



RESPONSIBLE SUPPLY CHAINS IN THE CONSTRUCTION SECTOR

Prof. Dr. Roel Nieuwenkamp

CHAIR of the OECD WORKING PARTY ON RESPONSIBLE BUSINESS
CONDUCT







OECD Guidelines for Multinational Enterprises

- Comprehensive, government-backed, international corporate responsibility instrument
- Binding for Governments
- Recommendations to Multinational Enterprises operating in or from adhering countries





OECD Guidelines – 46 Government adherents

- Accounts for a majority of global investment flows and covers global supply chains
- Representative of all regions of the world
- Includes 34 OECD countries, 12 non OECD countries
- Unique grievance mechanism
- Integrated ILO and UN Guiding Principles on Human Rights and Biz





Adoption by the 2011 Ministerial Council Meeting



Secretary of State, Ms. Hillary Clinton, at the adoption of the update:

“If you look at these guidelines, they will be helping us determine how supply chains can be changed so that it can begin to prevent and eliminate abuses and violence. We’re going to look at new strategies that will seek to make our case to companies that due diligence, while not always easy, is absolutely essential.”





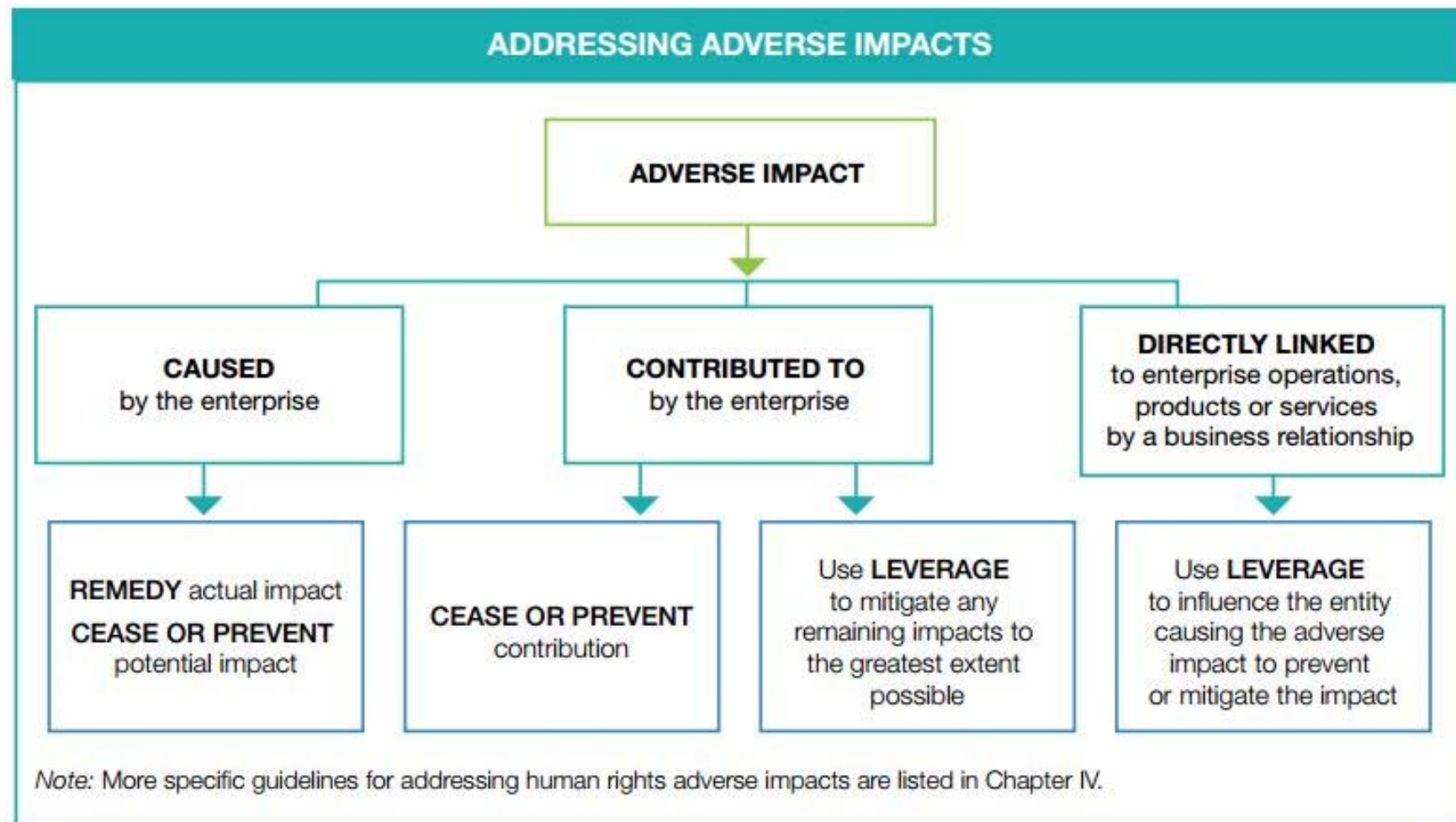
Due Diligence and Supply Chain

- Scope of application of the Guidelines extended from investment to business relationships, including suppliers, agents and franchises
- Risk-based due diligence main tool to prevent adverse impact.

Enterprises should:

- *Carry out **risk-based due diligence** , (...), to identify, prevent and mitigate actual and potential adverse impacts (...), and account for how these impacts are addressed.*
- ***Avoid causing or contributing to adverse impacts** on matters covered by the Guidelines, through their own activities, and address such impacts when they occur.*
- ***Seek to prevent or mitigate an adverse impact where they have not contributed to that impact, when the impact is nevertheless directly linked to their operations, products or services by a business relationship.***







Common 5-Step Framework for Supply Chain Due Diligence – Construction Sector

Step 1 – Establish strong management systems: Policy, internal capacity, supplier engagement, internal controls over supply chain

Step 2 – Identify, assess and prioritise risks in the enterprise supply chain: map supply chain, prioritize based on severity of harm (sector, counterparty, and site for high-risk issues), use existing networks

Step 3 – Manage risks in the supply chain: inform senior management, fix internal systems, build leverage, use existing supply chain networks, workers reps, non-traditional partnerships, build capacity

Step 4 – Verify supply chain due diligence: where relevance, monitor, audit assurance, etc.

Step 5 – Communicate and report on supply chain due diligence: with due regard for commercial confidentiality and competitive concerns





Due Diligence and Supply Chain

- ✓ Not 'one layer deep'
- ✓ No 'zero tolerance' requirement
- ✓ Nature & extent of DD: size, context, severity impact
- ✓ Prioritising is acceptable
- ✓ Leverage
- ✓ Responses: disengagement at last resort
- ✓ No shift of responsibility!
- ✓ High benchmark, but also protection against unreasonable expectations!





Applying Leverage

Diagram 11: UNGP decision-making logic on business relationships and leverage

	Have leverage	Lack leverage
Crucial business relationships	<p>A</p> <ul style="list-style-type: none">• Mitigate the risk that the abuse continues/recurs• If unsuccessful→	<p>B</p> <ul style="list-style-type: none">• Seek to increase leverage• If unsuccessful, seek to mitigate risk that the abuse continues/recurs• If unsuccessful, consider ending the relationship; ** or demonstrate efforts made to mitigate abuse, recognizing possible consequences of remaining
Non-crucial business relationships	<p>C</p> <ul style="list-style-type: none">• Try to mitigate the risk that the abuse continues/recurs• If unsuccessful, take steps to end the relationship*	<p>D</p> <ul style="list-style-type: none">• Assess reasonable options for increasing leverage to mitigate the risk that the abuse continues/recurs• If impossible or unsuccessful, consider ending the relationship*

* Decisions on ending the relationship should take into account credible assessments of any potential adverse human rights impact of doing so.

** If the relationship is deemed crucial, the severity of the impact should also be considered when assessing the appropriate course of action.



Due Diligence and Supply Chain

- ✓ Vinci: Court case: migrant worker treatment
- ✓ Export Credit Agencies
- ✓ Canada: 'China Gold' case





Due Diligence and Legal Developments

- ✓ California: Transparency in the Supply Chain Act
- ✓ United Kingdom: Modern Slavery Act
- ✓ France: Due Diligence Law - proposal
- ✓ Switzerland: Referendum on Due Diligence Law
- ✓ EU Non Financial Disclosure Directive





Construction Sector – 12 Cases

Company	Location	Issue - Status	NCP
Norpower	Serawak Dam	Human Rights DD; Solved	Norway
Andritz	Xayaburi Dam	Human Rights & environment Solved	Austria
De Nul	Arctic Russia	Environment – no breach; more transparent	Belgium
Heidelberg Cement	Indonesia	Trade Union Rights; Solved	Germany
Nuon	Netherlands	Employments standards subcontractors Solved	Netherlands
CRH Cement	Palestinian Territories	Human Rights DD; ongoing	Ireland



Formula One and ADHRB

- Concluded by UK NCP with agreement between the parties.
- Formula One will adopt a human rights policy and examine its impact in Bahrain.







Further information

For further information:

<http://mneguidelines.oecd.org>

Contact: Prof dr Roel Nieuwenkamp, Chair of the Working Party on Responsible Business Conduct – roel.nieuwenkamp@minbuza.nl



@Nieuwenkamp_CSR

#OECDrbc



Friends of OECD Guidelines

