

INTERNATIONAL INITIATIVES TO PROMOTE RESPONSIBLE BUSINESS

A Navigation Guide for Business



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INTRODUCTION

The nature, scope and speed of economic changes over recent years have presented companies and stakeholders with new strategic challenges. A growing number of companies are operating across national boundaries in a variety of arrangements resulting in economic activities beyond the capacities of any one national system. Multinational companies are expected to obey the laws both in home and host countries, and must often respond to societal expectations that are not codified. They straddle dozens of legal, regulatory and cultural environments.

Recognition of the fact that companies have a responsibility for their impact is now firmly established but there is still a gap in understanding what the international community expects of business in this area. The number of initiatives and standards relevant to corporate responsibility has increased rapidly over the last 15 years and there is now a plethora of guidelines available to business.

Companies no longer wonder whether to use such tools; they wonder about which ones to use, and in what combination.

This document aims to provide a user-friendly, balanced and impartial guide to help businesses to navigate their way through this maze. It seeks to articulate clearly the key aspects of three cross-industry initiatives

- The OECD Guidelines for Multinational Enterprises;
- The United Nations Global Compact Principles; and
- The IFC Performance Standards on Social and Environmental Sustainability

All three of these initiatives aim to shape the behaviour of companies operating in developing and emerging markets. Industry-specific initiatives are not covered.

The OECD Guidelines for Multinational Enterprises

www.oecd.org

The Guidelines, adopted on 21 June 1976 as part of the Organisation for Economic Co-operation and Development (OECD) Declaration on International Investment and Multinational Enterprises, are recommendations by the governments of the 30 OECD member states together with nine non-member countries (Argentina, Brazil, Chile, Estonia, Israel, Latvia, Lithuania, Romania and Slovenia) directed at corporations. They apply to all parts of a multinational, including subsidiaries, which are either based in or operating from an adhering country. Small and medium-sized enterprises are also encouraged to observe the Guidelines to the fullest extent possible.

The Guidelines establish non-binding principles and standards covering areas relating to:

- employment and industrial relations, including trade union recognition, collective bargaining, discrimination and child and forced labour;
- general policies such as respect for human rights, compliance with the law, protection of whistleblowers;
- environmental protection, including environmental management systems, precaution and continual improvement;
- information disclosure;
- combating bribery, including illegal political donations;
- consumer interests such as labelling;
- competition;
- taxation;
- supply chain management; and
- science and technology.

The Guidelines are complemented by implementation procedures whereby endorsing governments agree to promote the observance of the guidelines. Governments participate in the follow-up mechanism by operating National Contact Points who are charged with promoting the Guidelines and considering “specific instances”. Complainants raise specific instances when companies’ investment-related activities (trade-related cases are not generally deemed to be within the scope of the Guidelines) are alleged to contravene the Guidelines’ principles and standards.

A review of the performance of national contact points is underway. The OECD investment committee organizes annual meetings where Contact Points can exchange their experience and conducts corporate responsibility roundtables as vehicles for promoting the guidelines and providing clarification on their application in specific areas (e.g. supply chain, financial sector).

A Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones, offering guidance for multinational enterprises operating in such zones, has been developed as part of the OECD Investment Committee’s follow up to the Guidelines.

The screenshot shows the OECD website's page for the Guidelines for Multinational Enterprises. The page features a navigation menu on the left with categories like 'Directorate for Financial and Enterprise Affairs', 'Guidelines for Multinational Enterprises', and 'What's new'. The main content area includes a title 'Guidelines for Multinational Enterprises' with sub-sections for 'About', 'Partitions & Documents', and 'Information by Country'. Below this, there is a 'What's new' section with several news items, including 'OECD ILO High-Level Roundtable on Corporate Responsibility' and 'OECD publishes its annual report on the Guidelines for Multinational Enterprises'. On the right side, there is a 'Core's links' section with a list of links and a '2007 Edition' section with a book cover image.

The United Nations Global Compact Principles

www.unglobalcompact.org

Former United Nations Secretary-General Kofi Annan first proposed the Global Compact in an address to the World Economic Forum on 31 January 1999. It was officially launched in July 2000 by the Secretary-General together with senior executives from some 50 companies and representatives from labour, human rights, environmental and development organisations. With 3000 companies and other societal actors (governments, labour and civil society organisations) participating from more than 100 countries, the Global Compact is the world's largest corporate citizenship initiative.

The Global Compact sets out ten principles in the areas of human rights, labour standards, the environment and corruption drawn from the Universal Declaration of Human Rights (UDHR), the International Labour Organisation's (ILO) Fundamental Principles on Rights at Work, the Rio Principles on Environment and Development and the UN Convention against Corruption.

The principles read as follows:

- 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.
- 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.
- 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
- Principle 10: Businesses should work against all forms of corruption, including extortion and bribery.

To participate, companies are encouraged to publicly advocate the principles of the Global Compact via communication vehicles such as press releases, speeches, etc. Companies are asked once a year to provide the UN with concrete examples of progress made or lessons learned in implementing the principles. The examples are then posted on the Global Compact website (www.unglobalcompact.org). Should a company fail to communicate their progress against the ten principles for two years, the participant will be labelled "inactive" on the Global Compact website and barred from taking part in Global Compact events, including local networks, until this is remedied. To date, 500 companies have been de-listed from the Global Compact with a further 500 under review.

The Global Compact has previously relied on public accountability, transparency and the enlightened self-interest of companies, labour and civil society to initiate and share action in pursuing the ten principles. However, with the introduction of a new governance structure, a monitoring mechanism is developing and complaints of a participating company's systematic or egregious abuse of the Global Compact's overall aims and principles can now be lodged with the UN Global Compact Office, which will relay them to the company and can help to remedy any concerns.



IFC Performance Standards on Social and Environmental Sustainability

www.ifc.org

The International Finance Corporation's (IFC) new Sustainability Policy and Performance Standards, adopted in April 2006 following a wide consultation process, are a strengthening and broadening of IFC's earlier environmental safeguard policies. The Standards clearly state that IFC's requirements are applicable to all projects which it finances. The Performance Standards are also used by other financial institutions to apply to projects that they finance, notably through the Equator Principles (www.equator-principles.com).

The eight Performance Standards establish standards that the client¹ is to meet throughout the life of an investment and relate to:

1. Social and environmental assessment and management system;
2. Labour and working conditions;
3. Pollution prevention and abatement;
4. Community health, safety and security;
5. Land acquisition and involuntary resettlement;
6. Biodiversity and sustainable natural resource management;
7. Indigenous peoples; and
8. Cultural heritage.

The Performance Standards are complemented by Guidance Notes, offering helpful guidance and reference materials to improve project performance.

Performance Standard 1 places an obligation on IFC clients to put in place procedures and mechanisms to ensure compliance with the remaining seven standards and to ensure that there are sufficient resources and consultation to support their implementation.

It underscores the importance of managing social and environmental performance throughout the lifecycle of a project. It requires the client to develop a social and environmental assessment process to consider the potential social and environmental (including labour, health and safety) risks and impacts of the project in the context of the project's area of influence. The assessment must consider potential trans-boundary effects as well as global impacts. Individuals and groups that may be differently or disproportionately affected by the project because of their disadvantaged or vulnerable status must be identified as part of the assessment.

Clients are expected to implement action to meet the required standards through a social and environmental management system. The management system provides for avoidance and prevention of negative impacts; mitigation and management of risks and adverse impacts on workers, affected communities and the environment; consultation with affected communities; training of relevant staff and contractors; monitoring; reporting; and establishment of a grievance mechanism (which should be culturally appropriate and accessible to indigenous peoples). The IFC's internal audit body, the Compliance Advisor Ombudsman, advises and assists IFC in addressing complaints by people directly impacted by projects.

The screenshot shows the IFC website's 'Environmental and Social Standards' page. The header includes the IFC logo and the tagline 'Reducing Poverty, Improving Lives'. The main content area is titled 'Environmental and Social Standards' and contains the following text:

IFC applies to all the projects it finances environmental and social standards to minimize their impact on the environment and on affected communities.

In February 2006, IFC completed a rigorous process of updating its standards. The standards are stronger, better and more comprehensive than those of any other international finance institution working with the private sector. They clearly define the roles and responsibilities of IFC and its client companies.

IFC environmental and social policies and procedures:

- Policy on Social and Environmental Sustainability** - defines IFC's role and responsibility in supporting project performance in partnership with clients
- Disclosure Policy** - defines IFC's obligations to disclose information about itself as an institution and its activities
- Environmental and Social Review Procedure** - gives direction to IFC officers in implementing the Policy on Social and Environmental Sustainability and reviewing compliance and implementation by private sector projects

Client requirements:

- Performance Standards** - defines clients' roles and responsibilities for managing their projects and the requirements for receiving and retaining IFC support. The standards include requirements to disclose information.

Guidance:

- Guidance Notes** - companion documents to the Performance Standards providing guidance to clients (and IFC staff) in meeting the standards
- Glossary of Terms (PDF, 83KB)** - a reference to many of the terms included in IFC's Policy and Performance Standards on Social and Environmental Sustainability and IFC's Guidance Notes to the Performance Standards
- Environmental, Health and Safety Guidelines** - technical guidance informing those parts of the new policy structure related to environmental, health and safety issues

The page also features a sidebar with 'ENVIRONMENTAL HIGHLIGHTS' and 'WHAT'S NEW' sections, and a footer with copyright information: '© 2008 IFC. Usage Agreement | Webmaster: World Bank Group'.

COMPARATIVE ANALYSIS OF THE INITIATIVES

The title of each of the three initiatives provides a clue as to how the overall purpose, and therefore the content, differs. The OECD Guidelines seek to provide guidance to business. The IFC Performance Standards set out standards that companies must meet to qualify for IFC finance. The UN Global Compact Principles are a concise and wide-ranging set of overall principles covering corporate behaviour.

	OECD Guidelines	UN Global Compact	IFC Performance Standards
Human Rights			
Labour Standards			
Environmental Protection			
Bribery, corruption and disclosure			
Consumer Protection			
Science and technology			
Competition			
Indigenous peoples and communities			
Security of communities			
Land aquisition and involuntary resettlement			
Cultural heritage			
Taxation			

Human rights obligations

Overview

Human rights feature strongly in all three initiatives, both as a general concept and under the specific subject headings. The initiatives seek to describe the expected behaviour of companies in the context of host governments' obligations to respect human rights under the Universal Declaration on Human Rights and the UN Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights.

OECD Guidelines

Under the OECD Guidelines, companies are expected to respect the human rights of those affected by their activities consistent with the host government's international obligations and commitments.

Global Compact

Under the Global Compact principles, businesses are expected to support and respect the protection of internationally proclaimed human rights; and to make sure that they are not complicit in human rights abuses.

To support putting the principles relating to human rights into practice, the Global Compact has established a Human Rights Working Group, chaired by Mary Robinson, to advance new forms of learning and dialogue activities through its local network infrastructure. A focus on the sectoral dimension of human rights is under review. The Global Compact also complements its human rights principles via a series of publications and tools on human rights and business, in partnership with leading human rights organisations and specialists.

IFC Performance Standards

The Performance Standards do not contain specific overarching language on companies' human rights obligations, but references to human rights are made throughout the text under the appropriate subject headings. The Standards explicitly recognize the roles and responsibilities of the private sector in respecting human rights

UN Special Representative on Business and Human Rights

www.business-humanrights.org

In 2005 Kofi Annan appointed Professor John G. Ruggie as Special Representative of the UN Secretary-General on Business & Human Rights at the request of the UN Commission on Human Rights (Note: succeeded in 2006 by the Human Rights Council).

Professor Ruggie released his recommendations in 2008 in the form of a conceptual and policy framework designed to address governance gaps in the domain of business and human rights. It comprises three core principles, the:

- State duty to protect individuals against human rights abuses by third parties, including business;
- Corporate responsibility to respect human rights;
- and the need for more effective access to remedies.

Ruggie asserts that international human rights rest on the bedrock role of States, but argues there are few, if any, human rights that business cannot impact - or be perceived to impact. To discharge the responsibility to respect and avoid "doing harm" corporations should put place a due diligence process that includes:

- adopting a human rights policy
- undertaking – and acting upon – a human rights impact assessment;
- integrating the human rights policy throughout the company; and
- tracking human rights performance

Ruggie explains that Governments should not assume they are helping business by failing to provide adequate guidance or regulation of the human rights impacts of companies, and both States and Corporations need to ensure access to grievance mechanisms.



Labour Standards

Overview

All three initiatives derive their content on labour standards from the ILO Core Conventions², the ILO Declaration on Fundamental Principles and Rights at Work and the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.

Issues covered include security of employment, occupational health and safety, non-discrimination in employment and occupation, child labour, forced and compulsory labour, freedom of association and collective bargaining.

OECD Guidelines

Chapter IV of the Guidelines addresses all the above. But it covers other issues not specifically addressed in the other three initiatives. For example it expects companies “to the greatest extent practicable, (to) employ local personnel and provide training with a view to improving life skills” and to “provide information to employees and their representatives which enable them to obtain a true and fair view of the performance of the entity”. It also expects companies “in considering changes to their operations which would have major effects upon the livelihood of their employees, in particular in the case of the closure of an entity involving collective lay-offs or dismissals, (to) provide reasonable notice of such changes to representatives of their employees [...], and co-operate with the employee representatives and appropriate governmental authorities so as to mitigate to the maximum extent practicable adverse effects”.

The commentary to Chapter II on general policies includes a reference to the protection of whistle-blowers. The commentary to chapter IV identifies the ILO as the competent body to set and deal with international standards, and refers in detail to the ILO Declarations and Conventions.

Even though the chapter on labour standards is extensive, the Guidelines do not specifically address adequate remuneration or hours of work. However, they state that companies should observe standards of employment (including compensation and working hours) not less favourable than those observed by comparable employers in the host country.

Global Compact

Four of the Global Compact Principles address labour standards. They do not directly address adequate remuneration, hours of work or health and safety. There is no specific reference to the ILO Conventions and Declaration. Unlike the other two initiatives, they do not provide additional detail. For example, under discrimination, they do not seek to identify the basis on which discrimination might take place (race, colour, sex, religion etc). Nor do they seek to define discrimination or to emphasise that non-discrimination should apply to all of a company's policies.

However, the four labour Principles are supported on the Global Compact website by strategies that business can adopt in the workplace and in the community in which they operate. The Global Compact also conducts workshops and roundtable sessions on business and labour issues within their international learning forums that have taken place in various geographical locations.

IFC Performance Standards

Performance Standard 2 covers labour and working conditions and refers to a number of ILO Conventions and the UN Convention on the Rights of the Child³. Most provisions are not restricted to direct employees, but also cover subcontracted labour.

Performance Standard 2 stipulates the processes that companies should apply if they are to qualify for IFC finance. For example, a company is required to provide a grievance mechanism for workplace concerns and to adopt a human resources policy that sets out its approach to managing employees. It requires companies to provide employees with information regarding their rights, and stipulates that the policy must be clear and understandable to employees and must be explained or made accessible to each employee on taking employment. Furthermore, in the case of a lay-off of a significant number of employees, companies are expected to develop a plan to mitigate the adverse impacts of retrenchment on employees.

On the issues of adequate remuneration and hours of work, the IFC Performance Standards state simply that, where a collective bargaining agreement does not exist, the employer should provide reasonable working conditions and terms of employment that, at a minimum, comply with local law.

Environmental issues

Overview

There is considerable variation in the way in which each of the initiatives address environmental issues. Key features are the use of the precautionary principle, the use of environmental impact assessments, the prevention or mitigation of adverse environmental impacts (including through the maintenance of contingency plans to deal with accidents and emergencies) and the development of environmentally friendly products and technologies. Others that feature strongly are the need to seek continual improvement in performance, and the provision of adequate education and training to employees. The initiatives draw in general terms on the principles and objectives in the Rio Declaration on Environment and Development. However, only the OECD Guidelines cover all of the above points.

OECD Guidelines

In addition to the above points, the OECD Guidelines (Chapter V) expect companies to adopt and maintain an environmental management system that includes the collection and evaluation of adequate and timely information on environmental, health and safety impacts; the establishment of measurable objectives and targets for improved performance; and regular monitoring and verification of progress. They also expect companies to provide the public and employees with adequate and timely information on the potential environment, health and safety impacts of their activities.

The Guidelines are the only one of the three initiatives to address specifically the need to consult community stakeholders on environmental issues (although they add that concerns about cost, confidentiality and intellectual property rights may be taken into account).

The Guidelines also expect companies to raise customer awareness of the environmental implications of using the company's products; and to "contribute to environmentally efficient public policy, for example by means of partnerships or initiatives that will enhance environmental awareness and protection".

The emphasis of the Guidelines is on environmental protection as distinct from the sustainable management and use of natural resources.

Global Compact

Three of the Global Compact Principles address environmental issues. They do not directly address the need to consult affected communities, the prevention or mitigation of adverse impacts or the provision of adequate education and training to employees. There is no specific reference to the use of environmental impact assessments.

However, the Global Compact Environmental Principles Training Package, launched in 2005, provides a practical kit for trainers, managers and employees to improve their understanding of how to implement the principles.

Two new engagement platforms for signatories were launched by the Global Compact in 2007:

- 1 Caring for Climate: The Global Business Leadership Platform on Climate Change
- 2 The CEO Water Mandate

Each of these Calls to Action seeks CEO endorsement of the new Global Compact strategic frameworks on climate and water. The signing of these statements is voluntary but represents a commitment by business on climate change and water sustainability and seeks to mobilise a critical mass of companies on these key environmental issues for business.

IFC Performance Standards

The environmental impacts of projects are dealt with extensively. Performance Standard 3 covers pollution prevention and control technologies, and practices to avoid, minimise or reduce adverse impacts on human health and the environment; resource conservation and energy efficiency measures; managing hazardous materials; emergency response; emission reduction; principles of cleaner production; and pesticide and waste management. Performance Standard 4, which deals specifically with health, safety and security, deals with the need to avoid or minimise risks and impact to communities, and the requirement for disclosure and engagement with affected communities.

Of the three initiatives, only the IFC Standards specifically address promoting of the reduction of emissions that contribute to climate change.

The IFC Standards are also the only one to deal with the protection and conservation of biodiversity (Performance Standard 6). They emphasise the need to “take into account the differing values attached to biodiversity by specific stakeholders” and, where appropriate, to “retain qualified and experienced external experts to assist in conducting [assessments]”.

The IFC Standards also refer specifically to the promotion of sustainable management and use of natural resources. Where possible, clients are expected to “demonstrate the sustainable management of resources through an appropriate system of independent certification”.

The IFC Standards do not refer to the precautionary principle, nor to promotion of the development of environmentally friendly products and technologies (although the latter is addressed in the IFC’s Sustainability Business Innovator programme). Nor do they specifically promote the seeking of continual improvement in performance, or the provision of adequate education and training to employees (although these are implicit in the incorporation of the Standards).





Bribery, corruption and disclosure

Overview

The OECD Guidelines are the only one of the three initiatives to deal extensively with bribery, corruption and disclosure. The UN Global Compact deals with the issue fairly briefly. While the IFC Performance Standards do not address the issue, IFC's disclosure policy places emphasis on public disclosure of project information. The OECD Guidelines emphasise the importance of transparency.

OECD Guidelines

The anti-bribery chapter (VI) makes clear that companies are expected to refrain from offering, promising, giving or demanding any undue advantage to secure business either from private or public entities. The Guidelines also address such issues as demands from individuals for a portion of a contract payment, remuneration of agents, contributions to candidates for public office and the promotion of employee awareness. Companies are also expected to promote anti-bribery and anti-corruption both within and outside the organization. The commentary to chapter VI emphasises transparency as a key concept in the fight against bribery and corruption.

The commentary explains that the content of the Guidelines is derived from the UN Convention against Corruption, the OECD Convention of Combating Bribery of Foreign Public Officials, the 1977 revised Recommendation on Combating Bribery in International Business Transactions and the 1996 Recommendation on the Tax Deductibility of Bribes to Foreign Public Officials. The Guidelines also devote an entire chapter to disclosure. Chapter III calls for timely and accurate disclosure on all material matters regarding the company, including the financial situation, performance, ownership, and governance of the company.

Global Compact

Under the tenth Global Compact Principle, companies are expected to work against all forms of corruption, including extortion and bribery.

Along similar lines to its activities relating to human rights, the Global Compact has established a Working Group on the 10th Principle on transparency and anti-corruption, co-produces tools and handbooks with international experts on best practice for companies and holds dialogue events in partnership with international, civil society and business organisations in countries ranging from Jordan to Indonesia.

Consumer protection

Overview

Only the OECD Guidelines directly address consumer protection.

OECD Guidelines

The Guidelines state that enterprises should act in accordance with fair business, marketing and advertising practices when dealing with consumers and should take all reasonable steps to ensure the safety and quality of the goods or services they provide.

Companies are expected to ensure that goods and services meet all agreed or legally required standards, including health warnings and product safety and information labels; to provide adequate and clear information regarding their content, safe use, maintenance, storage and disposal; to provide transparent and effective procedures to address consumer complaints, not to make representations or omissions that are deceptive, misleading, fraudulent or unfair; to respect consumer privacy; and to co-operate fully and transparently with public authorities.

The text draws upon the United Nations Guidelines for Consumer Protection and other international instruments as well as individual and international corporate codes (such as those of the International Chamber of Commerce) and the work of the OECD committee on Consumer Policy.

Competition

Overview

Only the OECD Guidelines directly address competition issues.

OECD Guidelines

Under the Guidelines (Chapter IX), companies are expected to adhere to the relevant international standards of business practice regarding competition and anti-trust matters.

They are expected to conduct their activities in a competitive manner and refrain from entering into or carrying out anti-competitive agreements among competitors, fixing prices, making rigged bids (collusive tenders), establishing output restrictions or quotas, or sharing or dividing markets by allocating customers, suppliers, territories or lines of commerce. Companies are also expected to promote employee awareness of the importance of compliance with competition laws.

Science and technology

Overview

Only the OECD Guidelines refer to technology transfer as a tool for contributing to the development of local and national innovation.

OECD Guidelines

The Guidelines (Chapter VIII) urge companies to apply intellectual property rights on reasonable terms and conditions and in a manner that contributes to the long-term development prospects of the countries in which they operate. Companies are expected to ensure that their activities are compatible with the science and technology policies and plans of the countries in which they operate and as appropriate to contribute to the development of local and national innovative capacity.

They further refer to facilitating technology transfer; performing science and technology development work in host countries to address local market needs, as well as employing local personnel in a science and technology capacity and encouraging their training; developing ties with local universities, public research institutions, and participating in co-operative research projects with local industry or industry associations.



Indigenous peoples and communities

Overview

Only the IFC Performance Standards directly address indigenous peoples and communities issues.

IFC Performance Standards

IFC Performance Standard 7 emphasises the need to avoid adverse project impacts on indigenous peoples' communities living in the project's area of influence, or where avoidance is not possible, to minimise, mitigate or compensate for such impacts, and to provide opportunities for development benefits, in a culturally appropriate manner.

Companies are expected to establish and maintain an ongoing relationship with the indigenous peoples affected by a project throughout the life of the project. Companies are expected to inform affected communities of the client's grievance mechanism and how to make use of it.

Security of communities

Overview

Only the IFC Performance Standards specifically address security of communities.

OECD Guidelines

Even though the Guidelines themselves do not raise the issue of security, the OECD has recently developed a Risk Assessment Tool for Multinational Enterprises in Weak Governance Zones, designed to be consistent with the guidelines. For companies with large operations or a major concentration of staff in areas of weak governance, security of staff, assets and the surrounding community can provide great challenges.

The Risk Assessment Tool provides a checklist for companies looking at investments in such areas. It addresses risks and ethical dilemmas that companies are likely to face, including obeying the law and observing international instruments, heightened care in managing investments, knowing business partners and clients, dealing with public sector officials, and speaking out about wrong-doing.

Global Compact

The Global Compact launched “The Role of the Private Sector in Zones of Conflict” in 2001 with a round of international and country-level workshops, resulting in a series of policy papers, tools and guidance for companies operating in areas of weak governance. One such tool is the Global Compact Business Guide for Conflict Impact and Assessment and Risk Management, published in 2002. The Global Compact has been active in launching local networks in zones of conflict or post-conflict such as Colombia, Nigeria and Indonesia. It has also investigated what leverage institutional investors can play in conflict-prone states.

IFC Performance Standards

IFC Performance Standard 4 is aimed at avoiding or minimising risks to and impacts on the health and safety of the local community; and at ensuring that the safeguarding of personnel and property is carried out in a legitimate manner that avoids or minimises risks to the community's safety and security. Companies are required to evaluate the risks and impacts to the health and safety of the affected community and to establish preventive measures. Where risks or adverse impacts are identified, the company is required to disclose its Action Plan and any other relevant information and engage the affected communities and relevant authorities on an on-going basis. When companies directly retain employees or contractors to provide security to safeguard its personnel and property, they are required to assess risks posed by its security arrangements, to undertake reasonable enquires that those providing the security arrangements have not been implicated in past abuses, and to provide training in the use of force and appropriate conduct.

Companies are required to establish a grievance mechanism to allow affected people to express concerns about the security arrangements and acts of security personnel, and to investigate any credible allegations, with action taken to avoid recurrence and any unlawful and abusive acts reported to public authorities.





Cultural heritage

Overview

The IFC Performance Standards are the only one of the three initiatives directly to address cultural heritage issues.

IFC Performance Standards

IFC Performance Standard 8 seeks to protect cultural heritage from the adverse impacts of project activities and support its preservation. The requirements are based on the Convention Concerning the Protection of the World Cultural and Natural Heritage and the Convention on Biological Diversity.

Companies are required to follow internationally recognised practices for the protection, field-based study, and documentation of cultural heritage. They are responsible for siting and designing projects to avoid significant damage to cultural heritage, and to consult affected communities.

Land acquisition and involuntary resettlement

Overview

The IFC Performance Standards are the only one of the three initiatives directly to address land acquisition and involuntary resettlement.

IFC Performance Standards

Under Performance Standard 5, companies are required to avoid or at least minimise involuntary resettlement, including both physical and economic displacement, as a result of project-related land acquisition. Where unavoidable, companies are required to have in place appropriate measures to mitigate adverse impacts on displaced persons and host communities by providing compensation for loss of assets at replacement cost; and ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation and the informed participation of those affected.

This Performance Standard also addresses the provision of adequate housing with security of tenure at resettlement sites. Companies are required to develop a resettlement action plan designed to mitigate the negative impacts of displacement, identify development opportunities, and establish the entitlements of affected persons with particular attention paid to the needs of the poor and vulnerable. They are also required to establish a grievance mechanism.

Where land acquisition and resettlement are the responsibility of the host government, the client is required to collaborate with the responsible government agency to achieve outcomes that are consistent with the objectives of the Performance Standard.

Taxation

Overview

The economic aspect of corporate responsibility and the issue of tax have recently become the subjects of greater attention, one example being the publication of SustainAbility's report 'Taxing issues; Responsible business and tax'. Despite increased recognition that corporate tax policies and practice are part of corporate responsibility, the OECD Guidelines are the only one of the initiatives examined in this paper that addresses taxation issues; and even the Guidelines cover the subject in a fairly superficial and cautious way, reflecting the lack of consensus on the responsibilities of companies in this area, beyond that of obeying the law.

OECD Guidelines

The Guidelines (page 3) stress the importance of companies contributing to the public finances of host countries by making timely payment of their tax liabilities. Companies are expected to exert every effort to act in accordance with both the letter and spirit of host countries' laws and regulations; to provide to the relevant authorities the information necessary for the correct determination of taxes; and to conform transfer pricing practices to the arm's length principle⁴

CONCLUDING REMARKS

OECD Guidelines

The Guidelines are comprehensive and address several issues that are broadly accepted but not covered in other texts. Because they are not framed as regulations, they are able to promote responsible business conduct that is expected, but may not be mandatory under domestic or international law. Examples include co-operation with governmental authorities to mitigate the adverse effects of closure of a business, contributing to the development of environmentally efficient public policy, and acting in accordance with the spirit (as well as the letter) of a host country's tax laws. The Guidelines are relatively strong in the economic field, e.g. on issues of taxation and competition.

Feedback from business suggests that the Guidelines are not widely used by companies to inform their business practices. This may be because (a) there is no process for companies to sign up to the Guidelines, (b) many governments have been less energetic than had been hoped in promoting the Guidelines and (c) focus has been more on using the Guidelines as a complaints mechanism to deal with companies that have not lived up to them.

Global Compact

By comparison, the Global Compact Principles have wide recognition, with over 3000 companies of all sizes and from all regions of the world having signed up to them. The Global Compact has a particularly strong uptake in developing countries. Over half of the participants are from non-OECD countries.

However, the Principles are brief and general. They serve as a statement of good intent by companies, rather than as a tool for companies. The latter is provided not by the Principles themselves but by the learning workshops and other activities carried out worldwide by the Global Compact network, often supported by the UN's own global network of offices, as well as publications such as its recent anti-corruption guide.

IFC Performance Standards on Social and Environmental Sustainability

The IFC Performance Standards are, in effect, mandatory for companies seeking IFC support. Their content is therefore not always as far-reaching as those initiatives that are, in essence, voluntary. The Standards go some way to compensating for this by a strong focus on the processes that companies are expected to follow to achieve an acceptable level of conduct. The core of this is the Social and Environmental Assessment and Management System that all IFC clients are required to establish. The Standards are particularly strong on such issues as land acquisition and resettlement, indigenous peoples and communities, and cultural heritage. This reflects the fact that the Standards are intended to deal specifically with project-type investments.

Conclusion

Internationally agreed principles can help provide a common framework and build an atmosphere of confidence and predictability among business, labour, governments and society. However, in order for the principles to become useful tools, businesses need to be aware of their existence and content, the recommendations as practical as possible, and language must be user-friendly.

All three of the initiatives examined can serve a useful purpose for companies seeking to ensure responsible business conduct in their international operations. However, none is all encompassing. Businesses would therefore do well to draw on each of them as appropriate to their needs. It is hoped that this paper will provide a useful guide to companies seeking to do this.

ANNEX: INTERNATIONAL GUIDELINES

General human rights

UDHR

Workers' rights

General:

International Labour Organisation's (ILO) 1998 Declaration on Fundamental Principles and Rights at Work
ILO 1977 Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy

Non-discrimination:

Code of Practice on HIV/AIDS and the World of Work
Code of Practice on Managing Disability in the Workplace
ILO Convention 111 of 1958
135 (Workers' Representatives Convention, 1971) Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) and the International Convention on the Protection of the Rights of All Migrant Workers and their families

Forced or compulsory labour:

Forced Labour Convention, 1930 (No. 29)
The Abolition of Forced Labour Convention, 1957 (No. 105)

Child labour:

Minimum Age Convention (No. 138) and Recommendation (No. 146)
The Worst Forms of Child Labour Convention (No. 182) and Recommendation (No. 190)
UN Convention on the Rights of the Child, 1990

Workplace health and safety:

The International Covenant on Economic, Social and Cultural Rights
ILO Conventions Nos. 110 (Plantations, 1958) 115 (Radiation Protection Convention, 1960), 119 (Guarding of Machinery Convention, 1963), 120 (Hygiene (Commerce and Offices) Convention, 1964), 127 (Maximum Weight Convention, 1967), 136 (Benzene Convention, 1971), 139 (Occupational Cancer Convention, 1974), 147 (Merchant Shipping, 1976), 148 (Working Environment (Air Pollution, Noise and Vibration) Convention, 1977), 155 (Occupational Safety and Health Convention, 1981), 161 (Occupational Health Services Convention, 1985), 162 (Asbestos Convention, 1986), 167 (Safety and Health in Construction Convention, 1988), 170 (Chemicals Convention, 1990), 174 (Prevention of Major Industrial Accidents Convention, 1993), 176 (Safety and Health in Mines Convention, 1995), 183 (Maternity Protection, 2000), 81 (Labour Inspection Convention, 1947), 129 (Labour Inspection (Agriculture) Convention, 1969)

Remuneration:

Protection of Wages convention, 1949, (No.95)
Workers Claims (Employer's insolvency) convention, 1992 (No.173)
Equal Remuneration Convention, 1951 (No. 100)
The Discrimination in Employment and Occupation Convention, 1958 (No. 111)
The Workers with Family Responsibilities Convention, 1981 (No. 156)

Freedom of association and the right to collective bargaining:

Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)
Right to Organize and Collective Bargaining Convention, 1949 (No. 98)
The Collective Bargaining Convention, 1981 (No. 154)
Workers' Representatives Convention, 1971 (No. 135)
The Communications within the Undertaking Recommendation, 1967 (No. 129)

Employee participation:

ILO Recommendation 94 of 1952 concerning Consultation and Co-operation between Employers and Workers at the Level of the Undertaking

Environmental protection

The Rio Declaration on Environment and Development
The (Aarhus) Convention on Access to Information, Public Participation in Decision-making, and Access to Justice in Environmental Matters
ISO Standard on Environmental Management Systems
International Declaration on Cleaner Production
Convention on Long-range Transboundary Air Pollution
Basel Convention on the control of Transboundary Movements of Hazardous Wastes
Stockholm Convention on Persistent Organic Pollutants
Montreal Protocol on Substances that Deplete the Ozone Layer

Right to security of persons

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
The Rome Statute of the International Criminal Court
The United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials
The United Nations Code of Conduct for Law Enforcement Officials
The International Bill of Human Rights
The Declaration on Fundamental Principles and Rights at Work of the ILO

Rights of indigenous peoples and communities

The Indigenous and Tribal Peoples Convention, 1989 (No. 169)

Combating bribery and corruption

Intergovernmental Anti-Corruption Instruments

The UN Convention against Corruption

OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, 1999

OECD Revised Recommendation on Combating Bribery in International Business Transactions, May 1997

The 1996 Recommendation on the Tax Deductibility of Bribes to Foreign Public Officials

The Financial Action Task Force on Money Laundering (FATF): The Forty Financial Action Task Force

Recommendations, Revised 2003

Inter-American Convention against Corruption (IACC), June 1996

Council of Europe Civil Law Convention on Corruption, 1999

Council of Europe Criminal Law Convention on Corruption, November 1999

The European Union Convention on the Fight against Corruption Involving Officials of the European Communities or Officials of Member States, 1997

African Union Convention on Preventing and Combating Corruption and Related Offences, 2002

Business Principles

Transparency International's Business Principles for Countering Bribery

International Chamber of Commerce's Report on Extortion and Bribery in Business Transactions

World Economic Forum Partnership against Corruption Initiative

Sector-wide initiatives against corruption

International Federation of Consulting Engineers (FIDIC)

Code of Ethics and Policy Statements

International Council on Mining and Metals (ICMM)

Sustainable Development Charter,

ICMM Ten Principles

"Publish what you pay"

UNICORN, Trade Union Anti-Corruption Network

The Extractive Industry Transparency Initiative

Right to health

Article 12 of the International Covenant on Economic, Social and Cultural Rights

General comment No. 14 on the right to the highest attainable standard of health adopted by the Committee on Economic, Social and Cultural Rights

Right to adequate food and water

Article 11 of the International Covenant on Economic, Social and Cultural Rights

General comment No. 12 on the right to adequate food adopted by the Committee on Economic, Social and Cultural Rights

General comment No. 15 adopted by the Committee on Economic Social and Cultural Rights on the right to water

Right to adequate housing

Article 11 of the International Covenant on Economic, Social and Cultural Rights

General comment No. 7 adopted by the Committee on Economic, Social and Cultural Rights on the right to adequate housing: forced evictions

Consumer protection

United Nations Guidelines for Consumer Protection

The International Code of Marketing of Breast-milk Substitutes adopted by the World Health Assembly

The Ethical Criteria for Medical Drug Promotion of the World Health Organization

The OECD Committee on Consumer Policy

The OECD Guidelines for Consumer Protection in the Context of Electronic Commerce

OECD Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data

Transparency

OECD Principles of Corporate Governance

Competition

1998 Recommendation of the OECD Council Concerning Effective Action Against Hard Core Cartels, C(98)35/Final

Recommendation of the Council Concerning Co-operation between Member Countries on Anticompetitive Practices Affecting International Trade, C(95)130/Final

Taxation

OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations

Recommendation of the OECD Council on the Determination of Transfer Pricing between Associated Enterprises.

For further information:

www.oecd.org

www.unglobalcompact.org

www.ilo.org

www.ohchr.org (Office of the High Commissioner for Human Rights)

www.transparency.org (Transparency International)

www.ifc.org

Footnotes

- 1 The term client refers to the party responsible for implementing and operating the project that is being financed, or the recipient of the financing.
- 2 The ILO core Conventions have been identified as: Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87); Right to Organize and Collective Bargaining Convention, 1949, (No. 98); Forced Labour Convention, 1930 (No. 129); Abolition of Forced Labour Convention, 1957 (No. 105); Discrimination (Employment and Occupation) Convention, 1958 (No. 111); Equal remuneration Convention, 1951 (No. 100); Minimum Age Convention, 1973 (No. 138); and Worst Forms of Child Labour Convention, 1999 (No. 182).
- 3 The Convention is ratified by 192 states. The US and Somalia are only signatories and, as yet, have not ratified.
- 4 The arm's length principle refers to the principle that a transfer price should be the same as if the two companies involved were indeed two independents, not part of the same corporate structure.

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Organisation profile

The International Business Leaders Forum puts business at the heart of sustainable development

IBLF works with business, governments and civil society to enhance the contribution that companies can make to sustainable development.

Founded by HRH The Prince of Wales, we are an independent, not-for-profit organisation currently supported by over 100 of the world's leading businesses.

IBLF provides strategic counsel to companies to enable them to understand and respond to the development challenges that they face, particularly when operating in transition and emerging economies.

As well as managing a number of programmes that provide businesses with opportunities to directly enhance their impact on society, IBLF helps businesses connect with other organisations and develop successful cross-sector partnerships.

Since 1990, we have worked in over 90 countries. Our work benefits from long-term relationships with regional networks across the world, many of which IBLF has helped to establish or strengthen.

Our current areas of work include raising sustainable business standards, improving prospects for enterprise and employment, and enabling companies to contribute to health and human development issues.



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