



# **PROMOTING SUSTAINABLE GLOBAL SUPPLY CHAINS: INTERNATIONAL STANDARDS, DUE DILIGENCE AND GRIEVANCE MECHANISMS**

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With contributions from ILO, IMF and World Bank Group

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The OECD and the ILO, with inputs from the IMF and WBG, have drafted complementary issue notes on sustainable supply chains at the request of the G20 German presidency. The paper by the ILO addresses the economic and social impact of global supply chains, particularly in G20 countries, the opportunities and challenges for ensuring that global supply chains maximize their contributions to sustainable growth and decent work, and some of the public and private governance measures already undertaken in that regard. A first Annex discusses the Vision Zero Fund, and a second Annex discusses living wages. The paper by the OECD addresses ways in which to achieve and strengthen responsible business conduct, focusing on key multilateral frameworks, such as the OECD Guidelines for Multinational Enterprises, the UN Guiding Principles on Business and Human Rights, and the ILO Declaration of Principles Concerning Multinational Enterprises and Social Policy, as well as on domestic legal and policy frameworks aimed at promoting sustainable supply chains; guidance on due diligence, and grievance mechanisms for victims of adverse impacts related to business operations. Annex 1 focuses on the core concepts and key actions for due diligence, and Annex 2 provides examples of cases handled by National Contact Points for the OECD Guidelines for Multinational Enterprises.

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## Executive Summary

Global value chains have become a dominant feature of world trade and investment, encompassing developing, emerging, and developed economies. The process of producing goods is increasingly fragmented and carried out wherever the necessary skills and materials are available at a competitive cost and quality. This has led to societal benefits, but also to challenges in balancing economic growth and social and environmental sustainability. In many countries, policy and legal frameworks to ensure social and environmental protection have not kept pace with the expansion and complexity of cross-border supply chains and have not been able to adequately address the adverse impacts these have generated.

Enabling sustainable supply chains in a shared duty between governments and companies, and G20 countries, the main drivers of global trade and investment, are taking measures in this regard. International standards and resolutions adopted by the UN, OECD and ILO reflect the expectation that companies act responsibly, not only in their own operations, but also through their entire supply chains. Most G20 countries have committed to these international standards, but, in practice, implementation and governance gaps remain.

The role of governments in ensuring that supply chains are sustainable includes establishing and enforcing an adequate legal framework that protects the public interest and underpins responsible business practices, and monitoring business performance and compliance with regulatory frameworks. Some G20 countries have embedded supply chain responsibility in legislation requiring that large companies identify and address adverse impacts on people and the environment through their supply chains. A number of G20 countries also include references to responsible business conduct in trade and investment agreements, thereby promoting these standards among their partners.

This heightened expectation has created a demand for more guidance on how companies can effectively implement responsible business conduct standards both in their own operations and in their supply chains. In response to this demand, the OECD, in cooperation with governments, business, workers and other stakeholders, has developed detailed guidance to help companies apply due diligence to identify and address adverse impacts in the minerals, extractives, agriculture, garment and footwear, and financial sectors. This guidance is being actively promoted by governments, and is increasingly used by companies. The adoption by G20 countries of a common set of principles for due diligence would contribute to levelling the playing field for companies operating globally and wishing to make their supply chains more sustainable.

Under international standards, governments are also expected to provide grievance mechanisms and access to remedy to victims of actual and potential harms related to business operations. The National Contact Points set up by adherents to the OECD Guidelines for Multinational Enterprises (which include 14 G20 members) carry out the double function of promoting responsible business conduct and providing guidance to business, and helping resolve issues linked to harms related to business operations. An increasing number of cases handled by National Contact Points deal with issues linked to supply chains. Adherence by all G20 members to the OECD Guidelines would expand the network of National Contact Points, and thereby contribute to the implementation of responsible business conduct standards in the majority of global supply chains.

In sum, a number of tools and mechanisms are in place to make global supply chains more sustainable. However, a greater uptake by all G20 countries of these tools and mechanisms is needed to effectively drive sustainability through global supply chains.

# 1. Balancing economic growth and sustainability in supply chains

## 1.1. Opportunities and challenges linked to supply chains

Global value chains have become a dominant feature of world trade and investment, encompassing developing, emerging, and developed economies. The process of producing goods, from raw materials to finished products, is increasingly fragmented and carried out wherever the necessary skills and materials are available at a competitive cost and quality.<sup>1</sup> The revolution in information and communications technology, coupled with the development of ever more complex production processes, has allowed firms to establish chains as intricate as they are efficient.<sup>2</sup> This presents a major development opportunity and has led to societal benefits such as job creation (helping lift millions of people out of poverty), skills development, and technology transfer. On the other hand, balancing economic growth and sustainability goals linked to global supply chains also presents challenges, both for governments and businesses. In many countries, policy and legal frameworks to ensure social and environmental protection have not kept pace with the expansion and complexity of cross-border supply chains and have not been able to adequately address the adverse impacts these have generated.

A few compelling figures show the urgent need to address this imbalance. The ILO estimates that almost 21 million people are victims of forced labour; other estimates present almost double that number.<sup>3</sup> An estimated 168 million children are trapped in child labour, accounting for 11% of overall child population, with more than half working in hazardous conditions.<sup>4</sup> While these numbers cannot solely be attributed to the rise of supply chains, their complexity – and the resulting lack of visibility – in many cases lead to illegal subcontracting and an increase in almost all human rights and labour risks, including child labour, forced labour, harassment and violence, and unsafe working conditions.<sup>5</sup>

Increased environmental damage is also linked to supply chains. For example, UNEP estimates that of the total top ten traded species, 74% are categorised as fully to over-exploited, while the remaining ones are fully exploited or depleted, linking this to the pressures on supply

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<sup>1</sup> OECD (2015) *Participation of developing countries in global value chains: Implications for trade and trade-related policies*, Summary Paper of OECD Trade Policy Paper, No. 179, OECD, Paris, [www.oecd.org/countries/mali/Participation-Developing-Countries-GVCs-Summary-Paper-April-2015.pdf](http://www.oecd.org/countries/mali/Participation-Developing-Countries-GVCs-Summary-Paper-April-2015.pdf).

<sup>2</sup> OECD, WTO and World Bank (2014) *Global value chains. Challenges, opportunities and implications for policy* Report prepared for submission to the G20 Trade Ministers Meeting Sydney, Australia, 19 July 2014, [www.oecd.org/tad/gvc\\_report\\_g20\\_july\\_2014.pdf](http://www.oecd.org/tad/gvc_report_g20_july_2014.pdf). ; OECD (2013), *Interconnected Economies: Benefiting from Global Value Chains*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264189560-en>.

<sup>3</sup> ILO (2016), *Forced labour, modern slavery and human trafficking website*; <http://www.ilo.org/global/topics/forced-labour/lang-en/index.htm>; Walk Free Foundation (2014) *Tackling modern slavery in supply chains*; <http://business.walkfreefoundation.org/>

<sup>4</sup> ILO (2015), *World Report on Child Labour 2015: Paving the way to decent work for young people*, [http://www.ilo.org/ipecc/Informationresources/WCMS\\_358969/lang-en/index.htm](http://www.ilo.org/ipecc/Informationresources/WCMS_358969/lang-en/index.htm); Global Slavery Index (2016), *Global Slavery Index Global Findings*, <http://www.globalslaveryindex.org/findings/>

<sup>5</sup> Walk Free Foundation (2016) *Harnessing the power of business to end modern slavery* <http://walkfreefoundation.org-assets.s3-ap-southeast-2.amazonaws.com/content/uploads/2016/12/01213809/Harnessing-the-power-of-business-to-end-modern-slavery-20161130.pdf>; Ethical Corporation (2014) *Modern slavery and the role of business* [www.ethicalcorp.com/supply-chains/modern-slavery-and-role-business](http://www.ethicalcorp.com/supply-chains/modern-slavery-and-role-business).

chains to meet consumer demands and purchasing practices.<sup>6</sup> In another estimate by the Global Environment Facility (GEF), three widely traded commodities (soy, beef and palm oil) are responsible for close to 80% of tropical deforestation worldwide and for 12% of greenhouse gas emissions globally.<sup>7</sup>

Today, there is a growing recognition that to achieve sustainable and inclusive growth, there is a need for responsible business practices through the entire supply chain, and for not only more, but better investment. G20 countries are the main actors in global trade and investment, and hence, strong drivers of global value chains: in 2015, they accounted for 77% of exports and 70% of imports, as well as 57% of FDI inflows and 48% of FDI outflows. G20 governments, thus, have a crucial role to play in engaging all actors toward achieving social and economic sustainability in supply chains.<sup>8</sup>

## 1.2. A shared duty between governments and businesses

Addressing the challenges associated with global supply chains is a primary duty of governments; they should provide an enabling framework to allow countries to fully benefit from greater integration, while at the same time ensure respect for stakeholder rights and public good. Business responsibility to respect stakeholder rights does not depend on the existence of government regulation or its enforcement. However, achieving meaningful outcomes to meet this responsibility also requires that governments address governance gaps with regard to global business operations that allow human and environmental tragedies to occur and create an uneven playing field between responsible and irresponsible businesses.

The need for joint action becomes even more important in the context of achieving the 2030 Agenda for Sustainable Development, in particular given the key role of the private sector.<sup>9</sup> Indeed, fostering responsible business conduct can support many of the Sustainable Development Goals (SDGs), for example, promoting sustainable business practices, managing environmental impacts and addressing climate change, increasing resource efficiency, combatting discrimination and violence against women, respecting human rights and labour rights and combatting corruption and illicit financial flows.<sup>10</sup>

Sustainability is also a market access issue. Value chain activity is very sensitive to the quality of the business environment, which, in addition to the development of human capital, infrastructure, availability of capital and quality of institutions, has been identified as one of the

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<sup>6</sup> UNEP (2009) The role of supply chains in addressing the global seafood crisis <http://unep.ch/etb/publications/Fish%20Supply%20Chains/UNEP%20fish%20supply%20chains%20report.pdf>.

<sup>7</sup> Global Environment Facility (GEF) (2014), Taking tropical deforestation out of global supply chains [https://www.thegef.org/sites/default/files/publications/GEF\\_Commodities-R3\\_0.pdf](https://www.thegef.org/sites/default/files/publications/GEF_Commodities-R3_0.pdf).

<sup>8</sup> Trade data refer to world merchandise trade exports and imports. Source: OECD G20 Merchandise Trade Statistics Database and UN Statistics Division International Trade Statistics Yearbook 2015; OECD International Direct Investment Statistics database and IMF.

<sup>9</sup> A number of Sustainable Development Goals (SDGs) refer to responsible production patterns, inclusive and sustainable economic growth, employment and decent work for all. The Paris Agreement on Climate Change also underlines the critical role of business in tackling climate change, including through reducing greenhouse gas emissions and improving environmental performance. <http://oecdinsights.org/wp-content/uploads/2015/09/MNE-Guidelines-SDGs1.pdf>.

<sup>10</sup> OECD (2016), *Development Co-operation Report 2016: The Sustainable Development Goals as Business Opportunities*, DOI: <http://dx.doi.org/10.1787/dcr-2016-en>.

most important factors for enabling integration into global value chains.<sup>11</sup> Multinational enterprises (MNEs) are increasingly basing their decisions about where to do business on the ability to ensure predictable and reliable supply chains, capable of delivering effectively at each stage of the value chain, with sustainability criteria playing an increasing role in the choice of suppliers.<sup>12</sup> Suppliers of MNEs may find that following responsible business conduct principles and standards gives them an advantage over businesses that do not, as they are able to respond to and address concerns that may come up in due diligence of the MNE when evaluating risks associated with its supply chain. Therefore, the uptake of responsible business practices in line with internationally recognised environmental and social principles among domestic enterprises can help strengthen the linkages between these enterprises and MNEs.

### 1.3. Sustainable supply chains are also good business

Many businesses find that in addition to complying with relevant laws and regulations, understanding, addressing, and avoiding risks material to business operations in a more comprehensive way – that is, beyond financial risks – can often lead to a competitive advantage.<sup>13</sup>

Working towards sustainable supply chains, including by incorporating a thorough due diligence process into their management systems, helps enterprises detect risks and gain improved knowledge of their operations. Prevention and mitigation of sustainability risks reduces the company's exposure to potentially large remediation costs it might incur if the risk were not addressed. Increased awareness of the company's actions leads to long-term benefits as the company internalises and institutionalises the findings from supply chain due diligence. Benefits of doing so can manifest in improved perception of the company both internally and externally, leading to other benefits such as improved analyst recommendations or decreased cost of capital (mainly due to reduced risk and increased transparency). The internal benefits, such as increased ability to retain and attract talent, increased productivity, better management of the company's reputation, and value creation, should not be overlooked.

On the other hand, the cost of not respecting responsible business conduct standards can be very high. For example, costs related to delays can be substantial and could constitute a tariff equivalent of 1% or more.<sup>14</sup> A 2014 report found, for example, that a major mining project with capital expenditures between USD 3-5 billion will suffer direct costs of roughly USD 20 million per

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<sup>11</sup> OECD (2015), *Participation of developing countries in global value chains: Implications for trade and trade-related policies*, Summary Paper of OECD Trade Policy Paper, No. 179, OECD, Paris, [www.oecd.org/countries/mali/Participation-Developing-Countries-GVCs-Summary-Paper-April-2015.pdf](http://www.oecd.org/countries/mali/Participation-Developing-Countries-GVCs-Summary-Paper-April-2015.pdf).

<sup>12</sup> Taglioni, D. and D. Winkler (2014), *Making global value chains work for development*. Economic Premise, No. 143, The World Bank, Washington, DC, <http://documents.worldbank.org/curated/en/2014/05/19517206/making-globalvalue-chains-work-development>; OECD (2014), *Development Co-operation Report 2014: Mobilising Resources for Sustainable Development*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/dcr-2014-en>; Bonini S. and Swartz S., (2014) *Profits with purpose. How organizing for sustainability can benefit the bottom line* (McKinsey & Company, McKinsey on Sustainability & Resource Productivity July 2014).

<sup>13</sup> Business and Sustainable Development Commission (2017) *Better Business, Better World* <http://report.businesscommission.org/uploads/BetterBiz-BetterWorld.pdf>.

<sup>14</sup> Hummels, D. (2007), *Calculating tariff equivalents for time in trade*, Nathan Associates, Inc. for the US Agency for International Development, Washington, DC, [www.nathaninc.com/sites/default/files/Calculating\\_Tariff\\_Equivalents\\_for\\_Time\\_in\\_Trade.pdf](http://www.nathaninc.com/sites/default/files/Calculating_Tariff_Equivalents_for_Time_in_Trade.pdf), OECD (2014), *op.cit.*

week in delayed production (in net present value terms), largely due to lost sales based on delays caused by community conflicts and ineffective stakeholder engagement practices.<sup>15</sup>

There is also growing evidence that companies can actually improve their financial performance by behaving responsibly. A cross-sector study tracked the performance of companies over 18 years and found that “high sustainability” companies, those with strong environmental, social and governance systems and practices in place, outperformed “low sustainability” companies as measured by stock performance and in real accounting terms.<sup>16</sup> According to a 2016 study covering 8500 French enterprises, there was a 13% difference in economic performance on average between enterprises that implemented responsible business conduct and those that did not.<sup>17</sup>

## 2. International standards in support of sustainable supply chains

### 2.1. A common understanding on supply chain responsibility

Responsible business conduct principles and standards set out an expectation that businesses – regardless of their legal status, size, ownership structure or sector – avoid adverse impacts of their operations, while contributing to sustainable development of the societies in which they operate. In practice, for enterprises this means integrating and considering environmental and social issues within core business objectives and activities, including throughout the supply chain and business relationships.

Addressing actual and potential harm in supply chains is a core expectation related to responsible business conduct and is reflected in international standards, including the OECD Guidelines for Multinational Enterprises (OECD Guidelines)<sup>18</sup>, the UN Guiding Principles on Business and Human Rights (UN Guiding Principles)<sup>19</sup>, and the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (ILO MNE Declaration). It was also recently recognised in the Resolution of the International Labour Conference concerning decent work in global supply chains.<sup>20</sup> These international standards embed the expectation that enterprises avoid

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<sup>15</sup> Davis, R. and D.M. Franks (2014), *Costs of company-community conflict in the extractive sector*, Corporate Social Responsibility Initiative Report, No. 66, Harvard Kennedy School, Cambridge, MA, [www.hks.harvard.edu/m-rcbg/CSRI/research/Costs%20of%20Conflict\\_Davis%20%20Franks.pdf](http://www.hks.harvard.edu/m-rcbg/CSRI/research/Costs%20of%20Conflict_Davis%20%20Franks.pdf).

<sup>16</sup> Eccles, G., Ioannou, R., Serafeim, I., (2012), *The Impact of Corporate Sustainability on Organisational Processes and Performance*, NBER Working Paper No. 17950, March 2012, <http://www.nber.org/papers/w17950>

<sup>17</sup> Benhamou, S. and Diaye, M. (2016), *Corporate Social Responsibility and Competitiveness. Evaluation and Strategic Approach*. [www.strategie.gouv.fr/sites/strategie.gouv.fr/files/atoms/files/synthese-rse\\_en.pdf](http://www.strategie.gouv.fr/sites/strategie.gouv.fr/files/atoms/files/synthese-rse_en.pdf)

<sup>18</sup> The OECD Guidelines for Multinational Enterprises are the most comprehensive set of government-backed recommendations on responsible business conduct. They include far-reaching recommendations addressed by governments to multinational enterprises in all areas of business responsibility. The Guidelines form part of the OECD Declaration on International Investment and Multinational Enterprises, which is open to adherence by non-OECD members <http://mneguidelines.oecd.org/guidelines>.

<sup>19</sup> The UN Guiding Principles on Business and Human Rights, unanimously endorsed by the United Nations Human Rights Council in 2011, are a set of guidelines for States and business enterprises to prevent and address human rights abuses committed in business operations. [www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf).

<sup>20</sup> The ILO MNE Declaration states roles and responsibilities for governments (home and host), multinational enterprises, and workers’ and employers’ organisations and brings these actors together to solve decent work challenges and identify opportunities for inclusive growth. The ILO MNE Declaration is currently under review by the ILO Governing Body. [www.ilo.org/empent/Publications/WCMS\\_211136/lang--en/index.htm](http://www.ilo.org/empent/Publications/WCMS_211136/lang--en/index.htm). ILO (2016) Resolution concerning decent work in global supply chains, adopted by the Governing Body of the ILO on 10

causing or contributing to adverse impacts through their own activities and address such impacts when they occur. Enterprises are also expected to seek to prevent or mitigate adverse impacts directly linked to their operations, products or services by a business relationship. This includes their activities in the supply chain.

Among these international instruments, the OECD Guidelines are the most comprehensive one. They are aligned with UN and ILO instruments, covering both labour and human rights issues, but also a broader range of areas, including environment, information disclosure, bribery, consumer interests, science and technology, competition, and taxation, thereby addressing all major sustainability risks that can occur throughout the supply chain.

Most G20 members have committed to the UN Guiding Principles, the ILO MNE Declaration and the OECD Guidelines. Similarly, most of them have ratified the key international conventions that underpin these standards.<sup>21</sup> However, as Table 1 shows, some gaps remain.

In addition, a number of G20 countries have adopted National Action Plans on Business and Human Rights (NAPs) or on Responsible Business Conduct as a cohesive government strategy on sustainable supply chains. Four G20 countries (Germany, Italy, United Kingdom and United States) have already published NAPs that include objectives and activities with respect to global supply chain management. Additional seven G20 countries are in the process of developing their NAPs.<sup>22</sup>

**Table 1: G20 country engagement under international sustainability standards**

		AR	AU	BR	CA	CN	FR	GE	IN	ID	IT	JP	KR	MX	RU	SA	TR	UK	US	ZA	
Adherence to OECD Guidelines																					
Commitment to the United Nations Guiding Principles on Business and Human rights																					
Commitment to the ILO MNE Declaration																					
Ratification or accession to 7+ main UN conventions on human rights (out of 9)																					
Ratification of 6+ ILO core conventions (out of 8)																					
Ratification of UN or OECD corruption conventions																					
National Action Plans on RBC or human rights	Completed																				
	In progress																				

Source: OECD based on OECD, UN, and ILO data

Similarly, an OECD analysis of 10 existing indexes and indicators related to different areas of responsible business conduct suggests that in some G20 countries, there is space and opportunity for more robust action in support of responsible business (Figure 1).<sup>23</sup>

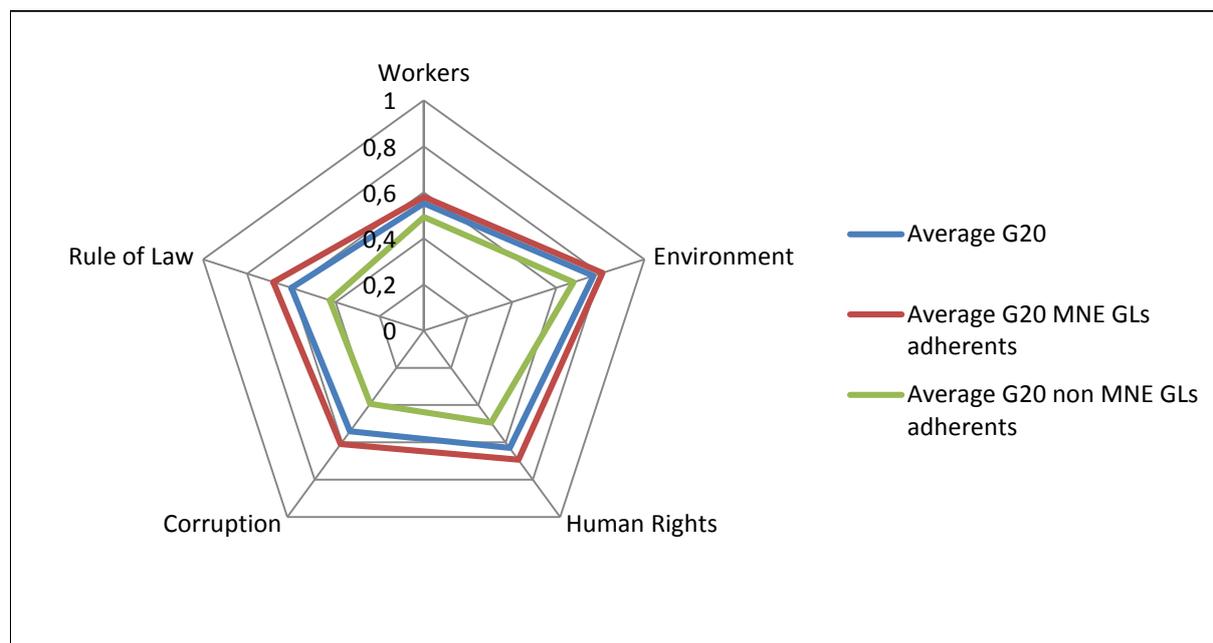
June 2016 [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_497555.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_497555.pdf).

<sup>21</sup> The current 46 adherents to the OECD Guidelines include 14 G20 members.

<sup>22</sup> UNOHCHR, [www.ohchr.org/EN/Issues/Business/Pages/NationalActionPlans.aspx](http://www.ohchr.org/EN/Issues/Business/Pages/NationalActionPlans.aspx)

<sup>23</sup> Figure 1 covers 10 indicators in a range of top thematic areas of responsible business conduct, all of which are covered by the OECD Guidelines for Multinational Enterprises (environment, human rights, employment and industrial relations, rule of law and perception of corruption). These indicators also deal with issues that are most frequently raised in complaints about business conduct submitted to National Contact Points and linked to alleged non-observance of the OECD Guidelines. Specific data sources were chosen on the basis of their relevance, coverage, scope, and credibility. Recognising that RBC is a broad and comprehensive topic and that major data gaps exist, it is not possible to accurately “measure” RBC. Figure 1 thus aims to provide a snapshot of the current enabling framework for responsible business conduct in G20 countries.

**Figure 1: Position of G20 countries under selected sustainability-related indexes**



## 2.2. Positioning sustainable supply chains in the international framework for trade and investment

The importance of responsible business conduct is also increasingly recognised in trade and investment agreements. More than three quarters of international investment agreements concluded between 2008 and 2013 contain language on sustainable development or responsible business conduct and virtually all of the investment treaties concluded in 2012 and 2013 include such language.<sup>24</sup> This trend appears set to continue. For example, the EU's new trade and investment strategy 'Trade for All', includes references to the UN Guiding Principles, the ILO MNE Declaration, and the OECD Guidelines, and states that the Commission will "encourage the EU's trading partners to comply with [...] international principles and in particular the OECD Guidelines."<sup>25</sup>

A key element in the current EU trade policy is the negotiation and implementation of provisions on Trade and Sustainable Development (TSD) in EU bilateral and regional trade and investment agreements. In addition to a commitment by the Parties to respect ILO core labour standards, as well as key Multilateral Environmental Agreements, EU agreements contain specific text on responsible business conduct (e.g. the Georgia and Ukraine Association Agreements signed in 2014; the Singapore Free Trade Agreement signed in 2015; the Vietnam Free Trade Agreement; and the Canada Comprehensive Economic and Trade Agreement). The Pacific Alliance Additional Protocol to the Pacific Alliance Framework Agreement and the Trans-Pacific Partnership (TPP) also promote responsible business conduct standards.<sup>26</sup>

<sup>24</sup> Gordon, K., Pohl, J., Bouchard, M., (2014) *Investment Treaty Law, Sustainable Development and Responsible Business Conduct: A Fact Finding Survey*, [www.oecd.org/investment/investment-policy/WP-2014\\_01.pdf](http://www.oecd.org/investment/investment-policy/WP-2014_01.pdf)

<sup>25</sup> European Commission (2015), *Trade for all: Towards a more responsible trade and investment policy*. [http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc\\_153846.pdf](http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc_153846.pdf).

<sup>26</sup> OECD (2016), *Strengthening responsible business conduct through trade and investment*.

Most recently, the G20 Guiding Principles for Global Investment Policymaking, endorsed by G20 Trade Ministers on 9-10 July 2016, propose that “investment policies should promote and facilitate the observance by investors of international best practices and applicable instruments of responsible business conduct and corporate governance.”<sup>27</sup>

### 3. The role of due diligence in enabling sustainable supply chains

The OECD Guidelines and the UN Guiding Principles enshrine the expectation that enterprises take steps to identify, avoid and address adverse impacts throughout their supply chains, and across a range of inter-related societal concerns, such as human rights, workers' rights, the environment, bribery, etc. To meet their responsibilities under these international standards, enterprises are expected to carry out a process of *due diligence* to identify and address adverse impacts, both in their own operations and their supply chains.<sup>28</sup> This expectation was reinforced in the ILO Governing Body Resolution on Decent Work in Supply Chains which states that “in line with the United Nations Guiding Principles on Business and Human Rights, business enterprises should carry out human rights due diligence in order to identify, prevent, mitigate and account for how they address their adverse human rights impacts.”

The due diligence process envisaged in the OECD Guidelines and UN Guiding Principles comprises steps that enable enterprises to identify, prevent, mitigate and account for how they address actual and potential adverse impacts. To assist companies in implementing these steps and address the specific challenges arising in various sectors, the OECD has developed due diligence guidance in the minerals, agriculture, extractives, and garment and footwear sectors.<sup>29</sup>

These guidance instruments are open to adherence by all governments and are already being implemented across a number of G20 countries. For example, the OECD and China are co-operating in the implementation of the *OECD Due Diligence Guidance for Responsible Mineral Supply Chains*.<sup>30</sup> This work focuses on company implementation of due diligence, risk assessment, mitigation, audit and public reporting, and has seen significant uptake with Chinese companies through its promotion by the China Chamber of Commerce of Metals, Minerals and Chemicals Importers & Exporters (CCCME). The CCCME in 2015 published the *Chinese Due Diligence Guidelines for Responsible Mineral Supply Chains*,<sup>31</sup> which are based on the OECD Guidance, while the Chinese General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) is developing a standard on responsible mineral supply chains that is expected to come into force in 2017.

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<sup>27</sup> G20 Guiding Principles for Global Investment Policymaking, [www.oecd.org/daf/inv/investment-policy/G20-Guiding-Principles-for-Global-Investment-Policymaking.pdf](http://www.oecd.org/daf/inv/investment-policy/G20-Guiding-Principles-for-Global-Investment-Policymaking.pdf).

<sup>28</sup> The concept of “due diligence” combines the notion of “due” – that it is commensurate with the risks to be covered - and “diligence” – acting with prudence and perseverance to address risks in light of the circumstances. It is a process for enterprises to “know and show” what they are doing about their adverse impacts in their supply chains.

<sup>29</sup> These guides have been incorporated into formal Recommendations by the OECD Council <http://mneguidelines.oecd.org/sectors/>

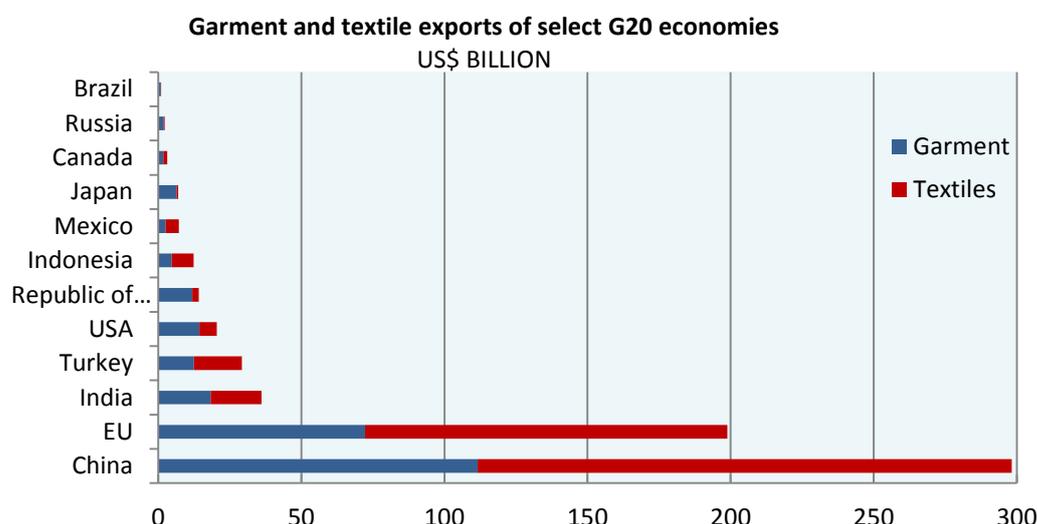
<sup>30</sup> OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, <http://mneguidelines.oecd.org/mining.htm>.

<sup>31</sup> Chinese Due Diligence Guidelines for Responsible Mineral Supply Chains, launched in December 2015, available in English at: [https://www.globalwitness.org/documents/18138/201512\\_Chinese\\_Due\\_Diligence\\_Guidelines\\_for\\_Responsible\\_Mineral\\_Supply\\_Chains\\_-\\_En\\_K83fxzt.pdf](https://www.globalwitness.org/documents/18138/201512_Chinese_Due_Diligence_Guidelines_for_Responsible_Mineral_Supply_Chains_-_En_K83fxzt.pdf)

In January 2017, G20 Ministers of Agriculture stated they were ready to continue promotion of responsible agricultural investment, in line with the CFS-VGGT, the CFS-RAI and the OECD-FAO Guidance for Responsible Agricultural Supply Chains<sup>32</sup>, and they strongly recommended the respect of these tools to address issues of water use efficiency and resilience.<sup>33</sup> Finally, some examples of G20 country co-operation to promote supply chain due diligence in the garment and footwear sector<sup>34</sup> are provided in Box 1.

**Box 1: International co-operation to promote supply chain due diligence in the garment and footwear sector**

G20 countries include the most important exporters and importers of textile and clothing globally. China, EU, and India are the top three exporters of textiles, accounting for almost two-thirds of world exports. Of the top ten exporters of textiles world-wide, six are G20 economies (China, EU, India, Turkey, Indonesia and the United States) and account together for 75% of total global exports.<sup>35</sup> G20 countries also account for over 65% of all textile imports world-wide. G20 countries play a similarly important role in the clothing sector accounting for over 75% of clothing exports globally and 65% of global imports.



The *OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector* adopted in January 2017 seeks to support a common understanding of due diligence in line with the OECD Guidelines and the UN Guiding Principles. The Guidance was developed with input from, and was endorsed by, a multi-stakeholder advisory group, which included representatives from government, business, trade unions, and civil society from numerous countries, including G20 members, Canada, China, France, Germany, Italy, United States and European Union. Consultations on the Guidance were also held in Brazil, India, and China.

<sup>32</sup> OECD-FAO Guidance for Responsible Agricultural Supply Chains, <http://mneguidelines.oecd.org/rbc-agriculture-supply-chains.htm>.

<sup>33</sup> G20 Agriculture Ministers' Declaration and Action Plan 2017 *Towards food and water security: Fostering sustainability, advancing innovation*, adopted on 22 January 2017 in Berlin

<sup>34</sup> OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector <http://mneguidelines.oecd.org/responsible-supply-chains-textile-garment-sector.htm>

<sup>35</sup> World Trade Organisation, Statistical tables website, accessed at [https://www.wto.org/english/res\\_e/statis\\_e/wts2016\\_e/wts16\\_chap9\\_e.htm](https://www.wto.org/english/res_e/statis_e/wts2016_e/wts16_chap9_e.htm)

The OECD is also currently developing a general guidance on how to implement due diligence and foster global sustainable supply chains across sectors. This *Due Diligence Guidance for Responsible Business Conduct* contains plain language explanations of the due diligence recommendations and associated provisions in the OECD Guidelines, and can be used by companies in any sector of the economy around the globe.<sup>36</sup> A summary of core concept for due diligence, including key actions to put a due diligence process in place, is presented in Annex 1 to this document.

Furthermore, a number of international fora are in place in which government, business and other stakeholders engage to discuss challenges and opportunities related to the implementation of sustainable supply chains. For example, the implementation program for the OECD work on responsible mineral supply chains brings together over 500 global stakeholders, including governments, leading industry associations and enterprises. Stakeholders from G20 countries, including China, India, Brazil and South Africa, are engaged in these various sectoral initiatives. The program includes an annual Forum on Responsible Minerals Supply Chains, as well as regional meetings, such as the one held in China in 2015.<sup>37</sup> Similarly, the OECD hosts an annual Roundtable for responsible garment and footwear supply chains that brings together key actors from the sector.<sup>38</sup> Another international forum for discussion is the OECD Global Forum on Responsible Business Conduct, held annually since 2013 and convening stakeholders from all over the world.<sup>39</sup> Since 2016, the Global Forum includes a High-Level Roundtable for Policy-Makers aimed at facilitating dialogue and exchange of experience in designing and implementing policies to enable responsible business conduct and the implementation of sustainability standards in supply chains.

#### **4. Domestic legal and policy frameworks to enable sustainable supply chains**

The key role of governments in ensuring sustainable supply chains includes establishing and enforcing an adequate legal framework that protects the public interest and underpins responsible business practices, and monitoring business performance and compliance with regulatory frameworks. Governments can also put mechanisms in place to communicate and promote responsible business standards, providing guidance with respect to specific practices and enabling enterprises to meet those expectations. They can also co-operate with stakeholders in the business community, worker organisations, civil society, general public, across internal government agencies, as well as other governments to create synergies and establish policy coherence with regard to responsible business standards and provide support and recognition for best practices among enterprises. Finally, governments can also lead by example by acting responsibly in the context of the government's role as an economic actor.<sup>40</sup>

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<sup>36</sup> The development of this guidance will be finalised following a public consultation <http://mneguidelines.oecd.org/due-diligence-guidance-for-responsible-business-conduct.htm>.

<sup>37</sup> Forum on Responsible Minerals Supply Chains <https://mneguidelines.oecd.org/icglr-oecd-un-forum.htm>.

<sup>38</sup> Roundtable for responsible garment and footwear supply chains <https://mneguidelines.oecd.org/responsible-supply-chains-textile-garment-sector.htm>.

<sup>39</sup> OECD Global Forum on Responsible Business Conduct <https://mneguidelines.oecd.org/global-forum>.

<sup>40</sup> These recommendations are further developed in the OECD Policy Framework for Investment, which provides guidance to governments on policies that help enable and implement responsible business conduct by foreign and domestic investors. OECD (2015a) *Policy Framework for Investment* [www.oecd.org/daf/inv/investment-policy/pfi-update.htm](http://www.oecd.org/daf/inv/investment-policy/pfi-update.htm).

The effectiveness of an enabling policy framework for responsible business conduct is evidenced in a recent study by Principles for Responsible Investment (PRI), which shows that there is a strong correlation between responsible investment regulation and better environmental, social and governance risk management by companies.<sup>41</sup>

Many G20 countries are already taking important steps in improving their legal and policy framework and some have adopted legislation regarding sustainable supply chains, many of them drawing upon the OECD Guidelines and related due diligence guidance. For example, the UK's Modern Slavery Act of 2015 mandates that commercial organisations report on their due diligence processes to manage risks of slavery and human trafficking within their operations and supply chains.<sup>42</sup> In 2016, the US passed the Trade Facilitation and Trade Enforcement Act, which strengthened restrictions on the import of goods into the United States produced using forced labour.<sup>43</sup> A legislative proposal aiming to mandate supply chain due diligence is under discussion in France. Under this proposal companies of a certain size would be required to develop and publish a due diligence plan for human rights, environmental, and social risks, or face fines for failure to do so. Final adoption by the French National Assembly is anticipated in early 2017.<sup>44</sup> Domestic regulation of G20 countries has also focused on risks in supply chains in specific sectors, e.g. minerals. The EU is currently in the process of adopting a regulation to promote supply chain due diligence for products containing tin, tantalum, tungsten or gold, in line with the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals.<sup>45</sup>

With proper implementation, initiatives on sustainable supply chains can lead to significant improvements on the ground and can promote stronger risk management systems among G20 companies. For example, after the introduction of Dodd Frank Section 1502 in the United States which required due diligence with respect to sourcing of minerals from conflicted affected areas (drawing also on the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals) such processes have become standard industry practice.<sup>46</sup> The UN Group of Experts on the Democratic Republic of the Congo has reported that as a result of the implementation of due diligence since 2012 "the security situation at tin, tantalum and tungsten mine sites has improved and trade in tin, tantalum and tungsten has become a much less important source of financing for armed groups."<sup>47</sup>

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<sup>41</sup> PRI (2016), *Global guide to responsible investment regulation*, <https://www.unpri.org/page/responsible-investment-regulation>. – The PRI is a group of 1 500 investors from over 50 countries, representing US \$60 trillion in assets working on mainstreaming RBC in the global financial system -

<sup>42</sup> UK Modern Slavery Act 2015, [www.legislation.gov.uk/ukpga/2015/30/pdfs/ukpga\\_20150030\\_en.pdf](http://www.legislation.gov.uk/ukpga/2015/30/pdfs/ukpga_20150030_en.pdf).

<sup>43</sup> US Trade Facilitation and Trade Enforcement Act [H.R.644 — 114th Congress \(2015-2016\)](https://www.congress.gov/bills/114/644), Section 910

<sup>44</sup> France, Proposition de Loi relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre, [http://www.assemblee-nationale.fr/14/dossiers/devoir\\_vigilance\\_entreprises\\_donneuses\\_ordre.asp](http://www.assemblee-nationale.fr/14/dossiers/devoir_vigilance_entreprises_donneuses_ordre.asp)

<sup>45</sup> Trade in conflict minerals: Presidency agreement with the European Parliament <http://www.eu2016.sk/en/press-releases/trade-in-conflict-minerals-presidency-agreement-with-the-european-parliament>

<sup>46</sup> Section 1502 of the Dodd–Frank Wall Street Reform and Consumer Protection Act pertaining to trade involving so-called 'conflict minerals' - tin, tantalum, tungsten and gold (3TG) - produced in the Democratic Republic of the Congo (DRC) and adjoining countries, mandates the US Securities and Exchange Commission to develop rules that oblige the covered companies to undertake efforts to ascertain the origin of 3TG in their supply chains.

<sup>47</sup> Letter from the Chair of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo addressed to the President of the Security Council, paragraph 221, S/2012/843 (2 November 2012).

G20 governments can also use their leverage as significant economic actors to promote standards related to sustainable supply chains. For example, inclusion of such standards in public procurement criteria or as a condition to development assistance or receipt of export credits can be an effective way of increasing awareness and observance of these standards. However, increasing domestic regulation with respect to global supply chains can also present challenges. An uncoordinated mix of regulations that may differ across countries has the potential to create challenges for businesses when it comes to navigating their obligations. Promoting uniformity and clarity around obligations and expectations for businesses operating globally will be important for establishing a level playing field and easing burdens for business when it comes to promoting sustainable supply chains. Policy makers should therefore make sure that domestic initiatives align with recognised international tools and instruments, such as the OECD Guidelines, UN Guiding Principles or the due diligence guidance described above.

Another way for governments to address these challenges is to establish structures that can act as principal interlocutors among stakeholders, enterprises, and governments and can provide support and technical assistance on the expectations regarding sustainable supply chains. Adherents to the OECD Guidelines have all established such domestic structures, called “National Contact Points”, to play this role. National Contact Points are described in more detail below.

## **5. Providing grievance mechanisms and access to remedy**

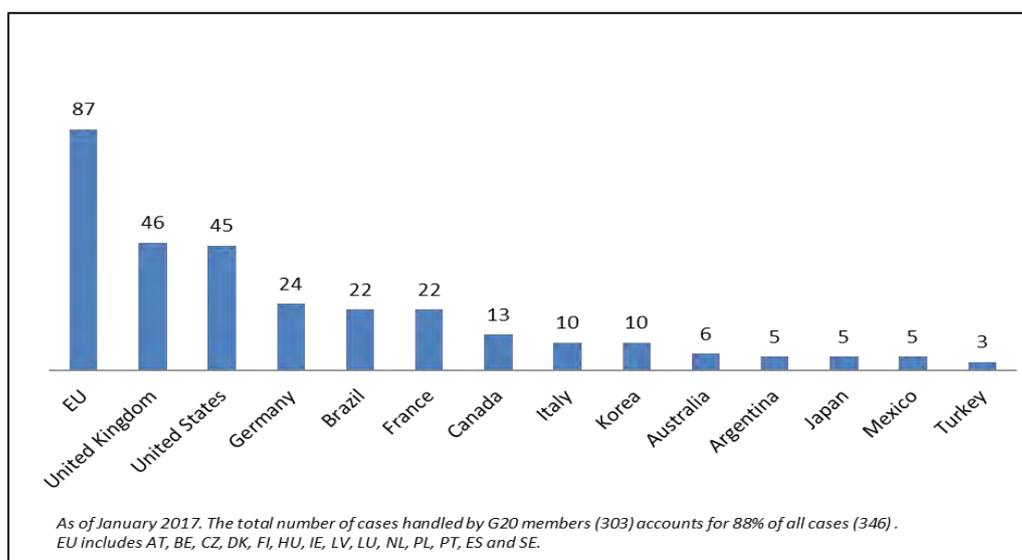
The need to provide grievance mechanisms and access to remedy to victims of adverse impacts from business operations is recognised in all major international instruments for responsible business conduct and are key to promoting sustainable supply chains and business accountability. The UN Guiding Principles highlight the importance of effective grievance mechanisms in upholding the state duty to protect and the corporate responsibility to respect human rights, along with access to remedy in its own right. More recently, the International Labour Conference noted the possibility of setting up mechanisms to address disputes under the ILO MNE Declaration (ILO, 2016).

Access to remedy can be provided by a range of mechanisms, including judicial and State-based non-judicial mechanisms, or operational mechanisms put in place by enterprises themselves. In the context of global supply chains, State-based non-judicial grievance mechanisms have several advantages relative to other dispute resolution processes, and can usefully complement existing judicial mechanisms. For example, they can facilitate access to consensual and non-adversarial means of dispute resolution, such as mediation. This can be significantly quicker and less expensive than court proceedings or arbitration, and can enable the parties to engage in a process aimed at reaching a mutual agreement rather than a judgement.

The only international standard with a built-in grievance mechanism are the OECD Guidelines. The mandate of National Contact Points (NCPs) set up by adherents to the OECD Guidelines is to promote them and to handle issues related to their implementation. Currently, NCPs are the only State-based non-judicial mechanism, providing a platform for discussion and resolution of a wide range of issues related to business conduct arising throughout global supply chains.

The dual mandate of NCPs allows them to both provide advice and information to help enterprises understand and implement responsible business standards, and to provide a mechanism to stakeholders to submit complaints when enterprises do not respect those standards. The NCP role is to bring the parties together to agree on a solution. Since 2000, close to 400 cases of alleged corporate misconduct have been submitted to NCPs, dealing with company operations in 100 countries (OECD, 2016c). Out of these, 55% dealt with labour, 25% with human rights, and 18% with environmental issues. The majority of cases have been handled by NCPs based in G20 countries (Figure 2).

**Figure 2. Number of cases handled by G20 National Contact Points**



Between 2011 and 2015, approximately 50% of all cases examined by NCPs resulted in an agreement between the parties.<sup>48</sup> A number of recent cases deal with issues in companies' supply chains, including child labour. NCPs handle issues related to the conduct of enterprises operating in or from their territories and therefore can have transnational reach. Some cases have involved companies from G20 countries which do not currently adhere to the OECD Guidelines but have resulted in important impacts for these companies. (See Annex 2).

Representatives from business, trade unions and civil society organisations have all recognised the benefits and positive impacts of the OECD Guidelines and the NCPs.<sup>49</sup> For example, business recognises the contribution of the OECD Guidelines to establishing a level playing field for companies.<sup>50</sup> NCPs form a unique network; they cooperate in dealing with cases spanning several jurisdictions, meet regularly to exchange experiences and good practices, and contribute to the development of practical guidance to enterprises.

As part of the mandate of NCPs to promote the implementation of the OECD Guidelines, many NCPs play leading roles in providing advice on application of sustainable supply chain standards to both their government and business community. For example, the French NCP has been active in engaging with French garment and footwear enterprises on how to carry out supply chain due diligence based on guidance developed to help companies avoid risks in this sector. Similarly, the Italian NCP is active in sharing expertise to support the development of policy and regulations relevant to corporate ethics. It also provides advice to local companies on supply chain

<sup>48</sup> OECD (2016) *Implementing the OECD Guidelines for Multinational Enterprises: The National Contact Points from 2000 to 2015* <http://mneguidelines.oecd.org/15-years-of-ncps.htm>; OECD (2016) *Annual Report on the Guidelines for Multinational Enterprises (2015)* <http://mneguidelines.oecd.org/annualreportsontheguidelines.htm>.

<sup>49</sup> Representatives of business, trade unions and civil society all participate in the OECD's work on implementation of the OECD Guidelines, see Business and Industry Advisory Committee (BIAC) <http://biac.org/wp-content/uploads/2015/06/FIN-15-06-GUIDELINES-BROCHURE4.pdf>. ; Trade Union Advisory Committee (TUAC) [www.tuacoecd.mneguidelines.org/Home.asp](http://www.tuacoecd.mneguidelines.org/Home.asp), OECD Watch [www.oecdwatch.org](http://www.oecdwatch.org).

<sup>50</sup> Business and Industry Advisory Committee to the OECD (BIAC), *The OECD Guidelines for Multinational Enterprises* <http://biac.org/wp-content/uploads/2015/06/FIN-15-06-GUIDELINES-BROCHURE.pdf>.

due diligence. For example, it recently launched a pilot project with Italian companies that source from a significant number of SMEs to promote proactive and responsible supply chain management through supplier training, information provision, and assistance.

Establishing a central interlocutor between enterprises, stakeholders, and policy makers in order to clarify expectations is especially important as governments are increasingly introducing regulations or policies related to supply chain due diligence. NCPs or platforms tasked with similar functions (resolving issues and providing technical advice and support to companies) can ensure that policy or regulatory approaches developed around responsible business conduct are realistic and actionable by enterprises. At the same time, they can help ensure that enterprises understand and correctly implement government expectations.

In 2015, G7 Leaders recognised the unique value and importance of NCPs in promoting sustainable supply chains. They committed to strengthening mechanisms for providing access to remedies including the NCPs. G7 leaders encouraged the OECD to promote peer reviews and peer learning on the functioning and performance of NCPs, and committed to ensure that their own NCPs are effective and lead by example.<sup>51</sup> Since then, an Action Plan to strengthen NCPs has been adopted,<sup>52</sup> and all G7 countries, as well as a number of G20 countries, have undergone or will shortly undergo a peer review of their NCP, thereby showing their support to this mechanism.<sup>53</sup>

## Conclusion

Global supply chains present major development opportunities and generating societal benefits, as well as risks such as increased risks of forced labour and child labour, environmental damage etc. Balancing economic growth and sustainability goals linked to global supply chains also presents challenges, and governments and businesses in G20 countries have a particular responsibility to address these challenges. To this effect, a number of tools and mechanisms are in place, including international standards promoting responsible business conduct, legislation mandating that companies address risks in supply chains; guidance for business on how to carry out supply chain due diligence, as well as mechanisms to provide access to remedy to victims of adverse impacts. A greater uptake by all G20 countries of these tools and mechanisms is needed to effectively drive sustainability through global supply chains.

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<sup>51</sup> Leaders' Declaration G7 Summit 2015, [https://www.g7germany.de/Content/EN/\\_Anlagen/G7/2015-06-08-g7-abschluss-eng\\_en.pdf?\\_blob=publicationFile&v=3](https://www.g7germany.de/Content/EN/_Anlagen/G7/2015-06-08-g7-abschluss-eng_en.pdf?_blob=publicationFile&v=3).

<sup>52</sup> OECD (2015) Action Plan to strengthen NCPs <http://mneguidelines.oecd.org/action-plan-to-strengthen-ncps.htm>.

<sup>53</sup> The following countries have undergone or committed to a peer review of their NCP: Austria, Argentina, Australia, Belgium, Brazil, Canada, Chile, Denmark, France, Germany, Italy, Japan, Netherlands, Norway, Republic of Korea, Switzerland, United Kingdom, United States.

## Annex 1: Due Diligence for Sustainable Supply Chains

This Annex provides a brief overview of the core concepts related to due diligence for sustainable supply chains and responsible business conduct.<sup>54</sup>

Enterprises can create or be involved with:

- **positive impacts** on society and contribute to sustainable development, for example through job creation, human capital development, raising investment and fostering innovation.
- **adverse impacts** related to human rights, workers conditions, the environment, bribery, disclosure and consumers through their own activities or their business relationships.

Enterprises should both maximise positive impacts and avoid adverse impacts. For this purpose, they are expected to carry out due diligence.

### WHAT IS DUE DILIGENCE?

Due diligence is the process through which enterprises can identify, prevent, mitigate and account for how they address their actual and potential adverse impacts. Enterprises should carry out due diligence building on existing systems that underpin their management of risks. What may be new about this approach is orienting these systems towards sustainable supply chains and responsible business conduct:

- Expanding or reorienting their due diligence process to focus not only on risks to the enterprise, but also risks to the environment, to workers, to consumers, to people and their human rights and of unethical conduct.
- Identifying and managing not only risks associated with the enterprise's own operations, but also the risks the enterprise may create or be involved in through its web of business relationships, for example through its supply chain.

### CAPTURING THE "ESSENCE" OF DUE DILIGENCE:

- ✓ It covers the different risk areas related to responsible business conduct<sup>55</sup>: disclosure; human rights; workers and industrial relations; environment; bribery, bribe solicitations, extortion; consumers interests.
- ✓ It is a risk-based approach, meaning that efforts should be proportional to risk; the potential and actual severity of impacts are the driving force to scale up or down due diligence.
- ✓ Prioritisation is crucial to identify the relative severity of **responsible business conduct** impacts and focus due diligence efforts.
- ✓ It is a systematic approach, involving on-going, proactive and reactive processes with a focus on progressive improvement.
- ✓ The nature and extent of due diligence varies according to company circumstances and the situation, such as the size of the enterprise, its sector, operating environment or market, business model, position in the supply chain, etc.
- ✓ Stakeholder engagement is used to involve those potentially directly or indirectly affected by its operations or business relationships.
- ✓ Collaboration with enterprises at a sector-wide level, workers, home and host governments, and civil society enhances due diligence.
- ✓ Providing for or co-operating in remedy for adverse impacts the enterprise "caused or contributed to" is an outcome of due diligence.

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<sup>54</sup> These concepts are based on the OECD Guidelines and the UN Guiding Principles.

<sup>55</sup> These areas are addressed in the OECD Guidelines, the UN Guiding Principles, and core ILO Conventions

## Summary of key actions to put a due diligence process in place

### I. Embed responsible business conduct into policy and management systems

1. Devise and adopt an RBC policy (or combinations of policies) that provide guidance to staff and business partners and a clear signal to stakeholders and publish the RBC policy (or policies) to support transparency.
2. Embed the RBC policy into its enterprise culture, approaches and management systems to make sure it is rooted in the enterprise and is actually implemented as part of everyday business.
3. Assign accountability for RBC matters to senior management, and for public companies, assign board level responsibilities; complement this by assigning responsibility across relevant departments.
4. Develop management system(s) with internal controls that are commensurate with the RBC risks of its operations and operating contexts to integrate RBC into its everyday business processes.
5. Support implementation by providing adequate resources & training to staff, and as appropriate, business partners.
6. Incorporate RBC expectations and policies into supplier or other business relationships, including through contracts or other forms of written agreements with business partners.

#### II-A. Identify and assess adverse RBC impacts

1. Use a variety of tools/approaches to scope out and identify risks of harm on all matters covered by the Guidelines that may be likely to be in the enterprise's own operations and with its business relationships.
2. Use iterative processes to prioritise and hone in on RBC risks and impacts, moving from general areas of RBC risk to more specific RBC risks and impacts associated with its activities and its business relationships.
3. Assess whether those RBC risks or actual impacts would have the kind of adverse impacts covered by the Guidelines, by benchmarking against relevant laws and regulations and the Guidelines and assess the enterprise's relationship to the adverse impacts (i.e. cause, contribute or directly linked).
4. Repeat these processes on a regular basis, recognising that more complex an enterprise and/or the higher the RBC risks, the more in-depth these processes will need to be.

#### II-B. Prevent and mitigate adverse RBC impacts

1. Design response plans that are fit for purpose for the potential or actual RBC impacts and corresponds to the enterprise's involvement with the impact.
2. Prioritise responses as necessary, based on severity of the potential or actual impacts.
3. Use leverage with business relationships to prompt responses to potential or actual impacts.

#### II-C. Track performance

1. Develop or adapt systems to track how it is responding to RBC risks & impacts and monitor implementation of any management plan against established objectives, goals and timelines.
2. Seek to identify trends and patterns that highlight recurring problems and issues that have been missed.
3. Feedback lessons learned into improving due diligence and its outcomes in the future.

#### II-D. Communicate

1. Disclose timely and accurate information on all material matters regarding their activities, structure, financial situation, performance, ownership and governance as set out in the Guidelines and the OECD Principles of Corporate Governance, if applicable.
2. Disclose additional information set out in the Guidelines to improve understanding of the enterprise's operations.
3. Communicate with stakeholders to account for how the enterprise has addressed actual and potential adverse RBC impacts, adapting communication channels as necessary to stakeholders.

### III. Provide for or cooperate in remediation when appropriate

1. Enable remediation for harms caused or contributed to, using a variety of avenues.
2. Provide for or co-operate through legitimate processes in the remediation of adverse human rights impacts where they identify that they have caused or contributed to these impacts.

## Annex 2: Examples of cases handled by National Contact Points

### Cases involving supply chains

- **Recommendation to carry out supply chain due diligence (2016):** The Clean Clothes Campaign submitted a complaint to the Danish NCP alleging PWT Group, a clothing company, had not observed the Guidelines due to a failure to carry out due diligence in relation to its supplier, a textile manufacturer which was located in the Rana Plaza, Bangladesh. The NCP found that PWT Group had not applied processes for due diligence in compliance with the Guidelines. In particular, PWT Group had failed to make demands its supplier ensure employees' basic human and labour rights, including failing to take adequate steps to ensure occupational health and safety in their operations. The NCP issued a statement recommending that PWT take several actions to carry out due diligence as recommended by the Guidelines.<sup>56</sup>
- **Agreement to improve safety in supplier factories (2013):** The case Uwe Kekeritz and Karl Rieker GmbH & Co (handled by the NCP of Germany) concerning the Tazreen factory fire in Bangladesh, led to an agreement by which the company committed to improve the fire and building safety standards in its supplier factories. Measures included reducing the number of supplier factories, establishing long-term supplier relations, close supervision by local staff, and signing the Bangladesh Accord on Fire and Building Safety.

### Cases involving child labour

- **Child labour in cotton sourcing:** In 2011, several complaints were submitted regarding sourcing of cotton from Uzbekistan cultivated using child labour. The NCP mediation processes led to several agreements with companies involved in sourcing the products as well as heightened industry attention to this issue. Several years later, one of the complainants, the European Center for Constitutional and Human Rights (ECCHR) concluded that the submission of the complaints had encouraged traders to take some steps to pressure the Uzbek government to end forced labour, although company commitment and media attention around the issue diminished over time. The report also noted that the complaints submitted to NCPs triggered investment banks' monitoring of forced labour issues in Uzbekistan.
- **Failure to address child labour in supply chains (2007):** The case Global Witness and Afrimex UK Ltd handled by the NCP of the UK involved an allegation of non-observance of various chapters of the OECD Guidelines through activities in the DRC by the company Afrimex. The NCP concluded that Afrimex did not undertake appropriate due diligence in its supply chain and failed to take requisite steps towards the elimination of child labour and forced labour in the mines it was sourcing from. This case helped to catalyse the development of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, today the leading on responsible mineral supply chains.

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<sup>56</sup> All cases are recorded in the OECD Database of specific instances <http://mneguidelines.oecd.org/database>

## Impacts of cases in non-adherent G20 countries

- **Withdrawal of access to economic diplomacy (2015):** The Canadian NCP received a submission alleging that China Gold International Resources Corp. Ltd. operating in China's Tibet Autonomous Region had not adequately conducted environmental due diligence, not respected human rights and failed to disclose accurate information on the environmental, health and safety risks to local communities. China Gold refused to participate in the mediation procedure of the NCP and as result, access to economic diplomatic support from the Canadian government was withdrawn.
- **Divestment (2013):** In October 2012, the Norwegian and Dutch NCPs received a submission alleging that Pohang Iron and Steel Enterprise (POSCO), and its joint venture POSCO India Private Limited had failed to seek to prevent or mitigate human rights impacts; to conduct comprehensive human rights due diligence; and to carry out environmental due diligence in its project to set up a steel plant in the Jagastinghpur District in Odisha, India. Subsequent to the filing of the specific instance two of POSCO's investors (APG and NBIM) withdrew their investments from POSCO.