

## OVERVIEW

# GUIDING PRINCIPLES FOR GOVERNMENT AND INDUSTRY

2011

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## Introduction

The purpose of this brief is to provide a comprehensive overview of the various instruments developed to provide good practice guidance for the extractive industries. While some of the documents discussed in this brief constitute soft law mechanisms aimed at providing states and industry with guidelines for good practice, there are also a number of instruments that are legally binding multilateral conventions. Since the development of the extractive industries overlaps significantly with both state practice and industry practice, the guidelines and legal instruments provided in this brief are likewise diverse.

The brief is divided into three sections. Each instrument in these sections is described in relevant detail; and at the end of each description, there is a set of links directing the user to further web-based information. The first section describes the legally binding conventions and declarations that have been negotiated and signed by states. These conventions all deal – directly or indirectly – with questions relevant to the extractive industries. Topics covered in these instruments include promises to reduce corruption, to protect the rights of indigenous populations, to alleviate global poverty, and to the protection of human rights generally.

The second section focuses on general guidance in the area of corporate social responsibility. These documents aim at establishing frameworks for good global business practices. They highlight the obligations of multinational enterprises when operating outside of their home state. While this section includes a number of documents negotiated by the OECD over the past number of decades, it also includes multilateral projects such as the UN global compact, and private sector initiatives such as the Sullivan principles. Most importantly, however, are the Ruggie principles: a set of best practices in relation to business and human rights as fleshed out by UN Special Representative John Ruggie over a 10 year period.

The third and final section of this brief covers sector-specific instruments that are aimed at good practice in the extractive industries. These documents cover a diverse set of problems being specifically addressed by the extractive industries. They include projects on resource revenue transparency, model contracting for the extractive industries, and principles for project finance and sovereign wealth funds. This section also discusses the important recent work called the Natural Resource Charter, which aims at establishing the overarching principles that should guide the development of the extractive industries throughout the world.

## Section I: Multilateral Conventions and Declarations

### 1. The UN Convention against Corruption (2003)

The *United Nations (UN) Convention against Corruption (Anti-Corruption Convention)* is the first legally binding international anti-corruption instrument. It was adopted by the UN General Assembly on 31 October 2003 and entered into force on 14 December 2005. It obliges its state parties to implement a wide range of anti-corruption measures into their respective domestic legal systems. According to the *Anti-Corruption Convention*, these measures aim at: (1) promoting the prevention of corruption, (2) criminalizing and enforcing corrupt practices, (3) providing technical assistance and information exchange, and (4) developing asset recovery mechanisms. The *Anti-Corruption Convention* is divided into eight chapters and incorporates both mandatory and non-mandatory provisions:

1. General Provision
2. Preventative Measures
3. Criminalization and Law Enforcement
4. International Cooperation Provisions
5. Asset Recovery
6. Technical Assistance and Information Exchange
7. Mechanisms for Implementation
8. Final Provisions

#### Available Documents

*UN Convention against Corruption* (October 2003), available at: [http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026\\_E.pdf](http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf)

*Rules of Procedure for the Conference of the States Parties to the UN Convention against Corruption* (October 2003), available at: [http://www.unodc.org/pdf/crime/conventioncorruption/cosp/07-80230\\_Ebook.pdf](http://www.unodc.org/pdf/crime/conventioncorruption/cosp/07-80230_Ebook.pdf)

*Legislative Guide for the Implementation of the UN Convention against Corruption* (October 2003), available at: [http://www.unodc.org/documents/treaties/UNCAC/Publications/LegislativeGuide/06-53440\\_Ebook.pdf](http://www.unodc.org/documents/treaties/UNCAC/Publications/LegislativeGuide/06-53440_Ebook.pdf)

*Technical Guide to the UN Convention against Corruption* (October 2003), available at: [http://www.unodc.org/documents/treaties/UNCAC/Publications/TechnicalGuide/09-84395\\_Ebook.pdf](http://www.unodc.org/documents/treaties/UNCAC/Publications/TechnicalGuide/09-84395_Ebook.pdf)

## 2. The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1997)

The *Organization for Economic Cooperation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Anti-Bribery Convention)* establishes legally binding standards to criminalize bribery of foreign public officials in international business transactions and provides for a host of related measures that make this help make this goal possible. It is the first and only international anti-corruption instrument focused on the ‘supply side’ of the bribery transaction. All 34 OECD member countries and four non-member countries – Argentina, Brazil, Bulgaria, and South Africa – have adopted this Convention.

The *Anti-Bribery Convention* aims at reducing corruption in developing countries by encouraging sanctions against bribery in international business transactions carried out by companies based in the OECD member countries of the *Anti-Bribery Convention*. Its goal is to create a truly level playing field in today’s international business environment. The *Anti-Bribery Convention* was signed on 17 December 1997 and came into force on 15 February 1999. Over the years, the OECD has issued additional recommendations relating to the reduction of bribery. These documents are provided in the section below. The most recent recommendation, released in 2009, provides the most up-to-date provisions on methods and standards for curbing corruption and the bribing of foreign public officials.

Countries that have signed the *Anti-Bribery Convention* are required to put in place legislation that criminalizes the act of bribing a foreign public official. The OECD has no authority to implement the *Anti-Bribery Convention*, but instead monitors implementation by participating countries. Countries are responsible for implementing laws and regulations that conform to the *Anti-Bribery Convention* and therefore provide for enforcement. The OECD performs its monitoring function in a two-phased examination process. Phase I consists of a review of legislation implementing the *Anti-Bribery Convention* in each member country with the goal of evaluating the adequacy of the laws. Phase II assesses the effectiveness with which the legislation is applied.

### Available Documents

*OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions* (November 1997), available at: <http://www.oecd.org/dataoecd/4/18/38028044.pdf>

*OECD Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions*, (November 2009), available at: <http://www.oecd.org/dataoecd/11/40/44176910.pdf>

*OECD Recommendation of the Council on Tax Measures for Further Combating Bribery of Foreign Public Officials in International Business Transactions* (May 2009), available at: <http://www.oecd.org/dataoecd/18/15/43188874.pdf>

*OECD Recommendation of the Council on Principles for Transparency and Integrity in Lobbying* (February 2010), available at: <http://www.oecd.org/dataoecd/14/57/44641288.pdf>

*OECD Recommendation of the Council on Enhancing Integrity in Public Procurement* (October 2008), available at: <http://acts.oecd.org/Instruments/ShowInstrumentView.aspx?InstrumentID=131andLang=enandBook=False>

*OECD Recommendation of the Council on Improving Ethical Conduct in the Public Service* (April 1998), available at: <http://www.oecd.org/dataoecd/60/13/1899138.pdf>

*OECD Recommendation of the Council on Bribery and Officially Supported Export Credits* (December 2006), available at: <http://www.oecd.org/officialdocuments/displaydocumentpdf/?cote=td/ecg%282006%2924anddoclanguage=en>

*OECD Recommendation of the Council on Guidelines for Managing Conflict of Interest in the Public Service* (June 2003), available at: <http://www.oecd.org/dataoecd/17/23/33967052.pdf>

*Good Practice Guidance on Internal Controls, Ethics, and Compliance* (February 2010), available at: <http://www.oecd.org/dataoecd/5/51/44884389.pdf>

*OECD Bribery Awareness Handbook for Tax Examiners* (December 2009), available at: <http://www.oecd.org/dataoecd/20/20/37131825.pdf>

*OECD Working Group on Bribery Annual Report 2009* (June 2010), available at: <http://www.oecd.org/dataoecd/23/20/45460981.pdf>

*Country Reports on the Implementation of the OECD Anti-Bribery Convention*, available at: [http://www.oecd.org/document/24/0,3746,en\\_2649\\_34551\\_1933144\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/24/0,3746,en_2649_34551_1933144_1_1_1_1,00.html)

*OECD Regional Anti-Corruption Programmes*, available at: <http://www.oecd.org/dataoecd/14/57/44641288.pdf>

### 3. The UN Universal Declaration of Human Rights (1948)

The *United Nations (UN) Universal Declaration of Human Rights (Declaration)* is the flagship declaration on human rights principles as endorsed by the international community of states. It is the foundation of international human rights law, the first universal statement on the basic principles of inalienable human rights, and a common standard of achievement for all peoples and all nations. It was signed in 1948, and more than 60 years later, it remains a relevant and guiding document.

Human rights are not only a common inheritance of universal values that transcend cultures and traditions, but are quintessentially local values and nationally-owned commitments grounded in international treaties and national constitutions and laws. The *Declaration* represents a contract between governments and their peoples, who have a right to demand that this document be respected. Not all governments have become parties to all human rights treaties. All countries, however, have accepted the *Declaration*. The *Declaration* continues to affirm the inherent human dignity and worth of every person in the world, without distinction of any kind.

The 30 articles of the *Declaration* can be summarized as containing the following provisions on basic human rights and freedoms as recognized by all member states of the UN:

- Fundamental Human Rights
- Equality and Non-Discrimination
- Life, Liberty, and Security of Person
- Prohibition of Slavery
- Prohibition on Torture
- Recognition before the Law
- Equal Protection of the Law
- Effective Remedy for Abuses
- Protection against Arbitrary Arrest, Detention, or Exile
- Fair Hearing by Impartial Tribunal
- Presumption of Innocence – Ex Post Facto Laws
- Privacy and Reputation
- Freedom of Movement
- Asylum
- Nationality
- Marriage and Family
- Protection of Personal Property
- Freedom of Religion
- Freedom of Expression
- Freedom of Assembly



- Participation in Government
- Social Security and Economic, Social, and Cultural Rights
- Work and Equal Pay
- Rest and Leisure
- Adequate Standard of Living and Security
- Education
- Cultural Life
- Just Social and International Order
- Duties and Limitations
- Destruction of Rights and Freedoms

### **Available Documents**

*UN Universal Declaration of Human Rights* (December 1948), available at: <http://www.un.org/en/documents/udhr/index.shtml>

#### 4. The UN Declaration on the Rights of Indigenous Peoples (2007)

On September 13, 2007 the United Nations (UN) General Assembly adopted the *UN Declaration on the Rights of Indigenous Peoples (Declaration)*. This followed more than 20 years of discussion within the UN system. Indigenous representatives played a key role in the development of the *Declaration*. The *Declaration* is a long and complex document with a preamble and 46 articles.

The *Declaration* recognizes the wide range of basic human rights and fundamental freedoms of indigenous peoples. Among these are the right to unrestricted self-determination; an inalienable collective right to the ownership, use, and control of lands, territories and other natural resources; rights for maintaining and developing their own political, religious, cultural, and educational institutions; and the right to protect their cultural and intellectual property.

The *Declaration* highlights the requirement for prior and informed consultation, participation, and consent in activities of any kind that impact on indigenous peoples, their property, or territories. It also establishes the requirement for fair and adequate compensation for violation of the rights recognized in the *Declaration* and establishes guarantees against ethnocide and genocide.

The *Declaration* also provides for fair and mutually acceptable procedures to resolve conflicts between indigenous peoples and states, including procedures such as negotiations, mediation, arbitration, national courts, and international and regional mechanisms for denouncing and examining human rights violations.

#### Available Documents

*UN Declaration on the Rights of Indigenous Peoples* (September 2007), available at:

<http://www.un.org/esa/socdev/unpfii/en/drip.html>

## 5. The UN Millennium Declaration: Millennium Development Goals (2000)

The aim of the *United Nations (UN) Millennium Development Goals (MDGs)* is to encourage development by improving social and economic conditions in the world's poorest countries. They are derived from earlier international development targets and were officially established at the Millennium Summit in 2000 with the signing of the *UN Millennium Declaration*. The *Millennium Declaration* asserts that every individual has the right to dignity, freedom, equality, and a basic standard of living free from hunger and violence. The MDGs, which are enshrined in the *Millennium Declaration*, include eight goals, 21 targets, and a series of measurable indicators for each target. The MDGs were adopted in September 2000 and many of the eight goals include targets that need to be achieved by 2015. A summary of the MDGs are highlighted below:

- **Goal 1: Eradicate extreme poverty and hunger**
  - Target 1A: Halve the proportion of people living on less than one USD a day by 2015.
  - Target 1B: Achieve decent employment for women, men, and young people.
  - Target 1C: Halve the proportion of people who suffer from hunger by 2015.
- **Goal 2: Achieve universal primary education**
  - Target 2A: By 2015, all children can complete a full course of primary schooling, girls and boys.
- **Goal 3: Promote gender equality and empower women**
  - Target 3A: Eliminate gender disparity in primary and secondary education preferably by 2005, and at all levels by 2015.
- **Goal 4: Reduce child mortality rate**
  - Target 4A: Reduce by two-thirds, between 1990 and 2015, the under-five mortality rate.
- **Goal 5: Improve maternal health**
  - Target 5A: Reduce by three quarters, between 1990 and 2015, the maternal mortality ratio.
  - Target 5B: Achieve, by 2015, universal access to reproductive health.
- **Goal 6: Combat HIV/AIDS, malaria, and other diseases**
  - Target 6A: Have halted by 2015 and begun to reverse the spread of HIV/AIDS.
  - Target 6B: Achieve, by 2010, universal access to treatment for HIV/AIDS for all those who need it.
  - Target 6C: Have halted by 2015 and begun to reverse the incidence of malaria and other major diseases.
- **Goal 7: Ensure environmental sustainability**
  - Target 7A: Integrate the principles of sustainable development into country policies and programs; reverse loss of environmental resources.
  - Target 7B: Reduce biodiversity loss, achieving, by 2010, a significant reduction in the rate of loss

Target 7C: Halve, by 2015, the proportion of the population without sustainable access to safe drinking water and basic sanitation.

Target 7D: By 2020, to have achieved a significant improvement in the lives of at least 100 million slum-dwellers.

- **Goal 8: Develop a global partnership for development**

Target 8A: Develop further an open, rule-based, predictable, non-discriminatory trading and financial system.

Target 8B: Address the special needs of the least developed countries.

Target 8C: Address the special needs of landlocked developing countries and small island developing states.

Target 8D: Deal comprehensively with the debt problems of developing countries through national and international measures in order to make debt sustainable in the long term.

Target 8E: In cooperation with pharmaceutical companies, provide access to affordable, essential drugs in developing countries.

Target 8F: In cooperation with the private sector, make available the benefits of new technologies, especially information and communications.

## **Available Documents**

*UN Millennium Development Goals* (September 2002), available at:

<http://www.un.org/millenniumgoals/>

*UN Millennium Declaration* (September 2002), available at:

<http://www.un.org/millennium/declaration/ares552e.htm>

*UN Review Summit on the Millennium Development Goals* (September 2010), available at:

<http://www.un.org/en/mdg/summit2010>

## Section II: General Guidance on Corporate Social Responsibility

### 6. The Ruggie Report: UN 'Protect, Respect, and Remedy' Framework and Guiding Principles on Business and Human Rights (2011)

On 21 March 2011, the final *Ruggie Report* (officially, the *Report of the United Nations (UN) Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and other Business Enterprises, John Ruggie*) was published for consideration by the UN Human Rights Council. This Report constitutes the long-awaited *UN Guiding Principles on Business and Human Rights (Guiding Principles)*. These *Guiding Principles* are aimed at implementing the *UN 'Protect, Respect, and Remedy' Framework*: a framework that was developed in an earlier phase of Special Representative Ruggie's work on behalf of the UN Secretary-General.

The work of the Special Representative has evolved in three phases. Beginning in 2005, John Ruggie received a mandate to 'identify and clarify' existing practices and standards relating to business and human rights. The first phase was driven by the failure of a previous UN initiative: the *Norms on Transnational Corporations and Other Business Enterprises*. This previous UN initiative sought to impose the same legally binding human rights duties on companies that States have accepted for themselves through treaties. This proposal triggered a divisive debate between the business community and human rights advocacy groups and was ultimately not acted upon.

The Secretary-General appointed Special Representative John Ruggie in order to start a new process for mapping the emerging and the evolving human rights standards as they relate to business enterprises. The primary focus was to identify the expectations of the various stakeholder groups and to use this information to build a framework for action. This framework, which constituted the second phase of the Special Representative's mandate, resulted in the *UN 'Protect, Respect, and Remedy' Framework*. This framework rests on three pillars. The first is the State duty to protect against human rights abuses by third parties. The second is the corporate responsibility to respect human rights. The third is the need for greater access by human rights victims to effective remedies. Each pillar is an essential and inter-related system of preventative and remedial measures.

The third and final phase of the Special Representative's work was to develop a set of guiding principles that would have universal applicability but could be implemented in a manner that recognizes that there is no 'one size fits all' model. As such, the *Guiding Principles* are not a toolkit, nor are they a new set of international law obligations. Instead, the *Guiding Principles* are meant to elaborate and clarify the implications of the existing standards and practices and to provide this information in an integrated, comprehensive, and coherent template. The *Guiding Principles* do not mandate a specific means of

implementation, but instead provide guidance on the processes that can lead to the effective prevention of, and remedy for, business-related human rights harm.

### ***The UN ‘Respect, Protect, and Remedy’ Framework***

The *UN ‘Respect, Protect, and Remedy’ Framework* was published in 2008 and is available for download in the section below. The framework focuses on three overarching principles upon which the *UN Guiding Principles on Business and Human Rights* is based.

The Guiding Principles are grounded in recognition of:

1. States’ existing obligations to respect, protect and fulfill human rights and fundamental freedoms;
2. The role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights;
3. The need for rights and obligations to be matched to appropriate and effective remedies when breached.

### ***The UN Guiding Principles on Business and Human Rights***

#### **I. The State Duty to Protect Human Rights**

##### **A. Foundational Principles**

1. States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations, and adjudication.
2. States should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations.

##### **B. Operational Principles**

##### **General State Regulatory and Policy Functions**

3. In meeting their duty to protect, States should:
  - a. Enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights, and periodically to assess the adequacy of such laws and address any gaps;
  - b. Ensure that other laws and policies governing the creation and ongoing operation of business enterprises, such as corporate law, do not constrain but enable business respect for human rights;
  - c. Provide effective guidance to business enterprises on how to respect human rights throughout their operations;
  - d. Encourage, and where appropriate require, business enterprises to communicate how they address their human rights impacts.

### **The State-Business Nexus**

4. States should take additional steps to protect against human rights abuses by business enterprises that are owned or controlled by the State, or that receive substantial support and services from State agencies such as export credit agencies and official investment insurance or guarantee agencies, including, where appropriate, by requiring human rights due diligence.
5. States should exercise adequate oversight in order to meet their international human rights obligations when they contract with, or legislate for, business enterprises to provide services that may impact upon the enjoyment of human rights.
6. States should promote respect for human rights by business enterprises with which they conduct commercial transactions.

### **Supporting Business Respect for Human Rights in Conflict-Affected Areas**

7. Because the risk of gross human rights abuses is heightened in conflict-affected areas, States should help ensure that business enterprises operating in those contexts are not involved with such abuses, including by:
  - a. Engaging at the earliest stage possible with business enterprises to help them identify, prevent and mitigate the human rights-related risks of their activities and business relationships;
  - b. Providing adequate assistance to business enterprises to assess and address the heightened risks of abuses, paying special attention to both gender-based and sexual violence;
  - c. Denying access to public support and services for a business enterprise that is involved with gross human rights abuses and refuses to cooperate in addressing the situation;
  - d. Ensuring that their current policies, legislation, regulations and enforcement measures are effective in addressing the risk of business involvement in gross human rights abuses.

### **Ensuring Policy Coherence**

8. States should ensure that governmental departments, agencies and other State-based institutions that shape business practices are aware of and observe the State's human rights obligations when fulfilling their respective mandates, including by providing them with relevant information, training and support.
9. States should maintain adequate domestic policy space to meet their human rights obligations when pursuing business-related policy objectives with other States or business enterprises, for instance through investment treaties or contracts.
10. States, when acting as members of multilateral institutions that deal with business-related issues, should:

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

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



## **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.

### **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.
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.
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.
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.
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.

### **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.

### **Issues of Context**

23. In all contexts, business enterprises should:
- a. Comply with all applicable laws and respect internationally recognized human rights, wherever they operate;
  - b. Seek ways to honour the principles of internationally recognized human rights when faced with conflicting requirements;

- c. Treat the risk of causing or contributing to gross human rights abuses as a legal compliance issue wherever they operate.
- 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 irreparable.

### III. Access to Remedy

#### A. Foundational Principle

- 25. As part of their duty to protect against business-related human rights abuse, States must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy.

#### B. Operational Principles

##### State-Based Judicial Mechanisms

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

##### State-Based Non-Judicial Grievance Mechanisms

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

##### Non-State-Based Grievance Mechanisms

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

##### 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 timeframe 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.

## Available Documents

*UN Special Representative on Business and Human Rights*, available at: <http://www.business-humanrights.org/SpecialRepPortal/Home>

*Final Report of Special Representative to the UN Human Rights Council: Guiding Principles on Business and Human Rights: Implementing the UN 'Protect, Respect and Remedy' Framework* (March 2011), available at: <http://www.business-humanrights.org/media/documents/ruggie/ruggie-guiding-principles-21-mar-2011.pdf>

*The UN 'Protect, Respect, and Remedy' Framework for Business and Human Rights* (September 2010), available at: <http://www.reports-and-materials.org/Ruggie-protect-respect-remedy-framework.pdf>

*Complete List of Documents Prepared by Special Representative Ruggie* (August 2010), available at: <http://www.reports-and-materials.org/Ruggie-docs-list.pdf>

## 7. The OECD Declaration on International Investment and Multinational Enterprises (1976)

The *Organization for Economic Cooperation and Development (OECD) Declaration on International Investment and Multinational Enterprises (Declaration)* constitutes a policy commitment to improve the investment climate, encourage the positive contribution that multinational enterprises can make to economic and social progress, and minimize and resolve difficulties which may arise from their operations. It provides a wide-array of non-binding voluntary recommendations and principles of conduct.

The *OECD Declaration* has been signed by all OECD countries and eight non-OECD countries. It represents a consensus on the shared philosophy of its member states in the areas of foreign direct investment and multinational enterprise governance. The *OECD Declaration* is a balanced framework that includes four OECD instruments designed to improve the international investment climate and to strengthen the basis of mutual confidence between multinational enterprises and the societies in which they operate.

These interrelated instruments include the *Guidelines for Multinational Enterprises (Guidelines)*, the *National Treatment Instrument*, the *International Investment Incentives and Disincentives Instrument*, and the *Conflicting Requirements Instrument*. All instruments have been subjected to periodic reviews, amendments, and decisions over the years. The most recent major review was completed in 2000, and work started in 2010 on a further update.

### ***The Guidelines for Multinational Enterprises***

The *Guidelines* provide voluntary principles and standards for responsible business conduct addressed to multinational enterprises themselves. They are non-binding recommendations to multinational enterprises operating in or from all OECD member countries. Observance of the *Guidelines* is supported by a unique implementation mechanism; adhering governments – through their network of National Contact Points – are responsible for promoting the *Guidelines* and helping to resolve issues that arise under the specific instances procedures.

The 2000 review of the *Guidelines* added key provisions in accordance with broader OECD commitments to sustainable development. These included new recommendations on human rights standards, the abolition of child and forced labour, and the improvement of environmental performance. New sections on combating corruption and consumer interests have also been added. This latest version of the *Guidelines* is divided into ten chapters (with relevant provisions provided):

#### **1. Concepts and Principles**

- a. The Guidelines are recommendations jointly addressed by governments to multinational enterprises. They provide principles and standards of good practice consistent with applicable laws. Observance of the Guidelines by enterprises is voluntary and not legally enforceable.
- b. Since the operations of multinational enterprises extend throughout the world, international co-operation in this field should extend to all countries. Governments adhering to the Guidelines encourage the enterprises operating on their territories to observe the Guidelines wherever they operate, while taking into account the particular circumstances of each host country.
- c. A precise definition of multinational enterprises is not required for the purposes of the Guidelines. These usually comprise companies or other entities established in more than one country and so linked that they may co-ordinate their operations in various ways. While one or more of these entities may be able to exercise a significant influence over the activities of others, their degree of autonomy within the enterprise may vary widely from one multinational enterprise to another. Ownership may be private, state or mixed. The Guidelines are addressed to all the entities within the multinational enterprise (parent companies and/or local entities). According to the actual distribution of responsibilities among them, the different entities are expected to cooperate and to assist one another to facilitate observance of the Guidelines.
- d. The Guidelines are not aimed at introducing differences of treatment between multinational and domestic enterprises; they reflect good practice for all. Accordingly, multinational and domestic enterprises are subject to the same expectations in respect of their conduct wherever the Guidelines are relevant to both.
- e. Governments wish to encourage the widest possible observance of the Guidelines. While it is acknowledged that small- and medium-sized enterprises may not have the same capacities as larger enterprises, governments adhering to the Guidelines nevertheless encourage them to observe the Guidelines recommendations to the fullest extent possible.
- f. Governments adhering to the Guidelines should not use them for protectionist purposes nor use them in a way that calls into question the comparative advantage of any country where multinational enterprises invest.

## 2. **General Policies**

Enterprises should take fully into account established policies in the countries in which they operate, and consider the views of other stakeholders. In this regard, enterprises should:

- a. Contribute to economic, social and environmental progress with a view to achieving sustainable development.
- b. Respect the human rights of those affected by their activities consistent with the host government's international obligations and commitments.

- c. Encourage local capacity building through close cooperation with the local community, including business interests, as well as developing the enterprise's activities in domestic and foreign markets, consistent with the need for sound commercial practice.
- d. Encourage human capital formation, in particular by creating employment opportunities and facilitating training opportunities for employees.
- e. Refrain from seeking or accepting exemptions not contemplated in the statutory or regulatory framework related to environmental, health, safety, labour, taxation, financial incentives, or other issues.
- f. Support and uphold good corporate governance principles and develop and apply good corporate governance practices.
- g. Develop and apply effective self-regulatory practices and management systems that foster a relationship of confidence and mutual trust between enterprises and the societies in which they operate.
- h. Promote employee awareness of, and compliance with, company policies through appropriate dissemination of these policies, including through training programmes.
- i. Refrain from discriminatory or disciplinary action against employees who make bona fide reports to management or, as appropriate, to the competent public authorities, on practices that contravene the law, the Guidelines or the enterprise's policies.
- j. Encourage, where practicable, business partners, including suppliers and sub-contractors, to apply principles of corporate conduct compatible with the Guidelines.
- k. Abstain from any improper involvement in local political activities.

### 3. Disclosure

1. Enterprises should ensure that timely, regular, reliable and relevant information is disclosed regarding their activities, structure, financial situation and performance. This information should be disclosed for the enterprise as a whole and, where appropriate, along business lines or geographic areas. Disclosure policies of enterprises should be tailored to the nature, size and location of the enterprise, with due regard taken of costs, business confidentiality and other competitive concerns.
2. Enterprises should apply high quality standards for disclosure, accounting, and audit. Enterprises are also encouraged to apply high quality standards for non-financial information including environmental and social reporting where they exist. The standards or policies under which both financial and non-financial information are compiled and published should be reported.
3. Enterprises should disclose basic information showing their name, location, and structure, the name, address and telephone number of the parent enterprise and

its main affiliates, its percentage ownership, direct and indirect in these affiliates, including shareholdings between them.

4. Enterprises should also disclose material information on:
  - i. The financial and operating results of the company.
  - ii. Company objectives.
  - iii. Major share ownership and voting rights.
  - iv. Members of the board and key executives, and their remuneration.
  - v. Material foreseeable risk factors.
  - vi. Material issues regarding employees and other stakeholders.
  - vii. Governance structures and policies.
5. Enterprises are encouraged to communicate additional information that could include:
  - i. Value statements or statements of business conduct intended for public disclosure including information on the social, ethical and environmental policies of the enterprise and other codes of conduct to which the company subscribes. In addition, the date of adoption, the countries and entities to which such statements apply and its performance in relation to these statements may be communicated.
  - ii. Information on systems for managing risks and complying with laws, and on statements or codes of business conduct.
  - iii. Information on relationships with employees and other stakeholders.

#### **4. Employment and Industrial Relations**

Enterprises should, within the framework of applicable law, regulations and prevailing labour relations and employment practices:

1. Respect the right of their employees to be represented by trade unions and other bona fide representatives of employees, and engage in constructive negotiations, either individually or through employers' associations, with such representatives with a view to reaching agreements on employment conditions.  
Contribute to the effective abolition of child labour.  
Contribute to the elimination of all forms of forced or compulsory labour.  
Not discriminate against their employees with respect to employment or occupation on such grounds as race, colour, sex, religion, political opinion, national extraction or social origin, unless selectivity concerning employee characteristics furthers established governmental policies which specifically promote greater equality of employment opportunity or relates to the inherent requirements of a job.
2. Provide facilities to employee representatives as may be necessary to assist in the development of effective collective agreements.  
Provide information to employee representatives which is needed for meaningful negotiations on conditions of employment.



Promote consultation and cooperation between employers and employees and their representatives on matters of mutual concern.

3. Provide information to employees and their representatives which enables them to obtain a true and fair view of the performance of the entity or, where appropriate, the enterprise as a whole.
4. Observe standards of employment and industrial relations not less favourable than those observed by comparable employers in the host country.  
Take adequate steps to ensure occupational health and safety in their operations.
5. In their operations, to the greatest extent practicable, employ local personnel and provide training with a view to improving skill levels, in cooperation with employee representatives and, where appropriate, relevant governmental authorities.
6. In considering changes in 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, provide reasonable notice of such changes to representatives of their employees, and, where appropriate, to the relevant governmental authorities, and cooperate with the employee representatives and appropriate governmental authorities so as to mitigate to the maximum extent practicable adverse effects. In light of the specific circumstances of each case, it would be appropriate if management were able to give such notice prior to the final decision being taken. Other means may also be employed to provide meaningful cooperation to mitigate the effects of such decisions.
7. In the context of bona fide negotiations with representatives of employees on conditions of employment, or while employees are exercising a right to organize, not threaten to transfer the whole or part of an operating unit from the country concerned nor transfer employees from the enterprises' component entities in other countries in order to influence unfairly those negotiations or to hinder the exercise of a right to organize.
8. Enable authorized representatives of their employees to negotiate on collective bargaining or labour-management relations issues and allow the parties to consult on matters of mutual concern with representatives of management who are authorized to take decisions on these matters.

**5. Environment**

Enterprises should, within the framework of laws, regulations and administrative practices in the countries in which they operate, and in consideration of relevant international agreements, principles, objectives, and standards, take due account of the need to protect the environment, public health and safety, and generally to conduct their activities in a manner contributing to the wider goal of sustainable development. In particular, enterprises should:

1. Establish and maintain a system of environmental management appropriate to the enterprise, including:

- i. collection and evaluation of adequate and timely information regarding the environmental, health, and safety impacts of their activities;
  - ii. establishment of measurable objectives and, where appropriate, targets for improved environmental performance, including periodically reviewing the continuing relevance of these objectives; and
  - iii. regular monitoring and verification of progress toward environmental, health, and safety objectives or targets.
2. Taking into account concerns about cost, business confidentiality, and the protection of intellectual property rights:
  - i. provide the public and employees with adequate and timely information on the potential environmental, health and safety impacts of the activities of the enterprise, which could include reporting on progress in improving environmental performance; and
  - ii. engage in adequate and timely communication and consultation with the communities directly affected by the environmental, health and safety policies of the enterprise and by their implementation.
3. Assess, and address in decision-making, the foreseeable environmental, health, and safety-related impacts associated with the processes, goods and services of the enterprise over their full life cycle. Where these proposed activities may have significant environmental, health, or safety impacts, and where they are subject to a decision of a competent authority, prepare an appropriate environmental impact assessment.
4. Consistent with the scientific and technical understanding of the risks, where there are threats of serious damage to the environment, taking also into account human health and safety, not use the lack of full scientific certainty as a reason for postponing cost-effective measures to prevent or minimize such damage.
5. Maintain contingency plans for preventing, mitigating, and controlling serious environmental and health damage from their operations, including accidents and emergencies; and mechanisms for immediate reporting to the competent authorities.
6. Continually seek to improve corporate environmental performance, by encouraging, where appropriate, such activities as:
  - i. adoption of technologies and operating procedures in all parts of the enterprise that reflect standards concerning environmental performance in the best performing part of the enterprise;
  - ii. development and provision of products or services that have no undue environmental impacts; are safe in their intended use; are efficient in their consumption of energy and natural resources; can be reused, recycled, or disposed of safely;

- iii. promoting higher levels of awareness among customers of the environmental implications of using the products and services of the enterprise; and
  - iv. research on ways of improving the environmental performance of the enterprise over the longer term.
7. Provide adequate education and training to employees in environmental health and safety matters, including the handling of hazardous materials and the prevention of environmental accidents, as well as more general environmental management areas, such as environmental impact assessment procedures, public relations, and environmental technologies.
  8. Contribute to the development of environmentally meaningful and economically efficient public policy, for example, by means of partnerships or initiatives that will enhance environmental awareness and protection.

## 6. **Combating Bribery**

Enterprises should not, directly or indirectly, offer, promise, give, or demand a bribe or other undue advantage to obtain or retain business or other improper advantage. Nor should enterprises be solicited or expected to render a bribe or other undue advantage. In particular, enterprises should:

1. Not offer, nor give in to demands, to pay public officials or the employees of business partners any portion of a contract payment. They should not use subcontracts, purchase orders or consulting agreements as means of channeling payments to public officials, to employees of business partners or to their relatives or business associates.
2. Ensure that remuneration of agents is appropriate and for legitimate services only. Where relevant, a list of agents employed in connection with transactions with public bodies and state-owned enterprises should be kept and made available to competent authorities.
3. Enhance the transparency of their activities in the fight against bribery and extortion. Measures could include making public commitments against bribery and extortion and disclosing the management systems the company has adopted in order to honor these commitments. The enterprise should also foster openness and dialogue with the public so as to promote its awareness of and cooperation with the fight against bribery and extortion.
4. Promote employee awareness of and compliance with company policies against bribery and extortion through appropriate dissemination of these policies and through training programs and disciplinary procedures.
5. Adopt management control systems that discourage bribery and corrupt practices, and adopt financial and tax accounting and auditing practices that prevent the establishment of “off the books” or secret accounts or the creation of documents which do not properly and fairly record the transactions to which they relate.

6. Not make illegal contributions to candidates for public office or to political parties or to other political organizations. Contributions should fully comply with public disclosure requirements and should be reported to senior management.

## **7. Consumer Interests**

When dealing with consumers, enterprises should act in accordance with fair business, marketing and advertising practices and should take all reasonable steps to ensure the safety and quality of the goods or services they provide. In particular, they should:

1. Ensure that the goods or services they provide meet all agreed or legally required standards for consumer health and safety, including health warnings and product safety and information labels.
2. As appropriate to the goods or services, provide accurate and clear information regarding their content, safe use, maintenance, storage, and disposal sufficient to enable consumers to make informed decisions.
3. Provide transparent and effective procedures that address consumer complaints and contribute to fair and timely resolution of consumer disputes without undue cost or burden.
4. Not make representations or omissions, nor engage in any other practices, that are deceptive, misleading, fraudulent, or unfair.
5. Respect consumer privacy and provide protection for personal data.
6. Cooperate fully and in a transparent manner with public authorities in the prevention or removal of serious threats to public health and safety deriving from the consumption or use of their products.

## **8. Science and Technology**

Enterprises should:

- a. Endeavour to ensure that their activities are compatible with the science and technology (S&T) policies and plans of the countries in which they operate and as appropriate contribute to the development of local and national innovative capacity.
- b. Adopt, where practicable in the course of their business activities, practices that permit the transfer and rapid diffusion of technologies and know-how, with due regard to the protection of intellectual property rights.
- c. When appropriate, perform science and technology development work in host countries to address local market needs, as well as employ host country personnel in an S&T capacity and encourage their training, taking into account commercial needs.
- d. When granting licenses for the use of intellectual property rights or when otherwise transferring technology, do so on reasonable terms and conditions and in a manner that contributes to the long term development prospects of the host country.

- e. Where relevant to commercial objectives, develop ties with local universities, public research institutions, and participate in cooperative research projects with local industry or industry associations.

#### 9. **Competition**

Enterprises should, within the framework of applicable laws and regulations, conduct their activities in a competitive manner. In particular, enterprises should:

- a. Refrain from entering into or carrying out anti-competitive agreements among competitors:
  - i. to fix prices;
  - ii. to make rigged bids (collusive tenders);
  - iii. to establish output restrictions or quotas; or
  - iv. to share or divide markets by allocating customers, suppliers, territories or lines of commerce.
- b. Conduct all of their activities in a manner consistent with all applicable competition laws, taking into account the applicability of the competition laws of jurisdictions whose economies would be likely to be harmed by anti-competitive activity on their part.
- c. Cooperate with the competition authorities of such jurisdictions by, among other things and subject to applicable law and appropriate safeguards, providing as prompt and complete responses as practicable to requests for information.
- d. Promote employee awareness of the importance of compliance with all applicable competition laws and policies.

#### 10. **Taxation**

It is important that enterprises contribute to the public finances of host countries by making timely payment of their tax liabilities. In particular, enterprises should comply with the tax laws and regulations in all countries in which they operate and should exert every effort to act in accordance with both the letter and spirit of those laws and regulations. This would include such measures as providing to the relevant authorities the information necessary for the correct determination of taxes to be assessed in connection with their operations and conforming transfer pricing practices to the arm's length principle.

In June 2010, work began on the most recent review and update of the *Guidelines*. Initial discussions focused on issues of supply chains, human rights, the environment, and climate change. Adhering countries will discuss the draft updated text at meetings in February and March 2011 with a view to finalizing the update by May 2011.

### ***The National Treatment Instrument***

The *National Treatment Instrument* sets out member countries' commitment to accord to foreign-controlled enterprises operating in their territories treatment no less favorable than that accorded to domestic enterprises in like situations. This instrument addresses

the treatment of foreign-controlled enterprises after establishment and consists of two elements: a declaration of principle and a procedural decision issued by the OECD Council, which obliges adhering countries to notify their exceptions to national treatment, and establishes follow-up procedures to deal with such exceptions in the OECD.

### ***The International Investment Incentives and Disincentives Instrument***

The *International Investment Incentives and Disincentives Instrument* provides for efforts among member countries to improve cooperation on measures affecting foreign direct investment. This instrument encourages member countries' to make measures as transparent as possible so that their scale and purpose can be easily determined. The instrument also provides for consultations and review procedures to make cooperation between adhering countries more effective.

### ***The Conflicting Requirements Instrument***

The *Conflicting Requirements Instrument* calls on member countries to avoid or minimize the imposition of conflicting requirements imposed on multinational enterprises by governments of different countries. These considerations and approaches are embodied in Annex 2 to the *OECD Declaration*. In light of these considerations, the OECD Council issued a decision in 1991 that encourages member states to request consultations with the Committee on International Investment and Multinational Enterprises for any problem arising from the fact that multinational enterprises are made subject to conflicting requirements.

### **Available Documents**

*OECD Declaration and Decisions on International Investment and Multinational Enterprises: Basic Texts* (November 2000), available at: <http://www.oecd.org/officialdocuments/displaydocumentpdf/?cote=daffe/ime%282000%2920anddoclanguage=en>

*OECD Guidelines for Multinational Enterprises* (June 2000), available at: <http://www.oecd.org/dataoecd/56/36/1922428.pdf>

*OECD Guidelines for Multinational Enterprises: Text, Commentary, and Clarifications* (October 2001), available at: <http://www.oecd.org/officialdocuments/displaydocumentpdf/?cote=daffe/ime/wpg%282000%2915/finalanddoclanguage=en>

*National Contact Points for the OECD Guidelines for Multinational Enterprises*, available at: [http://www.oecd.org/document/60/0,3746,en\\_2649\\_34889\\_1933116\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/60/0,3746,en_2649_34889_1933116_1_1_1_1,00.html)

*Terms of Reference for an Update of the OECD Guidelines for Multinational Enterprises* (April 2010), available at: <http://www.oecd.org/dataoecd/61/41/45124171.pdf>

## 8. The UN Global Compact (2000)

The *United Nations (UN) Global Compact (Global Compact)* was first announced by the then UN Secretary-General Kofi Annan in an address to the World Economic Forum on 31 January 1999, and was officially launched at UN Headquarters in New York on 26 July 2000. The *Global Compact* is an UN initiative to encourage businesses worldwide to adopt sustainable and socially responsible policies, and to report on their implementation. According to its website, the *Global Compact* pursues two complementary objectives: (1) mainstream the ten principles in business activities around the world, and (2) catalyze actions in support of broader UN goals, including the *Millennium Development Goals*. The ten principles, in the areas of human rights, labour, environment, and anti-corruption are detailed below.

The *Global Compact* is a practical and voluntary framework for the development, implementation, and disclosure of sustainability policies and practices, offering participants a wide spectrum of work streams, management tools, and resources. With close to 9000 corporate participants and stakeholders from over 130 countries, the *Global Compact* is the largest voluntary corporate responsibility initiative in the world. The *Global Compact* has shaped an initiative that provides collaborative solutions to the most fundamental challenges facing both business and society. The initiative seeks to combine the best properties of the UN, such as moral authority and convening power, with the private sector's solution-finding strengths, and the expertise and capacities of a range of key stakeholders. The *Global Compact* is global and local; private and public; voluntary yet accountable.

### ***The Ten Principles***

According to the UN, the *Global Compact's* ten principles enjoy universal consensus and are derived from:

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

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

#### **Human Rights**

- Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights; and

- Principle 2: make sure that they are not complicit in human rights abuses.

#### **Labour**

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

#### **Environment**

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

#### **Anti-Corruption**

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

### **Available Documents**

*The UN Global Compact*, available at: <http://www.unglobalcompact.org>

*After the Signature: Your Guide to Engagement in the UN Global Compact* (June 2010), available at: [http://www.unglobalcompact.org/docs/news\\_events/8.1/after\\_the\\_signature.pdf](http://www.unglobalcompact.org/docs/news_events/8.1/after_the_signature.pdf)

*The Global Compact 2010 Annual Review* (June 2010), available at: [http://www.unglobalcompact.org/docs/news\\_events/8.1/UNGC\\_Annual\\_Review\\_2010.pdf](http://www.unglobalcompact.org/docs/news_events/8.1/UNGC_Annual_Review_2010.pdf)

*The Inspirational Guide to Implementing the Global Compact* (July 2007), available at: [http://www.unglobalcompact.org/docs/news\\_events/8.1/Inspirational\\_Guide.pdf](http://www.unglobalcompact.org/docs/news_events/8.1/Inspirational_Guide.pdf)



## 9. The Global Sullivan Principles on Corporate Social Responsibility (1999)

The original *Sullivan Principles* was a corporate code of conduct developed by the American preacher and civil rights leader Leon Sullivan in 1977 to apply pressure on South Africa in protest of its system of apartheid. These principles eventually were adopted by a number of United States-based corporations as a means of promoting concepts of corporate social responsibility. The new *Global Sullivan Principles* were developed in 1999 and were jointly unveiled by Leon Sullivan and United Nations Secretary-General Kofi Annan. The new principles were not specifically focused on South African apartheid, but were designed to increase corporate participation in the advancement of human rights and social justice at the international level.

### ***The Global Sullivan Principles***

As a company which endorses the Global Sullivan Principles we will respect the law, and as a responsible member of society we will apply these Principles with integrity consistent with the legitimate role of business. We will develop and implement company policies, procedures, training and internal reporting structures to ensure commitment to these principles throughout our organization. We believe the application of these Principles will achieve greater tolerance and better understanding among peoples, and advance the culture of peace.

Accordingly, we will:

1. Express our support for universal human rights and, particularly, those of our employees, the communities within which we operate, and parties with whom we do business.
2. Promote equal opportunity for our employees at all levels of the company with respect to issues such as color, race, gender, age, ethnicity or religious beliefs, and operate without unacceptable worker treatment such as the exploitation of children, physical punishment, female abuse, involuntary servitude, or other forms of abuse.
3. Respect our employees' voluntary freedom of association.
4. Compensate our employees to enable them to meet at least their basic needs and provide the opportunity to improve their skill and capability in order to raise their social and economic opportunities.
5. Provide a safe and healthy workplace; protect human health and the environment; and promote sustainable development.
6. Promote fair competition including respect for intellectual and other property rights, and not offer, pay or accept bribes.

7. Work with governments and communities in which we do business to improve the quality of life in those communities – their educational, cultural, economic and social well-being – and seek to provide training and opportunities for workers from disadvantaged backgrounds.
8. Promote the application of these principles by those with whom we do business.

We will be transparent in our implementation of these principles and provide information which demonstrates publicly our commitment to them.

### **Available Documents**

*Global Sullivan Principles on Corporate Social Responsibility*, available at: [http://www.the-sullivanfoundation.org/about/global\\_sullivan\\_principles](http://www.the-sullivanfoundation.org/about/global_sullivan_principles)

## 10. The OECD Policy Framework for Investment (2006)

The *Organization for Economic Cooperation and Development (OECD) Policy Framework for Investment (PFI)* is a comprehensive and systematic approach for improving investment conditions. It covers ten policy areas and addresses some 82 questions to governments to help them design and implement policy reform to create a truly attractive, robust, and competitive environment for domestic and foreign investment. The objective of the *PFI* is to mobilize private investment that supports steady economic growth and sustainable development. It thus aims to contribute to the prosperity of countries and their citizens as well as to support the fight against poverty.

The *PFI* proposes a set of questions for governments to consider in ten policy fields identified in the 2002 *Monterrey Consensus on Financing for Development (Monterrey Consensus)* and the subsequent 2008 *Doha Declaration on Financing for Development (Doha Declaration)* as critically important for improving the quality of a country's environment for investment, including by small enterprises and foreign investors. Its core purpose is to encourage policy makers to ask appropriate questions about their economy, their institutions and their policy settings in order to identify their priorities, to develop an effective set of policies and to evaluate progress. The ten policy areas are widely recognized, including in the *Monterrey Consensus* and the *Doha Declaration*, as underpinning a healthy environment for all investors. They include the following policy areas:

1. Investment Policy
2. Investment Promotion and Facilitation
3. Trade Policy
4. Competition Policy
5. Tax Policy
6. Corporate Governance
7. Policies for Promoting Responsible Business Conduct
8. Human Resource Development Policy
9. Infrastructure and Financial Sector Development
10. Public Governance

The *PFI* is neither prescriptive nor binding. It emphasizes the fundamental principles of rule of law, transparency, non-discrimination, and the protection of property rights but leaves for the country concerned the choice of policies, based on its economic circumstances and institutional capabilities. One size does not fit all. Although addressed to governments, the *PFI* needs to be seen in the broader context of other converging international initiatives to improve the investment climate, including the *OECD Guidelines for Multinational Enterprises*.

## Available Documents

*OECD Policy Framework for Investment* (May 2006), available at: <http://www.oecd.org/dataoecd/1/31/36671400.pdf>

*Policy Brief on the Policy Framework for Investment* (September 2006), available at: <http://www.oecd.org/dataoecd/40/25/37408438.pdf>

*Policy Framework for Investment: A Review of Good Practices* (September 2006), available at:

[http://www.oecd.org/document/25/0,3746,en\\_2649\\_34529562\\_37272665\\_1\\_1\\_1\\_34529562,00.html](http://www.oecd.org/document/25/0,3746,en_2649_34529562_37272665_1_1_1_34529562,00.html)

*The User's Toolkit for the Policy Framework for Investment*, available at: [www.oecd.org/investment/pfitoolkit](http://www.oecd.org/investment/pfitoolkit)

*Monterrey Consensus on Financing for Development: Final Text of Agreements and Commitments, United Nations Department of Economic and Social Affairs, Monterrey, Mexico, 18-22 March 2002*, available at: <http://www.un.org/esa/ffd/monterrey/MonterreyConsensus.pdf>

*Doha Declaration on Financing for Development: Final Text of Agreements and Commitments from the Follow-Up International Conference on Financing for Development to Review the Implementation of the Monterrey Consensus, United Nations Department of Economic and Social Affairs, Doha, Qatar, 29 November – 2 December 2008*, available at: [http://www.un.org/esa/ffd/doha/documents/Doha\\_Declaration\\_FFD.pdf](http://www.un.org/esa/ffd/doha/documents/Doha_Declaration_FFD.pdf)

## 11. The OECD Principles of Corporate Governance (2004)

The *Organization for Economic Cooperation and Development (OECD) Principles of Corporate Governance (Corporate Governance Principles)* were first released in May 1999 and revised in April 2004. The principles provide best practice recommendations on corporate governance and are used extensively worldwide as a benchmark for standard setting and identifying best practices. The revised *Corporate Governance Principles* call on governments to ensure genuinely effective regulatory frameworks and on companies themselves to be truly accountable. They advocate an increased awareness among institutional investors and an effective role for shareholders in executive compensation. They also urge strengthened transparency and disclosure to counter conflicts of interest.

The *Corporate Governance Principles* are a living instrument offering non-binding standards and good practices as well as guidance on implementation, which can be adapted to the specific circumstances of individual countries and regions. The OECD offers a forum for ongoing dialogue and exchange of experiences among member and non-member countries. In 2009, OECD launched an ambitious action plan to address weaknesses in corporate governance that are related to the financial crisis. It aimed at developing a set of recommendations for improvements in priority areas, such as board practices, implementation of risk-management, governance of the remuneration process and the exercise of shareholder rights. The recommendations address how the implementation of already-agreed standards, such as the *Corporate Governance Principles*, can be improved.

### Available Documents

*OECD Principles of Corporate Governance* (April 2004), available at: <http://www.oecd.org/dataoecd/32/18/31557724.pdf>

*Methodology for Assessing the Implementation of the OECD Principles of Corporate Governance* (January 2007), available at: <http://www.oecd.org/dataoecd/58/12/37776417.pdf>

*Using the OECD Principles of Corporate Governance: A Boardroom Perspective* (January 2008), available at: <http://www.oecd.org/dataoecd/20/60/40823806.pdf>

*The Financial Crisis: Reform and Exit Strategies* (September 2009), available at: <http://www.oecd.org/dataoecd/55/47/43091457.pdf>

*OECD Regional Roundtables and Programs on Corporate Governance*, available at: [www.oecd.org/daf/corporateaffairs/roundtables](http://www.oecd.org/daf/corporateaffairs/roundtables)

*OECD Initiative on Corporate Governance and the 2007 Financial Crisis* (February 2010),

available at: [http://www.oecd.org/document/48/0,3746,en\\_2649\\_34813\\_42192368\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/48/0,3746,en_2649_34813_42192368_1_1_1_1,00.html)

## 12. The OECD Guidelines on Corporate Governance of State-Owned Enterprises (2005)

*The Organization for Economic Cooperation and Development (OECD) Guidelines on Corporate Governance of State-Owned Enterprises (State-Owned Enterprise Guidelines)* offer concrete advice on corporate governance challenges that need to be addressed when the state is also a corporate owner. They are the first international benchmark aimed at assisting governments in assessing and improving the way they exercise functions in state-owned entities. The *State-Owned Enterprise Guidelines* are fully compatible with the *OECD Corporate Governance Principles*, but are explicitly orientated to issues that are specific to the corporate governance of state-owned enterprises.

### Available Documents

*OECD Guidelines on Corporate Governance of State-Owned Enterprises* (January 2005), available at: <http://www.oecd.org/dataoecd/46/51/34803211.pdf>

*Accountability and Transparency: a Guide for State Ownership* (February 2010), available at: [http://www.oecd.org/document/2/0,3746,en\\_2649\\_34847\\_44385858\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/2/0,3746,en_2649_34847_44385858_1_1_1_1,00.html)

### 13. The OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones (2006)

The *Organization for Economic Cooperation and Development (OECD) Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones (Risk Awareness Tool)* by the OECD Council on 8 June 2006. It aims to help companies that invest in countries where governments are unwilling or unable to assume their responsibilities. It poses a range of questions addressing risks and ethical dilemmas that companies are likely to face in weak governance zones, in such areas as:

- obeying the law and observing international instruments;
- heightened care in managing investments;
- political activities;
- knowing clients and business partners and dealing with public sector officials;
- speaking out about wrongdoing and;
- business roles in weak governance societies.

The *Risk Awareness Tool* complements the *OECD Guidelines for Multinational Enterprises* and was developed in response to:

- the request made by the 2005 G8 Summit for developing OECD guidance for companies operating in zones of weak governance and;
- the United Nations (UN) Security Council's call on OECD members to promote observance of the *OECD Guidelines on Multinational Enterprises* in response to the 2002 UN Expert Panel's report on illegal exploitation of natural resources in the Democratic Republic of Congo.

#### Available Documents

*OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones* (June 2006), available at: <http://www.oecd.org/dataoecd/26/21/36885821.pdf>



## 14. The OECD Principles for Private Sector Participation in Infrastructure (2007)

The *Organization for Economic Cooperation and Development (OECD) Principles for Private Sector Participation in Infrastructure (Infrastructure Principles)* aims to help governments work with private sector partners to finance and bring to fruition projects in areas of vital economic importance. The *Infrastructure Principles* are intended to be used for government assessment, action plans and reporting, international cooperation and public-private dialogue, in conjunction with other OECD instruments, such as the *Policy Framework for Investment* and the *OECD Guidelines for Multinational Enterprises*.

### Available Documents

*OECD Principles for Private Sector Participation in Infrastructure* (March 2007), available at: <http://www.oecd.org/dataoecd/41/33/38309896.pdf>

## Section III: Sector-Specific Initiatives, Guidance, and Principles

### 15. The Voluntary Principles on Security and Human Rights (2000)

According to the fact sheet published by the *Voluntary Principles on Security and Human Rights (Voluntary Principles)*, the *Voluntary Principles* are an initiative established in 2000 by governments, non-governmental organizations (NGOs), and companies. The *Voluntary Principles* provide guidance to extractive industry companies on maintaining the safety and security of their operations within an operating framework that ensures respect for human rights and fundamental freedoms. The *Voluntary Principles* are the only human rights guidelines designed specifically for oil, gas, and mining companies.

The *Voluntary Principles* are non-binding and offer an operational approach to help extractive industry companies function effectively. They can help companies conduct comprehensive assessments of human rights risks associated with security; engage appropriately with public and private security in conflict prone areas; institute proactive human rights screenings of and trainings for public and private security forces; ensure that the use of force is proportional and lawful; and develop systems for reporting and investigating allegations of human rights abuses.

#### Available Documents

*Voluntary Principles on Security and Human Rights* (January 2000), available at:

[http://www.voluntaryprinciples.org/files/voluntary\\_principles\\_english.pdf](http://www.voluntaryprinciples.org/files/voluntary_principles_english.pdf)

*Voluntary Principles Framework for Admission and Participation of New Governments*

(January 2000), available at: [http://www.voluntaryprinciples.org/files/vp\\_government\\_application\\_framework.pdf](http://www.voluntaryprinciples.org/files/vp_government_application_framework.pdf)

*Amendments to the Framework for Participation in the Voluntary Principles* (May 2009),

available at: [http://www.voluntaryprinciples.org/files/vp\\_amendments\\_200905.pdf](http://www.voluntaryprinciples.org/files/vp_amendments_200905.pdf)

*Voluntary Principles on Security and Human Rights Fact Sheet* (May 2011), available at:

[http://www.voluntaryprinciples.org/files/VPs\\_FactSheet\\_March\\_2011.pdf](http://www.voluntaryprinciples.org/files/VPs_FactSheet_March_2011.pdf)

## 16. The Global Reporting Initiative (2000)

The *Global Reporting Initiative (GRI)* is a network-based organization that pioneered the world's most widely used sustainability reporting framework. *GRI* is committed to the Framework's continuous improvement and application worldwide. *GRI's* core goals include the mainstreaming of disclosure on environmental, social, and governance performance. *GRI's* Reporting Framework is developed through a consensus-seeking, multi-stakeholder process. Participants are drawn from global business, civil society, labor, academic and professional institutions.

The *GRI* Framework sets out the principles and performance indicators that organizations can use to measure and report their economic, environmental, and social performance. The cornerstone of the *GRI* Framework is the *Sustainability Reporting Guidelines (Guidelines)*. The third version of the *Guidelines* – known as the *G3 Guidelines* – was published in 2006, and is a free public good. The *G3.1 Guidelines*, were released in March 2011, and constitute the latest and most complete version of the *G3 Guidelines*. The *G3.1 Guidelines* are based on *G3*, but contain expanded guidance on local community impacts, human rights, and gender.

### ***Mining and Metals Sector***

In addition to the main *Guidelines*, the *GRI* publishes supplements that are tailored to specific industries. The *GRI Mining and Metals Sector Supplement (Mining Supplement)* is a version of the *GRI's G3 Guidelines* tailored for the mining and metals sector. The *Mining Supplement* was designed to cover all main activities in the sector – exploration, mining, and primary metal processing, including metal fabrication and recycling – and the complete project life cycle, from development through operational lifetime to closure and post-closure. It covers all of the following key issues for the sector, expanded from the *G3 Guidelines*:

- Biodiversity and Ecosystem Services
- Emissions, Effluents, and Waste
- Labor
- Indigenous Rights
- Community
- Artisanal and Small-Scale Mining
- Resettlement
- Closure Planning
- Materials Stewardship

### ***Oil and Gas Sector***

GRI is currently developing sustainability reporting guidelines for the oil and gas sector. The *GRI Oil and Gas Sector Supplement (Oil and Gas Supplement)* is a version of the *G3 Guidelines* tailored for the oil and gas sector. A draft version of the *Oil and Gas Supplement* is due to be released in mid-2011 with the final *Oil and Gas Supplement* targeted for release at the end of 2011. The *Oil and Gas Supplement* will cover the following key issues for the sector, expanded from the *G3 Guidelines*:

- Emissions, Effluents, and Waste
- Water
- Biodiversity
- Renewable Energy
- Biofuels
- Health Impact Assessment
- Asset Integrity and Safety Processes
- Indigenous Peoples
- Impacts on Local Communities
- Resentment
- Decommissioning

### **Available Documents**

*Global Reporting Initiative G3.1 Sustainable Reporting Guidelines including Technical Protocol* (March 2011), available at: <http://www.globalreporting.org/NR/rdonlyres/660631D6-2A39-4850-9C04-57436E4768BD/0/G31GuidelinesinclTechnicalProtocolFinal.pdf>

*Global Reporting Initiative Mining and Metals Sector Supplement* (March 2010), available at: <http://www.globalreporting.org/ReportingFramework/SectorSupplements/MiningAndMetals/#downloads>

## 17. The Natural Resource Charter (2010)

The *Natural Resource Charter* is a set of economic principles for governments and societies on how to best manage the opportunities created by natural resources for development. The *Natural Resource Charter* comprises twelve precepts, or principles, that encapsulate the choices and suggested strategies that governments might pursue to increase the prospects of sustained economic development from natural resource exploitation. The purpose of the *Natural Resource Charter* is to assist the governments and societies of countries rich in non-renewable resources to manage those resources in a way that generates economic growth, promotes the welfare of the population, and is environmentally sustainable.

### ***The Twelve Precepts***

- **Precept 1: Maximizing Benefits to Citizens**

The development of a country's natural resources should be designed to secure the greatest social and economic benefit for its people. This requires a comprehensive approach in which every stage of the decision chain is understood and addressed.

- **Precept 2: Openness and Accountability**

Successful natural resource management requires government accountability to an informed public.

- **Precept 3: Fiscal Regimes**

Fiscal policies and contractual terms should ensure that the country gets full benefit from the resource, subject to attracting the investment necessary to realize that benefit. The long-term nature of resource extraction requires policies and contracts that are robust to changing and uncertain circumstances.

- **Precept 4: Competition**

Competition in the award of contracts and development rights can be an effective mechanism to secure value and integrity.

- **Precept 5: Environment and Society**

Resource projects can have significant positive or negative local economic, environmental and social effects which should be identified, explored, accounted for, mitigated or compensated for at all stages of the project cycle. The decision to extract should be considered carefully.

- **Precept 6: Nationally-Owned Resource Companies**

Nationally owned resource companies should operate transparently with the objective of being commercially viable in a competitive environment.

- **Precept 7: Promoting Growth**

Resource revenues should be used primarily to promote sustained, inclusive economic development through enabling and maintaining high levels of investment in the country.

- **Precept 8: Smoothing Spending**  
Effective utilization of resource revenues requires that domestic expenditure and investment be built up gradually and be smoothed to take account of revenue volatility.
- **Precept 9: Effective Spending**  
Government should use resource wealth as an opportunity to increase the efficiency and equity of public spending and enable the private sector to respond to structural changes in the economy.
- **Precept 10: Building Private Investment**  
Government should facilitate private sector investments at the national and local level for the purposes of diversification, as well as for exploiting the opportunities for domestic value added.
- **Precept 11: Role of International Community**  
The home governments of extractive companies and international capital centers should require and enforce best practice.
- **Precept 12: Role of Companies**  
All extraction companies should follow best practice in contracting, operations and payments.

### **Available Documents**

*The Natural Resource Charter* (November 2010), available at: [http://www.naturalresourcecharter.org/sites/default/files/nrc\\_brochure\\_final\\_v4.pdf](http://www.naturalresourcecharter.org/sites/default/files/nrc_brochure_final_v4.pdf)

## 18. The Extractive Industries Transparency Initiative (2002)

The *Extractive Industries Transparency Initiative (EITI)* was announced by United Kingdom Prime Minister Tony Blair at the 2002 World Summit for Sustainable Development in Johannesburg, South Africa. In 2006 at the *EITI* Global Conference in Oslo, the *EITI* Board was formed with 20 members from implementing countries, supporting countries, civil society organizations, industry, and investment companies. The following year, 15 countries were welcomed as the initial group of candidate countries. The number of candidate countries currently stands at 30.

According to the *EITI*, 3.5 billion people live in countries rich in oil, gas and minerals. With good governance the exploitation of these resources can generate large revenues to foster growth and reduce poverty. However, when governance is weak, it may result in poverty, corruption, and conflict. The *EITI* aims to strengthen governance by improving transparency and accountability in the extractives sector. The *EITI* supports improved governance in resource-rich countries through the verification and full publication of company payments and government revenues from oil, gas and mining.

The *EITI* is open to countries rich in natural resources who intend to implement the principles, criteria, and validation processes as set out in the *EITI* rules. While the *EITI* is a multi-stakeholder coalition, implementation falls to the national governments of candidate countries. The *EITI* has a robust yet flexible methodology that ensures a global standard is maintained throughout the different implementing countries. The *EITI*, in a nutshell, is a globally developed standard that promotes revenue transparency at the local level.

### ***The EITI Principles***

The *EITI* principles, agreed at the Lancaster House Conference in June 2003, provide the cornerstone of the initiative. They are:

1. We share a belief that the prudent use of natural resource wealth should be an important engine for sustainable economic growth that contributes to sustainable development and poverty reduction, but if not managed properly, can create negative economic and social impacts.
2. We affirm that management of natural resource wealth for the benefit of a country's citizens is in the domain of sovereign governments to be exercised in the interests of their national development.
3. We recognize that the benefits of resource extraction occur as revenue streams over many years and can be highly price dependent.
4. We recognize that a public understanding of government revenues and expenditure over time could help public debate and inform choice of appropriate and realistic options for sustainable development.

5. We underline the importance of transparency by governments and companies in the extractive industries and the need to enhance public financial management and accountability.
6. We recognize that achievement of greater transparency must be set in the context of respect for contracts and laws.
7. We recognize the enhanced environment for domestic and foreign direct investment that financial transparency may bring.
8. We believe in the principle and practice of accountability by government to all citizens for the stewardship of revenue streams and public expenditure.
9. We are committed to encouraging high standards of transparency and accountability in public life, government operations and in business.
10. We believe that a broadly consistent and workable approach to the disclosure of payments and revenues is required, which is simple to undertake and to use.
11. We believe that payments' disclosure in a given country should involve all extractive industry companies operating in that country.
12. In seeking solutions, we believe that all stakeholders have important and relevant contributions to make – including governments and their agencies, extractive industry companies, service companies, multilateral organizations, financial organizations, investors, and non-governmental organizations.

### ***The EITI Criteria***

Implementation of *EITI* must be consistent with the criteria below:

1. Regular publication of all material oil, gas and mining payments by companies to governments (payments) and all material revenues received by governments from oil, gas and mining companies (revenues) to a wide audience in a publicly accessible, comprehensive and comprehensible manner.
2. Where such audits do not already exist, payments and revenues are the subject of a credible, independent audit, applying international auditing standards.
3. Payments and revenues are reconciled by a credible, independent administrator, applying international auditing standards and with publication of the administrator's opinion regarding that reconciliation including discrepancies, should any be identified.
4. This approach is extended to all companies including state-owned enterprises.
5. Civil society is actively engaged as a participant in the design, monitoring and evaluation of this process and contributes towards public debate.
6. A public, financially sustainable work plan for all the above is developed by the host government, with assistance from the international financial institutions where required, including measurable targets, a timetable for implementation, and an assessment of potential capacity constraints.



## ***The EITI Validation Process***

In addition to the principles and criteria, the *EITI* requires validation by all candidate countries. According to the *EITI*, validation is a quality assurance mechanism and an essential feature of the process. It serves two critical functions. First, it promotes dialogue and learning at the country level. Second, it safeguards the *EITI* brand by holding all *EITI* implementing countries to the same global standard.

Validation is not an audit. It does not repeat the disclosure and reconciliation work that is carried out to produce *EITI* reports. Validation has broader objectives: it evaluates *EITI* implementation in consultation with stakeholders, it verifies achievements with reference to the *EITI* global standard, and it identifies opportunities to strengthen the *EITI* process going forward. The validation methodology is set out in the *EITI* rules.

### **Available Documents**

*Extractive Industries Transparency Initiative*, available at: <http://eiti.org/>

*Extractive Industries Transparency Initiative Rules* (February 2011), available at: [http://eiti.org/files/EITI\\_Rules\\_2011.pdf](http://eiti.org/files/EITI_Rules_2011.pdf)

*Extractive Industries Transparency Initiative Progress Report 2009-2011* (March 2011), available at: [http://eiti.org/files/EITI\\_Progress\\_Report\\_2009-2011.pdf](http://eiti.org/files/EITI_Progress_Report_2009-2011.pdf)

*Extractive Industries Transparency Initiative Fact Sheet* (November 2010), available at: <http://eiti.org/files/2010-11-25%20EITI%20Fact%20Sheet.pdf>

*Extractive Industries Transparency Initiative Validation Fact Sheet* (November 2009), available at: [http://eiti.org/files/2009-11-13%20Validation%20Fact%20Sheet\\_0.pdf](http://eiti.org/files/2009-11-13%20Validation%20Fact%20Sheet_0.pdf)

*Extractive Industries Transparency Initiative Country Reports*, available at: <http://eiti.org/document/eitireports>

## 19. The IPIECA Good Practice Guidance for the Oil and Gas Industry (1974)

The *International Petroleum Industry Environmental Conservation Association (IPIECA)* is the global oil and gas industry association for environmental and social issues. The *IPIECA* was formed in 1974 following the launch of the United Nations Environment Programme. The *IPIECA* is the only global association involving both the upstream and downstream oil and gas industry on environmental and social issues. The *IPIECA*'s membership covers over half of the world's oil production. The *IPIECA* is the industry's principal channel of communication with the *United Nations*.

The *IPIECA* helps the oil and gas industry improve its environmental and social performance by: (1) developing, sharing and promoting good practices and solutions, (2) enhancing and communicating knowledge and understanding, (3) engaging members and others in the industry, and (4) working in partnership with key stakeholders. The *IPIECA* has an extensive library of documents on improving social responsibility and environmental performance in the oil and gas industry. The key publications are summarized below.

### ***Oil and Gas Industry Guidance on Voluntary Sustainability Reporting***

The guidance on voluntary sustainability reporting has been the principal industry-specific framework for use by oil and gas companies reporting on environmental, health and safety, and social and economic performance. The 2010 update of the guidance is a collaborative effort that provides significant additional guidance on reporting as an engagement process, including detailed 'how-to' steps for reporters, clearer focus on assessing 'material' issues, and improved technical indicators for use in reporting sustainability performance.

### ***Guide to Operating in Areas of Conflict for the Oil and Gas Industry***

The purpose of the conflict guide is to provide, in a simple and accessible format, basic guidance on risk assessment and risk management in conflict settings that oil and gas companies might face. These include conflicts between companies and local communities which are directly related to the presence and operations of the companies themselves, as well as, wider social and political conflicts in which companies are not directly involved but which are very likely to impact on companies operating in such conflict environments.

### ***Guide to Successful, Sustainable, Social Investment for the Oil and Gas Industry***

The social investment guidance document aims to address the question of how to create successful and sustainable community investments and how to measure their success. Social investment programmes are defined as the voluntary contributions companies make

to the communities and broader societies where they operate, with the objective of benefiting external stakeholders, typically through the transfer of skills or resources.

### ***Human Rights and Ethics in the Oil and Gas Industry***

The human rights and ethics publication describes some of the ways in which oil and gas companies are actively involved in promoting human rights and ethical business practices at the operations level and in international policy discussions. The report summarizes IPIECA activities on human rights and ethics, and highlights efforts by IPIECA member companies. These efforts are illustrated by case studies and industry-led partnership projects.

### ***Human Rights Training Toolkit for the Oil and Gas Industry***

As the subject of human rights has risen rapidly on the oil and gas industry agenda, IPIECA members have developed this toolkit to raise awareness. The toolkit is targeted at country managers, asset managers, business managers, and other personnel that would benefit from learning about human rights issues and the way in which human rights issues have potential implications for oil and gas operations.

### ***Indigenous Peoples and the Oil and Gas Industry: Context, Issues, and Emerging Good Practice***

This publication provides an introduction to indigenous peoples' rights and outlines some of the reasons why these warrant special consideration by oil and gas companies. An overview of indigenous peoples and the policy and regulatory context relevant to the sector's interaction with them is presented. Also, the document summarizes some of the specific issues for oil and gas companies to consider when operating in areas where indigenous peoples. These considerations are set around three themes: (1) consultation and engagement, (2) key issues to manage, and (3) benefits sharing.

### **Available Documents**

*Improving Social and Environmental Performance: Good Practice Guidance for the Oil and Gas Industry* (April 2011), available at: [http://www.ipieca.org/system/files/publications/good\\_practice\\_guide\\_1.pdf](http://www.ipieca.org/system/files/publications/good_practice_guide_1.pdf)

*Oil and Gas Industry Guidance on Voluntary Sustainability Reporting: 2010 Update* (January 2011), available at: [http://www.ipieca.org/system/files/publications/voluntary\\_sustainability\\_reporting\\_guidance\\_2010\\_1.pdf](http://www.ipieca.org/system/files/publications/voluntary_sustainability_reporting_guidance_2010_1.pdf)

*Guide to Operating in Areas of Conflict for the Oil and Gas Industry* (March 2008), available at: [http://www.ipieca.org/system/files/publications/conflict\\_guide.pdf](http://www.ipieca.org/system/files/publications/conflict_guide.pdf)

*Guide to Successful, Sustainable, Social Investment for the Oil and Gas Industry* (February 2008), available at: <http://www.iecea.org/system/files/publications/SocialInvestmentGuide.pdf>

*Indigenous Peoples and the Oil and Gas Industry: Context, Issues, and Emerging Good Practice* (March 2011), available at: [http://www.iecea.org/system/files/publications/Indigenous\\_Peoples.pdf](http://www.iecea.org/system/files/publications/Indigenous_Peoples.pdf)

*Human Rights and Ethics in the Oil and Gas Industry* (October 2008), available at: [http://www.iecea.org/system/files/publications/human\\_rights\\_ethics.pdf](http://www.iecea.org/system/files/publications/human_rights_ethics.pdf)

*Human Rights Training Toolkit: Second Edition* (October 2009), available at: <http://www.iecea.org/system/files/publications/hrtt.zip>

## 20. The Kimberley Process Certification Scheme (2003)

The *Kimberley Process Certification Scheme (KPCS)* started when southern African diamond-producing states met in Kimberley, South Africa, in May 2000, to discuss ways to stop the trade in conflict diamonds and ensure that diamond purchases were not funding violence. This meeting came on the heels of the *Fowler Report*, which – in March 2000 – detailed how the National Union for the Total Independence of Angola (UNITA) movement was able to continue financing its war efforts through the sale of diamonds on the international market.

In December 2000, the United Nations General Assembly adopted a landmark resolution supporting the creation of an international certification scheme for rough diamonds. By November 2002, negotiations between governments, the international diamond industry, and civil society organizations resulted in the creation of the *KPCS*. The *KPCS* document sets out the requirements for controlling rough diamond production and trade. The *KPCS* entered into force in 2003, when participating countries started to implement its rules.

The *KPCS* is open to all countries that are willing and able to implement its requirements. As of December 2010, the *KPCS* has 49 members, representing 75 countries, with the European Community and its Member States counting as an individual participant. *KPCS* members account for approximately 99.8 percent of the global production of rough diamonds. In addition, the World Diamond Council, representing the international diamond industry, and civil society organizations are participating in the *KPCS* and have played a major role since its outset.

The *KPCS* imposes extensive requirements on its members to enable them to certify shipments of rough diamonds as ‘conflict-free’ and prevent conflict diamonds from entering the legitimate trade. Under the terms of the *KPCS*, participating states must meet minimum requirements and must put in place national legislation and institutions; export, import and internal controls; and also commit to transparency and the exchange of statistical data. Participants can only legally trade with other participants who have also met the minimum requirements of the scheme, and international shipments of rough diamonds must be accompanied by a *KPCS* certificate guaranteeing that they are conflict-free.

### Available Documents

*Kimberley Process Certification Scheme*, available at: <http://www.kimberleyprocess.com/>

*Kimberley Process Certification Scheme* (November 2002), available at: [http://www.kimberleyprocess.com/documents/basic\\_core\\_documents\\_en.html](http://www.kimberleyprocess.com/documents/basic_core_documents_en.html)

*Interlaken Declaration on the Kimberly Process Certification Scheme* (November 2002),

available at:

[http://www.kimberleyprocess.com/documents/basic\\_core\\_documents\\_en.html](http://www.kimberleyprocess.com/documents/basic_core_documents_en.html)

*Third Year Review of the Kimberly Process Certification Scheme* (November 2006),

available at:

[http://www.kimberleyprocess.com/documents/third\\_year\\_view\\_en.html](http://www.kimberleyprocess.com/documents/third_year_view_en.html)

*Final Report of the UN Panel of Experts on Violations of Security Council Sanctions Against UNITA (The Fowler Report)* (March 2000), available at:

[http://www.un.org/News/dh/latest/angolareport\\_eng.htm](http://www.un.org/News/dh/latest/angolareport_eng.htm)

*Kimberley Process Rough Diamond Statistic*, available at:

<https://kimberleyprocessstatistics.org/>

## 21. The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (2010)

*The Organization for Economic Cooperation and Development (OECD) Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (Due Diligence Guidance)* is the first example of a collaborative government-backed, multi-stakeholder initiative on responsible supply chain management of minerals from conflict-affected areas. Its objective is to help companies respect human rights and avoid contributing to conflict through their mineral sourcing practices. It is also intended to cultivate transparent mineral supply chains and sustainable corporate engagement in the mineral sector.

The *Due Diligence Guidance* was developed through a multi-stakeholder process with in-depth engagement from OECD and African countries, industry, civil society, as well as the United Nations (UN). Over the course of multiple consultations and concluding at the International Conference on the Great Lakes Regions Special Summit, the *Due Diligence Guidance* was adopted on 15 December 2010. The *Due Diligence Guidance* is practically-oriented and emphasizes the a collaborative, constructive approach to complex challenges. UN Security Council Resolution 1952 supported taking forward the due diligence recommendations contained in the final report of the UN Group of Experts on the Democratic Republic of the Congo, which endorses and relies on the *Due Diligence Guidance*.

### Available Documents

*OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas* (December 2010), available at: <http://www.oecd.org/dataoecd/62/30/46740847.pdf>

*Lusaka Declaration of the International Conference on the Great Lakes Region (ICGLR) Special Summit to Fight Illegal Exploitation of Natural Resources in the Great Lakes Region* (December 2010), available at: <http://www.oecd.org/dataoecd/33/18/47143500.pdf>

## 22. The ICMM Good Practice Guide on Indigenous Peoples and Mining (2011)

The *International Council on Mining and Metals (ICMM)* was established in 2001 to act as a catalyst for performance improvement in the mining and metals industry. Today, the organization brings together 18 mining and metals companies as well as 30 national and regional mining associations and global commodity associations to address the core sustainable development challenges faced by the industry. The *ICMM* conducts work programs in the following areas: (1) reporting and assurance, (2) environment, (3) health and safety, (4) socio-economic development, (5) communications, (6) mining partnerships for development, (7) materials stewardship, (8) resource endowment initiative, and (9) strategy and administration.

In March 2011, the *ICMM* published its *Good Practice Guide: Indigenous Peoples and Mining (Good Practice Guide)*. The *Good Practice Guide* highlights good practice principles, discusses the challenges in applying these principles at the operational level, and provides real-world examples of how mining projects have addressed these challenges. It also explores the cost of getting it wrong. The *Good Practice Guide* is not intended as a one-size-fits-all but is designed to provide useful information and direction for both companies and indigenous communities when considering issues around engagement and participation, agreements, impact management, benefits sharing and dealing with grievances.

### Available Documents

*International Council on Mining and Metals*, available at: <http://www.icmm.com/>

*ICMM Good Practice Guide: Indigenous Peoples and Mining* (March 2011), available at: <http://www.icmm.com/library/indigenoupeoplesguide>



## 23. The IBA Model Mining Development Agreement Project (2011)

According to its website, the International Bar Association's (IBA) Mining Law Committee established a project to prepare a *Model Mining Development Agreement (MMDA Project)* in April 2009. The aim of the *MMDA Project* is to develop a model agreement that can be used by mining companies and host governments for mining projects. The project is led by the Mining Law Committee, with civil society and university-based groups working with the Mining Law Committee to ensure a well-balanced final product is achieved. The *MMDA* has been over one year in its development. A draft version of the *MMDA* was available in early 2010 and the past year has focused on a consultation process for engaging multiple stakeholders in mineral development, including industry, governments, and civil society. The final version of the *MMDA* is slated to be published on the *MMDA* website in April 2011.

The *MMDA Project* seeks to provide a tool with a specific starting point. It asks what a mining contract might look like if the process started from the precept of a project aiming to contribute to sustainable development not just of the project itself, but of the local, regional and national community as well. While the project clearly recognizes that a mining development must be commercially viable to proceed, it also recognizes this is no longer the only issue around which contract negotiations should proceed. Rather, all parties to a negotiation should take a broader, and integrated, look at the relationship between the proposed project, the state and the local communities. The natural, social, and economic environments around mining projects are also essential considerations today. The final product is web-based and publicly accessible.

### Available Documents

*IBA Mining Law Committee's Model Mining Development Agreement Project*, available at:  
<http://www.mmdaproject.org/>

## 24. The Equator Principles (2006)

The *Equator Principles (EPs)* were developed by private sector banks and are a voluntary set of standards that constitute a financial industry benchmark for determining, assessing, and managing social and environmental risk in project financing. The *EPs* are considered the financial industry 'gold standard' for sustainable project finance. The *EPs* are based on the *International Finance Corporation's (IFC's) Performance Standards on Social and Environmental Sustainability* and the *World Bank Group's Environmental, Health, and Safety General Guidelines*.

The *EPs* were launched in June 2003 and were updated in July 2006 to reflect changes in the *IFC's Performance Standards on Social and Environmental Sustainability*. They are intended to serve as a common baseline and framework for the implementation by each adopting lending institution of its own internal social and environmental policies, procedures, and standards related to its project financing activities. The Equator Principles Financial Institutions (EPFIs) commit to not provide loans to projects where the borrower will not or is unable to comply with their respective social and environmental policies and procedures that implement the *EPs*.

The *EPs* apply to all new project financings globally with total project capital costs of ten million USD or more, and across all industry sectors. While the *EPs* are not intended to be applied retroactively, EPFIs will apply them to all project financing that covers an expansion or upgrade of an existing facility where changes in scale or scope may create significant environmental and social impacts, or significantly change the nature or degree of an existing impact. As of March 2011, 74 financial institutions have adopted the *EPs*. Each adopting financial institution agrees to abide by the ten principles that make up the *EPs*.

- Principle 1: Review and Categorization
- Principle 2: Social and Environmental Assessment
- Principle 3: Applicable Social and Environmental Standards
- Principle 4: Action Plan and Management System
- Principle 5: Consultation and Disclosure
- Principle 6: Grievance Mechanism
- Principle 7: Independent Review
- Principle 8: Covenants
- Principle 9: Independent Monitoring and Reporting
- Principle 10: EPFI Reporting

### Available Documents

*Equator Principles: A Financial Industry Benchmark for Determining, Assessing, and Managing Social and Environmental Risk in Project Financing* (July 2006), available at: [http://www.equator-principles.com/documents/Equator\\_Principles.pdf](http://www.equator-principles.com/documents/Equator_Principles.pdf)

*Guidance to Equator Principles Financial Institutions on Equator Principles Implementation Reporting* (August 2009), available at: [http://www.equator-principles.com/best\\_practices.shtml](http://www.equator-principles.com/best_practices.shtml)

*Guidance to Equator Principles Financial Institutions on Incorporating Environmental and Social Considerations into Loan Documentation* (August 2009), available at: <http://www.equator-principles.com/documents/EPLoanDocumentGuidance.pdf>

*Equator Principle Governance Rules* (July 2010), available at: [http://www.equator-principles.com/documents/EP\\_Governance\\_Rules\\_June%202010.pdf](http://www.equator-principles.com/documents/EP_Governance_Rules_June%202010.pdf)

*World Bank Group's Environmental, Health, and Safety General Guidelines* (April 2007), available at: [http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/gui\\_EHSGuidelines2007\\_GeneralEHS/\\$FILE/Final+-+General+EHS+Guidelines.pdf](http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/gui_EHSGuidelines2007_GeneralEHS/$FILE/Final+-+General+EHS+Guidelines.pdf)

*IFC's Performance Standards on Social and Environmental Sustainability* (April 2006), available at: [http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/pol\\_PerformanceStandards2006\\_full/\\$FILE/IFC+Performance+Standards.pdf](http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/pol_PerformanceStandards2006_full/$FILE/IFC+Performance+Standards.pdf)

*IFC's Guidance Notes on the Performance Standards on Social and Environmental Sustainability* (April 2007), available at: [http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/pol\\_GuidanceNote2007\\_full/\\$FILE/2007+Updated+Guidance+Notes\\_full.pdf](http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/pol_GuidanceNote2007_full/$FILE/2007+Updated+Guidance+Notes_full.pdf)

## 25. The Santiago Principles (2008)

The *Generally Accepted Principles and Practices – Santiago Principles (Santiago Principles)* are a set of voluntary guidelines to focus on best practices for the operations of sovereign wealth funds. The principles were proposed in 2008 through a joint effort between the *International Monetary Fund* and the *International Working Group of Sovereign Wealth Funds*. According to the *International Working Group*, the creation of the *Santiago Principles* was driven by the following goals for sovereign wealth funds: to help maintain a stable global financial system and free flow of capital and investment; to comply with all applicable regulatory and disclosure requirements in the countries in which they invest; to invest on the basis of economic and financial risk and return-related considerations; and to have in place a transparent and sound governance structure that provides for adequate operational controls, risk management, and accountability.

### Available Documents

*Generally Accepted Principles and Practices – Santiago Principles* (October 2008), available at: <http://www.iwg-swf.org/pubs/eng/santiagoprinciples.pdf>