

ASEAN RESPONSIBLE BUSINESS FORUM

Promoting responsible business practice
in the ASEAN Economic Community

27 – 29 OCTOBER 2015

Event Report

CO-ORGANISERS



CSR is not about how money is spent but about how money is made. It is beyond charity and philanthropy

“

Global Compact

CSR is a company's delivery of long term value in financial, environmental and ethical terms

”

ASEAN Responsible Business Forum Report

Table of Contents

- 04 **Event Overview**

- 05 **Main Forum Highlights**
 - 05 *Welcome Remarks*
 - 08 *High-level Panel*
 - 09 *Focused Session 1*
 - 11 *Focused Session 2*
 - 15 *Focused Session 3*

- 19 **Business Integrity Workshop**

- 25 **Public Private Partnerships in Agriculture Workshop**

- 29 **Driving Gender Transformative Agriculture Investment Workshop**

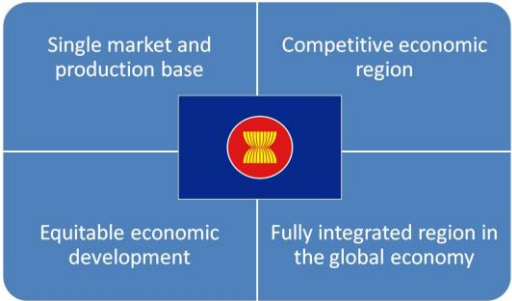
- 33 **Consultation Workshop on Business and Human Rights**

- 44 **Organising Partners**



1. Event Overview

The creation of the ASEAN Economic Community (AEC) by end of 2015 is expected to bring about numerous benefits. Yet with the positives from a single market and production base, free movement of goods and labour, and greater intra-ASEAN investment and trade, negative impacts can also arise. Issues such as widened income gaps, corruption, human rights abuses and environmental degradation, can put vulnerable groups at risks. The evolution of the business world in ASEAN will determine the ultimate impacts of the AEC in fostering inclusive, equitable and sustainable development. From women’s empowerment to smallholder farmer inclusion, to respecting human rights and instilling ethics and integrity, the private sector in ASEAN must do its part in adopting and advancing responsible business practices.



With the theme “Promoting responsible business practice in the AEC,” the ASEAN Responsible Business Forum was designed to provide a platform for key stakeholders to connect and advance responsible business practice and partnerships aligned with the dynamics of the AEC and the post-2015 ASEAN agenda. Over a period of three days, from 27 – 29 October 2015, with the main conference on 28 October 2015, the Forum brought together around 250 key representatives of companies, governments, trade unions, and civil society to engage in high-level dialogues and interactive consultation workshops, and unpack what responsible business practice can mean for the AEC as ASEAN strives for inclusive, equitable and sustainable growth post-2015. Specific topics tackled include business and human rights, business integrity, and inclusive and sustainable agriculture.



The ASEAN Responsible Business Forum was co-organised by the ASEAN CSR Network (ACN), Oxfam, the Federation of Malaysian Manufacturers, and ASEAN Foundation. The Forum was supported by the Swedish Government through its Embassy in Bangkok, the ASEAN Foundation through the Japan-ASEAN Solidarity Fund, the UK’s Foreign & Commonwealth Office through its Prosperity Fund, the Canadian Government through its Canada Fund for Local Initiatives, and the Asia-Europe Foundation with the financial support of the European Union.

2. Main Forum Highlights, 28 October 2015

2.1. ASEAN Community Post-2015: Opportunities and Challenges for Responsible Business

The ASEAN Responsible Business Forum kicked off with welcome remarks from Ms. Yanti Triwadiantini, Chair of ACN and Mr. Cherian Mathews, Asia Regional Director of Oxfam GB.



Ms. Yanti Triwadiantini, Chair, ACN, giving the welcome remarks

Ms. Triwadiantini opened the Forum by stating that the year 2015 was a major milestone for ASEAN as the region prepares for an AEC post-2015. She added that the Forum aims to create a future where businesses take an active role in ensuring equitable, inclusive and sustainable development. The Forum also hopes to address the issues of corruption, promoting respect for human rights, and ensuring food security and sustainable agriculture

In the pursuit of achieving a more equitable sustainable development for the region, she urged us to be mindful in ensuring that the most vulnerable groups, such as children, women and migrant workers, receive the most protection. However, achieving economic growth also means it is not attainable without multiple parties committing and contributing to the adoption of responsible business practices.

Speaking on behalf of Oxfam GB, Mr. Cherian Mathews commented that to overcome poverty and inequality, responsible business practices have a major role to play.

Even with predicted strong economic growth in ASEAN over the next 10 years, one-third of ASEAN households will still have incomes below \$7,500 / year, clearly showing that growth alone isn't enough to tackle the growing inequality and persistent poverty. Even in today's economy, modern day slavery, forced labour and gender gap persists in the region. In the field of agriculture, Mr. Mathews urged the delegates to look at business models that deliver prosperity for farmers, such as farmer-owned enterprises and through government policies that prioritise smallholder interests.



Mr. Cherian Mathews, Asia Regional Director, Oxfam GB giving the welcome remarks

The following ambassadors whose countries have also contributed in one way or another to ACN or the Forum, addressed the opening remarks.



H.E. Bengt G Carlsson, Swedish Ambassador to Malaysia

Kicking off the opening remarks was H.E. Bengt G. Carlsson, the Swedish Ambassador to Malaysia. He talked about how many Swedish companies were at the forefront of adopting sustainable business practices throughout their business operations. He named Ericsson and H&M as companies that have declared that sustainable development is now part of their core operations. Other cooperation projects have also been initiated. For example, H&M, SIDA/Sweden and the International Labour Organisation, are working together to promote decent employment and social dialogue in Cambodia and Bangladesh.

He stressed that in doing such work, companies benefit through positive development and good industrial relations with trade unions, leading to stable business relations, increased effectiveness and reliability in production.



H.E. Koichi Aiboshi, Japanese Ambassador to ASEAN



H.E. Donald Bobiash, Canadian Ambassador to ASEAN, Indonesia and Timor Leste

H.E. Koichi Aiboshi, the Japanese Ambassador to ASEAN took to the stage next and spoke of Japan's support of ACN through the Japan-ASEAN Solidarity Fund through the ASEAN Foundation. He told the audience that more than 8,000 Japanese affiliated companies are in ASEAN and it is their shared responsibility to incorporate CSR in regional business plans, contributing to the sustainable development of the ASEAN community and supporting ASEAN in dealing with CSR issues such as business and human rights, the environment and labour practices.

H.E. Donald Bobiash, Canadian Ambassador to ASEAN, Indonesia & Timor Leste, spoke next. He mentioned the importance of Canadian-ASEAN ties. Canada provides over \$50 million in funding priority areas in ASEAN, including the promotion of women's rights, sustainable development of SMEs, investment in infrastructure, the extractive sector, agriculture and governance. He mentioned that Canada has a long history and commitment to CSR. He expected Canadian companies to respect all applicable laws to meet or exceed all international standards for responsible business conduct especially pertaining to human rights and the environment. With regards to the agricultural sector, Canada has also committed \$8 million over three years to support the World Economic Forum's newest regional platform – Grow Asia. He closed his remarks by saying that the promotion of responsible business conduct is essential to ensuring lasting benefits to all stakeholders.

Closing the welcome remarks was H.E. Paul Rennie, British Deputy High Commissioner to Malaysia. In his speech, he said the UK is not only committed to improving integrity among UK businesses but that the country also wants to take a global lead in this area. He expounded on the importance of integrity in business operations and the benefits of adopting it, not just in the UK but also in other countries that UK companies have business dealings in. With the growing trend of consumers buying products based on companies' responsible business practices, companies are beginning to realise that having a better reputation means more consumers and this ultimately impacts revenue.

H.E. Paul Rennie acknowledged that doing good by not succumbing to bribes and maintaining business integrity is not easy, but it is beneficial to businesses in the long term. A study on the impact of the UK Bribery Act found out that by complying with the UK Bribery Act, one of the strictest legislations in the world that includes liability offences for companies not just bribing but also failing to prevent bribery in their international operations, British companies lost out on business opportunities initially, especially in markets where bribery was endemic.



H.E. Paul Rennie, British Deputy High Commissioner to Malaysia

However, as time went on, they could see the reputational benefits that have come from working as a British companies in such a strict environment.

He concluded his speech by saying that the road to business integrity is a process and British companies around the world need to improve their understanding and awareness of business integrity. He said the British government wants to ensure CSR is integrated into the wider development agenda as they continue to share their experiences.

The Guest-of-Honour, YB Senator Datuk Paul Low also spoke on the opportunities and challenges for responsible business in the ASEAN Community post-2015.



Guest-of-honour YB Senator Datuk Paul Low, Minister for Governance and Integrity, Prime Minister's Department, Malaysia

One of the key highlights of his speech was him committing Malaysia to be a test bed for CSR and to be inclusive of businesses, NGOs and other stakeholders to bring to reality some of the suggestions brought up at the Forum. He also said Malaysia was committed to implementing the new ISO 37001 on Anti-Bribery Management System Standard when it is finalised.

He also proposed that social enterprises work closely with businesses for funding, and that businesses could play a part in helping social enterprises build good management capacity to

enable social action and benefit society. YB Senator Low said this idea is worth exploring.

2.2. High- Level Panel: Building a More Competitive and Sustainable AEC Post-2015 through Responsible Business

Responsible business is a potential enabler for ASEAN's competitiveness and sustainable growth. Meaningful impact can only be achieved if there is a meaningful alignment of purposes with all key stakeholders being involved. Responsible business needs to be embedded in corporate strategies, and companies and countries need to help each other to achieve a win-win situation. These are among the highlights put forward by panellists and participants during the high-level panel discussion.

Moderated by Rico Hizon, Anchorperson, BBC World News (Asia Business Report). Speakers of the high-level panel included Mr. Anjan Ghosh, Regional Director-Corporate Affairs, Asia-Pacific & Japan, Intel; Mr. Alois Hofbauer, Chair of Ethical Business Practices Committee of Federation of Malaysian Manufacturers (FMM), and Managing Director and Regional Head of Nestlé Malaysia/Singapore/Brunei; Ms. Marie Lisa M. Dacanay, President of Institute for Social Entrepreneurship in Asia (ISEA); Tan Sri Dato' Sri Lim Wee Chai, Chairman, Top Glove Corporation Berhad; and Mr. Santi Wasanasiri, PTT Group Sustainability Alignment Committee (SAC) and Vice President, Innovation and Sustainability, Thai Oil Group.



High-level panel: Building a more competitive and sustainable ASEAN Economic Community Post-2015 through responsible business



From left: Mr. Alois Hofbauer, Nestle; Ms. Marie Lisa Dacanay, Institute for Social Entrepreneurship in Asia; YBhg Tan Sri Dato' Sri Lim Wee Chai, Top Glove Corporation Berhad; Mr. Santi Wasanasiri, PTT Group; Mr. Anjan Ghosh, Intel

“Responsible business means the way we do business needs to be responsible. It needs to be integrated into everything we do, starting from the way we develop our strategies, design the products, the way we manage our people, factories network, and suppliers in the supply chain,” said Dr. Anjan Ghosh. He emphasized the need to embrace principles of the code of conduct and ensure that suppliers share the same principles.

According to Mr. Hofbauer, the government needs to take the lead and set the tone for businesses. “Procurement needs to be transparent. Fair chance needs to be considered,” he said.

Tan Sri Lim from Top Glove Corporation Berhad believed that in order to practice responsible business, it is crucial for an organisation or company to have good people. He said that companies and cities are clean because they have clean people. Leadership is important in creating a culture of integrity and transparency in a company or an organisation. “A leader needs to set an example, be healthy physically and mentally in order to be able to work and to set good habit,” he emphasized.

Mr. Wasanasiri said it is crucial for companies to engage with external stakeholders in order to understand their needs, expectations and do good. “Every company has a budget for CSR, but the question is how it is spent, and if it brings about benefits for these stakeholders.”

The poor and marginalised people are the most vulnerable who are easily excluded from the economic development. Social enterprises, however, can help empower this group of people. “Driven by social mission, social enterprises create wealth like other businesses, but most importantly they distribute wealth to the poor and marginalised people,” said Ms. Marie Lisa M. Dacanay. She called on governments and companies to support social enterprises in order to help social enterprises be able to provide transformational services and enable vulnerable people to not only move up in the value chain but also become decision makers and community developer, contributing to their own sector and community.

Regarding the bigger question on how to incorporate CSR into the regional agenda to address regional challenges for sustainable, inclusive and equitable growth, Dr. Anjan Ghosh stressed the importance of cross-pillar and cross-sector collaboration. He said “each of the actors – government, business and civil society – has a specific role to play. A company or government or civil society cannot solve problems alone. If we just work on one pillar, it is impossible to make meaningful impact. We need both top-down as well as bottom-up approach and a meaningful alignment of purposes.” He was convinced that technology is extremely important to ASEAN’s development. For ASEAN to be sustainable, the region needs to be competitive. Fundamentally, the region will need to make a transition from an IT consuming region to an IT producing region.

Mr. Hofbauer spoke about the importance of “willingness to work each other” among different stakeholders and their “real intention to do good.” In order to survive, businesses need to do good and be responsible corporate citizen. He added “If you are not [responsible], the [ASEAN] community you are operating in will expel you.”

Tan Sri Lim said companies need to be open to work with each other. Similarly, different ASEAN countries need to help each other because we are all interconnected. Citing the example of how the haze starting from Indonesia can affect other neighboring countries, he noted “if your neighbor is in trouble, you are also in trouble. So ASEAN countries must be able to help each other. And countries with problems also need to open the door to let other people help.” He also said most of the problems happen due to uninformed decisions, so it is important to ensure companies and countries to make informed and good decisions. This can be done through education.

In order to manage the multiple bottom lines and ensure no one loses out in the regional integration and development, Ms. Marie Lisa M. Dacanay called on ASEAN to recognise social entrepreneurship while Mr. Wasanasiri encouraged companies to incorporate CSR in their corporate agenda with clear goals and focus for better impacts.

2.3. Focused Session 1: Promoting the Business Responsibility to Respect Human Rights

Focused Session 1 was a lively interaction with panellists and delegates discussing how business and human rights (BHR) goes beyond CSR and touched on what is needed to strengthen the working relationship among civil society, businesses and government in this field.

Moderated by Mr. Ray Paolo J. Santiago, Secretary General of the Working Group for an ASEAN Human Rights Mechanism, the panel included:

In the context of NAPs, the more consultations there are between the relevant stakeholders, the less disagreement there will be. This way, the interests of the public and private sector can be reconciled. The more corporations respect human rights, the more they will be endorsed by the public. If good policies are implemented, they will get recognition from the same. There must also be adequate remedies when there are BHR abuses. Thus, business solutions have to come from businesses themselves. What is needed is a transformation of culture within businesses – it is important to speak of “profit” and “human rights” together, and not as competing considerations. Nevertheless, for BHR guidelines to be imposed successfully, an incremental approach has to be taken.



Questions from delegates during the Q&A session

Currently, ASEAN lacks a platform that brings together businesses, government and CSOs. AICHR, with ACN, is trying to build this platform within ASEAN, while trying to strengthen the relationship between CSOs and the government.

It may not be feasible to have a set of regional guidelines for BHR at this stage – AICHR (and ASEAN) has been promulgated on the basis of consent from all 10 Member States. A lot more coordination is needed before ASEAN can agree on a regional action plan. Currently, AICHR is trying to tackle specific human rights issue, in particular the environmental rights.

With regards to the environment, Tan Sri Muhammad Shafee Abdullah commended Singapore’s efforts in tackling the issue of transboundary haze, by enacting the Transboundary Haze Pollution Act (THPA). The THPA has put the issue of transboundary haze high on ASEAN’s agenda. He said that making the companies the subject of the THPA has pushed the conversation on transboundary haze in the right direction. An issue that remain to be addressed is how judgments against errant companies can be enforced in Indonesia.

2.4. Focused Session 2: Think Big, Go Small – New Business Models for Inclusive and Sustainable Agriculture in ASEAN

Moderated by Erinch Sahan, Policy Adviser on Business and Markets for Oxfam GB in Asia, speakers for this session included:

- Dr. Segredo R. Serrano, Undersecretary for Policy and Planning, Department of Agriculture, Philippines
- Dr. Puvan Selvanathan, Head of International Trade Centre Office to the U.N., and Special adviser on Food and Agriculture Business, U.N. Global Compact

- Datuk Darrel Webber, Secretary General of Roundtable on Sustainable Palm Oil (RSPO)
- Ms. Pacita Juan, Founder & President of Echostore Sustainable Lifestyle and President of Women’s Business Council (Philippines); and
- Mr. Biswaranjan Sen, Vice President, Chemicals Procurement and Supply Procurement of Unilever.



From left: Erinch Saham, Oxfam GB Asia; H.E. Dr. Segredo . Serrano, Undersecretary for Policy and Planning, Department of Agriculture, Philippines; Dr. Puvan Selvanathan, International Trade Centre; Datuk Darrel Webber, RSPO; Ms. Pacita Juan, Echostore Sustainable Lifestyle, Philippines; Mr. Biswaranjan Sen, Unilever



H.E. Dr. Segredo R. Serrano, Undersecretary for Policy & Planning, Department of Agriculture, Philippines was the keynote speaker for Focused Session 2

Undersecretary Segredo R. Serrano started the session with his opening remarks. In his speech, he shared that as ASEAN economies transition to industrialisation and with an increasing prominence in the service industries, the importance of agriculture in the rural sector must be highlighted. He added that agriculture remains as the basic sector where all other industries have interdependence and anchorage on. He ended his speech by highlighting the roles of the private sector, public sector and CSOs in achieving an inclusive economy by working with the agriculture sector.

He said that he is looking forward to the insights of the panel members on new business models that champion modern social economic transformation.

Inclusive business model with smallholders getting a better slice of the economic pie should be promoted. Dr. Selvanathan said that the attitude toward smallholders has to change. He added that the definition of smallholders of today, will not be the case for smallholders in 10-15 years, because various factors including the decisions that smallholders make will enable them to participate more in the value chain.

Datuk Weber shared with the audience the experience of RSPO with smallholders. He noted that smallholders are doing business the way they do now because

- (i) they are unaware of ways on how to do it better;
 - (ii) they have no access to resources; and
 - (iii) they need to get out of the area they are currently working to be able to do better business.
- Datuk Webber added that for smallholders to do better business with better business models, they need to collaborate with other actors just like RSPO in the palm oil sector as an example.

Ms. Pacita Juan said that all farmers must be able to segment their markets. Citing an example from her hometown and business, smallholders should be taught different innovative ways to add more value to their products.

Mr. Biswaranjan Sen noted that smallholders have different kinds of needs like access to finance, access to market and access to technology. He shared that all these needs must be addressed holistically to help smallholders. He added that there is a need for aggregation when working with smallholders and that the right kind of aggregation model must be worked on for inputs to flow in and outputs to flow out.



From left: H.E. Dr. Segredo R. Serrano, Undersecretary for Policy and Planning, Department of Agriculture, Philippines; Dr. Puvan Selvanathan, ITC

Other discussions in the panel dealt with the role of the ASEAN in connecting agriculture work with working groups such as the ASEAN Ministerial Meeting on Agriculture and Forestry (AMAF), solutions to the key challenges that smallholders face, and how big businesses are ensuring there is sustainable agriculture in their work.

Undersecretary Serrano said that the role of ASEAN is to be more coordinated with AMAF and other working groups. A dialogue partnership with the stakeholders is needed. ASEAN needs to integrate the most number of poor and smallholder farmers.

Dr. Selvanathan highlighted collaboration such as private-public partnerships (PPP) as a solution to the key challenges of smallholders. He said that every engagement with smallholders is a potential PPP, however, the concept of some companies on working with smallholders that boxes them and limits the engagement, must stop.

Datuk Webber shared that multistakeholder initiatives like RSPO have been successful. He also agreed with Dr. Selvanathan's statement that smallholders are boxed. "There needs to be a disruptor to this status quo. RSPO, for example, has been the disruptor. The disruptor needs to link the chain to the producer and put a face to the commodity and to the smallholders."

Mr. Biswaranjan Sen of Unilever shared that big businesses have an obligation to provide investment to enable a group of people at the bottom of the chain to face their challenges. He also added that the long-term solution to this is productivity.



Focused Session 2: Think Big, Go Small – New Business Models for Inclusive and Sustainable Agriculture in ASEAN

The floor was then open for questions from the delegates:

- *What's the long-term proposition for market disruptor? What are good solutions?* Multistakeholder initiatives has disrupted the status quo. It has the element of bringing people together. Real solutions can come if we ask the right questions. The right questions will not come from just one stakeholder, it should come from all around. Multistakeholder initiatives of tomorrow mean engaging the government. Multistakeholder initiatives as of today, will not change the world. But multistakeholder initiatives of tomorrow are something we need to look forward to. It would entail engaging the government. At the moment, the government has not been part of many multistakeholder initiatives. This has to change.
- *In some business models, the biggest investors are the smallholder farmers (land and labour) but are not acknowledged. What do we need to do if we redesign the business model such that smallholders become shareholders?* It would be good for big business to partner with smallholders through social enterprises. And social enterprises can act as the cooperatives. If big business can help - from getting materials to aggregation, then smallholders can be shareholders.
- *In the current ASEAN context, people are moving away from agriculture, so how do we deal with this?* Most stakeholders do not see agriculture as an inter-generational activity. Agriculture is not seen as a profitable prospect. People are moving away from agriculture. In ASEAN, we should carve out different pathways for agriculture. What's important for ASEAN is to move toward technology-based agriculture. There is a need for increasing labour productivity to meet the needs of food security. We should generate the value along the value chain. Technology must be able to

move productivity and graduate citizens from primary agriculture to something that adds value to the primary agriculture.

- *What is one concrete thing that we need to bring to the ASEAN in light of the ASEAN Economic Community?*
 - Land rights, clean land titles for land holders especially in Indonesia (Dr. Selvanathan)
 - Recognition of disruptors like social enterprises (Ms. Pacita Juan)
 - ASEAN must mirror the Sustainable Development Goals (Datuk Webber)
 - ASEAN must recognise farmers not just as part of the value chain but as real people (Mr. Biswaranjan Sen)
 - Farmers and farmer organisations to be recognised in ASEAN as partners with availability of channels where they can express themselves (Dr. Serrano)

2.5. Focused Session 3: Creating a Culture of Integrity in the ASEAN Business Community

The discussion on creating a culture of integrity in ASEAN was moderated by Mr. Francesco Checchi, UNODC Regional Anti-Corruption Adviser and the panellists included:

- Dr. Anis Yusal Yusoff, President & CEO, Malaysian Institute of Integrity (INTEGRITI);
- Mr. Jermyn Brooks, Chair of Business Advisory Board, Transparency International, and former Chair of 10th Principle Working Group, UN Global Compact;
- Mr. Alexander B. Cabrera, representing Integrity Initiative, Inc. (Philippines) & Chairman and Senior Partner, Isla Lipana & Co;
- Mr. Richard G. Thomas OBE, Senior adviser to the Board and Chief Representative, Malaysia, Gatehouse Bank;
- Ms. Hew Chooi Yoke, Partner, PwC Malaysia.

Creating a culture of integrity in the ASEAN business community has a long way to go, but it is not mission impossible. Integrity can be embedded in businesses' operations through inclusive and effective collective action which involves all key stakeholders. Focus should be given to education to raise awareness and understanding of businesses on issues of integrity. Furthermore, standardised business integrity as an important aspect of CSR and needs to be an integral part of the ASEAN Economic Community's agenda. These are the key takeaways from the session.

ASEAN is not performing well enough in the fight against corruption, Dr. Yusoff pointed out. This is clearly indicated in ASEAN countries poor performance, apart from Singapore, on the Transparency International's Corruption Perception Index. Dr. Yusoff emphasised the need for a "holistic approach" to solving the problem, which he said will involve all relevant stakeholders – the public sector, private sector and civil society. Businesses need to understand that mainstreaming ethical practices is important, "not only because it makes you look good, but it's the right thing to do."

Dr. Yusoff shared that the objective of the National Integrity Plan which his organisation - Malaysian Institute of Integrity - is helping to coordinate is to develop Malaysia as a nation of high integrity. This includes providing a comprehensive framework and assessment tools for companies to achieve corporate integrity.



Panellists from left: Moderator Francesco Checchi, UNODC; Mr. Anis Yusaf Yusoff, Malaysian Institute of Integrity; Ms. Hew Chooi Yoke, PricewaterhouseCoopers Malaysia; Mr. Jermyn Brooks, Transparency International; Mr. Richard G. Thomas, OBE, Gatehouse Bank; Mr. Alexander B. Cabrera, Isla Lipana & Co.

Focused Session 3: Creating a culture of integrity in the ASEAN Business Community



Delegates at the ASEAN Responsible Business Forum

Mr. Cabrera said truly upholding integrity can in fact generate business benefits by giving companies competitive advantage. This is why Integrity Initiative Inc. (Philippines) developed the integrity pledge as well as an assessment mechanism to help “validate” businesses’ commitment, moving businesses from saying to doing. The “downside” of this initiative lies in its “voluntary” nature. It is still optional for companies to sign the integrity pledge and be certified by Integrity Initiative Inc.

Mr. Brooks observed there were a number of opportunities for promoting integrity, including the high application of extraterritorial anti-bribery legislations such as the UK Bribery Act and US Foreign Corruption Practice Act. He further said leaders of G-20 are also working with businesses and civil society to come up with joint actions to deal with corruption, including bringing greater transparency and integrity.



Mr. Alexander B. Cabrera, Isla Lipana & Co.

Furthermore, world leaders have recognised the importance of governance and anti-corruption to sustainability. Sustainable Development Goal 16 aims to promote effective, accountable and inclusive institutions at all levels. Substantially reducing corruption and bribery in all their forms is among the targets (Target 16.5) for this goal. Another positive trend in dealing with corruption is “now everyone talks about collective action,” Mr. Brooks said.

Governments, businesses, and civil society are working together in an open environment to tackle corruption. However, challenges exist. Mr. Brooks highlighted two big issues: responsibility for corruption-related issues along the supply chain and especially tax evasion – as a simple consequence of the financial crisis and government’s taxation increase policy.

Regarding taxation, Mr. Cabrera said limited resources is the key reason for companies’ non-compliance, particularly in the Philippines. “For small and medium-sized companies (SMEs) to survive, it is common

for all resources to go to their businesses. If they pay the tax, they will become poorer.” Mr. Cabrera therefore emphasized the need to have a new tax system in which social enterprises and SMEs should be treated differently from big corporations.

Ms. Hew said promoting an “ecosystem” in which big corporations and SMEs work with and support each other for mutual benefits is critical in solving the issues of supply chain and tax evasion. To find solutions to corruption, Ms. Hew highlighted the importance of understanding the root causes of corruption.

Looking at the fraud triangle, she explained, a person is highly likely to commit workplace fraud if he or she has both “incentives” and “opportunities” to do so. Motives to commit fraud vary amongst different people. For non-managerial level, it could be making ends meet. For managerial level, it could be meeting KPIs, which in many cases, are financially-driven. Motivation is important but not sufficient enough to make a person to commit fraud; he or she also needs the opportunity which could happen due to lack of internal controls and adequate segregation of duties.

In fact, many policies and procedures have been put in place, but quite often they are not enforced seriously. While Ms. Hew stressed the need for an integrity message to be communicated to all employees in order to enhance the enforcement of these policies and cultivate the culture of integrity, Mr. Thomas highlighted the necessity of pinning down responsibility for noncompliance and corruption to individuals. “If a senior manager fails to prevent bribery from happening in his or her organisation, he or she needs to be held liable for this failure. This is professionalism which is another expression of integrity,” Mr. Thomas said.



Delegates at the ASEAN Responsible Business Forum

Mr. Brooks believed integrity is beyond compliance. He suggested that the best way of changing people’s behavior is a combination of sanctions and incentives. Most importantly, to keep its business clean, a company should avoid getting bad people into its door in the first place.

Dr. Yusoff said more efforts should then be given to education to educate the younger generation about integrity values. He also reaffirmed his earlier statement that cultivating a culture of integrity cannot be successful without an effective partnership in which the public sector, private sector and people are willing to work together for a common goal.

The discussion concluded with Mr. Cabrera shared his final thought on the topic. "ASEAN Economic Community now needs to have a standardised framework for business integrity and programmes."

3. Side Workshops Reports

3.1 Consultation and Training Workshop: Toward harmonised Business Integrity Standards and Programmes in ASEAN, 27 October 2015

Introduction

- Corruption undermines the rule of law and impacts economic and social development, hurting the most vulnerable groups (the poor, women and minorities) disproportionately. Many people face the necessity of paying bribes to gain access to essential services. Corruption, bribery, theft and tax evasion cost some US \$1.26 trillion for developing countries per year; this amount of money could be used to lift above the poverty line those who are living on less than \$1.25 for at least six years.¹
- For businesses, corruption adds up to 10 percent to the total cost of doing business in many parts of the world and up to 25 percent to the cost of procurement contracts in developing countries.² Opportunity cost by corruption could be even higher. Corruption distorts market mechanisms, prevents fair competition and deters investments, thus stifling growth and future business opportunities. It also exposes companies to legal risks and erodes public investor trust and confidence.
- World leaders have recognised that corruption is a key obstacle to progress, prosperity and sustainability. The new development agenda adopted by world leaders in New York in September 2015 sets out 17 Sustainable Development Goals which aim to create a life of dignity for all by 2030. Goal 16 aims to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels. “Substantially reducing corruption and bribery in all their forms” is among the targets for this goal.



Mr. Jerry Bernas, ASEAN CSR Network's Programme Director

¹ The United Nations Sustainable Development Goal 16, <http://www.un.org/sustainabledevelopment/peace-justice/>

² International Chamber of Commerce, TI, UN Global Compact & WEF Partnering Against Corruption Initiative (PACI), *The business case against corruption*, <http://www.weforum.org/pdf/paci/BusinessCaseAgainstCorruption.pdf>

- All these issues and concerns are magnified in the ASEAN context as it prepares for greater regional economic, socio-cultural and political-security integration. ASEAN has been striving for a sustainable, equitable and inclusive community and the Kuala Lumpur Declaration adopted by ASEAN leaders at the 26th ASEAN Summit on 27 April 2015 reaffirms this hope and aspiration. As ASEAN tries to capitalise on the opportunities presented by regional integration post-2015, it is important for all stakeholders in ASEAN to meet numerous challenges head-on, with curbing corruption a top priority for all.
- Businesses are expected to play an enhanced role in this crusade, yet the diversity of ASEAN is both its strength and weakness. There are many good examples from across ASEAN on how business organisations are harnessing the power of collective action to curb corruption, such as the Private Sector Collective Action Coalition against Corruption (Thailand) and Integrity Initiative Inc. (Philippines). Each country programme responds to the needs, challenges and opportunities presented by their country's unique context. However, this has also resulted in varying standards used. In support of ASEAN integration, it is now time for the private sector to boost regional cooperation against corruption.



Ms. Yanti Triwadiantini, Chair, ASEAN CSR Network, giving the welcome remarks and introduction on Day 1 of the ASEAN Responsible Business Forum



Delegates taking notes at the Forum

- At its meeting in Bali in February 2015 (Bali Meeting), the Regional Working Group on Business Integrity in ASEAN identified harmonisation of business integrity strategies and programmes as one of its three priority action items, in addition to advocacy and awareness-raising, and capacity-building. Soon after the Bali meeting, a Framework for Collective Action was developed and adopted by the Regional Working Group during the Strategic Planning Meeting in Bangkok in March 2015 (Bangkok Meeting) in order to provide a foundation for business-led collective action against corruption.
- As a follow-up to the Bali Meeting and Bangkok Meeting, the consultation and training workshop titled "Harmonisation of business integrity standards and programmes in ASEAN" ("Workshop") was conducted in Kuala Lumpur, Malaysia on 27 October 2015 in conjunction with the ASEAN Responsible Business Forum (27 – 29 October 2015), with the objective of providing a multistakeholder consultation to overcome the challenges of collective action against corruption and explore possibility of harmonising standards in the ASEAN business community. The Workshop was organised by the ASEAN CSR Network and the Regional Working Group in partnership with the United Nations Office

on Drugs and Crime (UNODC). It was supported by the United Kingdom Foreign and Commonwealth Office (UK FCO) through its Prosperity Fund.

- The Workshop attracted around 70 participants representing the Regional Working Group, the private sector, governments of ASEAN member states, South-East Asian Parties against Corruption (SEA-PAC), international agencies such as UN Global Compact, UNODC, UN Industrial Development Organisation (UNIDO), and civil society groups including Transparency International, among others.
- The day was divided into two parts:
 - **Consultation Workshop** (9 a.m. – 12.30 p.m.) was sub-divided into 2 panel discussions. The first panel dealt with preventing corruption through collective action, while the second panel discussed how to harmonise business integrity standards and programmes in ASEAN.
 - **Training Workshop** (2 p.m. – 5.30 p.m.) consisted of a panel discussion on the ASEAN trend toward criminal corporate liability for corruption offences and how to design and implement an effective anti-corruption/ethics compliance programme. The panel discussion was followed by case study scenarios where participants, in the role of authorising executive or compliance officer, were divided into different groups and asked to conduct compliance risk analysis and present mitigation measures. These scenarios were designed to provide participants with a practical understanding of and tools to deal with typical challenging ethical situations.

Workshop's Highlights

Panel Discussion: Preventing corruption: Overcoming key challenges to collective action

Panellists include Mr. Francesco Checchi, UNODC Regional Anti-Corruption Adviser; Mr. Jose Cortez, Executive Director of Integrity Initiative Inc. (Philippines); and Mr. Kittidej Chantangkul, Project Coordinator of Thailand's Private Sector Collective Action Coalition against Corruption. The discussion was moderated by Mr. Florian Beranek, UNIDO Lead Expert on Social Responsibility.

The key points that were discussed during this plenary session are as follows:

- Multistakeholder cooperation is vital in tackling corruption in the ASEAN Community. There is a need to consider challenges and solutions that address both the demand (the public sector) and supply (the private sector) sides of corruption and bribery. The role of businesses in preventing corruption cannot be understated.



From left: Mr. Francesco Checchi, UNODC; Mr. Jose Cortez, Integrity Initiative Inc., (Philippines)

- ASEAN governments must develop strong national legal frameworks in line with relevant international principles and frameworks, such as the UN Convention against Corruption (UNCAC), and support this with clear guidelines for businesses and adequate enforcement. Article 12 of the UNCAC, for example, requires each state party to take measures to prevent corruption involving the private sector, enhancing accounting and auditing standards in the private sector. Providing access to information is also a key to eliminating corruption. It not only helps businesses streamline their operations in an effective way but also helps improve transparency and integrity in the public sector. It is important to note that all ASEAN member states are signatories to UNCAC and have ratified it, signalling a strong commitment to pursue its objectives.
- Businesses need to put in place its own prevention mechanisms such as codes of conduct, sustainability reporting and whistle-blower protection policies. Businesses need to work together at both the national and regional levels by joining and supporting collective action initiatives. Only by joining together can businesses, especially small and medium-sized Enterprises (SMEs), create a level playing field for all. Local business associations and foreign chambers also need to be involved as they understand better the risks of corruption in their areas.
- Civil society organisations, local community and media need to serve as both watchdogs and strategic partners.
- The fight against corruption goes beyond compliance and legal issues. We should promote a culture of integrity, ethics and transparency in the way we do business in ASEAN. An ethical and value-based culture needs to be cultivated and promoted through education for all people since young. Businesses need incentives and punishment at the same time.

Panel Discussion 1: Preventing corruption: Overcoming key challenges to collective action



From left: Mr. Francesco Checchi, UNODC; Mr. Jose Cortez, Integrity Initiative (Philippines); Mr. Kittidej Chantangkul, Thailand's Private Sector Collective Action Coalition Against Corruption; Moderator Florian Beranek, UNIDO

Panel Discussion: Harmonising business integrity standards and programmes in ASEAN

Panellists include Mr. Muhammad Fahmi, Programme & Development Manager, Business Ethics Programme of Indonesia Business Links; Dr. K M Loi, Deputy President of Transparency International Malaysia; and Ms. Michelle Juan, Business Development Consultant – APAC from TRACE International, Inc. The discussion was moderated by Mr. Jerry Bernas, Programme Director of ASEAN CSR Network.

Panel Discussion 2: Harmonising business integrity standards and programmes in ASEAN



Delegates taking notes at the panel discussion



Panellists from left: Dr. K.M. Loi, Transparency International, Malaysia; Mr. Muhammad Fahmi, Indonesia Business Links; Ms. Michelle Juan, TRACE International, Inc.; Mr. Jerry Bernas, ASEAN CSR Network

The key points that were discussed during this plenary session are as follows:

- ASEAN stakeholders need to make harmonisation of integrity standards and programmes a priority on its agenda. All stakeholders need to work together to move toward harmonised standards and programmes that businesses are called to adhere to. These principles and standards must consider the unique challenges and cultural dilemmas faced by companies operating in ASEAN.
- Initiatives such as the upcoming ISO37001 Anti-Bribery Management System Standard are expected to help stimulate this process. Applying to all organisations, regardless of their type, size and nature of business or activity, and whether in the public, private or not-for-profit sectors, this standard is designed to help an organisation establish, implement, maintain and improve an anti-bribery compliance programme or “management system.” It includes a series of measures and controls that represent global anti-corruption good practices and provides minimum requirements and supporting guidance for benchmarking an anti-bribery management system. The publication of the standard is expected in September 2016. The Malaysian government has indicated the possibility of requiring certification to the standard as a pre-requisite to submitting government bids and tenders.
- The Regional Working Group on Business Integrity serves as a facilitator for the harmonisation of business integrity standards and programme in ASEAN by providing support in raising awareness and understanding of business integrity, building capacity for companies operating in ASEAN to uphold integrity, as well as providing a platform for relevant stakeholder engagement and actions at the regional level.

Training Workshop

The Training Workshop was led by Mr. Akharakit (Ryan) Keeratithanchaiyos, UNODC Anti-Corruption Specialist and supported by Ms. Michelle Juan, Business Development Consultant – APAC, TRACE International, Inc. and Ms. Jeanette Estes, ASEAN Chief Compliance Officer, General Electronic, who shared with participants their practical experience in designing and implementing an effective ethics compliance programme.



Delegates at the workshop



Mr. Akharakit (Ryan) Keeratithanchaiyos, UNODC Anti-Corruption Specialist, speaking at the training workshop

The key highlights of the discussions are as follows:

- ASEAN trend toward criminal liability for corruption offences
 - All ASEAN member states have ratified the UNCAC. Article 26 requires each state party to “adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in the [corrupt] offences.” A review of six ASEAN countries (Brunei Darussalam, Indonesia, Lao PDR, Philippines, Vietnam and Malaysia) found that most countries do not allow for liability of legal persons. Even in countries that allow for such liability, there is a lack of dissuasive, proportionate and effective sanctions for legal persons. However, a positive trend is that all countries have expressly indicated that they are planning to revise relevant laws to allow for (criminal) liability of legal persons and more effective sanctions against legal persons. For example, Thailand has revised the country’s anti-corruption law to incorporate the UNCAC Article 26. The Revised Organic Act on Counter Corruption (3rd edition) which came into force in July 2015 allows for the criminal liability of legal person when its employees, subsidiaries, agents and intermediaries engage in domestic or foreign bribery of public officials. National Anti-Corruption Commission of Thailand has set up high-level committee to draft a compliance guidance for legal persons. Thailand will be quickly joined by its ASEAN peers including Malaysia and Vietnam which are in the process of presenting similar bills to their parliaments.
- Designing and implementing an effective anti-corruption/ethics compliance programme
 - There is no one-size-fits-all compliance programme. A compliance programme should be tailored to an organisation’s specific needs, risks and challenges. When designing its compliance programme, a company needs to consider its unique characteristics such as company size and

geographical reach, including country risk; organisational structure and operational model; the industry or sector in which it operates; use of intermediaries and how they interact with government and commercial customers; the frequency and nature of interactions with governments and officials; prior compliance issues/investigations; and experience, training levels and skills of company employees.

- An effective compliance programme should meet the following criteria:
 - Clear **message from the top** and effective communication to employees. This message should be reinforced and implemented by middle managers as well
 - Effective and accessible **anti-bribery policies** address prohibited behaviour simply, concisely and unambiguously
 - Continuous and effective **training** (tailored web-based versus live training for different audiences)
 - **Due diligence risk management** system which is tailored to company's risk profile
 - **Risk based due diligence on third parties** & ongoing monitoring
 - Different/case-by-case approaches to **gifts and hospitality management** (web-based approval processes; pre-set thresholds and limits)
 - **Confidential reporting & investigating** with effective dialogue with employees and whistleblower protection mechanisms in place
 - **Documented application of policies** (approvals and disapprovals and why; discipline for violation of policies).

3.2. Consultation Workshop: Inclusive Policy-Making in Agriculture and Investment – Experiences and Lessons from Public-Private Partnerships and Multistakeholder Coalitions, 27 October 2015

Introduction



Consultation workshop conducted by Oxfam GB



Delegates at the workshop

Making agriculture and investments inclusive for women and small family farmers is challenging policy-makers. Yet, women and smallholders are at the heart of generating a food-secure and sustainable future. Taking a holistic approach to the social, environmental and economic challenges surrounding agriculture and investments, policy-makers have increasingly been engaging a wider range of stakeholders (public,

private and civil society), often establishing innovative policy coalitions or partnerships. Such initiatives have brought us lessons and challenges on sustainability, effectiveness, accountability and participation. This side-event explored the successes and failures from existing public-private partnerships and multistakeholder coalitions in ASEAN. In its discussion, it aimed to identify better practices, do's and don'ts for participating policy makers from governments, private sector and civil society organisations. The event was a combination of presentations and maximum interaction to facilitate the exchange of learnings.

The moderator for the session is Mr. Johan Verburg, Senior adviser Programme Development & Private Sector Engagement in Agribusiness of Oxfam Novib. The members of the panel were Ms. Juana Zamar, Business Development Services (BDS) Manager, PAKISAMA, Asian Farmers' Association (AFA); Dr. Puvan Selvanathan, Head of International Trade Centre Office to the U.N. and Special Adviser on Food and Agriculture Business, U.N. Global Compact; Ms. Kavita Prakash-Mani, Executive Director, GROW Asia; Mr. Luc Lampriere, Oxfam Consultant; and Mr. Amit Vatsyayan, Regional Economic Empowerment Team Manager of Oxfam GB-Asia.

Highlights

Presentation

Mr. Luc Lampriere, an Oxfam consultant started the session by having talk on multistakeholder initiatives (MSIs). He started by defining what MSIs mean. In his discussion, MSI has been defined as collaboration between the private sector, civil society and public actors to work on changing policies and behaviors. It is driven by different experience of actors from collective action. For public-private partnership, it is mostly initiated by the private sector leading to investment.



Mr. Luc Lampriere, Oxfam consultant

In his presentation and interaction with the audience, the following points were raised:

- MSI is the only way to do CSR, to do business, to do development
- MSIs are used but are often interchanged with other terms such as partnership, dialogue or protocol
- MSI is made possible through an enabling environment
- In ASEAN, there is a gap in dialogue; there is little trust among civil society organisations (CSOs) toward ASEAN
- In the context of MSIs, there are often unfavorable conditions such as high social inequity, disorganised stakeholder groups and lack of financial and technical capacities to implement MSIs.



Delegates at the workshop

Great examples of MSIs were also highlighted:

- RSPO <http://www.rspo.org/>
- Ethical Trade Initiative <http://www.ethicaltrade.org/>
- Rakhine Fisheries Partnership in Myanmar
- Multistakeholder Coalitions in the Philippines
- GROW ASIA <http://growasia.org/>
- Oxfam's Gender Transformative and Responsible Agribusiness Investments in South East Asia (GRAISEA) oxfam.org.uk/graisea

World Cafe

After the presentation, the participants were asked to join the World Café. In this activity, participants were split into four groups and were asked to discuss four different topics within their groups. The groups were also asked to report back to the plenary after the group discussions.

- **Effectiveness**
 - Who defines what MSI is trying to achieve?
 - Goals keep getting shifted in the process
 - Who pays?
 - If farmers need to organise, who pays?
 - Donor will insist on measuring from the beginning
 - Success of MSIs is rare
 - If goals are redefined, should we measure it differently?
 - Lessons from failures
 - Who steps in for serious cases? In the case of human rights, human right commission (the state) is still the primary rights bearer.
- **Participation**
 - Participation must be genuine and meaningful
 - There should be a balance of power
 - NGOs and CSOs must claim to represent the smallholder farmers
 - There should a direct access to information on the benefits and profits to come out of the partnership.
- **Accountability**
 - Accountability must be rooted in trust and transparency
 - There should be joint accountability in MSIs
 - Common goals and agendas must be set in place where all stakeholders are held accountable for
 - There should be equal representation
 - There should be a third party assessment. A broker outside the MSI must bring everyone to the table and hold everyone accountable

- Assessment and evaluation must be shared widely
- Assessment and evaluation must clearly articulate what are the benefits and who benefits.
- **Policy engagement**
 - There should be representation & incentives to join in policy process
 - There should be a mechanism for voice empowerment
 - Evidence & evidence-based research is needed to influence policy
 - The capacity of stakeholder to represent and to influence are key factors
 - If a policy is being implemented, people would be more likely to engage

Panel Discussion

After the world café, the invited speakers were asked to be part of a panel discussion. The following were the main takeaways of the discussion.

- **What are the problems?**
 - MSI is only a means to an end
 - Thorough preparation before participating in MSIs
 - Participation forum should be closer where people live (not just in the capital and not abroad)
- **What are the cross-cutting themes?**
 - Women's participation. There is still a culture that discourages women's attendance at meetings
 - Business case for women engagement. Why would companies do it (business benefits)? How companies must do it if most of these are in social realms (norms, culture)?
 - Farmer participation. Farmers organise among themselves into unions, associations and cooperatives. In Vietnam, there are instances where farmers from the community level have the right to vote on commodity boards
 - Buy-in of local business to PPP is low
 - This has been spearheaded by Western companies
 - SMEs represent much of local business
 - Western & local businesses should not be seen as competing
 - Pilots of models should be at local level. Then it must be scaled up to policy level and be disseminated
- **Why are so many MSIs, PPPs struggling?**
 - Few people actually decide for the group
 - More flexibility to accommodate broader/new membership
 - Bilateral relationships of two stakeholders need to be worked on before moving to multistakeholder relationships



Delegates having a discussion at the workshop

- There is a need to get practical quick. Success must be shown and results revisited and measured
- **Design of MSIs**
 - It must involve the decision-making power of women
 - Unpaid care work must be factored in
 - Who will shoulder it if women want to engage more in the economy?
 - It must bring people together to define the common goals and then measure the results against the common goals
 - It must start small to allow room for learning; it should be open to failure
 - There must a flexible design. It must be framed in a rigid monitoring and evaluation
 - There needs to be a balance between measuring and getting the work done
 - Effectiveness must be considered before doing any action
 - Proper documentation must be employed
- **Do's & Don'ts in MSIs**
 - Corporate should give opportunities for small farmers to engage
 - Enough policies. We should focus on implementation/enforcement
 - Clear on rationale
 - Clear on who pays
 - Who will mediate when conflict arise?
 - Ensure balance of power
 - Change mindsets of government to listen to stakeholders
 - Incentives for private sector & CSOs to engage in policy
 - There should be a trusted facilitator. Bringing everyone to the table is not enough

3.3. Consultation Workshop: Driving Gender Transformative Agricultural Investment: Challenges, Opportunities and Practical Solutions toward Sustainable Economic Growth in the AEC, 27 October, 2015

Introduction



Delegates having a discussion

Investing in gender equality, inclusive agriculture value chains and women's economic empowerment are critical to ensure sustainable and responsible business in the AEC. Over the past decades, commitment to gender equality and women's economic empowerment continue to gain grounds among governments, companies and development actors. However, the gender gap is still wide and women in Southeast Asia continue to face high levels of discrimination, economic exclusion and violence.

In the agriculture sector, women's contributions and pivotal roles are hardly recognised and rewarded,

and women-led enterprises continue to face disproportionate challenges. Barriers to women's economic empowerment remain pervasive and are underpinned by broader gender inequality embedded in social norms, policies and business practice. Thus, increasing women's participation and empowerment in the ASEAN economies is potentially one of the most powerful ways to improve economic and development outcomes. The AEC aims for regional integration and greater prosperity, but at the same time also poses the danger of reinforcing inequitable economic growth and gender inequalities. The AEC provides a momentum to develop and/or strengthen collaborative partnerships between private sector, governments and civil society as drivers for gender transformative change.



Delegates participating at the workshop

Highlights

The workshop gathered over 30 representatives from the private sector, government, civil society organisations, ASEAN and social entrepreneurs/enterprise leaders to share evidence of best practices in advancing women's economic empowerment, reflect on challenges and opportunities for smallholders and women-led enterprises, and propose practical and innovative solutions to effectively drive gender transformation in agricultural investments and markets across ASEAN. Five panel members from the ASEAN women entrepreneurs network, social enterprise sector, international women's rights network and international trade shared insightful perspectives and recommendations on how to best advance gender transformative change in the context of the AEC.

The topics in the panel and the speakers are as follows:

- ***Great Women in ASEAN: Empowering Women Up the Value Chain***
Pacita Juan,
Founder and President, Echo Store Sustainable Lifestyle
President, Women's Business Council, Philippines
- ***Gender Empowerment: Experiences in the Vietnam Chamber of Commerce***
Thi Tuyet Minh Nguyen,
Chairwoman of Vietnam Women Entrepreneur Council (VWEC)
- ***Social Enterprises (SE) as Partners of Marginalised Women in ASEAN***
Dr. Marie Lisa Dacanay
President, Institute of Social Entrepreneurship in Asia (ISEA)

- **Empowering Women through Trade: ITC Women and Trade Programme**
Dr. Puvan Selvanathan
Head, International Trade Center (ITC) Office to the United Nations (UN)
- **Framework for Women's Economic Rights in ASEAN**
Shanti Uprety
Program Officer, International Women's Rights Action Watch-Asia Pacific (IWRAW-AP)



Delegates at the workshop

The post-2015 regional integration of ASEAN economies offers both opportunities and challenges. ASEAN will be fairer and more competitive region when the gender gap is closed. Increasingly, businesses are seeing the potential in actively empowering women economically, but more is needed from all companies and government policy-makers. This includes going beyond transactional initiatives that merely employ or buy from women, but move into transformational change to address gender inequality.

Women-owned social enterprises offer hope for gender transformation by enhancing women's inclusion and leadership, including contributing to food security and poverty reduction that are critical to achieving inclusive and sustainable development in the AEC. ASEAN and its Member States need to recognize, actively support and promote women-led enterprises.

Mainstreaming women's empowerment across the three-pillars of ASEAN is critical in realising ASEAN's 2025 Vision. This requires collaboration between all sectors: business, civil society and government.

What are we asking the Workshop?

- To consider during the succeeding main event and forums, the impacts on women, the potential mutual benefits of gender justice in economic development and the implications of gender inequality
- To address the challenges of the gender gap in agriculture and to consider various recommendations for practical solutions and potential collaborations between different stakeholders in ASEAN
- To help strengthen enabling conditions that will advance a win-win solution for different stakeholders in ASEAN where financial viability and gender equitable businesses are not mutually exclusive

Recommendations from the Workshop

ASEAN

- Institutional reform for mainstreaming of crosscutting issues such as gender and human rights
- Improve coherence, synergy and coordination across pillars toward a gender transformative agenda
- Develop UNGP with stronger focus on gender transformation
- Ensure participation of marginalised sectors, especially smallholder farmers and women on relevant ASEAN processes
- Recognise and support social enterprises as key economic actor and as vehicles for poverty reduction and women's economic empowerment



Delegates at the workshop

Member States

- Include gender equality in educational curriculum
- Improve enabling policies that recognize and promote women's access and ownership of land and productive assets necessary; policy legislation and regulation that promote women's rights and economic empowerment should be in place
- Facilitate market services that will benefit women farmers and women-led businesses/social enterprises such as better access to finance with low interest rates, capacity-building and marketing support
- Stronger commitment and effective measures to promote gender equality and increased women's political participation
- Improve fiscal policies, especially taxation
- Develop sex-disaggregated data on all economic sectors (agriculture, industry, services, etc.) to aid economic policy development
- Recognise and support social enterprises as vehicles for women's economic empowerment

Private Sector

- Integrate effective strategies to contribute to gender transformation of women farmers
- Broadening of private sector inclusion different business models like social enterprises and inclusive business in the business advisory council

CSOs and Farmers Movements

- CSOs should continue to work toward informal and systemic strategies to address socio-cultural norms
- Organise CSOs to create coalitions and strengthen ranks
- Engage media to disseminate best practice business with women as main driving source

- Train women workers in business (skills enhancement)
- Launch advocacy for increase private sector support to women farmers
- Conduct budget advocacy in government and private sector
- Work on programmatic interventions while working on policy influencing
- Explore innovative strategies (e.g., social media) in elevating issues in communities
- Need to do a comprehensive power analysis to enable us to have sound strategy in influencing ASEAN governments
- Ensure women's rights while incorporating them in business

3.4. Consultation Workshop: Implementing the U.N. Guiding Principles in Business and Human Rights, 29 October 2015

Introduction

The Workshop, held on 29 October 2015, was designed to gather input from government, business and civil society stakeholders on how developing national and regional strategies on business and human rights (BHR) can help create an enabling environment for the greater protection and respect for human rights in ASEAN. The Workshop was co-organised by ACN and the Singapore Management University (SMU), with support from the Government of Sweden through its embassy in Bangkok, the Asia-Europe Foundation (ASEF) with the financial support of the European Union, and the British Institute of International and Comparative Law (BIICL).

The Workshop participants included government representatives, representatives to the ASEAN Intergovernmental Commission of Human Rights (AICHR), business representatives and civil society organisations (CSOs), and representatives from the National Human Rights Institutions (NHRIs) within ASEAN.



Ms. Jaya Anil Kumar, Singapore Management University, addressing the delegates

The day was divided into three panel sessions, and a breakout session. The first two panel sessions dealt with implementing the UN Guiding Principles (UNGPs) and national action plans on BHR (NAPs) in ASEAN, while the third panel session and the breakout session dealt with human rights due diligence practices in businesses. The breakout session was designed to feed into the [Due Diligence Project](#), which is jointly carried out by BIICL and Norton Rose Fulbright LLP (NRF). The Due Diligence Project is a study aimed at producing practical recommendations for businesses in relation to their approach to human rights due diligence.

Highlights

Opening remarks were delivered by Mr. Thomas, the CEO of ACN, and Mr. Thierry Shwarz, the Director of the Political & Economic Department of the Asia-Europe Foundation. Keynote speeches were also delivered by H.E. Tan Sri Dr Muhammad Shafee Abdullah, Chair and the Malaysian representative to AICHR and Prof. Robert McCorquodale, the Director of BIICL.



Mr. Thomas, CEO, ASEAN CSR Network, giving the opening remarks at the Consultation Workshop: Implementing the UNGPs on Business & Human Rights



Mr. Thierry Shwarz, Director, Political & Economic Department, Asia-Europe Foundation, giving the opening remarks at the Consultation Workshop: Implementing the UNGPs on Business & Human Rights



H.E. Tan Sri Muhammad Shafee Abdullah, Chair & Malaysian Representative, AICHR, giving the keynote address

Tan Sri Shafee gave the first keynote speech. He underscored the importance of increasing awareness of the fact that business can be potential human rights abusers. Business-related human rights abuses include causing pollution (including transboundary haze which impacts on public health), taking part in unsavoury labour practices (including child labour) and corruption (especially in the context of land evictions without free, prior and informed consent). In particular, mistreatment of migrant workers within ASEAN is an important issue of which States should take cognizance of.

Contracts dealing with migrant workers should be transparent and vetted. The perception that only States carry out human rights violations should be removed. States and businesses should work together to alleviate human rights abuses by businesses.

Prof. McCorquodale gave the second keynote speech, which centred on human rights due diligence practices in businesses. Among other things, he stated that due diligence is not just a self-serving, box-checking exercise to assess risk. Due diligence imposes an external, objective standard of conduct to take reasonable precautions to prevent certain types of harm such as human rights abuses, property damage and environmental pollution. He also spoke about the comprehensive Due Diligence Project that BIICL is undertaking with NRF.

The remainder of this report sets out the key takeaways from this Workshop.

Presentation: Launch of NAPs Project Report

In 2013, the United Nations (UN) working group on the issue of human rights and transnational corporations and other business enterprises (UNWG) issued a request for proposals for a project to develop implementation guidelines for NAPs that would draw upon the perspectives of those who would be creating and using them: States and their stakeholders, including business and civil society.

The UNWG awarded the grant to a Coalition of African and Asian research institutions, led jointly by the Centre for Applied Legal Studies, University of the Witwatersrand (CALC); and the Asian Business and Rule of Law Initiative in the Singapore Management University (SMU-ABRL) together with Centre for Human Rights, University of Pretoria (CHR), and ACN.

On 4 and 5 February 2015, SMU-ABRL and ACN organised a consultation in Bali, Indonesia, to gain a deeper understanding of the issues facing Africa and Asia with respect to NAPs. A similar consultation was organised in Johannesburg from 23-24 February 2015.

Having worked together over the last three years to facilitate the implementation of the Guiding Principles through national and regional plans of action, the CALS-SMU Coalition has submitted its final report to the UN Working Group. The [submission](#) to the UNWG is intended to add value to the [UNWG's draft guidance on NAPs](#). The Coalition's findings will also be featured at the 2015 UN Forum on Business and Human Rights in Geneva (16 – 18 November 2015) (Geneva Forum), where the UN Working Group will unveil its latest update to a global Guidance on NAPs.



Delegates at the Consultation Workshop: Implementing the UNGPs on Business & Human Rights

Prof. Michael Addo, a member of the UNWG, stated that he was convinced that the outcomes of this research report will inform the progressive update of the UNWG's guidance document, and assist the UN Human Rights Council and state parties to develop context-specific and sustainable NAPs that resonate with the nations of the Global South as much as they do with those of the North.

Mr Thomas said that the UNGPs represent an important opportunity to further define and implement the human rights obligations of businesses. He added that the ACN is proud to be working with SMU and other partners to provide a platform for charting the future of the UNGPs in ASEAN.

At the Workshop in Kuala Lumpur, a presentation on the Coalition’s findings, was made. The key points that were highlighted include the following:



Audience participation at the workshop

- **Trade & Investment:** ASEAN represents a market of some 600 million people, with a combined GDP of about US\$2.5 trillion and upwards of US\$1.5 trillion in trade flowing throughout the region. This growth will demand more than \$7 trillion of investment in core infrastructure, housing and commercial real estate across ASEAN through 2030. Unprecedented foreign investment in the Global South brings benefits; but potential public health, environmental, and human rights risks as well. NAPs in Asia can ensure that human rights promotion and protection are not sacrificed for the sake of economic growth led by multinational corporations (MNCs).
- Beyond international norms, NAPs in ASEAN should reference clauses contained within ASEAN agreements, such as the ASEAN Comprehensive Investment Agreement (ACIA) and other trade & investment treaties, which oblige foreign investors to respect the member States’ right to regulate in the public interest.
- **AEC & NAPs:** The AEC, which will be launched in 2015, is a key priority for the region. CSR considerations are currently subsumed under a separate ASEAN Socio-cultural Community Blueprint. NAPs processes in the Global South should first identify gaps in existing legislative and regulatory frameworks, and then outline ways in which to bridge them. It may make sense in certain contexts to integrate a NAP for business and human rights into a NAP for human rights, or a regional plan such as Bali Concord III.
- **Infrastructure:** NAPs can be a means of monitoring infrastructure projects in Asia and Africa. For example, the Asian Infrastructure Investment Bank (AIIB), a much-lauded US\$100 billion lender launched this year, appears to have few environmental and social governance safeguards in place.

NAPs can call for the periodic assessment and review, and thus better ensure that any related environmental and human rights impacts are mitigated.

- **Sustainable development goals (SDGs) and NAPs:** Extractive companies, including agro-businesses, impact on a broad array of human rights in ASEAN States, such as environmental degradation, which has adversely affected health, sources of livelihood and access to clean water. There is currently little public access to documentation of concession and related contracts and businesses’ human rights practices under them, particularly in cases relating to land tenure. Asian NAPs should consider providing for greater transparency. While economic development dominates the agenda of ASEAN, forward-thinking policy-makers and businesses based in the Global South understand the value of SDG 16, which is “dedicated to the promotion of peaceful and inclusive societies for sustainable development, the provision of access to justice for all, and building effective, accountable institutions at all levels.”
- **NAPs Developments in the Region:** While several Asian States have started the NAP process (Myanmar, Philippines, Indonesia and South Korea), Malaysia has led the way. In March 2015, its NHRI, SUHAKAM, released a “Strategic Framework on a National Action Plan on Business and Human Rights for Malaysia” to provide a policy direction for the formation of a NAP. The strategic framework was prepared by SUHAKAM after roundtable consultations with business groups, civil society and relevant government agencies through focus groups and a Workshop. The integrity of the NAPs development and monitoring process is crucial. A NAP in ASEAN should ideally provide for, among other things, inclusive multistakeholder dialogue, a balance between economic growth and human rights, and clarity and consistency for States and foreign investors alike.

Panel 1: Developing a regional strategy to implement the UNGPs through NAPs

The first panel was a plenary session titled “Developing a regional strategy to implement the UNGPs through NAPs.” Topics discussed included the context of the AEC and implications for sustainable development, the ASEAN Human Rights Declaration and the Trans-Pacific Partnership (TPP) and the UNGPs. Panellists also identified BHR issues that are rampant within ASEAN, such as migrant worker issues.



Chair: Prof Michael Addo, Member UNWG on Business and Human Rights at the Plenary Discussion: Developing a regional strategy to implement the UNGPs through NAPs



Prof Michael Addo having a quick discussion with the panellists

The key points that were discussed during this plenary session are as follows:

- In order for the UNGPs to be effectively transformed from paper to practice, the UNWG needs to form effective partnerships. Regional relationships are important. Regional organisations do play an important role in pushing the agenda for CSR, as many of these organisations influence political decisions that are made in their respective States.
- The pertinent BHR issues that the panellists identified as being relevant to ASEAN include labour rights, including having a mandatory minimum wage, and migrant worker rights. Any investment agreement must also take into account human rights. It is important to follow up on the recommendations in the [AICHR Baseline Study on CSR & Human Rights](#) that was released in 2014. ASEAN's post 2015 development goals must also be taken into account when any country is devising a NAP.



Q&A session

- The discussion then moved to the TPP. The TPP was signed by 12 Pacific Rim States, including four within ASEAN – Brunei, Malaysia, Singapore and Vietnam (At the time of the Workshop, the official text of the TPP was being finalised).³
- The TPP includes unique provisions dealing with the role of State-owned enterprises in the economy, environment, labour rights, transparency and regulatory coherence. Obligations in the TPP can be supported by NAPs.
- The TPP contains provisions to protect “policy space” for host governments. Article II.5 ensures that States are allowed to take measures to ensure that investment activities is taken in a manner sensitive to its regulatory objectives. This is in line with UN Guiding Principle 9, which recommends that “States should maintain adequate policy space to meet their human rights objectives when pursuing business related policy objectives.” Article II. 6 also states that parties reaffirm the importance of principles of CSR.
- The labour chapter of the TPP requires parties to agree, among other things, to adopt the fundamental labour rights as recognised in the ILO Declaration. The commitments in the labour chapter are subject to binding dispute settlement procedures. The parties to the TPP have also agreed to establish a labour dialogue to promote the rapid resolution of labour issues between TPP parties.
- A chapter in the TPP is dedicated to regulatory coherence in States. It requires that regulations should be written clearly and concisely, for public rights to access to information on new regulatory measures and that existing regulatory measures are periodically reviewed to determine if they remain the most effective means of achieving the desired objective. The chapter does not in any way affect the rights of TPP parties to regulate for public health, safety, security

³ The final text of the TPP Agreement was released on Thursday 5 November 2015. In 30 chapters, the TPP covers a wide range of subjects, from traditional trade liberalisation through to services, investment, environmental protection and labour standards.

and other public interest reasons. In this regard, Guiding Principle 8 recommends that States should ensure that human rights obligations are respected when shaping business practices.

Panel 2: Building on existing programs and strategies to develop / implement NAPs



From left: Chair Andreas Graf, Swiss Peace; Obaidur Rahman, Save the Children; Alex Newton, Australia; Mimin Dwi Hartono, KOMNAS HAM (Indonesian NHRI); Cynthia Morel, SMU; Dr. Puvan Selvanathan, International Trade Centre to the UN

The second panel was a roundtable discussion titled “Building on existing programs and strategies to develop and implement NAPs.”

Topics included the review of progress and lessons with development of NAPs, taking into account the contribution of other stakeholders and existing initiatives in the region, the importance of process and the role of other stakeholders such as civil society and business associations, opportunities for collaboration and sharing knowledge, whether there is an emerging ASEAN vision for the development of NAPs and the transboundary haze pollution.

The key points that were discussed during this roundtable discussion are as follows:

- Any NAP should be true to the UNGPs, and should be inclusive and transparent. They should not be a “one-off” process, and should account for cumulative progress. In other words, a NAP should provide for periodic review.
- In order to effectively ascertain BHR issues in a country, it will be useful to analyse BHR abuses by sector. BHR issues that plague one sector (e.g., oil and gas) may be very different from another (e.g., textiles). Responses and solutions in a NAP must be calibrated to address specific issues in a country, while remedies should remain flexible and inclusive.
- Transboundary haze pollution that has been plaguing many ASEAN States was couched as a problem that relates to human rights governance issues - and one that may amount not only to a regulatory breach, but a crime with relatively stiff penalties. Singapore’s National Environment Agency has issued “preventive measures notices” to six Indonesian firms under the Transboundary Haze Pollution Act. Some participants noted that ASEAN States have to scrutinise the economic models that contribute to haze pollution, and change these models to allow for more sustainable practices.
- Child rights were emphasized in this panel. Besides tackling child labour issues, which are prevalent in ASEAN, a NAP should endeavour to tackle unemployment in youth, as many ASEAN States have a young population. The manufacturing processes or the supply chain must be scrutinised, and entrench responsible practices on the ground to ensure that child labour is eradicated.
- One viewpoint that was offered was that any country not taking NAPs seriously is championing economic apartheid. The unprecedented growth that ASEAN is enjoying is due to businesses – so development and economic issues are now indivisible. Thus, the relationship between business and government must be scrutinised. In other words, a government must examine the

opportunity cost in not framing a NAP in a model that States have already accepted. In order to be a government leader in ASEAN, one must also be a business leader, i.e., learn to harness the power of business by establishing key lines of communication with them, and so that the government is made to be aware of the key human rights issues that are plaguing businesses.

- The discussion also included the likelihood of a NAPs in States that are outside ASEAN. In Australia, while progress on BHR issues have been disappointing, discussion is ongoing among the key players to ascertain whether there is a benefit in having a NAP. With the new Prime Minister in place, there is optimism that progress will be made. The government in recent times has also ordered a number of multistakeholder initiatives on BHR, for example endorsing the Kimberley Process. There has also been much focus on private sector development and investing in women's issues. However, there has been a lack of capacity to carry out the initiatives. Coordination and coherence is lacking in this regard.

Panel 3: Business and Human Rights Due Diligence

The third panel was a plenary session was titled "Business and Human Rights Due Diligence."

The topics included human rights due diligence practices by businesses, and measures that have been taken, or can be taken by ASEAN governments in ensuring that the same is carried out. The panellists included representatives from MNCs, a corporate regulatory body, and a law firm. This session followed BIICL Director Prof Robert McCorquodale's keynote speech on human rights due diligence practices in businesses.



From left: Prof Robert McCorquodale, British Institute of International & Comparative Law; Marina Nathan, Companies Commission of Malaysia; Stuart Neely, Norton Rose Fulbright; Jasmine Begum, Microsoft Malaysia; Christian Bustamante, Hitachi Asia Ltd; Cynthia Morel, SMU

The key points that were discussed during this plenary discussion are as follows:

- Representatives from the MNCs explained that over the past decade, they have started to adopt CSR measures.⁴ According to these representatives, implementing CSR practices has become a non-negotiable part of their corporate culture. When investing in a particular country, these corporations look at the human rights practices of that country, for example, the existing human rights policies and the conventions that the country in question has ratified. Their suppliers too, have to be compliant with the CSR practices. This is a consideration that many small and medium-sized enterprises ("SMEs") do not prioritise.
- Furthermore, corporations have started to move away from the thinking that CSR obligations can be fulfilled through philanthropy and are taking to developing CSR strategies that can be implemented across ASEAN. These MNCs understand that they manufacture products that society uses on an everyday basis, so it is important that they maintain the highest CSR standards in order

⁴ Examples that were mentioned at the Workshop include the [Microsoft Corporate Citizenship](#) and [Hitachi's CSR schemes](#).

to create a culture in which CSR obligations are respected and not taken lightly. They follow international standards in order to achieve this – one example is the ISO 26000 standard. Corporations also do remediation in instances where harm has been caused. Furthermore, corporations have also engaged external organisations such as SHIFT, in order to form their CSR guidelines.

- Since 2009, the Companies Commission of Malaysia, or Suruhanjaya Syarikat Malaysia (“SSM”), though its corporate responsibility (“CR”) agenda, has promoted a holistic corporate governance practice for adoption among the businesses and companies in Malaysia. Under Section 17(d) of its Companies Commission of Malaysia (Amendment) Act 2015, SSM is now entitled to promote CR. This amendment requires SSM to encourage their stakeholders to ensure that business activities are conducted in accordance with good corporate governance and to encourage and to promote corporate responsibility and business sustainability. In 2009, it also launched its Corporate Responsibility Agenda, and focuses on the CR culture of SMEs, which forms 98 percent of SSM’s membership.
- The recent amendments to the Malaysian Companies’ Act has introduced the Business Review Report (“BRR”). Under the BRR, companies will be encouraged to report on matters relating to, among other things, information on the company’s business/operations on the environment. As a regulator, SSM will promote matters relating to the environment, social and community issues and possibly human rights. SMM is also in the midst of drafting a Toolkit on Business Review which will facilitate, support and provide companies and businesses on available approaches, tools, standards and resources for corporate responsibility disclosure under the new Companies Act.
- The discussion then moved to the challenges in carrying out due diligence in business practices. One challenge is monitoring the actions of an MNC’s suppliers, many of which may be located in various jurisdictions all over the world. It may be difficult to assess whether the domestic laws of these States are in line with international human rights norms. It may also be difficult to track the actions of subsidiary companies. Another issue is governance – employees and senior management must take ownership for the BHR problems that occur within a corporation. When information is presented, corporations must be quick to take action.

Breakout session by BIICL and NRF

The final part of the Workshop was a breakout session facilitated by BIICL and NRF, which was designed to contribute to their Due Diligence Project. Participants were asked to answer two questions:

- What human rights due diligence practices do you see (if at all); and
- What human rights due diligence practices would you like to see?



Delegates having a discussion during the breakout session

As regards the first question, the following responses were given, among others:

- An increase in welfare-oriented programmes, particularly to single mothers;
- Increasing gender equality in workplace promotions;
- Accounting for disabled person in a company's CSR guidelines;
- Better government assistance for logistical help for workers to get to their workplace (e.g., subsidies on motorcycles);
- Regulation focused on the environment has become increasingly prevalent among businesses; and
- In ASEAN, more legislation focusing on human rights have been passed in recent years.

As regards the second question, the following responses were given, among others:

- A conducive environment where the private sector engages in dialogue with CSOs;
- A better push for environmental protection;
- Training should be conducted for low-wage workers, particularly migrant workers, to so that they can be aware of their labour rights;
- Better monitoring of due diligence practices, particularly for SMEs;
- Fairer treatment of farmers;
- Promoting better awareness of the concept of due diligence;
- Better labour practices, in particular seeing an end to the practice of firing labourers before their probation period is over, so that corporations can continue to hire workers on a cheaper salary;
- More transparency in Indonesia's concession maps to give effect to Singapore's Transboundary Haze Pollution Act;
- Better due diligence practices for suppliers which are further down the supply chain, and not just for those suppliers which are "visible" to a corporation;
- Stronger regulation to curb the legal power or corrupt local officials;
- Better capacity building measures be taken across ASEAN; and

- A clear complaints mechanism in ASEAN, similar to the National Contact Point (NCP) scheme adopted in OECD countries.



Prof Robert McCorquodale

Professor Robert McCorquodale said that the active engagement and interest by the participants in the breakout session was impressive. It was clear that the issue of human rights due diligence was essential to be clarified for all stakeholders, including companies, government and civil society, and that much more needs to be done to ensure that it becomes part of a company's activities.

At the end of the Workshop, Mr. Thomas thanked participants and sponsors for the event's success and encouraged continued multistakeholder dialogue and engagement. He observed that the Workshop was wide-ranging in its coverage, raising issues on the importance of NAPs to implement the Guiding Principles; access to effective remedy; and identifying current and prospective practices of States (and business) in dealing with cross-border problems.

Mr. Thomas will represent the CALS-SMU coalition at the Geneva Forum, and will speak on a panel on NAPs.



Mr. Thomas, CEO, ASEAN CSR Network giving the closing remarks

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