



International
Labour
Organization

Due diligence and decent work: an overview of ILO services and tools

Emily Sims, Coordinator of the ILO Helpdesk for Business on International Labour Standards

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Human rights due diligence and relevant ILO instruments

- **United Nations Guiding Principles on Business and Human Rights** introduced an expectation that enterprises carry out due diligence **to identify, prevent, mitigate and account for how they address their impacts on human rights.**
- Among international treaties that cover internationally recognized human rights which, according to the UN Guiding Principles the companies should respect, is the **ILO Declaration on Fundamental Principles and Rights at Work (FPRW).**



► Declaration of Fundamental Principles and Rights at Work

- Adopted unanimously in 1998 by governments, employers' and workers' representatives
- 8 fundamental ILO Conventions and a Protocol (+2 new fundamental Conventions on OSH added in 2022)
- Creates a obligation for all member States to respect and promote FPRW irrespective of whether they have ratified the relevant standards
- When these standards are ratified and integrated in the national law, it imposes a legal obligation on companies to comply. However, as noted in the UN Guiding Principles, corporate responsibility to respect applies equally where relevant domestic law is weak, absent or not enforced.
- Incorporated into the UNGPs, OECD Guidelines for MNEs; and appear almost universally in codes of conduct (company, multi-stakeholder and industry initiatives), and global framework agreements.
- Appear increasingly in trade and investment agreements (e.g., EU bilateral agreements)
- The 4 labour principles of the UNGC are derived from the Declaration on FPRW

Due diligence in international labour standards

- **Protocol of 2014 to the Forced Labour Convention, 1930** (fundamental)
 - requires States to take measures regarding prevention, protection and remedy in giving effect to the Convention's obligation to suppress forced labour. These measures shall include (Article 2):
- **Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203)** supplements both Convention and Protocol, and provides non-binding practical guidelines in the areas of prevention, protection of victims and ensuring their access to justice and remedies, enforcement and international cooperation. It stresses that States should (4):
- **Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205)**: states that States "should, in consultation with the most representative employers' and workers' organizations, adopt inclusive measures in order to promote full, productive, freely chosen employment and decent work and income-generation opportunities", which include:

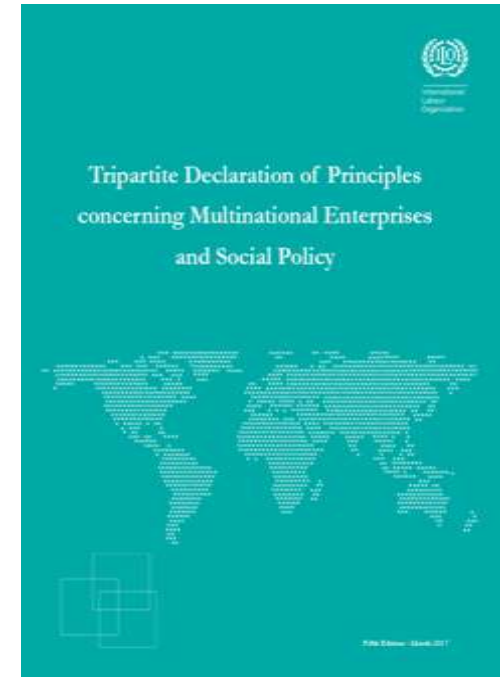
"(e) **supporting due diligence by both the public and private sectors** to prevent and respond to risks of forced or compulsory labour."

"(j) in giving effect to their obligations under the Convention to suppress forced or compulsory labour, providing **guidance and support to employers and businesses to take effective measures to identify, prevent, mitigate and account for how they address the risks of forced or compulsory labour in their operations or in products, services or operations** to which they may be directly linked."

"(h) creating incentives for multinational enterprises to cooperate with national enterprises in order to create productive, freely chosen employment and decent work and to **undertake human rights due diligence** with a view to ensuring respect for human and labour rights, taking into account the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy;"

► ILO MNE Declaration and the broader context of due diligence

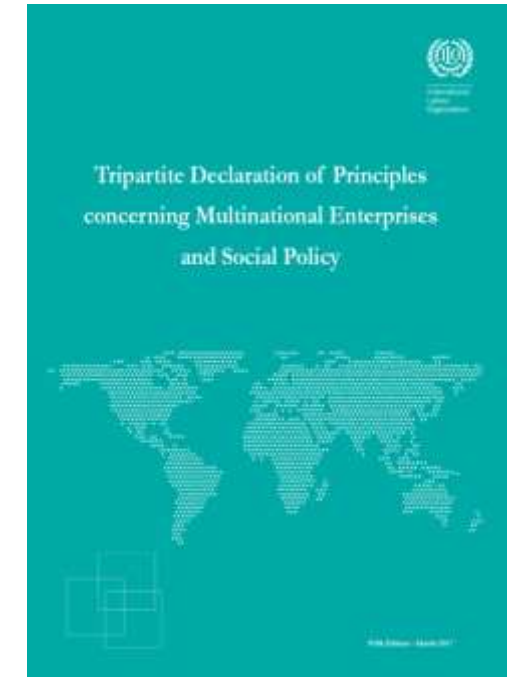
- First elaborated and adopted together with governments, employers' and workers' organizations in 1977, and last updated in 2017.
- Provides guidance on sustainable and responsible workplace practices to:
 - governments of home and host countries
 - employers' and workers' organizations
 - enterprises.
- The MNE Declaration provides guidance in such areas as **employment, training, conditions of work and life, and industrial relations, as well as general policies**.
- Aims to maximize the positive contribution of enterprises to economic and social progress and acknowledges that their operations may give rise to difficulties which need to be minimized and resolved.
- Referenced in the EU draft directive on due diligence.



Due diligence in ILO instruments – ILO MNE Declaration

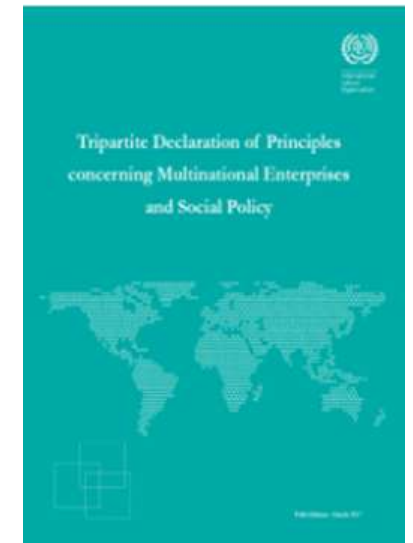
Enterprises should

- ▶ “...identify, prevent, mitigate and account for how they address their actual and potential adverse impacts that relate 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 ILO Declaration on Fundamental Principles and Rights at Work.
- ...
- ▶ This process should involve meaningful consultation with potentially affected groups and other relevant stakeholders including workers’ organizations...this process should take account of the central role of freedom of association and collective bargaining as well as industrial relations and social dialogue as an ongoing process.”



► Due diligence in ILO instruments – ILO MNE Declaration (operational tools)

- To stimulate the uptake of the principles of the MNE Declaration in these areas **by all parties**, a set of **operational tools** was adopted. They include:
- regional follow-up mechanism (regional report based on inputs received from government, employers' and workers' organizations);
 - promotion by tripartite appointed national focal points (promotion at the national level, awareness raising, capacity building, stimulation of tripartite and tripartite plus dialogue);
 - interpretation procedure (interpretation of the provisions of the MNE Declaration to resolve a disagreement on their meaning, arising from an actual situation, between parties to whom the Declaration is commended).
 - company-union dialogue (ILO support to dialogues involving MNEs and trade unions on the application of the principles of the MNE Declaration);
 - and Helpdesk for business on International Labour Standards (guidance on the application of the principles of the MNE Declaration in company operations).



► Due diligence: A view from the ILO Helpdesk for Business

- If my company has participated in sectoral collective bargaining, are we obliged to also bargain at the enterprise or plant levels?
- Migrant workers in Qatar are not allowed to join a trade union. What is my obligation as an investor?
- What is the minimum age for a young person doing an apprenticeship involving night work?
- Does the employer's right to freedom of expression (on their views on whether the workers should form a union) trump the rights of workers to organize without interference or intimidation?
- We discovered several under-age children working in a supplier factory. But there is no school to place the children in. What should we do?
- How do I show that my company is complying with the core labour standards?
- My buyers are telling me different things about maximum hours of work? How do I know who is correct?

► Sources and tools

- ILO MNE Declaration, relevant resources and tools (including on supply chains)
- ILO Helpdesk for Business and Q&A on labour standards
- Q&A on company-union dialogue
- A self-assessment tool for enterprises based on the MNE Declaration
- The linkages between international labour standards, the UNGPs and NAPs
- Responsible business: key messages from international instruments

- Upcoming – brief on due diligence and relevant ILO services and tools based on the MNE Declaration
- Learning modules on labour principles of the UN Global Compact, developed jointly by the UNGC, ILO and ITCILO

► **Thank you for your attention**