



BECKERS GROUP

CODE OF CONDUCT

The basis of our Code of Conduct

Beckers Group is a privately owned global coatings company with leading positions in coil and special coatings. We supply to architectural and transport industries, appliance manufacturers, agricultural, construction and earthmoving equipment (ACE), as well as an array of industrial equipment. We also provide striking finishes for mobile phones and other electronic devices.

Across all of these industries we deliver innovative coatings solutions, as well as products, and we are doing our utmost to make our products and solutions, and therefore our customers' products more sustainable.

We shall act in accordance with the following group values: customer focus, ability to shape and adapt, team spirit and trust and integrity.

We have a deep engagement for our society and environment and want Beckers Group to make a positive contribution to the communities in which we operate. We expect our management teams to look upon their environmental performance, social responsibility and ethical behaviour as a competitive advantage.

These values shall reflect the spirit in which we conduct our day-to-day activities. Hence, they form the basis of our Code of Conduct; the purpose of which is to clarify their significance to the way in which we conduct our daily business.

Our commitment

We shall adhere to high standards of ethics and business morals in all our operations and relations. Furthermore, we shall conduct our business in an environmentally and socially

responsible manner and behave appropriately towards all of our stakeholders – our customers, suppliers, employees, shareholders, governments and non-governmental organizations (NGOs), the communities in which we operate and other parties that have influence over or are influenced by Beckers Group and its companies.

In particular, we embrace, support and enact – within the sphere of our influence – the core values in the areas of human rights, labour standards, the environment and anti-corruption as expressed in the Ten Principles of the United Nations Global Compact, the Guiding Principles on Business and Human Rights as well as the Children’s Rights and Business Principles, as in appendixes 1-3.

We review our Code of Conduct periodically and are committed to making changes in its content and implementation when circumstances so demand.

Scope

Our Code of Conduct is applicable to all locations and units within Beckers Group and applies to all employees, officers and directors of the group. It is to be adopted and followed by all of our companies.

Legal compliance

With production and sales facilities in more than thirty countries around the world, Beckers Group and its companies are subject to a wide range of legal requirements. We shall comply with all applicable laws and regulations that relate to our activities in the countries in which we operate. It is the responsibility of each employee, officer and director to make sure that they are aware of and abide by the laws and regulations that apply to them in their position as representatives of a company within Beckers Group.

Naturally, legal systems are often highly complex and change over time. Therefore each manager has to do his or her utmost to keep track of laws and regulations that relate to their areas of responsibility. In case of uncertainty, it is the responsibility of each employee to seek appropriate advice on relevant legal requirements and other legal issues.

Human rights

We support and respect the protection of internationally proclaimed human rights, such as the Universal Declaration of Human Rights, within the sphere of our influence. We promote diversity and equality and shall not be complicit in human rights abuses.

All employees must be treated equally, have equal opportunities and not be subjected to discrimination based on for example ethnic or national origin, creed, skin colour, gender, marital status, sexual orientation, religion, political opinion, nationality, social origin, disability or union membership.

We do not use child labour. Employees and other personnel must be at least 16 years of age or have reached national school-leaving age upon completion of compulsory schooling, whichever is higher. The minimum age for hazardous work is 18 years of age.

We do not accept any form of forced labour or any other forms of involuntary labour. Neither do we tolerate working conditions or treatment that are in conflict with international laws and practices.

Accounting and reporting

All business transactions and payments within each unit in Beckers Group and its companies must be recorded in a timely and accurate manner. We follow strict accounting principles and standards and have appropriate internal controls and processes to ensure that accounting and financial reporting comply with Beckers Group's and its companies' respective reporting manual together with all applicable laws and regulations.

Conflicts of interest, gifts and bribes

Business decisions must be based on the best interest of Beckers Group and its companies rather than personal considerations or relationships. All employees must avoid engaging in activities that could lead to conflicts of interests.

A conflict of interest occurs when an employee's personal interests interfere with his or her ability to use his or her judgment objectively in the best interests of Beckers Group. Such a conflict can for example arise where an employee or member of his or her family has a financial interest that could affect such employee's judgment or where an employee gains personal enrichment through access to confidential information. A conflict of interest can also arise when an employee or a member of his or her family has a personal interest, directly or indirectly, in any supplier or customer of the group. If an employee believes that he or she may have direct or indirect conflicts of interest, he or she must disclose such potential conflicts to management.

No one may, directly or indirectly, demand or accept, offer or give any kind of bribe, kickback or any other unlawful or unethical benefit to employees or other representatives or associates of Beckers Group or its companies or any third party. Any such offer or proposed arrangement must be reported immediately to management.

Gifts of other than nominal value may not be accepted without full disclosure to and prior relevant clearance from the employee's line manager.

Confidentiality

All information obtained at work should be considered confidential unless it is freely and publicly available. Confidential information should only be used for its intended purpose and never be disclosed to anyone other than colleagues or other authorized people who have a need-to-know. The obligation to keep information confidential continues even after an employee leaves the Beckers Group.

Workplace practices

All our activities must be conducted with respect for employee health and safety. All employees shall be provided with a safe and healthy working environment. We should take appropriate action to prevent workplace accidents or illnesses.

All employees shall be free to join associations of their own choice and shall have the right to collective bargaining. In countries where these practices are legally restricted, we strive to have parallel means in place to allow concerns to be brought to management attention.

All employees should know the basic terms and conditions of their employment. Salaries, including overtime and benefits, shall equal or exceed local legal and industry minimum standard.

All employees should be treated with respect and dignity and not be subjected to any discrimination, abuse or harassment.

Business ethics

Beckers Group's companies shall compete vigorously but honestly for business and uphold the highest standards in business ethics. We respect antitrust and fair competition laws that prohibit certain actions that unfairly and dishonestly harm competitors. Across the board we act in accordance with fair business, marketing and advertising practices.

Environment

Environmental issues are an integral part of our business. We support long term sustainable development, life-cycle thinking and a precautionary approach to environmental challenges. We further strive to minimize negative environmental impact from our operations and products and to apply the substitution principle.

We will fulfil or exceed environmental demands in laws, regulations and international conventions applicable to countries in which we operate.

All our subsidiaries are required to operate an appropriate environmental management system.

Community involvement

All our activities must be conducted with respect for the well being of the local communities in which we operate. Beckers Group maintains a neutral position with respect to political parties. Our employees are however encouraged to play an active role in society, including through activities in political parties. We also encourage our employees to actively participate in the communities in which they live and work and to propose community involvement projects to management.

Suppliers

We will do our utmost to contract only those subcontractors and suppliers who themselves adhere to international human rights and environmental laws and practices, monitor their ethical performance and take immediate and thorough steps in cases where this ethical performance comes into question.

Compliance

Our policy is to support open and fair discussion of issues and worries. Employees are encouraged and expected to report any and all incidents of non-compliance with this Code of Conduct. Failure to comply may result in civil and criminal liability and /or disciplinary action, including termination of employment.

Advice or guidance on the interpretation of this Code of Conduct is available from Beckers Group. Any employee who suspects any breach of this Code of Conduct should immediately bring this to the attention of Beckers Group.

Employees can use our confidential “whistle blowing” phone, Email or physical mailing address. These can be used to bring concerns and issues to the attention of the Beckers Group management or an external person. We will in turn make every effort to maintain the anonymity and confidentiality of those reporting.

Telephone numbers and addresses for these purposes are shown below and are also available on our website www.beckers-group.com

Telephone numbers

Chief Financial Officer (Oliver Laune) +33 48 225 03 49

External contact (Ragnar Lindqvist) +46 42 489 22 17

Email addresses

codeofconduct@beckers-group.com

ragnar.lindqvist@rliab.se (external)

Mailing addresses

Beckers Group

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69006 Lyon
France

External:

Ragnar Lindqvist Advokat AB
Ragnar Lindqvist
Södra Storgatan 7
Helsingborg
Sweden

None of the management within Beckers Group's companies will be held accountable for any loss of business resulting from compliance with this Code of Conduct. There shall be no retaliation or other negative consequences for persons reporting in good faith.

I have read and understood the Beckers Code of Conduct document

Date:

Name in capital letters:

Signature:.....

Appendix 1 The United Nations Global Compact's Ten Principles

Appendix 2 Children Rights and Business Principles

Appendix 3 Guiding Principles on Business and Human Rights

The Ten Principles

The UN Global Compact's ten principles in the areas of human rights, labour, the environment and anti-corruption enjoy universal consensus and are derived from:

- [The Universal Declaration of Human Rights](#)
- [The International Labour Organization's Declaration on Fundamental Principles and Rights at Work](#)
- [The Rio Declaration on Environment and Development](#)
- [The United Nations Convention Against Corruption](#)

The UN Global Compact asks companies to embrace, support and enact, within their sphere of influence, a set of core values in the areas of human rights, labour standards, the environment and anti-corruption:

Human Rights

- [Principle 1](#): Businesses should support and respect the protection of internationally proclaimed human rights; and
- [Principle 2](#): make sure that they are not complicit in human rights abuses.

Labour

- [Principle 3](#): Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;
- [Principle 4](#): the elimination of all forms of forced and compulsory labour;
- [Principle 5](#): the effective abolition of child labour; and
- [Principle 6](#): the elimination of discrimination in respect of employment and occupation.

Environment

- [Principle 7](#): Businesses should support a precautionary approach to environmental challenges;
- [Principle 8](#): undertake initiatives to promote greater environmental responsibility; and
- [Principle 9](#): encourage the development and diffusion of environmentally friendly technologies.

Anti-Corruption

- [Principle 10](#): Businesses should work against corruption in all its forms, including extortion and bribery.



Children's Rights and Business Principles

1 2 3 4 5 6 7 8 9 10



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Introduction

Children under 18 years old account for almost one third of the world's population. In many countries, children and youth make up almost one half of the national population. It is inevitable that business, whether small or large, will interact with and have an effect on the lives of children both directly and indirectly. Children are key stakeholders of business – as consumers, family members of employees, young workers, and as future employees and business leaders. At the same time, children are key members of the communities and environments in which business operates.

With increased attention being paid to the role of business in society in parallel to governments and other societal actors, and with greater awareness of the links between business and human rights, the explicit focus on the impact of business on children is also timely. Children are among the most marginalized and vulnerable members of society and this is evident from their lacking a public voice. They are rarely given a say or consulted about how communities make decisions – even decisions affecting them directly, such as planning for schools and recreational areas. Yet, when given the opportunity to participate, children have demonstrated that they can provide important alternative viewpoints and make valuable contributions.

The effects that business has on children can be long-lasting and even irreversible. Childhood is a unique period of rapid physical and psychological development during which young people's physical, mental and emotional health and well-being can be permanently affected for better or worse. Adequate food, clean water, and care and affection during a child's developing years are essential to his or her survival and health.

Children are even affected by everyday hazards differently and more severely than adults. Due to their physiology, children absorb a higher percentage of pollutants to which they are exposed, and thus their immune systems are more compromised and vulnerable.

Children employed or affected by a business are often invisible. Typical examples include children working illicitly in the supply chain, children on or around company premises, children employed as domestic workers in employee housing, children exposed to business products, children arrested and detained by security services and children of migrant workers left at home.

To date, recognition of the responsibility of business towards children has often focused on preventing or eliminating child labour. While reinforcing standards and actions necessary to prevent and eliminate child labour, the Children's Rights and Business Principles also highlight the diversity of ways in which business affects children. This includes the impact of their overall business operations – such as their products and services and their marketing methods and distribution practices – as well as through their relationships with national and local governments, and investments in local communities.

Respecting and supporting children's rights requires business to both prevent harm and actively safeguard children's interests. By integrating respect and support for children's rights into the core strategies and operations, they can strengthen their existing corporate sustainability initiatives while ensuring benefits for their business. Such efforts can build reputation, improve risk management and secure their 'social license to operate'. A commitment to children can also help recruit and maintain a motivated workforce. Supporting employees in their roles as parents and caregivers, and promoting youth employment and talent generation are just some of the concrete steps that business can take. Considering how products and services can better meet children's needs can also be a source of innovation and create new markets. Finally, working for children helps build strong, well-educated communities that are vital to a stable, inclusive and sustainable business environment.

The Children's Rights and Business Principles provide a comprehensive framework for understanding and addressing the impact of business on the rights and well-being of children. Save the Children, the UN Global Compact and UNICEF hope that these Principles will serve as inspiration and a guide for all business in their interactions with children.

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Children's Rights and Business Principles

The Children's Rights and Business Principles set out business actions to *respect* and *support* children's rights. Children's rights are outlined by the Convention on the Rights of the Child, and the International Labour Organization's Convention No. 138 on Minimum Age and Convention No. 182 on Worst Forms of Child Labour. Article 3 of the Convention on the Rights of the Child sets out the principle that, "In all actions concerning children ... the best interests of the child shall be a primary consideration."

For the purposes of these Principles, actions for all business include:

THE CORPORATE RESPONSIBILITY TO RESPECT -- avoiding any infringement of the human rights of others, including children, and addressing any adverse human rights impact with which the business is involved. The corporate responsibility to respect applies to the business's own activities and to its *business relationships*, linked to its operations, products or services.

THE CORPORATE COMMITMENT TO SUPPORT -- in addition to respecting human rights, voluntary actions that seek to advance human rights, including children's rights, through core business activities, strategic social investments and philanthropy, advocacy and public policy engagement, and working in partnership and other collective action.

Respect for children's rights is the minimum required of business. Actions to support children's rights are strongly encouraged even if not required. Each Principle in the Children's Rights and Business Principles lays out actions to respect children's rights and actions to support children's rights.

In this document, the phrase 'children's rights' is synonymous with the 'human rights of children'.



Glossary

With the exception of child/children and business, the following defined terms are italicized throughout the Principles.

best interests of the child – one of the four core principles in the Convention on the Rights of the Child, this applies to all actions and decisions concerning children and calls for active measures to respect their rights and promote their survival, growth and well-being as children, as well as measures to support and assist parents and others who have day-to-day responsibility for realizing children’s rights.

business – a for-profit enterprise.

business relationship – those relationships a business has with business partners, entities in its *value chain*, and any other State or non-state (government or non-governmental) entity directly linked to its business operations, products or services. This includes indirect business relationships in an enterprise’s *value chain*, beyond the first tier, as well as majority and minority shareholding positions in joint ventures.

child labour – work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development. This includes work that is mentally, physically, socially or morally dangerous and harmful to children; work that interferes with their schooling; and engaging in work children who are under the minimum working age(s) set by national legislation or international standards. No child under 18 years old should be engaged in hazardous work (i.e. work that is likely to harm their health, safety or morals) or other worst forms of child labour such as trafficking, sexual exploitation, debt bondage, forced labour and the recruitment or use of underage children for security or military purposes. This also involves focus on the gender dimensions of child labour in light of the more likely engagement of girls in activities such as domestic work and sexual exploitation. For further elaboration, see the International Labour Organization (ILO) Conventions No. 182 on the Worst Forms of Child Labour and No. 138 on the Minimum Age, in addition to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

child participation – one of the four core principles of the Convention on the Rights of the Child, this includes processes that encourage and enable children to articulate and convey their views on issues that affect them. It also involves information sharing and dialogue between children and adults based on mutual respect in an environment that facilitates freedom of expression. Such processes must be authentic, inclusive and meaningful and should take into account the evolving capacities of children and enable them to learn constructive ways to influence the world around them. There should be a

commitment to consider children’s opinions – including girls and boys, the most marginalized, the vulnerable, and those of different ages and abilities. Their views should be respected, heard and taken into account in all decisions and actions affecting them. Participation should not be tokenistic and should not exploit children.

child protection code of conduct – a document that sets out the business’s detailed expectations of conduct for individuals within its operations who come into contact with children. The code of conduct implements the business’s zero-tolerance policy on violence, exploitation and abuse. It uses the Convention on the Rights of the Child and its Optional Protocols as its framework and is designed to help protect children from violence, exploitation and abuse.

child or children – article 1 of the Convention on the Rights of the Child defines children as every human being under 18 years old unless, under the law applicable to the child, majority is attained earlier.

decent work – involves opportunities for work that are productive and deliver a fair income. Decent work should provide security in the workplace and social protection for families, rights at work, social dialogue, and better prospects for personal development and social integration. People, including young people of working age, should be free to express their concerns, to organize and to participate in the decisions that affect their lives, and have the right to equality of opportunity and treatment.

emergencies – situations where lives, physical and mental well-being, or development opportunities for children are threatened as a result of armed conflict, widespread violence, epidemics, famine, natural disaster or the breakdown of social or legal order.

human rights due diligence – a business’s ongoing processes for assessing its actual and potential human rights impact, including on children’s rights, integrating and acting upon its findings, tracking its responses and communicating how its impact is addressed, as set out in the Guiding Principles on Business and Human Rights endorsed by the United Nations Human Rights Council.¹ *Human rights due diligence* should cover adverse impact that the business may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by a business relationship. To carry out human rights due diligence, all business should:

- Identify and assess any actual or potential adverse impact on children’s rights. This should draw on human rights expertise and involve meaningful consultation with children and other potentially affected groups and relevant stakeholders. It should take into account that girls and boys may face different risks.

¹ ‘Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework’ as annexed to the Re–port of the Special Representative of the United Nations Secretary-General on the issue of human rights and transnational corporations and other business enterprises, A/HRC/17/31, United Nations, 21 March 2011, available at www.ohchr.org/documents/issues/business/A.HRC.17.31.pdf Endorsed by the United Nations Human Rights Council in A/HRC/RES/17/4.

- Integrate the findings from their impact assessments across relevant internal functions and processes and take appropriate action (as defined in the Guiding Principles). Where a business causes or contributes to an adverse impact on children’s rights, or where it may do so, it should take the necessary steps to cease or prevent the activity, or its contribution to it, and use its leverage to mitigate any remaining impact. Where a business is linked to an adverse impact by a business relationship, it should use its leverage and consider other relevant factors in determining the appropriate action to take.
- Monitor and track the effectiveness of the business’s responses in order to verify whether the adverse impact on children’s rights is being addressed, using appropriate qualitative and quantitative indicators and drawing on feedback from internal and external sources, including affected children, families and other stakeholders.² The business should consider using tools such as performance contracts and reviews, surveys and audits (self-assessments or independent audits) on a periodic basis.³
- Be prepared to communicate externally on its efforts to address the impact of business on children’s rights in a form and frequency that reflect such an impact and that is accessible to its intended audiences. The business should provide sufficient information to evaluate the adequacy of its responses. Such communication should not pose risks to affected stakeholders, personnel or to legitimate requirements of commercial confidentiality.

These processes should be appropriate to the business’s size and circumstances and be in alignment with the Guiding Principles on Business and Human Rights.

leverage – the ability of a business to effect change in the wrongful practices of the party that is causing or contributing to an adverse impact on human rights. Where a business has leverage to prevent or mitigate an adverse impact on human rights that is directly linked to its operations, products or services by a *business relationship*, it should use that leverage. If it lacks leverage, there may be ways to increase it, for example, by offering capacity-building or other incentives, or collaborating with other actors. The business should also consider how crucial the relationship is to the business, the severity of the impact, and whether terminating the relationship would have adverse human rights consequences, following the approach set out in Principle 19 of the Guiding Principles on Business and Human Rights.

non-discrimination – one of the four core principles enshrined in the Convention on the Rights of the Child, this provides for equal treatment of an individual irrespective of race, colour, sex, language, disability, religion, political or other opinions; national, social or

indigenous origin; and property, birth or other status. In short, it means that all children – in all situations, all of the time, everywhere – have the same right to develop to their full potential.

policy commitment – a statement that sets out the business’s responsibility to respect rights, including children’s rights, as described in the Guiding Principles on Business and Human Rights. A policy commitment should be approved at the most senior level of the business and be informed by relevant expertise. It should stipulate the business’s expectations of personnel, business partners and others directly linked to its operations, products or services. It should be publicly available, communicated internally and externally, and embedded in relevant policies and procedures. It may also include a statement of the business’s commitment to support rights.

remediation – both the processes of providing a remedy for an adverse human rights impact and to the substantive outcomes that can counteract, or make good, the adverse impact. Where a business identifies that it has caused or contributed to an adverse impact on human rights, it should provide for or cooperate in their remediation through legitimate processes, including effective operational level grievance mechanisms or judicial mechanisms, as appropriate. Operational level mechanisms should be accessible to girls and boys, their families and those who represent their interests, and meet the effectiveness criteria for non-judicial grievance mechanisms set out in Principle 31 of the Guiding Principles on Business and Human Rights.

survival and development – one of the four core principles in the Convention on the Rights of the Child, this recognizes that there are optimal conditions for childhood. Rights such as social security, health, adequate nutrition and standard of living, a healthy and safe environment, education, leisure and play are all relevant to ensuring the healthy development of each child. Protection from violence and exploitation is also vital to each child’s survival and development.

value chain – a business’s value chain encompasses the activities that convert inputs into outputs by adding value. It includes entities with which the business has a direct or indirect business relationship and which either a) supply products or services that contribute to the business’s own products or services, or b) receive products or services from the business.

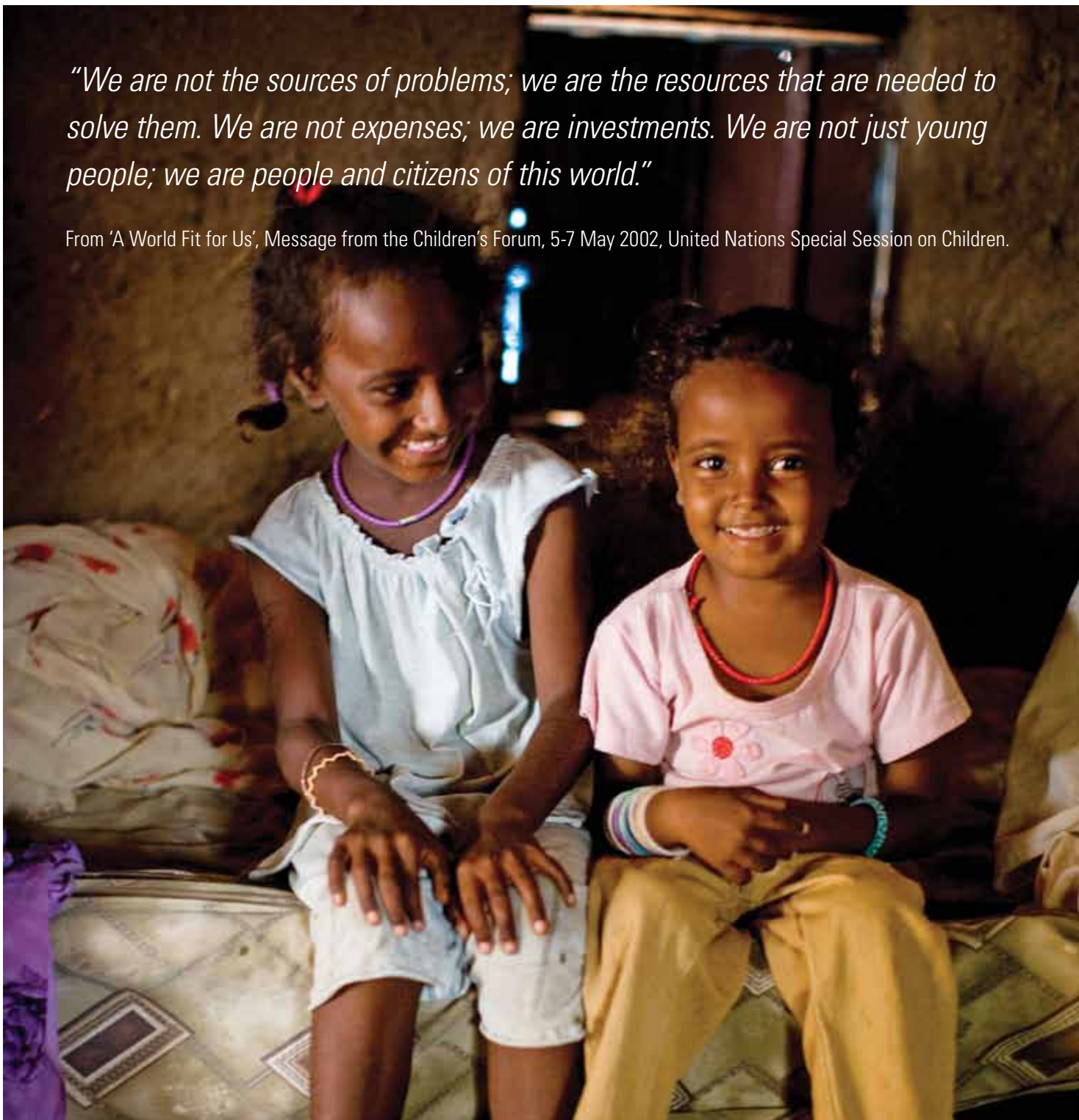
young worker – a child who is above the minimum legal working age and engaged in economic activity. It is an age group that is subject to designation as child labour if the work or working conditions are hazardous.

² When direct consultation with affected stakeholders is not possible for small and medium sized business with limited human rights risks, due to legitimate financial, geographical or other constraints, the business should seek other independent external expert resources and insights offered by organizations or individuals that legitimately convey the perspectives – or likely perspectives – of those who may be affected by the enterprise’s activities or relationships.

³ Regarding suppliers, in addition to communicating clearly expectations of conduct, steps that business may take also include examples of capacity building efforts and collaborating with other business to increase leverage. For further guidance, see UN Global Compact supply chain sustainability guidance: http://www.unglobalcompact.org/docs/issues_doc/supply_chain/SupplyChainRep_spread.pdf

"We are not the sources of problems; we are the resources that are needed to solve them. We are not expenses; we are investments. We are not just young people; we are people and citizens of this world."

From 'A World Fit for Us', Message from the Children's Forum, 5-7 May 2002, United Nations Special Session on Children.



Children in Fact

- There are 2.2 billion children under 18 years old in the world - this is almost one third of the world's population.
- Adolescents, age 10-19, represent 18 per cent of the total population.
- 1 billion children are deprived of one or more services essential to survival and development.
- 2 million children under age 15 worldwide are living with HIV.
- 215 million children are engaged in child labour.
- 101 million children are not attending primary school.
- 51 million children are unregistered at birth.

For more statistics on children, see <http://www.childinfo.org/index.html>

ALL BUSINESS SHOULD →→→

- 1 Meet their responsibility to respect children's rights and commit to supporting the human rights of children
- 2 Contribute to the elimination of **child labour**, including in all business activities and business relationships
- 3 Provide decent work for **young workers, parents and caregivers**
- 4 Ensure the **protection and safety of children** in all business activities and facilities
- 5 Ensure that **products and services** are safe, and seek to support children's rights through them
- 6 Use **marketing and advertising** that respect and support children's rights
- 7 Respect and support children's rights in relation to the **environment and to land** acquisition and use
- 8 Respect and support children's rights in **security arrangements**
- 9 Help protect children affected by **emergencies**
- 10 Reinforce **community and government efforts** to protect and fulfil children's rights

Preamble

All children have rights, everywhere and at all times.⁴ And all children’s rights are equally important and interrelated. The Children’s Rights and Business Principles (the Principles) call on business everywhere to respect and support children’s rights throughout their activities and *business relationships*, including in the workplace, the marketplace, the community and the environment. The Principles identify a comprehensive range of actions that all business should take to prevent and address any adverse impact on children’s human rights, as well as measures all business is encouraged to take to help advance children’s rights. The Principles aspire to be a key reference point for existing and future voluntary and other initiatives on business and children, and to promote multi-stakeholder collaboration. They are for all business, transnational and other, regardless of their size, sector, location, ownership and structure. The Principles also seek to inform other societal actors, including governments and civil society, in their engagement with business.

As a result of their rapid physical and psychological development, children have survival and development needs that differ from those of adults. Children are particularly vulnerable to violence, exploitation and abuse, especially during emergencies. The impact of climate change and pollution on children can also be more serious and long-lasting than those on adults. At the same time, children make important contributions to their households, communities and societies. Children are key stakeholders of business – as consumers, future employees and business leaders, and as members of the communities and environments in which a business operates. They should be empowered to have a voice in decisions that affect them in line with the principle of child participation as outlined in the Convention on the Rights of the Child.

The Principles are derived from the internationally recognized human rights of children, and do not create new international legal obligations. In particular, they are founded on the rights outlined in the Convention on the Rights of the Child and its Optional Protocols. The Convention is the most widely ratified human rights treaty: 193 countries are currently States parties (governments that have signed and ratified the Convention). The Principles are also based on the International Labour Organization’s Conventions No. 182 on the Worst Forms of Child Labour and No. 138 on the Minimum Age.⁵

⁴ The Convention on the Rights of the Child defines children as every human being under 18 years old, unless under the law applicable to the child, majority is attained earlier.

⁵ Other international standards with relevant provisions include the Convention on the Elimination of all Forms of Discrimination against Women (1979), the Convention on the Rights of Persons with Disabilities (2006) and the United Nations Declaration on the Rights of Indigenous Peoples (2007). The United Nations Study on Violence against Children (2006) is another key reference document.

The Principles also elaborate on existing standards for business, such as the United Nations Global Compact’s ‘Ten Principles’⁶ and the Guiding Principles on Business and Human Rights endorsed by the United Nations Human Rights Council.

Governments at all levels have the duty to protect, respect and fulfil children’s rights. However, all societal actors, including business, must comply with applicable national law and respect international standards on children’s rights. Responding to the international community’s call on all members of society to join in a global movement that will help build a world fit for children, the Principles seek to elaborate business’s role in respecting and supporting children’s rights.⁷

Nothing in the Principles should be taken to justify application of standards lower than those in force in a particular country or under international law.

The Principles were developed in consultation with children, business, investors, trade unions, national human rights institutions, civil society, governments, academics, United Nations entities, child rights experts and business experts.



© SAVE THE CHILDREN

⁶ See www.unglobalcompact.org

⁷ A World Fit for Children (2002). See also, A World Fit for Children Plus 5 (2007).

“Do not take advantage of us, we ask you to be responsible. Do not support us because you feel pity for us; instead support us because we deserve it. We purchase your products and services, but we ask you to invest in our development. We do not want gifts; we want you to be responsible.”

Young person in Peru, ‘Children’s Participation in CSR’, 2010, Save the Children.



Actions for all business include:

a. Recognizing the core principles underpinning children’s rights

The Convention on the Rights of the Child outlines basic entitlements and freedoms that apply to all children without discrimination, and has four core principles that should underpin any action concerning children, whether taken by governments, parents, communities or the private sector. These four core principles are: *the best interests of the child; non-discrimination; child participation; and survival and development.*

b. Meeting the responsibility to respect children’s rights

This requires avoiding the infringement of children’s rights and addressing any adverse impact on children’s rights with which the business is involved. The corporate responsibility to respect applies to the business’s own activities and to its *business relationships*, including but not limited to those activities and relationships identified in subsequent Principles.

In order to meet this responsibility, all business should put in place appropriate policies and processes, as set out in the Guiding Principles on Business and Human Rights endorsed by the United Nations Human Rights Council.⁸

These include:

- i. **Policy Commitment:** a statement that sets out the business’s responsibility to respect rights, including children’s rights, as described in the Guiding Principles on Business and Human Rights. A *policy commitment* should be approved at the most senior level of the business and be informed by relevant expertise. It should stipulate the business’s expectations of personnel, business partners and others directly linked to its operations, products or services. It should be publicly available, communicated internally and externally, and embedded in relevant policies and procedures. It may also include a statement of the business’s commitment to support children’s rights.
- ii. **Human Rights Due Diligence:** a business’s ongoing processes for assessing its actual and potential human rights impact, including on children’s rights, integrating and acting upon its findings, tracking its responses and communicating how its impact is addressed. *Human rights due diligence* should cover any adverse impact that the business may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by a *business relationship*. To carry out *human rights due diligence*, all business should:

Meet their responsibility to respect children’s rights and commit to supporting the human rights of children



- Identify and assess any actual or potential adverse impact on children’s rights. This should draw on human rights expertise and involve meaningful consultation with children and other potentially affected groups and relevant stakeholders. It should take into account that girls and boys may face different risks.
- Integrate the findings from their impact assessments across relevant internal functions and processes and take appropriate action (as defined in the Guiding Principles). Where a business causes or contributes to an adverse impact on children’s rights, or where it may do so, it should take the necessary steps to cease or prevent the activity, or its contribution to it, and use its leverage to mitigate any remaining impact. Where a business is linked to an adverse impact by a business relationship, it should use its leverage and consider other relevant factors in determining the appropriate action to take.
- Monitor and track the effectiveness of the business’s responses in order to verify whether an adverse impact on children’s rights is being addressed, using appropriate qualitative and quantitative indicators and drawing on feedback from internal and external sources, including affected children, families and other stakeholders. The business should consider using tools such as performance contracts and reviews, surveys and audits (self-assessments or independent audits) on a periodic basis.
- Be prepared to communicate externally on their efforts to address the business impact on children’s rights in a form and with the frequency that reflect such an impact and that is accessible to its intended audiences. The business should provide sufficient information to evaluate the adequacy of its responses. Such communication should not pose risks to affected stakeholders, personnel or to legitimate requirements of commercial confidentiality.

⁸ “Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework” as annexed to the Re-report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, A/HRC/17/31, United Nations, 21 March 2011, available at www.ohchr.org/documents/issues/business/A.HRC.17.31.pdf Endorsed by the United Nations Human Rights Council in A/HRC/RES/17/4.

ALL BUSINESS SHOULD →→→

iii. **Child-sensitive processes to enable Remediation:** the processes to enable *remediation* of any adverse impact on children's rights that the business causes or contributes to. Where a business identifies that it has caused or contributed to an adverse impact on human rights, it should provide for or cooperate in their *remediation* through legitimate processes, including effective operational level grievance mechanisms or judicial mechanisms, as appropriate. Operational level mechanisms should be accessible to girls and boys, their families and those who represent their interests, and meet the effectiveness criteria for non-judicial grievance mechanisms set out in Principle 31 of the Guiding Principles on Business and Human Rights.

c. Making a commitment to support the human rights of children

In addition to respecting children's rights, business can have a significant role in supporting children's rights throughout their activities and *business relationships*. This may be through core business activities, strategic social investments and philanthropy, advocacy and public policy engagement, and working in partnership or other collective action. Opportunities to support children's rights will often be identified through a business enterprise's *human rights due diligence* processes, including through consultation with children and their families, as well as with appropriate experts in children's rights. Voluntary action in support of children's rights must be in addition to and not a substitute for action taken to respect children's rights, and should be guided by the core principles of child rights.

d. Becoming a champion for children's rights

Business is encouraged to promote children's rights, these Principles and related best business practices, including among suppliers, business partners and peers.

Meet their responsibility to respect children's rights and commit to supporting the human rights of children



© PLAYING FOR CHANGE

An international apparel company worked with a children and women's rights non-governmental organization (NGO) to set up a grievance access point for local supplier factories in Bangladesh. The NGO had particular expertise working with women and children, and provided a trusted access point to which workers could bring their grievances. It provided an alternative, secure channel that workers could use to contact the apparel company about workplace issues. The system has already provided valuable feedback from workers, and made it easier for the apparel company to engage the supplier factory in remediation.

GOOD PRACTICE:
Establishing an accessible grievance channel

2

ALL BUSINESS SHOULD →→→

“It is important that businesses work... to better understand human rights and the implications their actions have over people’s lives.”

Young people from Paraguay, Children’s Consultations for the Children’s Rights and Business Principles Initiative, 2011



The corporate responsibility to respect includes respect for the rights in the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work. Actions for all business include:

a. Eliminating child labour

Do not employ or use children in any type of *child labour*. Establish robust age-verification mechanisms as part of recruitment processes and ensure that these mechanisms are also used in the *value chain*. Be aware of the presence of all children in the workplace. In removing children from the workplace, measures to ensure protection of affected children, and, where appropriate, *decent work* for adult household members should be pursued. Do not put pressure on suppliers, contractors and subcontractors that are likely to result in abuses of children’s rights.

b. Preventing, identifying and mitigating harm to young workers and protecting them from work that is prohibited for workers under 18 years old or beyond their physical and psychological capacity

Prevent, identify and mitigate harm to *young workers* and protect them from work that is prohibited for workers under 18 years old or beyond their physical and psychological capacity. Protect children from hazardous work, which is likely to harm their health, safety and morals. Prevent and eliminate workplace hazards or remove children from such workplaces. Children in hazardous work should be removed immediately from the source of the hazard and protected against loss of income as a result of such interventions. Be mindful that children of working age may face different risks in the workplace than adults, and that girls may face different risks than boys. Respect, in particular, children’s right to information, freedom of association, collective bargaining, participation, non-discrimination, privacy and protection from all forms of workplace violence – including physical, mental and other humiliating punishment, bullying and sexual abuse.

The corporate commitment to support includes:

c. Working with governments, social partners and others to promote education and sustainable solutions to the root causes of child labour

- Work with business peers, communities, child rights organizations, trade unions and governments to promote children’s education and sustainable solutions to the root causes of *child labour*.
- Support broader community, national and international efforts to eliminate *child labour*, including through social mobilization and awareness raising, and programmes to eradicate *child labour* that are designed and carried out in cooperation with local community members and children.
- Work in partnership with other companies, sectoral associations and employers’ organizations to develop an industry-wide approach to address *child labour*, and build bridges with trade unions, law enforcement authorities, labour inspectorates and others.

Contribute towards the elimination of child labour, including in all business activities and business relationships

- Establish or participate in a task force or committee on *child labour* in representative employers’ organizations at the local, state or national level.
- Support the development and implementation of a national action plan against *child labour* as part of key policy and institutional mechanisms to combat *child labour* at the national level.
- Participate in programmes to promote youth employment, skills development and job training opportunities for *young workers* above the minimum age for employment.
- Seek to concentrate production in the formal economy and avoid informal working arrangements that may contribute to *child labour*.



A global home furnishings company has developed a comprehensive approach to preventing *child labour* in its supply chain. Suppliers are supported in implementing a corrective action plan if *child labour* is identified, which should take the *child’s best interests* into consideration, including age, family and social situation and level of education. The action plan emphasizes that responses should not merely move *child labour* from one supplier’s workplace to another, they should instead enable more viable and sustainable alternatives for the children involved. Since 2000, the company has developed long-term partnerships with child rights organizations to prevent and eliminate *child labour* in rural communities, including supporting large-scale programmes to create awareness and mobilize local communities around school enrolment drives and improved quality of education, aiming for both boys and girls to finalize their schooling. Another important component is the formation of self-help groups among rural women, helping them to enhance their economic, social and legal status by improving access to credit and income-generating opportunities. This helps to reduce the burden of debt that is one major reason families send their children to work.

GOOD PRACTICE:
Addressing the Root Causes of Child Labour

3

ALL BUSINESS SHOULD →→→

“Pay our parents adequately so that children do not have to drop out of school.”

13-year old boy from India, ‘Children’s Participation in CSR’, 2010, Save the Children.



The corporate responsibility to respect includes:

a. Providing decent work for young workers

Respect the rights of children above the minimum age for work, and promote social dialogue and rights at work, provision of safe working conditions, protection from abuse and exploitation, and access to gender-appropriate water, sanitation and hygiene facilities.

b. Being responsive to the vulnerability of young workers above the minimum age for work

- i. All business should adopt and endorse, at the highest level, their policy commitment regarding the rights of children and of *young workers*, including their right to be protected from violence and abuse. The policy should protect children above the minimum age for regular work from hazardous work: it should consider, among other things, limits to hours of work; restrictions on work at dangerous heights, as well as work with dangerous machinery, equipment and tools; the transport of heavy loads; exposure to hazardous substances or processes, and difficult conditions such as work at night or work where the *young worker* is unreasonably confined to the premises of the employer.⁹ Responsibility for implementing this policy must be mainstreamed and shared by management, although the business may choose to allocate specific managerial responsibility for supervising its implementation.
- ii. Business policies on harassment should pay attention to the vulnerability of *young workers*. These policies should be enforced consistently and employees and others on company premises should receive training on them. Grievance mechanisms should be effective and also accessible to *young workers*.
- iii. Business may require management and encourage trade unions and their elected representatives to pay special attention to protecting the rights of *young workers*. Trade unions may decide to elect *young worker* representatives/stewards to monitor working conditions of youth; this is a matter for the autonomous decision of the trade union concerned.

The corporate commitment to support includes:

c. Providing decent work for young workers

Promote *decent work* opportunities for *young workers*, including age-appropriate social protection and health information and services. Quality education and relevant vocational training and livelihood development programmes are of particular importance, as is the opportunity to earn a living.

⁹ For further guidance, see International Labour Organization ‘R190 Worst Forms of Child Labour Recommendation’, 1999, available at <http://www.ilo.org/ilolex/cgi-lex/convde.pl?R190>

Provide decent work for young workers, parents and caregivers

d. Providing decent working conditions that also support workers, both women and men, in their roles as parents or caregivers

Beyond legal compliance, pay particular attention to working conditions such as the payment of a living wage, length and flexibility of working hours, provisions for pregnant and breastfeeding women, need for parental leave, supporting migrant and seasonal workers with distance parenting, and facilitating access to good quality childcare, health care and education for dependants.



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A multinational company based in the United Kingdom partnered with a Chinese women’s NGO in 2009 to provide assistance to the children left behind by migrant worker parents in 10 provinces of China. The initiative is expected to benefit around 600,000 families. Under the programme, parent-to-child telephone cards, known as ‘love cards’ are issued, to facilitate regular communication between migrant workers and their children and families. The programme also provides practical guidance to the families and children who are left at home while parents migrate from rural to urban China for work. Statistics show that there are 58 million children left behind within the country, which accounts for 30 per cent of the total number of children in rural China. More than 40 million of these children are less than 14 years old.

GOOD PRACTICE:
Supporting migrant workers with distance parenting

4

ALL BUSINESS SHOULD →→→

“In our view, violence committed against a single child is one instance of violence too many.”

Children in West and Central Africa, 2005 (United Nations Study on Violence against Children)

The corporate responsibility to respect includes:

a. Addressing safety and protection risks to children’s rights posed by business facilities and staff in the course of business activities

- Ensure that company facilities are not used to abuse, exploit or harm children.
- Ensure that potentially dangerous areas of company facilities do not pose a safety threat to children, during or outside business hours.
- Make clear to staff that the business’s zero tolerance policy for violence, exploitation and abuse applies in all business activities, even when conducted away from business facilities.
- Take appropriate action when concerns of possible violence, exploitation or abuse arise.
- Ensure that *young workers* above the minimum age for work are protected from hazardous work.

The corporate commitment to support includes:

b. Developing and implementing a child protection code of conduct

Develop a *child protection code of conduct* for business operations. Ensure awareness of and ongoing training on the code of conduct. Recommend that a *child protection code of conduct* be developed by others linked to the business’s operations, products or services through a *business relationship*.



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Ensure the protection and safety of children in all business activities and facilities



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A global hospitality and travel company has implemented a comprehensive strategy to combat and raise awareness about sexual exploitation and child trafficking. The company is a member of The Code (Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism). As part of their commitment, it requires all suppliers to agree to a legally binding clause in their contracts affirming their denouncement of the commercial sexual exploitation of children. Specialized child protection training has been integrated into employee training programmes. Since late 2011, the company began to issue special advisory notices on electronic travel itineraries issued in the U.S. to specific destinations with a high prevalence of child trafficking and sexual exploitation. Travellers are also provided with a dedicated hotline number to report any instances of sexual exploitation or suspicious behaviour. The company also works to address root causes of the problem through partnerships with community organizations working for the elimination of child trafficking.

GOOD PRACTICE:
Protecting Children from Sexual Exploitation

5

ALL BUSINESS SHOULD →→→

Monitor not only the sales, but find out who is consuming the product and make efforts to prevent stores from selling harmful products to children.

Young People from the Philippines, Children's Consultations for the Children's Rights and Business Principles Initiative

The corporate responsibility to respect includes:

- Ensuring that testing and research of products and services likely to be used or consumed by children is conducted in line with relevant national and international standards.**
- Ensuring that products and services for children or to which children may be exposed are safe and do not cause mental, moral or physical harm.**
- Restricting access to products and services that are not suitable for children or that may cause them harm, while ensuring that all such actions align with international standards, including *non-discrimination*, freedom of expression and access to information.**
- Taking all reasonable steps to eliminate discrimination against any child or group of children in the provision of products and services.**
- Seeking to prevent and eliminate the risk that products and services could be used to abuse, exploit or otherwise harm children in any way.**

The corporate commitment to support includes:

- Taking steps to maximize the accessibility and availability of products and services that are essential to children's survival and development.**
- Seeking opportunities to support children's rights through products and services, as well as their distribution.**



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Ensure that products and services are safe, and seek to support children's rights through them



© UNICEF/NYHQ2009-0576/RAJONEDA

An American car manufacturer has given an explicit focus to children in its research. The programme focuses solely on advancing the safety of children, youths and young adults. A multidisciplinary team of paediatricians, psychologists, statisticians, epidemiologists and engineers seeks to better understand the complexities of injury prevention and to translate science into comprehensive, effective interventions that save children's lives. In doing so, the firm is recognizing that children are not just small adults, and that research on adult injury prevention cannot be applied to children. As a result, the programme focuses on the specific needs of children and teens. For example, children are the primary occupants of the second and third rows in vehicles, so automakers need to optimize safety restraints for them.

GOOD PRACTICE:
Focusing on children in auto safety

6

ALL BUSINESS SHOULD →→→

“We need to foster healthy, realistic self-images. Adults and adolescents must work together to highlight the existing beauty in girls as well as to celebrate other virtues that go beyond body image – such as honesty, intelligence, integrity and generosity”

A 16-year-old girl from Jordan, living in the United States.
State of the World’s Children
2011

The corporate responsibility to respect includes:

a. Ensuring that communications and marketing do not have an adverse impact on children’s rights

This applies to all media outlets and communication tools. Marketing should not reinforce discrimination. Product labelling and information should be clear, accurate and complete, and empower parents and children to make informed decisions. In assessing whether there is or may be an adverse impact on children’s rights and taking action to integrate and act upon the findings, consider factors such as: children’s greater susceptibility to manipulation, and the effects of using unrealistic or sexualized body images and stereotypes.

b. Complying with the standards of business conduct in World Health Assembly instruments related to marketing health¹⁰

Comply with the standards of business conduct in World Health Assembly instruments related to marketing and health in all countries. Where national law prescribes a higher standard, business must follow that standard.

The corporate commitment to support includes:

c. Using marketing that raises awareness of and promotes children’s rights, positive self-esteem, healthy lifestyles and non-violent values



© SAVE THE CHILDREN

Use marketing and advertising that respect and support children’s rights



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A European laundry soap brand used its marketing campaign to also create awareness of children’s right to play, the right to express themselves – in short, the right to be a child! It encourages parents to see the value of exploration, play, activity and exercise as critical to children’s development and important for full and healthy lives, even if it means that children get dirty in the process. It has run a series of television commercials in countries all over the world emphasizing the value of play and active lifestyles.

GOOD PRACTICE:
Promoting the right to play and active lives

¹⁰ World Health Assembly instruments on marketing and health include: the International Code of Marketing of Breast-Milk Substitutes (1981) and subsequent relevant World Health Assembly resolutions (national measures have been adopted in many countries to give effect to both); the WHO Framework Convention on Tobacco Control (2003); Set of Recommendations on the Marketing of Foods and Non-Alcoholic Beverages to Children; and the World Health Assembly’s Global Strategy to Reduce the Harmful Use of Alcohol (2010).

7

ALL BUSINESS SHOULD →→→

Each year, around three million children under five years old die due to environment-related diseases.

World Health Organization, Global Plan of Action for Children's Health and the Environment (2010 - 2015)



The corporate responsibility to respect includes:

a. Respecting children's rights in relationship to the environment

- When planning and implementing environmental and resource-use strategies, ensure that business operations do not adversely affect children's rights, including through damage to the environment or reducing access to natural resources.
- Ensure the rights of children, their families and communities are addressed in contingency plans and remediation for environmental and health damage from business operations, including accidents.

b. Respecting children's rights as an integral part of human rights considerations when acquiring or using land for business operations

- Where possible, avoid or minimize displacement of communities affected by land acquisition or land use for business purposes. Engage in meaningful, informed consultation with potentially affected communities to ensure that any adverse impact on children's rights is identified and addressed and that communities participate actively in and contribute to decision-making on matters that affect them directly. Seeking the free, prior and informed consent of indigenous peoples is specifically required for any project that affects their communities, and it is a desirable goal for any community impacted by a company's use or acquisition of land.
- Respect children's rights – especially their right to education, protection, health, adequate food and adequate standard of living and participation – when planning and carrying out resettlement and providing for compensation.

The corporate commitment to support includes:

c. Supporting children's rights in relationship to the environment where future generations will live and grow

Take measures to progressively reduce the emission of greenhouse gases from company operations and promote resource use that is sustainable. Recognize that these actions and other initiatives to better the environment will impact future generations. Identify opportunities to prevent and mitigate disaster risk and support communities in finding ways to adapt to the consequences of climate change.

Respect and support children's rights in relation to the environment and to land acquisition and use



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A leading Indian company recognized the valuable contributions that schools and schoolchildren – together with youth, parents, teachers, partners and the community at large – can make to help curb excess power usage. As the demand for power in India increases, and energy resources are being rapidly depleted, the company sought to involve youth in an initiative to avert a crippling power crisis. In 2007, it began raising awareness among school children in Mumbai about energy conservation issues and gave them the tools and skills they need to share this information with their families and communities. The initiative has grown to become a national movement involving more than 250 schools and educating more than 1 million citizens.

GOOD PRACTICE:
Schoolchildren learn about energy conservation

8

ALL BUSINESS SHOULD →→→

“War and politics are always adult games, but children are al-ways the losers.”

Eliza Kantardzic, 17, Bosnia and Herzegovina, United Nations Security Council Meeting on Children and Armed Conflict, 2002

The corporate responsibility to respect includes:

a. Respecting children’s rights in security arrangements

- When making and implementing security arrangements, whether with public or private security service providers, conduct human rights due diligence with particular attention to any adverse impact on the rights of children.
- Ensure that respect for the rights of children is explicitly addressed in the business’s security contracts.
- Do not recruit or use children in security arrangements either directly or through private or public security service providers.

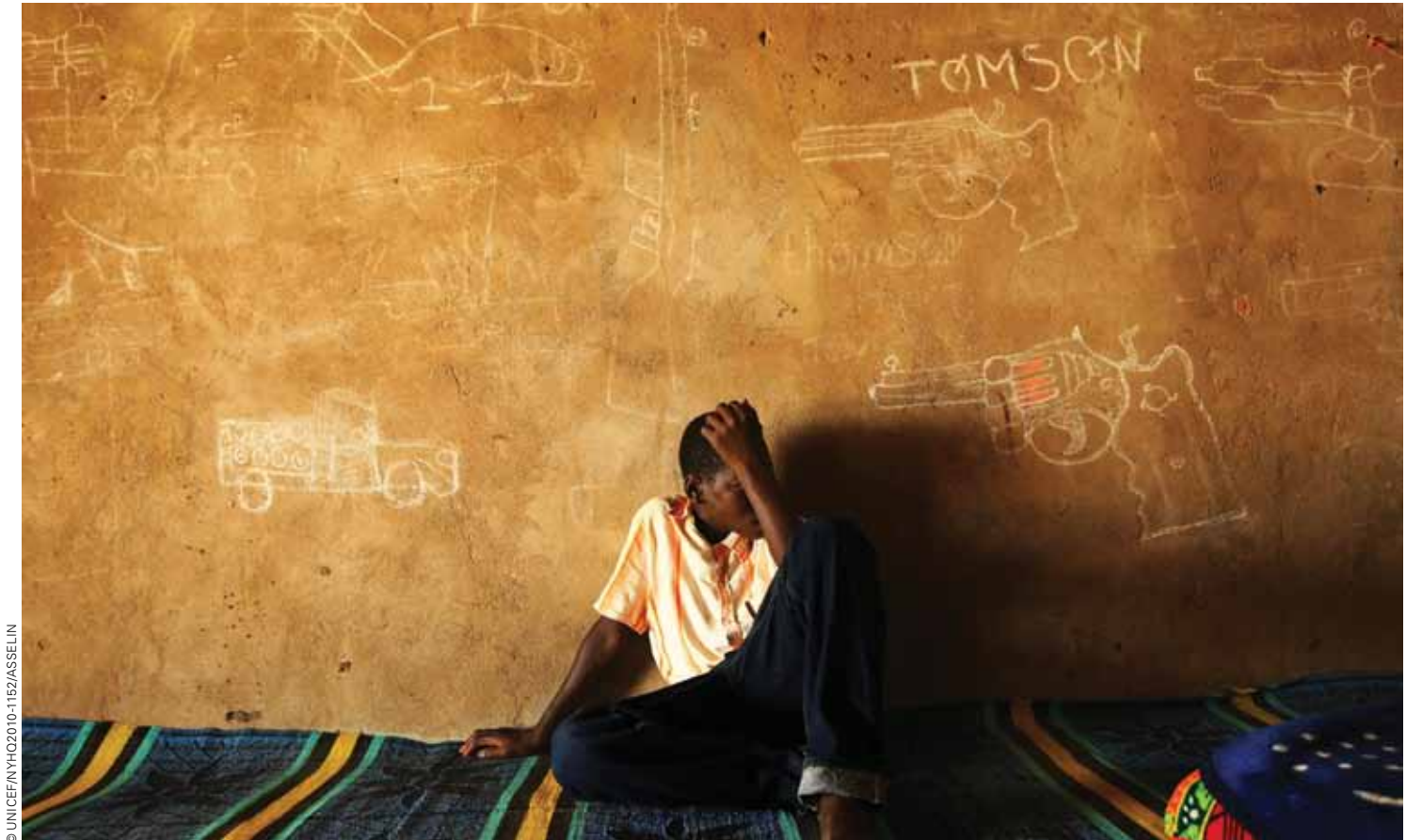
The corporate commitment to support includes:

b. Supporting children’s rights in security arrangements

All business is encouraged to apply evolving best practices in the management of security services provided by private contractors or public security forces.



Respect and support children’s rights in security arrangements



Established in 2000, the Voluntary Principles on Security and Human Rights – an initiative by governments, non-governmental organizations, and companies – provides guidance to business in the extractive and energy sectors on maintaining the safety and security of their operations within a framework that ensures respect for human rights and fundamental freedoms. The Voluntary Principles are the only human rights guidelines designed specifically for oil, gas and mining companies. They cover three categories: risk assessment, public security and private security. As stated in the Voluntary Principles: “The participants recognize the importance of the promotion and protection of human rights throughout the world and the constructive role business and civil society – including non-governmental organizations, labor/trade unions, and local communities – can play in advancing these goals.”

GOOD PRACTICE:
The Voluntary Principles on Security and Human Rights

9

ALL BUSINESS SHOULD →→→

“Companies should think about emergencies all the time and not only when it happens. This means that companies should have a program to reduce and mitigate damage.”

Young people in Brazil,
Children’s Consultations for the
Children’s Rights and Business
Principles Initiative

The corporate responsibility to respect includes:

a. Respecting children’s rights in the context of emergencies

Avoid causing or contributing to the infringement of children’s rights in the context of *emergencies*. Recognize the heightened human rights risk in the context of armed conflict and other *emergencies*, and undertake *human rights due diligence* accordingly. Take into account that emergencies can significantly increase the risk of any adverse impact on children’s rights, and that certain groups of children may be more vulnerable, including children with disabilities, displaced, migrant, separated and unaccompanied children and indigenous children, and that girls and boys may be affected in different ways.

The corporate commitment to support includes:

b. Supporting the rights of children affected by emergencies

- Help protect children whose rights are affected by *emergencies* by raising awareness among workers and community members of the increased risks of violence, abuse and exploitation of children in such contexts.
- Where needed and requested, and in accordance with best practices, support authorities and humanitarian agencies in *emergency* response. Support should be based on assessed need and within a framework of accountability to affected populations.
- Make a positive contribution to sustainable peace and development.¹¹



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Help protect children affected by emergencies



© UNICEF/NYHQ2010-0681/JERRY

An international consulting company with project management expertise teamed up with an international organization to bring educational resources to refugee children. A major initiative in this collaboration has been the provision of skills-based education for approximately 30,000 refugee children in eastern Chad. By bringing its management expertise, the business supported the international organisation in defining tangible actions, deliverables and metrics to highlight progress. A key challenge is that ongoing conflict and instability on the ground have made it difficult to establish sustained education programmes and provide children with an appropriate curriculum for a consistent period of time. Programme entry questionnaires seek to identify key child protection concerns to facilitate addressing them as part of the initiative. The company is also helping to raise public awareness on the situation of refugees.

GOOD PRACTICE:
Skills-based education for refugee children

¹¹ See for example, the joint United Nations Global Compact - Principles for Responsible Investment publication, ‘Guidance on Responsible Business in Conflict-Affected and High-Risk Areas: A Resource for Companies and Investors’, 2010.
http://www.unglobalcompact.org/Issues/conflict_prevention/guidance_material.html

10

ALL BUSINESS SHOULD →→→

“Together we will build a world in which all girls and boys can enjoy childhood – a time of play and learning, in which they are loved, respected and cherished, their rights are promoted and protected, without discrimination of any kind...”

‘A World Fit for Children’, United Nations General Assembly, 11 October 2002

The corporate responsibility to respect includes:

- Not undermining government efforts to protect and fulfil children’s rights
Recognize that respect for the rule of law and the use of responsible business practices, including the payment of taxes to generate revenues, are essential for governments to meet their obligations to protect and fulfil children’s rights.

The corporate commitment to support includes:

- Supporting government efforts to protect and fulfil children’s rights.
- Considering undertaking strategic social investment programmes for children
Contribute to existing programmes or plan and implement social investment programmes in cooperation with governments, civil society and children. Health, education, recreation, child protection and raising awareness of children’s rights have been identified by children and child rights experts as priorities for children.



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Reinforce community and government efforts to protect and fulfil children’s rights



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A leading global financial institution has committed to improving education on a global scale and to supporting efforts to achieve the Millennium Development Goals to ensure that every child has access to quality basic education. The employees are the cornerstone of the programme’s success. Since the launch in 2005, company employees have donated their time and money to projects for many local children’s initiatives. The financial institution contributes to their efforts by matching all donations. To date, these efforts have contributed US\$13 million for education projects.

GOOD PRACTICE:
Employees support every child’s right to education

Summary of the Convention on the Rights of the Child

The following text is an unofficial summary of the Convention on the Rights of the Child. The full version of the Convention and its Optional Protocols can be found at <http://www2.ohchr.org/english/bodies/crc/>

Preamble

The preamble recalls the basic principles of the United Nations and specific provisions of certain relevant human rights treaties and proclamations. It reaffirms the fact that children, because of their vulnerability, need special care and protection, and it places special emphasis on the primary caring and protective responsibility of the family. It also reaffirms the need for legal and other protection of the child before and after birth, the importance of respect for the cultural values of the child’s community and the vital role of international cooperation in securing children’s rights.

Article 1

Definition of a child. A child is recognized as a person under 18, unless national laws recognize an earlier age of majority.

Article 2

Non-discrimination. All rights apply to all children without exception. It is the State’s (national government’s) obligation to protect children from any form of discrimination and to take positive action to promote their rights.

Article 3

Best interests of the child. All actions concerning the child shall take full account of his or her best interests. The State shall provide the child with adequate care when parents, or others charged with parental responsibility, fail to do so.

Article 4

Implementation of rights. The State must do all it can to implement the rights contained in the Convention.

Article 5

Parental guidance and the child’s evolving capacities. The State must respect the rights and responsibilities of parents and the extended family to provide guidance for the child that is appropriate to his or her evolving capacities.

Article 6

Life, survival and development. Every child has the inherent right to life, and the State has an obligation to ensure the child’s survival and development.

Article 7

Name and nationality. The child has the right to a name at birth. The child also has the right to acquire a nationality and, as far as possible, to know his or her parents and be cared for by them.

Article 8

Preservation of identity. The State has an obligation to protect and, if necessary, re-establish basic aspects of the child’s identity. This includes name, nationality and family ties.

Article 9

Separation from parents. The child has a right to live with his or her parents unless this is deemed incompatible with the child’s best interests. The child also has the right to maintain contact with both parents if separated from one or both.

Article 10

Family reunification. Children and their parents have the right to leave any country and to enter their own for purposes of reunion or the maintenance of the child-parent relationship.

Article 11

Illicit transfer and non-return. The State has an obligation to prevent and remedy the kidnapping or retention abroad of children by a parent or third party.

Article 12

Respect of the child’s views. The child has the right to express his or her opinion freely and to have that opinion taken into account in any matter or procedure affecting the child.

Article 13

Freedom of expression. The child has the right to express his or her views, obtain information and make ideas or information known, regardless of frontiers.

Article 14

Freedom of thought, conscience and religion. The State shall respect the child’s right to freedom of thought, conscience and religion, subject to appropriate parental guidance.

Article 15

Freedom of association. Children have a right to meet with others, and to join or form associations.

Article 16

Protection of privacy. Children have the right to protection from interference with their privacy, family, home and correspondence, and to protection from libel or slander.

Article 17

Access to appropriate information. The State shall ensure the accessibility to children of information and material from a diversity of sources, and it shall encourage the mass media to disseminate information that is of social and cultural benefit to the child, and take steps to protect him or her from harmful materials.

Article 18

Parental responsibilities. Parents have joint primary responsibility for raising the child, and the State shall support them in this. The State shall provide parents with appropriate childraising assistance.

Article 19

Protection from abuse and neglect. The State shall protect the child from all forms of maltreatment by parents or others responsible for the child’s care and shall establish appropriate social programmes for the prevention of abuse and the treatment of victims.

Article 20

Protection of a child without family. The State is obliged to provide special protection for a child deprived of the family environment and to ensure that appropriate alternative family care or institutional placement is available in such cases. Efforts to meet this obligation shall pay due regard to the child’s cultural background.

Article 21

Adoption. In countries where adoption is recognized and/or allowed, it shall be carried out only in the best interests of the child, and then only with the authorization of competent authorities and safeguards for the child.

Article 22

Refugee children. Special protection shall be granted to a refugee child or to a child seeking refugee status. It is the State’s obligation to cooperate with competent organizations that provide such protection and assistance.

Article 23

Disabled children. A disabled child has the right to special care, education and training to help him or her enjoy a full and decent life in dignity and achieve the greatest degree of self-reliance and social integration possible.

Article 24

Health and health services. The child has a right to the highest standard of health and medical care attainable. States shall place special emphasis on the reduction of infant and child mortality and on the provision of primary and preventive health care and of public health education. They shall encourage international cooperation in this regard and strive to see that no child is deprived of access to effective health services.

Article 25

Periodic review of placement. A child who is placed by the State for reasons of care, protection or treatment is entitled to have that placement evaluated regularly.

Article 26

Social security. The child has the right to benefit from social security, including social insurance.

Article 27

Standard of living. Every child has the right to a standard of living adequate for his or her physical, mental, spiritual, moral and social development. Parents have the primary responsibility to ensure that the child has an adequate standard of living. The State's duty is to ensure that this responsibility can be, and is, fulfilled. State responsibility can include material assistance to parents and their children.

Article 28

Education. The child has a right to education, and the State's duty is to ensure that primary education is free and compulsory, to encourage different forms of secondary education accessible to every child, to make higher education available to all on the basis of capacity and to ensure that school discipline is consistent with children's rights and dignity. The State shall engage in international cooperation to implement the right to education.

Article 29

Aims of education. Education shall aim at developing the child's personality, talents and mental and physical abilities to the fullest extent. Education shall prepare the child for an active adult life in a free society and shall foster in the child respect for his or her parents, for his or her own cultural identity, language and values, and for the cultural background and values of others.

Article 30

Children of minorities or indigenous populations. Children of minority communities and indigenous populations have the right to enjoy their own culture and to practise their own religion and language.

Article 31

Leisure, recreation and cultural activities. The child has the right to leisure, play and participation in cultural and artistic activities.

Article 32

Child labour. The child has the right to be protected from work that threatens his or her health, education or development. The State shall set minimum ages for employment and shall regulate working conditions.

Article 33

Drug abuse. Children have the right to protection from the use of narcotic and psychotropic drugs, and from being involved in their production or distribution.

Article 34

Sexual exploitation. The State shall protect children from sexual exploitation and abuse, including prostitution and involvement in pornography.

Article 35

Sale, trafficking and abduction. It is the State's obligation to make every effort to prevent the sale, trafficking and abduction of children.

Article 36

Other forms of exploitation. The child has the right to protection from all forms of exploitation prejudicial to any aspects of the child's welfare not covered in articles 32–35.

Article 37

Torture and deprivation of liberty. No child shall be subjected to torture, cruel treatment or punishment, unlawful arrest or deprivation of liberty. Both capital punishment and life imprisonment without the possibility for release are prohibited for offences committed by persons below age 18. Any child deprived of liberty shall be separated from adults unless it is considered in the child's best

interest not to do so. A child who is detained shall have legal and other assistance as well as contact with the family.

Article 38

Armed conflicts. States shall take all feasible measures to ensure that children under 15 years of age have no direct part in hostilities. No child below 15 shall be recruited into the armed forces. States shall also ensure the protection and care of children who are affected by armed conflict as described in relevant international law.

Article 39

Rehabilitative care. The State has an obligation to ensure that child victims of armed conflicts, torture, maltreatment or exploitation receive appropriate treatment for their recovery and social reintegration.

Article 40

Administration of juvenile justice. A child in conflict with the law has the right to treatment that promotes the child's sense of dignity and worth, takes the child's age into account and aims at his or her defence. Judicial proceedings and institutional placements shall be avoided wherever possible.

Article 41

Respect for higher standards. Wherever standards set in applicable national and international law relevant to the rights of the child are higher than those in this Convention, the higher standards shall always apply.

Articles 42–54

Implementation and entry into force. These articles notably foresee:

- the entry into force of the Convention 30 days after its ratification or accession by 20 States;
- States parties' obligation to make the rights of the Convention widely known to both adults and children;
- the establishment of a Committee on the Rights of the Child to consider the reports that States parties are required to submit two years after they have ratified the Convention and every five years thereafter;
- States parties' obligation to submit said reports to the Committee on measures they have taken to fulfil the Convention and the progress being made in their implementation;
- States parties' obligation to make their reports widely known in their own countries;
- international cooperation in the field covered by the Convention achieved by inviting UNICEF and the specialized agencies of the United Nations – such as the International Labour Organization, the World Health Organization and United Nations Educational, Scientific, and Cultural Organization – along with 'competent' bodies such as non-governmental organizations in consultative status with the UN to attend Committee meetings and provide expert advice on areas within the scope of their activities, and by the Committee's referring to them States Parties' requests for technical advice and assistance;
- the Committee's right to recommend to the General Assembly that special studies be undertaken on specific issues relating to the rights of the child. The rights of the child articulated by the Convention are further reinforced by its Optional Protocols on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.

ALL BUSINESS SHOULD →→→

1

Meet their responsibility to respect children's rights and commit to supporting the human rights of children

2

Contribute to the elimination of **child labour**, including in all business activities and business relationships

3

Provide decent work for **young workers, parents and caregivers**

4

Ensure the **protection and safety of children** in all business activities and facilities

5

Ensure that **products and services** are safe, and seek to support children's rights through them

6

Use **marketing and advertising** that respect and support children's rights

7

Respect and support children's rights in relation to the **environment and to land** acquisition and use

8

Respect and support children's rights in **security arrangements**

9

Help protect children affected by **emergencies**

10

Reinforce **community and government efforts** to protect and fulfil children's rights

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GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS

Implementing
the United Nations
“Protect, Respect and
Remedy” Framework

UNITED NATIONS

UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

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UNITED NATIONS

New York and Geneva, 2011



**UNITED NATIONS
HUMAN RIGHTS**
OFFICE OF THE HIGH COMMISSIONER

Note

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This publication contains the "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework", which were developed by the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises. The Special Representative annexed the Guiding Principles to his final report to the Human Rights Council (A/HRC/17/31), which also includes an introduction to the Guiding Principles and an overview of the process that led to their development.

The Human Rights Council endorsed the Guiding Principles in its resolution 17/4 of 16 June 2011.

GENERAL PRINCIPLES

These Guiding Principles are grounded in recognition of:

- (a) States' existing obligations to respect, protect and fulfil human rights and fundamental freedoms;
- (b) The role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights;
- (c) The need for rights and obligations to be matched to appropriate and effective remedies when breached.

These Guiding Principles apply to all States and to all business enterprises, both transnational and others, regardless of their size, sector, location, ownership and structure.

These Guiding Principles should be understood as a coherent whole and should be read, individually and collectively, in terms of their objective of enhancing standards and practices with regard to business and human rights so as to achieve tangible results for affected individuals and communities, and thereby also contributing to a socially sustainable globalization.

Nothing in these Guiding Principles should be read as creating new international law obligations, or as limiting or undermining any legal obligations a State may have undertaken or be subject to under international law with regard to human rights.

These Guiding Principles should be implemented in a non-discriminatory manner, with particular attention to the rights and needs of, as well as the challenges faced by, individuals from groups or populations that may be at heightened risk of becoming vulnerable or marginalized, and with due regard to the different risks that may be faced by women and men.

I. THE STATE DUTY TO PROTECT HUMAN RIGHTS

A. FOUNDATIONAL PRINCIPLES

1. **States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication.**

Commentary

States' international human rights law obligations require that they respect, protect and fulfil the human rights of individuals within their territory and/or jurisdiction. This includes the duty to protect against human rights abuse by third parties, including business enterprises.

The State duty to protect is a standard of conduct. Therefore, States are not per se responsible for human rights abuse by private actors. However, States may breach their international human rights law obligations where such abuse can be attributed to them, or where they fail to take appropriate steps to prevent, investigate, punish and redress private actors' abuse. While States generally have discretion in deciding upon these steps, they should consider the full range of permissible preventative and remedial measures, including policies, legislation, regulations and adjudication. States also have the duty to protect and promote the rule of law, including by taking measures to ensure equality before the law, fairness in its application, and by providing for adequate accountability, legal certainty, and procedural and legal transparency.

This chapter focuses on preventative measures while chapter III outlines remedial measures.

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.**

Commentary

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.

There are strong policy reasons for home States to set out clearly the expectation that businesses respect human rights abroad, especially where the State itself is involved in or supports those businesses. The reasons include ensuring predictability for business enterprises by providing coherent and consistent messages, and preserving the State's own reputation.

States have adopted a range of approaches in this regard. Some are domestic measures with extraterritorial implications. Examples include requirements on "parent" companies to report on the global operations of the entire enterprise; multilateral soft-law instruments such as the Guidelines for Multinational Enterprises of the Organisation for Economic Co-operation and Development; and performance standards required by institutions that support overseas investments. Other approaches amount to direct extraterritorial legislation and enforcement. This includes criminal regimes that allow for prosecutions based on the nationality of the perpetrator no matter where the offence occurs. Various factors may contribute to the perceived and actual reasonableness of States' actions, for example whether they are grounded in multilateral agreement.

B. OPERATIONAL PRINCIPLES

GENERAL STATE REGULATORY AND POLICY FUNCTIONS

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 enterprises to communicate how they address their human rights impacts.**

Commentary

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.

The failure to enforce existing laws that directly or indirectly regulate business respect for human rights is often a significant legal gap in State practice. Such laws might range from non-discrimination and labour laws to environmental, property, privacy and anti-bribery laws. Therefore, it is important for States to consider whether such laws are currently being enforced effectively, and if not, why this is the case and what measures may reasonably correct the situation.

It is equally important for States to review whether these laws provide the necessary coverage in light of evolving circumstances and whether, together with relevant policies, they provide an environment conducive to business respect for human rights. For example, greater clarity in some areas of law and policy, such as those governing access to land, including entitlements in relation to ownership or use of land, is often necessary to protect both rights-holders and business enterprises.

Laws and policies that govern the creation and ongoing operation of business enterprises, such as corporate and securities laws, directly shape business behaviour. Yet their implications for human rights remain poorly understood. For example, there is a lack of clarity in corporate and securities law regarding what companies and their officers are permitted, let alone required, to do regarding human rights. Laws and policies in this area should provide sufficient guidance to enable enterprises to respect human rights, with due regard to the role of existing governance structures such as corporate boards.

Guidance to business enterprises on respecting human rights should indicate expected outcomes and help share best practices. It should advise on appropriate methods, including human rights due diligence, and how to consider effectively issues of gender, vulnerability and/or marginalization, recognizing the specific challenges that may be faced by indigenous peoples, women, national or ethnic minorities, religious and linguistic

minorities, children, persons with disabilities, and migrant workers and their families.

National human rights institutions that comply with the Paris Principles have an important role to play in helping States identify whether relevant laws are aligned with their human rights obligations and are being effectively enforced, and in providing guidance on human rights also to business enterprises and other non-State actors.

Communication by business enterprises on how they address their human rights impacts can range from informal engagement with affected stakeholders to formal public reporting. State encouragement of, or where appropriate requirements for, such communication are important in fostering respect for human rights by business enterprises. Incentives to communicate adequate information could include provisions to give weight to such self-reporting in the event of any judicial or administrative proceeding. A requirement to communicate can be particularly appropriate where the nature of business operations or operating contexts pose a significant risk to human rights. Policies or laws in this area can usefully clarify what and how businesses should communicate, helping to ensure both the accessibility and accuracy of communications.

Any stipulation of what would constitute adequate communication should take into account risks that it may pose to the safety and security of individuals and facilities; legitimate requirements of commercial confidentiality; and variations in companies' size and structures.

Financial reporting requirements should clarify that human rights impacts in some instances may be "material" or "significant" to the economic performance of the business enterprise.

THE STATE-BUSINESS NEXUS

- 4. States should take additional steps to protect against human rights abuses by business enterprises that are owned or controlled by the State, or that receive substantial support and services from State agencies such as export credit agencies and official investment insurance or guarantee agencies, including, where appropriate, by requiring human rights due diligence.**

Commentary

States individually are the primary duty-bearers under international human rights law, and collectively they are the trustees of the international human rights regime. Where a business enterprise is controlled by the State or where its acts can be attributed otherwise to the State, an abuse of human rights by the business enterprise may entail a violation of the State's own international law obligations. Moreover, the closer a business enterprise is to the State, or the more it relies on statutory authority or taxpayer support, the stronger the State's policy rationale becomes for ensuring that the enterprise respects human rights.

Where States own or control business enterprises, they have greatest means within their powers to ensure that relevant policies, legislation and regulations regarding respect for human rights are implemented. Senior management typically reports to State agencies, and associated government departments have greater scope for scrutiny and oversight, including ensuring that effective human rights due diligence is implemented. (These enterprises are also subject to the corporate responsibility to respect human rights, addressed in chapter II.)

A range of agencies linked formally or informally to the State may provide support and services to business activities. These include export credit agencies, official investment insurance or guarantee agencies, development agencies and development finance institutions. Where these agencies do not explicitly consider the actual and potential adverse impacts on human rights of beneficiary enterprises, they put themselves at risk – in reputational, financial, political and potentially legal terms – for supporting any such harm, and they may add to the human rights challenges faced by the recipient State.

Given these risks, States should encourage and, where appropriate, require human rights due diligence by the agencies themselves and by those business enterprises or projects receiving their support. A requirement for human rights due diligence is most likely to be appropriate where the nature of business operations or operating contexts pose significant risk to human rights.

- 5. States should exercise adequate oversight in order to meet their international human rights obligations when they contract with, or legislate for, business enterprises to provide services that may impact upon the enjoyment of human rights.**

Commentary

States do not relinquish their international human rights law obligations when they privatize the delivery of services that may impact upon the enjoyment of human rights. Failure by States to ensure that business enterprises performing such services operate in a manner consistent with the State's human rights obligations may entail both reputational and legal consequences for the State itself. As a necessary step, the relevant service contracts or enabling legislation should clarify the State's expectations that these enterprises respect human rights. States should ensure that they can effectively oversee the enterprises' activities, including through the provision of adequate independent monitoring and accountability mechanisms.

- 6. States should promote respect for human rights by business enterprises with which they conduct commercial transactions.**

Commentary

States conduct a variety of commercial transactions with business enterprises, not least through their procurement activities. This provides States – individually and collectively – with unique opportunities to promote awareness of and respect for human rights by those enterprises, including through the terms of contracts, with due regard to States' relevant obligations under national and international law.

SUPPORTING BUSINESS RESPECT FOR HUMAN RIGHTS IN CONFLICT-AFFECTED AREAS

- 7. Because the risk of gross human rights abuses is heightened in conflict-affected areas, States should help ensure that business enterprises operating in those contexts are not involved with such abuses, including by:**
 - (a) Engaging at the earliest stage possible with business enterprises to help them identify, prevent and mitigate the human rights-related risks of their activities and business relationships;**

- (b) **Providing adequate assistance to business enterprises to assess and address the heightened risks of abuses, paying special attention to both gender-based and sexual violence;**
- (c) **Denying access to public support and services for a business enterprise that is involved with gross human rights abuses and refuses to cooperate in addressing the situation;**
- (d) **Ensuring that their current policies, legislation, regulations and enforcement measures are effective in addressing the risk of business involvement in gross human rights abuses.**

Commentary

Some of the worst human rights abuses involving business occur amid conflict over the control of territory, resources or a Government itself – where the human rights regime cannot be expected to function as intended. Responsible businesses increasingly seek guidance from States about how to avoid contributing to human rights harm in these difficult contexts. Innovative and practical approaches are needed. In particular, it is important to pay attention to the risk of sexual and gender-based violence, which is especially prevalent during times of conflict.

It is important for all States to address issues early before situations on the ground deteriorate. In conflict-affected areas, the “host” State may be unable to protect human rights adequately due to a lack of effective control. Where transnational corporations are involved, their “home” States therefore have roles to play in assisting both those corporations and host States to ensure that businesses are not involved with human rights abuse, while neighboring States can provide important additional support.

To achieve greater policy coherence and assist business enterprises adequately in such situations, home States should foster closer cooperation among their development assistance agencies, foreign and trade ministries, and export finance institutions in their capitals and within their embassies, as well as between these agencies and host Government actors; develop early-warning indicators to alert government agencies and business enterprises to problems; and attach appropriate consequences to any failure by enterprises to cooperate in these contexts, including by denying or withdrawing existing public support or services, or where that is not possible, denying their future provision.

States should warn business enterprises of the heightened risk of being involved with gross abuses of human rights in conflict-affected areas. They should review whether their policies, legislation, regulations and enforcement measures effectively address this heightened risk, including through provisions for human rights due diligence by business. Where they identify gaps, States should take appropriate steps to address them. This may include exploring civil, administrative or criminal liability for enterprises domiciled or operating in their territory and/or jurisdiction that commit or contribute to gross human rights abuses. Moreover, States should consider multilateral approaches to prevent and address such acts, as well as support effective collective initiatives.

All these measures are in addition to States' obligations under international humanitarian law in situations of armed conflict, and under international criminal law.

ENSURING POLICY COHERENCE

- 8. States should ensure that governmental departments, agencies and other State-based institutions that shape business practices are aware of and observe the State's human rights obligations when fulfilling their respective mandates, including by providing them with relevant information, training and support.**

Commentary

There is no inevitable tension between States' human rights obligations and the laws and policies they put in place that shape business practices. However, at times, States have to make difficult balancing decisions to reconcile different societal needs. To achieve the appropriate balance, States need to take a broad approach to managing the business and human rights agenda, aimed at ensuring both vertical and horizontal domestic policy coherence.

Vertical policy coherence entails States having the necessary policies, laws and processes to implement their international human rights law obligations. Horizontal policy coherence means supporting and equipping departments and agencies, at both the national and subnational levels, that shape business practices – including those responsible for corporate law

and securities regulation, investment, export credit and insurance, trade and labour – to be informed of and act in a manner compatible with the Governments’ human rights obligations.

- 9. States should maintain adequate domestic policy space to meet their human rights obligations when pursuing business-related policy objectives with other States or business enterprises, for instance through investment treaties or contracts.**

Commentary

Economic agreements concluded by States, either with other States or with business enterprises – such as bilateral investment treaties, free-trade agreements or contracts for investment projects – create economic opportunities for States. But they can also affect the domestic policy space of Governments. For example, the terms of international investment agreements may constrain States from fully implementing new human rights legislation, or put them at risk of binding international arbitration if they do so. Therefore, States should ensure that they retain adequate policy and regulatory ability to protect human rights under the terms of such agreements, while providing the necessary investor protection.

- 10. States, when acting as members of multilateral institutions that deal with business-related issues, should:**
- (a) Seek to ensure that those institutions neither restrain the ability of their member States to meet their duty to protect nor hinder business enterprises from respecting human rights;**
 - (b) Encourage those institutions, within their respective mandates and capacities, to promote business respect for human rights and, where requested, to help States meet their duty to protect against human rights abuse by business enterprises, including through technical assistance, capacity-building and awareness-raising;**
 - (c) Draw on these Guiding Principles to promote shared understanding and advance international cooperation in the management of business and human rights challenges.**

Commentary

Greater policy coherence is also needed at the international level, including where States participate in multilateral institutions that deal with business-related issues, such as international trade and financial institutions. States retain their international human rights law obligations when they participate in such institutions.

Capacity-building and awareness-raising through such institutions can play a vital role in helping all States to fulfil their duty to protect, including by enabling the sharing of information about challenges and best practices, thus promoting more consistent approaches.

Collective action through multilateral institutions can help States level the playing field with regard to business respect for human rights, but it should do so by raising the performance of laggards. Cooperation between States, multilateral institutions and other stakeholders can also play an important role.

These Guiding Principles provide a common reference point in this regard, and could serve as a useful basis for building a cumulative positive effect that takes into account the respective roles and responsibilities of all relevant stakeholders.

II. THE CORPORATE RESPONSIBILITY TO RESPECT HUMAN RIGHTS

A. FOUNDATIONAL PRINCIPLES

- 11. Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.**

Commentary

The responsibility to respect human rights is a global standard of expected conduct for all business enterprises wherever they operate. It exists independently of States' abilities and/or willingness to fulfil their own human rights obligations, and does not diminish those obligations. And it exists over and above compliance with national laws and regulations protecting human rights.

Addressing adverse human rights impacts requires taking adequate measures for their prevention, mitigation and, where appropriate, remediation.

Business enterprises may undertake other commitments or activities to support and promote human rights, which may contribute to the enjoyment of rights. But this does not offset a failure to respect human rights throughout their operations.

Business enterprises should not undermine States' abilities to meet their own human rights obligations, including by actions that might weaken the integrity of judicial processes.

- 12. The responsibility of business enterprises to respect human rights refers to internationally recognized human rights – understood, at a minimum, as those expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the International Labour Organization's Declaration on Fundamental Principles and Rights at Work.**

Commentary

Because business enterprises can have an impact on virtually the entire spectrum of internationally recognized human rights, their responsibility to

respect applies to all such rights. In practice, some human rights may be at greater risk than others in particular industries or contexts, and therefore will be the focus of heightened attention. However, situations may change, so all human rights should be the subject of periodic review.

An authoritative list of the core internationally recognized human rights is contained in the International Bill of Human Rights (consisting of the Universal Declaration of Human Rights and the main instruments through which it has been codified: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights), coupled with the principles concerning fundamental rights in the eight ILO core conventions as set out in the Declaration on Fundamental Principles and Rights at Work. These are the benchmarks against which other social actors assess the human rights impacts of business enterprises. The responsibility of business enterprises to respect human rights is distinct from issues of legal liability and enforcement, which remain defined largely by national law provisions in relevant jurisdictions.

Depending on circumstances, business enterprises may need to consider additional standards. For instance, enterprises should respect the human rights of individuals belonging to specific groups or populations that require particular attention, where they may have adverse human rights impacts on them. In this connection, United Nations instruments have elaborated further on the rights of indigenous peoples; women; national or ethnic, religious and linguistic minorities; children; persons with disabilities; and migrant workers and their families. Moreover, in situations of armed conflict enterprises should respect the standards of international humanitarian law.

13. The responsibility to respect human rights requires that business enterprises:

- (a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur;**
- (b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.**

Commentary

Business enterprises may be involved with adverse human rights impacts either through their own activities or as a result of their business relationships with other parties. Guiding Principle 19 elaborates further on the implications for how business enterprises should address these situations. For the purpose of these Guiding Principles a business enterprise's "activities" are understood to include both actions and omissions; and its "business relationships" are understood to include relationships with business partners, entities in its value chain, and any other non-State or State entity directly linked to its business operations, products or services.

- 14. The responsibility of business enterprises to respect human rights applies to all enterprises regardless of their size, sector, operational context, ownership and structure. Nevertheless, the scale and complexity of the means through which enterprises meet that responsibility may vary according to these factors and with the severity of the enterprise's adverse human rights impacts.**

Commentary

The means through which a business enterprise meets its responsibility to respect human rights will be proportional to, among other factors, its size. Small and medium-sized enterprises may have less capacity as well as more informal processes and management structures than larger companies, so their respective policies and processes will take on different forms. But some small and medium-sized enterprises can have severe human rights impacts, which will require corresponding measures regardless of their size. Severity of impacts will be judged by their scale, scope and irremediable character. The means through which a business enterprise meets its responsibility to respect human rights may also vary depending on whether, and the extent to which, it conducts business through a corporate group or individually. However, the responsibility to respect human rights applies fully and equally to all business enterprises.

- 15. In order to meet their responsibility to respect human rights, business enterprises should have in place policies and processes appropriate to their size and circumstances, including:**

- (a) A policy commitment to meet their responsibility to respect human rights;
- (b) A human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights;
- (c) Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute.

Commentary

Business enterprises need to know and show that they respect human rights. They cannot do so unless they have certain policies and processes in place. Principles 16 to 24 elaborate further on these.

B. OPERATIONAL PRINCIPLES

POLICY COMMITMENT

- 16. As the basis for embedding their responsibility to respect human rights, business enterprises should express their commitment to meet this responsibility through a statement of policy that:**
- (a) Is approved at the most senior level of the business enterprise;
 - (b) Is informed by relevant internal and/or external expertise;
 - (c) Stipulates the enterprise's human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services;
 - (d) Is publicly available and communicated internally and externally to all personnel, business partners and other relevant parties;
 - (e) Is reflected in operational policies and procedures necessary to embed it throughout the business enterprise.

Commentary

The term "statement" is used generically, to describe whatever means an enterprise employs to set out publicly its responsibilities, commitments, and expectations.

The level of expertise required to ensure that the policy statement is adequately informed will vary according to the complexity of the business enterprise's

operations. Expertise can be drawn from various sources, ranging from credible online or written resources to consultation with recognized experts. The statement of commitment should be publicly available. It should be communicated actively to entities with which the enterprise has contractual relationships; others directly linked to its operations, which may include State security forces; investors; and, in the case of operations with significant human rights risks, to the potentially affected stakeholders.

Internal communication of the statement and of related policies and procedures should make clear what the lines and systems of accountability will be, and should be supported by any necessary training for personnel in relevant business functions.

Just as States should work towards policy coherence, so business enterprises need to strive for coherence between their responsibility to respect human rights and policies and procedures that govern their wider business activities and relationships. This should include, for example, policies and procedures that set financial and other performance incentives for personnel; procurement practices; and lobbying activities where human rights are at stake.

Through these and any other appropriate means, the policy statement should be embedded from the top of the business enterprise through all its functions, which otherwise may act without awareness or regard for human rights.

HUMAN RIGHTS DUE DILIGENCE

17. In order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed. Human rights due diligence:

- (a) Should cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships;**

- (b) Will vary in complexity with the size of the business enterprise, the risk of severe human rights impacts, and the nature and context of its operations;**
- (c) Should be ongoing, recognizing that the human rights risks may change over time as the business enterprise's operations and operating context evolve.**

Commentary

This Principle defines the parameters for human rights due diligence, while Principles 18 through 21 elaborate its essential components.

Human rights risks are understood to be the business enterprise's potential adverse human rights impacts. Potential impacts should be addressed through prevention or mitigation, while actual impacts – those that have already occurred – should be a subject for remediation (Principle 22).

Human rights due diligence can be included within broader enterprise risk-management systems, provided that it goes beyond simply identifying and managing material risks to the company itself, to include risks to rights-holders.

Human rights due diligence should be initiated as early as possible in the development of a new activity or relationship, given that human rights risks can be increased or mitigated already at the stage of structuring contracts or other agreements, and may be inherited through mergers or acquisitions.

Where business enterprises have large numbers of entities in their value chains it may be unreasonably difficult to conduct due diligence for adverse human rights impacts across them all. If so, business enterprises should identify general areas where the risk of adverse human rights impacts is most significant, whether due to certain suppliers' or clients' operating context, the particular operations, products or services involved, or other relevant considerations, and prioritize these for human rights due diligence.

Questions of complicity may arise when a business enterprise contributes to, or is seen as contributing to, adverse human rights impacts caused by other parties. Complicity has both non-legal and legal meanings. As a non-legal matter, business enterprises may be perceived as being "complicit" in the acts of another party where, for example, they are seen to benefit from an abuse committed by that party.

As a legal matter, most national jurisdictions prohibit complicity in the commission of a crime, and a number allow for criminal liability of business enterprises in such cases. Typically, civil actions can also be based on an enterprise's alleged contribution to a harm, although these may not be framed in human rights terms. The weight of international criminal law jurisprudence indicates that the relevant standard for aiding and abetting is knowingly providing practical assistance or encouragement that has a substantial effect on the commission of a crime.

Conducting appropriate human rights due diligence should help business enterprises address the risk of legal claims against them by showing that they took every reasonable step to avoid involvement with an alleged human rights abuse. However, business enterprises conducting such due diligence should not assume that, by itself, this will automatically and fully absolve them from liability for causing or contributing to human rights abuses.

18. In order to gauge human rights risks, business enterprises should identify and assess any actual or potential adverse human rights impacts with which they may be involved either through their own activities or as a result of their business relationships. This process should:

- (a) Draw on internal and/or independent external human rights expertise;**
- (b) Involve meaningful consultation with potentially affected groups and other relevant stakeholders, as appropriate to the size of the business enterprise and the nature and context of the operation.**

Commentary

The initial step in conducting human rights due diligence is to identify and assess the nature of the actual and potential adverse human rights impacts with which a business enterprise may be involved. The purpose is to understand the specific impacts on specific people, given a specific context of operations. Typically this includes assessing the human rights context prior to a proposed business activity, where possible; identifying who may be affected; cataloguing the relevant human rights standards and issues; and projecting how the proposed activity and associated business relationships could have adverse human rights impacts on those identified.

In this process, business enterprises should pay special attention to any particular human rights impacts on individuals from groups or populations that may be at heightened risk of vulnerability or marginalization, and bear in mind the different risks that may be faced by women and men.

While processes for assessing human rights impacts can be incorporated within other processes such as risk assessments or environmental and social impact assessments, they should include all internationally recognized human rights as a reference point, since enterprises may potentially impact virtually any of these rights.

Because human rights situations are dynamic, assessments of human rights impacts should be undertaken at regular intervals: prior to a new activity or relationship; prior to major decisions or changes in the operation (e.g. market entry, product launch, policy change, or wider changes to the business); in response to or anticipation of changes in the operating environment (e.g. rising social tensions); and periodically throughout the life of an activity or relationship.

To enable business enterprises to assess their human rights impacts accurately, they should seek to understand the concerns of potentially affected stakeholders by consulting them directly in a manner that takes into account language and other potential barriers to effective engagement. In situations where such consultation is not possible, business enterprises should consider reasonable alternatives such as consulting credible, independent expert resources, including human rights defenders and others from civil society.

The assessment of human rights impacts informs subsequent steps in the human rights due diligence process.

19. In order to prevent and mitigate adverse human rights impacts, business enterprises should integrate the findings from their impact assessments across relevant internal functions and processes, and take appropriate action.

(a) Effective integration requires that:

(i) Responsibility for addressing such impacts is assigned to the appropriate level and function within the business enterprise;

(ii) Internal decision-making, budget allocations and oversight processes enable effective responses to such impacts.

(b) Appropriate action will vary according to:

(i) Whether the business enterprise causes or contributes to an adverse impact, or whether it is involved solely because the impact is directly linked to its operations, products or services by a business relationship;

(ii) The extent of its leverage in addressing the adverse impact.

Commentary

The horizontal integration across the business enterprise of specific findings from assessing human rights impacts can only be effective if its human rights policy commitment has been embedded into all relevant business functions. This is required to ensure that the assessment findings are properly understood, given due weight, and acted upon.

In assessing human rights impacts, business enterprises will have looked for both actual and potential adverse impacts. Potential impacts should be prevented or mitigated through the horizontal integration of findings across the business enterprise, while actual impacts—those that have already occurred – should be a subject for remediation (Principle 22).

Where a business enterprise causes or may cause an adverse human rights impact, it should take the necessary steps to cease or prevent the impact.

Where a business enterprise contributes or may contribute to an adverse human rights impact, it should take the necessary steps to cease or prevent its contribution and use its leverage to mitigate any remaining impact to the greatest extent possible. Leverage is considered to exist where the enterprise has the ability to effect change in the wrongful practices of an entity that causes a harm.

Where a business enterprise has not contributed to an adverse human rights impact, but that impact is nevertheless directly linked to its operations, products or services by its business relationship with another entity, the situation is more complex. Among the factors that will enter into the determination of the appropriate action in such situations are the

enterprise's leverage over the entity concerned, how crucial the relationship is to the enterprise, the severity of the abuse, and whether terminating the relationship with the entity itself would have adverse human rights consequences.

The more complex the situation and its implications for human rights, the stronger is the case for the enterprise to draw on independent expert advice in deciding how to respond.

If the business enterprise has leverage to prevent or mitigate the adverse impact, it should exercise it. And if it lacks leverage there may be ways for the enterprise to increase it. Leverage may be increased by, for example, offering capacity-building or other incentives to the related entity, or collaborating with other actors.

There are situations in which the enterprise lacks the leverage to prevent or mitigate adverse impacts and is unable to increase its leverage. Here, the enterprise should consider ending the relationship, taking into account credible assessments of potential adverse human rights impacts of doing so.

Where the relationship is "crucial" to the enterprise, ending it raises further challenges. A relationship could be deemed as crucial if it provides a product or service that is essential to the enterprise's business, and for which no reasonable alternative source exists. Here the severity of the adverse human rights impact must also be considered: the more severe the abuse, the more quickly the enterprise will need to see change before it takes a decision on whether it should end the relationship. In any case, for as long as the abuse continues and the enterprise remains in the relationship, it should be able to demonstrate its own ongoing efforts to mitigate the impact and be prepared to accept any consequences – reputational, financial or legal – of the continuing connection.

20. In order to verify whether adverse human rights impacts are being addressed, business enterprises should track the effectiveness of their response. Tracking should:

- (a) Be based on appropriate qualitative and quantitative indicators;**
- (b) Draw on feedback from both internal and external sources, including affected stakeholders.**

Commentary

Tracking is necessary in order for a business enterprise to know if its human rights policies are being implemented optimally, whether it has responded effectively to the identified human rights impacts, and to drive continuous improvement.

Business enterprises should make particular efforts to track the effectiveness of their responses to impacts on individuals from groups or populations that may be at heightened risk of vulnerability or marginalization.

Tracking should be integrated into relevant internal reporting processes. Business enterprises might employ tools they already use in relation to other issues. This could include performance contracts and reviews as well as surveys and audits, using gender-disaggregated data where relevant. Operational-level grievance mechanisms can also provide important feedback on the effectiveness of the business enterprise's human rights due diligence from those directly affected (see Principle 29).

21. In order to account for how they address their human rights impacts, business enterprises should be prepared to communicate this externally, particularly when concerns are raised by or on behalf of affected stakeholders. Business enterprises whose operations or operating contexts pose risks of severe human rights impacts should report formally on how they address them. In all instances, communications should:

- (a) Be of a form and frequency that reflect an enterprise's human rights impacts and that are accessible to its intended audiences;**
- (b) Provide information that is sufficient to evaluate the adequacy of an enterprise's response to the particular human rights impact involved;**
- (c) In turn not pose risks to affected stakeholders, personnel or to legitimate requirements of commercial confidentiality.**

Commentary

The responsibility to respect human rights requires that business enterprises have in place policies and processes through which they can both know

and show that they respect human rights in practice. Showing involves communication, providing a measure of transparency and accountability to individuals or groups who may be impacted and to other relevant stakeholders, including investors.

Communication can take a variety of forms, including in-person meetings, online dialogues, consultation with affected stakeholders, and formal public reports. Formal reporting is itself evolving, from traditional annual reports and corporate responsibility/sustainability reports, to include online updates and integrated financial and non-financial reports.

Formal reporting by enterprises is expected where risks of severe human rights impacts exist, whether this is due to the nature of the business operations or operating contexts. The reporting should cover topics and indicators concerning how enterprises identify and address adverse impacts on human rights. Independent verification of human rights reporting can strengthen its content and credibility. Sector-specific indicators can provide helpful additional detail.

REMEDIATION

22. Where business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes.

Commentary

Even with the best policies and practices, a business enterprise may cause or contribute to an adverse human rights impact that it has not foreseen or been able to prevent.

Where a business enterprise identifies such a situation, whether through its human rights due diligence process or other means, its responsibility to respect human rights requires active engagement in remediation, by itself or in cooperation with other actors. Operational-level grievance mechanisms for those potentially impacted by the business enterprise's activities can be one effective means of enabling remediation when they meet certain core criteria, as set out in Principle 31.

Where adverse impacts have occurred that the business enterprise has not caused or contributed to, but which are directly linked to its operations,

products or services by a business relationship, the responsibility to respect human rights does not require that the enterprise itself provide for remediation, though it may take a role in doing so.

Some situations, in particular where crimes are alleged, typically will require cooperation with judicial mechanisms.

Further guidance on mechanisms through which remediation may be sought, including where allegations of adverse human rights impacts are contested, is included in chapter III on access to remedy.

ISSUES OF CONTEXT

23. In all contexts, business enterprises should:

- (a) Comply with all applicable laws and respect internationally recognized human rights, wherever they operate;**
- (b) Seek ways to honour the principles of internationally recognized human rights when faced with conflicting requirements;**
- (c) Treat the risk of causing or contributing to gross human rights abuses as a legal compliance issue wherever they operate.**

Commentary

Although particular country and local contexts may affect the human rights risks of an enterprise's activities and business relationships, all business enterprises have the same responsibility to respect human rights wherever they operate. Where the domestic context renders it impossible to meet this responsibility fully, business enterprises are expected to respect the principles of internationally recognized human rights to the greatest extent possible in the circumstances, and to be able to demonstrate their efforts in this regard.

Some operating environments, such as conflict-affected areas, may increase the risks of enterprises being complicit in gross human rights abuses committed by other actors (security forces, for example). Business enterprises should treat this risk as a legal compliance issue, given the expanding web of potential corporate legal liability arising from extraterritorial civil claims, and from the incorporation of the provisions of the Rome Statute of the International Criminal Court in jurisdictions that provide for corporate

criminal responsibility. In addition, corporate directors, officers and employees may be subject to individual liability for acts that amount to gross human rights abuses.

In complex contexts such as these, business enterprises should ensure that they do not exacerbate the situation. In assessing how best to respond, they will often be well advised to draw on not only expertise and cross-functional consultation within the enterprise, but also to consult externally with credible, independent experts, including from Governments, civil society, national human rights institutions and relevant multi-stakeholder initiatives.

24. Where it is necessary to prioritize actions to address actual and potential adverse human rights impacts, business enterprises should first seek to prevent and mitigate those that are most severe or where delayed response would make them irremediable.

Commentary

While business enterprises should address all their adverse human rights impacts, it may not always be possible to address them simultaneously. In the absence of specific legal guidance, if prioritization is necessary business enterprises should begin with those human rights impacts that would be most severe, recognizing that a delayed response may affect remediability. Severity is not an absolute concept in this context, but is relative to the other human rights impacts the business enterprise has identified.

III. ACCESS TO REMEDY

A. FOUNDATIONAL PRINCIPLE

- 25. As part of their duty to protect against business-related human rights abuse, States must 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.**

Commentary

Unless States take appropriate steps to investigate, punish and redress business-related human rights abuses when they do occur, the State duty to protect can be rendered weak or even meaningless.

Access to effective remedy has both procedural and substantive aspects. The remedies provided by the grievance mechanisms discussed in this section may take a range of substantive forms the aim of which, generally speaking, will be to counteract or make good any human rights harms that have occurred. Remedy may include apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition. Procedures for the provision of remedy should be impartial, protected from corruption and free from political or other attempts to influence the outcome.

For the purpose of these Guiding Principles, a grievance is understood to be a perceived injustice evoking an individual's or a group's sense of entitlement, which may be based on law, contract, explicit or implicit promises, customary practice, or general notions of fairness of aggrieved communities. The term grievance mechanism is used to indicate any routinized, State-based or non-State-based, judicial or non-judicial process through which grievances concerning business-related human rights abuse can be raised and remedy can be sought.

State-based grievance mechanisms may be administered by a branch or agency of the State, or by an independent body on a statutory or constitutional basis. They may be judicial or non-judicial. In some

mechanisms, those affected are directly involved in seeking remedy; in others, an intermediary seeks remedy on their behalf. Examples include the courts (for both criminal and civil actions), labour tribunals, national human rights institutions, National Contact Points under the Guidelines for Multinational Enterprises of the Organisation for Economic Co-operation and Development, many ombudsperson offices, and Government-run complaints offices.

Ensuring access to remedy for business-related human rights abuses requires also that States facilitate public awareness and understanding of these mechanisms, how they can be accessed, and any support (financial or expert) for doing so.

State-based judicial and non-judicial grievance mechanisms should form the foundation of a wider system of remedy. Within such a system, operational-level grievance mechanisms can provide early stage recourse and resolution. State-based and operational-level mechanisms, in turn, can be supplemented or enhanced by the remedial functions of collaborative initiatives as well as those of international and regional human rights mechanisms. Further guidance with regard to these mechanisms is provided in Guiding Principles 26 to 31.

B. OPERATIONAL PRINCIPLES

STATE-BASED JUDICIAL MECHANISMS

26. States should take appropriate steps to ensure the effectiveness of domestic judicial mechanisms when addressing business-related human rights abuses, including considering ways to reduce legal, practical and other relevant barriers that could lead to a denial of access to remedy.

Commentary

Effective judicial mechanisms are at the core of ensuring access to remedy. Their ability to address business-related human rights abuses depends on their impartiality, integrity and ability to accord due process.

States should ensure that they do not erect barriers to prevent legitimate cases from being brought before the courts in situations where judicial recourse is an essential part of accessing remedy or alternative sources of effective remedy are unavailable. They should also ensure that the provision

of justice is not prevented by corruption of the judicial process, that courts are independent of economic or political pressures from other State agents and from business actors, and that the legitimate and peaceful activities of human rights defenders are not obstructed.

Legal barriers that can prevent legitimate cases involving business-related human rights abuse from being addressed can arise where, for example:

- The way in which legal responsibility is attributed among members of a corporate group under domestic criminal and civil laws facilitates the avoidance of appropriate accountability;
- Where claimants face a denial of justice in a host State and cannot access home State courts regardless of the merits of the claim;
- Where certain groups, such as indigenous peoples and migrants, are excluded from the same level of legal protection of their human rights that applies to the wider population.

Practical and procedural barriers to accessing judicial remedy can arise where, for example:

- The costs of bringing claims go beyond being an appropriate deterrent to unmeritorious cases and/or cannot be reduced to reasonable levels through Government support, "market-based" mechanisms (such as litigation insurance and legal fee structures), or other means;
- Claimants experience difficulty in securing legal representation, due to a lack of resources or of other incentives for lawyers to advise claimants in this area;
- There are inadequate options for aggregating claims or enabling representative proceedings (such as class actions and other collective action procedures), and this prevents effective remedy for individual claimants;
- State prosecutors lack adequate resources, expertise and support to meet the State's own obligations to investigate individual and business involvement in human rights-related crimes.

Many of these barriers are the result of, or compounded by, the frequent imbalances between the parties to business-related human rights claims, such as in their financial resources, access to information and expertise. Moreover, whether through active discrimination or as the unintended

consequences of the way judicial mechanisms are designed and operate, individuals from groups or populations at heightened risk of vulnerability or marginalization often face additional cultural, social, physical and financial impediments to accessing, using and benefiting from these mechanisms. Particular attention should be given to the rights and specific needs of such groups or populations at each stage of the remedial process: access, procedures and outcome.

STATE-BASED NON-JUDICIAL GRIEVANCE MECHANISMS

27. States should provide effective and appropriate non-judicial grievance mechanisms, alongside judicial mechanisms, as part of a comprehensive State-based system for the remedy of business-related human rights abuse.

Commentary

Administrative, legislative and other non-judicial mechanisms play an essential role in complementing and supplementing judicial mechanisms. Even where judicial systems are effective and well-resourced, they cannot carry the burden of addressing all alleged abuses; judicial remedy is not always required; nor is it always the favoured approach for all claimants.

Gaps in the provision of remedy for business-related human rights abuses could be filled, where appropriate, by expanding the mandates of existing non-judicial mechanisms and/or by adding new mechanisms. These may be mediation-based, adjudicative or follow other culturally appropriate and rights-compatible processes – or involve some combination of these – depending on the issues concerned, any public interest involved, and the potential needs of the parties. To ensure their effectiveness, they should meet the criteria set out in Principle 31.

National human rights institutions have a particularly important role to play in this regard.

As with judicial mechanisms, States should consider ways to address any imbalances between the parties to business-related human rights claims and any additional barriers to access faced by individuals from groups or populations at heightened risk of vulnerability or marginalization.

NON-STATE-BASED GRIEVANCE MECHANISMS

28. States should consider ways to facilitate access to effective non-State-based grievance mechanisms dealing with business-related human rights harms.

Commentary

One category of non-State-based grievance mechanisms encompasses those administered by a business enterprise alone or with stakeholders, by an industry association or a multi-stakeholder group. They are non-judicial, but may use adjudicative, dialogue-based or other culturally appropriate and rights-compatible processes. These mechanisms may offer particular benefits such as speed of access and remediation, reduced costs and/or transnational reach.

Another category comprises regional and international human rights bodies. These have dealt most often with alleged violations by States of their obligations to respect human rights. However, some have also dealt with the failure of a State to meet its duty to protect against human rights abuse by business enterprises.

States can play a helpful role in raising awareness of, or otherwise facilitating access to, such options, alongside the mechanisms provided by States themselves.

29. To make it possible for grievances to be addressed early and remediated directly, business enterprises should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted.

Commentary

Operational-level grievance mechanisms are accessible directly to individuals and communities who may be adversely impacted by a business enterprise. They are typically administered by enterprises, alone or in collaboration with others, including relevant stakeholders. They may also be provided through recourse to a mutually acceptable external expert or body. They do not require that those bringing a complaint first access other means of recourse. They can engage the business enterprise directly in assessing the issues and seeking remediation of any harm.

Operational-level grievance mechanisms perform two key functions regarding the responsibility of business enterprises to respect human rights.

- First, they support the identification of adverse human rights impacts as a part of an enterprise's ongoing human rights due diligence. They do so by providing a channel for those directly impacted by the enterprise's operations to raise concerns when they believe they are being or will be adversely impacted. By analysing trends and patterns in complaints, business enterprises can also identify systemic problems and adapt their practices accordingly;
- Second, these mechanisms make it possible for grievances, once identified, to be addressed and for adverse impacts to be remediated early and directly by the business enterprise, thereby preventing harms from compounding and grievances from escalating.

Such mechanisms need not require that a complaint or grievance amount to an alleged human rights abuse before it can be raised, but specifically aim to identify any legitimate concerns of those who may be adversely impacted. If those concerns are not identified and addressed, they may over time escalate into more major disputes and human rights abuses.

Operational-level grievance mechanisms should reflect certain criteria to ensure their effectiveness in practice (Principle 31). These criteria can be met through many different forms of grievance mechanism according to the demands of scale, resource, sector, culture and other parameters.

Operational-level grievance mechanisms can be important complements to wider stakeholder engagement and collective bargaining processes, but cannot substitute for either. They should not be used to undermine the role of legitimate trade unions in addressing labour-related disputes, nor to preclude access to judicial or other non-judicial grievance mechanisms.

30. Industry, multi-stakeholder and other collaborative initiatives that are based on respect for human rights-related standards should ensure that effective grievance mechanisms are available.

Commentary

Human rights-related standards are increasingly reflected in commitments undertaken by industry bodies, multi-stakeholder and other collaborative initiatives, through codes of conduct, performance standards, global

framework agreements between trade unions and transnational corporations, and similar undertakings.

Such collaborative initiatives should ensure the availability of effective mechanisms through which affected parties or their legitimate representatives can raise concerns when they believe the commitments in question have not been met. The legitimacy of such initiatives may be put at risk if they do not provide for such mechanisms. The mechanisms could be at the level of individual members, of the collaborative initiative, or both. These mechanisms should provide for accountability and help enable the remediation of adverse human rights impacts.

EFFECTIVENESS CRITERIA FOR NON-JUDICIAL GRIEVANCE MECHANISMS

31. In order to ensure their effectiveness, non-judicial grievance mechanisms, both State-based and non-State-based, should be:

- (a) Legitimate:** enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes;
- (b) Accessible:** being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access;
- (c) Predictable:** providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation;
- (d) Equitable:** seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;
- (e) Transparent:** keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake;

- (f) **Rights-compatible: ensuring that outcomes and remedies accord with internationally recognized human rights;**
- (g) **A source of continuous learning: drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms;**

Operational-level mechanisms should also be:

- (h) **Based on engagement and dialogue: consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances.**

Commentary

A grievance mechanism can only serve its purpose if the people it is intended to serve know about it, trust it and are able to use it. These criteria provide a benchmark for designing, revising or assessing a non-judicial grievance mechanism to help ensure that it is effective in practice. Poorly designed or implemented grievance mechanisms can risk compounding a sense of grievance amongst affected stakeholders by heightening their sense of disempowerment and disrespect by the process.

The first seven criteria apply to any State-based or non-State-based, adjudicative or dialogue-based mechanism. The eighth criterion is specific to operational-level mechanisms that business enterprises help administer.

The term “grievance mechanism” is used here as a term of art. The term itself may not always be appropriate or helpful when applied to a specific mechanism, but the criteria for effectiveness remain the same. Commentary on the specific criteria follows:

- (a) Stakeholders for whose use a mechanism is intended must trust it if they are to choose to use it. Accountability for ensuring that the parties to a grievance process cannot interfere with its fair conduct is typically one important factor in building stakeholder trust;
- (b) Barriers to access may include a lack of awareness of the mechanism, language, literacy, costs, physical location and fears of reprisal;
- (c) In order for a mechanism to be trusted and used, it should provide public information about the procedure it offers. Time frames for

each stage should be respected wherever possible, while allowing that flexibility may sometimes be needed;

- (d) In grievances or disputes between business enterprises and affected stakeholders, the latter frequently have much less access to information and expert resources, and often lack the financial resources to pay for them. Where this imbalance is not redressed, it can reduce both the achievement and perception of a fair process and make it harder to arrive at durable solutions;
- (e) Communicating regularly with parties about the progress of individual grievances can be essential to retaining confidence in the process. Providing transparency about the mechanism's performance to wider stakeholders, through statistics, case studies or more detailed information about the handling of certain cases, can be important to demonstrate its legitimacy and retain broad trust. At the same time, confidentiality of the dialogue between parties and of individuals' identities should be provided where necessary;
- (f) Grievances are frequently not framed in terms of human rights and many do not initially raise human rights concerns. Regardless, where outcomes have implications for human rights, care should be taken to ensure that they are in line with internationally recognized human rights;
- (g) Regular analysis of the frequency, patterns and causes of grievances can enable the institution administering the mechanism to identify and influence policies, procedures or practices that should be altered to prevent future harm;
- (h) For an operational-level grievance mechanism, engaging with affected stakeholder groups about its design and performance can help to ensure that it meets their needs, that they will use it in practice, and that there is a shared interest in ensuring its success. Since a business enterprise cannot, with legitimacy, both be the subject of complaints and unilaterally determine their outcome, these mechanisms should focus on reaching agreed solutions through dialogue. Where adjudication is needed, this should be provided by a legitimate, independent third-party mechanism.

