

RESPONSIBLE BUSINESS

KEY MESSAGES FROM INTERNATIONAL INSTRUMENTS



RBCLAC

Responsible Business Conduct in
Latin America and the Caribbean



International
Labour
Organization



BETTER POLICIES FOR BETTER LIVES



UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

RESPONSIBLE BUSINESS IS EVERYONE'S BUSINESS

Companies are the engine of the economy. They contribute to economic and social development through the creation of employment, the development of skills and technology, as well as the provision of goods and services. However, business activities can have adverse impacts on people, the environment and society. All companies, regardless of location, size, sector, operational context, structure and owners, must act responsibly, and identify and manage the risks of impacts related to their operations, products or services, including their supply / value chains and other business relationships. For their part, governments must foster responsible business behavior through an intelligent combination of mandatory and voluntary measures, and support the creation of an environment conducive to responsible business practices.

In order to promote the positive contribution that companies can make towards sustainable development and help prevent and address negative impacts, the International Labour Organization (ILO), the Organization for Economic Cooperation and Development (OECD) and The United Nations (UN), have developed instruments that provide guidance on responsible business conduct. These instruments establish that all companies have the responsibility to avoid and deal with the negative consequences in which they may be involved, including those present in the supply / value chains, while making a positive contribution to the economic, environmental and social progress of the countries in which they operate. As such, these expectations of good behaviour go beyond legal obligations. At the same time, reasonable business practices improve the performance of the company and can have a positive impact on operations by managing risks more efficiently, generating an improvement in corporate reputation, among other benefits.

The implementation of international standards on responsible business conduct has become essential to contribute to the achievement of the Sustainable Development Goals (SDGs). By making a positive contribution to economic growth and development, effectively avoiding and coping with possible negative impacts on people, the environment and society, companies can become powerful drivers to achieve the SDGs. For example, by ensuring respect for human rights and decent working conditions, companies can drive large-scale positive changes in the supply / value chain through the SDGs.

The three main instruments that have become the key reference points for responsible business, and which outline how companies can act responsibly are the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (ILO MNE Declaration), The OECD Guidelines for Multinational Enterprises (OECD MNE Guidelines) and the UN Guiding Principles on Business and Human Rights (UN Guiding Principles). They are aligned with, and complement, each other.

INTERNATIONAL INSTRUMENTS

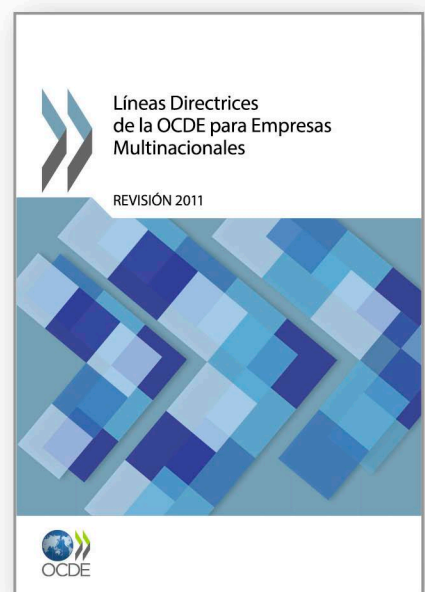
- The ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy guidance to encourage positive contributions that companies can make to economic and social progress, and to minimize and resolve difficulties in their operations. The principles reflect good practice to all Tripartite Declaration of business principles. The ILO Tripartite Declaration also provides AOS policy guidance to governments, as well as employers' and workers' organizations, which play a central and distinctive role in creating an enabling environment for responsible companies.

The recommendations on employment, training, working conditions, life and labour relations are based on International Labour Standards, including the fundamental conventions that underpin the ILO Declaration on Fundamental Principles and Rights at Work (1998). It also deals with forced labour, child labour, non-discrimination, freedom of association and collective bargaining. The ILO Tripartite Declaration was recently updated in 2017 to include new labour standards and policy results, and to make explicit references to those global development standards such as the adoption of the UN Guiding Principles and the 2030 Agenda for Sustainable Development.



- The OECD Guidelines for Multinational Enterprises are recommendations from governments to businesses on how to act responsibly. They cover all areas of business responsibility, including labour and human rights issues, environment, disclosure, bribery, consumer interests, science and technology, competition, and taxation. The Guidelines were adopted in 1976 and last updated in 2011 to include a chapter on human rights aligned with the UN Guiding Principles. The chapter on Employment and Industrial Relations is aligned with ILO labour standards. The Guidelines also include a unique non-judicial grievance mechanism: National Contact Points (NCPs). The OECD Working Party on Responsible Business Conduct brings together the governments that have adhered to the Guidelines – currently 48 – whose mandate is to promote the implementation of the OECD MNE Guidelines and RBC policies.

The OECD Working Group on Responsible Business Conduct brings together governments that have adhered to the Guidelines - currently 48 - whose mandate is to promote the implementation of the OECD Guidelines as well as responsible business conduct policies.



INTERNATIONAL INSTRUMENTS

- The United Nations Guiding Principles on Business and Human Rights (Guiding Principles) focus on avoiding and addressing the negative consequences on human rights related to business activities. The Guiding Principles are based on three pillars:

1. The duty of the State to protect against human rights abuses committed by third parties, including companies.
2. The independent responsibility of companies to respect human rights, which means that they must refrain from violating the human rights of third parties and face the negative consequences on human rights with which they have any participation.
3. The need for those affected by business activities to access effective repair mechanisms. The Guiding Principles were approved unanimously in 2011 by the UN Human Rights Council.

Both the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the United Nations Working Group on Business and Human Rights (United Nations Working Group) are charged with promoting the Guiding Principles of the Nations United and its implementation, even disaggregating what the Principles mean in practice with respect to different human rights issues, sectors and types of actors.



CSR, RBC AND BHR: HOW DO THEY RELATE TO EACH OTHER?

Many businesses, governments and stakeholders are familiar with the term Corporate Social Responsibility (CSR), which has historically been used to describe business interactions with society.

Over the last years, CSR has increasingly been used alongside RBC and BHR, with some using the terms interchangeably (e.g. the European Union). How do these concepts relate to each other?

They all reflect the expectation that businesses should consider the impact of their operations and supply chains on people, the planet and society as part of their core business considerations and not as an add-on. This includes the need to avoid and address negative environmental and social impacts.

A key characteristic of CSR, RBC and BHR is that they refer to corporate conduct beyond simply complying with domestic law and call on business to contribute positively to sustainable development while managing risks and impacts that may result from their activities. These concepts should not be understood to be equivalent to philanthropy.

A COHERENT APPROACH

The instruments developed by the ILO, OECD and UN set the global expectations for responsible business conduct and are aligned and complement each other. Each organisation brings its own value-added to their implementation, based on its mandate and expertise: The ILO with its tripartite structure and authority on international labour standards; the OECD with its broad approach to RBC and the links to economic policies; and the OHCHR and the UN Working Group with their expertise on business and human rights and UN human rights mandates. The main common elements are set out below.

Framework for all Companies

International corporate responsibility standards set the expectation that all companies – regardless of their size, sector, operational context, ownership and structure– avoid and address the adverse impacts with which they are involved, and contribute to the sustainable development of the countries in which they operate.

A COHERENT APPROACH

Common Understanding of Impact

The instruments establish that the impact of business activities is understood beyond the impact on the company itself and, therefore, refers to the impact that business activities can have on human rights - including labor rights, the environment and society - both positive as negative. These instruments establish a common understanding that companies can generate, contribute or be directly linked to negative consequences (through its own operations, products or services, or through its business relationships) while they provide a framework on how companies should avoid and cope with those impacts.

Conducting due Diligence

Businesses should undertake due diligence to identify, prevent and mitigate their actual and potential negative impacts and account for how those impacts are addressed. This process should involve meaningful consultation with potentially affected groups and other relevant stakeholders. With respect to labour rights, consultation with workers' organisations is particularly important. By helping companies understand the impacts of their activities and by clarifying the expectations around due diligence, these international instruments guide companies on what they should do in order to know and show that they are behaving responsibly.

Responsibility throughout the supply chain

Responsible business covers not only impacts that a company may cause or contribute to through its own activities but also those impacts directly linked to an enterprise's operations, products or services through its business relationships. This includes: business partners, entities in the value chain such as subsidiaries, suppliers, franchisees, licensees, joint ventures, investors, clients, contractors, customers, consultants, financial, legal and other advisers, and any other non-State or State entities.

A COHERENT APPROACH

Access to Remedy

As part of their duty to protect against business-related adverse impacts, States are expected to take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy. In addition, where companies identify that they have caused or contributed to adverse impacts, they are expected to address them through providing remedy, and they should provide for or cooperate in this remediation through legitimate processes.

EFFECTIVE IMPLEMENTATION

Governments, enterprises, social partners and other stakeholders all have important roles to play to implement these international instruments and advance responsible business operations. Governments have a duty to protect people, the environment and society. To achieve this, they are expected to adopt and enforce relevant laws, regulations, and policies that promote, enable and support responsible business conduct. Enterprises should meet their responsibility to avoid and address harms. They should use their leverage and set clear expectations to their business partners to also meet international expectations for responsible business conduct.

Importantly, both governments and companies are expected to communicate externally how they address their impacts and engage with employers' and workers' organisations, as well as other stakeholders, such as civil society, human rights defenders and community members, to achieve decent work and respect for human rights in practice.

EFFECTIVE IMPLEMENTATION

- The ILO MNE Declaration contains a set of operational tools. At the enterprise level, the ILO Helpdesk for Business is a free and confidential service that provides information for businesses on the principles set out in the MNE Declaration. The ILO company-union dialogue service provides a space for a company and union to come together voluntarily to discuss issues of mutual concern. **At the national level, the ILO provides technical support to national partners, including through the facilitation of dialogue platforms that bring together governments and employers' and workers' organizations to identify decent work opportunities and challenges and to agree on joint action to address them.**

Home-host country dialogues also involving MNEs foster partnerships for advancing decent work in global supply chains. Tripartite appointed national focal points are established to promote the application of the ILO MNE Declaration.

At the regional level, the ILO produces reports on regional foreign direct investment trends and issues identified by governments and the social partners on how the principles of the ILO MNE Declaration are being applied. Through its International Training Centre (ITC-ILO), the ILO also offers a range of training opportunities on the labour dimension of responsible business conduct.

- All governments that adhere to the OECD MNE Guidelines have to set up a National Contact Point (NCP) to promote RBC and handle cases (referred to as "specific instances") as a non-judicial grievance mechanism. **NCPs have received more than 450 cases relating to company operations in over 100 countries and territories. They have resolved a wide range of complaints relating to companies' impacts on the environment, human rights and labour rights, including in global supply chains.**

The OECD has also adopted a range of instruments providing guidance on due diligence to help companies operating in different sectors to understand and address RBC risks. The OECD due diligence guidance instruments have been developed through a multi-stakeholder process (including ILO and OHCHR), and have been embedded in domestic legislation in a range of countries. The OECD also provides support to governments and companies to facilitate their use through training, peer learning and policy advice. The Global Forum on Responsible Business Conduct brings together stakeholders from governments, business, trade unions, civil society and academia to debate key global social and economic challenges related to responsible business conduct.

EFFECTIVE IMPLEMENTATION

- OHCHR and the UN Working Group provide guidance and engage in dialogue with States, companies and other stakeholders on how to implement the UN Guiding Principles. For example, OHCHR convenes practice-oriented workshops to engage and support the business community in different countries to improve alignment of policies and processes with the UNGPs. The UN Working Group regularly assesses how companies are making human rights due diligence part of business practice and how governments are implementing their duty to protect against business-related human rights abuse and fostering responsible business in line with the UN Guiding Principles.

The annual UN Forum on Business and Human Rights, organised by OHCHR and the UN Working Group, yearly takes stock of progress, challenges, good practice and efforts in this area. OHCHR is also leading a project on how to improve accountability and access to remedy in cases of business involvement in human rights abuses.

National action plans on business and human rights have become an important means for governments to promote the effective and comprehensive implementation of the UN Guiding Principles, and alignment with implementation of other instruments. As governments often have many different laws, policies and practices that are relevant to RBC, national action plans can help ensure that all government actors are working in a coherent manner to include RBC in their activities.

National action plans have also served as an important way for governments to engage in dialogue with stakeholders, including companies, social partners and civil society. They also help identify ways in which the State has a particular role to play to ensure standards are implemented, e.g. in its role as an economic actor. In some countries, this exercise has led to the adoption of new regulations and policies. Some national action plans go beyond the theme of business and human rights by also encompassing the environment, human rights or responsible business more generally.

JOINING FORCES FOR RESPONSIBLE BUSINESS

The ILO, OECD and OHCHR have strengthened their collaboration and coordination in a range of areas to help governments, companies, civil society and other stakeholders step up action on responsible business in a coherent way. Coherence is particularly important to avoid a proliferation of expectations at the international level and across countries, which can create challenges for business operating globally.

The three organizations are therefore actively working to ensure alignment among their instruments and implementation programmes. Each instrument refers to the others and builds on each other's important added value. For example, the due diligence approach set out in the UN Guiding Principles was subsequently incorporated in the OECD MNE Guidelines and the ILO MNE Declaration. More recently, the 2018 OECD Due Diligence Guidance for Responsible Business Conduct promotes a common understanding on due diligence for responsible business conduct. Both the ILO and the UN Working Group on Business and Human Rights promote this Guidance. This was recognized by the UN Working Group in its report to the UN General Assembly in 2018 which highlighted key features of human rights due diligence.

The organizations have also joined forces to provide technical advice and promote implementation at the country level. With the support of the European Union through its Partnership Instrument, they promote responsible business within the context of projects in Asia and Latin America and the Caribbean. The project in Asia seeks to promote responsible supply chains aimed at enhanced respect for human rights, labour and environmental standards by businesses, in line with international instruments. It also promotes policy environments conducive to responsible business conduct and increased opportunities for dialogue. The project in Latin America seeks to promote responsible business conduct by supporting the development and implementation of NAPs, strengthening due diligence and sharing good practices on responsible business conduct. These projects provide an important opportunity to promote synergies and for each organization to contribute to the creation of a strengthened enabling environment for responsible business conduct.



JOINING FORCES FOR RESPONSIBLE BUSINESS



European Union

The European Union (EU) commitment to human rights, decent work and environmental protection is supported by the EU Treaties and reinforced in the 2015 European Commission's trade policy strategy "Trade for all". In particular, there is a commitment from the European Commission to identify opportunities for partnerships and collaborations on the issue of responsible supply chains. There is also a strategic approach to achieve responsible business conduct, which is based on internationally agreed principles and guidelines. It also has a strategic CSR / CER approach that responds to the Commission Communication 2011 "Renewed EU Strategy for 2011-2014 on corporate social responsibility" and their respective action plans, which promotes the importance of a Responsible business conduct to stimulate sustainable development worldwide. The multiple EU initiatives in this area are illustrated in the document "Corporate Social Responsibility, Responsible Business Conduct, and Business & Human Rights Overview of Progress" dated March 20, 2019.



International Labour Organization

The International Labour Organization (ILO) is the specialized agency of the United Nations on employment and labour issues whose work involves adopting international labour standards and providing policy guidance, capacity building and technical assistance to governments, employers and workers in its 187 member States. The aim of the ILO is to promote rights at work, encourage decent employment opportunities, enhance social protection and strengthen dialogue on work-related issues.



BETTER POLICIES FOR BETTER LIVES

The Organization for Economic Co-operation and Development (OECD) is an intergovernmental organization with a mission to promote better policies for better lives of people around the world. Its member countries (36) span the globe and include many of the world's advanced and emerging economies. The goal of the OECD is to build a stronger, cleaner and fairer world.



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The Office of the High Commissioner for Human Rights (OHCHR) leads the Business and Human Rights agenda within the UN system, supporting the work of the UN Human Rights Council and the UN Working Group on Business and Human Rights in promoting the dissemination and implementation of the UN Guiding Principles on Business and Human Rights. The UN Working Group is composed of five independent experts of balanced geographical representation appointed by the UN Human Rights Council.



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For more information, visit:

www.ilo.org/empent/areas/mne-declaration/lang--es/index.htm

<https://mneguidelines.oecd.org/>

www.ohchr.org/EN/Issues/Business/Pages/BusinessIndex.aspx

www.ohchr.org/SP/Issues/Business/Pages/WGHRandtransnationalcorporationsandotherbusiness.aspx