



Navigating Human Rights

A Guide to Human Rights Due Diligence
and Salient Human Rights Issues
in Shipping



DanishShipping

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By providing maritime transportation and logistics services and thereby access to markets, the international and Danish shipping industry serves to strengthen and enable trade and development, and thereby also the enjoyment of rights around the world. There are, however, also a number of human rights risks associated with the industry and its value chain. There is no consolidated overview of the most salient human rights impacts of the Danish shipping industry and as such there is a need to coordinate across the industry on addressing shared challenges and systemic issues.

A primary goal of this guidance is to guide Danish Shipping members on how to conduct human rights due diligence and thus ensure respect for human rights. For some, this guidance will assist in the start of the human rights journey, and for those who have started that journey already, it should serve as guidance as they take further steps in their ongoing human rights due diligence processes.

In this document you can find information on the process of setting human rights commitments as well as establishing due diligence procedures to identify, assess, address and report on human rights issues. Based on desktop research, internal and external interviews and a workshop together with representatives from Danish Shipping members, a number of human rights issue areas have been identified as the most salient for the Danish shipping industry, and in this document each of these issues are described, and suggested mitigating measures are provided.

All companies are different, and mitigating measures should be prioritised based on where the potential negative impacts are most severe. Business activities change over time, and as companies enter into new markets and new activities, so will the actual and potential impacts on human rights. The concept of respecting human rights through

human rights due diligence provides companies with a system that is adaptable and can be used for all kinds of companies and all kinds of contexts. With appropriate governance systems, companies will be better able to identify and effectively address potential and actual human rights impacts, and thereby be fit for a future where the expectations and requirements on companies are constantly increasing.

Contributing to the sustainable development goals



This guidance is focused on human rights due diligence and not explicitly on the Sustainable Development Goals (SDGs). However, the SDGs “seek to realize the human rights of all” and more than 90% of the goals and targets are grounded in the Universal Declaration of Human Rights and other international human rights instruments. The 2030 Agenda also emphasizes the critical role that human rights play in the achievement of sustainable development in all its three dimensions - economic, social and environmental.

By conducting human rights due diligence and by putting human rights at the centre of their actions to contribute to the 2030 Agenda, companies have an immense opportunity to advance human development and human rights. Oftentimes, the corporate responsibility to respect human rights is viewed simply as a matter of compliance and risk management, whereas actions to contribute the realisation of the SDGs is seen as more innovative, leadership-oriented and transformative. However, if companies effectively avoid and address their adverse human rights impacts, this is a powerful driver for genuine transformation and likely the most significant contribution to positive outcomes for rights-holders that any company can make.

Respecting human rights

Human rights are a set of rights all human beings are entitled to. In a business context, different rights and rights-holders can be particularly at risk, for example workers and their rights to just and favourable conditions at work, their rights to not be subjected to forced or bonded labour, not to be discriminated against and so forth. Businesses may also impact

the rights of communities, for example through environmental impacts that affect the health and livelihoods of local communities.¹

The UN Guiding Principles on Business and Human Rights (UNGPs) were unanimously endorsed by the UN Human Rights Council in 2011 and have since then been the internationally recognized standard concerning the corporate responsibility to respect human rights. The UNGPs set out that while states have a responsibility to protect human rights in relation to negative impacts caused by business activities, companies have a responsibility to respect human rights. This means that businesses must have an ongoing process (called human rights due diligence) in place to identify, avoid, address, mitigate and remediate the human rights impacts with which they are involved. This responsibility concerns all businesses (though scale and complexity may vary depending on size) and all internationally recognized human rights. Companies' responsibility to respect human rights applies regardless of a government's failure to fulfil its own duty. For example, in a country where the government does not have any laws concerning discriminatory practices a company's responsibility to respect the right to non-discrimination remains intact.

BUILD ON EXISTING GOVERNANCE SYSTEMS

It is important to note that human rights due diligence activities can benefit greatly from existing CSR and sustainability efforts and activities. Such efforts and activities can often be adjusted to align with the UNGPs and the process of human rights due diligence. It should also be added that human rights cut across topics that most companies are already familiar with, such as human resources, health and safety, responsible procurement etc. As such, it is important to not reinvent the wheel but to make sure human rights due diligence is embedded into and benefits from existing efforts.

What is required?

Policy commitment

Companies should have a policy commitment to respect human rights, which should at least refer to the International Bill of Human Rights and the ILO core labour standards but also other relevant human rights instruments. The commitment should also include expectations on suppliers to respect human rights, and commitments to engage with stakeholders and to provide access to remedy where the business has caused or contributed to negative human rights impacts. For more guidance on developing a human rights policy commitment, see [A Guide for Business - How to Develop a Human Rights Policy](#).

Identifying and assessing impacts

Companies should have processes to identify their potential and actual human rights impacts. Such processes should look at the different risks for specific locations/geographies and activities, and the impacts that they may **CAUSE** or **CONTRIBUTE TO** as well as otherwise be **LINKED TO** through business relationships.

EXAMPLES OF TYPES OF IMPACTS

- **CAUSE:** A company discriminates against women in decisions about promotions.
- **CONTRIBUTE TO:** A company demands significant last-minute changes in product specifications from a ship builder without adjusting the price or delivery dates. As a consequence, the builder requires its workers to work significant overtime without being compensated.
- **LINKED TO:** A company requires a port to expand if it wants to continue the relationship. The port owner acquires more land, which leads to the forceful resettlement of local communities previously using the land.

¹ For an overview of human rights and the impact business may have please consult this resource: www.ungpreporting.org/wp-content/uploads/2015/07/UNGPRF_businesshumanrightsimpacts.pdf



There are many different sources to consider when trying to identify country and sector risks. A good resource to consult is the [Business & Human Rights Resource Centre](#). The [Universal Periodic Review reports](#), the [country visit reports by UN Working Group on Business and Human Rights](#) and the [Global Naps website](#) are other good and publicly available sources to consult.

When negative human rights impacts have been identified companies should proceed to assess the **SEVERITY** of those impacts. In situations where it is necessary to prioritise actions to address the identified impacts, companies should address the most severe potential and actual human rights impacts first. It is important to note, however, that companies have the responsibility to address all their negative human rights impacts.

When determining SEVERITY, please consider:

- **Scale:** how serious is the impact?
- **Scope:** what is the total number of people affected?
- **Irremediability:** how easy is it to mitigate the impacts, is the harm irreparable?

Assessments of potential and actual impacts must be ongoing, and a general overview should be updated systematically since business activities,

environments and other factors are dynamic and often subject to change. In cases where severe potential or actual human rights impacts have been identified a [standalone human rights impact assessment](#) can be performed to further [assess the impacts](#). As previously mentioned, it is important to not reinvent the wheel and companies can and should make use of existing risk assessment processes, such as HSE assessments and supplier audits, and adapt those systems to include human rights criteria and standards. A good initial resource to consult in order to assist in the identification of impacts is the [Platform for Human Rights Indicators for Business \(HRIB\)](#), which is made up of indicators that enable companies and other stakeholders to assess corporate policies, procedures and practices on human rights.

Integrating and acting on findings

Companies should have a global system to take action to prevent, mitigate or remediate their potential and actual negative human rights impacts, including in the supply chain and elsewhere in the value chain. A company’s responsibility differs depending on its involvement in the negative impact. Companies have a responsibility to cease, prevent and remedy impacts that they cause or otherwise contribute to. This can for example concern immediately changing health and safety practices after it has been identified that new hires are not trained properly and are not wearing the required personal protective equipment. Another example is to adjust purchasing practices after it has been identified that suppliers made their employees work overtime due to last-minute changes to orders, without paying the employees for their overtime work.

Concerning impacts that companies are merely directly linked to through business relationships, the requirement is to mitigate or prevent the impacts. In the “linked to” scenario companies are expected to use or seek to increase their leverage to mitigate the adverse impacts. They are however not required to provide remedy. One way to increase **LEVERAGE** is to take collective action, such as working together with other shipping companies to pressure a non-compliant port or terminal to improve their labour rights-related practices, which have been identified to be poor. When a business partner is causing negative human rights impacts the

company can initially assist the business partner in addressing and mitigating the negative impacts, as well as increase its leverage to influence the business partner. However, if all else fails, the company should consider terminating the business relationship.

What is LEVERAGE?

- Situations where a company has the ability to affect change in the wrongful practices of an entity with which it has a business relationship.

Examples of ways to build leverage:

- Dialogue about expectations and requirements
- Contractual clauses
- Capacity building
- Collaborating with like-minded industry peers and customers
- Bilateral engagement with other actors who have leverage
- Multi-stakeholder collaboration

Examples of ways to build leverage are mentioned in this document in relation to the various salient issues.

Tracking and monitoring

Companies should have a system for tracking and evaluating the effectiveness of actions taken, to assess whether they have produced the desired results or not. Companies should use this system to learn from previous activities, so that future actions do not repeat the mistakes of the past and that successful actions can be replicated.

Communicating and reporting

Companies should communicate externally how they address their human rights impacts, how effective they have been and what actions are planned for the future to address still pending issues. Reporting should also include actions taken to address human rights impacts in the supply chain and elsewhere in the value chain.

Reports and other communication materials should always be accessible, in particular to affected rights holders who have raised concerns. Much of the recent legislation on the topic of business and human rights has concerned reporting, and reporting is currently mandatory in the EU (the EU Non-Financial Reporting Directive), in the UK (UK Modern Slavery Act) and in Denmark (Danish Financial Statements Act), among other places. Human rights due diligence can help companies comply with legal requirements. For more guidance, see [UN Guiding Principles Reporting Framework](#).

Access to remedy

Companies should have one or more channels or mechanisms (own, third party or shared) that are accessible to both workers and communities, where they can raise complaints or concerns related to the companies' responsibility to respect human rights. Companies should make the mechanisms available for workers in the supply chain and for communities impacted by supplier activities as well, or make sure that suppliers themselves have adequate mechanisms in place. Existing complaints mechanisms within companies, such as whistle-blower functions, hotlines, worker representatives and open-door policies, can and should be used to fulfil this requirement. Companies should make such mechanisms available to all potentially affected rights-holders and ensure that negative impacts on human rights are explicitly part of what the mechanisms can be used for. Further, shipowners are according to the MLC required to have an [on board complaint procedure](#) through which seafarers can lodge complaints.

Stakeholder engagement

Meaningful stakeholder engagement is essential throughout the due diligence cycle. This particularly involves consultation and engagement with impacted and potentially impacted individuals and communities to gather information on adverse impacts and risks. Companies should also engage with stakeholders and rights holders on the effectiveness of mitigating actions.

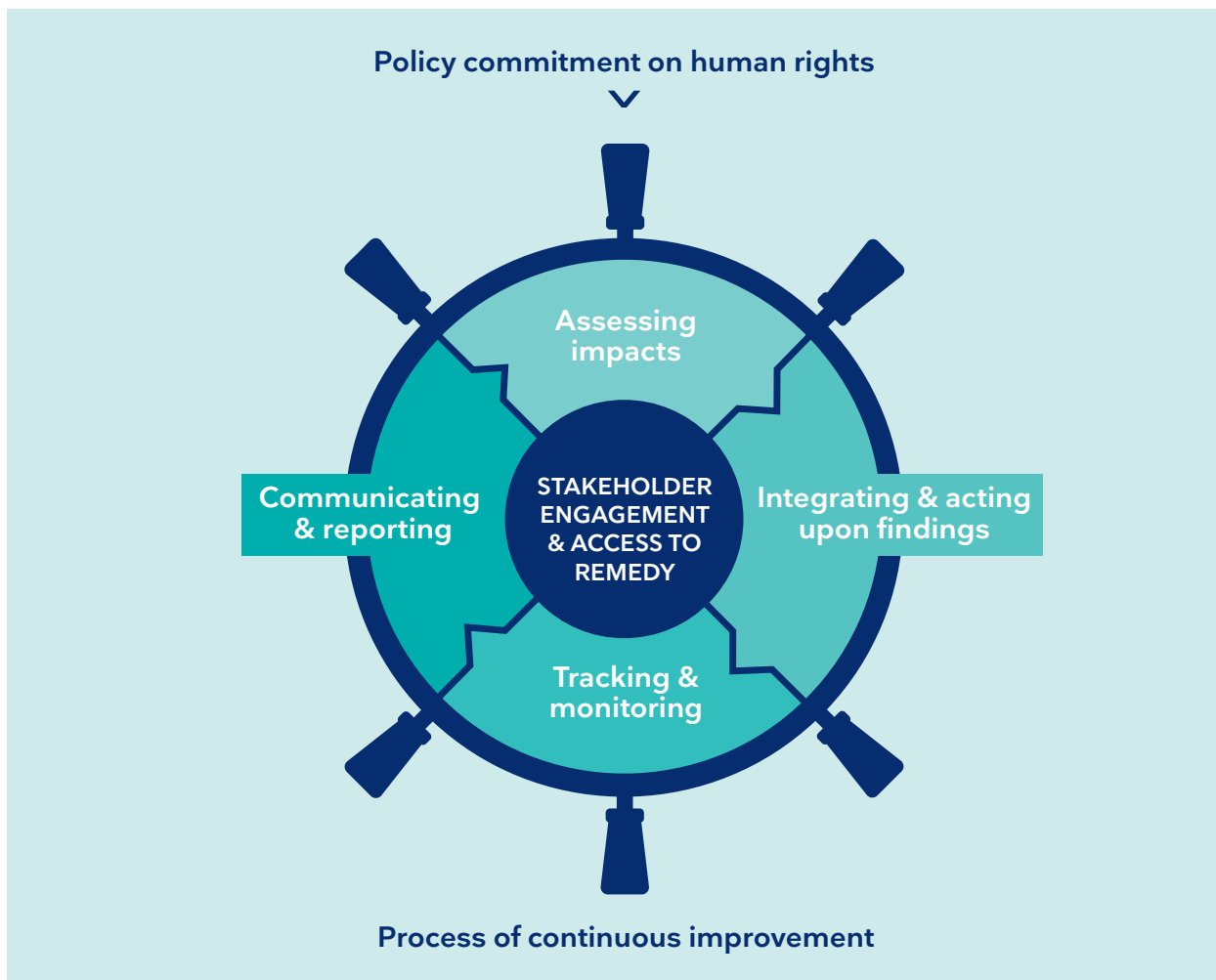


Figure 1: Human Rights Due Diligence

Why is human rights due diligence important?

- It helps companies meet international human rights standards when national legal requirements are not up to the internationally recognised standards.
- Human rights due diligence can help companies live up to their internal and external commitments and stated values.
- By respecting human rights in all business activities the majority of companies are making their most significant contribution to the Sustainable Development Goals (SDGs). When human rights are not respected, positive contributions to the SDGs are inevitably undermined.
- It is the principal expectation on company behaviour in relation to the requirement on companies to respect human rights.
- UNGPs are increasingly featured in other frameworks by international governmental organisations, industry associations and financial institutions, among others (e.g. OECD Guidelines for Multinational Enterprises, [IPIECA's Business and Human Rights Project](#), [JFC Sustainability Framework](#))
- Human rights standards are integrated into the MLC and as such human rights due diligence can help ensure compliance with the MLC.
- There are several significant reputational, financial and legal risks related to not respecting human rights. It also poses a risk to recruiting and retaining talented workers ([Corporate Justice, 2018](#)).
- By looking at the risk to people and human rights first, companies increase the likelihood to detect potential human rights issues at an early stage before they become severe actual human rights impacts that may also imply significant risk to the business itself.



FURTHER GUIDANCE AND RESOURCES

Standards and frameworks

- [The UN Guiding Principles on Business and Human Rights, 2011](#)
- [The OECD Guidelines for Multinational Enterprises, 2011](#)

Guidance

- [OECD Due Diligence Guidance for Responsible Business Conduct](#)
- [Human Rights Translated 2.0: A Business Reference Guide](#)
- [Doing Business with Respect for Human Rights](#)
- [Global Business Initiative for Human Rights - Business Practices Portal](#)
- [The Ship Lifecycle - Embedding Human Rights From Shipyard to Scrapyard](#)
- [Human Rights at Sea, Introduction & Commentary to the UNGPs](#)

Tools

- [UN Global Compact Self-Assessment Tool](#)
- DIHR's [Human Rights Impact Assessment Toolbox](#)
- [OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones](#)



Salient human rights issues and areas

A shipping company can through its activities have impacts on all human rights. This guide, however, focuses on the types of impacts that shipping companies are most likely to encounter in their most common activities, throughout a shipping company's value chain and the lifecycle of a ship.

The list of issues found to the right is based on desktop research, internal and external interviews and a workshop together with representatives from Danish Shipping members. In the following sections each of these issues are described and recommended mitigating measures are provided.

List of salient human rights issues:

SHIPBUILDING, SHIP REPAIR AND SHIP RECYCLING

CARGO MANAGEMENT AND RELATIONS

SUPPLY CHAIN MANAGEMENT

SEAFARERS AND WORKERS

TERMINALS AND PORTS

SEARCH AND RESCUE

NEW AND EMERGING RISKS AND OPPORTUNITIES

SHIPBUILDING, SHIP REPAIR AND SHIP RECYCLING

EXAMPLES OF HUMAN RIGHTS AT RISK
Right to an adequate standard of living; right to health; right to life; right to freedom of movement; right to social security; right to a safe, clean, healthy and sustainable environment; rights of the child; right to enjoy just and favourable conditions of work; right to form and join trade unions; right to strike.

Potential links to the SDGs

<p>3 GOOD HEALTH AND WELL-BEING</p> 	<p>6 CLEAN WATER AND SANITATION</p> 	<p>8 DECENT WORK AND ECONOMIC GROWTH</p> 
<p>12 RESPONSIBLE CONSUMPTION AND PRODUCTION</p> 	<p>14 LIFE BELOW WATER</p> 	<p>17 PARTNERSHIPS FOR THE GOALS</p> 

Shipbuilding and ship recycling are two labour intensive activities over significant periods of time that may concern a series of human rights issues and which therefore warrants specific attention. It is important to look at the entirety of processes, from procuring the necessary materials and building the ship, to repairing and recycling it.

Salient human rights issues for shipping

- Materials procured for the construction of the ship might have been mined under poor labour conditions.
- Poor health and safety standards at shipyards and ship recycling sites lead to significant risks of workplace accidents and injuries (e.g. gas explosions, falling steel plates and drowning). (Fidh, 2005).
- Workers may lack necessary health and safety training and proper personal protective equipment.
- Steel cutting, assembling and mounting heavy ship sections, installing components and handling gas poses a real threat to untrained workers.
- Toxic waste (such as asbestos dust) can cause fatal illnesses of workers.
- Workers may receive far below a living wage, work excessive overtime without compensation, and be reprimanded if they voice complaints.
- Temporary and migrant workers are particularly at risk of abuse due to elevated recruitment fees paid to manning agencies, increasing the risk of debt bondage and forced labour.

- Weak regulatory frameworks and weak local law enforcement risk further enabling worker exploitation and exacerbate the vulnerability of migrant and temporary workers
- When not handled properly, oil, paint residues and metal particles risk being emitted during ship recycling. This can cause severe harm to human health and have negative impacts on ecosystem services that local communities depend on for water, food supply and livelihoods.

The identified issues are primarily found in certain countries, such as Bangladesh, Pakistan, India and China. However, lower risk countries, such as Singapore, South Korea, Turkey and Poland, should also receive attention.



It should be noted that a shipowner can be responsible for negative human rights impacts caused even after a vessel has been sold. As mentioned above, the UNGPs confirm that companies have a responsibility to respect human rights even in relation to negative human rights

impacts they contribute to or are otherwise linked to through business relationships. Selling a vessel with the knowledge that it is probable that the vessel will be recycled under sub-standard conditions can constitute a contribution to those negative human rights impacts.

EXAMPLES OF MITIGATING MEASURES

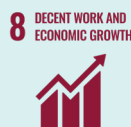
- Assess shipyards' and subcontractors' health and safety policies, procedures and records, before entering into agreements. When it concerns shipbuilding and ship repair, ensure that shipyards and subcontractor follow the ILO Code of Practice [Safety and health in shipbuilding and ship repair](#).
- Assess potential human rights risks based on received quote from shipyard. Consider the estimates on the number of hours needed, expected overtime and related costs in both the planning process and the final quote to be able to assess whether it is feasible to adhere to international labour standards and ensure decent work at the yard.
- Build leverage through contractual clauses, in agreements with shipbuilders, cash buyers of end-of-life vessels and ship-recycling facilities. Contracts should include human rights standards as well as rights to conduct audits/site visits to monitor compliance with the standards.
- Pay particular attention to vulnerable groups, such as migrant workers. See [Dhaka Principles for Migration with Dignity](#) for further guidance.
- Conduct site visits to monitor compliance with human rights standards, specifically health and safety issues and other labour rights related issues, and monitor whether workers receive appropriate training and equipment.
- Require that monitoring programs and grievance mechanisms are in place at supplier shipyards both for workers and for local communities that may be affected by the activities at the sites.
- Provide for remedy in the form of compensation and taking measures to avoid future similar negative impacts when e.g. workplace injuries have occurred in shipyards. Where the company is only linked to the negative impacts, the company should work with the partners that have caused or contributed to the impact and ensure that the partners provide for remedy in the form of compensation or otherwise cooperate in the remediation.
- Follow international frameworks and standards, and ensure that ship recycling yards comply with The Hong Kong Convention and its environmental and H&S standards, as well as the ILO guidelines [Safety and health in shipbreaking: Guidelines for Asian countries and Turkey](#). See also the [ICS Guidelines](#) for shipowners when selling ships for further guidance. Maersk has for example produced a Responsible Ship Recycling Standard which builds on the HKC and also includes labour and human rights, which is not covered under the Hong Kong Convention.
- Collaborate with peers and other key stakeholders to increase leverage, and in order to address systemic issues found in shipbuilding, ship repair and ship recycling. See for example the [Ship Recycling Transparency Initiative](#), and the [Sustainable Shipping Initiative](#).
- Stay up-to-date on human rights issues related to ship recycling, see for example [NGO Shipbreaking Platform](#).

CARGO MANAGEMENT AND RELATIONS

EXAMPLES OF HUMAN RIGHTS AT RISK

Right to life; right to health; right to privacy; right to freedom of expression; right to freedom of movement; right to just and favourable conditions of work.

Potential links to the SDGs



The shipping industry facilitates the operations of many, if not all, multinational companies as well as governments.

While this means that the industry can see itself as being a part of solutions to global challenges, it also means that it can be a part of facilitating the occurrence of significant negative impacts related to the transported cargo or the actors that produce or purchase the cargo.

Salient human rights issues for shipping

- Transport of military equipment, surveillance equipment and conventional arms that may be used to crack down on human rights defenders and persecute individuals ([Ipris Research, 2017](#)). Transporting such equipment can be allowed under international sanctions and export control regimes while still contributing to severe negative human rights impacts. The UNGPs therefore require companies to conduct their own assessments of impacts on human rights beyond the applicable international sanctions and export control regimes.
- Transport of natural resources from territories where ownership of the resources is disputed.
- Facilitating access to markets to companies or governments known for human rights abuses, may link a shipping company to negative human rights impacts caused by those actors.
- If dangerous cargo is not properly handled or mis-declared it can pose severe risks to the life and health of the transport workers and seafarers handling the cargo.

- Smuggling and mis-invoicing of goods has been claimed to undermine public sector revenues needed to support enjoyment of human rights.
- Shipped tonnage not owned by shipowner or operator may present challenges when it comes to performing human rights due diligence. This may prove particularly difficult in relation to one-voyage trips when e.g. the leverage of the shipowner or operator may be very limited.

While a shipping company cannot go through every item it transports, it is important to note that the cargo it transports can cause negative human rights impacts and there is a risk that a shipping company is linked to that harm. It is therefore important to have processes in place for how to deal with human rights risks in those scenarios.




EXAMPLES OF MITIGATING MEASURES

- Develop a business partner code of conduct, that sets out the general requirements on customers of logistics services. Annex the code of conduct to contracts and discuss during contract negotiations.
- Develop systems to assess cargo related risks, what the cargo is and whether there is a risk that the cargo shipped can or will be used for human rights violations.
- Develop systems to screen for suspicious or mis-declared cargo based on known red flags.
- Create leverage through the use of contractual clauses, to be able to take action if severe human rights risks related to certain cargo are identified. Include clauses allowing the termination of the relationship if such severe risks are identified.
- Trigger enhanced due diligence processes where high-risk cargo is identified, in order to have better insight about the origin of the goods and what the intended use of the goods might be.
- Maintain a contractual right to conduct random checks on goods, helping the companies know what the cargo is and minimise risks of mis-declaration.
- Partner with other actors (other companies, customs agencies and others) to improve oversight of shipped goods and information sharing.
- Make efforts to know your customer and the end-buyer, which is especially important when it concerns high-risk cargo such as surveillance equipment or dual-use products.



SUPPLY CHAIN MANAGEMENT

<p>EXAMPLES OF HUMAN RIGHTS AT RISK</p> <p><i>Right to an adequate standard of living; right to health; right to freedom of movement; right to enjoy just and favourable conditions of work; right to form and join trade unions; right to strike; rights of the child.</i></p>	<p>Potential links to the SDGs</p> <div style="display: flex; justify-content: space-around; align-items: flex-start;"> <div style="text-align: center;"> <p>1 NO POVERTY</p>  </div> <div style="text-align: center;"> <p>8 DECENT WORK AND ECONOMIC GROWTH</p>  </div> <div style="text-align: center;"> <p>17 PARTNERSHIPS FOR THE GOALS</p>  </div> </div>
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The shipping industry is both part of global supply chains of other companies and has its own supply chains related to its own activities. The shipping industry supply chain, includes seafarers who work for manning agencies (see below), maintenance teams, materials and manpower needed for building and recycling ships (see above), and security personnel to protect assets and staff in conflict-affected areas.

Salient human rights issues for shipping

- Supplier prioritisation solely based on costs may contribute to poor working conditions and non-adherence to other human rights.
- Risks of severe human rights impacts on workers and communities in global and fragmented supply chains (e.g. raw material supply chains

and multiple layers of sub-contractors at shipbuilding yards) where monitoring challenges can lead to increased vulnerability of workers.

- Health and safety incidents at e.g. warehouses, container manufacturers, mines and chartered vessels, and during land transport can lead to severe injuries and in the worst case death.
- Certain minerals and metals might come from conflict affected areas, where severe human rights impacts are often found and heightened due diligence should be performed.
- Local communities may be displaced by suppliers (e.g. mines), excessive force may be used against local communities by security personnel contracted to protect company assets, and environmental impacts can threaten the livelihoods of communities.



EXAMPLES OF MITIGATING MEASURES

- Map out high-risk suppliers and commodities to identify key risk areas/regions. The [Business and Human Rights Resource Centre](#) is a good publicly available source of information that can inform the country and commodity risk mapping.² Maersk has also developed [procurement category guides](#) identifying risks.
- Include human rights principles in procurement policies, and require that suppliers should ensure that their own suppliers adhere to the same principles or equivalent standards.
- Clearly communicate human rights requirements to suppliers.
- Assess human rights risks related to the company's own procurement practices, to ensure that e.g. delivery times and price points are practically possible for suppliers to fulfil while also upholding the required human rights standards.
- Develop contractual clauses on human rights and labour rights and ensure that purchasing agreements and contracts clearly outline that human rights and labour rights are to be respected across the supply chain.
- Include human rights risks in supplier selection process, to ensure that such risks are considered at an early stage. This may identify the need for heightened due diligence in relation to medium- and high-risk suppliers.
- Consider membership in responsible supply chain management initiatives (e.g. [IMPA ACT](#)), to, among other things, learn from other companies' purchasing practices. See also more general guidance, such as [CSR Compass](#).
- Train procurement teams on human rights and the most salient issues in the supply chain (informed by risk mapping) and how their function plays an important role in the company's general respect for human rights.
- Collaborate with peers to increase each actor's leverage, in order to address identified systemic issues.
- Monitor suppliers' compliance with the applicable human rights principles on an ongoing basis. Monitoring of suppliers' performance should be measured against indicators and targets developed on the basis of international human rights standards. Review and adapt existing supplier audits and risk assessments processes to capture suppliers' human rights performance.

² See also [OECD's Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas](#) that can be used to guide due diligence measures.

SEAFARERS AND WORKERS

EXAMPLES OF HUMAN RIGHTS AT RISK

Right to life; right to an adequate standard of living; right to health; right to freedom of movement; right to privacy; right to enjoy just and favourable conditions of work; right to non-discrimination; right to liberty and security of the person; right to family life.

Potential links to the SDGs



The Maritime Labour Convention (MLC) was a significant step forward in relation to the wellbeing of seafarers since it sets out specific requirements concerning nearly every aspect of seafarers' working and living conditions. As of July 2019, a total of 93 countries had ratified the MLC, which has resulted in more than 91% of the world's shipping fleet being regulated.

The enforcement of the MLC includes inspections and certifications by flag States as well as ships being subjected to port state control. Such inspections and certifications are however not without gaps and in accordance with the UNGPs shipping companies themselves have a responsibility to ensure that seafarers' human rights and labour rights are fully respected even where the respective states fail to uphold their obligations.



Salient human rights issues for shipping

- Complex organisational structures of shipping companies make oversight of seafarers' working conditions difficult and may increase seafarers' vulnerability.
- Severe health and safety risks are present due to inherent dangers of seafaring.
- Limited inspections and weak law enforcement increases risks of exploitation of seafarers, in the form of e.g. excessive working hours, low or unpaid wages, unpaid benefits, recruitment fees, and modern slavery in the form of debt bondage.
- Extended periods of time spent offshore and away from normal support systems can affect mental wellbeing of seafarers.
- Bullying and harassment can be a particular concern for seafarers who may have limited ways to avoid such situations while spending extended periods of time offshore.
- In some cases, seafarers are abandoned without remuneration and without means of repatriation due to ship owners' financial difficulties.
- Migrant workers and women, who may be at particular risk of sexual harassment, are vulnerable groups that should receive particular attention.



EXAMPLES OF MITIGATING MEASURES

- Use flag states that have ratified the MLC and where labour and human rights standards are in line with international standards.
- Take extra human rights precautions when using “non-white” flags, since those are considered higher risk based on the numbers of non-conformances and detentions made. See ICS’ [Flag State Performance Table](#).
- Develop clear policies concerning salient human rights risks for seafarers identified by the company, such as e.g. recruitment of workers (see [Responsible Recruitment Toolkit](#)) and wages (see ITF’s Seafarers [Wage Scale](#) and MLC standards).
- Conduct due diligence on third-party manning agencies, as part of efforts to address issues such as debt bondage caused by recruitment fees and lack of understandable and clear contracts.
- Follow best practice on eliminating harassment and bullying. This includes following recent [MLC amendments](#) on the topic and the ICS and ITF [Guidance on eliminating harassment and bullying](#).
- Safeguard the general welfare of seafarers. Follow the ICS and ITF [Guidelines for implementing the welfare aspects of the MLC](#), and provide seafarers with the Seafarer’s Health Information Programme’s publication on Psychological Wellbeing.
- Pay particular attention to gender-related issues. See Danish Shipping’s [taskforce](#) focused on women in the Danish shipping industry, with a particular focus on how to attract and retain talent. The IMO also has a [gender programme](#).
- Adapt the MLC required on board complaint procedure for seafarers and ensure that it fulfils the eight effectiveness criteria set out in the UNGPs.³

³ See [UNGP](#)s, Principle 31.

TERMINALS AND PORTS

EXAMPLES OF HUMAN RIGHTS AT RISK
Right to health; right to life; right to enjoy just and favourable conditions of work; right to equal treatment and non-discrimination; right to form and join trade unions; right to strike; right to property; right to self-determination; right to an adequate standard of living.

Potential links to the SDGs

The infographic displays six SDGs with their respective icons: 1. NO POVERTY (family icon), 3. GOOD HEALTH AND WELL-BEING (heart and pulse line icon), 5. GENDER EQUALITY (gender symbol icon), 8. DECENT WORK AND ECONOMIC GROWTH (bar chart icon), 10. REDUCED INEQUALITIES (four arrows pointing outwards icon), and 17. PARTNERSHIPS FOR THE GOALS (interlocking circles icon).

Ports and terminals are an essential component in the global supply chain and for the shipping industry. Though technical developments in cargo-handling have resulted in significant improvements for the safety of port workers, some changes have introduced new hazards and workers and local communities remain at risk.

Salient human rights issues for shipping

- Poor occupational health and safety standards and elevated accident rates, partly caused by pressures to boost capacity and increase efficiency.
- Increased use of non-permanent workers who may be exposed to elevated risks of exploitation due to their particular contractual situation.
- Migrant and female workers may be exposed to higher risks of exploitation.
- Excessive working hours without adequate rest and below living wages caused by downward pressure on costs.
- Truckers and others involved in further land transport often work excessive hours without rest, implying severe health and safety risks.
- Land acquisition necessary for ports' expansion risks displacing local communities without required good faith consultations and adequate compensation.

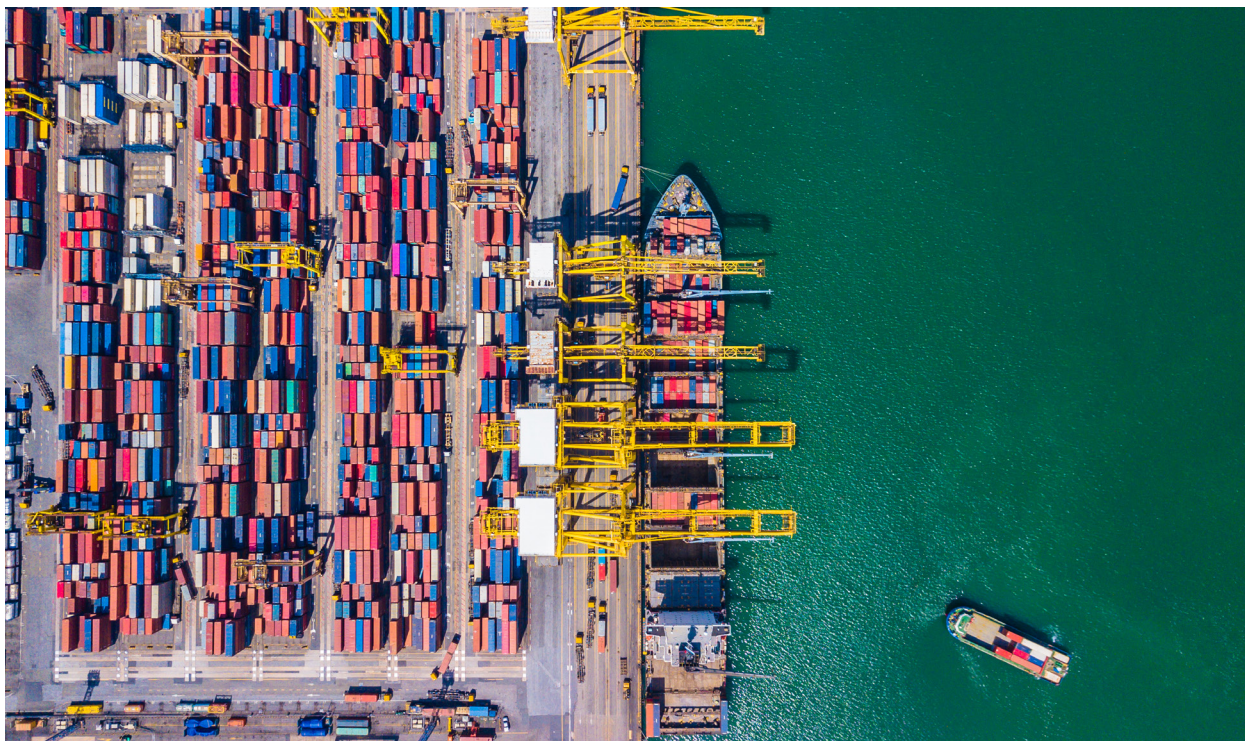
When negative impacts concern e.g. dockworker crews working on a shipowner's own vessel, the company might be seen as directly causing negative human rights impacts and therefore have an immediate responsibility to act quickly and address the issues. As previously mentioned the

responsibility to respect human rights does however not only include the impacts that companies cause themselves, but also impacts that they are contributing to and are otherwise linked to through business relationships. The human rights issues mentioned above may often concern the latter two types of impacts for shipping companies, which might be more difficult to address by one company on its own due to limited leverage. As such, leverage might have to be built in order to impact the actions of the actors causing the negative impacts.



EXAMPLES OF MITIGATING MEASURES


- Identify ports and terminals that are high-risk from a human rights perspective. The [Business & Human Rights Resource Centre](#) platform can for example provide relevant information related to country and industry risks.
- Clearly communicate human rights standards and expectations to identified high-risk ports and terminals, and to any contractors used by the company in these locations.
- Engage with ports and terminals to raise awareness about expectations on health and safety standards, in order to contribute to the health, morale and well-being of port and terminal workers. See e.g. ILO Code of Practice [Safety and Health in Ports](#) for guidance, as well as ILO's [Portworker Development Programme](#) which is designed to improve cargo-handling performance, working conditions and practices, safety, and the status and welfare of port workers.
- Specifically address human rights risks for vulnerable groups, such as women and migrant workers. See e.g. [Dhaka Principles](#) for guidance on how migrant workers' vulnerable situation can be addressed.
- Consider collective action with peers and/or customers to increase leverage in relation to ports and terminals, since leverage in such relations will often be limited initially. By taking collective action with other shipping companies and customers you can put pressure on ports and terminals to act.
- Specifically assess land-related human rights risks, which local communities might be exposed to in relation to land acquisition processes.



SEARCH AND RESCUE

EXAMPLES OF HUMAN RIGHTS AT RISK
Right to health; right to life; right to not be subjected to torture, cruel, inhuman and/or degrading treatment or punishment; right to liberty and security of the person; right to equal treatment and non-discrimination; right to freedom of movement.

Potential links to the SDGs



Migrants and refugees risk their lives onboard small boats and ships on their way to what is hopefully a better future. The same individuals often depend on merchant ships for search and rescue services when they are in situations of distress. A ship that has responded to a call and rescued a group of migrants and refugees might however come across issues when it attempts to disembark the rescued individuals to a State refusing to collaborate or to where the rescued individuals themselves do not want to disembark.

Place of safety

SOLAS obligates shipmasters to assist any person in distress at sea, regardless of nationality or status of that person, and mandates governments to assist shipmasters to deliver rescued persons to a place of safety. IMO defines a place of safety as “a place where the survivors’ safety of life is no longer

threatened and where their basic human needs (such as food, shelter and medical needs) can be met.”

Principle of non-refoulement

International human rights law prohibits returning a refugee to a territory where his or her life or freedom would be threatened on account of the person’s race, religion, nationality, membership of a particular social group or political opinion or where there are substantial grounds to believe that the person would be in danger of being subjected to torture. In addition, personal information regarding possible asylum-seekers or refugees should not be shared with the authorities of their country of origin or any country from which they have fled and in which they claim a risk of harm, or with persons who may convey this information to the authorities of those countries.

Corporate responsibility not to contribute to human rights abuses

The primary obligation for upholding the above two principles rests with the involved public authorities. However, according to the UNGPs, companies have a responsibility to avoid contributing to human rights abuses even where the respective states fail to uphold their obligations.

Salient human rights issues for shipping

- Migrants and refugees face severe health and safety risks while at sea on vessels that are over capacity.
- Crew and passengers are exposed to health and safety risks in dangerous rescue missions.
- The lives and freedom of refugees is at risk if they return to the place from where they fled.



EXAMPLES OF MITIGATING MEASURES

- Keep shipmasters informed on legal obligations, in order to better protect both migrants and refugees in distress at sea as well as crew and passengers. Disseminate the UNHCR, IMO and ICS [guide to principles and practice as applied to migrants and refugees](#). Obligations also include the principles of international refugee law as well as treating rescued individuals in accordance with human rights while onboard the ship.
- Develop clear policies concerning the rescue of asylum seekers, including that it is of utmost importance to not disembark asylum seekers in the country of origin or from which the individual has fled, or to share information about the individuals with those governments.
- Develop and disseminate clear action plans and procedures for rescue missions, in order for shipmasters and crew to respond effectively to distress signals. This is particularly relevant for large scale rescues at sea, which have been frequent in the Mediterranean since 2014. See the ICS [guidance on ensuring the safety and security of seafarers and rescued persons](#), and the ICS [guidelines for the development of plans and procedures for the recovery of persons from the water](#).
- Develop systems to follow-up on negative physical or mental effects caused by rescue missions and monitor the health and welfare of the crew and detect any latent physical or mental effects.



NEW AND EMERGING RISKS AND OPPORTUNITIES

<p>EXAMPLES OF HUMAN RIGHTS AT RISK <i>Right to privacy; right to work; right to health; right to family life; right to an adequate standard of living.</i></p>	<p>Potential links to the SDGs</p> <div style="display: flex; justify-content: space-around; align-items: flex-start;"> <div style="text-align: center;"> <p>3 GOOD HEALTH AND WELL-BEING</p>  </div> <div style="text-align: center;"> <p>8 DECENT WORK AND ECONOMIC GROWTH</p>  </div> <div style="text-align: center;"> <p>16 PEACE, JUSTICE AND STRONG INSTITUTIONS</p>  </div> </div> <div style="text-align: center; margin-top: 20px;"> <p>17 PARTNERSHIPS FOR THE GOALS</p>  </div>
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Similar to almost every other sector, increased automation and digitization is both the present and the future for the shipping industry. This poses several benefits which should and inevitably will be pursued, such as avoiding human error, enabling growth and innovation, and increasing transparency, which can in turn have a positive effect on human rights. However, if the transitions and transformation are not handled with proper due diligence it can also lead to significant negative human rights impacts.

Salient human rights issues for shipping

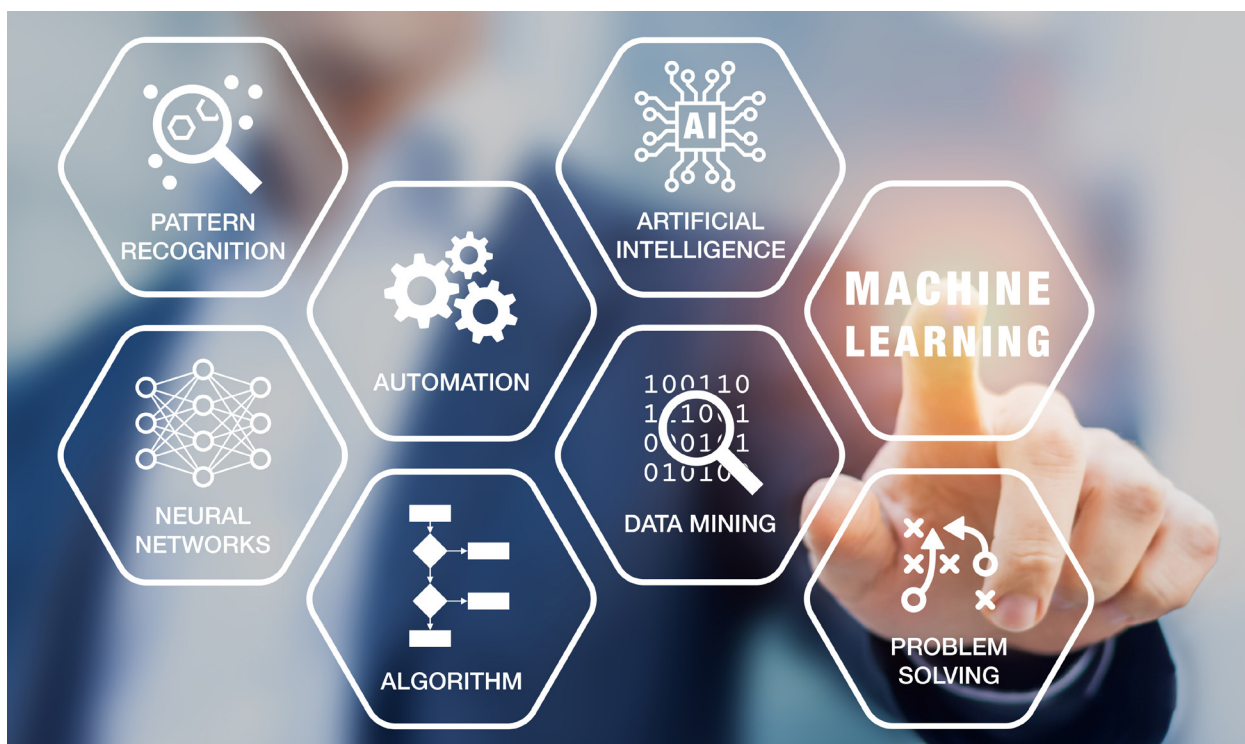
- Local economic opportunities may be negatively impacted due to the increases in automation, increasing the vulnerability of low skilled workers and threats to their right to an adequate standard of living.
- The decreased need for local employment may increase social issues in local communities near ports and terminals and might lead to conflicts with human rights impacts.
- New technologies for monitoring worker activities and data collection can severely intrude on individuals’ privacy and can negatively impact on the mental health of monitored individuals.
- Increased technological development increases risks of cyber-attacks and data threats, which can expose sensitive employee and stakeholder data (Global Maritime Forum, 2018).

The main point of this particular issue is to highlight the need to keep in mind that technological development might have negative impacts on human rights, and to not forget about potential negative impacts because of the perceived good of the technological development. This is not to say that such developments should not be pursued but merely to clarify the need to stay attentive to human rights risks that may be (entirely) new to the shipping sector. While it might not be a shipping company’s responsibility to for example provide jobs to workers who do no longer have the right skillset as the industry develops, it is important to better understand potential future impacts to be able to take proactive actions (such as starting a dialogue with responsible government stakeholders) instead of only reacting when human rights risks materialise.



EXAMPLES OF MITIGATING MEASURES

- Recognize potential human rights risks related to new technologies and take steps to ensure that relevant personnel involved in the development and implementation of such technologies consider human rights risks.
- Assess potential negative impacts of digitization, automation and use of new technologies, focusing on workers, communities and other rights holders while paying special attention to vulnerable groups.
- Ensure long term view on impacts and mitigation efforts. If for example potentially significant displacement of workers is identified as a salient human rights issue, companies can work closely with its business partners, industry associations and government stakeholders and develop reskilling and training opportunities to help the workers at risk.
- Address human rights issues related to the use of AI. For guidance see for example BSR’s report series [Artificial Intelligence: A Rights-Based Blueprint for Business](#) and the EU Commission’s [Ethics Guidelines for Trustworthy AI](#).
- Inform and consult employees regarding changes to the workforce due to automation. It may be a human rights responsibility when the changes would otherwise cause or contribute negative human rights impacts on the employees.



This guidance has been developed by the Danish Institute for Human Rights for Danish Shipping with financial support from the Mediation and Complaints-Handling Institution for Responsible Business Conduct, the OECD National Contact Point (NCP) in Denmark, and the Danish Maritime Fund.

Disclaimer: *This guidance and the information contained therein are intended as a general guide to the issues addressed. They must not be considered a substitute for legal advice and questions regarding the legal interpretation and application of the information should be directed to appropriate legal counsel. Any actions taken or omissions or alterations made on the basis of this information are done at the user’s risk. The Danish Institute for Human Rights is not responsible nor liable for any direct, indirect, consequential, special, exemplary, punitive or other damages arising out of or in any way related to the application or use of this report and its information.*