objective of this joint effort, *Business and Human Rights in Asia: Enabling Sustainable Economic Growth through the Protect, Respect and Remedy Framework (B+HR Asia)*, is to promote and support the implementation of the UN Guiding Principles on Business and Human Rights (**UNGPs**), thereby ensuring inclusive economic growth, environmental sustainability, and strengthened human rights conditions in business operations and global supply chains.

This action will promote the implementation of the **UNGPs** through National Action Plans, policy discussions, awareness raising and access to remedy initiatives in seven countries in Asia—India, Indonesia, Malaysia, Mongolia, Myanmar, Sri Lanka and Thailand—while strengthening policy coherence and international corporate governance and compliance standards including, *inter alia*, the OECD Guidelines for Multinational Enterprises and the ILO Tripartite Declaration concerning Multinational Enterprises and Social Policy.

The activities of the EU-UNDP joint initiative will result in enhanced human rights conditions, reduced risks of disruption to supply chains, higher considerations on the environmental impact of business operations, more sustainable trade relations between the EU and Asia, greater support for multilateralism, and heightened respect for and acceptance of the positive role that EU-Asia trade and investment make towards sustainable development in the region. Moreover, the joint action will leverage the normative power and technical guidance of the UNGPs to help foster a level playing field for those businesses that employ responsible business practices in their operational and sourcing practices. Deepening the EU/UNDP partnership through this action will also promote multilateralism, a driving principle of the EU's foreign policy.

The B+HR Asia Project is fully aligned with EU policies, contributing to trade and investment that honors basic human dignity while ensuring economic prosperity. As such, B+HR Asia contributes to the implementation of the EU Communication, Trade for All: Towards a more responsible trade and investment policy (2015), and the European Strategy on Corporate Social Responsibility (CSR) which stipulates that businesses must respect human rights in accordance with the UNGPs (2011). B+HR will contribute to realizing the strategic aims of Europe 2020 for smart, sustainable and inclusive growth.

B+HR Asia is also aligned with UNDP Strategic Plan 2018-2021<sup>1</sup> and contributes to UNDP Asia-Pacific Regional Programme.<sup>2</sup> It is also aligned with the 2030 Agenda for Sustainable Development and the Sustainable Development Goals (SDGs). In particular, B+HR Asia will contribute specifically to Elimination of Poverty (SDG 1); to Gender Equality and Empowerment (SDG 5); Decent Work and Economic Growth (SDG 8); to Reducing Inequalities (SDG 10); to greater levels of Peace, Justice and Strong Institutions (SDG 16), and to; the Revitalization of the Global Partnerships for Sustainable Development (SDG 17).

### 1.1 Context and Rationale

Over several decades, Asia economic dynamism and rapid growth, fueled by foreign direct investment (FDI) unleashed by pro-growth policies and backed by the productivity gains of global supply chains, has

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<sup>1</sup> UNDP Strategic Plan Outcome 2: Accelerate structural transformations for sustainable development.

<sup>2</sup> Regional Output 2.3: Institutions, networks and non-state actors strengthened to promote inclusion, access to justice, and protect human rights

led to increased incomes and significantly lower levels of poverty. By many measures, trade, investment and industry in Asia has been a driver of sustainable development. Growth has resulted in meaningful jobs, increased opportunities for women, higher educational and health care standards. There is emerging evidence that international trade and investment agreements have also led to the adoption of higher standards of corporate governance, more transparent fiscal and monetary policy, and more equitable delivery of common goods including transport infrastructure, public health services, and access to clean water and energy.

However, rapid economic growth has not come without challenges. In many countries in Asia, growth has been linked to contaminated water supplies, accelerated deforestation and increased air pollution which in turn impacts negatively on the enjoyment of human rights. In some instances, the construction of large infrastructure projects has resulted in environmental degradation and displacement. Weak pollution controls and the degradation of environmental resources have undercut a clean and safe environment essential for the enjoyment of human rights. Manufacturing and food export industries have leveraged exploitative practices including hazardous working environments and other labour rights violations. At the heart of these impacts and challenges has been an uneven commitment from governments and businesses to international labour standards, to environmental protection, and to human rights, including the rights of children, migrants, women and Indigenous Peoples.

Increasingly, consumers in Asia and the EU are taking into account sustainability and respect for human rights in their purchasing practices and are demanding supportive policy measures. This includes calls for greater accountability for abuses, while parliaments are enacting legislation raising both compliance and litigation costs. In this context, several policy initiatives have been geared to promote respect for human rights and sustainable development. For example, the EU Generalised Scheme of Preferences (GSP+) and Everything but Arms schemes are being leveraged to ensure greater respect for human rights in Cambodia (EBA), Myanmar (EBA), Philippines (GSP+) and Sri Lanka (GSP+). The EU also includes comprehensive and binding Trade and Sustainable Development Chapters in its trade and investment agreements. European banks and international financial institutions are also increasingly under pressure to consider economic, social and governance factors in investment decisions.

Under these circumstances, government officials, civil society actors, and business leaders from Asia and Europe are expressing increased interest in the potential of the UNGPs to frame policy interventions and provide guidance for action to mitigate risks of human rights abuses.

Promoting the UNGPs in Asia through the proposed joint initiative will strengthen internationally recognised standards of responsible business behavior, based on agreed human rights norms, while levelling the playing field for businesses that integrate human rights considerations into their operations and supply chain policies. Importantly, implementation of the UNGPs requires that Governments engage robustly with civil society and national business leaders, opening the door to constructive discussions on land rights, environmental concerns, trade relations, and human rights.

Furthermore, the impact of the UNGPs can be measured, debated and promoted before an international audience of policy makers, business leaders, and other authorities. The Forum on Business and Human Rights, a global event hosted every year in Geneva by the secretariat of the UN Working Group on the issue of human rights and transnational corporations and other business enterprises (UNWG), provides a means to showcase progress or mark challenges. Through this Forum and other formats in Asia, the proposed action can strengthen positive discourse around international trade and its relationship to human rights and gender equality, through greater linkages between trade policy to the UN Guiding





## Principles on Business and Human Rights.

### 1.2. Normative Framework: The UN Guiding Principles on Business and Human Rights

The United Nations Guiding Principles on Business and Human Rights (UNGPs) is the world's most authoritative, normative framework guiding efforts to address adverse impacts of business operations on human rights. The duties and obligations found therein are divided into three pillars outlining: 1) the State duty to protect human rights in the context of business operations, including by taking appropriate steps to prevent, investigate, punish and redress human rights abuses through effective policies, legislation, regulations and adjudication; 2) the responsibility of businesses to respect human rights; and 3) for both States and businesses to commit to providing access to remedy for victims and potential victims of business-related abuses. Although not legally binding, the framework provided by the UNGP directs States to identify gaps and highlight actions required to meet the human rights obligations a State has already undertaken or is subject to under international law. Importantly, the UNGPs insist on the importance of non-discriminatory practices, with particular attention to the rights, needs and challenges faced by vulnerable or potentially vulnerable/marginalized groups or populations and with due regard to the different risks that may be faced by women and men.

Furthermore, the UNGP prescribes that guidance to business enterprises "on respecting human rights should indicate expected outcomes and help share best practices. Guidance should advise on appropriate methods, including human rights due diligence, and how to consider effectively issues of gender, vulnerability and/or marginalization, recognizing the specific challenges that may be faced by indigenous peoples, women, national or ethnic minorities, religious and linguistic minorities, children, persons with disabilities, and migrant workers and their families".

Successful implementation of the UNGPs requires that they be owned and understood by multiple ministries, state-owned enterprises, private sector firms, trade unions, CSOs, National Human Rights Institutions (NHRIs), local authorities and the public. To help ensure the likelihood of buy-in from such a wide group of stakeholders, states have been encouraged to develop National Action Plans on Business and Human Rights.

National Action Plans (NAP) are government-drafted policy documents that articulate state priorities and indicate future actions to support implementation of legal obligations or policy commitments. They are normally drafted following extensive consultations involving a large range of stakeholders. The EU and subsequently the UN Human Rights Council (HRC) urged states to develop NAPs that would define how the implementation of the UNGPs would be taken forward in their respective territories.<sup>3</sup> The UN Working Group on the issue of human rights and transnational corporations and other business enterprises on Business and Human Rights (UN Working Group on Business and Human Rights) is continuously engaging with States to develop NAPs and is keeping a record of NAPs finalised and under preparation<sup>4</sup>. The EU has been especially active in developing NAPs. In its 2011-2014 Corporate Social Responsibility strategy, the European Commission invited EU Member States to, "develop . . . national plans for the implementation

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<sup>3</sup> European Commission, 'A Renewed EU Strategy 2011–14 for Corporate Social Responsibility', COM (2011) 681 final (25 October 2011), <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0681:FIN:en:PDF>; Human Rights Council, 'Human Rights and Transnational Corporations and Other Business Enterprises', A/HRC/RES/ 26/22 (15 July 2014), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/083/82/PDF/G1408382.pdf?OpenElement>.

<sup>4</sup> <https://www.ohchr.org/en/issues/business/pages/nationalactionplans.aspx>



of the United Nations Guiding Principles.”<sup>5</sup> As of May 2016, OHCHR noted that sixteen EU Member States have produced NAPs, in the order of their publication: the United Kingdom, The Netherlands, Denmark, Finland, Lithuania, Sweden, Italy, Germany, France, Poland, Spain, Belgium, Czech Republic, Ireland, Luxembourg and the Republic of Slovenia.

At the time of writing, thirty-seven governments across Europe, the Americas, Africa and Asia have launched NAPs or NAP-related processes on the implementation of the UNGPs. In Asia, NAPs are in various stages of development in India, Indonesia, Japan, Malaysia, Pakistan, South Korea and Thailand.

### 1.3 EU Green Deal: Climate change, environmental degradation and the Business and Human Rights (BHR) agenda

Climate change and environmental degradation are globally recognized as threats to public health, political stability, and economic sustainability. Rising sea levels, unpredictable weather patterns, hazardous air and water pollution and biodiversity loss threaten to undermine the very fabric upon which business and society flourish, and put our human rights — right to life, right to livelihood, right to clean water and food — at grave risk.

The Asia region is particularly vulnerable, home to nearly 60% of the world’s population and encompassing about 20% of global plant, animal, and marine species. Asia is also host to 40% of the world’s manufacturing capacity and accounts for one-third of global trade. In the pre-COVID-19 period, an estimated \$1.5 trillion worth of merchandise flowed each year between the Europe and Asia, accounting for a significant share of jobs in each region.

EU-Asia economic relationships are put at risk where manufacturing, agriculture and tourism, inter alia, are disrupted by changing climatic patterns that produce drought in some places and flooding in others. Increased consumption has resulted in alarming levels of plastic pollution, electronic waste, deforestation and hazardous levels of air pollution. Notably, there is evidence that industries that are commonly associated with the most harmful environmental impacts are also those industries that are regularly implicated in the most severe human rights abuses. For example, illegal, unreported and unregulated fishing has been linked to systemic levels of forced labor in Thailand’s seafood exports. Furthermore, the abundance of waste from the region’s plastics and electronics industry is impacting directly on the right to life, clean water, and livelihoods, among other rights.

The challenge to policy makers in both Asia and Europe is clear: minimize the environmental and human rights impact of trade and industry, while maximizing its contribution to economic growth and sustainability. In this vein, the European Union aims for a trade policy that is transparent and responsible, benefits all citizens, and provides modern solutions for the realities of today's economy in the middle of a technological change. As stated by the European Commission President, Ursula Von der Leyen, “every new agreement concluded will have a dedicated sustainable-development chapter and the highest standards of climate, environmental and labour protection, with a zero-tolerance policy on child labour”<sup>6</sup>.

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<sup>5</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. A renewed EU strategy 2011-14 for Corporate Social Responsibility (COM (2011) 681 final, 25.10.2011).

<sup>6</sup> “A Union that strives for more - My agenda for Europe”, Political Guidelines for the next European Commission 2019-2024 (by then President-Candidate, Ursula Von der Leyen)



In this regard, the European Green Deal (EUGD) aims to promote a sustainable economy by “turning climate and environmental challenges into opportunities and making the transition just and inclusive for all.”<sup>7</sup> The EUGD is the new growth strategy of EU and is expected to “transform the Union into a modern, resource-efficient and competitive economy.”<sup>8</sup> Among other initiatives, implementing the EUGD will require increased efforts to protect habitat and biodiversity, to promote circular economy principles, and to reduce carbon emissions.

Promoting green, resilient, sustainable and efficient supply chains in Asia is fully in line with the external dimensions of the EUGD. To encourage greater alignment between the EU and Asia along the lines of the EUGD, more must be done to, inter alia, promote research, training and understanding of the limits and opportunities of emerging technologies, circular economy policy frameworks, environmental due diligence practices, corporate reporting requirements, and environmental impact assessments (EIA). Building resilient supply chains also requires the wider application of standardized and easily understood metrics coupled with credible reporting standards. Given the breadth of initiatives required, discussions and activities around these topics will by necessity draw upon regional and international expertise and involve a wide range of stakeholders.

#### 1.4 Regional initiatives in support of the Business and Human Rights agenda

Greater respect for human rights in business operations and supply chains is being strengthened through other efforts in the region, albeit by different stakeholders and with different approaches. The UNDP B+HR Asia unit (currently made up of 2 specialists, an advisor and coordinator and based in Bangkok) has sought complementarities and synergies with the EU-ILO-OECD joint initiative, “Responsible supply chains in Asia” project given the complementarity between the UNGPs and the OECD Guidelines on Multi-National Enterprises (OECD Guidelines) and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration). In this regard, a joint action plan of activities between the International Labour Organization (ILO) and UNDP, in consultation with the EU and Organization for Economic Co-operation and Development (OECD), has been adopted. Further illustrating opportunities seized for collaboration, UNDP, OECD and ILO jointly organized the *Responsible Business and Human Rights Forum* in Bangkok, Thailand, on 12-13 June 2019, leveraging their respective constituencies and technical assets towards integrated approaches and greater policy coherence around trade and investment policy, due diligence standards and, remedy and accountability mechanisms, among other topics.

Complementarity and synergies will also be sought with UNDP’s on-going regional project, *Business and Human Rights in Asia: Promoting Responsible Business Practices through Regional Partnerships*, funded by the Swedish Government and implemented by UNDP. Swedish support is aligned with wider regional efforts,<sup>9</sup> while this joint EU-UNDP initiative will focus primarily on country-level interventions. UNDP will

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<sup>7</sup> *The European Green Deal sets out how to make Europe the first climate-neutral continent by 2050, boosting the economy, improving people's health and quality of life, caring for nature, and leaving no one behind*, press release dated 11-Dec-2019 accessed at < [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_19\\_6691](https://ec.europa.eu/commission/presscorner/detail/en/IP_19_6691)>

<sup>8</sup> *A European Green Deal: Striving to be the first climate-neutral continent*, accessed at < [https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal\\_en](https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal_en)>

<sup>9</sup> Swedish-supported regional activities include working with ASEAN to raise awareness about the Business and Human Rights agenda and promoting peer learning. Swedish support will also facilitate increased engagement with the Mekong River



also capitalise on longstanding partnerships with UN system organisations while building new relationships to amplify messages on trade and human rights at the bi-lateral level and with local governments, businesses, regional, national and local CSOs, and donor partners.

Joint activities under B+HR Asia will also complement initiatives under “Promoting Economic Empowerment of Women at Work in Asia” (WeEmpower Asia). WeEmpower Asia, funded by the EU through the Partnership Instrument and implemented by UN Women, facilitates greater access to enhanced business opportunities and leadership within the private sector for women. UNDP has consulted with WeEmpower to support the implementation of gender-sensitive practices and cultures of businesses through the take-up of the Women Empowerment Principles (the WEPs – a set of guiding principles to achieve gender equality within companies). Namely, UNDP will leverage its work on women’s rights due diligence and its human rights self-assessment tool to help businesses and women’s groups to identify risk to women’s rights in operations and supply chains, in close coordination with UN Women. Furthermore, complementarities will be sought with UN Women’s ongoing work on access to justice for women.

Other complementary actions of relevance include (non-exhaustive list):

- EU Spotlight Initiative programme, "Safe and Fair: Realising women migrant workers’ rights and opportunities in the Association of Southeast Asian Nations (ASEAN) region";
- EU efforts in responsible management of global value chains, particularly in the garment sector, funded under the Development Cooperation Instrument (DCI);
- OECD – Responsible Supply Chains in the textile and garment sectors (December 2015 - 30 December 2016);
- OECD – Promoting transparency of the minerals supply chains in conflict-affected and high-risks areas building on the OECD Initiative on Due Diligence for Responsible Mineral Trade [SfFPI].

### 1.5. Target countries – challenges and opportunities

The seven countries identified for B+HR Asia programming have been selected on the basis of several criteria: (1) relative importance of the country to build regional momentum and cohesion on Business and Human Rights; (2) political will favouring engagement on Business and Human Rights by all concerned actors in a given country (government, business sector, civil society); (3) importance of international and intra-regional trade; (4) alignment with the EU political agenda and interests in and with the country; (5) alignment with the UNDP’s Strategic Plan and; 6) the presence of a National Human Rights Institution. Based on these criteria and following a scoping of opportunities and consultations with EU delegations and UNDP Country Offices, B+HR Asia will target for interventions, India, Indonesia, Malaysia, Mongolia, Myanmar, Sri Lanka and Thailand.

In recent months, Thailand has made substantial strides towards the implementation of the UNGPs with significant repercussions in Southeast Asia, driving momentum in support of the Business and Human Rights (B&HR) agenda in Indonesia and Malaysia. In similar fashion, India has launched a NAP process which has prompted interest and action in Bangladesh, Maldives, Nepal and Pakistan. The EU’s re-

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Commission, Asia-Pacific Economic Council (APEC), and South Asian Association for Regional Cooperation (SAARC), among other regional and international organizations. To ensure alignment between Swedish-supported regional efforts and EU/UNDP support at the bi-lateral level, a mechanism will be put in place to synchronise both interventions.



instatement of preferential trade status through the Generalized Scheme of Preferences (GSP+) for Sri Lanka and its review of the Everything but Arms (EBA) for Cambodia and Myanmar, is also stoking interest in the UNGPs as countries re-examine their competitive profiles amidst changes in trade relations between China, Japan, U.S. and other large economies.

Despite significant momentum behind the B&HR agenda, headwinds persist. Many Asian government and business leaders lack awareness about the UNGPs or the business-case for implementation. Growing international concern over human rights abuses may also be complicating efforts to negotiate and finalise trade and investment bilateral agreements between the EU and South and Southeast Asian countries. A brief analysis of the business and human rights landscape in the seven countries covered by this action is presented below to underscore the depth of challenges and opportunities in each.

#### South East Asia:

**Indonesia.** Indonesia is Southeast Asia's largest economy, and fourth most populous country in the world with a rapidly growing workforce. Indonesia and the EU enjoy high levels of trade with each other, reaching EUR 25.3 billion in 2015, with manufacturing and palm oil featuring heavily in EU imports. Indonesia's growth has translated into significant reductions in its poverty rate, reaching a record low of 9.7 percent in 2018.<sup>10</sup> As an expression of this, Indonesia is embarking on a comprehensive access to healthcare programme with the aim of providing essential care to every Indonesian by 2019.<sup>11</sup>

Despite the economic and social benefits of steady growth and robust levels of trade, reports of human rights abuses, including child labour and forced labor in agricultural sectors, present significant risks for EU firms. Reports of land rights abuses, including land-grabs, against communities and Indigenous Peoples in Indonesia have alarmed many consumers in Europe and elsewhere.

EU-Indonesia bilateral relations are guided by a Partnership and Cooperation Agreement (PCA), signed in 2009 and entered into force since 2014. The PCA was concluded to promote further cooperation in sectors of mutual interest and to this effect the EU and Indonesia have established annual Dialogues on Human Rights (including 'Business and Human Rights'), Strategic and Security Policy, Maritime Affairs, as well as specialised Working Groups on Development Cooperation, Trade and Investment, and Environment and Climate Change. Negotiations for an EU-Indonesia FTA were launched in July of 2016, and 8 rounds of negotiations have since taken place.

Indonesia is the first country to have ratified a Voluntary Partnership Agreement for FLEGT (Forestry Law Enforcement, Governance and Trade) and is implementing it since 2016. Negotiations are ongoing towards a Comprehensive Economic Partnership Agreement (CEPA). The Indonesian Government often stresses the importance of addressing environmental issues related to palm oil production in the broader context of the UN Sustainable Development Goals, particularly in relation to SDG1- No Poverty.

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<sup>10</sup> Indonesia Maintains Steady Economic Growth in 2019, World Bank press release, accessed at: <<https://www.worldbank.org/en/news/press-release/2019/07/01/indonesia-maintains-steady-economic-growth-in-2019>> 1 July 2019

<sup>11</sup> See Primary Health Care Systems (PRIMASYS), Comprehensive case study from Indonesia, World Health Organization, accessed at: <<https://www.who.int/alliance-hpsr/projects/AHPSR-PRIMASYS-Indonesia-comprehensive.pdf>> , 2017



In terms of labour rights, hazardous working conditions remain a significant problem in Indonesia, underscored by a factory explosion in West Java in 2015 where inadequate safety precautions led to the deaths of 28 workers. Additionally, Indonesian businesses have been implicated in many cases of union-busting and mass dismissals. A car manufacturer plant in Indonesia was accused of illegally suspending and then dismissing union leaders at a facility in Karawang in 2016, while a supplier to major apparel and shoe brands is facing calls to reinstate union leaders who were illegally dismissed in the same year. Police and other armed associates have been accused of intimidation and violence towards striking workers.

Illegal land appropriation by businesses and government in Indonesia remains a significant concern. Large mining companies in Papua province have allegedly confiscated and destroyed large tracts of land claimed by Indigenous Peoples. Local suppliers of international Palm Oil companies have been implicated in land-grabbing to facilitate the expansion of palm oil plantations. Such cases have been particularly noticeable in Sulawesi, Borneo, Sumatra and Papua, in defiance of the principles of the 2004 Roundtable on Sustainable Palm Oil (RSPO). From 2014 to 2016, Indonesia's Human Rights Commission (*Komnas HAM*) investigated dozens of cases across five provinces concerning land rights violations by mining and palm oil companies.

Deforestation is also a central theme in the violations of environmental rights in the country by businesses. The rapid increase in the Palm Oil industry, which now covers a third of the country's total arable land, has translated into an equally rapid loss in rainforests. This has adversely impacted not only the livelihoods and environmental rights of the local communities but has caused irreparable damage to ecosystems and wildlife habitat. Clearing, planting and other processes required for palm oil production results in significant levels of carbon emissions while impacting on access to clean water sources for local communities.

Illegal, Unreported, and Unregulated (IUU) Fishing is another highly visible environmental issue with which Indonesia contends. IUU fishing across Asia-Pacific, has raised questions over environmental sustainability and labour conditions of fishermen. Workers have reported inhumane hours, physical abuse, dangerous working conditions, and disappearances. Furthermore, IUU fishing impacts on the livelihoods of local coastal communities, as well as life under the sea. The government, led by President Joko Widodo and Fisheries Minister Susi Pudjiastuti, has intensified efforts to combat the rise in IUU fishing in recent years. Reportedly, the government's "Sink Vessels" policy has resulted in a 90% decrease in illegal fishing vessels in Indonesia waters.

Indonesia has responded to growing concerns over human rights risks and impacts, at first in a tentative manner, but with increasing engagement in recent years. After a lengthy consultation process, Indonesia's National Human Rights Commission, Komnas HAM, in close collaboration with civil society, launched a draft NAP on Business and Human Rights in 2017. As a product of Komnas HAM, this draft was not formally a product of the government nor was it officially adopted as policy, however, it did lay the groundwork for future discussions.

In subsequent months, the Coordinating Ministry for Economic Affairs (CMEA) was designated as focal point to lead a Focus Group Discussion on Business and Human Rights. Observers believe that this reflects President Jokowi's "business first" approach and concerns that a strong Human Rights focus might impede investment. At the request of the CMEA, UNDP's B+HR Asia unit and Country Office in Indonesia worked with a variety of ministries to develop the "Bogor Declaration" outlining a Roadmap towards a NAP. Today,



this Roadmap is being executed under the aegis of the CMEA. At the time of this writing, CMEA is awaiting the signature of a draft decree establishing a task force on Business and Human Rights. In parallel, “dissemination events” are planned in two provinces through the Ministry of Laws and Human Rights, in cooperation with Indonesia Global Compact Network. The Ministry is also incorporating a Business and Human Rights component in the draft National Human Rights Action Plan (RANHAM) while the Ministry of Foreign Affairs is developing guidelines on B&HR and the implementation of the UNGPs. A dedicated NAP is seemingly off the table at this time. Though the B&HR agenda is now being actively pursued by government and civil society in Indonesia, there is a degree of competition between the ministries that international partners will need to take into account when working in this area. UNDP is now working in provincial settings to raise awareness of the UNGPs at the provincial level. Participation from the private sector will need to be more strongly cultivated in the months to come through an ongoing relationship with the Global Compact Network Indonesia.

The Embassy of the Netherlands is funding a substantial project on B&HR, implemented by the NGO ELSAM and focused on working with companies and business associations, strengthening remedial mechanisms, developing due diligence tools, and capacity building for NGOs and victims.

Increased engagement and cooperation on human rights issues in the context of business operations may provide a more positive negotiating environment for the CEPA, and other efforts, by helping to create enabling conditions to meaningfully address environmental and human rights challenges posed by the palm oil, fishing, and other industries in Indonesia.

**Malaysia.** The EU is one of the largest foreign direct investors in Malaysia and the country’s third largest trading partner (after China and Singapore). The relationship is marked by sustained growth in bilateral trade over the last decade, reaching EUR 39.8 billion in 2018. EU imports from Malaysia include electronic appliances, palm and rubber product, and animal and vegetable oils, fats and waxes. In recent years Malaysia’s profile as a trading partner in services has risen considerably.

PCA and FTA processes between EU and Malaysia were launched in 2010 but are yet to be finalised. While PCA negotiations were concluded in 2015 and signature is expected soon, FTA negotiations have stalled since 2012. Both sides agreed on the level of ambition expressed in 2017, which provides perspectives for resumption whenever the Malaysian government is ready. In a resolution in December 2015, the EU Parliament urged the Commissioner to ensure that, “human rights concerns are duly taken into account during future negotiations on the EU-Malaysia FTA and PCA.”<sup>12</sup>

Priority human rights issues in Malaysia involve labor rights abuses, abuses related to environmental degradation, and land-grabs against indigenous groups. Migrant labour rights abuses in Malaysian supply chains are also of significant concern, especially in construction, electronics, and palm oil production industries. According to SUHAKAM, Malaysia’s National Human Rights Commission, workers have filed complaints of physical and psychological abuse from employers, inhumane working hours, debt bondage, inadequate pay, and forced labour. At the root of these challenges include, opaque recruitment practices, language barriers, passport confiscation practices, and impunity for trafficking.<sup>13</sup> Recruitment agencies

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<sup>12</sup> European Parliament, Resolution on Malaysia, 2015/3018(RSP), accessed at <[<https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2015/3018\(RSP\)>](https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2015/3018(RSP))>

<sup>13</sup> See Review of Labour Migration Policy in Malaysia, Tripartite Action to Enhance the Contribution of Labour Migration to Growth and Development in ASEAN (TRIANGLE II Project), ILO Regional Office for Asia and the Pacific, 2016.



are accused of committing many abuses, ranging from excessive recruitment fees, to serious violations of the terms and conditions of employment, among others. SMEs are reportedly among the worst abusers of migrant labor. Still, Malaysia remains a popular destination for migrants from South and Southeast Asia. According to the International Organization of Migration (IOM), two million are legally registered to work and another 2-4 million workers are estimated to be undocumented.<sup>14</sup>

Malaysia is yet to ratify all 8 of the ILO Fundamental Conventions including, the Forced Labor Convention 29; Discrimination (Employment and Occupation) Convention 111; Right to Organize and Collective Bargaining Convention 89 and; Worst Forms of Child Labour Convention 182. Malaysia has also not ratified Convention 143 on migrant workers and Convention 189 on domestic workers.<sup>15</sup>

Nevertheless, in 2019, the US State Department Trafficking in Persons Report found that the government is making “significant efforts” to prevent trafficking, including labor trafficking. The Report provided that Malaysia remains a Tier 2 country in 2019 as the government, “did not demonstrate overall increasing efforts compared to the previous year.”<sup>16</sup> More recently, groups promoting ESG and divestment strategies have highlighted child labor and forced labor in Malaysia as a basis for “banning” palm oil imports into the United States.<sup>17</sup>

With regards to environmental rights violations, there are widespread allegations of illegal logging and deforestation by timber, palm oil and rubber companies. Malaysia has seen a significant increase in the rate of deforestation, threatening the local ecosystem and the rights of communities. Moreover, Indigenous Peoples have been forced to relocate to make way for palm oil plantations or infrastructure projects. The Sarawak Corridor for Renewable Energy (SCORE) entails major hydropower plants to be constructed. Local communities have claimed that this would infringe upon the rights of Indigenous Peoples in the Eastern Malaysian state. In 2015, a group of Orang Asli, loosely translated as “native people” or “aboriginal people” in Malay, sued Malaysia’s national electric utility company, Tenaga Nasional Berhad, for allegedly forcing villagers to relocate for purposes of a planned power plant.

Despite these human rights challenges, it is also true that Malaysia is moving forward to improve its reputation. The growing public outcry over migrant worker abuses, and increased pressure from international brands such as HP, Seagate, Intel, Panasonic and Samsung, reportedly served as a catalyst for government action. These factors may have also encouraged work towards the *Strategic Framework for a National Action Plan on Business and Human Rights*, supported by UNDP and drafted by the Malaysian National Human Rights Commission, SUHAKAM. Following this report, in November 2017, the then-Malaysian government formally announced its intention to undertake a NAP process, at the UN

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<sup>14</sup> Malaysia, IOM, 2019 accessed at <<https://www.iom.int/countries/malaysia>>

<sup>15</sup> See Up-to-date Conventions and Protocols not ratified by Malaysia – Peninsular, accessed at: <[https://www.ilo.org/dyn/normlex/en/f?p=1000:11210:0::NO:11210:P11210\\_COUNTRY\\_ID:103594](https://www.ilo.org/dyn/normlex/en/f?p=1000:11210:0::NO:11210:P11210_COUNTRY_ID:103594)>

<sup>16</sup> The government identified far fewer victims than in previous years and authorities investigated and prosecuted fewer cases. The government’s victim protection efforts remained largely inadequate and some rehabilitation services such as medical care, telephone calls, freedom of movement, and the issuance of work permits were inconsistently implemented, if at all. The government stopped funding NGOs to provide shelter. Corruption related to processes for foreign nationals to work in Malaysia remained pervasive and the government did not report initiating new prosecutions or convicting any complicit officials during the reporting period. US Department of State, 2019 Trafficking in Persons Report: Malaysia, June 20, 2019

<sup>17</sup> “Grant & Eisenhofer ESG Institute Petitions U.S. Government to Block Importation of Palm Oil Produced by FGV Holdings Berhad in Malaysia, Based on Evidence of Child and Forced Labor Practices”, 24 Jun 2019, accessed at <<https://www.business-humanrights.org/en/us-corporate-governance-agency-files-petition-to-ban-palm-oil-importation-from-malaysia-fgv-holdings-berhad-over-alleged-child-forced-labour>>





Global Forum on Business and Human Rights. The new Pakatan Harapan government under Prime Minister Mohammed Mahathir has assigned the portfolio to the Minister of Laws, YB Datuk Liew Vui Keong.

On 24 June 2019, Minister YB Datuk Liew Vui Keong formally announced the government's endorsement of a process to develop a NAP on Business and Human Rights. As noted by him and other authorities, the NAP is in furtherance of Promise 26 of the Pakatan Harapan Party Manifesto: *Make Our Human Rights Record Respected by the World*.

Though in a nascent stage, UNDP in Malaysia is developing relationships with the Ministry of Human Resources<sup>18</sup> and the Ministry of Home Affairs (MHA), the latter ministry mandated to address trafficking in Malaysia's supply chains, among other priorities. The MHA leads anti-trafficking council (MAPO), which includes five enforcement bodies, other government entities, and three NGOs. It meets on a quarterly basis and coordinates interagency anti-trafficking efforts to implement the government's 2016-2020 national action plan. The effectiveness of this council is called into question by some. UNDP will help ensure that the NAP process encourages engagement and inputs from MAPO and indirectly strengthening MAPO's relevance and effectiveness.

Currently, UNDP is supporting SUHAKAM<sup>19</sup> in partnership with the new Minister of Laws and the Legal Affairs Department, Bahagian Hal Ehual Undang Undang, (BHEUU) to ensure the NAP process moves forward. BHEUU is responsible for drafting a slew of new legislative proposals following the election of the new government. In its advisory function, UNDP is supporting an expert consultant to help design a consultative process and develop initial drafts of the NAP. The consultant will work with SUHAKAM to mobilize inputs from civil society, while BHEUU provides oversight and direction.

UNDP B+HR Asia and the UNDP Malaysia Country Office will work to ensure that that the consultation and drafting process led by BHEUU, will be informed by the Ministry of Human Resources, Ministry of Home Affairs, and Malaysian CSOs to secure interest and validation of the UNGPs across all stakeholder groups. In the third quarter of 2019, a working group meeting is currently planned to bring these actors, the ILO, and other organizations working in this space to validate the process and next steps. UNDP will also leverage its longstanding relationship to the Malaysian Judiciary following the launch of the *International Framework on Court Excellence* report<sup>20</sup> to suggest areas to enhance access to remedy for survivors of business-related, adverse human rights impacts. Emerging policy dialogues between the EU, Indonesia and Malaysia on the sustainability of the palm oil value chain (economic, environmental, social) may also inform discussions and consultations around the NAP process.

**Myanmar.** In 2013, the EU lifted sanctions formally imposed on Myanmar. It also granted the country duty-and-quota-free access to the EU market under the Everything But Arms (EBA) scheme. As such, the EU is a "partner of Myanmar in its transition, having rapidly responded to political changes in the country

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<sup>18</sup> Malaysia's decision to develop a NAP on Business and Human Rights will complement the commitments undertaken by Minister of Human Resources, M. Kulasegaran, who in 2019 declared a "War on Migrant Labor Abuse."

<sup>19</sup> The EU is supporting (through an EIDHR grant) Suhakam's work on promoting Malaysia's accession to the remaining six core human rights treaties (Malaysia has already ratified CRC, CEDAW and CRPD).

<sup>20</sup> See Malaysian Judiciary and UNDP Launch IFCE Report accessed at <<http://www.my.undp.org/content/malaysia/en/home/news-centre/articles/2019/IFCE.html>>



and provided strong support for democratic and economic reforms and peacebuilding from the outset.”<sup>21</sup> In October 2015, the EU signed the Nationwide Ceasefire Agreement as an international witness and deployed an Election Observation Mission to the 2015 general election. An Election Expert Mission followed the 2017 by-elections. Over the last 5 years, monitoring missions of human rights conditions in Myanmar have been conducted as foreseen under the EBA trade preferences scheme, including as recently as October 2018. In February 2019, a high-level mission of the European Commission and the European External Action Service (EEAS) visited Myanmar as a part of broader engagement under the EBA scheme.

Bilateral trade between the EU and Myanmar equalled €2.9 billion in 2018, up from €404 million in 2012.<sup>22</sup> Myanmar exports to the EU are estimated at €540 million.<sup>23</sup> In 2018, the EU was the 4th largest foreign investor in Myanmar. Key EU imports from Myanmar are dominated by garment and agricultural products. The EU exported goods worth almost €592 million to Myanmar, dominated by machinery, transport equipment and chemicals.<sup>24</sup> The garment sector shows significant promise for Myanmar with estimates of 1.5 million new jobs and 12 billion USD in exports by 2020.<sup>25</sup> These forecasts may be subject to revision should the EU review Myanmar’s EBA status.

Following events that took place in August 2017 in Rakhine State, the European Council expanded restrictive measures already in place and adopted a framework for targeted measures against officials responsible for serious human rights violations. Currently, there is an embargo on arms and equipment that can be used for internal repression, a prohibition to export dual-use goods for use by the military and border guard police and restrictions on the export of equipment for monitoring communications that might be used for internal repression, among other measures. Negotiations were paused on the EU-Myanmar Investment Protection Agreement. The UN Special Rapporteur on the situation of human rights in Myanmar, Professor Yanghee Yee, has in the meantime called for multinational enterprises to avoid entering into joint ventures with military controlled companies, and to otherwise conduct due diligence throughout their supply chains in Myanmar to both ensure that, *inter alia*, perpetrators of violence in Rakhine State are not enriched. Independent International Fact-Finding Mission on Myanmar in its report titled, *The economic interests of the Myanmar military*, made similar recommendations after lengthy investigations.<sup>26</sup>

Myanmar’s human rights conditions in the context of business operations remain challenging, particularly in the mining, logging, garment and agricultural industries.<sup>27</sup> Reported abuses include land confiscations,

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<sup>21</sup> EU Myanmar Relations, fact sheet, 11 January 2018, accessed at <[https://eeas.europa.eu/sites/eeas/files/eu\\_myanmar\\_factsheet\\_2.pdf](https://eeas.europa.eu/sites/eeas/files/eu_myanmar_factsheet_2.pdf)>

<sup>22</sup> European Commission, Countries and Regions, Myanmar, accessed at: <<https://ec.europa.eu/trade/policy/countries-and-regions/countries/myanmar/>>

<sup>23</sup> See id.

<sup>24</sup> Id.

<sup>25</sup> Threading the Needle: the Rise of Myanmar as a Garment Manufacturing Alternative, ASEAN Briefing, Dezan Shira and Associates, accessed at: <<https://www.aseanbriefing.com/news/2018/11/08/threading-needle-rise-myanmar-garment-manufacturing-alternative.html>>

<sup>26</sup> See *The economic interests of the Myanmar military*, report of the Independent International Fact-Finding Mission on Myanmar, A/HRC/42/CRP, 5 August 2019

<sup>27</sup> Report of the Special Rapporteur on the situation of human rights in Myanmar, A/HRC/40/68, Human Rights Council [Advanced unedited version], 5 March 2019; UN Independent International Fact-Finding Mission on Myanmar urges financial



anti-union discrimination, restrictions on collective bargaining, unsafe working conditions, and overreaction by security forces in disrupting protests. Environmental degradation has accompanied unrestrained operations in land intensive industries. Reportedly, significant amounts of revenue from state owned enterprises (SOEs) and military-owned enterprises particularly in the extractive industries do not reach the people of Myanmar and the Government. Some military-run conglomerates, not known for transparent corporate governance, have received significant international investment through joint ventures.<sup>28</sup>

Currently, the National Human Rights Commission of Myanmar and the Ministry of Investment and Foreign Economic Relations are expressing strong interest in engaging with UNDP on the Business and Human Rights agenda. The Ministry may seek to engage UNDP in discussions on Myanmar's industrial zones and Special Economic Zones (SEZs), to better align their operational policies with human rights standards. UNDP is finalising a regional study to enhance understanding of how the UNGPs can be applied to the design, development and operation of SEZs, with recommendations targeting States and businesses in Asia. This study can be leveraged to frame UNDP's approach towards the Ministry of Investment and Foreign Economic Relations and the industrial zones and SEZs that the Ministry promotes. UNDP will also explore engagement on industrial zones and SEZs with work on access to remedy, perhaps through UNDP's existing project, *Strengthening Accountability and Rule of Law (SARL)*, which aims to strengthen institutional frameworks and capacities for good governance.

Thailand. Thailand is a key trading partner to the EU, with total trade valued at EUR 38 billion in 2018. Like other countries in SE Asia, the trajectory of the trade relationship has not always been linear. In 2014, EU-Thailand FTA negotiations were frozen after the military coup. The emergence of other human rights concerns such as forced labour and human trafficking in Thai food-processing and fishing industries raised further questions about Thailand's record in the context of B&HR. However, Thailand has since made progress regarding labour rights and has engaged with the EU by establishing the EU-Thailand Labour Dialogue.

Priority business-related human rights issues in Thailand involve adverse impacts on migrant labour rights, rights related to the environment, land rights, and child well-being. Migrant workers, legal and illegal, suffer below-minimum-wage rates, dangerous work conditions, long hours and forced detention.

In recent years, international attention has focused on reported high-profile cases of migrant rights abuses in the agri-food industry, most recently involving a suit filed in September 2016, by 14 Myanmar migrant workers against a supplier to a major broiler-chicken producer. The plaintiffs alleged they were subject to inhumane working hours, degrading accommodation, unlawful salary reductions, and restricted movement. In turn, the supplier counter-sued the workers for defamation.<sup>29</sup> The workers won their lawsuit and were granted backpay. The decision of the court on the defamation case was appealed by the supplier and later dismissed. Given the scale and scope of the criminal defamation charges, the case brought international attention to the use of Strategic Litigation Against Public Participation (SLAPP) by

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isolation of Myanmar military, 14 May 2019, accessed at <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=24608&LangID=E>

<sup>28</sup> See The economic interests of the Myanmar military, report of the Independent International Fact-Finding Mission on Myanmar, A/HRC/42/CRP, 5 August 2019

<sup>29</sup> Betagro & Thammakaset Lawsuits, Business and Human Rights Resource Center, accessed at: <https://www.business-humanrights.org/en/betagro-thammakaset-lawsuit-re-labour-exploitation-in-thailand>



Thai businesses. The case now serves as a compelling backdrop to legal reform efforts in Thailand against the use of SLAPP.

Another key area of focus has been the country's seafood industry, where there were widespread and documented reports of dangerous working conditions on fishing boats, inadequate pay, unlawful imprisonment, disappearances and unexplained deaths. In 2014, reports filed by the Guardian and in 2015 by the Associated Press brought international attention to these issues, leading to consumer boycotts.<sup>30</sup> Ten days after the Guardian article, Thailand was moved down to Tier 3 (the lowest possible ranking) of the US Department of State Trafficking in Persons Report. In April 2015, the EU issued a 'yellow card' putting the country on formal notice over documented shortcomings in efforts to combat illegal fishing.

As a consequence of the negative reputation the country was earning, Prime Minister Prayut Chan-o-cha announced in 2017 that the government would develop a NAP on Business and Human Rights.<sup>31</sup> At the government's request, the UN Working Group on Business and Human Rights conducted an official country visit between 26 March and 4 April 2018. Then in June 2018, Thailand became the first nation in Asia to sign the International Labor Organization's (ILO) Protocol of 2014 to the Forced Labor Convention. In January 2019, Thailand further ratcheted up its commitments, when it became the first country in Asia to ratify the Work in Fishing Convention, 2007 (No.188).

Environmental rights issues linked to infrastructure development and mining are also of increasing concern to both the Thai public and the wider region. The Thai government ordered the closing of an Australian-owned mining facility in the north on the grounds of severe environmental contamination in early 2018. The company was subsequently ordered to conduct environmental rehabilitation in the three provinces affected. More prominently, plans to construct a coal power plant in Thepa, Songkhla province, was vehemently opposed by the local community. The arrest of activists opposing the coal plant in November 2017 drew attention to the treatment of human rights and environmental rights defenders in the country. The operations of Thai enterprises abroad have also been implicated in environmental rights violations, including a sugar company's alleged role in displacing communities in Koh Kong, Cambodia in 2013. The Xayaburi Dam in Laos and Saddle Dam D in Laos, which collapsed in 2018, have also raised significant concerns about the safety and compliance practices and procedures of Thai companies working in ASEAN countries with weaker levels of rule of law.

Thailand's May 2017 announcement to draft a NAP on Business and Human Rights has arguably encouraged Indonesia and Malaysia to do the same. In the course of these processes, UNDP has provided visibility, expert level advice, while facilitating consultations. The Thailand NAP is expected to be published and launched in the third quarter of 2019.

With this momentum in mind, UNDP B+HR Asia and the Thailand Country Office will continue to work with the Ministry of Justice, Department of Rights and Liberties, to raise awareness around the Thailand NAP, the process employed and next steps, which will likely include developing committees under the various headings of the NAP. Under the current draft, the NAP will treat issues related to 1) labour rights and standards; 2) communities, land, natural resources and the environment; 3) the treatment of human

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<sup>30</sup> Revealed: Asian slave labour producing prawns for supermarkets in US, UK, The Guardian, 10 June 2014, accessed at <<https://www.theguardian.com/global-development/2014/jun/10/supermarket-prawns-thailand-produced-slave-labour>>; AP Investigation: Slavery taints global supply of seafood, Associated Press, 24 March 2015, <<https://apnews.com/98053222a73e4b5dab9fb81a116d5854>>

<sup>31</sup> Announcement was made at the United Nations Conference Center in Bangkok on 31 May of 2017.



rights and environmental rights defenders and; 4) extraterritorial jurisdiction over international investments and transnational corporations. UNDP will also work with the judiciary in conducting trainings with judges on discretionary powers to dismiss SLAPP cases. CSOs will also be provided grants to work on issues related to extraterritorial jurisdiction and the rights of human rights and environmental rights defenders. Furthermore, UNDP plans to work more closely with the Thai Security and Exchange Commission and the Stock Exchange of Thailand to encourage human rights risks disclosures of publicly traded companies.

#### South Asia:

**India:** Despite an economic slowdown in 2017, India is still the world's fastest-growing large economy, with GDP growth estimated at 7.5% in 2019. However, rapidly increasing levels of inequality has undercut the government's ability to fully capitalize on the economic growth narrative; India's top 1% of the population is now said to control 73% of the country's wealth. Also, in 2017, India fell a whopping 21 places on the World Economic Forum's Global Gender Gap index to 108, far below the global average. In the 2018 index, India retained its position at 108.

The EU is India's largest trade partner, with exports to India totalling EUR 37.8 billion in 2016. The European Union is also the largest investor in India. Recognizing this, there is a strong appetite to resume negotiations of an FTA, as expressed by parties at the last EU-India Summit of October 2017. However, political obstacles persist. Furthermore, the business environment in India reportedly poses a significant level of operational, legal, and reputational risks for European companies sourcing from the sub-continent.

Labour rights abuses continue to impact different sectors of the economy, enabled in part by the reportedly poor level of implementation of national laws and the growing size of the informal business sector. Furthermore, many workers are allegedly subjected to bonded labour, denied the national minimum wage, and forced by circumstances to have their children work alongside them. Informal workers face dangerous working conditions, long working hours, and employer abuse. In 2018, suppliers to well-known apparel brands allegedly subjected workers to false promises on pay, restricted movement, physical abuse, and verbal intimidation. Hazardous working conditions are also common. Reportedly, there are growing concerns that labor rights abuses are increasing, while land, environment and community rights are weakening.<sup>32</sup>

The government and private sector are also accused of significant abuses of land rights.<sup>33</sup> Indigenous and "caste-affected" communities, of which 705 are officially recognised by the central government, are particularly vulnerable to land appropriation and forced relocations. In 2015, one of India's largest coal-mining companies, in collaboration with central and state government officials, was accused of illegal land acquisition by the local Adivasi community in Chhattisgarh. In the same year, in Gujarat, the state government was accused of helping businesses engage in the forced relocation of several communities to

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<sup>32</sup> See India among 'worst' countries for workers' rights, Hindu Times, updated on January 20, 2018, accessed at <https://www.thehindubusinessline.com/economy/india-among-worst-countries-for-workers-rights/article8756695.ece>; see also, Human Rights Watch, World Report 2018, India, accessed at: <<https://www.hrw.org/world-report/2018/country-chapters/india>>; Amnesty International, India 2017/2018, accessed at: <<https://www.amnesty.org/en/countries/asia-and-the-pacific/india/report-india/>>

<sup>33</sup> India's Government Sets up for a Battle Over Indigenous Forest Land Rights, The Diplomat, 01 April 2019



make way for new development projects. Despite the adoption of new legislation in 2013 to mitigate the problems caused by public and private sector land acquisition, problems persisted. The 2017 UPR process for India revealed a rising number of land rights violations against indigenous communities and scheduled tribes. Illegal mining in the country has also led to severe air and soil pollution.

In the provinces of Goa and Karnataka, local communities have reported irresponsible toxic waste management and water pollution as part of the business operations of over 2,800 mines. Logging and other resource extraction activities by businesses have allegedly polluted rivers and forests across the country. The government has also reportedly been involved in the abuse and harassment of environmental rights activists.

Perhaps in recognition of growing national and international concern of these and other abuses, India's central government has reached out to UNDP's B+HR Asia unit to assist in implementing the UNGPs on Business and Human Rights. UNDP B+HR Asia and the UNDP India Country Office have since advised the Ministry of Corporate Affairs (MCA) on updates to its "National Guidelines on Responsible Business Conduct." The revised National Guidelines include a specific chapter on Human Rights Promotion and Protection and make strong references to the UNGPs. Furthermore, in February of 2019, the MCA released the Zero Draft of National Action Plan on Business and Human Rights, during the UNDP supported *South Asia Forum on Business and Human Rights*. A National Baseline Assessment (NBA) on the adverse impacts of business operations on human rights is also expected to be conducted in 2019. The recent re-election of Narendra Modi to a second term as India's Prime Minister, suggests continuity in the workplan for the NBA and NAP.

UNDP will also work to ensure government engagement with the National Human Rights Commission of India, CSOs and other civil society actors in the NAP development process. UNDP will also leverage its work with Aditya Birla Group producing a tool on human rights impact assessments to ensure wider adoption of the private sector of human rights due diligence practices outlined in the UNGPs and later adopted by OECD.

**Sri Lanka.** In 2017, the EU reinstated preferential trade status (GSP+) for Sri Lanka, noting improvements in human rights conditions and government commitments to adopt international human rights conventions, following the country's longstanding civil war.<sup>34</sup> This policy change renewed hope for a resumption of economic growth and robust trade in garments and other goods. The main sectors of the Sri Lanka's economy include tourism, tea export, apparel, textiles and agriculture, namely rice production.

Despite its progress, Sri Lanka faces several obstacles on the road to sustainable growth and responsible business, including a compromised enabling environment following the terrorist attacks of 21 April 2019. Reportedly, rights activists face the assaults, intimidation, surveillance and the curtailment of basic freedoms.<sup>35</sup> There have also been reports of abductions of political activists and human rights and environmental rights defenders.

Among Sri Lanka's human rights risks in business operations include, low wages, long working hours, hazardous working environments, ethnic and caste-based discrimination, forced labour, sexual and

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<sup>34</sup> European Commission (2019) *Countries and Regions: Sri Lanka*. accessed at <<http://ec.europa.eu/trade/policy/countries-and-regions/countries/sri-lanka/>>

<sup>35</sup> Amnesty International (2019) *Flickering Hope: Truth, Justice, Reparation And Guarantees Of Non-Recurrence In Sri Lanka*. pg. 14. Accessed at <<https://www.amnestyusa.org/wp-content/uploads/2019/01/Flickering-Hope.pdf>>



gender-based violence and sexual exploitation. Sri Lanka's record is also wanting on environmental, land and community rights.<sup>36</sup> According to a risk management firm report:

The country's burgeoning construction industry is the biggest area of concern for ongoing health and safety violations. Over 200,000 illegal migrant workers are active in construction, and workplace injuries are underreported and poorly recorded. Workers' rights to join unions, strike and collectively bargain are generally respected. However, remedy against anti-union discrimination is inadequate and rights are restricted in Export Processing Zones (EPZs).<sup>37</sup>

While there has been an improvement in government protection of environmental rights abuses by companies, the framework provided in national legislation requires strengthening. Evidencing this, a bottling company was recently accused of leaking pollutants into the Kelani River in 2015, a crucial water source for Colombo.<sup>38</sup> The company's contaminates forced the restriction of the water supply to the capital and three other municipal areas. Following an investigation, it was found that sixty other factories, owned by a range of businesses, also leaked pollutants into the river.

Illegal land appropriation is an area of growing concern. The expansion of Hambantota Port facilities has allegedly infringed upon the land rights of local communities.<sup>39</sup> In addition, the tourism industry was identified by the previous and current administrations as an economic priority area encouraging land-grabbing by the military and big business interests, as well as leading to a loss in livelihoods and land-use for local communities.<sup>40</sup> Increasing political instability defined in part by the Constitutional Crisis of October 2018 and the recent terrorist attacks of April 2019, may lead to discrimination, or accusations of discrimination in hiring and promotions, strengthening divisions between ethnic groups.

Despite these shortcomings, there is significant interest in the B&HR agenda especially from the Human Rights Commission of Sri Lanka (HRCSL) and from some private sector actors. Private sector firms show an increased appetite for engagement, as they attempt to enhance Sri Lanka as a risk-free partner for FDI and trade. UNDP intends to work more closely with the Global Compact Network in Sri Lanka, business associations and more particularly the European Chambers of Commerce of Sri Lanka to consolidate support of the private sector behind a NAP, and to design due diligence products to ensure businesses respect human rights in their operations.

Furthermore, in May 2019, the HRCSL was upgraded to 'A' status by the Global Alliance of National Human Rights Institutions, in recognition of its efforts to promote and protect human rights and its full compliance

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<sup>36</sup> See Overseas Business Risk – Sri Lanka, Department of International Trade, United Kingdom, 22 July 2019, accessed at: <https://www.gov.uk/government/publications/overseas-business-risk-sri-lanka/overseas-business-risk-sri-lanka#business-and-human-rights>; Sri Lanka Risk Profile, Verisk Mapplecroft, 6 October 2017; No storm in a teacup for Sri Lanka's tea industry, La Croix International, Sri Lanka, 10 February 2019, accessed at: <<https://international.la-croix.com/news/no-storm-in-a-teacup-for-sri-lankas-tea-industry/9377#>>

<sup>37</sup> Sri Lanka Risk Profile, Verisk Mapplecroft, 6 October 2017

<sup>38</sup> Business & Human Rights Resource Centre (2015) *Coca-Cola statement regarding oil leak into Kelani River, Sri Lanka*. Accessed at <<https://www.business-humanrights.org/en/sri-lanka-oil-leak-at-coca-cola-factory#c127298>>

<sup>39</sup> Aneez, S. (2017) *Sri Lanka's top court dismisses case against Chinese industrial zone deal*. Reuters. Accessed at <<https://www.reuters.com/article/us-sri-lanka-china/sri-lankas-top-court-dismisses-case-against-chinese-industrial-zone-deal-idUSKBN19L2SI>>

<sup>40</sup> Townsend, M. (2015) *Rise of Sri Lanka's luxury tourist resorts 'fuels round of human rights abuses'*. The Guardian. Accessed at <<https://www.theguardian.com/world/2015/mar/01/sri-lanka-luxury-tourist-resorts-fuel-fresh-round-of-human-rights-abuses#img-1>>



with the Paris Principles relating to NHRIs. UNDP B+HR Asia is at this time deepening its relationship with HRCSL. UNDP hosted a National Dialogue on Business and Human Rights in early October 2019.

In response to the country's constitutional crisis in October 2018, the judiciary delivered a number of important determinations, upholding and safeguarding the Constitution. Evidencing its seemingly formidable role in stabilising political tensions and proving its independence, UNDP will also work with the Judiciary and the Ministry of Justice on access to remedy issues, deploying awareness raising and training interventions. UNDP B+HR Asia is currently embarking on trainings on the UNGPs for members of the Bar Association and CSO community involved in providing legal aid with special focus on Public Interest Litigation as a tool to address environmental justice.

UNDP will also link up with UNICEF and hope to complement its work on ensuring family friendly workspaces, drawing attention to rights in the workplace, including as they relate to the Convention on the Rights of the Child (UNCRC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). ILO's recent study on small holders in the tea garden sector may also open avenues of discussion for programme intervention.<sup>41</sup> Beyond this, UNDP B+HR Asia will also explore synergies between the Catalytic Support to Peace building in Sri Lanka Programme and UNDP B+HR Asia's ongoing work on Business and Conflict.

#### Northeast Asia:

**Mongolia.** Mongolia's GDP per capita has tripled since 1991 due in large part to the upsurge in demand for the country's mineral wealth. By some estimates, mining accounts for 23 percent of Mongolia's overall GDP. Though the economy is likely to contract in 2020 due to the adverse impacts of the COVID-19 pandemic, growth is expected to return in the medium term fueled by consumer spending, and investments in mining, manufacturing and infrastructure construction.

According to some experts, revenues generated by the mining industry have contributed significantly to the reduction of poverty rates, and maternal and child mortality. However, the sector is also associated with significant harm on human rights conditions and the environment. As depicted in numerous reports, the issuance of large numbers of mining licences have buttressed many communities living in the vicinity of mining sites. At issue, are the rights to health and clean water, the right to own property, and the right to participate in decision making. Further, defenders of these rights have reportedly been subject to threats, intimidation, and judicial harassment. There are also reports of adverse human rights impacts in the country's construction industry, which has also grown substantially in the wake of the country's mining boom.

As a response to increased attention to these and other business-related human rights risks, Mongolia has seized opportunities to reflect on its human rights profile and options for going forward. In 2012, Mongolia became the first country to invite the UN Working Group on Business and Human Rights to conduct an official visit. In May 2015, at the Universal Periodic Review, multiple recommendations were received inviting the country to address human rights abuses linked to the mining sector. In May 2019, a 60-member multi-stakeholder working group, chaired by the Ministry of Foreign Affairs was appointed with the mandate to oversee the drafting of a National Action Plan on Business and Human Rights. Since

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<sup>41</sup> Future of work for Tea Smallholders in Sri Lanka, International Labour Organisation, 2018.





January 2020, UNDP has provided technical support to the drafting process, outlining a road map that was adopted by MFA in April of same year, with an eye to finalize the NAP in June 2021.

## **2. Justification and rationale**

The EU and UNDP share a common set of values that are considered central to the character and mission of their respective organizations. In the name of these shared core values, the EU and UNDP will meet the call for more responsible business practices as a key area of the foreign policy driven action funded by the Partnership Instrument (PI), while simultaneously promoting objectives as defined under the UNDP's Strategic Plan, and the Sustainable Development Goals (SDGs). Under this project, the two entities will leverage their joint commitment to enhance trade through strengthened human rights conditions, leveling the playing field for those businesses that incorporate human rights considerations in their operational makeup, and resulting in heightened human rights conditions, stronger environmental protections, and reduced inequalities.

As such, this EU-UNDP joint action on Business and Human Rights will complement on-going EU efforts translating EU commitments on sustainable development, enshrined inter alia in the 2030 Agenda for Sustainable Development, into action. Simultaneously, B+HR Asia will strengthen UNDP's work as an integrator of the SDGs aligning private sector interests, and trade and investment policy with responsible business practices.

### **2.1. Strategic Alignment between the EU and UNDP**

EU's current and future support to Strategic Dialogues, Partnership Cooperation Agreements, and Free Trade Agreements (FTA), including through the PI, will significantly reinforce UNDP's efforts to encourage implementation of the UNGPs, and vice versa, if the two processes run in parallel. In fact, the EU's commitments to the UNGPs, coupled with its public diplomacy efforts and co-operation support on several areas from FTAs to human rights, democracy and rule of law, would greatly enhance multilateral UNDP-led efforts at raising awareness and operationalizing the norms that underpin the UNGPs. In turn, by convening various stakeholders to address human rights and environmental risks, and provide remedies where there have been impacts, this action will contribute to creating enabling conditions supportive of effective negotiation and implementation of trade and investment agreements, and for accelerating convergence towards EU and international standards. Joint programming between the EU and UNDP, based on partnership with national and regional stakeholders, will help meet growing consumer expectations in both Europe and Asia for ethical, safe, and environmentally friendly production methods.

Moreover, from an EU Public Diplomacy perspective, this action is expected to contribute to moderating the largely negative perception of both European and foreign public opinions on the value of trade action and FDI. The joint action will give greater visibility, both in Europe and in Asia, to ongoing efforts of the EU and UNDP as actors in support of inclusive and sustainable trade and globalisation.

#### **2.1.1 EU Commitments to the UNGPs**

The EU and its Member States have played an important role in ensuring the implementation of the UNGPs, taking tangible steps towards the adoption of NAPs, and encouraging countries outside the EU to

consider doing the same. In 2011, the European Commission in a Communication to the Parliament, the Council and other EU entities, stated that it, “expects all European enterprises to meet the corporate responsibility to respect human rights, as defined in the UNGPs.”<sup>42</sup> The Communication further noted that “better implementation of the UNGPs will contribute to EU objectives regarding specific human rights issues and core labour standards, including child labour, forced prison labour, human trafficking, gender equality, non-discrimination, freedom of association and the right to collective bargaining.”<sup>43</sup>

Citing the large numbers of European companies involved in global value chains, the European Commission also invited EU Member States to develop, by the end of 2012, national plans for the implementation of the UNGPs. This commitment also features in the EU Human Rights and Democracy Action Plan 2015-19. Taking up this challenge, Member States of the EU were among the first to craft and implement NAPs on the UNGPs.<sup>44</sup>

### 2.1.2 Alignment of joint action with EU policy instruments

Noting that enhanced implementation of the UNGPs will also contribute to achieving core EU foreign policy objectives, the EU has stated that “EU external activities would promote a global level playing field on business and human rights.”<sup>45</sup> The EU has also affirmed that it is, “dedicated to a two-pronged approach: first, to ensure that the Guiding Principles [UNGP]s are fully understood and adhered to at European Union level; and second, to promote their implementation through its external actions.”<sup>46</sup> In like manner, the EU is committed to promoting gender equality and social inclusion through its external actions, as stated in its Gender Action Plan 2016-2020 (also known as GAP II).<sup>47</sup>

This action is also in line with the overarching EU foreign policy framework set by the EU Global Strategy (EUGS). The EUGS, in fact, places sustainable development at the core of the EU external action and clearly states that “the EU will lead by example by implementing its commitments on development and climate change.”<sup>48</sup>

### Trade for All Communication

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<sup>42</sup> European Commission, Communication from The Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A Renewed EU Strategy 2011-14 for Corporate Social Responsibility, Brussels, 25.10.2011, Com (2011) 681 Final

<sup>43</sup> See id.

<sup>44</sup> These 14 member states include: Belgium, Czech Republic, Denmark, Finland, France, Germany, Ireland, Italy, Lithuania, The Netherlands, Poland, Spain, Sweden, and the United Kingdom.

<sup>45</sup> EU Statement, UN Human Rights Council, Forum on Business and Human Rights, 3-4 December 2013.

<sup>46</sup> EU Statement, UN Human Rights Council, Forum on Business and Human Rights, 3-4 December 2013.

<sup>47</sup> Joint Staff Working Document, EU Gender Action Plan II, “Gender Equality and Women’s Empowerment: Transforming the Lives of girls and Women through EU External Relations 2016-2020”, [https://ec.europa.eu/europeaid/joint-staff-working-document-gender-equality-and-womens-empowerment-transforming-lives-girls-and\\_en](https://ec.europa.eu/europeaid/joint-staff-working-document-gender-equality-and-womens-empowerment-transforming-lives-girls-and_en)

<sup>48</sup> Shared Vision, Common Action: A Stronger Europe, EU Global Strategy, 2016, p. 40



The EU has recognised that trade policy, “can be a powerful tool to further the advancement of human rights in third countries in conjunction with other EU policies.”<sup>49</sup> In fact, the European Commission’s Trade for All Communication notes that an, “effective trade policy should dovetail with the EU’s development and broader foreign policies, as well as the external objectives of EU internal policies, so that they mutually reinforce each other. The impact of trade policy has significant repercussions on the geopolitical landscape — and vice versa.”<sup>50</sup> On this account, the communication provides that, “human rights breaches that may be found in global supply chains such as the worst forms of child labour, forced prison labour, forced labour as a result of trafficking in human beings and land grabbing deserve particular attention.”<sup>51</sup> As further outlined in the communication, “responsible management of global supply chains is essential to align trade policy with European values.”<sup>52</sup> The Trade for All Communication also notes that the challenge of ensuring consistency between trade policy and values is “complex and must involve a range of public, private and civil society actors to make meaningful changes for people on the ground.”<sup>53</sup> Furthermore, mitigating costs and risks require a smart mix of policy and programming responses.

### EU Strategy for Corporate Social Responsibility

The 2011 Communication setting out the European Strategy on Corporate Social Responsibility (CSR)<sup>54</sup> stipulates that businesses must respect human rights in accordance with the UNGPs. This framework defines CSR as the “responsibility of enterprises for their impacts on society,” and identifies human rights as a priority concern. Importantly, the Commission’s approach to CSR is built upon “a smart mix of voluntary policy measures and, where necessary, complementary regulation,” as well as on the notion that, “the development of CSR should be led by enterprises themselves.” The 2015 Commission Staff Working Document on Implementing the UNGPs on Business and Human Rights states that, “this approach also holds true for implementing the UNGPs,” and any forthcoming revision of the EU CSR Strategy, “will retain these underlying principles.”<sup>55</sup>

### Europe 2020

The UNGPs offer important benefits as a framework for governments, businesses and civil society to engage each other in discussions that promote the aims of the Europe 2020 strategy for smart, sustainable and inclusive growth and the principles of the European Pillar of Social Rights. In this respect and others, B+HR Asia will contribute to achieving Partnership Instrument Objective 2: implementing the international dimension of ‘Europe 2020.’ Efforts to implement the UNGPs can also enhance EU business competitiveness by illuminating risk factors through public consultations, human rights assessments as well as environmental and gender-sensitive impact assessments.<sup>56</sup> An increasing number of EU investors

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<sup>49</sup> Communication from The Commission to The European Parliament, The Council, The European Economic and Social Committee and The Committee of The Regions, Trade for All: Towards a more responsible trade and investment policy, COM (2015) 497, See introduction.

<sup>50</sup> Id.

<sup>51</sup> See section 4.2.5 Promoting and Defending Human Rights, Trade for All communication

<sup>52</sup> See section 4.2.3. Ensuring responsible management of supply chains, Trade for All communication

<sup>53</sup> Id.

<sup>54</sup> Communication from the Commission to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions, Brussels, 25.10.2011.

<sup>55</sup> European Commission Staff Working Document on Implementing the UN Guiding Principles on Business and Human Rights - State of Play, Brussels, 14.7.2015. SWD (2015) 144 final. pg. 7

<sup>56</sup> This is in line with EU’s commitments to integrate gender in impact assessments, especially since research has demonstrated that ‘labour provisions in trade agreements ease labour market access, particularly for women and narrow the gender wage



also undertake social, environmental and human rights audits to ensure their investments are secure against reputational and litigation risks. Thus, efforts to implement the UNGPs in Asia may lead to more robust investments across borders, with fewer negative repercussions for EU-based investors. Furthermore, wider realisation of the B&HR agenda will lead to the enhanced projection of EU foundational values across borders towards greater levels of equality,<sup>57</sup> democracy, respect for human rights and fundamental freedoms and the rule of law.

### 3. Programmatic Strategy and Partnerships

The joint action will be defined by a four-pronged strategy, based on lessons learned cultivated during initiation and implementation phases of the project funded by the Government of Sweden, *Business and Human Rights in Asia: Promoting Sustainable Business Practices through Regional Partnerships*.

#### 3.1 Lessons Learned

Based on substantial discussions during the scoping missions, in international and regional fora, and with UN system and CSO partners at coordination events, the following main lessons learned have emerged:

- Awareness raising among all stakeholders, including government, business, and civil society, is a critical first step in moving the B&HR agenda forward;
- Facilitating peer learning and dialogue between key stakeholders cultivates uptake or race-to-the-top momentum on UNGPs implementation at the regional level;
- Supporting remedies through judicial and non-judicial mechanisms is a critical factor in ensuring corporate accountability, deterring future harms, and creating a level-playing field<sup>58</sup>;
- Support to human rights and environmental rights defenders facilitates and strengthens remedial mechanisms and<sup>59</sup>;
- Multi-stakeholder approaches towards NAP development ensure strong implementation and legitimacy of efforts<sup>60</sup>;

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gap.' European Commission and High Representative of the Union for Foreign Affairs and Security Policy, Joint Staff Working Document, EU Action Plan on Human Rights and Democracy (2015-2019): Mid-Term Review June 2017, reference no.: SWD(2017) 254 final, Brussels, 27 June 2017, pp. 18-19.

<sup>57</sup> Equality is a core value of the European Union and is enshrined in its legal and political framework (ex. Arts. 2, 3, 21 of the EU Treaty).

<sup>58</sup> In particular, the court case referenced above, brought by migrant workers working in the Thai broiler chicken industry against their employer led to significant punitive sanctions against the employer, lost business of the employer with a major buyer, and heightened awareness among the general public of the immoral use to which criminal defamation cases are used against survivors of forced labor.

<sup>59</sup> Human rights and environmental rights defenders filing cases involving charges of negligence and other grievances impacting on human rights against foreign companies, has helped to develop dialogue, jurisprudence and awareness of matters related to extraterritorial jurisdiction. NHRIs in some countries, like NHRC Thailand, have also become active participants in this discussion and broadcasted their concerns widely. Remediation, though not guaranteed, is considered more likely under these circumstances.

<sup>60</sup> Multi-stakeholder approaches have proven key to affording legitimacy to the development of the national baseline assessment for the NAP in Thailand. Inviting large corporate interests to engage allowed them to develop confidence in the process of



- Striving for policy coherence at the national levels is key to priority setting, coordination and whole of government implementation;
- Making the business case for UNGPs brings in diverse and sometimes reclusive actors, such as SMEs and smaller business associations organized around ethnic communities;
- Including SMEs in the conversation on responsible business practices informs NAP development and sensitives business owners and workers to UNGPs;
- Working closely with the UN system and other multilateral actors, including ILO and OECD, ensures coordinated messages and cohesive approaches towards the Business and Human Rights agenda<sup>61</sup>;
- The Business and Human rights topic allows for broader human rights conditions to be tabled.<sup>62</sup>

### 3.2 Strategic Approach

The joint action is defined by a four-pronged strategy that is mainstreamed across the results framework. Under this approach, UNDP B+HR Asia will 1) invest in advocacy and awareness raising at the national level to stoke a regional “race-to-the-top” in endorsement and implementation of the UNGPs; 2) leverage international fora such as the Global Forum on Business and Human Rights and the Universal Periodic Review process, and regional fora sponsored by regional organizations and multilateral organizations, to ensure government commitment and meaningful CSO participation; 3) stress the economic incentives driving government interest and action on the UNGPs to ensure government buy-in, inclusive participation, remedy provision, and strong whole-of-government efforts and; 4) strengthen links to business communities to harness the voice of the private sector and use it to impress upon policy makers the seriousness by which leading producers and consumers seek changes in the human rights profile of the region, and; 5) strengthen the voice/capacity of CSOs and NHRIs networks to raise awareness on alleged human rights abuses and identify remedies.

#### Prong 1: Promote regional momentum through investments at the national level

UNDP recognizes the positive role that Thailand and India have played as “first-movers” or “early-adopters” in driving momentum at the regional level. As noted above, interest in the B&HR agenda is developing rapidly due in part to strong competition between countries over FDI and opportunities for

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gathering information. Also, the strong involvement of the agri-food giant, CP Group, encouraged other businesses to take the baseline effort seriously. CP Group would later advocate for mandatory due diligence for all large Thai companies in line with CSO demands. Government valued the inputs and partnership with CSOs as a means of gathering information and managing sensitive issues with community members. Though the NAP is not yet its implementation stage, and will no doubt be subject to some criticism once it is released, the process leading up to the NAP has assured that all voices have been heard. Gaps in implementation will be harder for government to justify.

<sup>61</sup> Since 2017, UNDP has hosted three large multi-stakeholder regional events in June on Business and Human Rights. In 2019, UNDP invited OECD, ILO and ESCAP to participate in the co-convening of the Responsible Business and Human Rights Forum. This Forum was widely praised by all stakeholders as a neutral space that enabled ideas and messages to be vetted, and to be heard by government, business and civil society.

<sup>62</sup> Under the heading of Business and Human Rights, CSOs and human rights activists found space in some countries to discuss issues that might have otherwise been censored. In Thailand, for example, CSOs were permitted to openly challenge the government to do more for laborers, for migrant workers, for people impacted by land rights issues, for women, and for human rights and environmental rights defenders.



growth in trade. Continued advocacy efforts at the national level will generate added momentum in support of the B&HR agenda, raising awareness and putting would-be perpetrators of abuses on notice.

UNDP B+HR Asia unit has also learned that building interest at the national level requires the identification and support to individual B&HR champions, whether they be academics, CSO actors, government officials, or leaders of business associations. The B+HR Asia project will work closely with these champions, linking them to support and ongoing programming efforts at UNDP Country Offices to maximize advocacy and technical support efforts. Further, UNDP will bring these champions to the table at regional forums to speak on developments in their home countries, sharing lessons learned with other regional champions. Importantly, human rights and environmental rights defenders will inform and greatly enhance efforts to provide for adequate remedies where there have been adverse human rights impacts. Human rights and environmental rights defenders will help translate the needs and demands of communities, ensuring that other actors, including CSOs, represent the issues fairly and accurately. CSOs which work closely with human rights and environmental rights defenders will be provided small grants to ensure the sustainability of their efforts. UNDP will also facilitate and deliver in-kind support in the form of training from UN system actors, including UN Environment Programme (UNEP) and the Office of the High Commissioner for Human Rights (OHCHR), but also from the Diplomacy Training Program, and from foundations such as Thomson Reuters Foundation.

Further, UNDP will champion country efforts, especially where these countries have produced NAPs that meet international standards. Leading countries in Asia with standard-setting NAPs will be showcased as a model for other countries, before business, government, media, IFIs and international institutions. These country-champions, represented by various government officials and national Business and Human Rights champions, will attend Regional Dialogues and Regional Trainings jointly hosted by UNDP and its partners. At these events, and as described below in more detail, government, civil society, and business will detail lessons learned in the implementation of the UNGPs.

#### Prong 2: Leverage international standing

Some countries in the region are seeking to enhance their human rights profile to strengthen their international standing and reputations in furtherance of wider soft power ambitions. Other countries in the region have an interest in shoring up their human rights credentials in a bid to participate in international bodies such as the UN Security Council. For these countries, international human rights forums and mechanisms including the Universal Periodic Review (UPR) and the UN Forum on Business and Human Rights present important opportunities to raise their international credentials. These opportunities, informed as they are by civil society, provoke deeper and potentially more incisive reflection on progress, including on efforts to implement the UNGPs.

UNDP will leverage the UPR process to encourage governments to implement the UNGPs. Already, UNDP has informed the diplomatic community in Asia to request that their country representatives file recommendations to develop NAPs during UPR processes. The success of the uptake of these has not always borne fruit, as with Viet Nam, which declined Sweden's recommendation to conduct a NAP on Business and Human Rights. However, in March 2019, the People's Republic of China accepted the recommendation to develop a NAP to address adverse human rights risks posed by Chinese businesses working abroad, including those countries covered by the project. In the coming months and years, the tentative schedule of the UPR reveals that several Asia countries will be open to recommendations, including the Democratic Republic of Korea, Fiji, Laos, Mongolia, Nepal, Papua New Guinea, among others.



In connection with this, UNDP will support CSOs (particularly those funded by the EU and EIDHR) and NHRIs, where appropriate, to report to the Human Rights Council on the need for governments to embrace the B&HR Agenda, to develop NAPs, and when adopted, to fully implement them. CSOs will also be supported to assist in monitoring the implementation of any recommendations related to the UNGPs that are adopted by Member States. Training will be provided to CSOs on shadow reporting and other means of informing UPR processes. UNDP will also convene meetings between government and CSOs prior to UPR engagements where possible.

Importantly, UNDP will also bring human rights and environmental rights defenders to regional and international forums, to promote access to remedy. Human rights and environmental rights defenders and CSOs will also be supported in connection to B&HR advocacy before the Committee on Economic, Social and Cultural Rights, the Committee for the Elimination of Racial Discrimination, as well as Committee on the Elimination of Discrimination Against Women, when these opportunities arise. Furthermore, UNDP will highlight, through social media and regional meetings and conferences, any litigation coursing through national courts, and reports on complaints filed with NCPs and NHRIs and any statements made thereby.

#### Prong 3: Make the business case

Currently, some governments in the region are showcasing their efforts to address and prevent human rights violations in a bid to maintain trade links or to increase levels of FDI. Endorsing the UN Guiding Principles and committing to a NAP on Business and Human Rights sends a strong message to the international business community that a government is serious about reducing or eliminating the risks of doing business in its territory. Implementation also enhances a country's profile as a safer place to do business than other alternatives in the region. The execution of a comprehensive and credible NAP may also help "level-the-playing-field" so that first movers who invest in human rights due diligence do not put themselves at a competitive disadvantage.

Recognising this, UNDP will emphasize the business-case for implementing the UNGPs, drawing attention to the potential contributions that the B&HR agenda can make to efforts to eliminate poverty and reduce inequalities. UNDP will galvanize and harness the voices, perspectives, and advocacy efforts of the private sector, UN system, civil society, and trade and investment policy experts through public forums and media channels. In doing so, special focus will be given by UNDP to EU-funded projects/initiatives promoting social enterprises and will involve, through European business organizations, European businesses present in the country that implement already those best practices. UNDP will also leverage its substantial convening power to build regional platforms for countries to share lessons learned and showcase their progress to the international business community. UNDP will provide assistance in developing NAPs and provide advisory support on implementation, as well as publish reports and studies on progress on B&HR in the region, while hosting roundtable discussions on the links between trade and human rights.

#### Prong 4: Recognise business as partners and advocates

Business is not a passive actor in efforts to build momentum in the region. In fact, some businesses have been pressuring governments to take action to help clean up industries and create a level-playing field for several years now. The voice of the private sector is by some accounts the most valuable advocacy tool at the disposal of champions for human rights in business operations. Furthermore, many business leaders embrace the UN Guiding Principles as providing clarity to what is expected of them and their respective



industries. Individual businesses, including small and medium sized enterprises (SMEs) may also have much to gain when they are recognized by UNDP and others, for investing in quality environmental and social impact assessments, human rights due diligence policies, and careful supply chain management. Increasingly, foreign buyers of energy, natural resources, garments, electronic components from Southeast Asia seek long term relationships with reliable, low risk suppliers that share the same values as their clients.

UNDP will develop seminars, workshops, and other forums inviting credible business actors, including business associations such as the Global Compact Networks, national and international chambers of commerce, and industry-specific bodies to harness and project the voices that are actively supporting the UNGPs. In some cases, UNDP will host events, including workshops, with business associations and private sector champions to help showcase the progress of businesses to reward and validate their efforts. It will also use these events to encourage their peers to support and normalize these sustainable practices. UNDP will also explore ways to further motivate individual businesses to champion business and human rights, through a sustainable-business-partner campaign, or other efforts linked to certifying or validating the efforts of private sector businesses. This might be done with local partners that manage certification processes, including with membership-based business associations dedicated to sustainable business practice. Validation might also involve working with stock exchanges in the region to develop human rights or sustainability indexes for listed companies that undertake human rights due diligence processes and report on risks.

### 3.3 Partnerships

UNDP is widely recognized as the convener of the UN system around the UNGPs in the Asia-Pacific region, leading an emergent *UN Partnership Architecture* on the UNGPs that brings the UN system, CSOs and independent thought leaders together to discuss and find solutions to Business and Human Rights challenges. This Partnership Architecture comprises, *inter alia*, the Asia Pacific Forum, ILO, the International Organization for Migration (IOM), OECD, Oxfam, UN Environment (UNEP), UN Economic and Social Commission for Asia and the Pacific (ESCAP) and UN Entity for Gender Equality and Empowerment (UN Women). It is designed to enhance policy coherence, consistent advocacy messaging, and the sharing of innovative ideas. UNDP's Partnership Architecture builds on the expertise and experience of the UN Office for the High Commissioner for Human Rights (UN OHCHR) and The Working Group on the issue of human rights and transnational corporations and other business enterprises (also referred to as the Working Group on Business and Human Rights, or UNWBG), who are sometimes represented at coordination events.

With a presence in 23 countries across the Asia-Pacific region, UNDP is well positioned to support the implementation of the UNGPs through the partnership architecture, on both regional and country-levels. UNDP in Asia-Pacific has been engaged in Business and Human Rights issues since 2015 leveraging its own resources, and since 2017 with the support of the Swedish government. UNDP is facilitating regional exchanges of best practices in policy and regulatory development, raising awareness among multiple actors and stakeholders, and building political will through advocacy and information sharing. Partnerships will be further strengthened with international organisations that are either active or have expressed strong interest in furthering B&HR work at the national level.

The snapshot of partners and related interventions detailed below is a non-exhaustive list. However, the list is strongly indicative of the existing partnerships, and the potential results stemming from in-kind,





co-funding, and knowledge sharing efforts, including participation in public awareness events, peer learning and validation exercises.

### 1. Working Group on Business and Human Rights

Addressing the multi-dimensional challenges of the Business and Human Rights practice area requires good counsel and up-to-the-minute feedback and advice from the world's premier experts. For this reason, UNDP B+HR Asia and UNDP Country Offices make full use of its relationship with the Working Group on Business and Human Rights.<sup>63</sup> UNDP's close relationship with the UNWG offers the organization access to world-class expertise on Business and Human Rights from internationally recognized experts. UNDP's approaches are thus informed by the latest thinking on human rights, international trade policy, and on advancing gender equality in the workplace, as well as novel regulatory issues impacting on supply chains, the environment and finance. Crucially, the relationship contributes to UNDP's ability to bring expert advice to the national and regional levels in support of policy convergence between trade agreements, international investor agreements, international human rights obligations, and the 2030 Agenda on Sustainable Development, among other instruments. UNDP has provided opportunities for ministers, permanent secretaries, and directors of departments from an array of governments to meet with UNWG members for advice and encouragement.

### 2. UN Entity for Gender Equality and Women's Empowerment (UN Women)

UN Women is a key partner to UNDP. Both organizations will jointly organize events under the *B+HR Asia: Enabling Sustainable Economic Growth through the Protect, Respect and Remedy Framework* project to advocate for changes in business management policies and practices so that they improve on women's experience in the workplace. UN Women and UNDP are currently working together to identify ways to eliminate workplace discrimination and ensure businesses do not discriminate against women customers and suppliers. Joined up efforts, including knowledge-sharing, will also address ways to create safe and supportive places for women and eliminate sexual harassment and violence in the workplace, in furtherance of the Women's Empowerment Principles. Women migrant workers will also be of significant focus of public awareness raising efforts, with UN Women leading on initiatives. UN Women's work on access to justice will also be looked to for guidance in providing remedy to impacted individuals and communities of human rights abuses in business operations.

Evidencing our joint interest in collaboration, UNDP has already worked to identify a researcher with UN Women's support, to inform a study on women's rights in the context of business operations in Thailand. More research and policy projects are being launched with a focus on sexual harassment in the workplace. As noted above, UNDP will also leverage its work on women's rights due diligence and its human rights self-assessment tool to help businesses and women's groups to identify risk to women's rights in operations and supply chains, in close coordination with EU-supported UN Women's *WeEmpower in Asia* project.

### 3. ASEAN Intergovernmental Commission on Human Rights (AICHR)

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<sup>63</sup>In 2011, the UN HRC mandated that the UN Working Group, comprised of five independent experts, to promote the Guiding Principles and identify and promote best practices in its implementation, as well as conduct formal country visits. For more information on the UN Working Group, please see: <<http://www.ohchr.org/EN/Issues/Business/Pages/WGHRandtransnationalcorporationsandotherbusiness.aspx>>



AICHR is the coordinating body responsible for moving the Association of Southeast Asian Nations (ASEAN) towards a common approach on human rights, through the active application, promotion and protection of human rights. AICHR conducts thematic studies which have included Corporate Social Responsibility (CSR), Migration and Trafficking in Persons particularly women and children, among other studies. UNDP has worked with AICHR on regional workshops on Business and Human Rights over the last three years, jointly setting agendas, co-funding, and ensuring participation of relevant actors. In 2018, UNDP co-hosted and co-funded with AICHR, the first of two regional dialogues titled, "AICHR Interregional Dialogue: Sharing Good Practices on Business and Human Rights". In 2019, UNDP is supporting AICHR's second Interregional Dialogue by the same name, through the *B+HR Asia: Promoting Sustainable Business through Regional Partnerships* project, funded by the Swedish Government. Cooperation on research, trainings and workshops will continue over the project period, as and when AICHR requests support and participation. AICHR could be helpful in driving coherence between human rights policy streams under the headings of trade, investment and development financing.

#### 4. Office of the UN High Commissioner for Human Rights (OHCHR)

Over the project period, UNDP will maximize its already strong working relationship with OHCHR and seek complementarities with OHCHR's project on land rights and its work supporting human rights and environmental rights defenders. Sharing lessons and joining forces to support human rights and environmental rights defenders will signal concerted and unified institutional strength while increasing visibility. Based on the global tri-partite agreement between UNDP, GANHRI and OHCHR, UNDP will also work with OHCHR, the Asia Pacific Forum and others who have been active in promoting the role of the NHRIs in seeking remedies for adverse impacts of business activities. UNDP will support capacity building of NHRIs with GANHRI, while promoting dialogue between NHRI commissioners. Regarding the later initiative, UNDP will work with the Commission on Human Rights in the Philippines to develop a network of NHRIs to share lessons learned. UNDP will work with OHCHR in a regional capacity and, where possible and relevant in Cambodia, where OHCHR has a country office.

#### 5. International Labour Organization (ILO)

UNDP has developed an important partnership with ILO to strengthen internationally recognized human and labour rights, based on the eight fundamental Conventions. UNDP will avoid overlap, seek guidance, while aligning messages with ILO at both the regional and country level. At the crux of this relationship is mutual recognition of each other's comparative advantages, and potential for knowledge sharing. ILO and UNDP have developed an informal action plan for joint work under the existing *B+HR Asia: Promoting Sustainable Business* project.

UNDP has sought inputs and advice on its scoping missions in South Asia, while also inviting ILO to showcase its work and lessons learned among UN system actors during a regional partnership-building workshop titled, "B+HR Lab." More recently, ILO and UNDP collaborated with OECD and UN ESCAP in the design and implementation of the *Responsible Business and Human Rights Forum* in Bangkok on 12-13 June, drawing in over 500 participants. Additionally, UNDP and ILO are currently in discussions on collaborating on a Women's Rights Due Diligence Toolkit.

#### 6. Organization for Economic Co-operation and Development (OECD)



UNDP is also building its partnership with OECD to seek alignment and complementarity between the Business and Human Rights agenda and OECD's work on promoting due diligence guidance on Responsible Business Conduct, an approach that is derived from the UNGPs. Through the EU-funded *Responsible supply chains in Asia* project, OECD and ILO will, among other things, seek to strengthen National Contact Points (NCPs), and provide trainings to private sector actors on human rights due diligence practices and grievance mechanisms in China, Myanmar, Philippines, Thailand, Viet Nam and Japan. UNDP is engaging with OECD to encourage learning between NCPs and NHRIs, leveraging long-standing relationships with CSOs to the table for discussions with business and government. Furthermore, UNDP will work to ensure that efforts avoid redundancy especially where there is overlap with these efforts in Myanmar and Thailand. UNDP will encourage more participation from OECD and ILO in discussions on Business and Human Rights at the regional and country level.

#### 7. UN Children's Fund (UNICEF)

Applying approaches refined over years of in-country experience, UNICEF's efforts to eliminate child labour in Asian supply chains through the implementation of the Children's rights and Business Principles has been met with considerable success in many countries in the region. UNDP will also work with UNICEF on child labour issues (and relevant CSOs through UNICEF's networks) but also on the impact of business practices on children. UNICEF is currently investing in ways to chart progress of industry towards eradicating child labor and has sought a partnership with UNDP in this effort among others. The details remain undefined as there are transfers currently at play at UNICEF in Bangkok.

UNDP will strengthen its partnership with UNICEF recognizing the organization's mandate and history, and include UNICEF in discussions on NAPs in Indonesia, Malaysia, Thailand and other countries where these strategic planning efforts take shape. In Sri Lanka and Viet Nam, UNDP has already shared expertise and sought complementarities in programming, pointing to fruitful collaborations in the future. In Thailand, UNDP B+HR Asia has included UNICEF on panels hosted by the NHRC Thailand, for example on 1 June 2018, involving more than 400 leaders from business and government. UNDP has acted as a bridge between UNICEF and Thailand entities working on the country's NAP on Business and Human Rights, facilitating the exchange of guidance material and child rights expertise.

#### 8. UN Environment Programme (UN Environment)

As a leading global voice on the environment, UN Environment is focusing, inter alia, on strengthening awareness of environmental rights and access to information to people at the frontline of environmental protection, while developing practical tools and resources. For example, UN Environment is enhancing legal support, and producing legal and policy guidance on environmental rights so that all actors can understand and implement environmental rights obligations.

UNDP has proposed joined-up activities with UN Environment on their Environmental Rights Initiative<sup>64</sup> to work with Human rights and environmental rights defenders and other community advocates in order to advance environmental rights and remedy. Among these activities, UNDP is guided by the advice of UN Environment on UNDP's small grants support to CSOs working on legal aid provision to HUMAN RIGHTS AND ENVIRONMENTAL RIGHTS DEFENDERSs, under the Swedish funded, *B+HR Asia: Promoting*

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<sup>64</sup> For more information, see <<https://www.unenvironment.org/events/un-environment-event/launch-un-environments-rights-initiative>>



*Responsible Business Practices through Regional Partnerships* project. Further, UNDP will continue to seek inputs from UN Environment to ensure that NAPs and other strategic plans lead to efforts that strengthen institutional capacities and enforcement of environmental laws, eliminate the use of strategic litigation against public policy (SLAPP), and strengthen the utility of Environmental and Social Impact Assessments. UNDP's growing list of private sector partners can also complement UN Environment's efforts to work with businesses so that they might better understand what their environmental rights obligations are, and ultimately move them from merely complying with existing laws, to actually championing environmental rights.

## 9. Business Associations

As noted in the section above on project strategy, developing allies among members of the business communities at the country level will be key to ensuring robust NAPs on Business and Human Rights. The voice of business leaders will be leveraged to ensure NAPs get off the ground in key countries like Malaysia and or to increase the likelihood that NAPs that are already in development include meaningful levels of detail and substance in places such as Indonesia and Thailand. To build partners in advocacy and in technical support, UNDP will approach business associations such as the national chambers of commerce, and the Institute of Directors in Thailand<sup>65</sup> and Malaysia, the EU Chambers of Commerce, Global Compact Networks, and other membership-based organizations such as Responsible Business Alliance (RBA)<sup>66</sup> and Amfori.<sup>67</sup>

## 10. Civil Society Organizations

UNDP is also activating its close relationships with the CSO community, to develop strategies that build bottom-up demand for action from government and business. UNDP support to legal aid organizations and organizations involved in strategic litigation will provide the leverage – through access to information and access to justice – to move institutions and businesses to remedy environmental harms and environmental rights abuses.

To help address national and transboundary cases on business and human rights, UNDP will utilize its existing connections with regional networks. Engagement with the Asia Indigenous Peoples Pact (AIPP) and Oxfam will be critical to efforts to mobilize and reach communities. The regional scope of the project will allow for regional exchanges of best practices in combatting environmental challenges and violence and discrimination against women, among other topics. International Commission of Jurists (ICJ), Stockholm Environment Institute (SEI), Raoul Wallenberg Institute on Human Rights (RWI), and the Business and Human Rights Resource Center (BHRRC) will also be contracted to assist on research projects

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<sup>65</sup> According to their website, the Thai Institute of Directors Association (IOD) is, "dedicated to improving director professionalism and corporate governance in Thailand. Founded in 1999, two years following the 1997 Asian financial crisis, the IOD has been at the forefront of promoting good governance practices in the Thai companies."

<sup>66</sup> The Responsible Business Alliance (RBA) is a business association comprised of electronics, retail, auto and toy companies, "committed to supporting the rights and wellbeing of workers and communities mostly in Malaysia, affected by the global supply chain. RBA members commit and are held accountable to a common Code of Conduct and utilize a range of RBA training and assessment tools to support continuous improvement in the social, environmental and ethical responsibility of their supply chains."

<sup>67</sup> Amfori is a business association that offers, "frameworks and tools to manage the social and environmental performance of its member's supply chains. The organization advocates for progressive policy and collaborate with national, European and international partners to achieve social, environmental and economic progress." Amfori's members ostensibly have a significant influence on suppliers in Bangladesh, China, India, Thailand and Viet Nam.



and think pieces. UNDP's emerging partnership architecture on B&HR, which includes the above organisations, will strengthen regional advocacy networks and enhance the ability of organizations and institutions to tackle issues at the national level. Regional and international CSOs like Forum Asia and Environmental Justice Foundation (EJF) as well as AIPP, will guide UNDP in identifying priority actions under the transboundary heading. The full involvement of Indigenous Peoples' organisations in this programme is in line with the 2017 Council conclusions on Indigenous Peoples that underscore the crucial importance of enhancing opportunities for dialogue and consultation with Indigenous Peoples at all levels of EU cooperation, including on B&HR.

UNDP will unlock its convening and normative power in service of CSO efforts to address specific subject-area priorities, which are likely to involve land confiscation, displacement incidents, forced labour, human rights defenders, and environmental rights abuses. UNDP will amplify their messages in social media and in public events. UNDP will also leverage regional CSO understanding and assessment of other smaller CSOs in the region to help in CSO grant selection processes. Lastly, UNDP will include regional CSO organizations in roundtable discussions on trade and investment issues.

#### 4. Programme Description and Results Framework

The overall objective of this action is to promote the agenda on B&HR and ensure that it is further taken up by Asian governments and businesses, through an EU-UNDP partnership, thereby promoting multilateralism and levelling the playing field for businesses that integrate human rights considerations into their operations and supply chains.

The **specific objectives** of B+HR Asia involve the following:

- SO1: To operationalise an EU-UNDP partnership promoting internationally agreed principles on human rights and environmental protection in the context of business operations, (multilateralism);
- SO2: To raise awareness of and cooperate with national governments, the business sector, civil society and trade unions in the seven selected countries in Asia to support national efforts to implement the UNGPs on Business and Human rights where and when relevant, including the adoption and implementation of NAPs, the establishment of grievance mechanisms by businesses and enhanced access to effective remedies and rights-based solutions (human rights);
- SO3: To facilitate a more level playing field and a reduced risk of disruption of their supply chains for EU businesses adopting responsible business behaviours in their operational and sourcing practices in Asia (economic diplomacy);
- SO4: To enhance the profile of the EU as a global actor and promoter of human rights, in line with the EU Global Strategy (EUGS) and based on a convinced adherence to multilateralism (public diplomacy).

The Overall Objective/ Impact is based on the **theory of change** which provides that:

<b>If:</b>	the EU and UNDP make their respective comparative advantages converge into a joint project and complement existing action on Business and Human Rights by other international, regional and national organizations and if;
	UNDP and the EU encourage more attention to human rights risks and abuses in the production of goods, commodities and services and if;
	the EU and UNDP demonstrate sufficiently, how respect for human rights can assist firms in managing risk, and help countries to enhance trade flows and attract FDI, and if;
	the EU and UNDP joint efforts lead to the effective adoption and implementation of the UNGP in the selected countries, with a specific focus on the provision of remedy;
<b>Then:</b>	policy makers, consumers and business actors would become more aware of the potential adverse impacts of business operations on human rights, and work to prevent these risks, or ensure in greater measure, that remedies are provided for abuses that have occurred;
	human rights conditions would be strengthened and the risks of disruptions to commercial flows between the EU and Asia would be mitigated, leading to heightened levels of prosperity, greater recognition of the positive role of trade and increased mutual respect between regions and;
	stronger human rights conditions, instead of being seen as a burden for profitable business, would be perceived as a comparative economic advantage by governments, as well as the private sector, in a similar situation in the region, and as a necessary precondition for engaging in fruitful sustainable trade relations with other regions and;
	greater legitimacy would be conferred to multilateralism as the preferential way to promote and defend values at global level.

#### 4.1 Expected results

In coherence with the above specific objectives, the **expected results** of this action are as follows:

- R1: Awareness of the UNGP by relevant stakeholders in the selected countries is raised thus creating the necessary grounds and pre-conditions for boosting the B&HR agenda in Asia (Specific Objective 2);
- R2: National legislative and policy frameworks, including NAPs, are developed and/or implemented by means of targeted support to and dialogue with relevant stakeholders in the selected partner countries, taking advantage of the favourable momentum at regional level to advance the B&HR agenda (SO2);
- R3: Efforts carried out by UNDP at regional level under the project *"Business and Human Rights in Asia: Promoting Responsible Business Practices through Regional Partnerships"* (funded by the Government of Sweden) are amplified and mutually reinforced through bilateral action under this project with country-level partnership architectures (UN system, NHRI, CSO, and private sector) (SO2);
- R4: Access to effective remedy for violations of human rights in the context of business operations is enhanced, including in cases of violations occurring outside a country's jurisdiction access (SO2);
- R5: Enabling conditions are created or enhanced for EU responsible enterprises operating in and sourcing from Asia to benefit for a more level playing field (SO3);

- R6: The EU-UN partnership on Business and Human Rights is reinforced and the EU's role and image as a global actor and promoter of human rights under the call of multilateralism are strengthened (SO1, SO4).

#### 4.2 Workstreams and Results Framework

B+HR Asia intends to reach its objectives through three (3) workstreams which include: 1) awareness raising of the UNGPs among key stakeholders to build knowledge and political will, including training and peer-to-peer exchange between policy and decision makers to further policy convergence and compliance; 2) communication and public diplomacy efforts to build public support of business and human rights agenda and; 3) promotion of access to remedy to ensure rights-based solutions and prevent future human rights abuses.

The below indicative activities will inform discussion on annual work plans to be agreed upon two months in advance of the programming year. Not all activities will be implemented in all country settings, and some will in fact be delivered as regional products. Conversations between EU delegations and UNDP Country Offices will define the scale and scope of activities within the parameters set by this Description. In some cases, steering committees at the national level should be conducted to ensure coordination and synergies between other EU partners. Given the highly technical nature of the subject, the bulk of Outcome 4 will be delivered leveraging regional and international expertise, and managed by the B+HR Asia team based in Bangkok.

**Outcome 1: To engender greater awareness and to build knowledge and political will including training and peer-to-peer exchange in furtherance of policy convergence and compliance**

**Output 1.1: To set up actions enhancing common understanding and policy convergence with implementation of the UN Guiding Principles on Business and Human Rights**

Activity 1.1.1 Facilitate tripartite discussions involving relevant policy makers, prominent civil society groups, including indigenous peoples' organisations, trade unions, and European and Asian business associations on the UNGPs, with a view to expanding the number of actors playing an active role in policy making.

In relevant countries, multi-stakeholder conferences would be hosted to discuss opportunities and challenges in implementing the UNGPs. These conferences would also be an arena for CSOs, business and government to conduct a dialogue in a neutral setting, while deliberating on policy, laws, and regulatory enforcement practices.

Activity 1.1.2 Conduct trainings on the UN Guiding Principles, but also a range of other standard setting guidelines *inter alia* the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy, and the OECD Guidelines for Multinational Enterprises, while also detailing linkages with trade and investment policy

In several countries, awareness of the UNGPs is very low. In other countries, there is confusion over the differences between responsible business practice standards. This activity will increase knowledge of the UNGPs, while clarifying the differences and complementarities of other standards, targeting business associations, government departments and CSOs, and articulating

clearer pathways towards responsible business. Where relevant, these trainings would also link the UNGPs to trade and investment policy.

#### Activity 1.1.3 Design and develop knowledge products that further policy convergence between UNGPs and other internationally recognized instruments

In support of trainings and conferences articulated above, and in furtherance of knowledge dissemination more generally, UNDP will create a variety of think pieces, issue briefs, and research reports. These knowledge products will help clarify the complementarity and differences between responsible business standards, and target business, CSO and government stakeholders in India, Indonesia, Malaysia, Myanmar, Sri Lanka and Thailand. These knowledge products may also include reports on how NAPs on Business and Human Rights were developed in other countries, such as in Thailand. They may also provoke wider discussion among the small business owners, where the products target SMEs and involve inputs from Employer's Federations. Inputs on products from ILO may also be sought on knowledge products focusing on labor rights, including migrant and women's labour issues.

#### **Output 1.2: To reinforce skills and competencies of government to draft and implement National Action Plans on Business and Human Rights or other policy instruments**

Activity 1.2.1 Raise awareness of the United Nations Guiding Principles (UNGPs) with governments, making the normative and business-case for adoption and implementation; host and facilitate bi-lateral peer learning events to showcase best practices on UNGP implementation.

Under this activity heading, UNDP will prepare briefing notes and convene high level and bilateral meetings with governments who are either open to or actively engaged in developing NAPs on Business and Human Rights. UNDP will also leverage South-South cooperation by designing meetings between countries that have developed NAPs and those in the early stages of engagement. UNDP will leverage the assistance of UNDP Country Office Resident Representatives and UN Resident Coordinators to open the space for higher level discussions on roles and responsibilities of various ministries on NAP development and implementation.

Activity 1.2.2 Provide technical assistance to government ministries responsible for drafting and implementing National Action Plans

UN system actors can assist countries in developing NAPs through the provision of inputs and guidance. UNDP will devote significant efforts to providing for these inputs, leveraging the *Partnership Architecture* that it has developed at the regional level, to ensure the same at the national level. This activity will involve workshops between UN system actors, dialogue sessions with lead ministries in government, and formalized inputs in the form of published and unpublished recommendations.

**Outcome 2: To heighten communication and public diplomacy profile of the Business and Human Rights Agenda thereby building public interest and support**

**Output 2.1: To support the development of communication products furthering public discourse and greater appreciation of the UNGPs and its positive impact on human rights**





Activity 2.1 Produce communication products including short-form documentaries, video animations and social media promotional materials to enhance understanding of UNGPs, and trade and human rights nexus. Link up all communication work to EU action on public diplomacy to all existing and future PI action on policy outreach in Asia

Though policy makers and large business enterprises may appreciate the implications of NAPs and FTAs, the same may not be true of the general public, smaller CSOs and owners of SMEs. Under this activity heading, a variety of communication products will be developed to enhance understanding among a wider variety of groups and disseminated via the web, print media, and other channels.

**Output 2.2: To set up actions enhancing discussion and awareness of the human rights dimensions of trade and investment policy**

Activity 2.2 Conduct research and publish short think pieces on trade and investment issues as they relate to the UNGPs and broader Business and Human Rights agenda

To stoke wider public discussion and enhance knowledge dissemination, UNDP will, in a host of national languages, create a variety of think pieces, issue briefs, and research reports on trade and investment issues as they relate to the Business and Human Rights agenda.

**Outcome 3: Greater access to remedy and ensure rights-based solutions that also prevent future human rights abuses, while leveraging thought leadership and innovation to unleash new approaches and technology in the service of human rights and environmental sustainability**

**Output 3.1: Awareness and access to remedies for parties subject to adverse human rights impacts improved.**

Activity 3.1.1 Provide grants to civil society actors working with human rights and environmental rights defenders and women's rights activists, seeking innovative approaches

Under UNDP's grant selection protocols, the organization will provide funding for up to 12 organizations (2 per country in 6 countries) engaged in seeking remedies for victims and their relatives of business-related human rights abuses. These grants will likely involve support for legal aid provision or community mediation/dispute resolution services. Where relevant, funding would also support public awareness of outcomes of mediation, arbitration and litigation, especially where businesses charge human rights and environmental rights defenders with criminal defamation or otherwise attempt to silence them through strategic litigation against public participation (SLAPP). In some circumstances, grants will not be appropriate, as the activity in support of this work relates only to a specific output of the CSO in question. In these circumstances, the CSO is uniquely positioned, due to its network, goodwill, and expertise, to produce the output sought. In this scenario, a consultancy contract will be pursued.

Activity 3.1.2 Convene discussions and conduct trainings on the adverse impacts and risks faced by vulnerable groups in the context of business operations, and potential remedies and prevention strategies

In connection with the grant provision under the above activity, UNDP will support dialogues led or informed by grant-recipient CSOs, and involving human rights and environmental rights



defenders, business, and government, separately and together in multi-stakeholder formats. Topics may include the use of SLAPP litigation, litigation strategy, UPR shadow reporting, the role of media, and campaign strategy and tools.

**Activity 3.1.3.** Develop and convene discussions on innovative means of achieving access to information and access to justice for groups adversely impacted by business operations

Under this activity heading, stakeholders would explore innovative approaches and the use of new technologies to enhance access to remedy for vulnerable groups. Experts from the region may be invited to provide their insights and offer their technical skills.

**Output 3.2:** To reinforce skills and competencies of businesses to conduct human rights due diligence and operate effective grievance mechanisms

**Activity 3.2.1.** Conduct sector-specific trainings with representatives of government and business community on human rights due diligence, human rights impact assessments, grievance mechanisms, and other elements of Pillar 2 and 3 of the UNGPs.

UNDP has developed due diligence tools that help companies to identify and prioritize their human rights risks, as well as assign action in response, including remedy. UNDP will use these tools to train companies, large and small, on human rights due diligence processes as defined by Pillar 2 of the UNGPs. Business owners, managers, and government regulators will also be engaged in discussions on best practices in grievance mechanisms and other means of providing access to remedy. These trainings may take place together or separately depending on circumstances.

**Output 3.3:** To set up actions that strengthen capacities of justice institutions to address human rights abuses in the context of business operations

**Activity 3.3** Conduct trainings with NHRIs, judiciaries and ministries of justice on legal issues linked to the UNGPs, including transboundary jurisdictional challenges, among others.

NHRIs are at various levels of effectiveness depending on the country and commissioners appointed. Further, some NHRIs are more vested in the B&HR agenda than others. This activity will attempt to strengthen awareness, interest and capacity of NHRIs to leverage their mandates to address adverse impacts of business operations on human rights. UNDP will conduct trainings, but also help to network these organizations. Furthermore, UNDP will work with judiciaries and ministries of justice to understand challenges and provoke discussion on effective state judicial remedies for victims of business-related human rights abuses.

**Activity 4.1** Create knowledge products on topics addressing the intersection of human rights, environmental degradation, climate change, and related priorities in Asia

This activity will involve the design and development of a variety of knowledge products (reports, issue briefs, toolkits, or guidance) that promote conversations and action around efforts to

address environmental and human rights issues. Knowledge products building on existing literature might include for example, deep-dive research on how circular economy can support improvements of human rights in value chains in Asia and as a means to promote an economy respectful of the emerging right to a healthy environment. Knowledge products might also involve toolkits for assessing corporate performance on environmental due diligence, or reports, for example, on electronic waste impact on communities.

**Activity 4.22 Engage in multi-stakeholder dialogue on the impact of business operations and supply chains on the environment and climate**

In relevant settings, multi-stakeholder conferences will be designed and implemented, to raise awareness, enrich and enable discussions on opportunities to mitigate the impact of business operations and supply chains on the environment and climate. These conferences would also be an arena for CSOs, business and government to conduct a dialogue in a neutral setting, which may feed deliberations on policy, laws, and regulatory enforcement practices.

**Activity 4.3 Promote communications products in furtherance of efforts to address the impact of business operations on the environment and climate**

To ensure the widest possible reach of key messages, to generate greater political will and to raise awareness, a variety of communications products will be produced, capturing best practice, encouraging knowledge transfer, and providing visibility to multilateral efforts.



### 4.3 Results Framework.

\*This Framework will be further refined during and after the project inception period, with the Project Steering Committee

Results Chain	Indicators	Baseline (2018)	Targets	Source of Verification	Assumptions
		Value			
<b>Overall objectives – impacts</b>  To contribute to strengthening EU-UN partnership on Human Rights and environmental protection in the context of business operations  To contribute to strengthening the competitive positioning of EU in attracting investment and trade flows	IMP1: Number of EU bilateral, regional, inter-regional and multi-lateral cooperation partnership strategies which have been enhanced	-	-	Outcome statements from annual meetings; evolved agendas	Not to be filled-in
	IMP3: Number of approaches and/or practices beneficial to the achievement of the EU2020 strategy which have been taken up in partner countries	-	-	Outcome statements; Trade and investment agreements	
<b>Specific objectives – outcomes</b>  To support the regional momentum to strengthen Human Rights and environment protection in the context of business operations	OC1: Number of processes related to state-level and sub-state level (bilateral, regional, multi-lateral) partnership strategies and policy dialogues which have been influenced	0	4	Monitoring of political/policy developments (eg statements by individual partners)	Shifting levels of political will not lead to undue delays in the implementation of the UN Guiding Principles or related actions.  UNDP B+HR Asia project will work closely with B&HR national champions and trusted, but independent advisors to government with strong connections to policy makers to ensure the uptake of National Action Plans and other strategic policy documents in support of UNGP implementation. UNDP will link national champions to ongoing programming efforts at UNDP Country Offices to maximize advocacy and technical support efforts



<p>To contribute to the take up of implementing measures by relevant stakeholders in line with internationally agreed principles, incl.:</p> <ul style="list-style-type: none"> <li>- adoption and implementation of NAPs by governments</li> <li>- enhanced access to effective remedies</li> <li>- adoption of HR policies, DD protocols and grievance mechanisms by businesses</li> </ul>	<p>OC-customised-non-matched 1: number of partners engaged</p>	<p>0</p>	<p>28</p>	<p>Partnerships and topics covered by national partners</p>	<p>Countries will not perceive NAP processes as simply public relations exercises, which then leads to ineffective NAPs, or to a failure to follow-up on implementation after drafting NAPs</p> <p>UNDP Country Offices will closely coordinate with government counterparts to ensure national ownership of the B&amp;HR agenda</p>
<p>OC7: Number of processes related to partner country practices beneficial to the achievement of Europe 2020 strategy which have been influenced</p>	<p>0</p>	<p>3</p>	<p>Review of NAPs, and relevant mechanisms, external evaluations of the country context on Human Rights and environment protection.</p>	<p>UNDP will bring together regional actors to discuss opportunities and challenges and facilitate peer learning. Dialogue events will also help increase interest among states by providing visibility on progress.</p>	<p>Partner countries will not create obstacles including bureaucratic or political interference in establishing appropriate platforms for discussions and knowledge sharing internally and externally</p> <p>UNDP will raise awareness of the UNGPs, provide technical assistance and host bilateral peer learning events in close partnership with national counterparts to ensure support</p> <p>UNDP will leverage its voice and convening role in different national contexts to make the business and</p>
<p>OUTPUT 1.1: To set up actions enhancing common understanding and policy convergence with implementation of the UN Guiding Principles on Business and Human Rights</p>	<p>OP1: Number of participants in an event</p>	<p>0</p>	<p>Due to C19 circumstances this remains unclear.</p>	<p>Conference programme Attendance lists Outcome documents</p>	<p>Satisfaction Survey – based on 20% response rate</p>
<p>OUTPUT 1.2: To reinforce skills and competencies of government to draft and implement National Action Plans on Business and Human Rights or other policy instruments)</p> <p>(Better understanding &amp; enhanced capacity on: - standards &amp; compliance - UNGPs &amp; trade - preparation of NAPs)</p>	<p>OP2: Percentage of participants who report having benefited from an event</p>	<p>0</p>	<p>Due to C19 circumstances this remains unclear.</p>	<p>Knowledge-based products produced and published</p>	<p>0</p>
<p><b>Outputs</b></p>	<p>OP6: Number of knowledge-based products developed</p>	<p>0</p>	<p>7</p>	<p>Knowledge-based products produced and published</p>	<p>0</p>



<p>OUTPUT 2.1: To support the development of research and policy pieces furthering public discourse and greater appreciation of the UNGPs and its positive impact on human rights, including women's rights</p>	<p>OP6: Number of knowledge-based products developed</p>	<p>0</p>	<p>14</p>	<p>normative case. It will stoke positive competition between states to outdo the other in terms of progress through regional forums</p> <p>UNDP will also deploy its own technical capacities and CSO partner expertise where necessary. It will convene stakeholder consultations and validation exercises. Importantly, it will bring human rights and environmental rights defenders to the table to voice their challenges in a safe space. UNDP will also actively deploy technical assistance and advice to help relevant NHRIs monitor, report, and investigate human rights abuses more effectively and in a timely manner</p>
<p>OUTPUT 2.2: To set up actions enhancing discussion and awareness of the human rights dimensions of trade and investment policy</p>	<p>OP7: Number of communication products developed</p>	<p>0</p>	<p>28</p>	<p>Knowledge-based products produced and published</p> <p>Social Media Outreach, Media statements, Consultant Reports</p>
<p>OUTPUT 3.1: To set up actions relating to greater awareness and access to remedies for parties subject to adverse human rights impacts</p>	<p>OP1: Number of participants in an event</p>	<p>0</p>	<p>Due to C19 circumstances this remains unclear.</p>	<p>Partner countries will support access to remedies discussions and the role of human rights and environmental rights defenders in identifying and addressing adverse human rights impacts</p>
<p>OUTPUT 3.2: To reinforce skills and competencies of businesses to conduct human rights due diligence and operate effective grievance mechanisms</p>	<p>OP2: Percentage of participants who report having benefited from an event</p>	<p>0</p>	<p>Due to C19 circumstances this remains unclear.</p>	<p>UNDP will invest in advocacy and awareness raising on the UN Guiding Principles to ensure constructive dialogue and peer learning event between judicial institutions, NHRIs, NCPs, and CSOs/human rights and</p>
<p>OUTPUT 3.3: To set up actions that strengthen capacities of justice institutions to address human rights abuses in the context of business operations)</p>	<p>OP6: Number of knowledge-based products developed</p>	<p>0</p>	<p>12</p>	<p>Satisfaction Survey</p> <p>Knowledge-based products produced and published</p>
<p>(Better understanding &amp; enhanced</p>				



<p>capacity on remedies, DD, grievance mechanisms and to address HR abuses in the context of business operations)</p> <p>OUTPUT 4.1: To encourage the uptake of actions that address the adverse role of business operations on the environment, climate and human rights</p> <p><b>Workstream 1: Awareness raising to build knowledge and political will including training and peer-to-peer exchange to further policy convergence and compliance</b></p>	<p>OP-customised-non-matched 1: number of grants provided to civil society actors working with human rights and environmental rights defenders and women's rights activists</p>	0	18	Grants report	environmental rights defenders.
	<p>OP1: Number of participants in an event</p>	0	Due to C19 circumstances this remains unclear.	Conference programme Attendance lists Outcome documents	
	<p>OP2: Percentage of participants who report having benefited from an event</p>	0	Due to C19 circumstances this remains unclear.	Satisfaction Survey	
	<p>OP6: Number of knowledge-based products developed</p>	0	6	Knowledge-based products produced and published	
	<p>OP7: Number of communication products developed</p>	0	12	Social Media Outreach, Media statements, Consultant Reports	
	<p>(OP1.1) Tripartite high-level meeting (business, CSOs &amp; gvt)</p>	0	14	Reports - Group events (conferences, debates, workshops, seminars)	Shifting levels of political will not lead to undue delays in the implementation of the UN Guiding Principles or related actions.
	<p>Awareness raising on the UN Guiding Principles and the importance of National Action Plans on B&amp;HR</p>	0	14	Reports and attendance sheets - Group events (conferences, debates,	UNDP B+HR Asia project will work closely with B&HR national champions and trusted, but independent advisors to government with strong connections to policy makers to ensure the uptake of National Action
<b>Activities</b>					



					workshops, seminars)	Plans and other strategic policy documents in support of UNGP implementation. UNDP will link national champions to ongoing programming efforts at UNDP Country Offices to maximize advocacy and technical support efforts
Prepare publications	A2: Person days of expertise or technical assistance provided	0	-	Consultant time-sheets and reports		UNDP Country Offices will ensure close coordination with government counterparts to ensure national ownership of the B&HR agenda
(OP1.2) Raise awareness and host peer learning events on best practices on UNGP implementation	A1 (for outreach & advocacy events and for peer learning events): Number of events organised or supported	0	12	Social Media Outreach Media statements, Consultant Reports		
Provide TA on UNGPs (gvt is the target)	A2: Person days of expertise or technical assistance provided	0	-	Consultant time-sheets and reports		
<b>Workstream 2: Communication and Public Diplomacy</b>						
(OP2.1 & 2.2) Preparation of relevant publications & materials on Business and Human Rights agenda	A2: Person days of expertise or technical assistance provided	0	-	Consultant time-sheets and reports		Partner countries will support access to remedies discussions and the role of human rights and environmental rights defenders in identifying and addressing adverse human rights impacts
Communication and awareness raising products and campaigns in Europe and Asia	A3: Number of public/media/communication products and campaigns designed and implemented	0	28	Social Media Outreach Media statements, Consultant Reports		UNDP will invest in advocacy and awareness raising on the UN Guiding Principles to ensure constructive dialogue and peer learning event between judicial institutions, NHRIs, NCPs, and CSOs/human rights and environmental rights defenders.
<b>Workstream 3: Solutions through access to remedies, thought leadership and innovation</b>						
(OP3.1) Provision of grants to civil society actors working on environmental rights, with human rights defenders, and women's rights activists	A1: Number of grants provided	0	18	Reports and attendance sheets - Group events (conferences, debates, workshops, seminars)		
Preparation of materials on various topics related to remedy provision, human rights impact assessments, and grievance mechanisms	A2: Person days of expertise or technical assistance provided	0	-	Consultant time-sheets and reports		



Organisation of events	A1: Number of events organised or supported; A2: Person days of expertise or technical assistance provided	0	10	As above
(OP3.2) Trainings on DD, HRIA, grievance mechanisms and other elements of business obligations under UNGPs	A1: Number of events organised or supported; A2: Person days of expertise or technical assistance provided	0	10	As above
(OP3.3) Trainings with NHRIs, judiciaries, ministries of justice on legal issues linked to UNGPs	A1: Number of events organised or supported; A2: Person days of expertise or technical assistance provided	0	10	As above
<b>Workstream 4: Strengthening efforts to mitigate the adverse impact of business operations on climate and the environment</b>				
Preparation of knowledge products addressing the intersection of human rights, environmental degradation, and climate change in Asia	A2: Person days of expertise or technical assistance provided	0	-	Consultant time-sheets and reports
Awareness raising on how to mitigate the impact of business operations and supply chains on the environment	A1: Number of events organised or supported;	0	3	Reports and attendance sheets - Group events (conferences, debates, workshops, seminars)
	A2: Person days of expertise or technical assistance provided	0	-	Consultant time-sheets and reports
Engage in multi-stakeholders' dialogue on the impact of business operations and supply chains on the environment and climate on multi-stakeholder events	A3: Number of public/media/communication products and campaigns designed and implemented	0	14	Social Media Outreach Media statements, Consultant Reports
	A1: Number of events organised or supported;	0	3	Reports and attendance sheets - Group events (conferences, debates, workshops, seminars)

					Consultant time-sheets and reports
		A2: Person days of expertise or technical assistance provided	0	-	Consultant time-sheets and reports
		A2: Person days of expertise or technical assistance provided	0	-	Consultant time-sheets and reports
	Create communications products on the impact of business operations on the environment and climate	A3: Number of public/media/communication products and campaigns designed and implemented	0	12	Social Media Outreach Media statements, Consultant Reports



#### 4.4 Risk assessment and management

Risk description	Risk level (H/M/L)	Mitigating measure
Shifting levels of political will leads to delays in the implementation of the UN Guiding Principles or related action.	M	The project will work closely with B&HR national champions and trusted advisors to government with strong connections to policy makers. UNDP Country Offices, building on the expertise of OHCHR and the UN Working Group on Business and Human Rights will guarantee close co-ordination with governmental counterparts to ensure ownership of the B&HR agenda. UNDP will bring together regional actors to discuss opportunities and challenges and facilitate peer learning to help states clarify what investments and what returns on investments in this project they can expect. In addition, the EU will make all necessary diplomatic efforts to ensure that the B&HR agenda remains a priority in the targeted partner countries.
Election cycles in target countries might delay implementation.	M	Project activities will be implemented through the UN Country Teams and advice will be sought from the UN Resident Coordinators and their Peace and Development Advisers so as to calibrate the approach to any changes in leadership or structure following elections. The Project Steering Committee will support the Steering Committee by providing high-level advice and recommendations, including on appropriate measure to be taken when project deliverables are delayed due to unforeseen political circumstances.
Engaging with private sector actors can prove difficult if a 'business case' is not fully developed. Moreover, certain reputational risks exist with regards to "blue-washing".	M	The project will work with credible business associations such as the Global Compact Networks national and international chambers of commerce, and industry-specific bodies to create interest in sustained actions and investments. UNDP will organise events and invite private sector champions to help showcase the progress of private sector actors to reward and validate their efforts. UNDP will host knowledge-sharing labs and other events, made up of NHRIs, CSOs, UN-system actors and business champions which will encourage heightened business participation and ownership in support of behavioural change in the business sector. UNDP will keep its base of business partners as broad as possible and yet explore the need to develop a sustainable-business partner programme to qualify engagement.
NHRI commissioners rotate according to laws which	M	UNDP will take appropriate measures, including the possibility of disengagement or support, to help ensure



<p>mandate their composition and governance structure. Current commissioners which show interest in B&amp;HR will over time rotate out, and a focal point within an NHRI will be lost.</p>		<p>that government commitments under the B&amp;HR agenda are not merely for public relations purposes, and that processes, content and implementation meet international standards. UNDP will build on the expertise of OHCHR and the UN Working Group on Business and Human Rights to ensure the quality of NAPs through advocacy missions and dialogue, training and roundtables that include policy makers at regional meetings. UNDP will also deploy its own technical capacities and CSO partner expertise where necessary. It will convene stakeholder consultations and validation exercises. It will bring human rights and environmental rights defenders to the table to voice their challenges in a safe space. UNDP will leverage the Universal Periodic Review process, and international fora such as the UN Forum on B&amp;HR, to facilitate review of NAPs by recognised authorities and peers. UNDP will also encourage at the early stage of development that countries request the UN Working Group on B&amp;HR to plan an official country visit. UNDP will facilitate CSO participation in all review events.</p>
<p>NHRI commissioners rotate according to laws which mandate their composition and governance structure. Current commissioners which show interest in B&amp;HR will over time rotate out, and a focal point within an NHRI will be lost.</p>	L	<p>UNDP will actively deploy technical assistance and advice to help relevant NHRIs to monitor, report, and investigate human rights abuses more effectively and in a timely manner. This will also ensure that more than one commissioner will have the capacity and interest in continuing work as others rotate out reduce the risk of downgrading. Further, UNDP will also provide strengthen support to the secretariat function, including the secretary-generals of the NHRIs to ensure continuity of engagement on B&amp;HR.</p>
<p>Human rights and environmental rights defenders and victims of violations may be placed in danger by the project's support to CSOs and community-based organizations leading to an increase in conflicts or security risks.</p>	M	<p>The project will continuously assess security risks and revise project activities accordingly.</p> <p>Conflict analyses routinely developed by UNDP Country Offices will be used to inform the implementation of the activities and ensure conflict sensitivity and do-no-harm approaches.</p>
<p>Delay in establishing appropriate platforms for discussions and knowledge sharing internally and externally, due to events outside project control.</p>	L	<p>The activities are designed to be flexible and should be revised based on achievements in years prior. Focus on forward planning will mitigate risks of delays.</p>



## 5. Implementation and Management Arrangements

### 5.1. Management arrangements – project governance and staffing

The Project will be managed at the regional level with regional and country-level implementation under the direct implementing modality (DIM) under UNDP Bangkok Regional Hub (BRH). While the regional project office will be located in the UNDP Regional Office for Asia and the Pacific in Bangkok and staffed with a Project Management Team, most activities will be conducted at country level through the National Specialists.

The Project Management Team will be composed of UNDP staff including international and national team members located in regional (Bangkok) and country offices respectively. This project team will be composed of nine (11) full time staff, including seven (7) National Specialists based in-country, and a Knowledge Management and Communications officer, a Monitoring and Evaluation Officer, a Project Specialist, and a Finance and Administration Associate based in regional offices in Bangkok. A Business and Human Rights Advisor will provide high level guidance on a part time basis charged against the time assigned, which is quantified to be one fourth of this time (i.e. 25% working time). By providing advice also to the Swedish funded B&HR project, the Business and Human Rights Advisor can also significantly contribute to ensure complementarity between the two B+HR Asia projects. Additional programme coordination as needed will be supported by UNDP's existing Programme Management Unit (PMU) located at the Bangkok Regional Hub, which ensures project quality, coherence and coordination.

### 5.2 Inception Phase

Commencing at the signing of the Contribution Agreement and receipt of first pre-financing, UNDP will immediately begin structuring the project architecture, outlined in more detail below, during an inception period of 6 months. The B+HR Unit will also conduct an initial scoping for purposes of refining management and reporting requirements, and to create a baseline report on conditions enabling the B&HR agenda in each country. On these visits, project requirements and activities at the country level will be discussed in detail with UNDP Country Offices and EU delegations as necessary. In particular, preliminary consultations with the EU Delegations will be sought to assist in prioritising EU-funded activities according to the country context and other already on-going complementary projects/initiatives. EU Delegations will also be consulted on the communication products so as to ensure they are sufficiently context-specific, relevant and tackle possible unnecessary fallouts/need for defensive messages, if need be.

During the inception period, the Project Management Team, detailed below, will meet and discuss priorities and action plans, among other programmatic details related to project roll out. Importantly, National Specialists will need to be hired, which will require the drafting of TORs that address specific needs of each country based operation.

Based on the mapping and consultations undertaken during the inception phase, UNDP will refine the Description of the Action including more details and updates on activities, timeline and work plan for the first year of implementation. An indicative description of the activities, timeline and work plan for the second and third year of the Action will be prepared as well, taking into account that the activities will be adjusted throughout the Action in particular according to changing policy priorities and to decisions taken

during Steering Committee Meetings. At the end of the inception phase the first Annual Work Plan (AWP) will be submitted to the Project Steering Committee for finalisation and endorsement.

### 5.3. Governance structure of the project

To ensure strategic orientation and oversight of progress a Project Steering Committee (PSC) reflecting the EU-UN bipartite nature of the action will be set-up. It will be composed of representatives of the UNDP Regional Office for Asia and the Pacific, and representatives of relevant European Union services (e.g. representatives of services such as the Service for Foreign Policy Instruments, DG TRADE, the European External Action Service and EU Delegations in India, Indonesia, Malaysia, Myanmar, Sri Lanka and Thailand, and others as relevant). Observers may also be invited including representatives of EU Member States (Sweden, for instance) and implementing partners of relevant complementary EU-funded actions in the region, such as the ILO, the OECD and the UN OHCHR). The ToR of the Steering committee will be established during the inception phase.

The first PSC meeting will take place at the end of the inception phase. The second will take place six months thereafter. Following meetings will take place every twelve months, unless otherwise requested by a PSC member and approved by the PSC. PSC meetings can take place remotely, by telephone or videoconference, as agreed by the SC members.

Decisions in the PSC will be made by consensus between the EU and the UNDP.

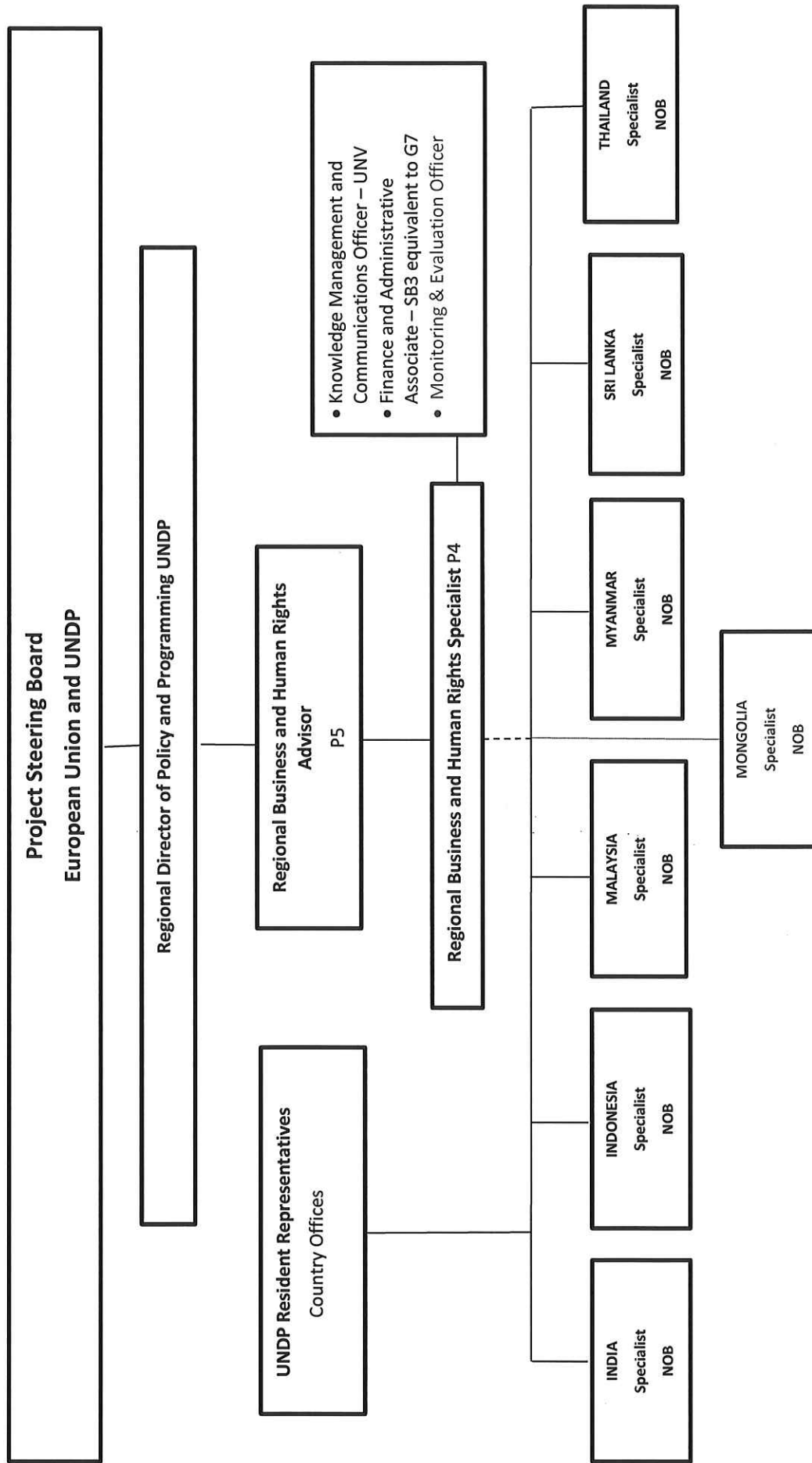
If, as a result of a decision by the PSC, any changes to the activities described in the Description of the Action are required, these changes will be indicated in a summary record of the PSC discussion approved by consensus. If an amendment to the Contribution Agreement is required, changes will be formally proposed to and validated by the EU as the Contracting Authority, in accordance with the relevant provisions of the Agreement.

In line with the EU evaluation procedure, the project team will monitor the work plan and expenditure every six months and will produce a progress report submitted to and endorsed by the PSC every year.

In consultation with UNDP Country Offices and EU Delegations, National Project Advisory Committees will be proposed in each target country. The type and the degree of involvement/participation of the EU in these mechanisms shall be discussed with UNDP as part of further negotiations.



Figure 1: Management arrangements – project governance and staffing



## 5.4. Project Office

### 5.4.1 Project staffing at regional level

At the regional level and on a part-time basis, the Regional Business and Human Rights (BHR) Advisor (P5) will lead and coordinate overall implementation and manage partnerships with key stakeholders at the regional and country levels. The Advisor will also ensure coherency between Swedish government supported project and EU project as well as other EU-funded interventions in all seven countries.

The Advisor will be supported by one Regional BHR Specialist (P4) / Project Manager, based in Bangkok, who will be in charge of the day-to-day management of the project by delegated authority, provide technical inputs at both regional and country levels, while ensuring quality of delivery and reporting from the National Coordinators (SB-5 equivalent to NOC) working at the country level in the seven countries involved in the programme.

The Knowledge Management and Communications Officer (UNV) will ensure effective communications of activities and results as well as knowledge management. The Knowledge Management and Communications Officer, well-placed to give visibility to results and lessons learned, and will ensure that the project communication plan is fully implemented.

A Monitoring and Evaluation (M&E) Officer will ensure the design of programme monitoring and reporting procedures, tools, policies and strategies and coordinate overall monitoring and reporting of results. He or she will also be responsible for clear reporting under the project results framework, while providing for support to any quarterly and annual reporting processes. The M&E Officer will deepen the evidence base depicting progress while also facilitating knowledge building and knowledge sharing on monitoring and reporting to contribute to learning.

For the overall financial and operational support, a dedicated Finance and Administrative Associate (SB-3 equivalent to G7) will be recruited to support the overall financial management and reporting for the entire project. The Finance and Administrative Associate will also oversee financial and project administration and support financial reporting to the European Union.

The three positions above (i.e. the Knowledge management and Communication Officer, the M&E officer and the Finance and Administrative Associate are part of the Regional Project Management Team and are based in Bangkok.

The Regional Project Management Team (essentially the B+HR Asia unit) will be supported by the BRH Programme Management Unit (PMU) of the Regional Office, which exercises its oversight roles as well as coordinates day-to-day implementation advisory support and M&E advice. See Table at section 5.5 for key tasks of project staff members at regional and country levels.

Any change of location for staff positions would be considered as a substantial change to the DoA and would thus require the agreement of both parties through a rider.



#### 5.4.2 Staffing at country level

A large part of project inputs will warrant close collaboration with high-level private and public sector partners. In each country, a National Specialist will be recruited and placed at an appropriately high level to ensure that the project attracts candidates with appropriate expertise and experience. The National Specialists will report to the Regional Business and Human Rights Advisor and through delegation to the P4 Project Specialist, with a reporting matrix to the UNDP Resident Representatives, who are responsible for overall results at the country level. The National Specialists will be supported by the Operations Units of their respective country offices.

National Specialists will be responsible for project delivery and implementation at the country level. They will also collaborate closely with the EU delegation in each project country. As such, they must be highly experienced national professionals. See Table at section 5.5 for key tasks of project staff members at country level.

#### 5.4.3 Project office cost

For staff costs please refer to Annex III (The Budget).

Regional BHR Advisor (P5) - 25%
Regional BHR Specialist (P4)
Project Knowledge Management and Communications Officer (UNV)
Project - Admin Assistant (SC SB3)
Project – Monitoring and Evaluation Officer
National Specialist – India (NOB)
National Specialist – Indonesia (NOB)
National Specialist – Malaysia (NOB)
National Specialist – Mongolia (NOB)
National Specialist – Myanmar (NOB)
National Specialist – Thailand (NOB)
National Specialist - Sri Lanka (NOB)

Project office costs include (please refer to Annex III – the Budget):

1. Individual space consumption
2. Computer equipment costs related to the implementation of the project by the project office
3. Travel and subsistence costs for staff and other persons directly assigned to the operations of the project office
4. Depreciation costs, rental costs or lease of equipment and assets composing the project office
5. Maintenance and repair contracts specifically awarded for the operations of the project office

6. Consumables and supplies (stationary) purchased for the operations of the project office
7. IT and telecommunications services purchased for the operations of the project office
8. Energy and water costs supplied for the operation of the project office
9. Facility management contracts including security fees and insurance costs specifically awarded for the operations of the project office
10. Medical/Security (services provided by the building to all UN staff)
11. Photocopy costs related to the operations of the project office
12. Telephone costs related to the project office.

#### 5.5: Key tasks of project staff members (Project Management Team)

Staff category	Key tasks
Regional Business and Human Rights Advisor	<ul style="list-style-type: none"> <li>• Overall advisor of programme direction, programme implementation, including strategy and partnership building, quality control</li> <li>• Provides advice to the National Coordinators and to Project Beneficiaries</li> <li>• Manages the partnerships with key stakeholders at the regional and country levels</li> <li>• Ensures coherence to wider EU portfolio of programming in the region in areas related to this project, strengthening relationships and partnerships with UN entities and other multilateral organizations</li> <li>• Ensures coherency and complementarity with B+HR Project funded by the Government of Sweden and other EU-funded related projects.</li> </ul>
Project Specialist	<ul style="list-style-type: none"> <li>• Manages (by delegated authority) the day to day operations of the Project and ensures the quality of project inputs, reporting on outputs, and implementation of project strategy</li> <li>• Overseas grants to CSOs, contracts with consultants, and other contracting processes; manages consultants</li> <li>• Provides technical assistance on NAPs, research products, event agenda setting, strategic support</li> <li>• Supports advisor in liaising with EU delegations; UNDP offices at international, regional and country levels and other UN agencies, as appropriate; key stakeholders in government</li> <li>• Provides support and day to day management of National Coordinators</li> <li>• Manages private sector engagement</li> </ul>
Knowledge Mgt & Communication Officer	<ul style="list-style-type: none"> <li>• Ensures effective reporting and communications of results as well as knowledge management</li> <li>• Liaises with National Specialists to collect information</li> <li>• Develops appropriate communication tools in close collaboration with country teams</li> <li>• Ensures that the project communication plan is fully implemented</li> </ul>
Monitoring and Evaluation Officer	<ul style="list-style-type: none"> <li>• Design of programme monitoring and reporting procedures, tools, policies and strategies</li> <li>• Implementation of monitoring policies and strategies</li> <li>• Management of the monitoring, data collection and reporting process</li> </ul>



Staff category	Key tasks
	<ul style="list-style-type: none"> <li>• Facilitation of knowledge building and knowledge sharing on monitoring and evaluation</li> <li>• Coordinates overall monitoring and reporting of results</li> </ul>
Project - Finance and Admin Assistant (SC SB3)	<ul style="list-style-type: none"> <li>• Creation of projects in Atlas [UNDP's budget management and payment system], preparation of budget revisions, revision of project award and project status, determination of unutilized funds, operational and financial closure of a project;</li> <li>• Making budget check for requisitions, POs and vouchers. Presentation of information for audit of development projects.</li> <li>• Maintenance of the internal expenditures control system including timely corrective actions on budget check errors, match exceptions, as well as cost-sharing deficit and PDR errors;</li> <li>• Creation of requisitions in Atlas for development projects, register of goods receipt in Atlas;</li> </ul>
National Specialists	<ul style="list-style-type: none"> <li>• Manage country-level implementation under the supervision and guidance from the Regional Advisor with matrix reporting to the Resident Representatives or delegated Country level Officer</li> <li>• Manages partnership building and relationships with country-level stakeholders, including the EU Delegations</li> <li>• Provides regular monitoring of country-level activities</li> <li>• Contributes to project communication and reporting</li> <li>• Connects country level activities with regional level initiatives and cross-country learning.</li> </ul>

## 5.6 Inception phase

Given the geographic spread of the action and project ambitions, the Project Management Team will require 6 months at the start of the project period to carry out the following preliminary actions:

### Recruitment and setting up of governance structures

- Advance the recruitment of staff members of the Project Management Team
- Set up the Project Steering Committee, draft TORs, and host first meeting of UNDP and EU appointees
- Set up coordination structure for the Bangkok-based Project Management Team and the seven National Specialists to ensure alignment as well as cross-learning across the project countries

### Work planning and inception workshops/consultations

- Plan and organize inception workshops/consultations with key stakeholders and partners in the target countries, building on the lessons learned through implementation of the Swedish supported project, *Business and Human Rights in Asia: Promoting Sustainable Business through Regional Partnerships*

- Develop work plans for each country with agreed activities and events and timelines in consultation with EU delegations in the project countries in order to match their strategic priorities.
- Finalize the first annual consolidated work plan for submission to the first Project Steering Committee meeting.

#### Communication and visibility

- Refine communication and visibility plan for the project with outreach and campaign activities and methodology in consultation with the European Union to align with and leverage ongoing campaigns

#### Reporting

- Finalise the reporting and communications plan, including the Performance and Monitoring Framework

## 6. Monitoring, Evaluation, Reporting and Learning

### 6.1 Periodic monitoring visits

The B+HR Asia unit, composed of the regional team based in Bangkok, will conduct on a yearly basis country visits to the project countries based on an agreed schedule to assess firsthand progress. A Field Visit Report will be prepared and circulated to the Project Steering Committee. These visits will help ensure project delivery at the country office level, including meeting with key stakeholders to assess effectiveness. The reports following these visits will serve as a basis for reporting at the Project Steering Committee at the end of the year. These visits may also be supplemented by other visits as deemed critical for delivery on particular activity lines, for example on trainings with the assistance of Regional BHR Specialist.

### 6.2 Mid-term review

A mid-term review will be carried out by an external consultant at the end of 2022 to capture progress across the seven countries as well as at the regional level and to identify corrections if needed. The mid-term review will focus on the relevance, effectiveness, efficiency and timeliness of project implementation. Findings and recommendations of the mid-term review will inform implementation during the second/final half of the project. The Project Steering Committee will decide the management and Terms of Reference of the mid-term review. The management response to the mid-term review will be prepared and the B+HR Unit will take actions as outlined in the recommendations.

### 6.3 Final evaluation

An independent final evaluation will take place during the final six months of the project. It will be undertaken in accordance with UNDP's Evaluation Policy. The final evaluation will focus on the delivery of the project's results and examine impact and sustainability of results. The Terms of Reference for this evaluation will be prepared by an UNDP Evaluation Specialist and the Regional Advisor and in close consultation with the EU. The Final Evaluation will provide recommendations for follow-up activities.



## 6.4 Reporting

UNDP will provide consolidated Project reports on a yearly basis on progress against the logframe matrix, the Description of the Action and the agreed workplans. The following reports will be submitted to the Contracting Authority represented by the Foreign Policy Instruments Regional Team for Asia-Pacific (FPI RT ASIAPAC) at the EU Delegation to Thailand:

1. **Inception Report** after accomplishment of the Inception Phase, summarizing the outcomes of the operational planning, the structure of stakeholders' involvement and the Project Steering Committee (composition, rules and procedures) and the Communication and Visibility Strategy. The inception report should also include an Annual Work Plan with detailed activities in each of the countries targeted by the project. The inception report should be submitted to the Contracting Authority at least two weeks before the first meeting of the Project Steering Committee takes place, where it will be tabled and discussed.
2. **Quarterly progress reports** providing a two-page update per country, which include a list of events/activities for the next quarter.
3. **Annual reports**, recapitulating on:
  - Progress made towards objective and project outcomes, outputs and activities
  - Lessons learned and good practices
  - Risk and adaptive management

The **Final Report**, which will be prepared by the B+HR Asia unit at the commencement of the last three months of the project's duration. This comprehensive report will summarize the results achieved (objectives, outcomes, outputs), lessons learned, and areas where results may not have been achieved with an assessment of why results were not achieved. It will also present recommendations for any further steps that may need to be taken to ensure sustainability and replicability of the project's results. It may also suggest follow-up activities and projects to build on the B+HR Asia project.

Furthermore, every report shall provide an accurate account of implementation of the Action, difficulties encountered, changes introduced, as well as the degree of achievement of its results. The report shall be laid out in such a way as to allow monitoring of the means envisaged and employed and of the budget details for the Action. The progress and final reports shall provide quantified and qualitative data in relation to the logical framework indicators which will include relevant indicators from the list of core and corporate indicators.

Progress and final report submitted to the FPI RT ASIA-PAC (EU Delegation to Thailand) will be commensurate with the EU reporting requirements laid down in Art. 3 of the General Conditions, Annex 2 to the EU-UNDP Contribution Agreement.

## 7. Communication and Visibility

A Communication and Visibility Plan for the Action found at Annex VI has been drafted but may be further revised during the inception phase in collaboration with the Regional Advisor and UNDP Communications team.

The Communication and Visibility Plan as found under Annex VI, and under any further revisions made during the inception phase, will be in line with the EU-UN Financial and Administrative Framework Agreement and the Joint Visibility Guidelines for EC-UN Actions in the Field.<sup>68</sup> It focuses on optimizing the timing and accuracy of communication activities, and carefully identifying the right audiences and tailoring communication accordingly.

The plan takes into consideration a cost-effective selection of communication tools and media with a strong focus on the use of social media given its use for fast communication across countries and regions for global outreach.

The plan will include careful consideration of the need for translation of (selected) communication into national languages, depending on each individual case, while also acknowledge the need for coherence and consistency in communication across the project countries.

To this end, a communication strategy including media engagement will be refined to enhance the profile of EU's contribution. To ensure pertinence, impact, and coherence, the Press and Information sections of the EU Delegations in the seven countries covered by this action might contribute to the main communication and visibility actions envisaged.

Besides following the requirements linked to communication and visibility for EU-funded projects in third countries, this action will have a strong EU Public Diplomacy angle and will contribute to enhance the profile of the EU as a global actor, as promoter of human rights and good governance as well as of inclusive and sustainable trade, in line with, *inter alia*, the EU Global Strategy and the Trade for All Communication. The annual UN Forum on Business and Human Rights in Geneva will also be leveraged as an excellent platform to give visibility to this action, including through references in EU written contributions and interventions.

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<sup>68</sup> See Joint Visibility Guidelines For EC-UN Actions in the Field, accessed at:  
<[http://eeas.europa.eu/archives/delegations/rome/documents/eu\\_united\\_nations/ec\\_un\\_joint\\_visibility\\_guidelines\\_en.pdf](http://eeas.europa.eu/archives/delegations/rome/documents/eu_united_nations/ec_un_joint_visibility_guidelines_en.pdf)>



**ANNEX III - Budget for the Action (USD) - Addendum no 1 - Top-up to the contract EUR 1 Million**

	Year 1	Year 2	Year 3	Year 4	Total
<b>Budget Summary</b>					
Heading 1: Inception and Coordination	\$ 35,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 110,000.00
Heading 2: Project Activity Budget	\$ 627,300.00	\$ 877,024.32	\$ 877,024.32	\$ 877,024.32	\$ 3,258,372.97
Heading 3: Direct project personnel cost	\$ 668,636.50	\$ 775,511.50	\$ 775,511.50	\$ 775,511.50	\$ 2,995,171.00
Heading 4: Direct project management cost	\$ 54,252.00	\$ 63,294.00	\$ 63,294.00	\$ 63,294.00	\$ 244,134.00
Heading 5: Monitoring and Evaluation	\$ 3,000.00	\$ 15,000.00	\$ 3,000.00	\$ 15,000.00	\$ 36,000.00
Heading 6: Communication and visibility	\$ 41,964.16	\$ 40,000.00	\$ 40,000.00	\$ 40,000.00	\$ 161,964.16
Total direct project costs	\$ 1,430,152.66	\$ 1,795,829.82	\$ 1,783,829.82	\$ 1,795,829.82	\$ 6,805,642.13
Indirect costs (max 7% of total direct project costs)	\$ 100,110.69	\$ 125,708.09	\$ 124,868.09	\$ 125,708.09	\$ 476,394.95
<b>Total Budget</b>	<b>\$ 1,530,263.35</b>	<b>\$ 1,921,537.91</b>	<b>\$ 1,908,697.91</b>	<b>\$ 1,921,537.91</b>	<b>\$ 7,282,037.08</b>
<b>Inception and Coordination</b>					
Planning and inception meetings	\$ 10,000.00	\$ -	\$ -	\$ -	\$ 10,000.00
Conferences and seminars (at the international, regional and country levels), including launch event	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 100,000.00
<b>Sub-total</b>	<b>\$ 35,000.00</b>	<b>\$ 25,000.00</b>	<b>\$ 25,000.00</b>	<b>\$ 25,000.00</b>	<b>\$ 110,000.00</b>
<b>Project Activity Budget</b>					
<b>Output 1.1: To set up actions enhancing common understanding and policy convergence with implementation of the UN Guiding Principles on Business and Human Rights</b>					
Activity 1.1.1. Facilitate tripartite discussions involving relevant policy makers, prominent civil society groups and European and Asian business associations on the UNGPs, with a view to expanding the number of actors playing an active role in policy making	\$ 25,500.00	\$ 29,970.00	\$ 29,970.00	\$ 29,970.00	\$ 115,410.00
Activity 1.1.2. Conduct trainings on a range of standard setting guidelines including the UN Guiding Principles and the OECD Guidelines for Multinational Enterprises, and detail linkages with trade and investment policy	\$ 25,500.00	\$ 29,750.00	\$ 29,750.00	\$ 29,750.00	\$ 114,750.00
Activity 1.1.3 Design and develop knowledge products that further policy convergence between UNGPs and other internationally recognized instruments	\$ 42,500.00	\$ 49,585.22	\$ 49,585.22	\$ 49,585.22	\$ 191,255.66
<b>Output 1.2: To reinforce skills and competencies of government to draft and implement National Action Plans on Business and Human Rights or other policy instruments</b>					
Activity 1.2.1. Raise awareness of the United Nations Guiding Principles (UNGPs) with governments, making the normative and business-case for adoption and implementation; host and facilitate bi-lateral peer learning events to showcase best practices on UNGP implementation	\$ 68,000.00	\$ 80,742.60	\$ 80,742.60	\$ 80,742.60	\$ 310,227.81
Activity 1.2.2. Provide technical assistance to government ministries responsible for drafting and implementing National Action Plans	\$ 76,500.00	\$ 89,250.00	\$ 89,250.00	\$ 89,250.00	\$ 344,250.00
<b>Sub-total Outcome 1 Project Activity</b>	<b>\$ 238,000.00</b>	<b>\$ 279,297.82</b>	<b>\$ 279,297.82</b>	<b>\$ 279,297.82</b>	<b>\$ 1,075,893.47</b>



	Year 1	Year 2	Year 3	Year 4	Total
<b>Project Activity Budget</b>					
<b>Output 2.1: To support the development of research and policy pieces furthering public discourse and greater appreciation of the UNGPs and its positive impact on human rights, including women's rights</b>					
Activity 2.1: Produce communication products including short-form documentaries, video animations and social media promotional materials to enhance understanding of UNGPs, and trade and human rights nexus. Link up all communication work to EU action on public diplomacy, in particular to all existing and future PI action on policy outreach in Asia	\$ 34,000.00	\$ 39,666.66	\$ 39,666.66	\$ 39,666.66	\$ 152,999.98
<b>Output 2.2: To set up actions enhancing discussion and awareness of the human rights dimensions of trade and investment policy</b>					
Activity 2.2 Conduct research and publish short think pieces on trade and investment issues as they relate to the UNGPs and broader Business and Human Rights agenda	\$ 25,500.00	\$ 34,750.00	\$ 34,750.00	\$ 34,750.00	\$ 129,750.00
<b>Sub-total Outcome 2 Project Activity</b>	\$ 59,500.00	\$ 74,416.66	\$ 74,416.66	\$ 74,416.66	\$ 282,749.98
<b>Project Activity Budget</b>					
<b>Output 3.1: To set up actions relating to greater awareness and access to remedies for parties subject to adverse human rights impacts</b>					
Activity 3.1.1. Provide grants to civil society actors working with human rights defenders and women's rights activists, seeking innovative approaches	\$ 127,500.00	\$ 177,561.00	\$ 177,561.00	\$ 177,561.00	\$ 660,183.00
Activity 3.1.2. Conduct research and convene discussions on the adverse impacts and risks faced by women in the context of business operations, and potential remedies and prevention strategies	\$ 42,500.00	\$ 50,160.59	\$ 50,160.59	\$ 50,160.59	\$ 192,981.77
Activity 3.1.3. Develop and convene discussions on innovative means of achieving access to information and access to justice for groups adversely impacted by business operations	\$ 28,900.00	\$ 33,716.66	\$ 33,716.66	\$ 33,716.66	\$ 130,049.98
<b>Output 3.2: To reinforce skills and competencies of businesses to conduct human rights due diligence and operate effective grievance mechanisms</b>					
Activity 3.2.1. Conduct sector-specific trainings with government regulators and business on human rights due diligence, human rights impact assessments, grievance mechanisms, and other elements of Pillar 2 and 3 of the UNGPs	\$ 102,000.00	\$ 119,000.00	\$ 119,000.00	\$ 119,000.00	\$ 459,000.00
<b>Output 3.3: To set up actions that strengthen capacities of justice institutions to address human rights abuses in the context of business operations</b>					
Activity 3.3.1. Conduct trainings with NHRIs, judiciaries and ministries of justice on legal issues linked to the UNGPs, including transboundary jurisdictional challenges, among others	\$ 28,900.00	\$ 33,716.66	\$ 33,716.66	\$ 33,716.66	\$ 130,049.98
<b>Sub-total Outcome 3 Project Activity</b>	\$ 329,800.00	\$ 414,154.91	\$ 414,154.91	\$ 414,154.91	\$ 1,572,264.73





**Output 4: To strengthen efforts in Asia to mitigate the adverse impact of business operations and supply chains on climate and the environment**

Activity 4.1 Create knowledge products on topics addressing the intersection of human rights, environmental degradation, climate change, and related priorities in Asia	\$	50,000.00	\$	50,000.00	\$	50,000.00	\$	150,000.00
Activity 4.2 Engage in policy dialogue on the impact of business operations and supply chains on the environment and climate	\$	30,000.00	\$	30,000.00	\$	30,000.00	\$	90,000.00
Activity 4.3 Promote communications products in furtherance of efforts to address the impact of business operations on the environment and climate	\$	29,154.93	\$	29,154.93	\$	29,154.93	\$	87,464.79
<b>Sub-total Outcome 4 Project Activity</b>	\$	109,154.93	\$	109,154.93	\$	109,154.93	\$	327,464.79
<b>Total Project Activity Budget</b>	\$	<b>877,024.32</b>	\$	<b>877,024.32</b>	\$	<b>877,024.32</b>	\$	<b>3,258,372.97</b>
<b>Direct Project Cost</b>		<b>Year 1</b>		<b>Year 2</b>		<b>Year 3</b>		<b>Year 4</b>
<b>Cost of project personnel</b>								<b>Total</b>
Regional Project Advisor (P5) - 25%	\$	67,814.50	\$	67,814.50	\$	67,814.50	\$	271,258.00
Regional Technical Specialist and Project Manager (P4)	\$	234,399.00	\$	234,399.00	\$	234,399.00	\$	937,596.00
Regional Project Knowledge Management/Comms Officer (UNV)	\$	61,875.00	\$	61,875.00	\$	61,875.00	\$	247,500.00
Regional Project Monitoring and Evaluation Officer	\$	61,875.00	\$	61,875.00	\$	61,875.00	\$	185,625.00
Regional Project - Finance and Admin Assistant (SC SB3)	\$	34,548.00	\$	34,548.00	\$	34,548.00	\$	138,192.00
National Specialist - India	\$	45,000.00	\$	45,000.00	\$	45,000.00	\$	180,000.00
National Specialist - Indonesia	\$	45,000.00	\$	45,000.00	\$	45,000.00	\$	180,000.00
National Specialist - Malaysia	\$	45,000.00	\$	45,000.00	\$	45,000.00	\$	180,000.00
National Specialist - Mongolia	\$	-	\$	45,000.00	\$	45,000.00	\$	135,000.00
National Specialist - Myanmar	\$	45,000.00	\$	45,000.00	\$	45,000.00	\$	180,000.00
National Specialist - Thailand	\$	45,000.00	\$	45,000.00	\$	45,000.00	\$	180,000.00
National Specialist - Sri Lanka	\$	45,000.00	\$	45,000.00	\$	45,000.00	\$	180,000.00
<b>Total Project Personnel Cost</b>	\$	<b>668,636.50</b>	\$	<b>775,511.50</b>	\$	<b>775,511.50</b>	\$	<b>2,995,171.00</b>
<b>Total direct project management costs</b>		<b>Year 1</b>		<b>Year 2</b>		<b>Year 3</b>		<b>Year 4</b>
<b>National Project Office Costs (x6)</b>								<b>Total</b>
Individual space consumption (rental of facilities, lease of work space)	\$	20,568.00	\$	23,996.00	\$	23,996.00	\$	92,556.00
Computer equipment costs related to the implementation of the project by the project office	\$	6,000.00	\$	7,000.00	\$	7,000.00	\$	27,000.00
Transportation costs for staff and other persons directly assigned to the operations of the project office	\$	12,000.00	\$	14,000.00	\$	14,000.00	\$	54,000.00
Consumables and supplies (stationary) purchased for the operations of the project office	\$	1,200.00	\$	1,400.00	\$	1,400.00	\$	5,400.00
Photocopy costs related to the operations of the project office	\$	1,200.00	\$	1,400.00	\$	1,400.00	\$	5,400.00
<b>Regional Project Office Costs (x3)</b>								
Individual space consumption (rental of facilities, lease of work space)	\$	10,284.00	\$	11,998.00	\$	11,998.00	\$	46,278.00
Computer equipment costs related to the implementation of the project by the project office	\$	3,000.00	\$	3,500.00	\$	3,500.00	\$	13,500.00
<b>Total Operation Costs</b>	\$	<b>54,252.00</b>	\$	<b>63,294.00</b>	\$	<b>63,294.00</b>	\$	<b>244,134.00</b>



	Year 1	Year 2	Year 3	Year 4	Total
<b>Monitoring and Evaluation</b>					
Mid-term and final evaluation	\$	12,000.00		12,000.00	24,000.00
Monitoring activities and field visit, and knowledge management	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	12,000.00
<b>Total Monitoring and Evaluation</b>	<b>\$ 3,000.00</b>	<b>\$ 15,000.00</b>	<b>\$ 3,000.00</b>	<b>\$ 15,000.00</b>	<b>36,000.00</b>
<b>Communication and visibility</b>					
Communication and visibility materials, including procurement of print and audio visual	\$ 41,964.16	\$ 40,000.00	\$ 40,000.00	\$ 40,000.00	161,964.16
<b>Total Communication and visibility cost</b>	<b>\$ 41,964.16</b>	<b>\$ 40,000.00</b>	<b>\$ 40,000.00</b>	<b>\$ 40,000.00</b>	<b>161,964.16</b>
With reference to art. 11.3 of the General Conditions, Heading 1: Inception and Coordination - Heading 2: Project Activity Budget - Heading 3: Direct project personnel cost - Heading 4: Direct project management cost - Heading 5: Monitoring and Evaluation - Heading 6: Communication and visibility constitute budget headings which are subject to the 25% rule stipulated in art. 11.3.GC.					





