Session 13

Labour and human rights due diligence in supply chains

DEPARTMENT OF LABOR AND EMPLOYMENT
International Labour Organization
Freedom association and labour rights in the Philippines training manual
Module 4-Session 13: Labour and human rights due diligence in supply chains
Funded by the Government of Canada | Canada
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Session snapshot

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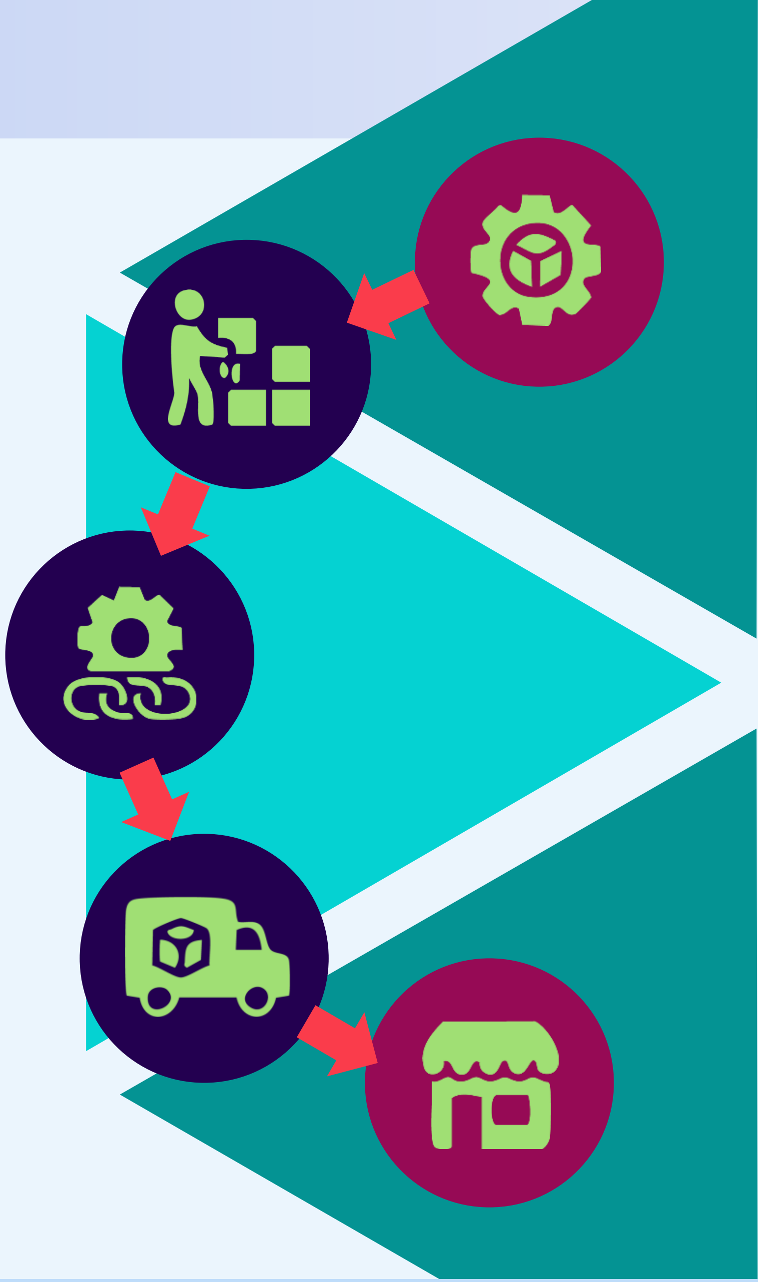
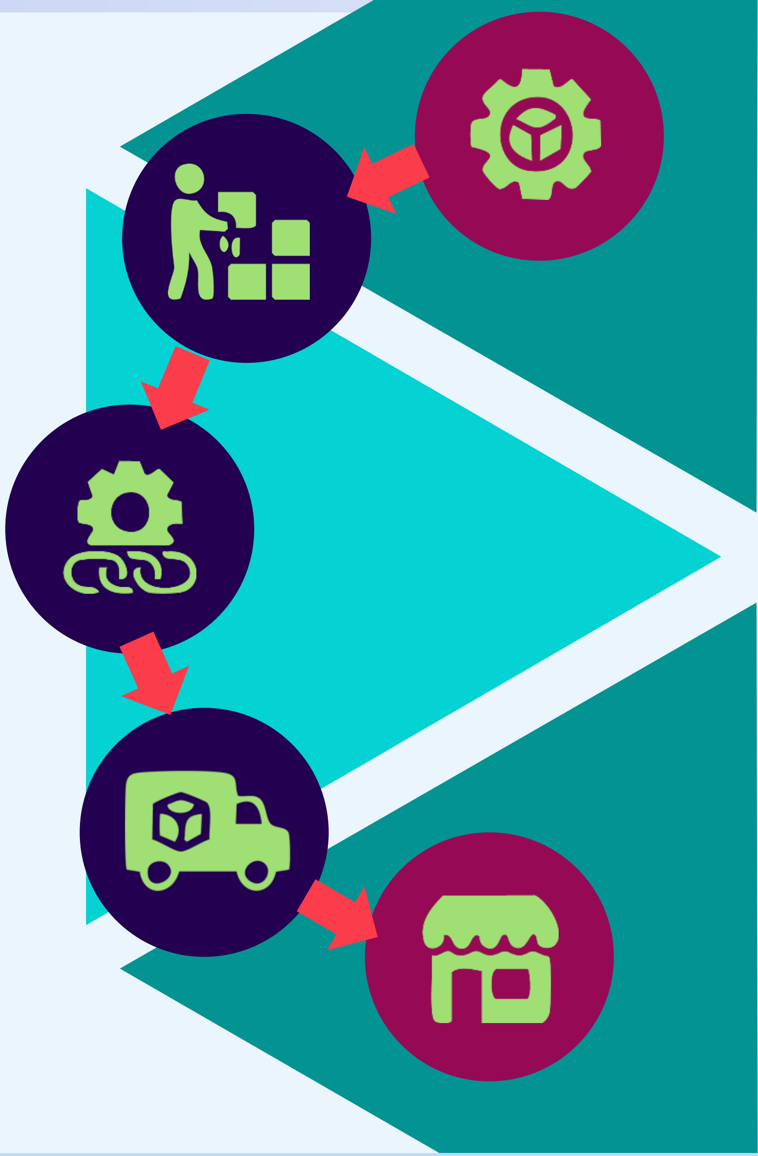
Session 13

- Takes the discussion on BHR further **by contextualizing the exercise of FOA alongside other labour rights and human rights within supply chains.**
- This **session specifically covers topics on labour and human rights due diligence in supply chains** as informed by international standards and norms covered in Session 12.
- It **also zooms in on the practice of due diligence** as guided by pertinent provisions under the Philippine Special Economic Zone Act of 1995 (R.A. No. 7916).



Session 13

- Finally, it discusses **key reasons why the private sector stands to benefit from conducting due diligence measures**. It can be delivered through typical lecture, with the facilitator providing opportunities for interactive discussion with participants through period calls for questions or comments.



Estimated duration:
60 minutes

Required materials:

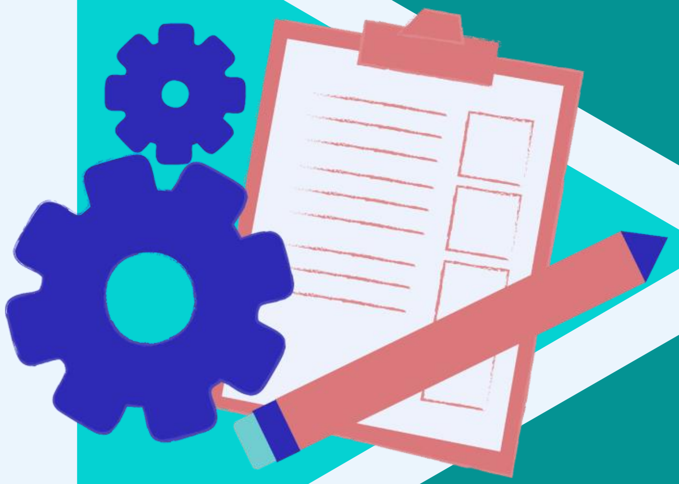
- Usual presentation equipment and accessories

Facilitator's guide points

Facilitator’s guide points

1. Introduce Session 13 by providing few remarks of transition from the previous session on international standards and norms on business and human rights. Use the Overview content as source of additional notes on what Sesson 13 will tackle.

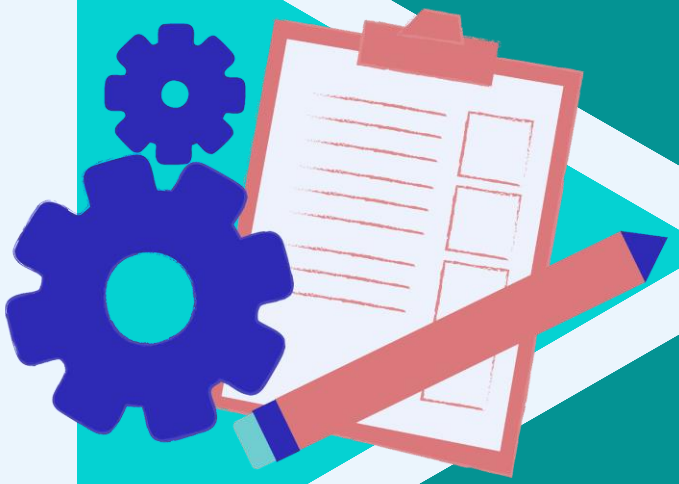
2. Proceed by sharing the learning objectives of the session.



3. Further facilitate the session by using Discussion Notes as a general guide. As necessary for a specific audience group or as the facilitator deems essential, introduce, add or modify certain contents. At the minimum, however, open the session for discussion on the following:

- Human Rights Due Diligence in Supply Chains
- Promoting Industrial Peace in Special Economic Zones
- Relevance of Human Rights Due Diligence to the Private Sector

4. Be mindful of the Key Learning Points as internal guide on messaging.

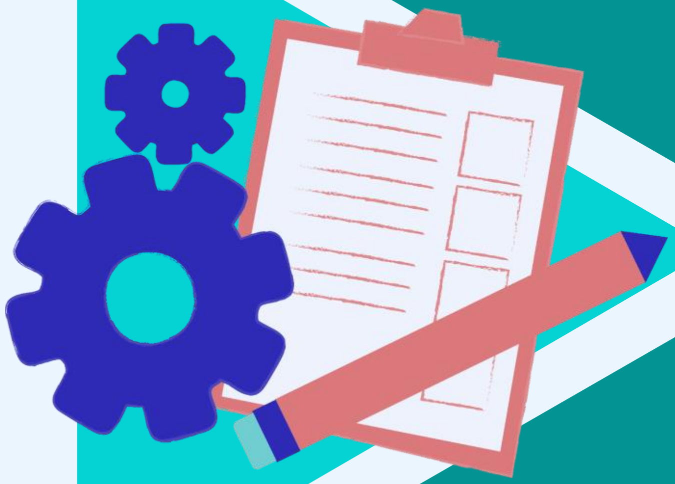


Facilitator’s guide points

5. Deliver the optional discussion points and/or exercise/s contained in the session.

6. Occasionally engage participants through parts of the session heavier on delivery of lecture. Checking whether they have any questions or comments is one handy method of engagement.

7. Conduct the recap exercise at the end of the session.



Learning objectives

Learning objectives

01

Supply Chain and FOA

Gain an understanding of the complex nature of exercising FOA and labour and human rights in the context of supply chains, particularly through export processing zones (EPZs)

02

Due Diligence

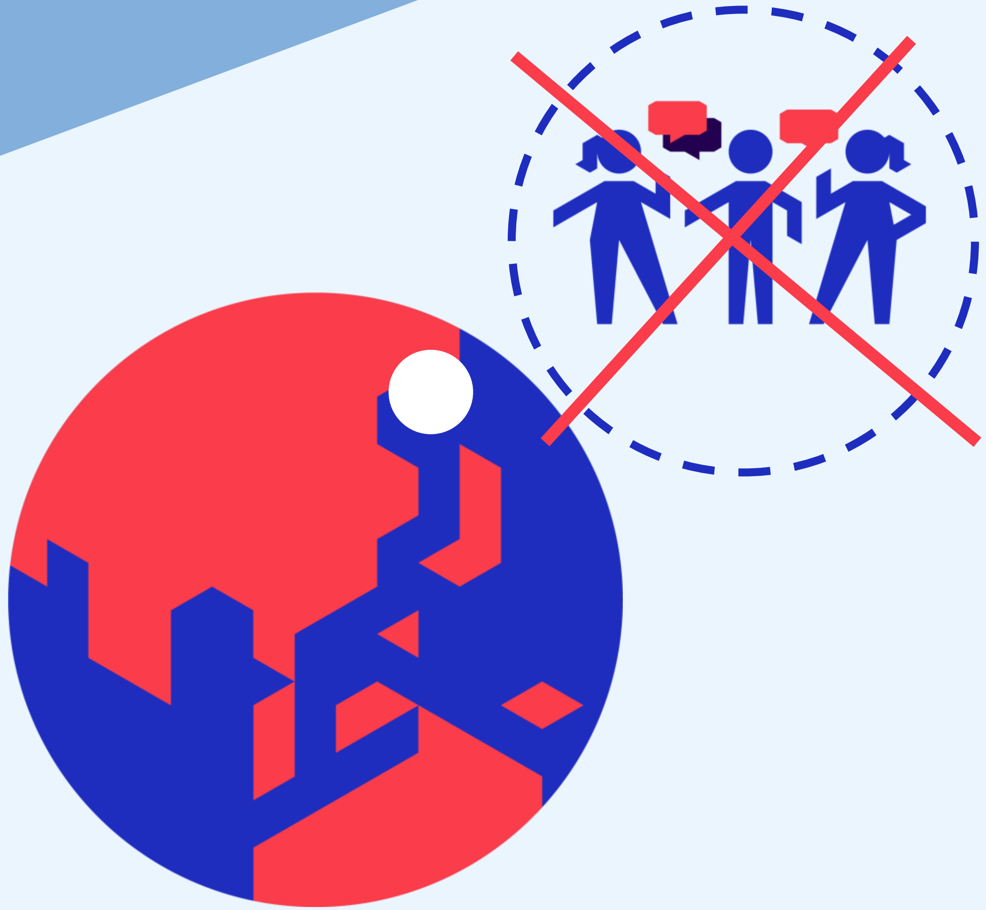
Identify measures and strategies to observe due diligence for labour and human rights among business enterprises, in accordance with the Respect pillar of the 2011 UN Guiding Principles on BHR

03

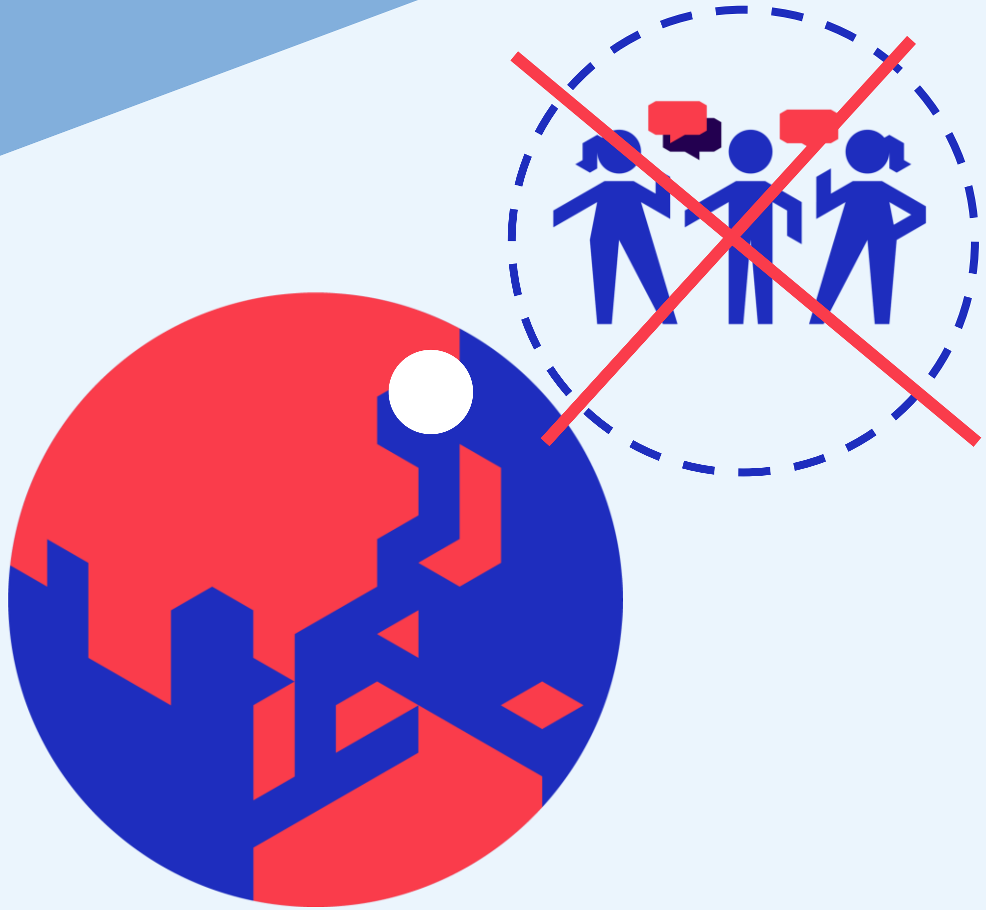
Responsible Business Conduct

Appreciate the practical importance for business enterprises of conducting labour and human right due diligence in their operations and supply chains

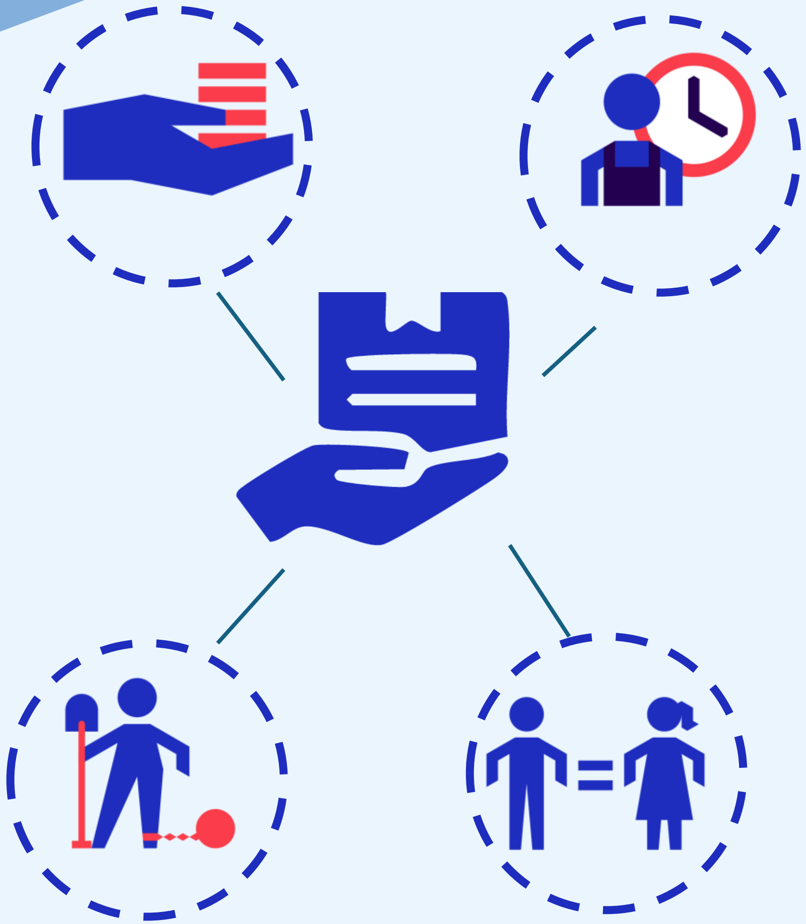
Key learning points



The risk of human and labour rights violations, including restrictions on the exercise of FOA, can be higher in areas or jurisdictions not regularly covered or difficult to regularly cover in enforcement and monitoring mechanisms, such as EPZs and special economic zones in general.



Voluntary initiatives such as **industry codes of conduct** among business enterprises for compliance with labour and human rights standards are therefore important.



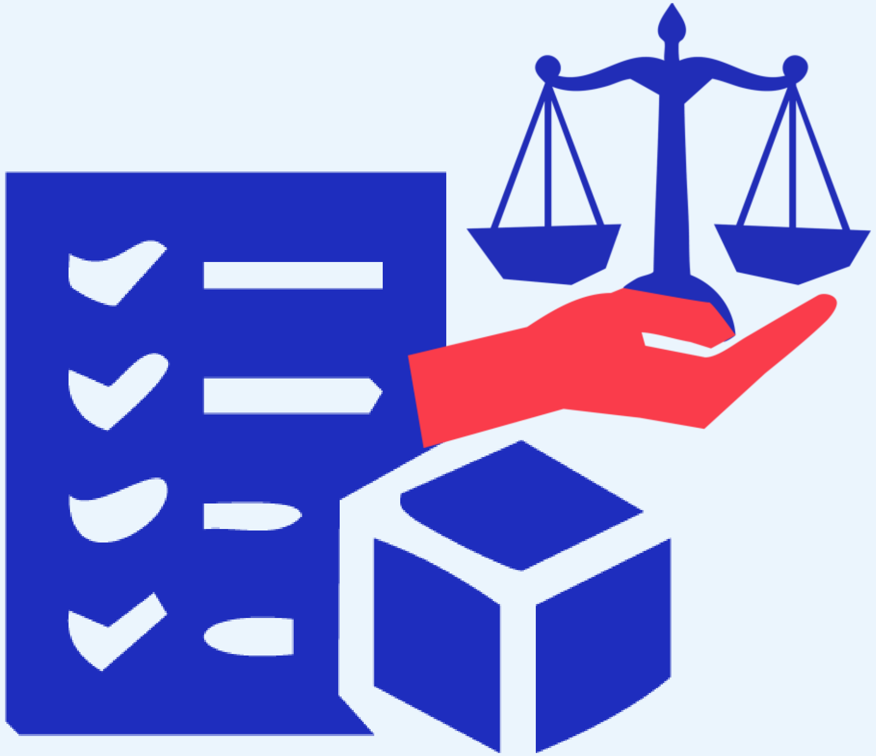
Beyond pronouncements enshrined in codes of conduct, **business enterprises also ought to conduct due diligence measures and strategies** for human and labour rights, to prevent and address possible violations or abuses thereof.

Key learning points

Business enterprises also stand to **benefit from respecting labour and human rights** and addressing any violations or abuses thereof across their supply chains by **avoiding risks related to their brand reputation, operational continuity, and business relationships**.

International Labour Organization

Definition of key terms



Due Diligence

A process that allows companies to identify, prevent and mitigate their actual and potential adverse impacts on human rights and account for how they address such impacts

Special Economic Zones

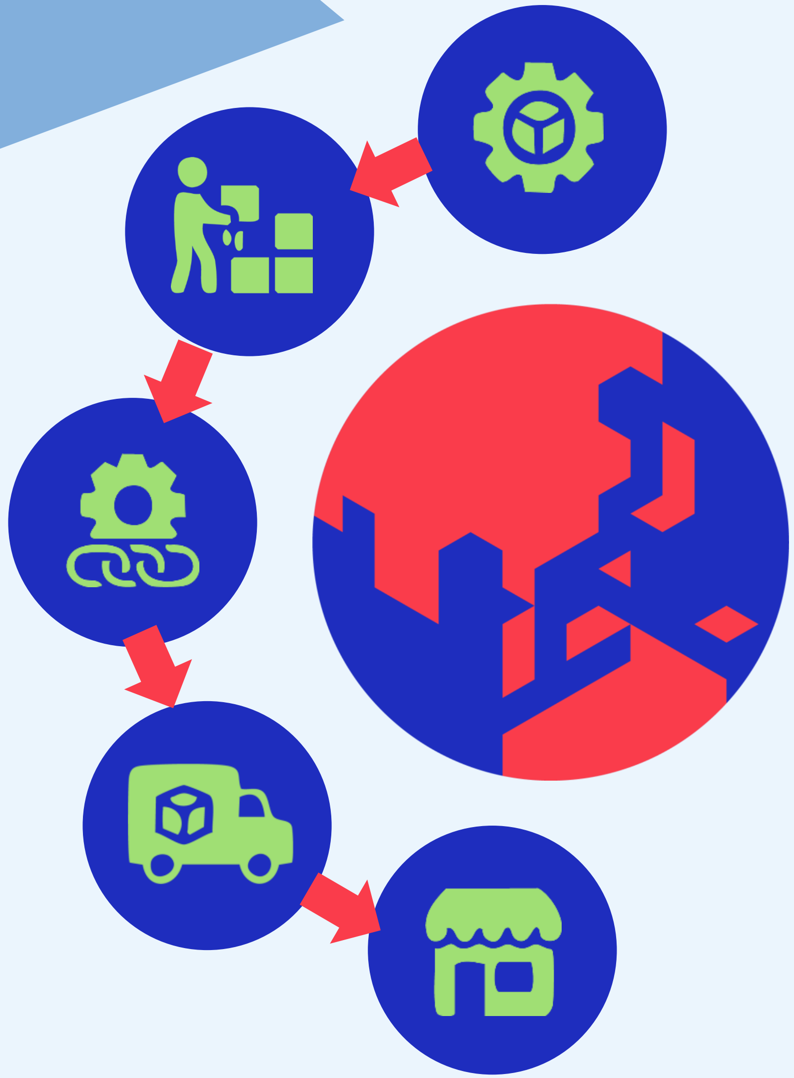
Selected areas with highly developed or which have the potential to be developed into agro-industrial, industrial tourist/recreational, commercial, banking, investment and financial centers;

may contain any or all of the following: Industrial Estates (IEs), Export Processing Zones (EPZs), Free Trade Zones, and Tourist/Recreational Centers

(Sec. 4(a), R.A. 7916, as amended by R.A. 8748)

Export Processing Zone (EPZ)

A specialized industrial estate located physically and/or administratively outside customs territory, predominantly oriented to export production, where enterprises are allowed to import capital equipment and raw materials free from duties, taxes and other import restrictions (*Sec. 4(c), R.A. 7916, as amended by R.A. 8748)*



(Global) Supply Chains

Refer to the cross-border organization of the activities required to produce goods or services and bring them to consumers through inputs and various phases of development, production and delivery

Session proper

What we will cover:

Session 13

- Human rights due diligence in supply chain
- Key features of special economic zones
- The ILO MNE declaration self-assessment tool for enterprises
- The OECD due diligence guidance for responsible business conduct
- Other due diligence self-assessment tools for businesses

What we will cover

Session 13

- Diagnostic self-assessment checklist (DSAC) by ECOP
- Promoting industrial peace in special economic zones (SEZs)
- Relevance of human rights due diligence to the private sector

Human Rights Due Diligence in Supply Chains

Global Supply Chains: Context

Globalization & market competition → **complex, fragmented supply chains**

Major brands & MNCs **outsource to developing countries for lower costs**

Developing countries **integrate deeper to attract investments**

Policies (e.g., *ease of doing business*) strengthen local industries' role

Many operations located in Export Processing Zones (EPZs) under Special Economic Zone Act of 1995 (R.A. No. 7916)

Key Features of EPZs

They are industrial zones with special incentives.

They are relatively small, geographically separated areas within a country, usually near to an international port or airport.

Their purpose is to attract export-oriented industries offering free trade conditions and a liberal regulatory environment.

The entire production of such zones is generally exported.

Box 1:

Key Features of Special Economic Zone Act of 1995

Box 1: Key Features of Special Economic Zone Act of 1995

Special Economic Zone Act of 1995

- Provides the legal framework for creating, operating and regulating special economic zones
- Classified SEZs into different types tailored distinctly to accommodate specific industries or activities:

Manufacturing Economic Zone

Agro-Industrial Economic Zone

Tourism Economic Zone

Information Technology Economic Zone

The ILO MNE declaration self-assessment tool for enterprises

Bechmarking Tools

Based on the **ILO MNE Declaration**: the most comprehensive global guidance for enterprises on labour & employment policy

Helps businesses:

- Benchmark corporate policies & practices
- Identify **gaps** and opportunities for improvement

Aligned with:

- Relevant **SDGs & indicators**
- Other benchmarking tools (see *Box 2*)

Tool Structure & Components

Policies & relevant procedures

- - Corporate Policies?
- procedure related to the principles
- of the MNE Declaration

Illustrative actions

Date to access how the enterprise is currently doing

Current status/comments

company performance in terms of policies

Opportunities for improvement & suggested actions

What works well?

Key Features & Process

Encourages thorough **understanding of Company policies, procedures & practices**

Supporting data & actual outcomes

Strongly advises:
- **Consultations with workers' organizations**

Engagement with external stakeholders:

- Business partners
- Government agencies
- Civil society
- Local communities

Key Features & Process

Develop action points to prioritize gaps

The Tool further recommends the **adoption of action points or measures in response to identified gaps** or areas for improvement from the assessment.

Prioritize based on:
- Likelihood & severity of risks
- Compliance with national laws
- Respect for fundamental rights at work, esp. **FOA**

Plan for:
- Short-term
- Medium-term
- Long-term
- improvements

The OECD due diligence guidance for responsible business conduct

OECD Due Diligence Guidance for Responsible Business Conduct

- Practical tool to help enterprises implement the **OECD Guidelines for MNEs**
- Adaptable to **local business contexts**
- Defines the **characteristics of due diligence** as:
  - Preventative & risk-based
  - Dynamic & context-appropriate
  - Involves prioritization & stakeholder engagement
  - Involves ongoing communication
  - Based on internationally recognized standards
  - Does **not** shift responsibility

OECD Due Diligence Process: Key Steps

01

Embed responsible business conduct into their policies and management systems

- Develop, adopt & share RBC policies
- Integrate into management systems & supplier engagement

02

Identify and assess actual and potential adverse impacts associated with their operations, products or services

- Broad scoping → identify high-risk areas
- In-depth assessments: actual & potential impacts
- Assess enterprise involvement (cause, contribute, linked)
- Prioritize risks by severity & likelihood

OECD Due Diligence Process: Key Steps

03

Ceasing, preventing and mitigating adverse impacts

- Stop activities causing or contributing to adverse impacts
- Develop fit-for-purpose plans to prevent/mitigate risks
- For impacts linked via business relationships:
- Continue relationship + mitigation
- Temporarily suspend relationship
- Disengage (if mitigation fails, isn’t feasible, or due to severity)

OECD Due Diligence Process: Key Steps

04

Track implementation and results

- Monitor implementation & effectiveness
- Use results to improve

05

Communicate how impacts are addressed

- Share due diligence processes, activities
- & outcomes externally

06

Provide for or cooperate in remediation when appropriate

- When enterprise caused/contributed → address & cooperate in remediation
- Use legitimate remediation mechanisms when appropriate

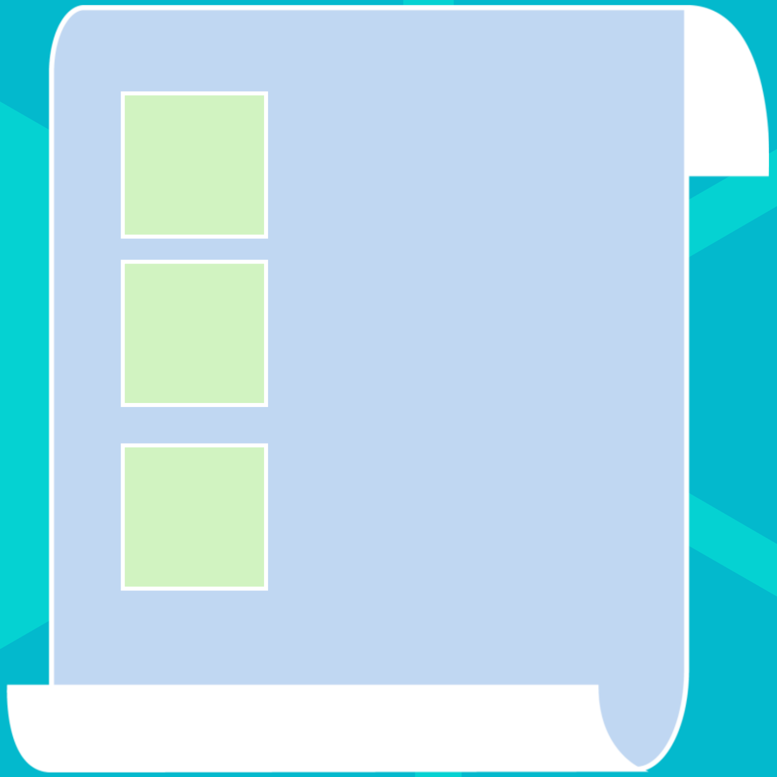
Box 2:

Other Due Diligence Self-assessment Tools for businesses

Other Due Diligence Self-assessment Tool

- GRI Sustainability Reporting Standards of the Global Reporting Initiative (GRI Standards) developed by the Global Reporting Initiative;
- UN Global Compact Self Assessment Tool Developed by the UN Global Compact
- SDG Compass developed by GRI, the UN Global Compact and the World Business Council for Sustainable Development (WBCSD)
- Human Rights Compliance Assessment (HRCA) Tool Developed by the Danish Institute of Human Rights; The Performance indicators of the SA8000 from Social Accountability International UN Guiding Principles Reporting Framework developed by Shift and Mazars

Diagnostic Self-Assessment Checklist (DSAC) by ECOP



Diagnostic Self-Assessment Checklist (DSAC)

- Business enterprises and groups have also increasingly developed local tools for human rights due diligence assessment. An example is the **Diagnostic Self-Assessment Checklist (DSAC) tool** developed by members of the Employers’ Confederation of the Philippines (ECOP), which seeks to guide and empower companies to conduct their internal evaluation of their compliance with legal and regulatory standards on labour.

Diagnostic Self-Assessment Checklist (DSAC)

DSAC: Labour Standards Covered

- Child labour
- Forced labour
- Discrimination, harassment, and violence against women and children
- Freedom of association and collective bargaining
- Minimum wages
- Working schedule
- Working conditions
- Social security
- Occupational safety and health
- Governance

Promoting Industrial Peace in Special Economic Zones (SEZs)

Context & Framework

- **DOLE, DTI, PEZA** signed a Memorandum of Agreement (MOA) in May 2023
- Support industrial peace in SEZs through tripartite collaboration

Goal:

Operationalize due diligence for respect of labour & human rights

Objectives of the agreement

- **Adopt the strengthened tripartite mechanism in ECOZONES**, and ensure representation of workers and employers in decision, consultative and policy-making bodies of government therein;

Provide the respective functions of the Parties for **efficient and effective policy and program coordination** in empowering workers' organizations and private enterprises, **enhancing their respective rights, improving productivity and attaining industrial peace.**

Priority Areas of the Initiative

- Labor-management education & promotion of fundamental rights at work
- Compliance with labour laws, OSH & technical standards
- Productivity improvement programs
- Employment facilitation & HRD (training, ECOZONE labour market info systems)
- Information-sharing (trade, industry trends, social accountability, sustainability)
- Dispute prevention & resolution, favoring alternative dispute resolution (ADR)

Key Mechanisms

• Tripartite Advisory Council (TAC)

- Chaired by PEZA Director General
- Members: DOLE, DTI, PEZA, Labor Sector & Business Sector reps
- Coordinates with NTIPC (Labor Code Article 292 & DOLE DO No. 140, s. 2014)

ECOZONE Tripartite Working Committees (ETWC)

- Sub-committee of RTIPC; implements TAC framework
- Chaired by PEZA Zone Administrator
- Members: Labor Sector & Business Sector reps (approved by TAC), DOLE RTIPC rep
- Secretariat: PEZA Industrial Relations Unit (IRU)

Key Mechanisms

- Functions of
- Tripartite Advisory Council (TAC)

- Formulate action framework / social pact
- Serve as advisory & consultative body; recommend improvements
- Supervise & monitor ETWCs; track MOA & social pact implementation
- Submit periodic reports to PEZA Board
- Perform other related functions

Key Mechanisms

- **Functions of**
- **ECOZONE Tripartite Working Committees (ETWC)**

- Create ECOZONE-based action plans under TAC framework
- Coordinate & organize programs/projects; monitor progress
- Serve as local advisory & consultative body
- Participate in RTIPC; raise ECOZONE issues & recommendations
- Report periodically to TAC
- Perform other related functions

Relevance of Human Rights Due Diligence to the Private Sector

Relevance of human rights due diligence to the private sector

Under the **ILO Tripartite Declaration of Principles concerning MNEs**, enterprises of any size, sector, or industry are encouraged to:

- Identify opportunities to support **inclusive economic growth & decent work for all** (align with the 2030 SDGs)
- Spot and address **operational risks & difficulties**
- **Consult workers’ representatives** to understand real impacts, strengths & gaps
- Find ways to **improve social and economic policies & performance**
- Strengthen alignment with **development objectives & national priorities**

Benefits in supply chains: Complying with Supplier Codes of Conduct

Business case

- Secures business, especially for **export markets**
- Non-compliance may lead to lost orders
- Better conditions → fewer accidents → higher quality & productivity
- Poor conditions → tired, unmotivated workers → higher costs

Benefits in supply chains: Complying with Supplier Codes of Conduct

The Human Resources case

- **Good working conditions** = lower turnover & absenteeism
- Helps **retain skilled workers** and maintain consistent production

Benefits in supply chains: Complying with Supplier Codes of Conduct

The reputational case

- Digital era amplifies **negative news**
- Reputational risks affect:
    - Brands (e.g., Apple–Foxconn)
    - Suppliers
    - Even entire industries or countries

Benefits in supply chains: Complying with Supplier Codes of Conduct

The operational case

- Compliance encourages:
    - Clear **management systems**
    - Better **policies, procedures & records**
    - Dedicated **CSR/RBC/BHR teams**
    - Continuous **monitoring & corrective action**

Recap exercises

1. This refers to the general process that allows companies to identify, prevent and mitigate their actual and potential adverse impacts on human rights and account for how they address such impacts.

a) Due diligence
b) Human rights impact assessment
c) Social audit

TRUE OR FALSE

2. It is enough for business enterprises to just prevent adverse impacts of their operations and business relationships on human and labour rights of workers. When violations or abuses occur, business can run as usual.

3. Preventing and remediating human rights violations or abuses at the company level is beneficial for business enterprises as it can enable the prevention of one of the following for the business:

a) Expansion risk
b) Closure risk
c) Brand/reputational risk

4. Freedom of association and the right to organize applies to workers within ecozones or EPZs.

TRUE OR FALSE

Recap exercises

Answer keys

1. This refers to the general process that allows companies to identify, prevent and mitigate their actual and potential adverse impacts on human rights and account for how they address such impacts.

a) **Due diligence**
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TRUE OR FALSE

4. Freedom of association and the right to organize applies to workers within ecozones or EPZs.

5. Under the OECD Due Diligence Guidance for Responsible Business Conduct, this is the step that follows the identification, prevention and/or mitigation of potential/actual adverse human rights impacts, and the tracking of results from actions taken.

a) Archiving the report containing the results
b) Submitting the results to the concerned government agency
c) Communicating the results to the workers (how the impacts are addressed)