

UN GUIDING PRINCIPLES EXERCISE

The following exercise was conducted at the 2015 United Nations Annual Forum on Business and Human Rights by Paul Bowden, Partner, Freshfields Bruckhaus Deringer LLP.

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EXERCISE DESCRIPTION

“Putting the UNGPs into Practice: Making Business Sense of Human Rights”

The session will address the complexities of “operationalising” the UN Guiding Principles on Business and Human Rights, considered from the viewpoints of different stakeholders, from company directors and in-house specialists, to external advisors and other stakeholders.

The session will take the form of a discussion amongst a panel of experts, led by a moderator. The audience will be presented with the key facts of the case study by the moderator at the beginning of the session, and will be encouraged to participate in a question-and-answer session open to everyone present.

The panel members will each represent a different perspective, using their own varied expertise and “real world” experience to bring to life issues presented by the case study. The panel will identify and explore various key challenges, including: engaging corporate boards and articulating a business case for good business practices; embedding respect for human rights within business cultures; effective stakeholder engagement; and meaningful corporate due diligence and reporting on human rights impacts. The session aims to provide guidance on how the various players can best navigate competing and sometimes apparently contradictory priorities to design and implement practical solutions. “

CASE STUDY

British Overseas Standard Supplies (**BOSS**) PLC (ticker, LON: BS), a UK and FTSE 100 listed company, is a vertically integrated processed food manufacturer and contract caterer, with its origins as a supplier of bully beef for the British Army.

Six months ago, at the instigation of BOSS's Sustainability Officer, the Board of BOSS set in train its first human rights due diligence and impact assessment process to review, assess, and guide action on the human rights impacts of BOSS. Due diligence on BOSS's operations have been conducted by **RightScope**, an external human rights and sustainability consultancy.

As a processed food manufacturer, BOSS produces a range of white label ready meals and own brand canned and packaged goods, with its key ingredients sourced from its own farms mainly located in the **US Midwest**. However, BOSS has seen great potential in sourcing many of its supplies from Africa. It has recently invested in extensive cattle ranching and beef processing facilities in the **Southern Republic**, and sources fruit and vegetables – particularly strawberries, french beans and aubergines – from wholly owned farms across East Africa, in particular the **Eastern Republic**.

Due diligence has indicated that:

- worldwide, jobs at BOSS's farms and plants are sought after;
- worldwide, BOSS pays its employees significantly more than relevant national minimum wages, plus generous benefits;
- BOSS's plants and farms outside the UK are not unionised;
- as the official school leaving age in both the Eastern and Southern Republic is 12, and places in secondary school limited to those who can pay fees (amounting to approximately US\$50/year), BOSS's farms employ many teenagers; and
- BOSS sources animal feed for its ranches in the Southern Republic from a large number of small suppliers across the Southern Republic. There have been reports that some of these animal feed suppliers use forced labour, and the use of the land for the production of animal feed has led to significant disruption of traditional pastoral communities indigenous to the Southern Republic. Rightscope have not been able, in the time available, to identify, let alone visit, all the suppliers. The truth or otherwise of these allegations has therefore not been substantiated.

BOSS has decided to take advantage of an existing large pool of talented chefs in the Middle East, trained to produce the spiced food now in demand from European consumers. The Board has just taken a positive final investment decision on a new plant in the **Republic of Azira**, capable of producing half of all the ready meals BOSS sells, and employing 2000 chefs from the local area. (All will be men, because of Azira's laws on gender respect which prohibit women from working in the same room as men, and because it will double the cost of the plant to run two separate production lines).

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BOSS has long been the supplier of choice for ration packs, and supplies several European Armed Forces with its patented expedition-ready “Epipack”, a nutritious blend of beef, beans, and rice. BOSS has been working hard on expanding the export potential of its military range, working with **Great For Overseas (G4O)**, a French one-stop military logistics company. Progress has been promising, with the recently installed provisional government of the **Democratic Republic of Zanzania** recently signing a letter of intent with G4O for its *Package Total*, which would lead to BOSS supplying G4O with 10 million Epipacks over the next 5 years for supply to the Zanzanian armed forces.

The Board, accompanied by its legal and other advisors, has convened to discuss the results of the initial due diligence and what, if anything, further should be done by BOSS. BOSS does not yet have a human rights policy, which is one of the items for discussion at the Board meeting. While the Board as a whole has an open mind on human rights, it is fair to say that the existing Executive Chair, Lord Deben, needs convincing of the merits of the exercise.

E-MAIL FROM FIELD

GEORGINA ERANGEY

From: stephen.davies@bossplc.co.uk
To: georgina.erangey@bossplc.co.uk

Georgina,

I had a troubling call from one of our buyers this morning, who has just returned from a trip inspecting some of our farms in East Africa. Some of the farmers mentioned the human rights questionnaire sent to them by RightScope last month.

The farmers told our buyer that they were nervous about the questionnaire. They asked their regional managers about it, who told them not to disclose any information about their employees or working practices, especially to an 'outsider' that they had never heard of. Consequently, the farmers either didn't respond to the questionnaire truthfully, or didn't answer it at all.

Apparently RightScope didn't actually visit any of these farmers, or even contact them by telephone. I'm concerned their DD report might not be quite as thorough as we'd hoped. But then again, surely we can't be expected to talk to every single farmer. Maybe better to let sleeping dogs lie?

Steve

STEPHEN DAVIES
CSR Executive
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News Broadcast Script

NEWS ANCHOR:

“An update on the developing situation in the Democratic Republic of Zanzania. Just one month after seizing power from the democratically elected Zanzanian People’s Party in an armed coup, the Provisional Government has launched a series of attacks on towns still loyal to the ZPP in the north of the country.

Last night the Provisional Government commenced airstrikes against what they say are armed groups of ZPP loyalists in Busoka and Mabingwe. I think we can now show you some video posted online showing infantry and armoured units moving in this morning, and there are reports of heavy fighting on the streets of Busoka.

ZPP leader David Mbemba, now in exile in Europe, has just appeared on Swiss television urging Western nations to intervene in the conflict. He stated that the Provisional Government was attacking unarmed protestors. He also criticised the actions of a group of defence contractors based in the EU, who are said to have sold armaments and military supplies to the Provisional Government.

We will try to get you video of the Mbemba statement, and bring you more information as we get it. Thank you.”

‘Ticker’ text:

BREAKING NEWS: Zanzanian forces engaged in ‘heavy fighting’ in the north of the country. Exiled PM David Mbemba calls for international intervention.