



TRADE UNION ADVISORY COMMITTEE
TO THE ORGANISATION FOR ECONOMIC
COOPERATION AND DEVELOPMENT
COMMISSION SYNDICALE CONSULTATIVE
AUPRÈS DE L'ORGANISATION DE COOPÉRATION
ET DE DÉVELOPPEMENT ÉCONOMIQUES

TRADE UNION ADVISORY COMMITTEE TO THE OECD (TUAC)

The UN Guiding Principles on Business and Human Rights

The OECD Guidelines for Multinational Enterprises

Vigo Dialogue on Decent Work in Fisheries and Aquaculture

4 October 2016
VIGO



UN Guiding Principles on Business and Human Rights

- Companies have a **Corporate Responsibility to Respect** the human rights of workers
 - Baseline responsibility - "*CSR is Dead*"
- Human Rights are rights that are **inherent to all people**, without discrimination
- Human rights includes **all labour rights** including the rights of **workers to form/ join trade unions** and to have trade unions recognised for **collective bargaining**
- **Corporate Responsibility to Respect** extends to all workers including workers in the supply chain/business relationships
- Companies need to **know and show** that they respect human rights and should conduct **Due diligence** – working with trade unions (affected stakeholders)



UN Guiding Principles on Business and Human Rights

Overview

- 2011: United Nations Human Rights Council unanimously endorsed the UN Guiding Principles on Business and Human Rights («Ruggie Principles»)
 - Guidelines for States and business to prevent and address human rights abuses in business operations
- Supported by trade unions and CSOs but also the International Organisation of Employers:
 - “Game changer” for clarifying the respective roles, responsibilities and obligations of governments and enterprises (IOE, 2015)



3 Pillar Framework

State Duty to Protect

- States must protect against human rights abuses...by third parties including business enterprises
- Prevent, investigate, punish and redress

Corporate Responsibility to Respect

- Avoid and address adverse impacts on human rights
- **Conduct due diligence**

Access to Remedy

- Effective access for victims
- Judicial and non-judicial



UN Guiding Principles on Business and Human Rights

Corporate Responsibility to Respect

- Avoid infringing on the human rights of others and should address adverse impacts with which they are involved
- **Independent responsibility** and **distinct from** the State Duty to Protect
- Extends to **all companies** : all sizes, ownership and in all sectors
- Not limited by national law – international standards
- Companies should respect **all rights**: As a minimum refer to **Universal Declaration of Human Rights; International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; 1998 ILO Declaration on Fundamental Principles and Rights at Work**. Also UN instruments concerning the rights of: **indigenous peoples; persons belonging to national, or ethnic, religious and linguistic minorities; women; children; persons with disabilities; migrant workers and their families**

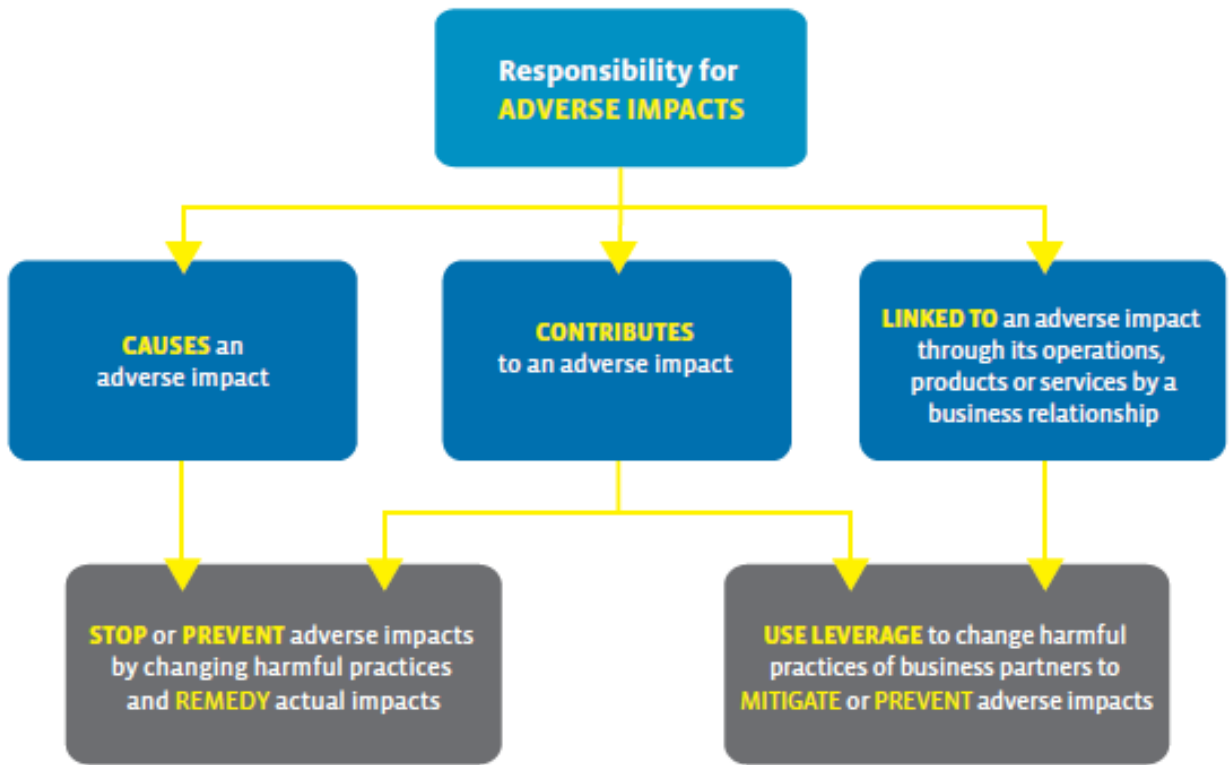
Key Concepts

Responsibility of an enterprise determined by its adverse impacts

- Not determined by the level of control or equity
- Not determined by an enterprise's 'sphere of influence'
- Determined by its adverse impacts – baseline responsibility
 - » Impacts can affect workers in the supply chain (including the “self-employed”), or any other types of business relationships

Key Concepts

FIGURE 2.1: Responsibility for Adverse Impacts



Due Diligence 'Know & Show'

Policy Commitment

Avoid and address impacts: Due Diligence

Due diligence to identify, prevent, mitigate and account for how impacts are addressed.

1. Identify and Assess impacts
2. Integrate and act on findings
3. Track responses
4. Communicate on impacts

- Take all necessary and reasonable precautions to prevent harm
- Address harm that has occurred
- **Prioritise on basis of severity**
- **Meaningful consultation with affected groups and stakeholders**
- **On-going**



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OECD Guidelines for Multinational Enterprises

What has changed?

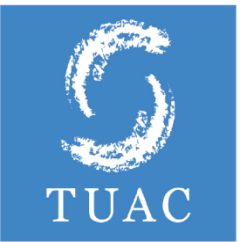
- Responsibility for other enterprises - to **conduct due diligence**
 - Meeting this responsibility requires meaningful consultation with trade unions and organised workers

What is beginning to change?

- *Mandatory Due Diligence*: enacting domestic legislation to make it mandatory for companies headquartered in, or operating in/from, their territory to conduct due diligence, including in supply chains;
- *Mandatory Reporting*:
 - EU Non-financial reporting Directive
 - UK Modern Slavery Act 2015: Slavery & human trafficking statements

What should change?

- Learning Lessons from other Sectors:
 - Auditing: Textiles sector – shift to industry/trade union agreements
 - Certification: failed on labour rights/obstacle to realisation of rights
 - **Recognition of the role of trade unions**



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OECD Guidelines for Multinational Enterprises

- Provide (non-binding) **recommendations on Responsible Business Conduct** for MNEs on a broad range of issues: human rights including, labour rights, information disclosure, environment
- **Signed by governments (46)** – not by MNEs
- Apply to **MNEs registered or listed in countries that have signed the Guidelines**, wherever those MNEs operate, as well as **MNEs operating in the territory** of those countries
- **Have a complaints mechanism – National Contact Points**
- Include a “proactive agenda” under which the OECD is developing **sectoral and general guidance on undertaking due diligence guidance**



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Industry/TU Agreements

IUF v Unilever : Precarious Work and Trade Union Rights

- Trade union: IUF
 - MNE: Unilever (food - Brooke Bond and Lipton's tea factory), UK
 - Country: Pakistan (Khanewal)
 - NCP: UK
 - Issue: precarious work/abusive use of temporary contracts/agency work (22 v 723):
 - Provisions of the Guidelines: right to organise (V. 1a)
 - NCP Role:
 - Provided external mediation
 - Led to an agreement between IUF and Unilever
- "1. The IUF and Unilever have agreed there will be a significant change in the model of employment at Khanewal based on a combination of directly employed permanent labour in non-seasonal manufacturing and contract agency workers (labour engaged through third party service providers) for ancillary, non-manufacturing and seasonal positions.
2. Under the terms of this agreement, Unilever will establish 200 permanent positions at Khanewal. This is in addition to the existing 22 positions at this facility..." <http://www.bis.gov.uk/files/file49308.doc>



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Stakeholder Engagement

**Organised workers and
trade unions should be at
the heart of due diligence**

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