



GDF SUEZ

BY PEOPLE FOR PEOPLE

REFERENTIAL

HUMAN RIGHTS

COMMITMENTS AND IMPLEMENTATION

RESPECT
INTEGRITY
ETHICS & COMPLIANCE
LOYALTY
HONESTY

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NB: in case of discrepancy between the French version of this document and its corresponding translations, the French version shall prevail.



MESSAGE FROM THE CHAIRMAN AND CEO

Gérard Mestrallet

Chairman & Chief Executive Officer

Respecting human rights is the responsibility of governments, but also of businesses. For the GDF SUEZ Group, it is an ongoing commitment at the heart of the responsible growth model we have developed.

This commitment drives the Ethics policy of our Group. It is embodied in our *Ethics Charter*, our *Global Agreement on fundamental rights, social dialogue, and sustainable development* and our commitment to the 10 principles of the *United Nations Global Compact*.

It is part of the practices of our Group and its entities in all countries in which we operate. It is a key component of our contribution to the socio-economic development of the regions in which we work, and the populations living there. Furthermore, the practical implementation of our commitment to respect human rights is essential to the proper functioning of our business because it reduces risks, strengthens our internal cohesion and helps to establish good quality relationships with all our stakeholders.

The GDF SUEZ Group supports and promotes the major international principles and declarations on human rights, and makes sure they are complied with. It actively upholds the latest international recommendations in this field such as those stipulated in the *United Nations Guiding Principles on Business and Human Rights* (the so called "Ruggie Report").

Respect for human rights must be understood and applied on a daily basis by all our employees worldwide.

**"Respect
for human
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The “*human rights Referential*” has been designed as a practical tool to help each of the Group’s managers to incorporate this approach into their activities, and those of their members of staff.

This Referential outlines the international requirements for businesses and the ethical commitments and principles of the Group. It highlights seven key commitments that explain and reaffirm our policy of respect for human rights. It provides a clear operational approach that incorporates human rights into the overall framework for the Group’s management, in our processes for ethical compliance and in the analysis of the risks and impacts of our activities.

I invite each and every one of you to use this simple, practical Referential to fulfill our Group’s commitment to respect and promote human rights.

This commitment is the basis of our identity and our common values. I am counting on your contribution.

G rard Mestrallet
Chairman & Chief Executive Officer



RESPECTING HUMAN RIGHTS, AN ETHICAL COMMITMENT

Human rights aim to guarantee dignity and equality of all.

They cover a very broad spectrum of rights, and in particular civil and political rights (right to life; right not to be subjected to torture; right to privacy; right to freedom of thought, conscience and religion, etc.) and economic, social and cultural rights (right to own property; right to work and to enjoy just and favorable conditions of work; right to form and join trade unions and the right to strike; right to education, etc.).

The "internationally recognized" ¹ rights are those defined by international or regional instruments for the defense and protection of human rights, and in particular "the International Bill of Human Rights" composed of the 1948 Universal Declaration of Human Rights², the 1966 International Covenant on Civil and Political Rights, and the 1966 International Covenant on Economic, Social and Cultural Rights. The international human rights law also pays particular attention, through specific treaties, to categories of people referred to as "vulnerable" such as women, children, indigenous peoples, persons with disabilities and migrant workers.

The recent United Nations Guiding Principles on Business and Human Rights³ recognize the corporate responsibility to respect human rights.

These Guiding Principles were unanimously adopted in June 2011 by the United Nations Human Rights Council and are now considered by companies, their stakeholders and States as the reference framework in this matter.

Human rights are part of the four fundamental principles that define ethics at GDF SUEZ: "respecting others". Taking human rights into account in the exercise of its activities is a fundamental requirement for the Group.

The Group is committed to respecting human rights through its Ethics Charter⁴ and its "Global agreement on fundamental rights, social dialogue, and sustainable development"⁵. "Respecting others" is defined as "respect for the rights of individuals, for their dignity in all circumstances and for their differences, as well as the respect for cultures"⁶.

Respecting human rights allows the Group to be **recognized as legitimate in the regions where it operates** and strengthen its local presence. This gives it an external social legitimacy, promoting long-term development.

In addition, putting ethics and respect for human rights at the heart of our corporate culture **promotes internal cohesion and a strong sense of belonging and pride for employees, and helps attract new talents.**



As part of the deployment of our ethics policy⁷, the Ethics & Compliance Division provides all employees with the present *human rights Referential "commitments and implementation"* which describes the procedure for implementing the ethical principle "respecting others". It consolidates and develops the main guidelines presented in the Ethics Charter and the "Ethics in Practice" guidelines.

It is primarily intended for managers, ethics officers and experts, who will need to acquaint themselves with the content and ensure that the conditions for its implementation in their entities are fulfilled.

1/ See Appendix II "Internationally recognised human rights and main treaties".

2/ See Appendix III "Text of the Universal Declaration of Human Rights (1948)".

3/ "Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework", A/HRC/17/31, June 2011, see Appendix IV.

4/ The Group Ethics Charter, adopted by the GDF SUEZ Board of Directors on 10 November 2009.

5/ Global agreement on human rights, social dialogue and sustainable development, signed on 16 November 2010 by GDF SUEZ and the global union federations IndustriALL, BWI and PSI.

6/ The Group Ethics Charter, p.11.

7/ See appendix I "Architecture of ethics reference documentation".

PART 1

WHY DO WE NEED THIS REFERENTIAL?

THE AFOREMENTIONED UNITED NATIONS GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS INCLUDE THE PRINCIPLE OF A CORPORATE RESPONSIBILITY TO RESPECT HUMAN RIGHTS AND PROVIDE OPERATIONAL RECOMMENDATIONS FOR COMPANIES. THESE PRINCIPLES ARE INFLUENCING NEW EUROPEAN AND NATIONAL POLICIES AND ARE NOW THE STANDARD WITH WHICH COMPANIES SHALL COMPLY.



This document aims to meet both the new international requirements in the matter and the expectations of Group stakeholders, as well as to anticipate related risks. It is based on the recommendations of the United Nations Guiding Principles.

MEETING THE NEW INTERNATIONAL REQUIREMENTS LAID DOWN IN THE UNITED NATIONS GUIDING PRINCIPLES

The recognition of a corporate responsibility to respect human rights

In 2008, at the United Nations Human Rights Council, the "Special Representative on the issue of human rights and transnational corporations and other business enterprises", John Ruggie, suggested adopting a framework entitled "Protect, Respect, Remedy"⁸ composed of three complementary pillars:

- ▶ **the State duty to protect** against human rights abuses committed by third parties, including companies, through appropriate policies, regulation and court decisions
- ▶ **the corporate responsibility to respect human rights**, which means acting with due diligence in order not to infringe the rights of others
- ▶ **the need for effective access to remedy for victims**, grievances mechanism to be implemented both by States and by companies

This framework, adopted unanimously by the United Nations Human Rights Council in 2008, was completed in June 2011 by the *Guiding Principles on Business and Human Rights*. These are now recognized by businesses and their stakeholders as a reference text in the field. Other international standards⁹ (OECD, European Union, International Finance Corporation, etc.) have aligned themselves with these recommendations. Extra-financial rating agencies have also changed their questionnaires in reference to these Guiding Principles.

Under international law and as subjects of it, States have a liability to protect and respect human rights. Furthermore, we are currently seeing the development of a corporate responsibility to respect human rights, recognized by international texts known as "soft law"¹⁰. These frameworks have been the subject of a broad consensus and now influence national legislation.

The required approach: act with due diligence

"The responsibility to respect human rights requires that companies:

- *Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur;*
- *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."*

The Guiding Principles state that corporate responsibility covers all **internationally recognized human rights**¹² and that businesses should operate in accordance with **international standards for the protection of human rights**¹¹, without prejudice to applicable laws.

To fulfill this responsibility to respect human rights, companies must:

- 1) Act with due diligence** in terms of human rights, to identify, prevent and mitigate the adverse impacts of their activities;
- 2) Remedy any adverse impacts** on human rights when they establish that their activities have had such effects.

8/ "Protect, Respect and Remedy: a framework for business and human rights" A/HRC/8/5, April 2008.

9/ See Appendix V "Other business and human rights standards".

10/ The term "soft law" has been defined by the French "Conseil d'État" as a set of instruments that meet three conditions: their purpose is to modify or guide the behaviour of addressees by encouraging, insofar as is possible, their support; they do not enforce their own rights or duties on addressees; they have, by their content and method of production, a degree of formalisation and structure which likens them to rules of law (Conseil d'Etat, 2013 Annual Study, "soft law").

11/ See Appendix II "Internationally recognised human rights and main treaties".

To act with due diligence, within the meaning of the United Nations Guiding Principles, **the company must put in place a global risk management process related to human rights**, which means:

- establishing **a statement of policy** reflecting the company commitment to respect human rights
- assessing human rights risks, by **identifying any adverse impacts** of the company's activities or those related to its business relationships
- **integrating human rights in policies and practices** to address the risks and impacts identified
- **tracking performance** of any measures taken and the ability to **reporting**
- establishing **grievance mechanisms** for stakeholders

ANTICIPATING RISKS

External stakeholders of the company have taken on board the new requirements of this reference framework and are putting increasing pressure on companies when it comes to respecting human rights. Ratings agencies, socially responsible investors, and civil society as a whole require companies not only to communicate but to prove the actions taken and the effectiveness of actions and measures in place.

Non respect for human rights by companies may have significant consequences: **legal, financial** (withdrawal of investors, loss of contracts, costs due to project cancellation or delay, etc.), **operational** (for a controversial project) or those affecting the **image and reputation** of the company.

With regard to legal risk, regulatory developments are moving towards a growing awareness of the United Nations Guiding Principles. Companies will be asked to justify the measures they have put in place to ensure respect for human rights in their activities (in the same way as certain anti-corruption legislations).

The European Commission, in its last communication on Corporate Social Responsibility¹², "expects all European enterprises to meet the corporate responsibility to respect human rights, as defined in the UN Guiding Principles" and "invites EU Member States to develop by the end of 2012 national plans for the implementation of the UN Guiding Principles". At the government's request, the French "Commission Nationale Consultative des droits de l'Homme" issued¹³ an opinion on the future French national action plan and recommends, in particular, "a legal obligation of due diligence in the field of human rights on companies with regard to both their own actions and those of their subsidiaries and commercial partners, both in France and abroad"¹⁴.

12/ "A renewed EU strategy 2011-14 for Corporate Social Responsibility", Brussels, 25 October 2011, COM(2011) 681 final.

13/ "Business and human rights: opinion on the issues associated with the application by France of the United Nations' Guiding Principles", CNCDH, adopted in Plenary Assembly on 24 October 2013.

14/ A French Bill (Bill "on the duty of care of parent companies and contracting businesses", no. 1524, recorded in the French National Assembly on 6 November 2013) has recently been filed on this matter: it aims to establish a duty of due diligence for French companies vis-à-vis their subsidiaries but also their subcontractors abroad, covering damage to the environment and human rights.

PART 2

GROUP COMMITMENTS

THE GDF SUEZ “ETHICS IN PRACTICE” GUIDELINES STATE THAT:
“THE GROUP HAS IDENTIFIED RESPECT FOR OTHERS AS ONE OF ITS FUNDAMENTAL ETHICAL PRINCIPLES. FOR THIS REASON, IT PLACES PARTICULAR EMPHASIS IN EACH OF ITS ACTIVITIES ON RESPECT FOR THE SPIRIT AND LETTER OF THE 1948 UNIVERSAL DECLARATION OF HUMAN RIGHTS.”



The following commitments are intended to explain the Group’s commitments and are consistent with the recommendations of the United Nations Guiding Principles. The first one is the Group’s global commitment, the others detail it and are more specifically related to the Group’s activities.

COMMITMENT NO. 1: the Group carries out its activities while respecting internationally recognized human rights, wherever it operates.

In accordance with its ethical commitments¹⁵, the Group considers that all human rights are equally important and adheres to the highest ethical standards, in particular "the International Bill of Human Rights", composed of the 1948 Universal Declaration of Human Rights, the 1966 International Covenant on Civil and Political Rights and the 1966 International Covenant on Economic, Social and Cultural Rights, as well as the Conventions of the International Labor Organization.

The Group refers, if needed, to other international instruments of protection and defense of human rights specific to certain situations or to certain categories of persons¹⁶.

It will make sure that its business activities are conducted in accordance with the highest standards of protection and, at a minimum, in line with the provisions of international texts for the protection and defense of human rights.

In the event of conflicting standards between domestic law and international standards, the Group strives to find alternative means to comply with international principles, without violating domestic laws.

It is particularly vigilant when operating in 'high risk' countries (such as conflict zones or countries with weak governance).

COMMITMENT NO. 2: the Group will make sure that the fundamental rights of its employees¹⁷ are respected, in accordance with the conventions of the International Labor Organization:

- it rejects all forms of forced or compulsory labor**
- it rejects all forms of child labor**
- it rejects all forms of discrimination**
- it recognizes freedom of association and the right to collective bargaining**

Moreover, it pays particular attention to guarantee: – the highest standards of health and safety in the workplace (including accommodations if provided)

– working hours and holidays in accordance with international standards

In accordance with its ethical commitments and its "global agreement on fundamental rights, social dialogue, and sustainable development", the Group is committed to operating in accordance with the International Labor Organization core conventions and in particular:

- Conventions No. 29 and No. 105 on Abolition of Forced Labor
- Conventions No. 138 and No. 182 on Abolition of Child Labor
- Conventions No. 100 and No. 111 on Non-discrimination
- Conventions No. 87 and No. 98 on Freedom of association and Right to organize and Collective Bargaining

It endorses the International Labor Organization Tripartite Declaration Concerning *Multinational Enterprises and Social Policy*¹⁸, by committing to respect the principles set forth therein.

COMMITMENT NO. 3: the Group rejects all forms of harassment and violence in the workplace and will make sure that its employees are provided with a working environment that is respectful of their individual freedoms and privacy.

Any act of violence, aggression, harassment in all its forms, intimidation, bullying, etc. can be considered cruel, inhuman or degrading treatment, as per the definitions given in Article 5 of the Universal Declaration of Human Rights and Article 7 of the International Covenant on Civil and Political Rights.

The Group does not tolerate such behavior in the workplace and takes all necessary measures to prevent and punish such conduct.

The right to privacy is defined in Article 12 of the Universal Declaration of Human Rights and Article 17 of International Covenant on Civil and Political Rights.

The Group is vigilant not to undermine the privacy of its employees, in particular when collecting personal data or during the use of surveillance systems in the workplace.

The Universal Declaration of Human Rights and the associated Covenants uphold a number of individu-

¹⁵/ Guidelines "Ethics in practice", November 2009 edition, p. 12.

¹⁶/ See Appendix II "Internationally recognised human rights and main treaties".

¹⁷/ "Employee" is any person involved in a direct employment relationship with GDF SUEZ SA or with any globally consolidated subsidiary within the GDF SUEZ consolidation scope.

¹⁸/ See Appendix V "Other business and human rights standards".

al freedoms, such as freedom of thought, conscience and religion; freedom of opinion and expression; freedom of movement, etc.

The Group is committed to respecting the individual freedoms of its employees to the extent that these are compatible with the employment relationship. Restrictions on these freedoms must be justified by legitimate reasons (such as the protection of people, safety and hygiene, commercial interests, the organization and operation of the company, the ability of the employee to perform their assignment) and be proportionate to the aim pursued.

All employees of the Group have the possibility to inform the management, human resources, ethics officers or via the ethics email, of any failure to respect these commitments.

COMMITMENT NO. 4: the Group will make sure that its activities do not infringe the rights of local communities surrounding its sites¹⁹.

It is particularly attentive to the consequences of its activities on their right to health and to a healthy environment, their right to own property, their right to an adequate standard of living (including water, food, housing) and their access to natural resources.

It takes into account the situation of vulnerable people (such as indigenous peoples), in line with the relevant international instruments²⁰.

In situations of displacement of people, it will make sure that international principles have been complied with and in particular that displaced persons have been given their free and informed consent, and received fair and adequate compensation, in accordance with legislation and local realities.

To do this, it undertakes to evaluate regularly and at all stages of projects, the potential impacts of its activities on communities, and it will make sure that their expectations are taken into account through dialogue and consultation.

COMMITMENT NO. 5: the Group will make sure that assignments related to the security of its employees and assets are conducted with respect for human rights.

The Group takes all necessary measures to make sure that the tasks related to the security of its employees and its assets are carried out with respect for human rights and, in particular, in compliance with international rules on the use of force.

The Group relies in particular on the provisions of the "Voluntary Principles on Security and Human Rights"²¹.

COMMITMENT NO. 6: the Group includes in its contracts with its suppliers, contractors and partners a provision requiring the respect by them of the Group's human rights commitments.

The Group requests its primary suppliers and contractors to commit in the same way with their suppliers and contractors involved in the business relationship and to avoid the use of many suppliers which makes the control ineffective.

It does not solicit or knowingly benefits from acts that infringe human rights, committed by third parties with whom it has a business relationship.

It endeavors to verify the integrity and the reputation of its suppliers, contractors and partners.

It is committed to helping its suppliers, contractors and partners improve their practices.

COMMITMENT NO. 7: the Group respects internationally recognized human rights in its relations with public authorities.

The Group will make sure that any request from public authorities is consistent with its ethical commitments in respect of national sovereignty and the principle of political neutrality; it will not intervene in the functioning of political life.

^{19/} This commitment is applicable to all sites and operations of GDF SUEZ SA and its globally consolidated subsidiaries within the GDF SUEZ consolidation scope.

^{20/} See Appendix II "internationally recognised human rights and main treaties".

^{21/} See Appendix V "Other business and human rights standards".



The Group's ethical commitments are also outlined in the "**Global agreement on fundamental rights, social dialogue, and sustainable development**" signed in 2010 by the Global Union Federations (IndustriALL, BWI and PSI), as well as other agreements and policies that supplement this agreement.

To uphold this ethical commitment, the Group has joined several voluntary initiatives²², in particular:

- **The Global Compact**, which asks companies to adopt, support and enact, within their sphere of influence, a set of fundamental principles in the areas of human rights, labor standards, the environment and the fight against corruption.
- **The association "entreprises pour les droits de l'homme edh"** [companies for human rights], founded in 2009, a forum for exchanges, actions and proposals to promote the integration of human rights in corporate policies and business practices. GDF SUEZ is a founding member of the initiative.
- **The Better Coal initiative** which aims to promote a coal supply chain that protects the environment, respects the rights of people and contributes positively to the quality of life of workers and communities, and the sustainability of producers.

²² More information on these initiatives on the intranet dedicated to ethics SPOT:
http://collaboration.gdfsuez.net/sites/genman/SPOT/Ethics_Compliance_EN/Pages/engagements_Groupe.aspx

PART 3

OPERATIONAL IMPLEMENTATION

TO MAKE SURE COMPLIANCE WITH ITS COMMITMENTS AND IN ACCORDANCE WITH THE UNITED NATIONS GUIDING PRINCIPLES, THE GROUP IMPLEMENTS A PROCESS OF HUMAN RIGHTS DUE DILIGENCE.



This document provides for the incorporation of human rights within global ethics compliance management, in the Group's cross-cutting policies and processes and at operational level, as well as the implementation of grievance mechanisms for stakeholders.

THE OVERALL MANAGEMENT OF ETHICAL COMPLIANCE

The Group's human rights commitments fall within the Group's ethics policy and will be integrated into the processes linked to the ethical compliance, as described in the Group's compliance management Referential²³:

- From 2014, the Group's annual compliance report will include a section dedicated to action plans relating to human rights, to be implemented by business lines and entities.
- Similarly, a human rights section will be incorporated into the COR 4 section of the INCOME internal control program.
- From 2015, the Group will introduce audits that verify compliance with the commitments of this Referential.

TRAINING AND AWARENESS

To assist in the implementation of overall management, the Ethics & Compliance Division has developed tools for training and raising awareness with respect to human rights²⁴.

These actions will be reinforced upon publication of this Referential to support its implementation. They can also be rolled out within business lines and entities according to their specific challenges.

CROSS-BUSINESS POLICIES AND PROCESSES

The Group's cross-business policies and processes incorporate a human rights component when it is relevant. All Group Policies comply with the commitments set out above.

The risks specific to certain functions or business activities have been identified and are subject to appropriate measures of risk management.

For example:

- The responsible purchasing policy takes into account a "human rights" component for the selection and evaluation of suppliers.
- The guidelines developed by the Global Gaz & GNL Business Line on the use of private security companies or local security forces.
- The Group policy on health and safety.

GRIEVANCE MECHANISMS

Anyone who feels affected by the Group's activities can freely address questions, comments and requests. It is the responsibility of each Business Unit and entity to appoint a dedicated person or comity in charge of handling grievances at the operational level and to inform local stakeholders thereof.

Grievance mechanisms available for "external" people have been formalized at the corporate level:

- The Ethics mail, for any question linked to the Group's Ethics commitments, including human rights issues
- The Mediator, for commercial questions

²³/ Available on the intranet dedicated to ethics SPOT: http://collaboration.gdfsuez.net/sites/genman/SPOT/Ethics_Compliance_EN/Pages/documents_de_reference.aspx

²⁴/See "methodological tools" [internal document for the implementation of the Referential].

THE OPERATIONAL IMPLEMENTATION IN BUSINESS LINES AND BUSINESS UNITS

Each Business Unit ensures compliance with the Group's commitments at local level.

Note that any human rights incident must be reported using the internal INFORM'ethics tool (domain 3: "Social Responsibility and Human Rights").

Operational management of activities:

Risk assessments related to the BU's activities are performed annually. Any risk identified must be included in a structured action plan, incorporating:

- a) The Group's commitments
- b) Awareness actions on specific issues identified
- c) Appropriate guidelines and actions to address these issues
- d) Instruments for control and performance tracking

Regular exchanges with stakeholders take place through specific dialogue and consultation mechanisms. They are implemented at the appropriate level according to the type of relationship or their objective. Their accessibility and their form are adapted to the specific situations and actors.

A human rights check-list²⁵ has been developed by the Ethics & Compliance Division to enable entities and Business Lines to **analyze on an annual basis** their practices with regard to the human rights Group's commitments.

Projects – new business development – presence in a new country

Criteria relating to human rights are integrated into the overall preliminary analysis:

- of any new project,
- of any new business relationship,
- for the development of a new activity,
- when setting up in a new country.

These analyses must allow to identify as early as possible the potential impacts related to human rights, as well as the stakeholders concerned, and to establish prevention or mitigation measures for the project management.

A process for monitoring the measures implemented must be in place throughout the activity in question.

Mechanisms for dialogue and consultation with stakeholders are put in place throughout the projects to enable them to express their expectations and their concerns with respect to human rights.

The information and awareness-raising of local project managers on human rights must be subject of particular attention.

A practical sheet in the form of a checklist²⁶ has been made for the projects. It aims to provide managers with human rights key points to consider in their activities.

A country rating tool²⁷ is also available for entities and project managers. For countries with a global risk lower to 5 (codified in red or orange), a specific study is conducted and prevention measures are defined. This study and associated prevention measures are incorporated in the investment file.

25-26-27/ See "methodological tools" [internal document for the implementation of the Referential].

APPENDICES

I - ARCHITECTURE OF ETHICS REFERENCE DOCUMENTATION

The human rights Referential within the architecture of ethics reference documentation



II - INTERNATIONALLY RECOGNIZED HUMAN RIGHTS AND MAIN TREATIES

The main international texts of protection and defense of human rights:

- **The "International Bill of Human Rights" (UN)**, consisting:
 - of the 1948 Universal Declaration of Human Rights (UDHR)
 - of the 1966 International Covenant on Civil and Political Rights (ICCPR)
 - of the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR).
- **ILO's eight core Conventions:**
 - Conventions No. 29 on Forced Labor (1930) and No. 105 on Abolition of Forced Labor (1957)
 - Conventions No. 138 on Minimum Age (1973) and No. 182 on Worst Forms of Child Labor (1999)
 - Conventions No. 87 on Freedom of Association and Protection of the Rights to Organize (1948) and No. 98 on Rights to Organize and Collective Bargaining (1949)
 - Conventions No. 100 on Equal Remuneration (1951) and No. 111 on Discrimination (employment and Occupation) (1958)
- **Instruments designed to protect vulnerable individuals and groups (UN):**
 - International Convention on the Elimination of All forms of Racial Discrimination (1965)
 - Convention on the Elimination of All forms of Discrimination against women (1979)
 - Convention on the Rights of the Child (1989)
 - International Convention on the Protection of the Rights of All Migrant workers and Members of their families (1990)
 - Convention on the Rights of Persons with Disabilities (2006)
 - Declaration on the Rights of Indigenous Peoples (2007)

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/Core-Instruments.aspx>

Internationally recognized human rights (International Bill of Human Rights and ILO core Conventions):

- **Non-discrimination** (articles 1 & 2 UDHR, articles 2 & 3 ICCPR and ICESCR)
- **Right of self-determination** (article 1 ICCPR, article 1 ICESCR)
- **Right to life** (article 3 UDHR, article 6 ICCPR)
- **Right not to be subjected to torture, cruel, inhuman and/or degrading treatment or punishment** (article 5 UDHR, article 7 ICCPR)
- **Right not to be subjected to slavery, servitude or forced labor** (article 4 UDHR, article 8 ICCPR, ILO Conventions No. 29 and No. 105)
- **Right to liberty and security** (articles 3 and 9 UDHR, article 9 ICCPR)
- **Rights in the administration of justice** (articles 6 to 11 UDHR, articles 14 to 16 and 26 ICCPR)
- **Right to freedom of movement** (article 13 UDHR, article 12 ICCPR)
- **Right to privacy** (article 12 UDHR, article 17 ICCPR)
- **Freedom of thought, conscience and religion** (article 18 UDHR, article 18 ICCPR)
- **Freedom of opinion, information and expression** (article 19 UDHR, articles 19 and 20 ICCPR)
- **Right to freedom of assembly and association** (article 20 UDHR, articles 21 and 22 ICCPR)
- **Right to marry and form a family / Right of protection for the child** (articles 16 and 25 UDHR, articles 23 and 24 ICCPR, article 10 ICESCR, ILO conventions No. 138 and No. 182)
- **Right to participate in public life** (Article 21 UDHR, article 25 ICCPR)
- **Rights of minorities** (article 27 ICCPR)
- **Right to own property** (article 17 UDHR)
- **Right to work /Right to enjoy just and favorable conditions of work** (articles 23 and 24 UDHR, articles 6 and 7 ICESCR, ILO Conventions No. 100 and No. 111)
- **Right to form and join trade unions and the right to strike** (article 23 UDHR, article 22 ICCPR, article 8 ICESCR, ILO conventions No. 87 and No. 98)
- **Right to social security** (article 22 UDHR, article 9 ICESCR)
- **Right to an adequate standard of living** (article 25 UDHR, article 11 ICESCR)
- **Right to health** (article 12 ICESCR)
- **Right to education** (article 26 UDHR, article 13 ICESCR)
- **Right to take part in cultural life, benefit from scientific progress, material and moral rights of authors and inventors** (article 27 UDHR, article 15 ICESCR)

III - TEXT OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS (10 DECEMBER 1948)

Preamble:

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore the General Assembly proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

ARTICLE 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

ARTICLE 2:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

ARTICLE 3:

Everyone has the right to life, liberty and security of person.

ARTICLE 4:

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

ARTICLE 5:

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

ARTICLE 6:

Everyone has the right to recognition everywhere as a person before the law.

ARTICLE 7:

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

ARTICLE 8:

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

ARTICLE 9:

No one shall be subjected to arbitrary arrest, detention or exile.

ARTICLE 10:

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

ARTICLE 11:

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense.
2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

ARTICLE 12:

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

ARTICLE 13:

1. Everyone has the right to freedom of movement and residence within the borders of each state.
2. Everyone has the right to leave any country, including his own, and to return to his country.

ARTICLE 14:

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

ARTICLE 15:

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

ARTICLE 16:

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

ARTICLE 17:

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

ARTICLE 18:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

ARTICLE 19:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

ARTICLE 20:

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

ARTICLE 21:

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

ARTICLE 22:

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

ARTICLE 23:

1. Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an ex-

istence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

4. Everyone has the right to form and to join trade unions for the protection of his interests.

ARTICLE 24:

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

ARTICLE 25:

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

ARTICLE 26:

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

ARTICLE 27:

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

ARTICLE 28:

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

ARTICLE 29:

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.
2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

ARTICLE 30:

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

IV - THE GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS (UN, 2011)

In June 2011, the United Nations Human Rights Council adopted the Guiding Principles on Business and Human Rights (proposed by the Professor John Ruggie).

These Guiding Principles are now the global standard of expected conduct for companies. They aim to implement the reference framework "Protect, Respect and Remedy" adopted in 2008 by the United Nations. It is based on three pillars:

- the State duty to Protect human rights
- the corporate responsibility to Respect human rights
- the need to a greater access to Remedy for victims

The Guiding Principles include 31 principles concerning the three pillars. Only principles relevant for companies are developed here.

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 fulfill 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 enjoy-

ment 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 Labor 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 enterprise 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 honor 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

Non-state-based grievance mechanisms

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 analyzing 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 labor-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.

Links:

United Nations website on the topic of business and human rights:

<http://www.ohchr.org/EN/Issues/Business/Pages/BusinessIndex.aspx>

Portal of the Special Representative on the issue of human rights and transnational corporations and other business enterprise:

<http://www.business-humanrights.org/SpecialRepPortal/Home>

This Portal provides access to all official reports issued by the Special Representative during his mandate, as well as his research work (consultations and contributions of stakeholders, experts' memos, etc.). A list of all documents available may be found at:

<http://www.reports-and-materials.org/Ruggie-docs-list.pdf>

The main reports are:

- "Protect, Respect and Remedy: a framework for Business and Human Rights", A/HRC/8/5, April 2008
- "Guiding Principles on Business and Human Rights for implementing the UN "Protect, Respect and Remedy" Framework", A/HRC/17/31, mars 2011

United Nations Working Group on the issue of human rights and transnational corporations and other business enterprises:

<http://www.ohchr.org/EN/Issues/Business/Pages/WGHRandtransnationalcorporationsandotherbusiness.aspx>

V - OTHER BUSINESS AND HUMAN RIGHTS STANDARDS

Work and instruments of international organizations:

International Labor Organization (ILO):

- Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (latest version of 2006): <http://www.ilo.org/empent/units/multinational-enterprises/lang--en/index.htm>
- Declaration on Fundamental Principles and Rights at Work (1998): <http://www.ilo.org/declaration/lang--en/index.htm>

Organization for Economic Co-operation and Development (OECD):

- OECD Guidelines for Multinational Enterprises (latest version of 2011): <http://www.oecd.org/daf/inv/mne/>
- List of the National Contact Points and the type of specific issues submitted to them: <http://www.oecd.org/daf/inv/mne/ncps.htm>
- The European Union: Communication of the European Commission on Corporate Social Responsibility (2011): http://ec.europa.eu/enterprise/policies/sustainable-business/corporate-social-responsibility/human-rights/index_en.htm

Other references and international standards

United Nations Global Compact (UNGC, 2000):

<http://www.unglobalcompact.org/>

ISO 26000 International Standard Guidance on Social Responsibility (ISO, 2010):

<http://www.iso.org/iso/home/standards/iso26000.htm>


Voluntary Principles on Security and Human Rights

<http://www.voluntaryprinciples.org>

International Finance Corporation's Performance Standards on Social and Environmental Sustainability (IFC, 2012):

http://www.ifc.org/wps/wcm/connect/115482804a0255db96fbfd1a5d13d27/PS_English_2012_Full-Documents.pdf?MOD=AJPERES

NOTES



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