B-Tech Peer Learning Platform

Summary Note — Fourth Session

INTRODUCTION

On July 12 2023, the UN Human Rights B-Tech Project ("B-Tech") held the fourth session of its Peer Learning Platform (PLP), a series of webinars open to participants from a diverse range of tech companies from different geographic regions.

B-Tech's work aims to prevent and mitigate human rights risks relating to the development and use of digital technologies. This is achieved through promoting effective implementation of the UN Guiding Principles on Business and Human Rights ("UNGPs") in tech. Over the past several years, B-Tech has engaged with a number of companies in the sector through its Tech Company Community of Practice (CoP), which has greatly informed and enhanced many different B-Tech outputs. To expand engagement to more companies from diverse geographic regions, in 2023 B-Tech introduced the PLP, which is open to any company from the tech sector or with an interest in the application of the UNGPs to the sector.[1] The PLP is intended to:

- Broaden tech companies' engagement with the UNGPs, informed by B-Tech foundational guidance;
- Support capacity building within these companies;
- Broker connections among human rights functions across the industry; and
- Foster geographic outreach to tech firms headquartered globally.

For the fourth convening of the PLP, B-Tech held one webinar at 12pm EDT on 12 July, in order to introduce participants to the "Smart-Mix" concept of legal & policy measures, and the B-Tech "UNGPs Compass" tool. The session provided insight into the UNGPs' notion of "Smart-Mix" regulation and how States should – through a combination of mandatory and voluntary measures, hard and soft regulation – ensure that tech companies, like all other businesses, operate with respect for human rights.

PART I : THE « SMART-MIX » CONCEPT OF LEGAL & POLICY MEASURES

B-Tech Advisors Stephanie Seale and Ben Pitler introduced the session, giving an overview of the B-Tech Project and its work streams.

Lene Wendland, B-Tech Director and Chief of the UN Human Rights Office's Business & Human Rights Unit explained the concept of the "Smart-Mix" of measures as being central to the approach of the UNGPs. Lene commented that the "Smart-Mix" goes beyond developing legislation, and is a mix of both hard and soft law, including policies and regulatory measures

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[1] Participation in the Peer Learning Platform is limited to representatives from industry in order to foster an open, peer learning environment. B-Tech offers a separate opportunity for civil society representatives, as well as various multi-stakeholder engagements and events.

and incentives to achieve rights respecting practices by companies. Additional material contained in the UNGPs references the Smart-Mix concepts and expands on what it means for tech companies as a component of their responsibility to respect human rights.

As an example, Lene suggested that States have begun to take a more proactive approach when it comes to inserting expectations around human rights due diligence (HRDD) as defined by the UNGPs into mandatory, legally binding standards for companies. She noted a trend toward HRDD coming in a number of different national contexts and at the EU level (with the Corporate Sustainability Due Diligence Directive).

Following Lene's presentation, the floor was opened for questions from the group. One participant asked whether B-Tech has any guidance on responsible lobbying, following the OECD Principles for Transparency and Integrity in Lobbying[2] and the UN Working Group on Business and Human Rights report on responsible corporate political engagement.[3]

Lene noted the prevalence of the issue with responsible lobbying, noting that, within the B-Tech CoP and among other companies, there has been discussion about the challenges of interfacing between human rights teams working within companies to implement the UNGPs and public policy teams engaging in lobbying. Lene noted the lack of coherence that often exists between these teams within companies. She noted that to avoid tension in company wide practices, companies' engagement with political and regulatory processes should always align with their responsibility to respect human rights and should not undermine international standards.

PART II: OVERVIEW OF B-TECH'S UNGPs COMPASS TOOL

Ben Pitler described the idea behind the UNGPs Compass tool, how it supports legislative efforts, and its role in the broader B-Tech toolkit. He stated that the UNGPs Compass was directed to policy makers, to inform how they navigate the legislative process. The goal is to ensure that the UNGPs and human rights are duly considered in policymaking regarding the tech industry and that different pieces of legislation are aligned in this regard. He added that alignment does not mean that different pieces of legislation should be identical, but rather that they should be consistent in setting out and upholding the business responsibility to respect human rights.

B-Tech aims to make the UNGPs Compass tool publicly available by fall of 2023. The structure of the tool is built on four elements:

1. Scoping and identification of the objective of the legislation or policy
2. Regulatory gap analysis in existing legislation
3. Identification of avenues for regulation
4. Designing process for enforcement, monitoring and assessment

One participant asked how much policy makers have, to date, considered UN advisory and advocacy efforts, such as those undertaken by B-Tech. Lene responded that while there has

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[2] https://www.oecd.org/gov/ethics/oecdprinciplesfortransparencyandintegrityinlobbying.htm
[3] https://www.ohchr.org/en/documents/thematic-reports/a77201-report-corporate-political-engagement-and-responsible-business

been good engagement with the European Commission, there has not been enough consideration of the UNGPs in some cases.

PART III: OVERVIEW OF UN HUMAN RIGHTS' HR75 CAMPAIGN

Human Rights 75 is the UN Human Rights Office's campaign to celebrate the 75th anniversary of the Universal Declaration of Human Rights. The global campaign is intended both to celebrate the document and its relevance today, as well as to formulate a vision for global human rights over the next 25 years. To that end, the office has established an opportunity for Member States, civil society organizations, companies, and individuals to make pledges to demonstrate their commitments to human rights: https://www.ohchr.org/en/human-rights-75/pledge. B-Tech invites PLP participants to make pledges so that the work of the tech sector in supporting and respecting human rights can be elevated and highlighted.

UPCOMING PLP SESSIONS FOR 2023:

- **September 13:** Access to Remedy
- **November 8:** Stakeholder Engagement, Vulnerable Groups & Governance Gaps

These sessions are subject to change and the list may be amended based on participant input and demand. B-Tech welcomes participants to share their ideas for particular dilemmas or urgent topics to be covered in future PLP sessions. Participants may join in any or all of the sessions of the PLP, which do not constitute a linear course. B-Tech will post brief summary notes, such as this one, of the issues covered in each session, on our website. As per the Chatham House Rule, these notes will have no attribution.

For additional information about the B-Tech Peer Learning Platform, please contact OHCHR-b-techproject@un.org. For more information about the B-Tech Project, including past and upcoming activities, please visit the B-Tech project portal.