

DOING BUSINESS RESPONSIBLY IN CONFLICT-AFFECTED & HIGH-RISK AREAS – A GUIDANCE FOR AMFORI MEMBERS

The case of Ukraine, Russia and neighboring
countries

This guidance is provided on the basis of information available as of March 2022 and does not constitute legal advice.

DOING BUSINESS RESPONSIBLY IN CONFLICT-AFFECTED & HIGH-RISK AREAS

If you operate in Ukraine, Russia, Belarus and neighbouring countries such as Poland, Hungary, Slovakia, or if you have business partners in these regions, you are expected to face **growing challenges** from the ongoing conflict. These can range from keeping employees safe to disruptions at the level of your business and supply chains.

The operating environment is expected to become increasingly complex to navigate, as the risks of **negative human rights impacts** are higher in conflict-affected and high-risk areas. Additional complexities include a **changing legal landscape** due to evolving sanctions being imposed by Western countries (and by Russia itself), lack of **reliable data** and challenges in keeping up with **local dynamics**.

Depending on your position in the supply chain, the sectors you operate in and the nature of the products or services you sell, you are also expected to face increasing pressure from customers and scrutiny of your due diligence by stakeholders. These may take the form of explicit demands, in terms of **disengagement, exit or divestment**.

This document draws on existing authoritative guidance to help you understand what it means to do business responsibly in conflict-affected and high-risk areas, and to point out practical steps you might consider taking.

ACTING RESPONSIBLY: A NORM OF EXPECTED CONDUCT

According to international due diligence standards, in particular the [UNGPs](#) and the [OECD MNE Guidelines](#), businesses have a responsibility to **respect** human rights and **remedy** violations when they occur.

This responsibility extends throughout the **value chain** and implies that, as part of their due diligence, companies need to understand how they may be **connected to** negative impacts. It also means they need to understand how they can become **complicit** in actions taken by others along the value chain.

Due diligence is in itself an act of **engagement**. By engaging with potentially affected stakeholders, companies can identify and assess the negative impacts they might be connected to.

In practice, however, it is not always feasible to address all identified risks. Companies are therefore asked to **prioritize** their due diligence efforts by starting where the **risks to** people are the most **severe**.

There are therefore considerations around **proportionality** and degree of **involvement** to be made: expectations for businesses will vary depending on whether a company has **caused, contributed to**, or been **directly linked to** a negative impact.

ACTING RESPONSIBLY IN SITUATIONS OF CONFLICT

In situations of armed conflict, the **underlying expectation that companies need to act responsibly does not change**.

Companies must also “comply with the **standards of [international humanitarian law](#)**”, as the risks of becoming **complicit** in gross human rights violations committed by others increase when they operate in conflict-affected areas.

Companies are invited to treat the risk of complicity “**as a legal compliance issue**”, meaning that they should be aware of the possibility for additional **civil and criminal liability**.



Understand what **international humanitarian law** (IHL) covers, when it applies and who is subject to it. Make sure you also understand the potential **additional civil and criminal liabilities** that could arise by drawing on recent cases such as [Lafarge](#).

Also, monitor local and international developments closely, in particular regarding possible sanctions that may be imposed. **Re-assess your business relationships** in light of those trade restrictions: if an activity is estimated to be in breach of a sanction, **put an end to it**.

Given the heightened risk that companies may be connected to human rights abuses and / or violations of humanitarian law in conflict situations, companies are expected to conduct **enhanced / heightened due diligence**.

This means applying a **conflict-sensitive lens** to a company’s standard due diligence processes by, amongst others:

1. Committing to act in a conflict-sensitive way



The first step in a typical due diligence journey is a **policy commitment**. Your commitment to respecting human rights, if it does not cover conflict considerations, can be updated to indicate that your company will apply a **conflict-sensitive lens** to your own due diligence processes and also ensure **compliance with international humanitarian law**.

This may mean bringing the “new” policy commitment to the attention of your own stakeholders, from employees to business partners to rightsholders. You may want to adopt ad-hoc internal procedures too.

Consider setting up **crisis teams** and holding regular **cross-functional meetings** to respond quickly to changing contexts.

Full support from **senior management** is also very important.

2. Mapping and monitoring of your supply chain, beyond tier 1, to understand your direct and indirect connection to the conflict



To gather information about who you source from, you need to identify the companies you are doing business with, going beyond your first-tier suppliers. In the amfori BSCI System Manual, you should check PART I - The amfori BSCI Due Diligence Implementation Strategy (page 8) and focus on:

- Chapter 5: Supply Chain Mapping – page 17
- Chapter 6: Classification Of Significant Business Partners – page 18
- Chapter 9: Involvement Of The Purchasing Department – page 26

Then, establish **direct contact** with those business partners operating in the region and, to the extent possible, **continue [conducting responsible business practices](#)**.

Also establish direct contact with business partners operating in **neighbouring countries**, as the Ukraine-Russia conflict has broader geopolitical implications.

Ensure that your business partners are continuously monitored, using various monitoring tools such as self-assessment questionnaire, Pre-qualification assessment (PQA) and Third-party amfori audits.

3. Making sure that local contexts and dynamics are fully understood, including the human rights situation on the ground, by continuously engaging



Engage with a diverse group of local **stakeholders** to gain a picture of the situation on the ground and full understanding of the conflict dynamics, including the key actors. In contexts of conflict, situations are often quite fluid and can rapidly evolve. It is imperative that you base your **assessment and ongoing monitoring** on up-to-date information.

The engagement should include **workers or their representatives**, either directly or indirectly through your business partners. In doing so, ensure that mechanisms are in place to protect those at risk of retaliation .

If it is too difficult to engage in dialogue on the ground, consider liaising with **independent experts**, including from civil society, national human rights institutions or embassies. You can also turn to [amfori's members website](#), [ILO](#), or [UNHCR](#) for information on the evolving situation and links to authoritative publications.

4. *Putting in place actions to prevent that you exacerbate the situation with your activities or those of actors in your supply chain*



Prioritize your risks by considering not only their **severity to people**, but also other factors that could **cause or exacerbate the conflict**. Thus, **context** becomes critical for you to add to the severity equation.

When considering adverse effects on people, apply a **gender lens**. Consider also that vulnerable groups such as women and children in conflict affected and high risk areas, are often at greater risk of exploitation. The refugee crisis related to the Ukraine-Russia conflict is a telling example and can lead to greater risks of e.g. child labor, forced and/or bonded labor, employment of illegal migrants and discrimination.

5. *Considering to responsibly disengage*



International standards regard **responsible disengagement** as an option of **last resort**.

If and when you decided to suspend or terminate your activities in or related to a conflict-affected or high-risk area, ensure you have fully assessed the **consequences of disengagement**, including the indirect ones, and that you have included **the view of stakeholders in that assessment**. Do not overlook the impact on **people** and the extent to which it might worsen.

Do the benefits of disengaging outweigh the negative impacts? How do you plan to **mitigate** the negative impacts that will occur?

In particular, plan the strategy both in terms of the immediate and longer-term steps you and your business partners will take, and detail how you plan to mitigate the negative actions that will result from your decisions.

6. Communicating, communicating, communicating



Do not underestimate how important it is to be **transparent** about your enhanced due diligence and to **communicate** the steps you are taking, both internally and externally.

Even though you may not be subject to a direct public scrutiny, chances are that your customers, investors, shareholders or employees will expect information from you. Be proactive. You can prepare by answering these [guiding questions](#).

Also talk to your **peers**, to learn from each other, share experiences and explore joint activities. Contact **amfori's team** via info@amfori.org if you have questions about the subject, specific insights you want to share, or challenges you face.

CONCLUSIONS



Practically speaking, doing business in Ukraine, Russia, Belarus and neighboring countries should be done with a **conflict-aware lens as of February 24, 2022**. Specifically, this means that companies are expected to conduct "**heightened due diligence**".



Please note that there is no one-size-fits-all answer as to the actions you should (not) take. It remains critical to conduct ongoing and heightened due diligence . Importantly, you must be able to explain the due diligence choices you make and be confident that your story shows the extra effort you have put in. This means being **transparent** and willing to **communicate** about both your efforts and challenges. Try to answer the following questions: **how am I enhancing my due diligence? What has changed in the way I conduct due diligence so that I identify, prevent, mitigate and remediate heightened human rights risks and comply with international humanitarian law?**

ADDITIONAL USEFUL RESOURCES

- <https://www.securityhumanrightshub.org/toolkit>
- <https://www.connectingbusiness.org/system/files/2018-11/Enhanced-Human-Rights-Due-Diligence-in-Conflict-Affected-and-High-Risk-Areas.pdf>
- <https://www.ohchr.org/en/calls-for-input/2020/report-business-human-rights-and-conflict-affected-regions-towards-heightened>
- <https://redflags.info/>
- <https://www.pillar-two.com/featured-insights/2022/3/15/a-resource-repository-on-business-and-human-rights-issues-relating-to-russian-invasion-of-ukraine>
- https://www.pbsbdialogue.org/media/filer_public/d2/0f/d20f62af-4e2a-4c11-9626-d34b1a70c4cf/id-rbc.pdf