



Business & Human Rights: **What to look out for in 2020**

WBCSD webinar with
Steve Gibbons, Ergon Associates
6 February 2020

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Webinar logistics

Introduction

Davide Fiedler, Manager - Social Impact, WBCSD

What to look out for in 2020

Steve Gibbons, Director, Ergon Associates

Q&A

Save the dates



Webinar **logistics**

Recording & materials

The meeting is being recorded.

We will share recording, webinar slides and additional material with you via email.

Questions & Comments

During the presentation, please share your questions and comments via the **chat function**.

During the Q&A, you can also **unmute your microphone** to speak.

A photograph of Earth from space, showing the curvature of the planet and a bright sun rising over the horizon, creating a lens flare effect. The sky is a deep blue, and the Earth's surface is covered in white clouds.

200 global companies united around a common vision

**9+ billion people living well,
within the boundaries of our planet**

Climate change

Inequality

Nature loss

Simplification of sustainability



WBCSD's Targeted Solutions

Vision 2050



Human Rights Project Objectives

Respecting and promoting human rights is an opportunity to drive transformative change in people's lives.

WBCSD is mobilizing business leadership for human rights.

We provides insight into how companies can meet their responsibility to respect human rights and share business solutions to raise the bar and drive transformative change.

Project Objectives

Value

Facilitate **peer-to-peer learning** to capture, highlight and disseminate solutions.

Connect companies with the dynamic human rights landscape.

Impact

Inspire, inform and advocate **business action**.

Promote partnerships for impact.

Voice

Inject a **forward-thinking business voice** into intergovernmental processes, governance and regulation.

2020 **workstreams**



CEO/ C-suite engagement

CEO Guide translations
CEO Call to Action endorsements
CEO Roundtables



Strengthen implementation of UNGPs in business

WBCSD member performance
Peer-learning workshops
Guidance material



Inform & Inspire

Business & Human Rights Gateway
Webinars
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What to look out for in 2020

Steve Gibbons, Director, Ergon
Associates

#Bizhumanrights 2020 Moving towards HRDD



Steve Gibbons, Director - Ergon
WBCSD
February 20120

Cerrejón Coal Mine

Ergon

Massive coal mine in Colombia
Operating in difficult environment.
Many allegations of human rights abuses.
Also held up by some as an example of good practice – it was one of the Ruggie pilots in 2011 on remedy
Jointly owned by BHP Billiton, Anglo American and Xtrata

Guardian sustainable business

Cerrejón mine in Colombia: can it address its human rights risks?

The Cerrejón mine has been accused of evictions, pollution and human rights abuses. The owners say they are doing all they can to respect human rights. **Oliver Balch** investigates

Oliver Balch in La Guajira, Colombia

@OLIVERBALCH
Thu 25 Jul 2013 14:39 BST



▲ The Cerrejón mine in La Guajira, Colombia. As South America's largest open-pit coal mine, Cerrejón boasts a production capacity of 32m tonnes per year. Photograph: Oliver Balch

La Guajira only has a handful of formal petrol stations. Instead, drivers in this remote corner of north-east Colombia fill up at temporary kerbside stops, where a vendor stands with a plastic drum of contraband fuel and a shorn-off hosepipe.

Over the years, the state has earned a reputation as Colombia's Wild West. As well as *pimpineros* (petrol smugglers), its porous border with nearby Venezuela is a popular route for narcotic gangs and leftwing guerrilla groups. The region also bears the scars of Colombia's decades-long civil war during which millions were displaced and an estimated 200,000 killed.

In short, not the ideal place to set up a multi-million dollar business – or not a legitimate one, at any rate.



Cerrejón y el desarrollo sostenible de La Guajira

Informe de Sostenibilidad 2007



DIARIO DEL NORTE
Periódico de la Región Caribe

ESTÁQUE JUDICIALES

Corte ordenó reubicación de la comunidad de Tabaco, desplazada por la operación minera del Cerrejón

EDITOR / NOTICIAS / 07 OCTUBRE 2019



La acción de tutela fue interpuesta en el 2014 por el abogado Iván Rodríguez en atención a una solicitud de la propia comunidad.

In December 2019 UN Committee for the Elimination of Racial Discrimination published its report on Ireland.



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PRESS RELEASE

UN tells Irish State to do more to tackle racial discrimination

13 December 2019

The Irish Government has had its knuckles rapped today (13/12/19) by the United Nations human rights anti-racism watchdog for not having the right structures in place to effectively challenge racism. On 2 and 3 December the Irish State was examined by the UN Committee for the Elimination of Racial Discrimination to assess its activities in the area, and the Committee's concluding observations were published today.

Brian Killoran, CEO, Immigrant Council of Ireland, said, "The UN Committee for the Elimination of Racial Discrimination undertook a fair and thorough assessment and has identified key areas for improvement. These include the urgent need for an updated National Action Plan Against Racism as well as laws which will effectively tackle hate speech, hate crime and prohibit racial profiling.

Business and human rights

47. The Committee is concerned that, despite the adoption of a national action plan on business and human rights, the operation of the Cerrejón mine complex in La Guajira, Colombia, whose headquarters is domiciled in Dublin and from which the State party has purchased coal for one of its power stations in County Clare, has been linked with serious abuse of human rights, particularly affecting people of African descent and indigenous peoples (arts. 5 and 6).

48. While recalling the United Nations Guiding Principles on Business and Human Rights, the Committee recommends that the State party:

- Consider stopping purchasing coal from the Cerrejón mine complex;
- Lend its support to the initiation of an independent inquiry into the operation of the mine, and into other human rights abuses;
- Guarantee the compensation in Ireland;
- Adopt a regulation in the State party or under its jurisdiction to ensure that companies liable for violations;
- Ensure the effective implementation of Business and Human Rights

CMC
Coal Marketing

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CERREJÓN OPERATIONS
RESPONSIBLE MINING
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CMC Coal Marketing Company

CMC - The exclusive marketer of thermal steam coal from the Cerrejón mining complex in northern Colombia.

CMC - Coal Marketing DAC (CMC) and Carbones del Cerrejón Ltd (Cerrejón) work together to meet contractual commitments in terms of quality, quantity and timely delivery. With diligence, professionalism and teamwork, we strive to deliver excellence to all our customers and stakeholders.

CMC - was established in 2000. To date, we have co-ordinated the sale and delivery of over 450 million tonnes of Cerrejón coal. Sales, service and technical support are managed from our office in Dublin. Cerrejón has exported over 650 million metric tonnes and operates 24 hours a day, 363 days a year.



exclusive
marketers of coal

CMC - Coal Marketing DAC, Fumbally Square, New Street, Dublin D08 XYA5, Ireland. • Tel: +353 1 708 4600 • Fax: +353 1 708 2699 • web: www.cmc-coal.ie

What do the UNGPs tell us about legislation and State action?

2. States should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations.

At present States are not generally required under international human rights law to regulate the extraterritorial activities of businesses domiciled in their territory and/or jurisdiction. Nor are they generally prohibited from doing so, provided there is a recognized jurisdictional basis. Within these parameters some human rights treaty bodies recommend that home States take steps to prevent abuse abroad by business enterprises within their jurisdiction.

3. In meeting their duty to protect, States should:

(a) Enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights, and periodically to assess the adequacy of such laws and address any gaps;

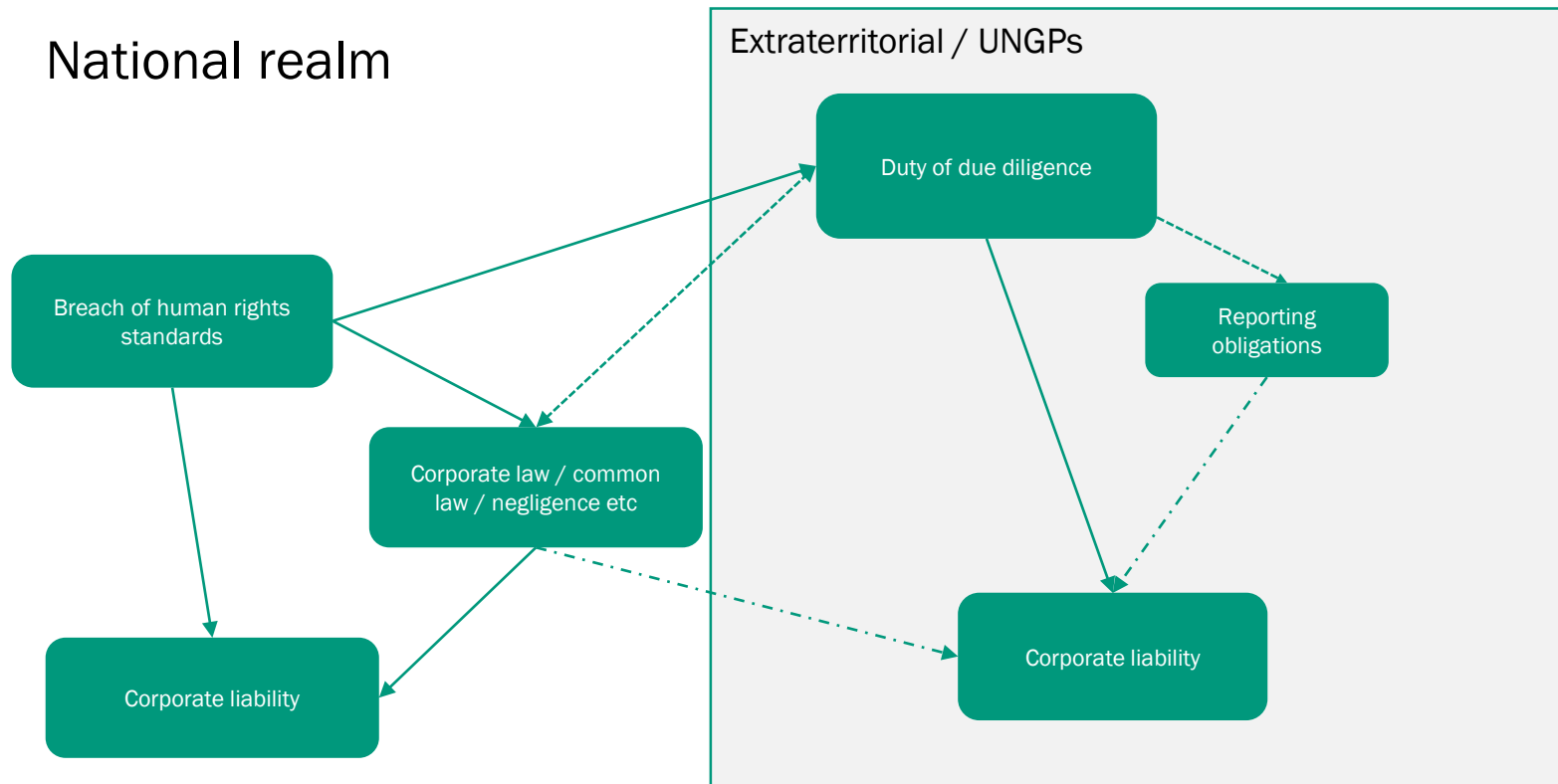
(b) Ensure that other laws and policies governing the creation and ongoing operation of business enterprises, such as corporate law, do not constrain but enable business respect for human rights;

(c) Provide effective guidance to business enterprises on how to respect human rights throughout their operations;

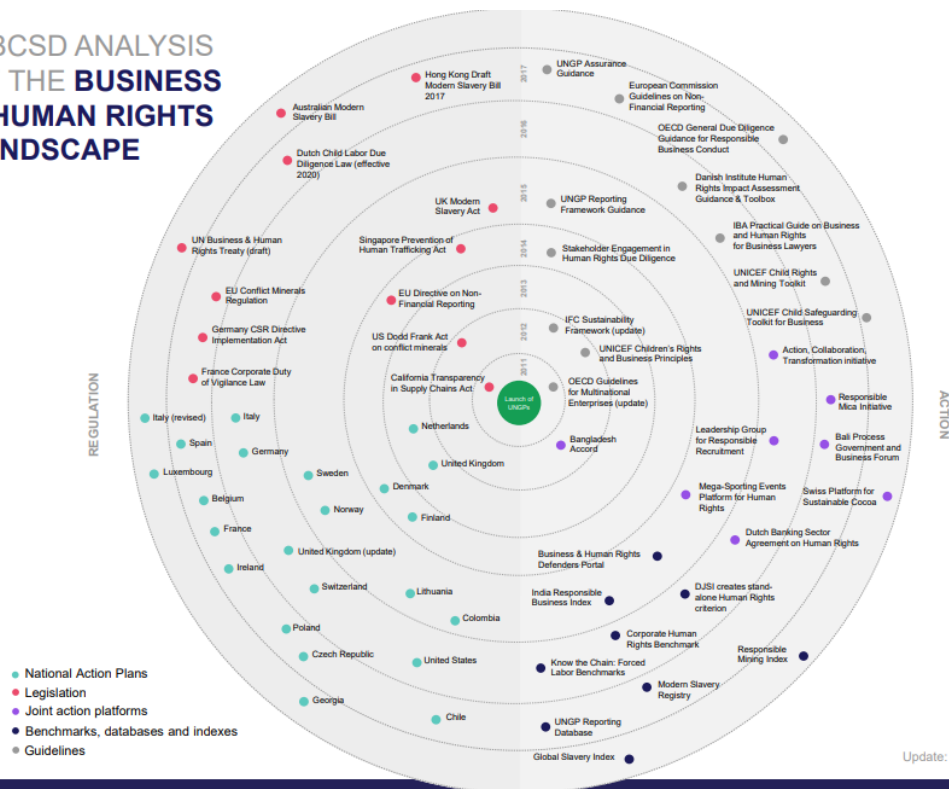
(d) Encourage, and where appropriate require, business

States should not assume that businesses invariably prefer, or benefit from, State inaction, and they should consider a smart mix of measures – national and international, mandatory and voluntary – to foster business respect for human rights.

National realm



WBCSD ANALYSIS OF THE **BUSINESS & HUMAN RIGHTS** LANDSCAPE



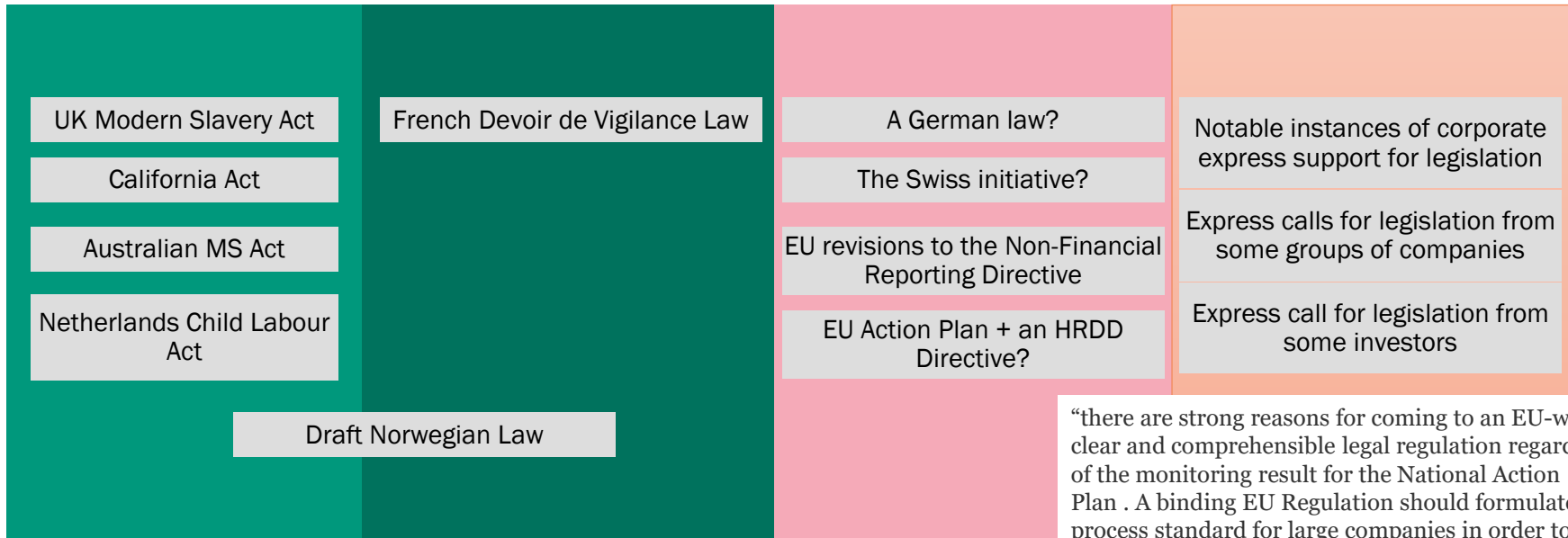
Update: November 2018



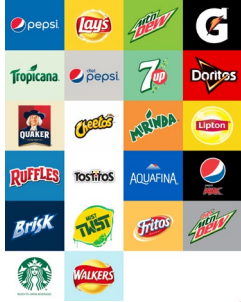
Draft Treaty

Article 5. Prevention

1. State Parties shall regulate effectively the activities of business enterprises within their territory or jurisdiction. For this purpose States shall ensure that their domestic legislation requires all persons conducting business activities, including those of a transnational character, in their territory or jurisdiction, to respect human rights and prevent human rights violations or abuses.
2. For the purpose of paragraph 1 of this Article, State Parties shall adopt measures necessary to ensure that all persons conducting business activities, including those of transnational character, to undertake human rights due diligence as follows: a. Identify and assess any actual or potential human rights violations or abuses that may arise from their own business activities, or from their contractual relationships; b. Take appropriate actions to prevent human rights violations or abuses in the context of its business activities, including those under their contractual relationships; c. Monitor the human rights impact of their business activities, including those under their contractual relationships; d. Communicate to stakeholders and account for the policies and measures adopted to identify, assess, prevent and monitor any actual or potential human rights violations or abuses that may arise from their activities, or from those under their contractual relationships.

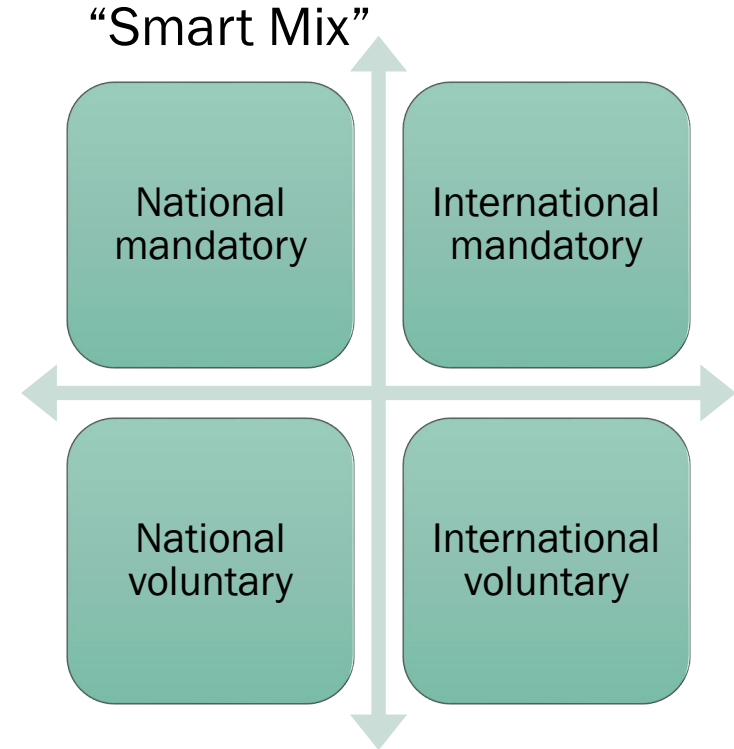


“there are strong reasons for coming to an EU-wide clear and comprehensible legal regulation regardless of the monitoring result for the National Action Plan . A binding EU Regulation should formulate a process standard for large companies in order to implement human rights due diligence in-house. It should also apply to non-European companies that do business in Europe. This is the only way we can create a level playing field and make world trade fairer.” - Hubertus Heil, German Federal Minister of Labour and Social Affairs



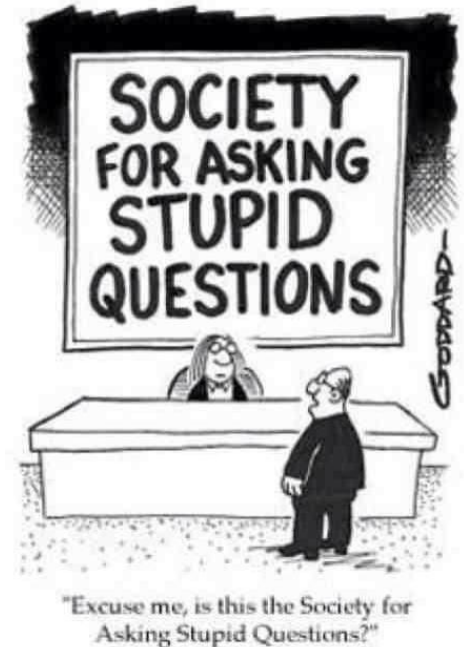
"We are proud of our work on human rights at PepsiCo, but recognize that, as with all companies, challenges remain when it comes to respect for human rights across our entire value chain. So, naturally, as we've seen a proliferation of regulatory initiatives on modern slavery, child labor, or human rights due diligence, there has been some apprehension among businesses about what this may mean in terms of liability for potential impacts occurring deep in the supply chain. But it's clear that the time has now come to embrace this conversation and, in good faith, to discuss the opportunities and potential drawbacks of different types of mandatory measures as we try to further scale the implementation and impact of the UN Guiding Principles."

MICHELE THATCHER
SENIOR VP, CHIEF COUNSEL GLOBAL HUMAN RESOURCES
& CHIEF HUMAN RIGHTS OFFICER, PEPSICO



Questions to consider

- What kind of legislation works best?
- How to define the scope of liability for actual harm to failures in due diligence?
- How to design legislation which actually drives change and high-impact outcomes regardless of 'enforcement'? Role of behavioural change models?
- How do we avoid a massive complex patchwork of measures across jurisdictions?
- How to avoid legislation that drives companies away from transparency and action into lawyer-driven risk aversion?



Some additional issues to look for

Climate change as a human rights issue

- Which impacts on who?
- Does it change anything? If so, what?
- The Total case in France and other litigation

Sexual harassment and Gender-based violence

- Impact of the ILO Convention
- Increased scrutiny, particularly in FCAS
- Beyond #metoo

Sport and human rights

- A test ground for some difficult issues
- What happens in Qatar, doesn't stay in Qatar



#Bizhumanrights 2020 Moving towards HRDD



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Save the dates



19 March: Webinar

Respecting trade union rights
19 March, 2pm CET

Shift



23 April, Montreux, Switzerland

Session on human rights in
agribusiness value chains



4 May, Rio de Janeiro, Brazil

Business & Human Rights in
practice



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WBCSD's Business and Human Rights Gateway: Connecting companies with the dynamic human rights landscape

WBCSD and Human Rights



WBCSD's human rights project

Find out more about our work around business and human rights



CEO Guide to Human Rights

Calling for business leadership on respect for human rights.



Mapping the Business and Human Rights Landscape

Explore key developments across this space with our interactive tool



Putting People First

The 2018 edition of our analysis of progress and priorities in corporate respect for human rights



The Human Rights Opportunity

15 real-life cases of business contributing to the SDGs by putting people first

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Succeed.