



International
Labour
Organization



► Policy recommendations for Japan towards achieving the labour dimension of corporate social responsibility

Japan's national policy concerning business and human rights

► **Policy recommendations for Japan towards achieving the labour dimension of corporate social responsibility**

Japan's national policy concerning business and human rights

Emi Sugawara and Ryusuke Tanaka
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► Executive summary

This report analyses and make recommendations on national policies on the labour dimension of corporate social responsibility (CSR) and responsible business conduct (RBC). The analysis examines the norms developed in the context of international instruments, such as the United Nations Guiding Principles on Business and Human Rights, and the dynamism of normative development led by diverse actors' implementation of those norms. For this report, labour CSR and RBC are defined as "corporate actions to fulfil legally and socially required responsibilities, taking into account the social impact of business activities in the dimension of labour".

Composition of this report



1

Labour CSR and RBC – Historical development

The development of international norms on labour CSR and RBC began in the 1970s, when regulations of multinational enterprises became a matter of international concern. Labour CSR and RBC were initially led by the Organisation for Economic Co-operation and Development's (OECD) Guidelines for Multinational Enterprises (1976) and the International Labour Organization (ILO) Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (1977), which is known as the ILO MNE Declaration. Initiatives of CSR evolved in the late 1990s, along with the United Nations Guiding Principles on Business and Human Rights (2011) (UN Guiding Principles) and the Sustainable Development Goals (SDGs) (2015). Essentially, the increased socio-economic impact of cross-border business activities attracted more emphasis on the elimination of adverse impacts of business on human and labour rights as well as the promotion of their positive contribution to social progress.

Chapter 1 discusses the historical background of labour CSR and RBC in terms of: business responsibility (i) to respect internationally recognized standards (core labour standards and other international human rights and labour standards); (ii) that extend to the global supply chains; and (iii) not only for adverse impacts (do no harm) but also for positive roles (contribution to social and economic progress), which includes efforts beyond legal compliance. Labour CSR and RBC have been promoted, with an aim of addressing decent work challenges in domestic and global sphere, and creating a fair and sustainable global market (a level playing field) by diverse actors among governments, international organizations, regional organizations, civil society and enterprises. This report identifies labour CSR and RBC policies expected for adoption by States that have been shaped by the interaction of multilayered initiatives by diverse actors.

2

International instruments concerning labour CSR and RBC – Rationale of multilayered endeavours by diverse actors

The United Nations, the ILO and the OECD have formulated international instruments on labour CSR and RBC that reflect the views of States and other stakeholders around the world. They have requested States to adopt specific policies on labour CSR and RBC and to encourage enterprises to comply with them. The diverse catalogue of policies can be broadly categorized as: (a) ratification of the core labour Conventions, which form the basis of labour CSR and RBC; (b) domestic implementation of ratified international human rights and labour Conventions; (c) adoption of labour CSR and RBC as States' strategic objectives; (d) individual policy measures for labour CSR and RBC; (e) labour CSR and RBC in external (foreign) policies; (f) promotion of social dialogue and engagement; (g) access to remedy; and (h) labour CSR and RBC in international cooperation. The individual policy measures include awareness-raising (support, information sharing and guidelines), non-financial reporting, public contracts and procurement, and outreach to small and medium-sized enterprises (SMEs). Based on the policy implication of international instruments on labour CSR and RBC, Chapter 2 identifies the responsibilities that enterprises should fulfil, especially in the labour dimension, and analyses government policies to integrate labour CSR and RBC for regulatory and promotive measures.

3

Labour CSR and RBC policies adopted by international organizations

Government policies that reflect the international instruments on labour CSR and RBC have been developed through interaction of the multilayered initiatives by various actors, including international organizations, regional organizations, enterprises, stakeholders and governments.

Chapter 3 focuses on the activities of international organizations, the United Nations, including the ILO, and the OECD towards the realization of labour CSR and RBC. These include promoting implementation of relevant Conventions and other international instruments and providing guidance and conducting projects with States. In addition to the domestic implementation of international human rights and labour standards, the following practical measures for States that are suggested from the perspective of international organizations: information sharing services and guidance on labour CSR and RBC including those promoted by international organizations; development of a national action plan that includes national strategies on labour CSR and RBC; extraterritorial measures, including for global supply chains; sector- and national-level social dialogue, including intergovernmental dialogue between host and home countries; strengthening National Contact Points based on the OECD Guidelines for Multinational Enterprises; government leadership and support for international cooperation and multistakeholder initiatives; and recovery from the COVID-19 crisis.

Chapter 3 identifies specific policy elements concerning labour CSR and RBC, derived from policy discussions and practice by international organizations.

4

Regional organizations and labour CSR and RBC

Regional organizations, particularly the European Union and the Association of Southeast Asian Nations (ASEAN), have developed and implemented strategic policy instruments concerning labour CSR and RBC and called for Member States to adopt relevant policy measures. The regional organizations call for domestic implementation of international human rights and labour standards and the formulation of national action plans that incorporate national strategies on business and human rights, including labour CSR and RBC. In addition, they promote regulations that encourage human rights due diligence; non-financial reporting and sustainable investment; socially responsible public procurement, trade and development policies that promote labour CSR and RBC; and awareness-raising, training, social dialogue, access to remedy and international cooperation.

Chapter 4 provides practical examples of labour CSR and RBC policies along with a policy analysis of both the European Union and ASEAN, which have close economic and social policy and market links with Japan.

5

Initiatives by enterprises, trade unions and other stakeholders concerning labour CSR and RBC

Chapter 5 examines labour CSR and RBC policy requirements for States, with a focus on initiatives of enterprises and employers' organizations, trade unions, investors, civil society organizations and national human rights institutions. Because corporate activities are supported by stakeholders, it is expected that their demands will be taken into account in the formation of legitimate and effective policies.

The trends towards mandatory human rights due diligence, which incorporates labour CSR and RBC, continues mainly in Europe. Enterprises' positions in legislative measures are not monolithic. But it is desirable for States to develop national strategies and domestic measures that are consistent with international instruments. In Japan, there are calls for a clear vision to direct related policies to secure policy coherency among ministries and agencies (such as from the Japan Business Federation, or Keidanren) and the environment for fair competition and business relations for SMEs (such as the National Conference of Association of Small Business Entrepreneurs, or Chudo-kyo).

While investors call for enterprises to disclose information and meet with environmental, social and governance (ESG) investment needs, they recommend the development of comprehensive national policy strategies on sustainable finance and investment, mainly based on the United Nations Principles for Responsible Investment.

Workers' organizations are calling for ratification of the ILO fundamental Conventions and alignment with fundamental principles and rights at work while actively discussing mandatory human rights due diligence. The activities of workers' organizations highlight the importance of industrial relations and collaboration throughout global supply chains. This can lead to decent work promotion in both home and host countries and help strengthen supply chain resilience and industry upgrading, including to support production systems and dispute prevention and resolution. Social dialogue can also be incorporated into labour CSR and RBC policies of home and host countries.

Civil society organizations have called for, from a global perspective, the identification of priority issues based on gap analysis of existing policies, guidance to enterprises, reporting requirements, incentive-setting, linkage with government procurement, mandatory human rights due diligence legislation, effective remedies for victims and the promotion of international cooperation. National human rights institutions have called for the development of national action plans that meet the requirements for stakeholder engagement and a smart mix of policies as well as coherence in terms of labour CSR and RBC.

6

Government initiatives for labour CSR and RBC - Current state of play

The major multilateral frameworks for labour of CSR and RBC policies include the Group of 7, the Group of 20 and other inter-State meetings that seek to adopt declarations to form the basis for country-level activities. The labour CSR and RBC policy measures identified in these frameworks' outcome documents include: development of national action plans with national strategic objectives; policy smart-mix including legally binding instruments for promotion of human rights due diligence in global supply chains; dissemination of good practices; support for SMEs; access to non-judicial grievance mechanisms, such as National Contact Points; incorporating labour principles into trade and investment agreements; engaging with stakeholders; promoting social dialogue, including through international framework agreements; improving labour law compliance through public procurement; and policies to eradicate child labour, forced labour, human trafficking and modern slavery.

Governments have shaped their labour CSR and RBC policies by taking into consideration the requirements of international instruments and demands of society (domestic and international), including those of international organizations, regional organizations, enterprises, trade unions and civil society. Specifically, they have been developed as national strategic documents on labour CSR and RBC, legislative measures on labour CSR and RBC in global supply chains, information service on worldwide trends of labour CSR and RBC, linkage with public procurement, integration of labour CSR and RBC in foreign policy (trade and investment) and establishment of a certification mechanism for labour CSR and RBC and a National Contact Point.

Chapter 6 analyses how political philosophies and objectives (vision) conceptualized at the international and national levels have materialized into concrete policy measures. It also provides a comparative analysis of Japan's labour CSR and RBC policies.

7

Government of Japan's policy on labour CSR and RBC

Discussions on CSR policy within the Government of Japan in the 2000s had not yet reached the stage of formulating a national strategy and action plan. But in recent years, more debate has taken shape on the SDGs and efforts to address business and human rights.

Chapter 7 categorizes the Japanese Government's labour CSR and RBC measures into: (i) ratification of international human rights and labour Conventions; (ii) domestic implementation of international human rights and labour standards; (iii) strategic objective documents on labour CSR and RBC; and (iv) specific measures on labour CSR and RBC (promotion of understanding and awareness-raising, non-financial disclosure, public procurement, ESG investment, labour CSR and RBC at mega-events, social dialogue, foreign policy, remedies and international cooperation). This chapter compares the Japanese Government's labour CSR and RBC with the discussion in Chapters 1–6.

8

Policy recommendations

Analysis and comparison of the international instruments, the diverse and multilayered stakeholder endeavours and the Japanese Government's current policies demonstrate that there is substantial room for the evolution of Japan's labour CSR and RBC policies. The following is a summary of the recommendations to the Government of Japan in Chapter 8.

- Establish a political philosophy and objectives (vision) for labour CSR and RBC in Japan and formulate a national strategic objective document that clarifies the vision, with a cross-ministerial action plan.
- Conduct gap analysis of the labour CSR and RBC policies, and identify priorities among human rights issues for Japanese enterprises and society. Labour CSR and RBC policies cover a range of policy areas at the global level, including protection of workers and enterprises' growth strategies, trade and investment; human rights diplomacy; international cooperation; and industrial growth and development in host countries. Interministerial and interagency cooperation and policy coherence should be ensured.
- Based on the vision and strategic objectives, labour CSR and RBC policy measures should be examined from the perspective of a smart mix and incentive-setting. Specific individual measures for labour CSR and RBC include: (i) engaging with enterprises for labour CSR and RBC practices; (ii) promoting information disclosure (voluntary or mandatory); (iii) promoting ESG investment and sustainable investment; (iv) promoting responsible government action as economic agents; (v) incorporating them in foreign policies; (vi) promoting social dialogue; (vii) strengthening the function of the National Contact Point; (viii) considering establishment of a national human rights institution from the perspective of labour CSR and RBC and business and human rights; (ix) promoting international cooperation; and (x) recovering from the COVID-19 pandemic.

State labour CSR and RBC policies have been implemented with multiple policy intentions, but it is an essential precondition that they contribute to the protection of workers' rights, including the realization of decent work in global supply chains. Recent trends in the area of business and human rights have tended to focus on country-specific or individual and occasional issues and phenomena in a few countries and regions. These individual issues and phenomena are, however, only the tip of the iceberg, and the problem lies in the deep-rooted labour issues that exist globally. For example, about one in 160 people in the world today is a victim of modern slavery, which underscores the scarcity in targeting in specific countries or regions.

There is an urgent need to set a vision for labour CSR and RBC policies, for how individual policies can be linked with global economic and social progress and for how Japanese enterprises can operate a sustainable business globally. To that end, the Government could make use of the forms of international cooperation that Japan has developed over the years, while focusing on ensuring workers' rights and sustainability in the global economy and society. In other words, put in place a vision of co-prosperity with partner countries that is incorporated in the core of the labour CSR and RBC policies and sustained by dialogue, cooperation and engagement among the Government, enterprises and workers, with each on an equal footing.

Abbreviations

AEC	ASEAN Economic Community
AICHR	ASEAN Intergovernmental Commission on Human Rights
ASCC	ASEAN Socio-Cultural Community
ASEAN	Association of Southeast Asian Nations
CSR	corporate social responsibility
ESG	environmental, social and governance
FPRW Declaration	ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up
G7	Group of Seven countries
G20	Group of Twenty countries
GPIF	Government Pension Investment Fund (Japan)
ICC	International Chamber of Commerce
ILO	International Labour Organization
IOE	International Organisation of Employers
ISO	International Organization for Standardization
ITUC	International Trade Union Confederation
JBF	Japan Business Federation (KEIDANREN)
JETRO	Japan External Trade Organization
JTUC	Japanese Trade Union Confederation (RENGO)
LGBTI	lesbian, gay, bisexual, transexual and intersex persons
MAFF	Ministry of Agriculture, Forestry and Fisheries of Japan
METI	Ministry of Economy, Trade and Industry of Japan
MHLW	Ministry of Health, Labour and Welfare of Japan
MNE Declaration	ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy
MOFA	Ministry of Foreign Affairs of Japan
NAP	National action plan on business and human rights
OECD	Organization for Economic Cooperation and Development
OECD Guidelines	OECD Guidelines for Multinational Enterprises
OHCHR	Office of the United Nations High Commissioner for Human Rights
RBC	responsible business conduct
SDGs	Sustainable Development Goals
SME	small and medium-sized enterprise
TUAC	Trade Union Advisory Committee to the OECD
UN Guiding Principles	United Nations Guiding Principles on Business and Human Rights 2011
UNDP	United Nations Development Programme
WBCSD	World Business Council for Sustainable Development

► Introduction

This report examines the normative requirement of corporate social responsibility (CSR) and responsible business conduct (RBC), focusing on the labour dimension derived from relevant international instruments, including the 2011 United Nations Guiding Principles on Business and Human Rights (UN Guiding Principles). Along with discussion on the development of such norms through implementation by diverse actors, policy recommendations are included on the measures that States are required to take.

There are various views on what should be included in the concept of CSR and RBC. Variety and transition of the concept may often be due to the social backgrounds and the context used in policymaking. Based on the examination of the normative requirements and existing practice, however, CSR and RBC can be considered as an encompassing notion that includes compliance with laws, corporate responsibility to respect the environment and human rights, actions to address policy governance gaps and proactive contributions to sustainable development. Among them, the core component of CSR and RBC is an interaction with society to meet its expectations. In this respect, the concept of “business and human rights” has many things in common with CSR and RBC in that it includes proactive contribution to sustainable development as well as corporate responsibility to address human rights risks and other adverse impacts of business operations (OHCHR et al. 2019).

This report defines “labour CSR and RBC” as the labour dimension of CSR and RBC – business responsibilities that are legally and socially required, taking into consideration the impacts of the business operations on society, particularly on labour.¹

1 The International Labour Organization (2009) defines CSR as “a way in which enterprises give consideration to the impact of their operations on society and affirm their principles and values both in their own internal methods and processes and in their interaction with other actors. CSR is a voluntary, enterprise-driven initiative and refers to activities that are considered to exceed compliance with the law”. There is some variety and sometimes transition in defining CSR due to its context used in policymaking. For example, in 2001, the European Commission defined CSR as “a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis”. Then in 2011, it diminished the emphasis on voluntariness when creating a new definition “the responsibility of enterprises for their impacts on society to respect for applicable legislation... and integrate social, environmental, ethical, human rights and consumer concerns into their business operations and core strategy.” The European Union has recently made linkages between CSR and RBC, business and human rights and the SDGs, and has positioned CSR and RBC in its policies as a fundamental element for the competitiveness of European companies as well as the development of the European Union economy (see Chapter 4).



▶ 1

Labour dimension of corporate social responsibility and responsible business conduct - Historical development

1.1 Formation of international norms

The formation of international norms on labour CSR and RBC began in the 1970s, when regulations on multinational enterprises became a matter of international concern. Later, labour CSR and RBC evolved while incorporating the widely accepted concept of CSR in the late 1990s as well as the UN Guiding Principles and the Sustainable Development Goals (SDGs).

Because the business operations across national boundaries had greater influence on local economies and society, international norms on labour CSR and RBC increasingly emphasized the positive and negative aspects, such as the elimination of adverse impacts on human rights and labour rights and the promotion of their positive contribution to social progress. In line with this development, labour CSR and RBC became embedded in policymaking to link with business and human rights principles as well as with the SDGs. This in turn became an evolving requirement for consistency with internationally recognized standards, protection of human rights and labour rights throughout global supply chains² and contribution to socio-economic growth and development (figure 1).

² Supply chains in narrow terminology refer to the flow of materials and component of goods and services through procurement and contract manufacturing. In the broader sense, it includes what it means to be a value chain and refers to the chain of values that includes investment, financing, logistics, disposal and recycling.

► **Figure 1. Historical development of international labour standards and instruments related to business and human rights**

1919

- Adoption and application of international labour

1976

- OECD Guidelines for Multinational Enterprises

1977

- Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (ILO MNE Declaration)

2000

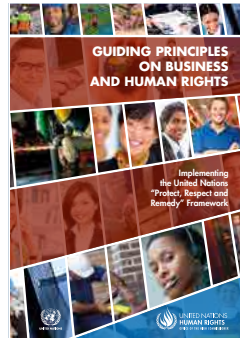
- UN Global Compact

2003

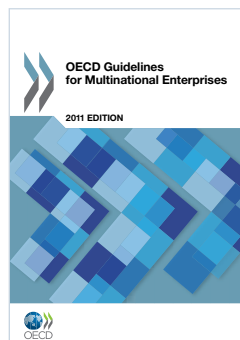
- UN Norms on the responsibilities of Transnational Corporations with regard to Human Rights (Not reached to adoption)

2011

- UN Guiding Principles on Business and Human Rights



- OECD Guidelines for Multinational Enterprises (Revised)



2015

- Sustainable Development Goals (SDGs)

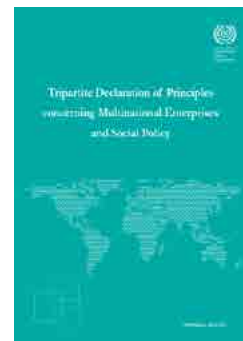


2016

- ILO Resolution concerning Decent Work in Global Supply Chain

2017

- ILO MNE Declaration (Revised)



2020

- Japan's National Action Plan on Business and Human Rights

2022

- United Nations third draft Legally Binding Instrument
- European Commission Proposal for a Directive on corporate sustainability due diligence

1.1.1 Structural changes of labour issues brought about by multinational enterprises and the ILO MNE Declaration

In the post-World War II era, enterprises in Western markets expanded their overseas operations, which reached to the decolonized developing countries in the 1960s. Because multinational enterprises in industrialized countries had economic impact and advanced technology, they were expected their contribution to the economic development in host countries, particularly those emerging countries declared independent. In some cases, the developing countries encouraged multinational enterprise investment. But the economic disparity between developed and developing countries had become an internationally debated “North–South divide”, which shed light on the negative aspects of business conduct, such as political intervention by multinational enterprises³ and their control over the natural resources of host countries.

Hostile attitudes towards multinational enterprises were aggregated among developing and socialist countries, mainly within the United Nations platform. They formed a majority opinion within the United Nations, which gave rise to the New International Economic Order and the notion of economic self-determination rights (Declaration on the Establishment of a New International Economic Order and Resolution adopted by the United Nations General Assembly). This political force heralded cooperation among many countries attempting to place binding regulations on multinational enterprises’ activities. It thus led to such initiatives as the formulation of the Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights.

In the aspect of labour and based on the development in and after the 1960s, trade unions led the initiative within the International Labour Organization (ILO) for appropriate policymaking in the field of multinational enterprises and social policy. After conducting intensive surveys and sharing views with other United Nations agencies in the 1970s, the ILO adopted the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (ILO MNE Declaration) in 1977 (Günter 1982; Hanami 1979).⁴

The industrial relations of multinational enterprises structurally differ from those of domestic enterprises, and this makes it difficult to apply the conventional domestic approach to address labour issues, such as ratifying and applying international labour standards and collective bargaining to improve working conditions. The multinational enterprises sometimes evaded legal regulation by using their economic influence; they had discretion to move business sites to other countries by a centralized decision of their headquarters. This proved a challenge for the conventional approach, which was to rely on collective bargaining in the domestic sphere to protect collective bargaining rights domestically.

While trade unions might have been able to address this problem through international solidarity, it was challenging due to the recurring economic crises in the 1970s that put them in the situation to give priority to maintaining employment in their respective countries, particularly in industrialized countries. Trade unions also pushed their respective governments to take measures at an international level. But the governments were usually less willing to impose strict rules on multinational enterprises in their territories for fear of losing their competitiveness and the benefits they would generate.⁵

3 A prominent case is a political intervention by the United States and American companies to block the assumption of the Chilean Allende presidency (in the 1970s).

4 In the 1970s, there was a hostile debate in the ILO between developing countries and industrialized Eastern countries on the opposing axis of socialism and capitalism, as well as between industrialized and developing. The United States withdrew from the ILO in 1977 because it condemned developing and socialist countries for the political use of the ILO (it returned in 1980).

5 The Preamble to the first edition of the multinational enterprises Declaration referred to the World Employment Conference in 1976, in which the governments of industrialized market economies highlighted a positive impact that multinational enterprises had over employment and development.

Taking into account these structural changes in industrial relations brought about by the nature of multinational enterprises, the ILO MNE Declaration promotes principles concerning corporate behaviour as it affects employment and development. The principles do not take the form of a binding Convention, but instead they comprise a non-binding declaration.⁶ At that time in 1977, demanding that enterprises respect the ILO's Conventions and Recommendations represented a great step forward. On the other hand, the Declaration avoided legally binding governments and enterprises or to apply the ILO's Supervisory Mechanism. Although the ILO made continued efforts to promote the ratification and implementation of the international labour standards among States and provide remedial measures under the Supervisory Mechanism, it made a distinctive approach towards enterprises in guiding the corporate behaviour of multinational enterprises aside from regulations based on Conventions. In other words, it took a hard law approach.

Based on the ILO's unique tripartism, the Declaration was adopted through consultations among the tripartite constituents: government, employers and workers. The Declaration intended to rule corporate behaviour by encouraging multinational enterprises, governments and social partners in host and home countries to mutually cooperate and fulfil their respective roles, rather than binding them legally (article 4 of the ILO MNE Declaration). Thus began the dawn of labour CSR and RBC.

This period also saw the adoption of the Organisation for Economic Co-operation and Development's (OECD) Guidelines for Multinational Enterprises (OECD Guidelines 1976)⁷ and other non-binding international instruments, such as codes of conduct, guidelines and other declarations by the United Nations organizations.⁸ Since then, other efforts have been made among United Nations organizations to maintain policy coherency between these instruments, including the ILO MNE Declaration.⁹

1.1.2 Emergence and development of corporate social responsibility

The North-South divide created hostile discussion among countries over regulations on multinational enterprises in the 1960s and thereafter. In the field of labour, the ILO adopted the MNE Declaration, which stipulated that governments, employers and workers should respect international labour standards through dialogue and cooperation. After the 1990s, the relationship between enterprises and society – specifically, the positive impact of corporate activities on society¹⁰ – came to be discussed as “corporate social responsibility”.¹¹

Originally, the concept of CSR emerged in Europe during the 1990s as one of the means to maintain employment, achieve economic reconstruction and realize social unity. It later spread to the United States and then to Japan.¹² Various national and international movements related to the environment, human rights and labour pushed enterprises to fulfil their CSR. Nike's sweatshops in late 1990s was one of the symbolic labour cases that triggered substantial debate on CSR. Grave labour problems, such as cheap labour, long working hours,

6 Although workers and government groups insisted on adopting a convention, the opinion of employers' groups for a non-binding declaration led the way to make the agreement only a declaration (Günter 1982).

7 The OECD Guidelines for Multinational Enterprises was adopted in 1976 as part of the Declaration on International Investment and Multinational Enterprises. It was originally intended to support open-door policies towards foreign direct investment as well as the harmonized activities of multinational enterprises in host countries, with a focus on its positive contribution and adverse impact in host countries.

8 Other examples include the draft United Nations Code of Conduct on Transnational Corporations (discussion initiated in 1975 and discarded in 1992) and the World Health Organization and UNICEF's International Code of Marketing of Breast-milk Substitutes (adopted in 1971).

9 During the discussion of the draft United Nations Code of Conduct on Transnational Corporations, the ILO MNE Declaration was promoted as an instrument to be cross-referenced (Günter 1981).

10 Because this report focuses on the labour aspect, it traces the origins of CSR in relation to labour and human rights. The environment aspect is also important in the origins of CSR; see Aoki 2013 and ILO 2007.

11 In the 1990s and faced with a decline in foreign direct investment, developing countries changed their attitude towards the deregulation of multinational enterprises. The United Nations shifted its policy from regulation of multinational enterprises to a focus on the protection and promotion of investment and “flexibility for development” (Sauvant and Aranda 1994).

12 In Japan, 2003 was dubbed the “first year of CSR”, when Ricoh established the first CSR department in Japan and the Japan Business Federation's Council for Better Corporate Citizenship started sending CSR dialogue missions (Kawamura 2003).

sexual harassment, child labour and forced labour, were witnessed at the workplaces of Nike's supplier companies in Asia. It provoked consumer boycotts and other campaigns against Nike. Nike was held responsible for other companies' labour issues due to business relationships with them. The Nike case and other similar cases drew attention to the impact of globalized business operations on local societies and the environment. This led to a remarkable shift from a traditional approach on corporate responsibility that focused only on returning profits to shareholders to the one that would meet the expectations of society and environmental protection. In other words, enterprises came to be responsible for shareholders and all other stakeholders.



In subsequent years, the International Organization for Standardization (ISO) strove for a globally shared ground of CSR, which resulted in ISO 26000: Guidance on Social Responsibility and that took effect in 2010. ISO 26000 confirmed enterprises' social responsibility as contributing to sustainable development and meeting stakeholders' expectations. It also confirmed that the basic principles of social responsibility should be compliance and respect for internationally recognized standards, incorporation of those standards in actions as an entire organization and appropriate actions with their supply chain business partners. In addition, ISO 26000 encompassed organizational governance, human rights, labour practices, environmental concerns, fair business practices, consumer relations, participation in the community and community development as a core value of social responsibility. It further confirmed that the important factor of social responsibility was to respect international labour standards.¹³

As the expectations of society and stakeholders constituted the concept of CSR, its fulfilment came to depend on interaction, support and evaluation of society and stakeholders (see Chapter 5). For stakeholders, the approach is to monitor the corporate activities and link them with their evaluations. For example, consumers boycott particular products, and governments reflect the CSR evaluations in their public procurement. Individuals and financial institutions as investors reflect their evaluations in the form of responsible investment, or as environmental, social and corporate governance (ESG) investment. Trade unions require enterprises to disclose and account for relevant information of their CSR activities in the labour-management dialogue. Non-government organizations and private certificate bodies communicate the results of monitoring through campaigns, ratings and social labelling. International organizations also consider CSR activities in their procurement and partner selection.¹⁴

In Japan, a typical example is an investment index evaluation for corporate efforts in encouraging women's career advancement, called Nadeshiko Brands. It was launched by the Ministry of Economy, Trade and Industry and the Tokyo Stock Exchange in 2013. The Japanese version of the Stewardship Code, published by the Financial Services Agency in 2014, urges institutional investors to engage with investee companies towards improving their sustainable growth. And the Corporate Governance Code, published by the Japan Exchange Group (currently being revised), is another good example. Nevertheless, efforts to build structural links between CSR and the decisions or economic activities of governments (such as in public procurement), consumers and civil society remain a challenge.

¹³ ISO signed a memorandum of understanding with the ILO to agree to cooperate on the development of ISO 26000.

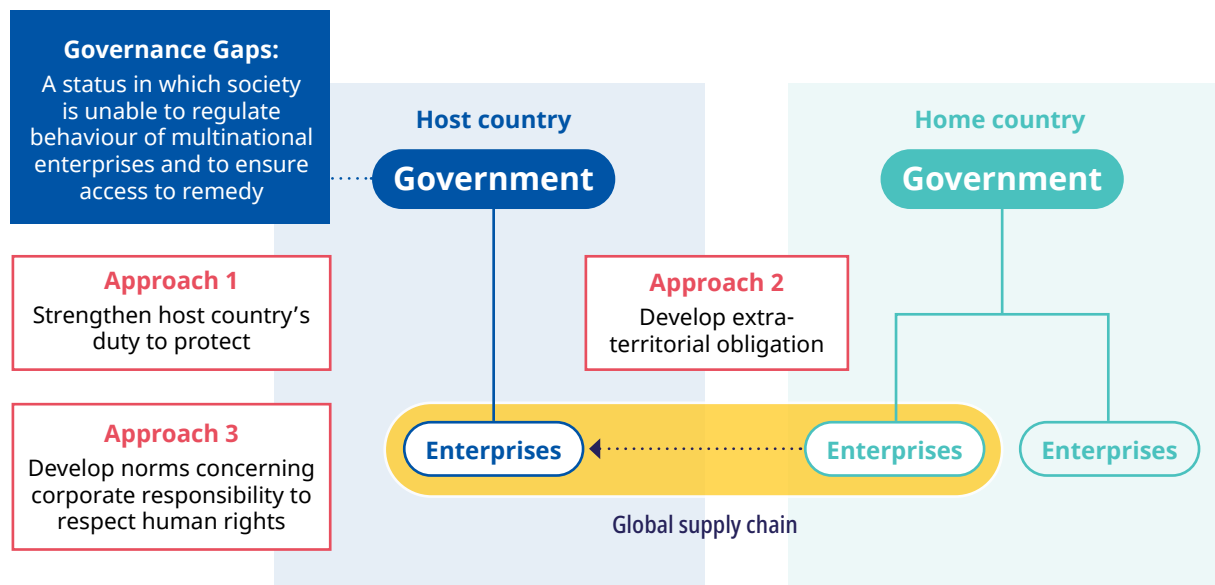
¹⁴ For example, the Guidelines on a Principle-based Approach to the Cooperation between the United Nations and the Business Sector require United Nations partner companies comply with the ten principles of the United Nations Global Compact and the UN Guiding Principles.

1.1.3 UN Guiding Principles: Permeation of “business responsibility to respect human rights” along with its launch and wide dissemination

Since the 2000s, a United Nations-led global movement is pushing a universal framework for human and labour rights protection through the globalized economy, including the United Nations Global Compact. These movements seek to address business-related human and labour rights violations by establishing standards for governments and enterprises and thus have given rise to the concept of “business and human rights”.¹⁵

One of the major challenges for business and human rights is the governance gap brought about by globalization. While multinational enterprises operate through local subsidiaries in multiple countries, management decisions are made by the headquarters, which is physically and institutionally distant from the sites where the adverse impacts occur. The power of multinational enterprises intensified with the benefits of globalization while the ability of societies to regulate business conduct and provide remedies to the victims weakened. It was recognized that to achieve sustainable globalization, it is essential for States to protect human rights from business activities within their own borders and require enterprises to extend respect for human rights within their supply chains. To address this governance gap and other related issues, the international community has taken a three-pronged approach: (i) strengthening the duty of host country to protect; (ii) developing the home country's extraterritorial obligations; and (iii) forming international norms of corporate responsibility (figure 2). These three approaches appeared as the universal enforcement of the human rights treaties and the movement towards a legally binding instrument on business and human rights beginning in 2014. What emerged as an initiative under Approach (3) was the UN Guiding Principles, referred to as a “politically authoritative solution” that provides the basis for business responsibility to respect human rights (Ruggie 2013).

► Figure 2. Three approaches of international society in relation to business and human rights



¹⁵ The term “business and human rights” was first used in 2005 by the United Nations High Commissioner for Human Rights in its report (E/CN.4/2005/91, para. 6). It is now used as a concept that comprehensively covers human rights issues in the context of business activities at full range (such as from procurement of raw materials and contract manufacturing to logistic process as well as disposal, recycling and reuse of goods) and its relations with stakeholders (such as workers, consumers and local residents).



First, prevalent governance gaps and human rights violations by enterprises occurring in host countries called for application of international human rights treaties, specifically through ensuring duty to protect of host countries (approach 1), and through establishing duty to protect of home countries which covers overseas activities of the enterprises in their territory (approach 2). In 2007, the Committee on the Elimination of Racial Discrimination recommended in its opinion to the Canadian Government that the Government should take necessary measures to protect the rights of indigenous people in other countries from the activities of Canadian companies. The home country's duty to protect (approach 1) and the extraterritorial obligations (approach 2) were also indicated in the Committee on the Rights of the Child General Comment No. 16 (2013) and the Economic and Social Council General Comment No. 24 (2017).¹⁶ This duty to protect of the host and home countries was incorporated as the "first pillar" in the UN Guiding Principles. The United Nations Human Rights Council set up in 2014 an "open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights" and mandated it to draft a legally binding instrument on business and human rights. The working group's draft treaty has considered, among others, the duties of home countries to pursue corporate liability in domestic trials to enable access to remedy.

Attempts to establish a legally binding international instrument have not borne fruit in terms of the formation of human rights norms on corporate responsibility (approach 3). In 2003, the Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights was adopted at the United Nations Sub-Commission on the Promotion and Protection of Human Rights, which sought to impose on enterprises, directly under international law, the same range of human rights duties that States had accepted. But it failed to reach an agreed instrument due to major conflicts between States and enterprises as opponents and civil society as supporters. This, however, led to the appointment of political scientist John G. Ruggie as the UN Secretary-General's Special Representative for business and human rights in 2005. Within his mandate and following consultations with a diverse range of stakeholders, Ruggie singled out the existing standards and practices of States and businesses as well as society's expectations for corporate behaviour.¹⁷ These efforts resulted in the development of the Protect, Respect and Remedy Framework and eventually in the unanimous adoption of the UN Guiding Principles by the UN Human Rights Council in 2011. The UN Guiding Principles became the first United Nations human rights instrument for businesses.

16 The "Maastricht principles on extraterritorial obligations of states in the area of economic, social and cultural rights", adopted by the International Commission of Jurists in 2011, may have influenced the decision of the human rights treaty bodies. Former or current members of the Covenant on Social Rights, Special Rapporteurs and other experts on international law and human rights issues participated in the process in their individual capacity.

17 During his six years as Special Representative of the United Nations Secretary-General, John Ruggie consulted repeatedly with businesses and a wide range of stakeholders, taking into account geographic distribution and other factors, to compile his report, based on the position that standards are often socially constructed rather than simply recorded and being "there" waiting to be implemented.

Although not legally binding, the UN Guiding Principles affirm corporate responsibility to respect human rights “because it is the basic expectation society has of business in relation to human rights”¹⁸. It interpreted corporate responsibility to act with due diligence to avoid and address adverse impacts on human rights in accordance with internationally recognized human rights standards, including the ILO fundamental principles and rights at work. The UN Guiding Principles outline that the State duty to protect human rights should be a requisite for business responsibility to respect (approaches 1 and 2) and that the role of the State should be to create an enabling environment domestically and abroad that is conducive to business respect for human rights (see sections 2.1 and 3.1).

The UN Guiding Principles include the core labour standards within business responsibility to respect human rights. It refers to the fundamental principles and rights at work in the four categories covered by the ILO's core labour standards (freedom of association and the right to collective bargaining, elimination of forced labour, abolition of child labour elimination of discrimination), as set out in the ILO Declaration on Fundamental Principles and Rights at Work as amended in 2022 (ILO FPRW Declaration).¹⁹ This would be the origin that the fundamental principles and rights at work – a concept created to fill the gap caused by States' failure to ratify the international labour standards – constituted business responsibility. The core labour standards are Conventions, which do not in principle apply directly to business without being converted to domestic legislation. The UN Guiding Principles impose responsibility on business to respect the fundamental principles derived from the Conventions.

Since its launch, the UN Guiding Principles have been widely disseminated and implemented among United Nations agencies as well as diverse stakeholders, such as governments, enterprises and civil society. For example, the UN Guiding Principles were incorporated into the OECD Guidelines 2011 revision (see sections 2.2 and 3.2) and into the ILO MNE Declaration's 2017 revision (see sections 2.4 and 3.3). In 2014, the UN Human Rights Council resolution encouraged member States to formulate a national action plan on business and human rights(NAP) to implement the UN Guiding Principles (see section 3.1). In response, Japan launched its NAP in October 2020.

Country-level legislative measures recently developed, particularly in Europe, have incorporated a human rights due diligence process set out in the UN Guiding Principles and thus make it mandatory for enterprises to take action in relation to their responsibility to protect human rights (see section 6.2). This could be accelerated by a draft European Union directive currently under consideration for 2022 which aims at a mandatory due diligence on human rights and environment risks at the European Union level (see section 4.1). Hence, the corporate responsibility to respect human rights set out by the UN Guiding Principles has evolved to reflect the changing demands of diverse stakeholders and has permeated by being incorporated into national policies, sometimes as a binding measure.

While the importance of the UN Guiding Principles is recognized, there have been many instances in which the core labour standards or the ILO FPRW Declaration brings about certain binding effects on business for their non-compliance when multinational enterprises, governments and other stakeholders incorporated those standards into their actions. Examples include multinational enterprises' commitment to compliance with the core labour standards and incorporation in their supplier contracts and state regulations over business conduct and the incorporation of the standards into public procurement guidelines. In sum, the formation of human rights norms on corporate responsibility has affected the field of labour, prompting compliance to or respect for the core labour standards.

18 See the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework (A/HRC/17/31), Introduction to the Guiding Principles, para. 6.

19 In principle, ratification of ILO Conventions creates an obligation on States to comply with and implement the ratified Conventions. As for the core labour standards, the ILO Fundamental Principles Declaration obliges, arising from the very fact of membership in the ILO, all Member States to respect, promote and realize the principles concerning the fundamental rights that are the subject of the fundamental Conventions. This indicates that the obligation of non-ratifying States underlies to “principles” derived from Conventions and not the Conventions themselves.

1.1.4 SDGs: Recognition of the proactive role of enterprises on social issues

The Millennium Development Goals (MDGs)²⁰ and their 2015 deadline was the predecessor of the Sustainable Development Goals (SDGs). The MDGs identified the private sector as a partner of States. When the Global Compact designated the MDGs as one of the goals pursued by businesses, they were further encouraged to participate in the promotion of all MDGs. For example, the Business Call to Action, an initiative promoted primarily by the United Nations Development Programme (UNDP), represented a business initiative to work on the MDGs (since taken over by SDGs), with the aim of economic growth and development.

As the 2015 deadline approached, businesses pledged through their representative organizations to actively participate in the development process of the post-2015 framework, to strive for sustainable development and to approach governments for effective collaboration.²¹ Eventually in 2015, the United Nations Sustainable Development Summit adopted the SDGs, with 17 new goals for achievement by 2030 (UN 2015). The SDGs cover the action of the entire world – developing and industrialized countries. “We acknowledge the role of the diverse private business sector, ranging from micro-enterprises to cooperatives to multinationals, and that of civil society organizations and philanthropic organizations in the implementation of the new Agenda” (para. 41). Enterprises are recognized for their proactive role in tackling the global challenges targeted in the 2030 Agenda for Sustainable Development as they strive to contribute to the achievement of the goals through business activities (see section 2.3).

In relation to labour CSR and RBC, SDG 8 (Promote sustained, inclusive, and sustainable economic growth, full and productive employment and decent work for all) stipulates that economic growth and decent work as the goals that cannot be a trade-off. Enterprises are expected to take an active role in creating quality employment by promoting decent work and, at the same time, gaining stable corporate growth that contributes to stimulating sustained, inclusive and sustainable economic development. There are many cases of cross-sector collaboration to achieve this – Alliance 8.7 is a prime example.²²

In Japan, as the Government formulated the Sustainable Development Goals [SDGs] Implementation Guiding Principles, civil society stressed their importance. The SDGs have gained growing recognition among enterprises. In 2017, the Japan Business Federation (Keidanren) set achievement of the SDGs as one of the pillars of its revised Charter of Corporate Behaviour. With the development of ESG investment triggered by such guidelines as the Principles for Responsible Investment, Japanese companies are trying to link their businesses to any of the 17 SDGs to demonstrate their business sustainability to investors and society (Adachi et al. 2018). In preparation for the Tokyo 2020 Olympic and Paralympic Games, the procurement policy, called Sustainable Sourcing Code, encouraged businesses participating in procurement to strive for sustainability, including in their supply chains. The Government’s SDGs Implementation Guiding Principle requires the formulation of a national action plan for business and human rights, and the “business and human rights” approach is positioned as leading to the achievement of the SDGs (see Chapter 7).

In addition, achieving decent work in global supply chains, as confirmed by the SDGs, has attracted attention from governments. Responsible business conduct towards decent work in supply chains was promoted in summit declarations, for example, the G7 Elmau Summit in 2015, the G20 Hamburg Summit in 2017, the G7 Cornwall Summit in 2021 and the G7 Elmau Summit in 2022 (see section 6.1).

20 The United Nations Millennium Declaration, adopted by 189 Member States in September 2000, was a political agreement by the members setting the goals to be achieved by the international community by 2015. The Millennium Development Goals (MDGs) were established by combining the Millennium Declaration with existing international development goals. It set out the goals of eradication of extreme poverty and hunger (MDG 1), achievement of universal primary education (MDG 2), promotion of gender equality and empower women and ensuring environmental sustainability (MDG 7) and global partnership for development (MDG 8).

21 In the Rio+20 Conference in Brazil in June 2012, the International Chamber of Commerce, the World Business Council for Sustainable Development and the Global Compact formed the Business Action for Sustainable Development, as they had done in the Johannesburg Summit in 2002, which represented the business and industry group.

22 Alliance 8.7 (8.7 Coalition) is a platform for SDG 8.7, which aims to eliminate all forms of child labour, including recruitment and use of child soldiers, by 2025. The alliance involves governments, international organizations, employers’ and workers’ organizations, NGOs and research institutions.

In the context of the COVID-19 crisis, the importance of achieving decent work in supply chains is reiterated as critical to achieving a sustainable society and conceptualized as the “build back better”, “human-centred recovery” and a “just transition” declared in the 26th session of the United Nations Framework Convention on Climate Change (COP 26) in 2021. The Just Transition Declaration states that a sustainable economy should take into consideration social aspects alongside environmental aspects, such as decent work, the elimination of poverty and social inclusion, so that no one is left behind. In doing so, the Declaration emphasizes realizing respect for human rights, including the prohibition of modern slavery, child labour and forced labour in global supply chains, through enforcement of the UN Guiding Principles, the OECD Guidelines and the ILO MNE Declaration.

1.1.5 ILO MNE Declaration: 2017 revision and achieving decent work in global supply chains

Taking account of instrumental developments in the international community, such as the adoption of the ILO FPRW Declaration, various CSR initiatives and launch of the UN Guiding Principles and the SDGs, the ILO MNE Declaration has been repeatedly revised. After the end of the Cold War, an intense drive for free trade and globalization (as manifested in the establishment of the World Trade Organization) gave rise to the identification and heightened promotion of fundamental Conventions (otherwise core labour standards) irrespective of the Member State's ratification status, through the 1998 ILO FPRW Declaration (Maul 2019). The Declaration aimed at promoting Member States' effort to ratify and implement core labour standards, taking into account the negative aspects of globalization. And because States had not ratified many of the adopted international labour standards, the Declaration imposed an obligation on Member States to respect, promote and realize the fundamental principles of the core labour standards. The MNE Declaration's revision in 2000 took into account the ILO FPRW Declaration of 1998. The 2006 revision followed the launch of the Global Compact and the MDGs. The 2017 revision took account of such developments as the new labour standards and the resolution of the International Labour Conference related to multinational enterprises as well as other important instruments, such as SDGs and the UN Guiding Principles. Through the 2017 revision, the ILO MNE Declaration maintained consistency with the economic developments, such as the expansion of international investments and trade as well as the growth of global supply chains.²³

The 2017 revision of the ILO MNE Declaration effectively attaches essential labour perspectives within the human rights protection framework set out in the UN Guiding Principles and the OECD Guidelines. The Declaration stresses the importance of human rights due diligence throughout supply chains as indicated by the UN Guiding Principles, which also applies to labour (paras 10 (a) to (d)). Beyond that, the Declaration stresses that a due diligence process should involve meaningful consultation with stakeholders, including workers' organizations, and 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 (para. 10 (e)). In the field of labour, the rights holders are workers. A linkage that connects workers with enterprises is employment agreements or business relations, including in supply chains (with some exceptions in cases of forced labour and child labour), where the principle of autonomous industrial relations applies. That said, there is usually a stark disparity in bargaining power between employers and workers, and therefore the development of better working conditions and working environments needs dialogue and negotiation between labour and management on an equal footing. It is the very reason that freedom of association and the rights to organize and collectively bargain are guaranteed as workers' fundamental human rights. Meaningful social dialogue as an ongoing process is of paramount importance in guaranteeing workers' rights (those rights are all called the “enabling rights” in the sense that they enable workers to improve their working conditions through autonomous industrial relations).

²³ In the Preamble to the 2017 revision, the MNE Declaration emphasizes that the application of its principles should be important and necessary in the context of foreign direct investment and trade and the use of global supply chains.

Dialogue based on these rights underpins social dialogue and should be the cornerstone for realizing social justice. If, for example, a supplier faces a one-sided demand for due diligence process from multiple buyers without mutual alignment, it would strain the fair business relationships and, in the worst case, result in long working hours, low wages and loss of employment for workers. When suppliers are unable to meet the due diligence demands, they have no choice but to survive in lower-standard markets, which may push workers into the informal economy. Therefore, when it comes to the labour aspect of business and human rights, dialogue or engagement with workers should be conducted in a mutually complementary manner with due diligence. And the needs of workers in diverse situations should be taken into account when promoting business behaviour. This should be a legitimate interpretation of the paragraph 10 (e) of the MNE Declaration.



In addition, social dialogue has an important role in access to remedy for workers. One of the remedial measures for workers facing rights violations is through the collective action via trade unions, which can negotiate with enterprises and which is also underpinned by the exercise of freedom of association, the right to organize and the right to collective bargaining. The MNE Declaration contains several provisions on industrial relations, including access to remedy (paras 47–68), indicating that social dialogue is an important element in the access to remedy.

The MNE Declaration calls for responsible conduct by enterprises, based not only on the core labour standards but also other standards on a range of labour issues, such as employment promotion and security, occupational safety and health, vocational training and access to remedy. The MNE Declaration says that it can serve as a guideline for governments and enterprises to achieve the SDGs (see the Introduction to the Declaration), taking into account the contribution of decent employment creation to sustainable development. That way, the MNE Declaration provides guidance on various labour issues faced by multinational enterprises based on legal and social imperatives, and therefore it is a leading labour CSR and RBC instrument to which governments and enterprises in home and host countries should refer to achieve decent work in global supply chains (see sections 2.4 and 3.3).

1.2 Labour CSR and RBC and the multilayered endeavours by diverse actors

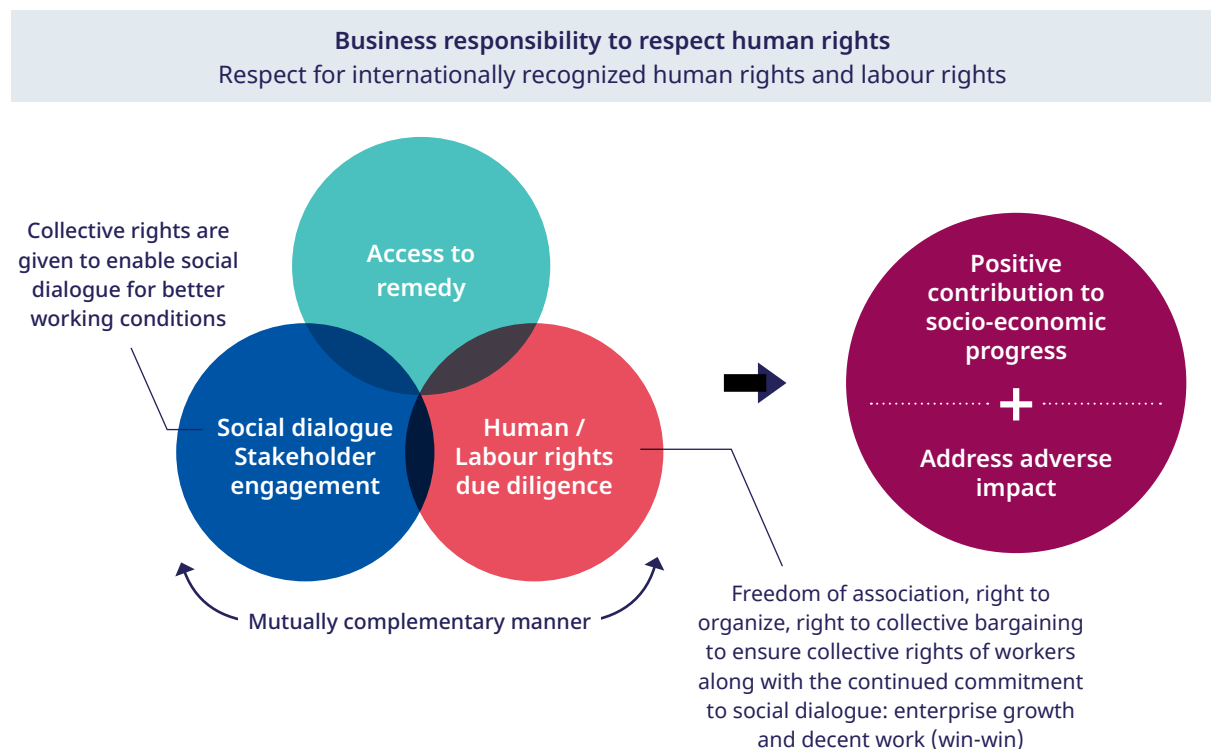
1.2.1 Characteristics of labour CSR and RBC

Section 1 of this first chapter looks at the normative development of labour CSR and RBC. Historically, the international community, including the United Nations and specifically the ILO, has focused on the resolution of domestic labour issues. For example, international labour standards, such as the ILO Conventions and Recommendations, impose duties only on States, which in turn implement those standards in domestic policy in order to prevent, resolve and provide remedy for domestic labour issues. If seen from an enterprise's point of view, it becomes a matter of compliance with those domestic laws and regulations (approach 1: Strengthen host country's duty to protect).

On the other hand, the development of multinational enterprise operations has created a new dimension in terms of addressing labour issues that arise in the context of cross-border or global industrial relations. The ILO MNE Declaration, formulated as a “declaration” not a “Convention”, takes into account the development of CSR and incorporates the concept of business and human rights, the UN Guiding Principles and the SDGs. This has led the foundation for labour CSR and RBC. Beyond compliance, the essence of labour CSR and RBC can be understood as respect for international human rights and labour standards, including in the context of addressing governance gaps and the contribution to sustainable development through decent work (approach 3: Develop norms concerning corporate responsibility to respect human rights).

As analysed in section 1.1.5, the ILO MNE Declaration suggests a labour-specific approach. Promotion of labour CSR and RBC should not only focus on due diligence to address adverse impacts but also on, and as a mutually complementary manner, social dialogue and engagement between workers and employers on an equal footing. Social dialogue and engagement with workers are essential because they are indeed the source of business growth. This enables enterprises to pursue growth and decent work in a “win-win” situation through productivity enhancement and stronger industrial foundations. Also, the process of providing remedy through dialogue, including through collective industrial relations, is an important catalyst for identifying and addressing workplace risks and contributes to the continuity and stability of an industrial relationship. All of this, in turn, contributes to sustainable development (see the Introduction to the ILO MNE Declaration and SDG 8). As discussed in the following chapters, labour CSR and RBC evolve and develop through social interaction. Thus, engagement is expected to reflect social demands and bring about sustainable development for all partners (figure 3).

► **Figure 3. A labour-specific approach to business and human rights, as suggested by the ILO MNE Declaration**



The characteristics of labour CSR and RBC that have been developed to date can be summarized as follows (figure 4).

First, labour CSR and RBC are based on the responsibility of business to respect internationally recognized human and labour rights standards, understood at a minimum International Bill of Human Rights and the principles concerning ILO's fundamental rights (UN Guiding Principle 12). Because enterprises are required to fulfil CSR and contribute to the SDGs in their global operations, they are expected to comply with domestic laws and to operate in accordance with international standards where national laws do not adequately reflect them or where there are conflicting requirements in labour standards.²⁴ "International standards" refers to the five categories of core labour standards, consisting of freedom of association and right to collective bargaining, elimination of forced labour, abolition of child labour, elimination of discrimination in respect of employment and occupation, and safe and healthy working environment.²⁵ But it also refers to employment promotion and job security, social protection, training, conditions of work and life (wages, benefits and working conditions), and access to remedy for grievances. It also includes responsibility for employment promotion to secure labour market access and skills development, as well as responsibility for the human rights of workers, such as protection from violence (against workers and human rights defenders and the violation of the right to life and physical safety of workers).²⁶

Second, in the context of labour CSR and RBC, business responsibility extends beyond its own entity to global supply chains. Matters of concerns from the domestic point of view used to be labour relations based on a direct contractual relationship between workers and employers.²⁷ With the globalization of business operations and economies, there is now recognition that business operations can have both positive and negative impacts on supply chain workers who have no direct employment relationship with a multinational enterprise. And workers in host countries might be put in a vulnerable position due to governance gaps.

Promoting decent work for these workers can lay the foundation for social development in host countries. In response to social expectations and social responsibility in relation to these impacts, enterprises are increasingly required to address human and labour rights issues that involve workers in direct employment and those who work in their subsidiaries, group enterprises or in global supply chains, including suppliers and contract manufacturers. Along with this, social dialogue as an essential element of labour CSR and RBC has been developing. In the following chapter discussion, social dialogue has evolved from labour-management consultations in direct employment relationships to global framework agreements between global union federations and multinational enterprises and has further extended to "home-host tripartite-plus dialogue" that involves the governments and social partners of host and home countries and multinational enterprises (see Paragraph 12 and Annex II-1 of the ILO MNE Declaration).

24 UN Guiding Principles: "Seek ways to honour the principles of internationally recognized human rights when faced with conflicting requirements." The ILO MNE Declaration (para. 8): "All the parties concerned by the multinational enterprises Declaration should respect the sovereign rights of States, obey the national laws and regulations, give due consideration to local practices and respect relevant international standards." OECD Guidelines I-2: "In countries where domestic laws and regulations conflict with the principles and standards of the Guidelines, enterprises should seek ways to honour such principles and standards to the fullest extent which does not place them in violation of domestic law." Although these provisions are not strictly identical, the body text describes the common scope of them.

25 International Labour Conference in 2022 revised the 1998 ILO FPRW Declaration, adding "safe and healthy working environment" to the fundamental principles and rights at work. At the same time, it added new fundamental conventions, the Occupational Safety and Health Convention (No 155) and the Promotional Framework for Occupational Safety and Health Convention (No. 187). This makes the core labour standards to be 10 conventions in five areas. Further discussions for alignment are expected to take place, which will be reflected in the UN Guiding Principles, the OECD Guidelines and the Global Compact.

26 The ILO MNE Declaration covers the fundamental Conventions and other ILO Conventions on broader topics. The UN Guiding Principles set out the business responsibility to respect, at a minimum, the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights as well as the ILO fundamental Conventions. As a situation requires, the UN Guiding Principles also require respect for other human rights treaties for specific parties, such as Indigenous peoples, women, ethnic or tribal minorities, children, persons with disabilities and migrant workers, and international humanitarian laws during armed conflicts.

27 In the case of dispatched workers, not the dispatching company but the client company is primarily responsible for the management of the labour relations.

Third, the “responsibility” of labour CSR and RBC consists of legal and social responsibilities. Social responsibility includes not only passive responsibility of “do no harm” but also a proactive role in contributing to the improvement of difficult situations. As noted, there are both positive and negative impacts of business activity on employment and workers. In particular, employment promotion can make a significant contribution to development in host countries if it is performed properly.²⁸ In other words, labour CSR and RBC envisions the promotion of working conditions directly linked with business operations (such as the fundamental principles and rights at work, living wages, working hours and holidays) as well as the achievement of decent work by providing vocational training or technical cooperation, particularly those intended to foster and promote industry upgrading. It should be reaffirmed, however, that Unless they fulfil the passive responsibility of not causing nor contributing to labour problems, enterprises should not be recognized for their proactive role in promoting employment (see UN Guiding Principles Commentary to principle 11).

► **Figure 4. Characteristics of labour CSR and RBC to date**

Respect for internationally recognized human and labour rights	Workers across global supply chains	Legal + Social responsibility Active role in contributing to social progress
<ul style="list-style-type: none"> ► Beyond compliance with domestic laws and regulations, to respect international standards when there is a governance gap (protection of rights required by international norms is not realized in domestic legislation). ► ILO MNE Declaration set out principles and good practices to realize worker's rights under ILO Conventions. (such as CLS, employment promotion, employment security, social security, training, wages, health and safety, access to remedy) 	<ul style="list-style-type: none"> ► The globalization has raised the issue of the adverse impacts on the right to work including via business relationships, to which society expects enterprises to address. ► Labour issues in host countries (forced labour, long working hours, health and safety, skill shortages, etc.) need to be addressed through supply chains. 	<ul style="list-style-type: none"> ► Emphasis placed on the positive, as well as the negative impact of enterprises on workers ► Expectation to contribute to the socio-economic progress of the host country through realization of decent work (employment promotion in host countries, adequate working conditions and vocational training, etc.)

1.2.2 Policy implications of labour CSR and RBC (Why do actors promote labour CSR and RBC?)

What is the background to the development of labour CSR and RBC in the international community to date? Why have such diverse actors (including States, international and regional organizations, enterprises, civil society and trade unions) been involved in labour CSR and RBC discussions and initiatives? Figure 5 introduces some of the rationale.

First, labour CSR and RBC are deemed necessary to resolve labour issues and guarantee workers' human rights in workplaces. Particularly in cases in which there are governance gaps in terms of protection of workers' rights, the need for labour CSR and RBC is outstanding. Since the 1960s, the international community has been discussing the issues of multinational enterprises because it became increasingly difficult to resolve

²⁸ For example, job creation helps make ends meet and supports the families of workers in host countries and foster economic and social development and social security systems through tax and social security revenues. The creation of good-quality jobs can also lead to improved well-being, such as a better work-life balance, and enhance the employability of workers through skills-building and industry development. There are number of listed enterprises disclosing their efforts related to SDGs, but few are pointing out the essential contribution to development brought about by decent job creation.

labour issues in host countries through local-level industrial negotiations. The emergence of CSR discussion in Europe was underpinned by structural challenges, such as unemployment, restructuring and social exclusion. To date, States and other diverse actors have been working together on public policies to achieve decent work in host countries and regions. This includes protecting workers' rights at workplaces, eliminating forced and child labour and human trafficking, promoting women's employment as well as the employment of people with disabilities and older persons and ensuring diversity in the workforce. From enterprises' points of view, labour CSR and RBC have worked for their benefits in a way that the prevention of issues and resolution of complaints at workplaces contributed to the risk mitigation of the factory line stop and litigation and have led to increased employee engagement and productivity as well as acquisition and retention of capable personnel. Skills improvement of workers has helped upgrade the entire industry, and new values brought about by the diversity of the workforce has led to innovations. There are reports of cases in which ongoing and substantive labour-management dialogue could lead to a win-win relationship that promotes decent work and business growth.²⁹ There is increasing recognition that States need to create an enabling environment for business responsibility to respect human rights and to improve working conditions in the private sector. It includes ratifying the Conventions on human and labour rights and implementing the provisions of international standards in their territories.

Second, labour CSR and RBC are necessary to address global-level challenges. In particular in today's context in which there are huge gaps in terms of the achievement level of decent work among States and regions, consistent labour CSR and RBC efforts are required for global-level poverty reduction. As confirmed by the MDGs and then the SDGs, poverty, modern slavery, gender equality, environmental protection and peace are global challenges that need to be addressed collectively by a diverse range of actors in the international community, including governments, international organizations, enterprises and civil society. It has become more evident that the challenges with structural root causes, including long working hours, low wages and disregard of occupational safety and health that workers face in the supply chain, emerged along with global-level expansion of business activities. This means there is also opportunity to solve these global issues through efforts within supply chains.

The call for solving such global challenges through labour CSR and RBC is expressed in the following initiatives: the SDGs; responsible global supply chains addressed by the G7 and G20 Summit declarations; international human rights protection frameworks that identify a home country's duty to protect its citizens against human rights violations overseas caused by enterprises in its territory; global-level bipartite or tripartite social dialogue, such as global framework agreements and tripartite-plus dialogue; and labour provisions requiring adherence with labour standards in bilateral and multilateral trade and investment agreements.

Third, labour CSR and RBC are becoming increasingly important for diverse actors for forging their identity and reputation, gaining trust from society and demonstrating their presence in today's global society. For example, the core of CSR is and should be supported by stakeholders' expectations. Such expectation is reflected in laws and regulations and movements in the market, such as public procurement, ESG investment, ethical consumption and civil society campaigns. For governments, international organizations and NGOs working on labour CSR and RBC is an important factor in terms of social presence and trust in international community. For example, in enacting the Modern Slavery Act 2015, the United Kingdom pledged to take the initiative into the international community to fight against it. Thailand set out the objective to gain the trust of the international community, including investors and other countries, when it published its Business and Human Rights Action Plan.

29 Kenta Goto 2022 "Responsible Supply Chains in Asia: The Electronics Sector in Japan" and Miwa Yamada and Naomi Inoue 2022 "Responsible Supply Chains in Vehicle Parts Industry Case Studies and Challenges". Research conducted under the European Union, ILO and OECD Responsible Supply Chains in Asia project in 2017-22.

Fourth, labour CSR and RBC have become a part of global economic policy because its promotion enhances the international competitiveness of enterprises and the economic competitiveness of countries and regions. While economic activities are carried out on a global scale, labour standards vary at the national level in terms of legislation and implementation. Global-level concerns have been expressed over markets where cheap products and services are produced by exploitive and abusive labour conditions. In addition to violations of labour and human rights, it creates unfair competition and enormous disadvantage for enterprises and countries adhering to international human rights and labour standards. Such markets create a “race to the bottom”, undermining working conditions and the environment and leaving people increasingly impoverished. It is precisely from the perspective of global socio-economic policy that labour CSR and RBC have been positioned as a policy pillar that levels the “playing field” by incorporating respect for human and labour rights as necessary for a sustainable market. The implementation of internationally recognized standards in supply chains helps enhance business competitiveness by creating a positive environment for workers and employers. It also helps create a global market in which compliance with internationally recognized standards is a requisite for competition in trade and investment. Such a market also can be promoted by ESG investment, public procurement, legislative measures concerning labour CSR and RBC and labour provisions in trade and investment agreements, which target global supply chains inclusively. Nevertheless, it should be reiterated that the achievement of international competitiveness should be only an outcome and that labour CSR and RBC should be pursued to address international labour issues and guarantee the human rights of workers.

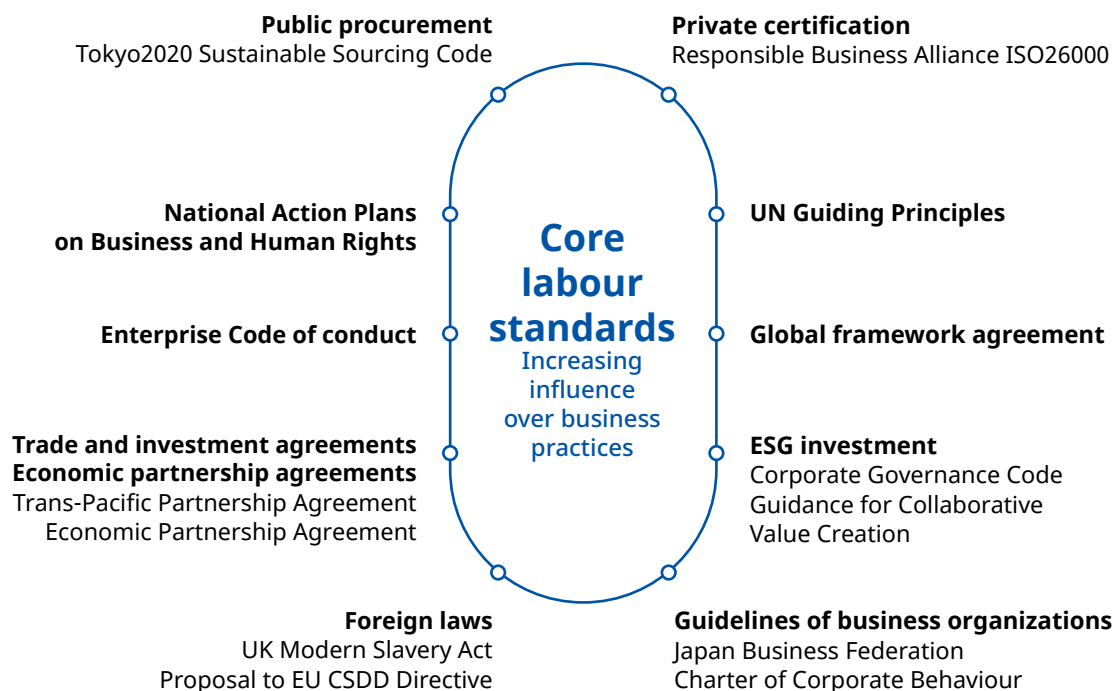
► **Figure 5. Rationale for labour CSR and RBC policies**

<p>Resolve labour issues and protect workers' rights</p> <ul style="list-style-type: none"> ► Realization of decent work through labour CSR/RBC contributes to resolving structural challenges in society e.g., poverty and unemployment. ► Labour CSR/RBC works for enterprises' benefit, leading to increased productivity, improved human resources, robust industrial competitiveness, skills development and enterprise growth, as well as preventing risk (win-win for both employers and workers). 	<p>International competitiveness of enterprises Global economic policy</p> <ul style="list-style-type: none"> ► Having aimed at shaping a sustainable market by eliminating the race to the bottom and realizing a level playing field, and labour CSR/RBC has been positioned as a pillar of this policy. ► As an economic policy, legislation to promote business practices, ESG investment, public procurement, and the incorporation of labour CSR/RBC into trade and investment agreements have been implemented, considering global supply chains.
<p>Build identity and trust, international presence</p> <ul style="list-style-type: none"> ► Proactive implementation of labour CSR/RBC policies leads to gaining trust from stakeholders ► Enhancing the presence in international community by proactively taking initiatives on labour CSR/RBC 	<p>Address global-level challenges</p> <ul style="list-style-type: none"> ► Consistent international efforts are needed to eliminate poverty across the globe to address national / regional disparities in the level of achieving decent work. ► Labour issues in host countries become global issues through supply chains, and the role of home countries to promote labour CSR/RBC is recognized.

1.2.3 Labour CSR and RBC – Multilayered implementation and embedding in a State’s policy agenda

What we have seen so far is that labour CSR and RBC combined is a multilayered endeavour with multiple objectives, undertaken by enterprises, States, international and regional organizations, trade unions and civil society. These multilayered endeavours interrelate and interact with one another. For example, as the ILO revised the MNE Declaration by incorporating the UN Guiding Principles and the SDGs, stakeholders have incorporated other stakeholders’ efforts through mutual interaction. Whereas the core labour standards are the international Conventions addressed to States, they are gaining strong influence on business, not only through a State’s ratification and application but also as norms on labour CSR and RBC that are directly incorporated into various initiatives in the private sector (figure 6). This contributes towards improving the content and nature of labour CSR and RBC. This multilayered approach of diverse actors, having influenced one another, has shaped labour CSR and RBC policy requirements for States.

► **Figure 6. Core labour standards – Increasing influence over business practices**



This report provides analysis of the labour CSR and RBC policies formed by the interaction of diverse actors’ multilayered endeavours by looking at what state policies have been required to achieve labour CSR and RBC. As highlighted in this chapter, labour CSR and RBC are preceded by the formation of norms in international organizations since the 1970s. Chapter 2 analyses international normative instruments that require State’s labour CSR and RBC policies and calls for action developed by international organizations. It then traces how the norms have been expanded and integrated as international and regional organizations as well as enterprises and their stakeholders worked on and interacted with labour CSR and RBC, based on the norms. Chapter 3 discusses the implementation of labour CSR and RBC by international organizations, in Chapter 4 by regional organizations and in Chapter 5 by enterprises, trade unions and other stakeholders.

Chapter 6 looks at the ways States have embedded labour CSR and RBC norms into their policies and how these policies have been implemented. It examines labour CSR and RBC policies in bilateral and multilateral policy frameworks and then looks at the labour CSR and RBC policies of individual States in Europe (such as France, Germany, the Netherlands and the United Kingdom), the United States and Thailand. Chapter 7 examines labour CSR and RBC policies of Japan. As a conclusion, Chapter 8 summarizes labour CSR and RBC policy requirement for States based on Chapters 1–6 and then evaluates and makes policy recommendations for the Japanese Government's labour CSR and RBC policies.

► **Figure 7. Structure of this report**

Structure of this report





2

International instruments concerning labour dimensions of corporate social responsibility and responsible business conduct: Rationale of multilayered endeavours by diverse actors

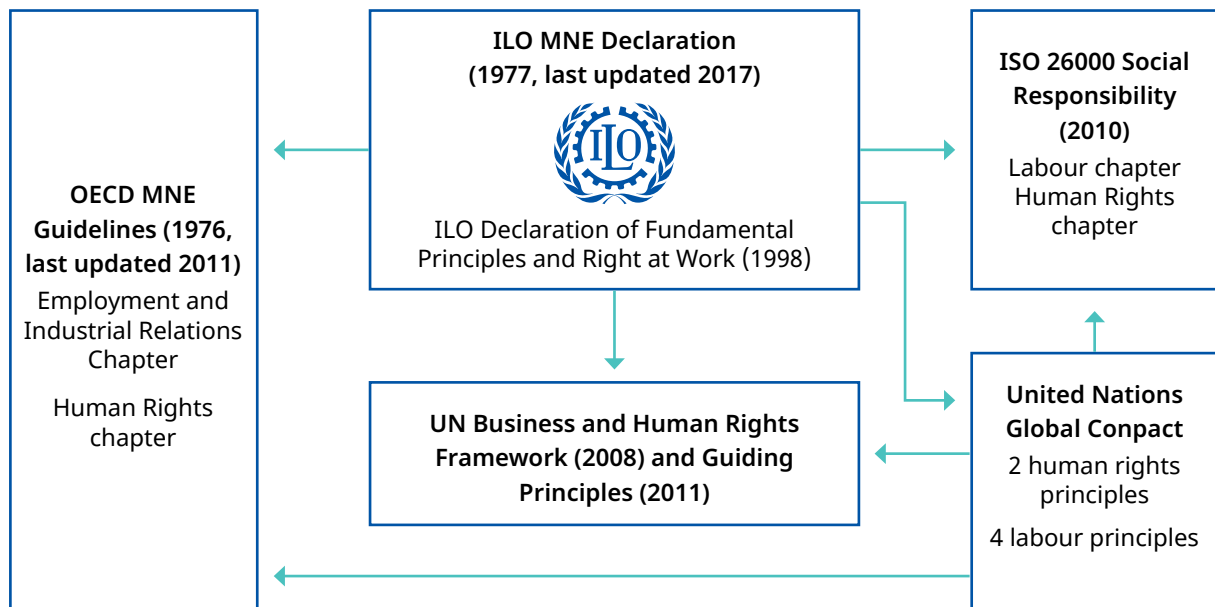
This chapter scrutinizes the content of the labour CSR and RBC policies referred to in the international normative instruments: UN Guiding Principles, the OECD Guidelines the ILO MNE Declaration and the SDGs. It also looks at the labour CSR and RBC policies that States should adopt.³⁰

³⁰ Because the OECD Guidelines and the ILO MNE Declaration have been amended to incorporate additional norms, this chapter describe the norms that are already reflected, and does so in the order of the revisions.

▶ **Figure 8. International instruments concerning labour CSR and RBC**



MNE Declaration and other CSR Instruments



As discussed in Chapter 1, labour CSR and RBC are the norms concerning business conduct. The four international normative instruments and global goals aim to eliminate the adverse impacts on human and labour rights throughout supply chains and proactively contribute to social progress. This chapter identifies these norms of conduct and then discuss the proposition regarding what States should adopt as their policies to promote labour CSR and RBC.

These international norms maintain a logically coherent standard for state actions to promote labour CSR and RBC,³¹ while there are distinctive characters (figure 8). The ILO MNE Declaration, which is a tripartite instrument that involves governments, employers and workers, adds some extra dimensions to the framework set up by the UN Guiding Principles and the OECD Guidelines. Notably, the Declaration takes full account of the nature of labour relations – that employment conditions and working environments are formed through labour–management dialogue and negotiations on an equal footing. It also highlights the positive contribution that employment makes towards social and economic development. Based on this analysis, the chapter provides an overview of the international norms concerning labour CSR and RBC.

31 Because the ILO participated in the process of creating norms by concluding MOUs with each organization and had a coordinating role in the formation of each norm, the content of labour CSR and RBC policies have been adjusted among major international instruments in terms of consistency (see OHCHR et al. 2020).

► **Figure 9. Some questions from the standpoint of governments**

Relevant information is provided in Chapters 1 and 2 to help answer some of the following questions. It is hoped that the discussion to answer these questions will lead to policy consideration of Labour CSR/RBC by governments (key words are provided for discussion).

<p>Our government regulates enterprises to protect workers' rights within the State's territory, but what else do we need to do?</p> <ul style="list-style-type: none"> ► State duty to protect human rights ► Realization of internationally recognized human and labour rights ► Economic globalization and the adverse impact of the activities of multinational enterprises 	<p>A government may not deal with matters outside its territory because they fall under the sovereignty of other countries?</p> <ul style="list-style-type: none"> ► International cooperation to achieve the SDGs ► Promoting decent work and its impact on development ► Stop race to the bottom and promote a level playing field ► Sustainability of globalized economy
<p>While ratified treaties and Conventions constitute legal obligations to be implemented through national policies, should the government be responsible for those not yet ratified?</p> <ul style="list-style-type: none"> ► Universality and effect of core labour standards ► Achieve a level playing field at an international level ► Social demands shaped by stakeholders' expectations and actions to protect rights set out by international labour standards 	<p>While the main norms in this field are still voluntary to enterprises, why should the government act?</p> <p>Is CSR and RBC formed for enterprises and thus not for the government's responsibility ?</p> <ul style="list-style-type: none"> ► Duty of states to protect human rights ► International competitiveness of enterprises, Global economic policy ► Effectiveness of core labour standards and universality ► Structural challenges in labour issues cannot be solved by enterprises alone

2.1 UN Guiding Principles and States' labour CSR and RBC policies

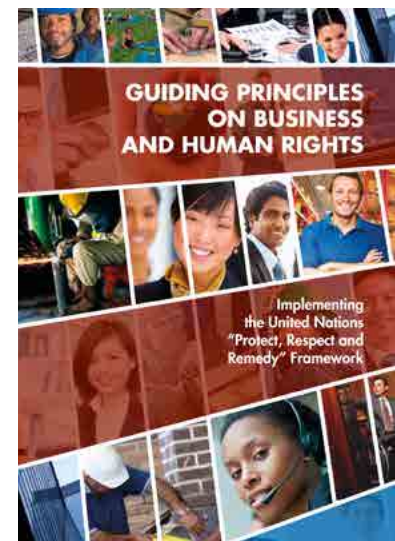
The UN Guiding Principles, as endorsed by Member States after two setbacks, are the very first UN instrument that stipulates corporate responsibility to respect human rights as a universal policy (HRC 2011). The UN Guiding Principles consist of three pillars: the State's duty to protect human rights; the businesses' responsibility to respect human rights; and access to remedy (see General Principles).

Business responsibility to respect human rights exists independently of States' abilities to fulfil their obligations. Therefore, enterprises have the responsibility to respect internationally recognized human rights standards over and above the national laws in their host countries (commentary on Principle 11 and Principle 12). Taking account of this business responsibility, the UN Guiding Principles indicate that there are cases in which home States are recommended to take steps to prevent abuse abroad by enterprises within their jurisdiction (commentary on Principle 2). While the UN Guiding Principles only provide a set of principles without imposing new international law obligations (General Principles), they carefully reflect the expectations towards home States expressed in the international human rights protection framework and its implementation to date (particularly those referred to in the general comments and recommendations of human rights treaty bodies).

2.1.1 Labour CSR and RBC in the UN Guiding Principles

The second pillar of the UN Guiding Principles regarding corporate responsibility to respect human rights (Principles 11–24) integrates labour CSR and RBC. The following discusses the substance, scope and methods of that corporate responsibility.

The “responsibility to respect” means the responsibility to avoid infringing on the human and labour rights of workers and address adverse impacts on such rights³² (Principle 11). These rights refer to internationally recognized human rights (understood at a minimum as the International Bill of Human Rights and the principles concerning fundamental rights set out in the ILO FPRW Declaration) (Principle 12). In the context of labour CSR and RBC, the UN Guiding Principles require respect of the fundamental principles and rights at work and the labour-related provisions of the International Covenant on Economic, Social and Cultural Rights. They indicate a need for consideration of additional standards depending on the circumstances, where there is adverse human rights impacts on individuals belonging to specific groups or populations that require particular attention³³ (commentary on Principle 12).



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The scope of responsibility to respect human rights covers enterprises and their group entities as well as the entire global supply chains where they connect through business relationships (Principle 13).³⁴ The scope of their responsibility extends to addressing the challenges for workers in businesses with direct relationships and further, to those manufacturing and delivering products to them as deeper-tier suppliers (such as forced labour within suppliers in the supply chains). The basic principle is to comply with all applicable laws and respect internationally recognized human rights, irrespective of where they operate. However, where the domestic context renders it impossible to meet this responsibility fully, business enterprises are expected to respect the principles of internationally recognized human rights “to the greatest extent possible” and demonstrate their efforts through their actions (Principle 23 and its commentary).

To fulfil the responsibility to respect human rights, enterprises are responsible for having in place, appropriate to their size and circumstances, a human rights policy, a human rights due diligence process and processes that enable the remediation of adverse human rights impacts (Principle 15).³⁵ Where human rights are infringed, enterprises should provide for or cooperate in remediation (Principle 22). Measures to ensure access to remedy that enterprises are expected to take include non-judicial and effective operational-level grievance mechanisms (Principle 29). These mechanisms should be based on engagement and dialogue with stakeholder groups to address and resolve grievances (Principle 31). However, these mechanisms “cannot substitute for collective bargaining processes” nor should “be used to undermine the role of legitimate trade unions in addressing labour-related disputes” (commentary on Principle 29).

32 In the sphere of labour, this responsibility includes protection of workers’ rights from such infringements as discrimination in workplaces, violation of fundamental labour rights, child labour and forced labour and then taking corrective measures when adverse impacts are observed. As a third pillar to provide access to remedies, a grievance mechanism to address adverse impacts is also included in the responsibility (Principle 29).

33 Labour-related provisions in individual human rights treaties related to Indigenous peoples, women and ethnic and religious minorities are also included in the international standards that businesses should respect.

34 The term “business relationship” used in the UN Guiding Principles corresponds to global supply chains referred to in this report.

35 Human rights due diligence process consists of the following process: (i) identifying and assessing human rights impact (potential adverse impact of corporate activities on human rights) through meaningful consultation with stakeholders; (ii) taking appropriate actions with integrating the findings from their impact assessments across relevant internal functions and processes; (iii) tracking and verifying such process; and (iv) formally reporting its results (Principles 17–20). The fourth process, formal reporting, can be conducted via in-person meetings, direct consultations or a report on the internet website (commentary on Principle 21).

2.1.2 Labour CSR and RBC policy requirement as to States' duty to protect human rights

The UN Guiding Principles place the State's duty to protect human rights as the first pillar and identifies a State's policy to promote corporate responsibility with concrete measures that should be taken to fulfil the obligation to protect individuals from human rights infringement by corporate activities (Principles 1–10). Additionally, access to remedy set out as the third pillar includes the measures of labour CSR and RBC policies, such as development of state-based judicial and non-judicial mechanisms as well as support towards non-state-based grievance mechanisms in the private sector (Principles 25–30).

As mentioned earlier, States' obligation to protect covers the adverse impacts of business operations in home countries and throughout the global supply chains by business operations outside home countries. In line with this, the host countries of enterprises and the home countries should implement labour CSR and RBC policies, particularly to prevent human rights abuse abroad by enterprises domiciled in their jurisdiction and provide remedy to their victims in their legislative, administrative and judicial measures.

(a) Measures to prevent human rights infringements by enterprises

States are obligated to protect against human rights abuse within their territories and/or jurisdictions by implementing effective policies, legislation, regulations and adjudication or by clearly expressing their expectations that all enterprises domiciled in their territories and/or jurisdictions respect human rights (Principles 1 and 2). Notably, the UN Guiding Principles mention that human rights treaty bodies recommend that home States take steps to prevent abuse abroad by enterprises within their jurisdictions. It cites examples of domestic measures with extraterritorial implications (commentary on Principle 2).³⁶

In meeting the duty to protect, States are required to “enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights” and “assess the adequacy of such laws and address any gaps”³⁷ (Principle 3a). Laws and policies should be directed to create an environment that enables enterprises to respect human rights (Principle 3b) and that promote the proactive efforts of enterprises. It is also necessary for domestic policies to ensure both vertical and horizontal coherency³⁸ (Principle 8). This will prevent administrative fragmentation due to the division of responsibilities among government ministries and ensure that consistent messages are delivered to enterprises, which in turn will help enterprises develop their business in accordance with the global standards. The UN Guiding Principles require States to “provide effective guidance” to enterprises and to “encourage, and where appropriate require, enterprises to communicate how they address human rights impacts” (Principles 3c and 3d).

36 Examples provided in the UN Guiding Principles include “requirements on parent companies to report on the global operations of the entire enterprise”; “multilateral soft-law instruments such as” the OECD Guidelines; and “performance standards required by institutions that support overseas investment”. Additionally, “direct extraterritorial legislation and enforcement”, including “criminal regimes that allow for prosecutions based on the nationality of the perpetrator” is also mentioned as an example of such measure.

37 For the gap analysis: “It is equally important for States review whether these laws provide the necessary coverage in light of evolving circumstances and whether, together with relevant policies, they provide an environment conducive to business respect for human rights.” (commentary on Principle 3)

38 “Vertical policy coherence entails States having the necessary policies, laws and processes to implement their international human rights law obligations. Horizontal policy coherence means supporting and equipping departments and agencies, at both the national and subnational levels, that shape business practices – including those responsible for corporate law and securities regulation, investment, export credit and insurance, trade and labour – to be informed of and act in a manner compatible with the governments’ human rights obligations.” (commentary to Principle 8)

In exercising the regulatory and policy functions, the UN Guiding Principles highlight that “States should not assume that businesses invariably prefer, or benefit from, state inaction, and they should consider a smart mix of measures – national and international, mandatory and voluntary – to foster business respect for human rights” (commentary on Principle 3).

(b) State-business nexus

According to Principle 4, States should, where appropriate, require human rights due diligence to “enterprises that are owned or controlled by the State or that receive substantial support and services from state agencies”, such as export credit agencies, official investment insurance or guarantee agencies (such as trade insurance), development agencies or development finance institutions (Principle 4 and its commentary). In the case of privatization, “relevant service contracts or enabling legislation should clarify the State’s expectations that these enterprises respect human rights” and “States should exercise adequate oversight” of corporate activities, “including through the provision of adequate independent monitoring and accountability mechanisms” (Principle 5 and its commentary). In the case of public procurement, “States should promote awareness of and respect for human rights by these enterprises, including through the terms of contracts” (Principle 6 and its commentary).

(c) Support for business respect for human rights in conflict-affected areas

In conflict-affected areas “where the human rights regime cannot be expected to function”, the host country may not be able to protect human rights adequately. In such difficult situations, “responsible businesses increasingly seek guidance from States about how to avoid contributing to human rights harm” (commentary on Principle 7). Given the heightened risk in conflict-affected areas, States should take adequate actions, such as providing adequate assistance to enterprises’ human rights due diligence process. Moreover, States should “deny access to public support and services for a business enterprise that is involved in human rights abuses and refuses to cooperate in addressing the situation” (Principle 7).

(d) International cooperation: As members of the international community

The UN Guiding Principles also requires States to “act as members of multilateral institutions that deal with business-related issues.” This includes avoiding restraining state actions to protect human rights, encouraging multilateral institutions to support States through technical assistance, capacity-building and awareness-raising and drawing on the UN Guiding Principles to promote international cooperation as they strive to meet business and human rights challenges (Principle 10).

(e) Access to remedy for victims of human rights abuse

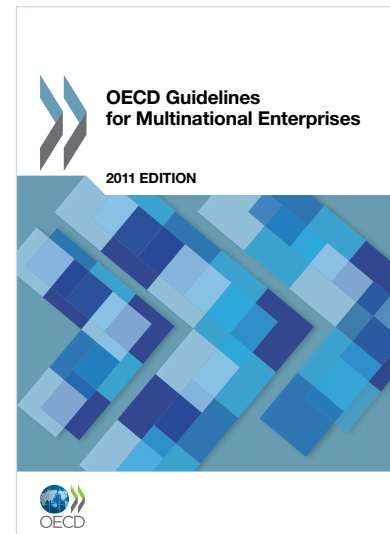
Access to remedy is the third pillar of the UN Guiding Principles. “As part of their duty to protect against business-related abuse, States must take appropriate steps” to secure access to effective remedy “when such abuses occur within their territory and/or jurisdiction” (Principle 25). These appropriate measures include judicial mechanisms, such as civil and criminal procedures (Principle 26), as well as non-judicial mechanisms, such as national human rights institutions and the National Contact Points specified in the OECD Guidelines. It also extends to raising awareness or facilitating access to non-state-based grievance mechanisms (Principle 28).

(f) Role of national human rights institution

The national human rights institutions are state-level institutions that are independent from the government and perform functions to promote and protect human rights. Their concrete mandate and responsibility should adhere to the standards set out in the Paris Principles endorsed by the United Nations in 1993. The UN Guiding Principles advise enterprises, in the course of conducting human rights due diligence, to consult with national human rights institutions and with their stakeholders (Commentary to Principle 23). National human rights institutions have an important role, especially regarding state-based, non-judicial grievance mechanisms that resolve human rights abuses by enterprises (Commentary to Principle 27).

2.2 OECD Guidelines for multinational enterprises and a State's labour CSR and RBC policies

In light of the role that multinational enterprises have in international investment, the OECD Guidelines³⁹ express recommendations addressed by governments to multinational enterprises,⁴⁰ which provides non-binding principles and standards for responsible business conduct (see the Foreword to the Guidelines). It highlights the importance of international investment for the development of the world economy and the role of multinational enterprises in international investments (see the Preface to the Guidelines). The Preface states that in particular, multinational enterprises can contribute to sustainable development grounding on human resources development in host countries through training, creation of employment opportunities and promoting social dialogue and stakeholder engagement. The Guidelines expect enterprises to prevent violations of fundamental labour rights, and including discrimination, and to expect enterprises contribute to local employment opportunities and industrial relations through their operations.



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2.2.1 Labour CSR and RBC in the OECD Guidelines

The most recent revision of the OECD Guidelines was made in 2011, and according to the OECD, the Guidelines provide the most comprehensive international standard for RBC. The OECD Guidelines are understood to be complementary to the ILO FPRW Declaration and international labour standards as well as to the ILO MNE Declaration (Guideline 48).

The OECD Guidelines offer recommendations addressed by governments to multinational enterprises and indicate how they should act responsibly. The scope of the Guidelines is quite broad and comprehensive, covering public reporting, human rights, environment, anti-corruption, consumer interests, science and technology, competition, taxation, employment and industrial relations. According to the Guidelines, “to identify, prevent and mitigate actual and potential adverse impacts” covered by these designated areas, “enterprises should carry out risk-based due diligence” (Chapter II). Under section V on employment and industrial relations, the OECD Guidelines encompass from the fundamental principles and rights at work, to promotion of social dialogue between workers and employers and observance with standards not less favourable than those observed by comparable employers in the host country towards occupational safety and health, promotion of local employment and training, reasonable notice of business shutdowns that cause collective layoffs or dismissals, prevention of threats to transfer operations to other countries to hinder the exercise of a right to organize and enabling collective bargaining with the management representatives who are authorized to take decisions (General Policies A-10–13, Chapter V).⁴¹

39 The OECD Guidelines were adopted in 1976 and amended in 1979, 1984, 1991, 2000, 2011.

40 Notably, the objectives of the OECD Guidelines are: (i) ensuring harmony between business operations and government policies; (ii) strengthening the basis of mutual confidence between enterprises and the societies in which they operate; (iii) supporting the improvement of foreign investment climate; and (iv) enhancing the contribution to sustainable development made by multinational enterprises (especially focusing on the development of human resources and creation of employment opportunities).

41 Interestingly, the OECD Guidelines also target the international labour standards that are not directly mentioned in the ILO MNE Declaration. These are, for example, ILO Employment Relationship Recommendation (No. 198), which provides clarification of “employment relationship” to define the scope of responsibility under the provisions of Chapter V; Occupational Safety and Health Convention (No. 155), which recognizes the right to remove from a work situation as part of the right to safety workplace; List of Occupational Diseases Recommendation (No. 194); and Human Resources Development Recommendation (No. 195), which promotes equal training opportunities towards socially vulnerable people.

The OECD Guidelines state that “obeying domestic laws is the first obligation of enterprises”. However, “in countries where domestic laws and regulations conflict with the principles and standards of the Guidelines, enterprises should seek ways to honour such principles and standards to the fullest extent which does not place them in violation of domestic laws” (Guideline I-2). In light of the labour standards, the Guidelines recognize that multinational enterprises are subject to international standards related to employment and industrial relations “within the framework of applicable laws”, which include and are based on international labour standards (commentary on Chapter V). In addition, the Guidelines set out the responsible business conduct in terms of business relationships, such as supply chains, and expects businesses to act responsibly even towards workers in supply chains by carrying out due diligence (commentary on Chapter V, referring to Chapter II 10–13).⁴²

2.2.2 Labour CSR and RBC policy requirement for States

The OECD Guidelines are a set of recommendations addressed by governments to multinational enterprises that provide non-binding principles and standards for responsible business conduct. At the same time, governments adhering to the Guidelines are required to implement them in accordance with the decision of the OECD Council (Guidelines I). “The common aim of the governments ... is to encourage the positive contributions that multinational enterprises can make to economic, environmental and social progress and to minimize the difficulties to which their various operations may give rise” (Preface to the Guidelines). The OECD member countries and adhering countries should implement policy actions to encourage multinational enterprises operating in or from their territories to observe the Guidelines. Within these policies, governments can make partnerships with enterprises, trade unions and civil society organizations.

(a) Encourage enterprises to observe the OECD Guidelines

Governments adhering to the Guidelines are to “encourage the enterprises operating on their territories to observe the Guidelines wherever they operate, while taking into account the particular circumstances of each host country” (Guideline I-3). “While it is acknowledged that small- and medium-sized enterprises may not have the same capacities as large enterprises, the governments adhering to the Guidelines nevertheless must encourage them to observe the Guidelines’ recommendations to the fullest extent possible” (Guideline I-6).

(b) Support through government policies

Governments can help enterprises to observe the guidelines “by providing effective domestic policy frameworks that include stable macroeconomic policy, non-discriminatory treatment of enterprises, appropriate regulation and prudential supervision, an impartial system of courts and law enforcement and efficient and honest public administration”. They can help enterprises’ positive contributions “by maintaining and promoting appropriate standards and policies in support of sustainable development and by engaging in ongoing reforms to ensure that public sector activity is efficient and effective” (Preface to the Guidelines).⁴³

42 The OECD published the *OECD Due Diligence Guidance for Responsible Business Conduct*, based on the OECD Guidelines, in 2018. And 38 OECD member countries and 13 non-member countries 51 in total) agreed to support and monitor the implementation of the OECD Guidelines as of September 2022 Chapter 3 of this report discusses subsequent development of the OECD Guidelines.

43 Policies that promote compliance with the OECD Guidelines should aim towards the realization of responsible business conduct and should not be used “for protectionist purposes nor be used in a way that calls into question the comparative advantage of any country where multinational enterprises invest.” (Guideline I-7) Additionally, “governments have the right to prescribe the conditions under which multinational enterprises operate within their jurisdictions, subject to international law”, while multinational enterprises are subject to the laws applicable in the countries they located (Guideline I-8)

(c) Establish a National Contact Point

“Adhering countries shall set up [a] National Contact Point to further the effectiveness of the Guidelines, undertaking promotional activities, handling enquiries and contributing to the resolution of issues that arise relating to the implementation of the Guidelines in specific instances” (Part II of the Guidelines on implementation procedures). To further the effectiveness of the Guidelines, it is important to increase “visibility, accessibility, transparency and accountability” of the National Contact Point. Businesses, trade unions and other non-government organizations should be informed of the availability of the National Contact Point. The specific functions of the National Contact Point are to raise awareness of the Guidelines in collaboration with stakeholders, such as businesses, trade unions and non-government organizations, and offer a forum for discussion and contribute to resolve issues in specific instances inconsistent with the Guidelines. The National Contact Point also report its activities to the OECD Investment Committee. A National Contact Point can take various organizational forms if it can fulfil these objectives and functions.

2.3 The SDGs and States’ labour CSR and RBC policies

As mentioned in section 1.1.4, enterprises are recognized for their proactive role in tackling the global challenges posed by the SDGs. “Sustained, inclusive and sustainable economic growth and decent work for all”, driven by “private business activity, investment and innovation”, is indispensable to achieve the SDGs, which aim at eliminating poverty from the world and changing today’s unsustainable society to sustainable (Minami et al. 2020; UN 2015). Human rights are positioned at the core. Thus, addressing business and human rights and labour CSR and RBC should be a promise that we make for the next generation towards a sustainable society.

2.3.1 Enterprises’ proactive role in realizing the SDGs

Protecting human rights, gender equality and decent work represents the labour dimension of enterprises’ role within the SDGs to be attained by 2030 (some are to be achieved by 2025). “A world in which every country enjoys ... decent work for all” is envisioned. Striving to achieve the objective of the SDGs, to “leave no one behind”, should be the effort for all women and men in the world of work, in particular those in vulnerable situations. Decent work is a driver of sustainable development and is related to all development goals⁴⁴ (ILO 2017a).

SDG 8 (Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all) focuses on labour in more specific terms. It includes realizing decent work for all men and women, young people and persons with disabilities, equal pay for work of equal value, youth unemployment and protection of migrant workers, eradication of forced labour, modern slavery and child labour, promotion of sustainable tourism for job creation and access to financial services for all. As mentioned in Chapter 1, it is noteworthy that SDG 8 indicates that economic growth and decent work are goals that should not be a trade-off. It suggests that States and enterprises should have a shared recognition that promoting decent work helps prevent labour-management disputes and increases productivity, which enables enterprises to achieve stable growth (win-win relationships between employers and workers) and that creating high-quality employment will lead to industry development through skills development and stimulate sustainable, inclusive economic growth.

⁴⁴ Employment and labour is one of the most important topics throughout the SDGs. Let alone for SDG 8, there are also other related goals: SDG 2 to end hunger and achieve food security (such as secure and equal access to non-farm employment opportunities), SDG 4 to ensure quality education (such as for employment, decent jobs and entrepreneurship), SDG 5 to achieve gender equality (such as recognition and evaluation of unpaid care and domestic work) and SDG 12 to ensure sustainable consumption and production patterns (such as sustainable tourism that leads to job creation, etc.).

On the other hand, fulfilling the responsibility to respect human rights and adequate disclosure towards stakeholders is a requisite for the proactive role of enterprises. The 2030 Agenda emphasizes business functions related to workers' rights, the environment and health and safety in accordance with the UN Guiding Principles, the ILO's international labour standards, the UN Convention on the Rights of the Child and other international standards as their roles (UN 2015, paras. 10, 19 and 67).⁴⁵

2.3.2 Primary responsibility of States to achieve the SDGs and required actions

The SDGs represent the global goals agreed on by Heads of State, Heads of Government and other representatives. Thus, States have the primary responsibility to achieve these goals. The SDGs require States to adopt policies for promoting labour CSR and RBC, in partnership with all stakeholders.



(a) Policy coherency for sustainable development at national and international levels

"Each country has a primary responsibility for its own economic and social development". In addition, national development efforts do not bear fruit unless supported by "an enabling international economic environment, including coherent and mutually supporting world trade [and] monetary and financial systems" (UN 2015, para. 63). To achieve sustainable development, each government is requested to ensure policy coherency at the national and international levels.

(b) Engagement with the private sector to achieve the SDGs

Governments engage with enterprises to have them apply their creativity and innovation to address the challenges for sustainable development posed by the SDGs, in particular through increasing productive and inclusive economic growth and employment. In doing so, they need to protect "labour rights and environmental and health standards in accordance with relevant international standards and agreements, such as the UN Guiding Principles, the international labour standards and the UN Convention on the Rights of the Child" (UN 2015, para. 67).

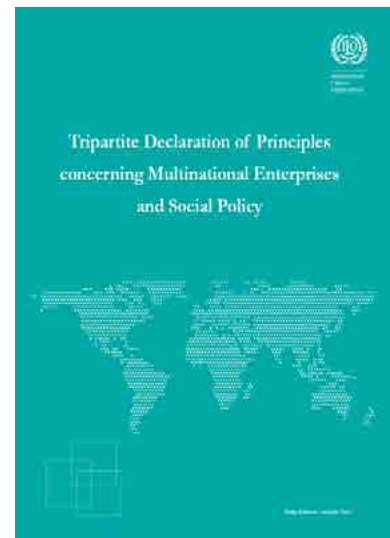
(c) Commitment for global partnerships

States recognize that enterprises have roles towards achieving the SDGs. Based on this recognition, "we the people" are to be committed to achieving the SDGs, and it is necessary to "bring together governments, the private sector, civil society, the UN system and other actors and mobilize all available resources". Achieving the SDGs needs a revitalization of global partnerships by building multisector and multistakeholder partnerships (UN 2015, para. 39).

⁴⁵ Civil society groups have criticized enterprises for not fulfilling their responsibility inherent in the SDGs but only pretending to be working on them as "SDGs washing", like the term "blue washing". In fulfilling this responsibility, it is essential to understand how enterprises' activities affect the environment and society in their entire business conduct, including their value chains.

2.4 ILO MNE Declaration and States' labour CSR and RBC policies

Since its adoption in 1977, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy has maintained its objective to “encourage the positive contributions that multinational enterprises could make to economic and social progress and the realization of decent work for all; and to minimize and resolve the difficulties to which their various operations may give rise” by prompting the actions of governments, employers and workers based on the principles included in ILO Conventions and Recommendations. To that aim, the ILO MNE Declaration provides a guidance of actions to enterprises as well as constituents.



2.4.1 Labour CSR and RBC in the ILO MNE Declaration

The guidance offered by the MNE Declaration are founded on principles contained in the ILO Conventions and Recommendations (see the Introduction). All the parties concerned should “respect relevant international standards” and “honour commitments which they have freely entered into, in conformity with national laws and accepted international obligations”. The instruments to be respected include the Universal Declaration of Human Rights and the corresponding international covenants adopted by the United Nations (para. 8). It indicates that “all parties should contribute to the realization of the ILO FPRW Declaration”. Governments of States “are urged to” ratify the eight ILO fundamental Conventions and “have an obligation ... to respect, to promote and to realize” the principles concerning the fundamental rights (para. 9). There are, however, countries that have not ratified the international labour standards or in which issues remain to be addressed in their implementation. And there are cases in which workers cannot enjoy the social welfare and labour conditions stipulated by the international labour standards. To address these governance gaps and ensure decent work in all countries and regions, the MNE Declaration recommends that enterprises meet the international labour standards and particularly realize the fundamental principles and rights at work covered by the core labour standards.

The Declaration makes it clear that its principles are applicable to global supply chains by conducting due diligence in addressing adverse impacts through business relationships (Introduction and para. 10c). It requires that the due diligence process should involve “meaningful consultation” with stakeholders, such as workers’ organizations, and “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” (para. 10e). This suggests, as discussed in section 1.2.1. of this report, that the freedom of association, the right to organize and the right of collective bargaining are requisites to secure an equal footing between labour and management in promoting labour CSR and RBC, which should focus not only on due diligence to address adverse impacts but also on, and in a mutually complementary manner, social dialogue and engagement between workers and employers.

The ILO MNE Declaration also expects multinational enterprises to take an active role in contributing to social development in host countries, stating that they “should take fully into account the established general policy objectives of the countries in which they operate” and their activities should be “in harmony with the development priorities and social aims and structure of the country” (para. 11). Job creation by enterprises, under appropriate policy environment, contributes substantially to national development, such as by increasing purchasing power, promoting industrial upgrading and business cycles in the country, which in turn increases tax revenue and better public services and secures social security funds. Job creation also contributes to resolving challenges associated with national growth in host countries, such as youth unemployment and workers’ skill deficits. In other words, para. 11 provides concrete guidance to reiterate the Declaration’s main objective: encouraging the positive contributions that multinational enterprises can make to economic and

social progress.

In addition to respecting labour standards in the four categories of core labour standards (freedom of association and the right of collective bargaining, elimination of forced labour, abolition of child labour and elimination of discrimination), the ILO MNE Declaration expects multinational enterprises to promote employment opportunities and offer training in host countries, improve labour conditions and provide means of access to remedy, as summarized below. It emphasizes that multinational enterprises can contribute actively to development through a host country's employment and labour policies.

Amendments to the Declaration will be introduced with a view to reflect the revision of the ILO FPRW Declaration in 2022 which added safe and healthy working environment into the fundamental principles to be composed of 10 fundamental Conventions in 5 categories.

► **Employment**

Multinational enterprises should implement measures to increase employment opportunities, taking into account the employment policies of the country. They should give priority to the employment and occupational development of nationals of the host country, establish cooperation with local enterprises, including local procurement and secure employment, and eliminate child labour and forced labour as well as discrimination. In this way, the Declaration expects enterprises to contribute positively to development objectives of host countries by creating and maintaining employment and improving the quality of employment while addressing adverse impacts, such as child labour and forced labour as well as discrimination.

► **Training**

Multinational enterprises should provide training opportunities to meet their own needs and the development policies of the country so that workers at all levels can develop their skills and promote career opportunities. Skills improvement enhances the quality and added value of work, which means a lot for the development of host countries. The Declaration expects enterprises' positive contribution in this respect.

► **Conditions of work and life**

Multinational enterprises should offer wages, benefits and conditions of work that are not less favourable than those offered by comparable employers in the host country. They should also maintain the highest standards of health and safety and make known to workers any special hazards. These provisions show that the MNE Declaration expects enterprises to secure health and safety in line with international labour standards to prevent work-related accidents as an adverse impact, maintain wages and conditions of work at a certain level to prevent poverty and thereby contribute to economic and social progress in host countries.

► **Industrial relations**

The Declaration requires enterprises to respect freedom of association and the right to organize, provide facilities and information required for meaningful negotiations and hold regular consultation between employers and workers. It also recommends providing for the effective means of access to remedy, examination of worker's grievances and voluntary conciliation machinery. Industrial relations should be the foundation for improving working conditions (sometimes referred to as enabling rights). Thus, enterprises should guarantee freedom of association, the right to organize and collective bargaining in accordance with the international labour standards and provide access to remedy, such as a grievance mechanism and voluntary conciliation.

2.4.2 Labour CSR and RBC policy requirement for States

The ILO MNE Declaration identifies the respective roles of multinational enterprises and governments. In referencing “multinational enterprises should ...” and “governments should...” when it provides guidelines indicates that each are expected to have distinctive roles that complement each other as they strive to achieve the objectives of the Declaration.⁴⁶

One of the instruments that provided the basis for the adoption of the ILO MNE Declaration is the Resolution concerning Decent Work in Global Supply Chains adopted at the International Labour Conference in 2016. It also identifies the roles of government in terms of labour CSR and RBC within supply chains. The following section discusses the role of governments within global supply chains that includes the matters that the Global Supply Chain Resolution specifically refers to.

(a) Implementation of international labour standards

The most fundamental part of a government’s labour CSR and RBC policies is ratification of the fundamental Conventions and implementation of the ratified international labour standards in their territories (ILO FPRW Declaration and ILO MNE Declaration). The basic principle that supports labour CSR and RBC is the implementation of a State’s legal and social policies (design and implementation of appropriate laws and policies, particularly in the area of labour administration and labour inspection). International labour standards, which governments, employers and workers have formulated, work as an effective means of making consistent intervention on enterprises worldwide to promote decent work. Governments are expected to further the aim of the Declaration with appropriate laws, policies, measures and actions that cover the fields of labour administration and public labour inspection and by cooperation among constituents (para. 3). Even non-ratifying States should implement the internationally recognized standards by respecting, promoting and realizing the fundamental principles and rights at work (para. 9), perform their duty to protect human rights and secure access to remedy in accordance with the three pillars of the UN Guiding Principles (para. 10).⁴⁷

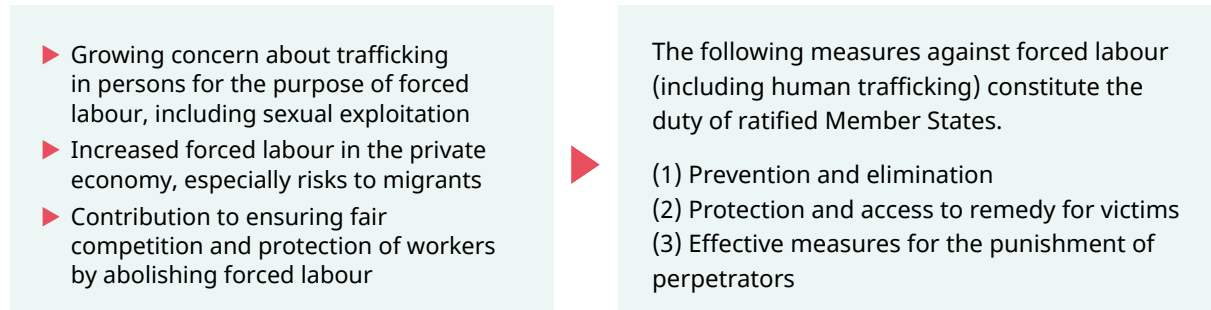
The ILO supervisory mechanism for ratified Conventions, which consists of reporting obligations, procedures for representations and complaints and the ILO Committee on Freedom of Association, is useful when confirming the gaps between the international labour standards and realities, let alone the opportunities where opinions and perspective from employers and workers can be obtained. Complaints can be examined by the Committee, whether or not the country concerned had ratified the relevant Conventions. Member States have an obligation to respect, promote and realize the principles concerning the fundamental rights of the core labour standards (ILO FPRW Declaration). In recent years, particular focus has been directed to the ILO Protocol of 2014 to the Forced Labour Convention, which addresses forced labour challenges in global supply chains (figure 10).

⁴⁶ For example, governments should put in place legal systems to respect, promote and realize the principles of core labour standards and declare policy objectives with development priorities; while multinational enterprises should comply with those legal systems and conduct both due diligence and stakeholder engagement in a complementary manner to address negative impacts on rights and carry out labour practices that are in line with governments’ development objectives. Governments then in turn can promote such good labour practices. Those respective and complementary roles of governments and multinational enterprises are articulated by the Declaration. Paragraph 10 states the same principle.

⁴⁷ In addition, the Declaration provides principles for governments in the area of social policy and safety nets, such as transition to formal economy (para. 21), social security floors (para. 22) and income protection measures for workers whose employment has been terminated (para. 36). Vocational training (para. 37), a preventive safety and health culture (para. 43), securing investment incentives that do not limit the workers’ freedom of association or the right to organize and bargain collectively (para. 52), providing workers’ organizations with information related to collective bargaining (para. 62) and voluntary conciliation and arbitration free of charge to settle industrial disputes between employers and workers (para. 67), are also required.

► **Figure 10. Protocol of Forced Labour Convention, 2014 (No. 29)**

Protocol of Forced Labour Convention, 2014 (No. 29) = one of the core labour standards



Towards eliminating forced labour

Prevention	Remedy
Educating and informing to prevent becoming victims, strengthening labour inspection, protection from abuses arising during recruitment process, supporting due diligence, and addressing root causes.	Ensuring victim's access to appropriate and effective remedies
Protection	Other measures
Protecting victims from punishment for unlawful activities Identification, release, protection, recovery and rehabilitation of victims	Sanction perpetrators International cooperation among Member States Social dialogue for taking measures

(b) Social dialogue promoted by and between home and host countries

In line with the UN Guiding Principles and the OECD Guidelines, the ILO MNE Declaration indicates that the role of home countries is extended to the extraterritorial operations of their enterprises. According to the Declaration, activities of multinational enterprises should be consistent with national laws and in harmony with the development priorities of the country. To this effect, consultations should be held between multinational enterprises and government and, wherever appropriate, the national employers' and workers' organizations concerned (para. 11). This highlights the role of tripartite dialogue to create an enabling environment to fill the governance gap and enable multinational enterprises to contribute to the sound social and economic development of home countries. The Declaration also demands that the government of host countries promote good social practices, including by holding consultations with home countries (home-host dialogue) (para. 12).

This is intended to encourage home countries to grasp the development needs of host countries and encourage multinational enterprises to act effectively according to such needs. Home-host dialogue can pave the way to enable multinational enterprises' operations lead to the creation of decent work for all in host countries, including to promote social dialogue and fundamental principles and rights at work for those who work in export processing zones and in the informal economy as well as formalization and the growth of SMEs (Global Supply Chain Resolution). Governments of home countries are also required to consider including fundamental principles and rights at work in trade agreements (Global Supply Chain Resolution). Such dialogue and cooperation with host countries should be directed to ensuring the policy coherency among countries and to contribute to ensuring decent work in global supply chains by expressing consistent expectations to enterprises. Home-host social dialogue involving multinational enterprises as well as employers' and workers' organizations may provide the means for solutions to labour issues attributed to the structural challenges of society, which may not be resolved by enterprises alone.

(c) Promoting actions of enterprises to realize labour CSR and RBC

The ILO MNE Declaration requires governments to promote good social practices among multinational enterprises operating in and outside their territories (para. 12) and provide continued guidance and support to employers (paras 24 and 31). Given that efforts to develop and maintain industrial relations and their impacts on development provide the foundation for labour CSR and RBC, the important perspective is to carry out due diligence, social dialogue and engagement with workers in a mutually complementary manner so that they can contribute to addressing adverse impacts and to promoting social progress. Therefore, the favourable approach to promoting labour CSR and RBC is to, based on the full guarantee of collective rights for autonomous industrial relationships, focus on binding enterprises through regulations and also encouraging good practices. To create positive impacts, they should promote unique and innovative approaches.

In the context of encouraging enterprises in global supply chains to act in accordance with the international labour standards, the Global Supply Chain Resolution also requires governments to use public procurement to promote fundamental principles and rights at work, urge state-owned or state-controlled enterprises to carry out due diligence, create an enabling environment to help enterprises conduct due diligence and set out a clear expectation for RBC and give guidance to enterprises on the reporting of due diligence efforts in supply chains. They also should clearly communicate their expectations to enterprises for respecting fundamental principles and rights at work and consider whether further measures, including regulation, are needed if these expectations are not met.⁴⁸

(d) International cooperation

It is true that there are countries and regions in the world that do not meet the adequate standard of labour practices in line with the international labour standards. Many countries, particularly the least developed and developing countries, need support from the international community. The ILO provides support through development cooperation frameworks so that these countries can achieve sustainable, inclusive economic growth and create decent work for all.⁴⁹ Countries are urged to provide support, including funding for initiatives, as part of their international cooperation efforts.



⁴⁸ Note that regarding legislative initiatives, including extraterritorial legislation, the ILO remained as of 2016 a neutral standpoint, stating that it is too early to determine whether these measures will lead to sustainable workplace compliance (see the report of the chairperson of the Governing Body to the International Labour Conference for 2016).

⁴⁹ Decent work Country Programmes are developed by government, employers and workers of a country to address decent work priorities, with the cooperation of ILO.

2.5 Other international initiatives

Aside from the four international normative instruments discussed in Chapter 2, various international initiatives and principles related to labour CSR and RBC have been created. For example, the Global Compact launched in 2000 urges enterprises to realize ten principles in their operations and contribute to the achievement of the SDGs (GCNJ, n.d.). The principles that relate to labour and human rights are: Principle 1 – support and respect the protection of human rights; Principle 2 – make sure that businesses are not complicit in human rights abuses; Principle 3 – uphold the freedom of association and the effective recognition of the right to collective bargaining; Principle 4 – the elimination of all forms of forced and compulsory labour; Principle 5 – the effective abolition of child labour; Principle 6 – the elimination of discrimination in respect of employment and occupation. These principles are derived from the Universal Declaration of Human Rights and the ILO FPRW Declaration.

Principles and other guidelines for particular groups of people have also been created. They include the Women's Empowerment Principles (WEPs) formulated in 2010 by the Global Compact and the United Nations Development Fund for Women (now UN Women), which promote initiatives for treating all women and men fairly and offering equal opportunities at work without discrimination and eliminating violence (Principles 1–4), as well as seven principles to promote the initiatives of stakeholders and local communities, including supply chains, while ensuring transparency and results analysis (Gender Equality Bureau of the Cabinet Office, Japan). The Children's Rights and Business Principles (2012) developed by the Global Compact, UNICEF and Save the Children also set out ten principles, including the elimination of child labour and the provision of decent work for youth workers, parents and caregivers.

In 2017, the Office of the United Nations High Commissioner for Human Rights (OHCHR) published the Standards of Conduct for Business on Tackling Discrimination against lesbian, gay, bi, trans and intersex people, presenting five standards: respecting human rights at all times, eliminating discrimination, providing support for LGBTI in workplaces and preventing human rights violations by suppliers and other business partners. These instruments have been implemented and put into practice in accordance with the Universal Declaration of Human Rights, the international Conventions on human rights (such as the Convention on the Rights of the Child), ILO Conventions and other international human rights and labour standards while referring to the UN Guiding Principles. These principles are imperative for the efforts of labour CSR and RBC from the standpoint of people in vulnerable groups, such as children, women and sexual minorities. Based on this understanding, this report clarifies what labour CSR and RBC policies governments should adopt and focuses on the four international normative instruments. Policy development in light of the socially vulnerable groups is not covered by this report but should be examined in the next phase of our research.

2.6 Normative requirements of labour CSR and RBC

In the previous sections, we examine the four international normative instruments cited as the basis for the multilayered endeavours of diverse actors for labour CSR and RBC. These norms have, in turn, developed while referring to and incorporating other norms when they were drafted and revised. Particularly in the field of labour, due to the efforts made by the ILO to ensure policy coherency at the international level, the ILO MNE Declaration has been referred to by other important international and regional policy frameworks since its adoption in 1977.⁵⁰ Since the revision in 2017, the Governing Body of the ILO has followed up on related international trends each year to make adjustments to maintain policy coherency and promote the Declaration. This report has confirmed how these major norms and goals have developed to date while interacting with one another, from the aspects of labour CSR and RBC and related policy requirement

50 "International policy coherence" found on the ILO MNE Declaration portal page introduces international instruments, investment treaties and international framework agreements that cite the ILO MNE Declaration.

2.6.1 Normative requirement for businesses

The common characteristics of the four international normative instruments related to labour CSR and RBC is as follows: Enterprises have the primary duty to observe the laws of countries where they operate. Additionally, their responsibility is extended to respect for human rights derive from the international labour standards, human rights treaties and other international standards. The responsibility covers not only workers with direct employment relations but also with those who work in supply chains, including business partners.

On the other hand, a different characteristic appears, among those instruments, in the respective range of business responsibilities in terms of labour CSR and RBC. While the UN Guiding Principles focus mainly on the adverse human rights impacts of business, the SDGs recognize and emphasize the positive roles of enterprises towards the 17 goals in addition to preventing and mitigating adverse impacts. The requisites of principles under the OECD Guidelines aim at, in the first place, promoting international investments and providing guidelines to maximize their positive contributions and minimize the problems. Likewise, the ILO MNE Declaration shares similar objectives and expects that enterprises fulfil their responsibility by addressing adverse impacts and at the same time, by taking an active role in promoting decent work and contributing to social development in host countries. By integrating the UN Guiding Principles and the SDGs and considering the principles of autonomous industrial relationships, the 2017 revision of the ILO MNE Declaration clearly states that enterprises should put into practice due diligence and labour–management dialogue and engagement.

Different characters also appear in the standards in the field of labour that are covered by these instruments. While the UN Guiding Principles specify the ILO fundamental principles and rights at work as the standards that should be observed by enterprises, the SDGs take up a wider range of labour-related issues related to the overall objective of the international labour standards, such as hunger eradication, education and gender, in addition to the achievement of decent work. Nevertheless, the SDGs provide relatively vague standard of conduct because they aim at setting goals to be achieved rather than setting standards. The OECD Guidelines and the ILO MNE Declaration cover a wider range of labour-related topics, including employment, training, labour conditions and industrial relations. Both instruments have been adjusted to maintain mutual consistency. The ILO MNE Declaration enables us to obtain a more in-depth understanding of labour issues, while the OECD Guidelines address the broader aspects of activities of multinational enterprises.

2.6.2 Normative requirement for States

Policies that States are required to adopt to realize labour CSR and RBC, as stipulated in the four international normative instruments can be categorized into eight components: (a) ratification of the fundamental Conventions that are the core of labour CSR and RBC; (b) domestic implementation of ratified international human rights and labour standards; (c) labour CSR and RBC set as States' strategic objectives; (d) individual policy measures to realize labour CSR and RBC; (e) external policies in terms of labour CSR and RBC; (f) promotion of social dialogue and engagement; (g) access to remedy; and (h) international cooperation in terms of labour CSR and RBC.

► Normative requirement for States

Norms for States		Instruments			
		UN Guiding Principles	OECD Guidelines	SDGs	ILO (MNE Declaration and Global Supply Chains Resolution)
(a) Ratification of fundamental Conventions					
Ratification of the eight ILO fundamental Conventions (it became 10 Conventions in 2022)					MNED para. 9
(b) Domestic implementation of international human rights and labour standards					
<p>Vertical domestic policy coherency (domestic policies consistent with international standards)</p> <p>Necessary policies to implement the international standards and the policies listed below:</p> <ul style="list-style-type: none"> ► Respect, promote and realize the principles concerning the fundamental rights that are subject of the fundamental Conventions: (a) freedom of association and the effective recognition of the right to collective bargaining; (b) elimination of all forms of forced labour or compulsory labour; (c) effective abolition of child labour; (d) elimination of discrimination in respect of employment and occupation, including equal remuneration for men and women workers for work of equal value. (safe and healthy working environment has been added in 2022) ► Promote decent work, establish and maintain social protection floor, provide security of employment, provide income protection. ► Vocational training and vocational guidance. ► Ensure safety and health standards, foster a preventive safety and health culture, combat violence at work, provide compensation for occupational accidents or diseases. ► Secure access to effective remedy to workers, prevent and resolve labour disputes (such as securing access to grievance mechanisms). 		Principles 1, 8 and 25–28	Paras I-1, 8 and 9 Chapter IV	Goal 16.3 Para 63	MNED paras 3, 8, 9, 13, 22, 23, 26, 28, 29, 32, 36, 37, 43, 64, and 67 GSC Resolution Paras 15 and 16(a)

Norms for States		Instruments			
		UN Guiding Principles	OECD Guidelines	SDGs	ILO (MNE Declaration and Global Supply Chains Resolution)
(c) Labour CSR and RBC set as States' strategic objectives					
	<p>Horizontal policy coherency.</p> <p>Support and equip departments and agencies, at both the national and subnational levels, that shape business practices to be informed of and act in a manner compatible with a government's human rights obligations.</p> <ul style="list-style-type: none"> ▶ Implement related policies at both national and subnational levels, including corporate law and securities regulation, investment, export credit and insurance, trade and labour. ▶ Enforce appropriate laws and policies, including in the fields of labour administration and public labour inspection. ▶ Apply international labour standards and domestic legislation to all workers irrespective of their employment status, and equal treatment between multinational and national enterprises. ▶ Transition from the informal to formal economy. ▶ Tripartite cooperation among governments, employers and workers in terms of formulating and implementing policies. ▶ Coordinate and keep coherency of policies at the global, regional, industrial and national levels. ▶ Ensure that investment incentives do not limit fundamental labour rights in host countries. 	Principles 3 and 8	Paras I-8 and 9	Goal 16.3 Para 63	<p>MNED Paras 3, 5, 11, 12 and 21</p> <p>GSC Resolution Paras 15, 16(a)(b)(n), etc.</p>
	<p>Smart mix of measures</p> <ul style="list-style-type: none"> ▶ National and international, mandatory and voluntary. 	Principle 3	Para. I-1		
	Set out the expectations that all enterprises domiciled in the territory and/or jurisdiction respect human rights outside their home country.	Principle 2	Para. I-3		GSC Resolution 16(e)(i)

Norms for States		Instruments			
		UN Guiding Principles	OECD Guidelines	SDGs	ILO (MNE Declaration and Global Supply Chains Resolution)
(d) Individual policy measures for labour CSR and RBC					
	Raise awareness among enterprises, provide support, information and guidelines.	Principles 3 and 4	Paras I-3 and 11	Goal 8.3, 8.10 Para. 67	GSC Resolution 16(e)
	Provide guidelines and support to employers to identify, prevent, mitigate and address risks, such as forced labour. Provide continued guidance on the avoidance of discrimination.				MNED paras 24 and 31 GSC Resolution 16(l)
	Encourage and support SMEs ► Promote human rights due diligence. Provide opportunities to SMEs to participate in the supply chains. Promote fair competition among enterprises by transition to the formal economy.		Para. I-6	Goals 2.3, 8.3, 9.3, and 14b	GSC Resolution 16(k) (m)
	Promote and share good social practices among enterprises operating in their territories and abroad.	Principle 3			MNED para. 12
	Non-financial reporting: promote or request reporting of enterprises' activities concerning labour CSR and RBC, including conducted by group enterprises and business partners.	Principle 3	Para. III	Goal 12.6	GSC Resolution 16(f)
	Support business in conflict-affected areas ► Foster closer cooperation among development assistance agencies, foreign and trade ministries and export finance institutions in the capitals and within the embassies, as well as between these agencies and host government actors. ► Develop early warning indicators. ► Attach appropriate consequences to failure by enterprises to cooperate, including by denying and withdrawing existing public support or services.	Principle 7			

Norms for States		Instruments			
		UN Guiding Principles	OECD Guidelines	SDGs	ILO (MNE Declaration and Global Supply Chains Resolution)
	Protect against human rights abuses by business enterprises that receive substantial support and services from state export credit agencies and official investment insurance or guarantee agencies (such as trade insurance institutions), development agencies, development finance institutions, etc.	Principle 4			
	Protect against human rights abuses by state-owned or controlled enterprises.	Principle 4			
	Public contracts and public procurement ▶ Exercise adequate oversight and promote respect for human rights and fundamental principles and rights at work in outsourcing contract commercial transactions.	Principles 5 and 6			GSC Resolution 16(c)
(e) External (foreign) policies					
	Horizontal policy coherency in the fields of investment and trade (such as incorporating fundamental principles and rights at work in trade and investment agreements).	Principle 8	Para. I-7		GSC Resolution 16(h), etc.
	Maintain adequate domestic policy space in trade and investment treaties or contracts.	Principle 9			
	Dialogues between host and home countries.		Para. I-8		MNED para. 12
(f) Promotion of social dialogue and engagement					
	▶ Freedom of association and the effective recognition of the right to collective bargaining. ▶ Promote good social practices and home-host “tripartite-plus” dialogue, whereby tripartite constituents in home and host countries and multinational enterprises to ensure that business activities are consistent with national laws and in harmony with the development priorities. ▶ Consultation to keep enterprises’ employment plans in harmony with national social development policies.	Principles 3 and 31(h)	Para. I-8	Goals 17.16 and 17.17 Paras 60 and 61	MNED paras 3, 11, 12, 17, and 48–62 GSC Resolution 16(e)(i)

Norms for States		Instruments			
		UN Guiding Principles	OECD Guidelines	SDGs	ILO (MNE Declaration and Global Supply Chains Resolution)
(g) Access to remedy					
	Access to effective remedies, grievance mechanisms, labour dispute resolution procedures, whistleblower protection and the National Contact Point.	Principles 25–31	Paras I-10 and 11	Goal 16	MNED paras 64, 66 and 67 GSC Resolution 16(a)
	Conflict resolution and remedy by national human rights institutions.	Principles 3, 23, 25 and 27			
(h) International cooperation in terms of labour CSR and RBC					
	Act as a member of multilateral institutions ► Align with collective actions of multilateral institutions and cooperate with labour CSR and RBC promotion by multilateral institutions and capacity-building and technical cooperation for other countries to fulfil their obligations to protect human rights.	Principle 10	Paras I-3 and 8	Goal 17	MNED para. 12
	Global partnership ► Provide financial resources, transferring environmentally sound technologies to developing countries on concessional and preferential terms, capacity-building, etc.			Goal 17	GSC Resolution 15 and 16
	Contribution towards economic development of host counties ► Cooperate with enterprises to promote employment, occupational development, promotion and advancement of nationals of the host countries. ► Measures for low-income groups and less-developed areas to benefit as much as possible from activities of multinational enterprises. ► Cooperate with multinational enterprises on the implementation of vocational training.		Para. II	Goals 8 and 17	MNED paras 18, 38 and 42



The table summarizes the requirements and recommendation for States extracted from the international norms for labour CSR and RBC. These may look abstract due to compromises made in its drafting process and as the nature of international norms are addressed for all the various nations and that makes its expressions highly general terms. On the other hand, these international norms have been incorporated into the activities of international and regional organizations, States, enterprises, trade unions, NGOs and other actors. They have carried out labour CSR and RBC initiatives in multiple dimensions. The UN Human Rights Council resolution in 2014, for example, requested States to formulate a national action plan on business and human rights (NAP) as part of their UN Guiding Principles' duty to protect human rights (see the next chapter). The "Guidance on National Action Plans on Business and Human Rights" published by the UN Working Group on Business and Human Rights as well as other tools developed by NGOs and national human rights institutions elaborates the essential policies that should be included in the NAPs. Although the content of the international norms is a general statement, the subsequent multilayered practice of the various actors has helped to materialize the essence of labour CSR and RBC policies. This dynamism has been expanding and aggravating rapidly in these days. Chapters 3–6 examine how the various actors and stakeholders materialize labour CSR and RBC policies.



3

Labour corporate social responsibility and responsible business conduct adopted by international organizations

Based on the four leading international normative instruments, Chapter 2 discusses what labour CSR and RBC norms are and what labour CSR and RBC policies are required. Along with the multilayered endeavour by diverse actors, labour CSR and RBC norms have evolved by reflecting changes in the international environment and developments of other norms. This chapter now examines how international organizations implement labour CSR and RBC policies by integrating the four international normative instruments and then identifies what labour CSR and RBC policies they request and suggest States must implement.⁵¹

3.1 UN frameworks for human rights protection

Through its human rights protection frameworks, the United Nations recommends that States ratify and enforce the ILO Conventions in their territories and requests them to implement policies related to labour CSR and RBC, including home State's extraterritorial duties regarding business responsibility to respect human rights. The UN Working Group on Business and Human Rights is engaged in various activities to promote and

⁵¹ This chapter discusses initiatives by some international organizations. There is a dynamic interplay of the international human rights system between the framework based on the UN Charter (such as the UN Human Rights Council, the Global Compact and the SDGs) on the one hand, and the other based on the respective human rights treaties. The OHCHR is the secretariat of these frameworks. Because the normative content of labour CSR and RBC evolved in this interplay, this report captures both frameworks as one UN human rights protection framework.

disseminate the UN Guiding Principles and recommends that States each formulate a national action plan on Business and Human Rights (NAP). These NAPs should present policy strategy for implementing the UN Guiding Principles and encourage stakeholders to actively participate in the process. The following section elaborates the discussion of section 2.1.2 on labour CSR and RBC policy requirement for States in relation to the UN Guiding Principles, focusing more on actions and considerations for States in concrete terms.

3.1.1 Labour CSR and RBC policies in the UN frameworks for human rights protection

(a) Recommendations for ratification and implementation of human rights treaties and the ILO Conventions by the UN Human Rights Council and human rights treaty bodies

The Universal Periodic Review, which is the mechanism of the UN Human Rights Council aimed at examining observance of international human rights standards among Member States, has recommended that Member States implement the UN Guiding Principles in their territories and urged them to ratify and implement the ILO Conventions in their territory. Its recommendation includes enactment or revision of domestic laws to protect the collective bargaining rights, establishment of domestic legal frameworks to prohibit forced labour and human trafficking, implementation of a national strategy and action plans related to child labour, criminal investigation and indictment of perpetrators of child exploitation and the protection of victims, protection of prison labourers and prohibition of discrimination in respect of employment and occupation. Recommendations extend to a wider range of labour issues, such as identification and elimination of the causes of wage disparities, including job evaluations based on gender bias; guarantee of right to work based on own free will, including the right not to be unfairly deprived of employment; and recognition of equal pay for work of equal value. This shows that States have been urged to take measures to protect workers from abuses by enterprises, in addition to policies to respect and promote workers' rights under human rights Conventions and the ILO Conventions (see section 3.1).

The report examination of States Parties in the process of human rights treaty bodies recognizes extraterritorial obligations of home States in addition to the obligation of host States with regard to the violation of the treaty rights by enterprises. Because States have the duty to protect the rights of individuals in their territories as well as under their jurisdictions under various human rights treaties, the UN human rights frameworks have called for States to implement the treaties to the extraterritorial operations of the enterprises domiciled in their territory. This has been made clear in the general comments on States' duties related to business activities under the International Covenant on Economic, Social and Cultural Rights (CESCR2017) and the Convention on the Rights of the Child (CRC2013). Such state policies include those addressed to global supply chains.

The relationship between human rights abuses by enterprises and a State Party must be clarified to find a breach of the State Party's obligation, as pointed out by the human rights treaty bodies (HRC 2017).

(b) Discussion towards formulation of legally binding instruments to regulate multinational enterprises

For further advancing its previous recommendations for States, the UN Human Rights Council launched in 2014 the "Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights" and published the "Legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises" (zero draft) and the draft optional Protocol in 2018 (HRC, n.d.). In 2021, the third draft was published, which included the State duty to protect victims (Article 5); the State duty to regulate business activities effectively and require enterprises conduct human rights due diligence (Article 6); the State duty to secure access to courts and state-based non-judicial mechanisms (Article 7); and the State duty to provide for a comprehensive and adequate system of legal liability of legal and natural persons and secure their law to provide for reparations to the victims (Article 8).

As an institutional arrangement, the third draft stipulates the establishment of a system of a State's reporting to and adopting general comments by a committee consisting of experts, a conference of States and an international fund for victims (Article 15). The draft suggests that States accept the means of dispute settlement by either submission to the International Court of Justice or arbitration based on mutual agreement if a dispute arises between States on the interpretation or application of the instrument, which cannot be resolved through negotiation (Article 18). Because measures taken by States Parties may include actions of extraterritorial jurisdiction, an effective dispute resolution mechanism for state actions is necessary. State duty to establish a national implementation mechanism aligning with the Paris Principles as a means to domestic implementation of the instrument and to vest in the Committee set up under the instrument to receive and consider complaints by individuals was suggested by the 2018 draft optional Protocol. But there is no progress of discussion so far. Future discussions in the open-ended intergovernmental working group should be notable.

(c) Promotion of UN Guiding Principles by the UN Working Group on Business and Human Rights

To promote the effective and comprehensive dissemination and implementation of the UN Guiding Principles, the UN Human Rights Council established the UN Working Group on Business and Human Rights in 2011.⁵² To date, the Working Group has presented survey results on the improvement of access to effective remedy (Accountability and Remedy Project) and the integration of a gender perspective. It has also carried out such initiatives as hosting annual forums on business and human rights, conducting country visits (13 countries so far) and submitting communications (total of 767 communications were submitted in relation to the mandates of the Working Group). In some cases of human rights infringement by enterprises, the Working Group sent a letter to the enterprise and host and home country governments involved to confirm the facts and request a reply concerning countermeasures to be taken. Through the activities of the Working Group, the United Nations strives to promote the UN Guiding Principles by engaging with governments, businesses and their stakeholders.



52 Resolution adopted by the UN Human Rights Council (A/HRC/RES/17/14). The official title is "Working group on the issue of human rights and transnational corporations and other business enterprises", and the working group's mandate was updated by A/HRC/RES/26/22 in 2014, A/HRC/RES/35/7 in 2017 and A/HRC/RES/44/15 in 2020.

3.1.2 Labour CSR and RBC policy requirement for States

To implement the UN Guiding Principles, NAPs should reflect the complementarity and interrelatedness of the State's obligations and business responsibilities, indicated by the working group. United Nations recommends that States ratify the international human rights treaties and the ILO Conventions and then implement them within their territory. Based on the business responsibility to respect human rights as established by the UN Guiding Principles, the United Nations urges States to formulate a national action plan as a measure to realize labour CSR and RBC, which is a part of a State's duty to protect human rights, as follows.

(a) Formulation of a National Action Plan on Business and Human Rights

The UN Human Rights Council resolution in 2014 (A/HRC/RES/26/22) recommended, as a key to the implementation of the UN Guiding Principles, to "consider elaborating a national plan of action on implementation to define responsibilities at the national level, identify resource requirements and mobilize relevant actors, building on lessons learned from such experiences in other countries". Thereafter, formulation of national action plans on Business and Human Rights (NAP) has been recommended under the UN human rights framework. According to the UN Working Groups on Business and Human Rights, a NAP is defined as an evolving policy strategy developed by a State to protect against adverse human rights impacts by business enterprises, in conformity with the UN Guiding Principles (UNWG-BHR 2016). To implement the UN Guiding Principles, NAPs should reflect the complementarity and interrelatedness of the State's obligations and business responsibilities, indicated by the working group. The NAP process throughout the drafting, implementation, monitoring and update requires gap analysis through baseline studies, as well as substantial stakeholder participation, including employers' and workers' organizations, and transparent and predictable process. Each State needs to reflect material priorities of the specific human rights issues in their country context.

There are four important points recommended by the working group as to what should be included in NAPs. First, it should cover the extraterritorial operations of enterprises in its territory in addition to business operations in its territories (both for multinational and national enterprises). Governments should adopt policies to achieve labour CSR and RBC, not only as a host country but also as a home country. This means that policy measures in the NAPs should address domestic workplace issues in the country as well as those in the global society through supply chains, with a view to achieving the so-called "international level-playing field". The second point is to ensure vertical and horizontal policy coherency in domestic policies. The third point is a demand for a smart mix of measures. A smart mix of measures to realize better labour CSR and RBC needs to combine (i) mandatory and voluntary measures and (ii) international and national measures. International measures include diplomatic policies. Finally, a NAP should focus on addressing particular adverse impacts from a gender and vulnerability perspective and should identify material priorities for challenges, taking account of the severity of damage and effectiveness of measures. These four points are mutually complementary, and none of them should be missing.

From the perspective of labour CSR and RBC, the foremost consideration is to put in place measures in NAPs that effectively implement the ratified international labour standards, particularly the fundamental Conventions consisting of labour standards and additionally other Conventions and Protocols as necessary. It is also expected to support enterprise-level efforts and to incorporate international labour standards and core labour standards into policy measures, such as trade and investment agreements, public procurement and public contracts. And the NAP formulation process should entail, as an essential requirement, the effective participation of stakeholders, in particular social dialogue by employers' and workers' organizations (ILO-OHCHR 2021).

(b) Labour CSR and RBC policies for business outside their territory, including global supply chains, and response to COVID-19 crisis

The UN Guiding Principles provide only a general provision for States to adopt labour CSR and RBC policies that extend to overseas operations of the enterprises in their territories. More specific policy requirement for States is discussed in the draft of a legally binding instrument on the regulation of multinational enterprises, broken down into two categories: preventive and reactive measures against infringements. On top of that

discussion in the draft instrument, there are general comments on the implementation of human rights treaties, particularly the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child. A general comment of the CRC (CRC2013) indicates that “States should enable access to effective judicial and non-judicial mechanisms to provide remedy for children and their families whose rights have been violated by business enterprises extraterritorially when there is a reasonable link between the State and the conduct concerned” (para. 44). It also indicates that States should, in order to prevent the infringement of children’s rights by enterprises operating abroad, ensure that enterprises to which public support, such as government funding or export credit and other agencies’ support is offered, take steps to identify, prevent and mitigate any adverse impacts on children’s rights (para. 45). It also provides that States should require enterprises to carry out due diligence to respect children’s rights in the entire global business operations and that they should establish institutional and legal frameworks for that purpose (paras 46, 62 and 63).

The importance of human and rights protection, including decent work, in global supply chains has been emphasized also as a way to achieve a sustainable society, specifically in response to the SDGs and human rights violations during the COVID-19 crisis. During the crisis and the forthcoming recovery, States have the primary responsibility to protect the rights of individuals. First, governments have placed the protection of workers, particularly those in the most vulnerable situations, as part of their measures to reduce the economic impacts of the COVID-19 pandemic. For example, they have been expected to provide an adequate safety net for workers laid off or who lost their job due to the COVID-19 restrictions and those who work in the informal sectors. Second, States’ financial support or bailouts to businesses should come together with CSR and RBC requirements. Such requirement includes “ensuring that workers are not put at health and safety risk, are allowed sick leave with pay and are not exploited with the justification of crisis and emergency” (OHCHR 2020).

(c) Labour CSR and RBC policies as a form of international cooperation

Beyond the status of either the host or home country, States are expected to consider the right to work, as a member of international organizations when they involve in the programs and projects of international organizations (such as the International Monetary Fund and the World Bank). In addition, States are expected to strive for international aid, technical support and capacity-building through bilateral and multilateral frameworks of cooperation or through partnerships with international organizations and civil society. Specific examples include involvement and cooperation with international organizations for the implementation of labour CSR and RBC and contribution of funds to such organizations’ projects to promote labour CSR and RBC.

3.2 Organisation for Economic Co-operation and Development

The OECD adopts measures to promote the OECD Guidelines, particularly responsible business conduct, by providing guidance on due diligence and support to improve the functions of the National Contact Point. The following section discusses labour CSR and RBC policy requirement in relation with the OECD Guidelines (as described in section 2.2.2), focusing on actions and considerations for States in concrete terms.

3.2.1 Promotion of OECD Guidelines and RBC through due diligence guidance

The principal tools to promote the OECD Guidelines and RBC entail due diligence guidance by sector or issue and the *Due Diligence Guidance for Responsible Business Conduct* (OECD 2018b). Sectoral due diligence guidance published to date covers the extractive, garment and footwear, agriculture, minerals and financial sectors. There is also an issue-specific handbook on child labour in mineral supply chains. These guidance materials include labour and employment issues, such as child labour, sexual harassment and gender-based violence, forced or compulsory labour, working hours, occupational safety and health, trade unions and collective bargaining, and wages.

The *Due Diligence Guidance for Responsible Business Conduct* provides concrete and substantial guidance on RBC to promote clarification and a level playing field for businesses regarding their responsibility to conduct due diligence. It introduces an example of enterprise practice to engage with and help host-country governments in



fulfilling their duty of protection and addressing systemic issues and home-country governments in advocating RBC to the host governments.

The OECD Council (OECD 2018b) recommends that both Member States and non-Member States: actively promote the use of the Due Diligence Guidance by enterprises operating in or from their territories; actively support and monitor the adoption of the due diligence framework set out in the Guidance; ensure the widest possible dissemination of the Guidance and its active use by enterprises; promote the use of the Guidance as a resource by industry associations, trade unions, civil society organizations, multistakeholder initiatives and sector initiatives; and regularly report to the Investment Committee on monitoring, dissemination and implementation activities.

By disseminating the Due Diligence Guidance in their territories, governments should nurture an enabling environment for business responsibility to respect human rights. For the sector-specific challenges, governments are recommended to strengthen the capabilities of industry associations and related organizations to take action focused on these issues. Structural challenges or systemic issues that cannot be resolved by enterprise efforts alone should be addressed, including through intergovernmental dialogues between host and home countries.

3.2.2 Information sharing concerning implementation of the OECD Guidelines

Annual reports on the OECD Guidelines published by OECD provides information on the activities of the National Contact Point, implementation of due diligence, government action to promote RBC policies and the OECD's engagement with States. Investment policy reviews provide a basic dataset on the implementation of RBC in particular countries.⁵³

Governments, in turn, can obtain information on other countries' labour CSR and RBC policies and practice, then provide that information to enterprises in their territories so that they can act responsibly in host countries.

3.2.3 Support to strengthen the functions of the National Contact Point

To help strengthen the functions of each country's National Contact Point, the OECD developed an Action Plan to Strengthen National Contact Points and facilitate peer reviews, capacity-building and tool development.⁵⁴

The OECD also maintains a database of alleged misconduct brought to National Contact Points to provide relevant information. Governments are expected to improve the functions of their National Contact Point to enhance their problem-solving ability and provide better support for the multinational enterprise operations

⁵³ In 2021, Thailand was reviewed and commented upon: "Thailand is a regional leader on RBC" in recognition of its national action plan formulation.

⁵⁴ For example, a set of papers was developed to address National Contact Point case coordination, confidentiality and campaigning, recommendations and determinations, National Contact Point structures and activity, initial assessments and follow-up of individual cases.

by exchanging information with other countries' National Contact Points.

3.3 International Labour Organization

The ILO promotes, through its supervisory mechanism for Conventions and Recommendations, the ratification and implementation of the international labour standards, which form the core of labour CSR and RBC policy. It also strives to promote its MNE Declaration through the operational tools listed in Annex II to the Declaration, working with governments, employers and workers of its Member States. It offers access to remedies by setting up dialogue mechanisms for labour dispute resolution. In addition, the ILO implements and promotes labour CSR and RBC norms, including through development cooperation projects and programmes carried out worldwide and through multistakeholder platforms.

The approach to understand the implementation methods of labour CSR and RBC are: (a) knowledge accumulation and sharing, (b) capacity-building and (c) dialogue facilitation to address governance gaps and realize sustainable supply chains throughout host and home countries. These approaches contribute to the implementation of the ILO MNE Declaration (particularly the promotion of social dialogue as an element of the Declaration), indicating labour CSR and RBC policy requirements for ILO Member States as well as providing guidance for governments in developing their own labour CSR and RBC policies. The following section discusses labour CSR and RBC policy requirements in relation with the ILO MNE Declaration (as described in section 2.4.2), focusing on actions and considerations for States in concrete terms.

3.3.1 Policy requirement for State under the Supervisory Mechanism of international labour standards⁵⁵

The ILO has a monitoring system called Supervisory Mechanism, under which it requests the governments of its Member States to annually report the measures taken to implement the ratified Conventions (and deliver the copies of the report to employers' and workers' organizations in the country at the time of reporting). The ILO examines submitted reports and, if appropriate, publishes them, together with its observations and other comments, and encourages the governments to apply such standards. The Supervisory Mechanism offers constituent organizations a process to file complaints on violations of ratified Conventions by a State (representation and complaint).⁵⁶

The ILO examines whether the alleged State has violated a particular Convention and leads the way for resolution and remediation through tripartite dialogue, and issues recommendations if necessary. Where there is no progress seen towards a solution, the ILO may recommend the alleged government accept a tripartite mission or technical assistance, by which it prompts remedial measures or institutional reforms by the government. For instance, a law amendment in favour of migrant workers in Qatar in 2020 was triggered by a complaint over Qatar's violation of ILO Forced Labour Convention, 1930 (No. 29) and following a tripartite mission visit to the country.

States are required to implement ratified ILO Conventions appropriately and hold social dialogues with employers' and workers' organizations through the supervisory mechanisms. As members of the ILO and working through the International Labour Conference and Governing Body, States are also required to encourage other States to implement the international labour standards appropriately, particularly where governance gaps exist. This includes tripartite missions and technical assistance to a country.

⁵⁵ The ILO publication (2020) *Rules of the Game: An Introduction to the Standard-related Work of the International Labour Organization* introduces the details of the Supervisory Mechanism.

⁵⁶ Exceptionally, for the violation of freedom of association and right to collective bargaining in relation with Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Committee on Freedom of Association can examine complaints, whether or not the country concerned had ratified the relevant Conventions.

3.3.2 Operational tools of the ILO MNE Declaration: Engagement with and support to tripartite constituents

The ILO strives to promote, in collaboration with its tripartite constituents, the principles of its MNE Declaration using the operational tools listed in Annex II (of the Declaration). The main tools are national focal points, a Help Desk for Business and the Company–Union Dialogue. Initiatives under each tool adopt any of the approaches to help implement the labour CSR and RBC policies; (a) knowledge sharing, (b) capacity-building and (c) dialogue facilitation.

National focal points are national-level institution-appointed on a tripartite basis for the promotion of the MNE Declaration. Their efforts include: raising awareness of the Declaration, organizing capacity-building events, developing online information and dialogue platforms in local languages (where possible) and organizing tripartite-plus dialogue and host-home dialogue (paras 11 and 12), as well as regularly providing information on their activities to the ILO (approach a: knowledge sharing, approach b: capacity-building and approach c: dialogue facilitation).

The ILO Help Desk for Business is an information and consultation service for enterprises and trade unions, through which ILO experts answer questions regarding international labour standards, the MNE Declaration and other responsible labour practices free of charge and with confidentiality. The answers of the Helpdesk are subject to the reviews by the ILO's Bureau for Employers' Activities and the Bureau for Workers' Activities. Enterprises can in turn use the answers as material for social dialogue and stakeholder engagement, aiming towards conflict resolution. In addition, tools, guidebooks, FAQs and e-learning are provided by the Helpdesk based on the knowledge accumulated through questions and answers (approaches a, b and c: knowledge, capacity and dialogue).

Company–Union Dialogue is a procedure in which the ILO assists and promotes dialogue involving multinational enterprises and workers' representatives. The ILO facilitates dialogue by providing a list of qualified facilitators, a neutral ground for discussion of issues of mutual concern and relevant information for dialogue (approach c: dialogue facilitation).

These operational tools of the MNE Declaration suggests that Governments should: set up through collaboration among tripartite constituents a functional focal point, including the national focal point, develop a knowledge base on specific challenges and practical solutions related to labour CSR and RBC in the local and global context; share this information among stakeholders; and build up the capacity of tripartite constituents. A mechanism for collecting and analysing information on opportunities and challenges and making policy recommendations helps ensure national-level policy coherency in terms of labour CSR and RBC. It may be effective to promote the use of a Help Desk for Business, which provides relevant knowledge and Company–Union Dialogue procedures as tools to fulfil the corporate responsibility to respect human rights and ensure access to remedy.⁵⁷ Governments may consider promoting business efforts towards labour CSR and RBC by setting up their own focal points with a similar function as the Helpdesk or making reference to the Helpdesk in their policy instruments.



⁵⁷ There are countries making reference to the Helpdesk for Business in their national action plan (such as Germany, France, Belgium and Sweden).

3.3.3 Engagement and support for tripartite constituents through programmes and projects

The ILO helps implement labour CSR and RBC policies through various programmes and projects, aiming at realizing the principles of the MNE Declaration.

The Responsible Supply Chains in Asia programme,⁵⁸ aiming at promoting internationally recognized standards and socially responsible labour practices, carries out research, outreach, policy advocacy and training. The research in Japan, for instance, has identified good examples of socially responsible labour practices of Japanese businesses in Asia. One example is that a Japanese electronics company in Viet Nam created a win-win relationship between labour and management by providing skills transfer that fulfilled the needs of the workers, which then led to increased loyalty to the company and helped corporate growth. Another example is Japanese automotive companies in Thailand that adopted a bottom-up approach, led by local human resources in putting their own CSR policies into practice among suppliers. They conducted CSR engagement and labour management dialogue by incorporating them into the QCD (quality, cost and delivery) process, aiming at a greater incentive for suppliers (approach a: knowledge sharing). The ILO analysed these good practices in sector-specific tripartite-plus dialogue and in consultation with tripartite constituents. The documentation was disseminated among other companies in the industry as well as in other industries (in the context of outreach and training, adopting approach b: capacity building and c: dialogue facilitation). Policy dialogues have taken place (three dialogues) to discuss the means at the country level to address challenges in promoting socially responsible labour practices identified through the project implementation in each industry, in a way benefiting all the stakeholders in the supply chains (approach c: dialogue facilitation).

Better Work, a joint programme implemented by the ILO and the International Finance Corporation for garment and footwear industries, is basically providing factory audits and aiming at consecutively promoting working environment by labour-management collaboration. One of the main objectives of the programme is to avoid audit fatigue caused by unstandardized duplicative social audits in factories in emerging economies and putting in place an exclusive audit system conducted by an ILO team that provides an audit report to the

programme's member companies. This ILO audit makes sure that the working environment in factories is consistent with international standards, which eventually aims to benefit all buyers and suppliers as well as workers. In Better Work audits, a team of ILO experts reviews the working environment of factories for compliance with domestic laws and international labour standards, and a worker leader is selected to promote dialogue along the process of review and remedy (approach c: dialogue facilitation). The programme uses the accumulated knowledge and experience to build networks for information-sharing and policy advocacy for the governments of host countries (approach c: dialogue facilitation). Recently, it issued reports on factories' countermeasures against COVID-19. The programme is operated mainly by contributions from the governments of major donor countries and from businesses with partner brand companies. The ILO's Sustaining Competitive and Responsible Enterprises (SCORE) Programme providing training and assessments for improved working conditions and increased productivity at SMEs, has similar objectives (approach b: capacity building).



58 Responsible Supply Chains in Asia Programme is funded by the European Union and implemented jointly with the OECD in China, Japan, Myanmar, Philippines, Thailand and Viet Nam. This report is a part of the Programme's activity.

The ILO implements other projects to engage with States Parties to trade and investment agreements, including to promote core labour standards. The Trade for Decent Work Project intends to promote, including through capacity-building, international labour standards and the MNE Declaration among trade partner countries of the European Union (such as Bangladesh, Myanmar and Viet Nam). The project aims to support legislation, in line with the international labour standards, help build up the capacity in relation with the reporting process to the European Commission or to the ILO, promote more effective institutionalization of social dialogue and dispute resolution and improve the capabilities of human resources to take charge of the implementation and promotion of international labour standards (approach b: capacity building).

The Government of Japan also provides support to ILO programmes promoting the MNE Declaration.⁵⁹ More and Better Jobs through Socially Responsible Labour Practice project⁶⁰ helped develop a business infrastructure for Japanese enterprises by promoting good labour practices. This included information-sharing and a dialogue platform for multinational enterprises and suppliers as well as tripartite constituents, where participants shared updated information on local regulation and exchanged views on industrial development (approach a: knowledge sharing). Home-host tripartite-plus dialogue (para. 12, MNE Declaration) took place involving tripartite constituents of home and host countries as well as multinational enterprises (approach a: knowledge sharing, approach b: capacity-building and approach c: dialogue facilitation). In 2022, Building Responsible Value Chains in Asia project has launched (ILO Office for Japan 2022). Aiming at promoting labour CSR and RBC among the selected Asian countries including Japan, the project implements collection and dissemination of good practice including the practice of human rights due diligence; promotion of tripartite social dialogue towards an enabling environment for productive and sustainable enterprises; and research to provide evidence base for home-host policy level collaborations in the area of trade and labour (approach a: knowledge sharing, approach b: capacity-building and approach c: dialogue facilitation).



The collaboration project between the ILO and the Tokyo Organizing Committee of the Olympic and Paralympic Games (Tokyo 2020) aimed at awareness-raising and dissemination of international labour standards and the MNE Declaration, harnessing the opportunity that the Olympic public procurement enabled. Given that the international labour standards and the MNE Declaration were incorporated into the procurement rules (Sustainable Sourcing Code), the project promoted responsible labour practices among sponsors, suppliers and other enterprises that participated in Olympic procurement as well as their supply chain companies in and outside of Japan. Other activities included a technical tie-up with Tokyo 2020 to promote compliance with the Code and awareness-raising of enterprises via the project's website (approach a: knowledge sharing and b: capacity building).

⁵⁹ The ILO leaflet "More and Better Jobs through Socially Responsible Labour Practices in the Asia-Pacific Region" introduces related projects, including Japan-funded projects (ILO 2016),

⁶⁰ More and Better Jobs through Socially Responsible Labour Practice aims to build resilient supply chains and help achieve development objectives of host countries (Pakistan and Viet Nam) by promoting good labour practices with tripartite constituents that pursue a win-win relationship of industrial development and decent work promotion (Arai 2016).

What is suggested for labour CSR and RBC policy requirement from these examples of ILO projects and programmes is the importance of promoting good practices that create a win-win relationships that can lead to sustainable business growth and decent work simultaneously. It highlights particularly the aspect of supplier engagement, skills transfer to workers and proliferation of constructive industrial relations. Capacity-building for SMEs as well as social dialogue is also worth noting. Incentives that can be generated by trade and investment agreements, public procurement of central or local governments, ESG investment, supply chain transactions and the systematic propagation of good practices along with business relationship are the key elements that should be incorporated into labour CSR and RBC policies. The ILO projects feature collection and dissemination of socially responsible labour practices, sharing of information on the local regulation of host countries and home-host tripartite-plus dialogue to maintain harmony between business conduct with host countries' policy. Information-sharing and dialogue platforms are actually requested by enterprises that operate across national boundaries. For them, obtaining up-to-date and accurate information is sometimes not an easy task because a host country's regulations and operations occasionally change, and there are sometimes language barriers. Challenges for compliance and decent work in host countries are matters of concern for all enterprises, and thus it is quite useful for embassies and other relevant public institutions to provide enterprises with updated, accurate information and disseminate good practices for peer learning. Some enterprises have noted the difficulty in selecting counterparts and finding proper ways for communication in the stakeholder engagement process in host countries. Whereas the tripartite constituents in host countries can be a primary contact point for stakeholder engagement because they are responsible for policy implementation or interest representation, the constituents in a home country can act as a bridge to the counterparts in host countries. Multiple-level collaboration among constituents in home and host countries can act as a catalyst in the context of stakeholder engagement and help proliferate the practice of stakeholder engagement in the society. This also leads to the consistency of messages delivered to multinational enterprises at the global level. Eventually, these efforts through the ILO projects and programmes can lead to the promotion of the SDGs.

Projects and programmes are supported by development cooperation from donor countries. While the ultimate objectives of these projects that provide support for labour CSR and RBC policies and awareness-raising and capacity-building to tripartite constituents in beneficiary countries, the project benefits can accrue also with donor countries if it is through robust social dialogue between home and host countries and global supply chains. In this context, ILO Member States are expected to contribute funds to development cooperation projects as part of their international cooperation and development assistance or efforts to global-level sustainable development.

That said, challenges remain, with cases filed to the ILO of alleged labour rights infringement by Japanese enterprises. Given that these cases affect the reputation of Japanese enterprises, there is increased need for a discussion on how the Government of Japan should address this challenge.



3.3.4 Leading and supporting networks and multistakeholder initiatives

The ILO leads and supports various networks, including with multinational enterprises, to promote decent work and sustainable, inclusive economic growth. In these networks, methods corresponding to approaches a–c: knowledge, capacity and dialogue are used to find solutions and generate momentum for addressing decent work challenges that cannot be resolved by individual enterprises alone, by bringing together the strengths of the partners involved.

These networks include: the Alliance 8.7 (led by the labour-related ministries of many countries), which is a global partnership aimed at achieving target 7 of SDG 8 to eradicate forced labour, end modern slavery and human trafficking and eliminate all forms of child labour by 2025;⁶¹ the Child Labour Platform, which is a business platform aiming at asserting enterprises' leadership in eliminating child labour, including in supply chains;⁶² the Vision Zero Fund, which is a fund advocated by G7 countries and approved by the G20 countries that promotes zero work-related casualties in global supply chains; and the Global Business Network on Forced Labour and Human Trafficking, which is a business network that provides enterprises with useful information and develops tools and policy interventions to eliminate forced labour.

The ILO is leading these international multistakeholder initiatives and calls for its Member States to display their leadership in these initiatives. For Member States, these platforms create opportunities for global-level discussion, information exchange and project implementation, not only through financial contributions but also through dialogue with other home countries (often represented by labour-related ministries), multinational enterprises and other stakeholders. Governments are expected to take on their role by participating in these initiatives, obtaining knowledge and experience of other countries and multinational enterprises and effectively applying them for their domestic policies, as well as asserting their leadership role in promoting the SDGs through collaboration with other countries.

3.3.5 ILO support and policy coherence for other labour CSR and RBC initiatives, including recovery from the COVID-19 crisis and pursuing a just transition

The ILO's support to Member States' labour CSR and RBC policies includes providing labour-related knowledge and expertise to the National Contact Point. Support is also provided to developing a NAP. In Japan, for instance, the ILO took part in the working group for the Japan's NAP formulation process, whereby it provided technical inputs to the Government, facilitated dialogue among stakeholders, including social partners, and eventually helped reach consensus to compile the stakeholders' common requests (OHCHR 2022-b).

In addition, the ILO promotes policy coherency among international organizations by developing relationships of cooperation with other international organizations, including the OECD, the OHCHR, the Global Compact,⁶³ the United Nations Conference on Trade and Development⁶⁴ and the World Association of Investment Promotion Agencies.⁶⁵ This implies the importance of vertical and horizontal policy coherency so that the States can

61 Alliance 8.7 consists of 26 "pathfinder" countries that committed to accelerate efforts to achieve target 7 of SDG 8 and 373 partners that composed of governments, international and regional organizations, social partners, civil society organizations and academics. The Global Coordinating Group dedicated to discuss the Alliance's course of action meets regularly and publishes reports, in which it reports research results, the progress of the pathfinder countries' activities and the outcomes of stakeholder engagement (approach a: knowledge sharing).

62 The Child Labour Platform is chaired by the International Organisation of Employers and the International Trade Union Confederation. It provides concrete solutions for buyers, factory owners and suppliers by supporting member companies through a comprehensive process of due diligence and embedding strong policies and good business practice, measuring impact and addressing root causes through meaningful local and global dialogue with tripartite partners and other stakeholders (approach a: knowledge sharing, approach b: capacity-building and approach c: dialogue facilitation).

63 See, for example, the UN Global Compact Expert Network and the Decent Work in Global Supply Chains Platform.

64 See, for example, the Inter-agency round-table on Corporate Social Responsibility co-hosted by UNCTAD, OHCHR and ILO and the memorandum of understanding between the ILO and UNCTAD in 2014 and relevant joint research.

65 See, for example, ILO and World Association of Investment Promotion Agencies Agreement on foreign direct investment and decent jobs in 2016 and the joint report on economic processing zones and decent work in the context of SDG 8, titled *Government-led Recognition Programs for Labour Regulation – Compliant Zones*.

deliver a consistent message when communicating various national policies on labour, human rights, the economy, trade and investment.

The ILO has issued a variety of guidelines to support enterprises' efforts in the COVID-19 crisis response.⁶⁶ Also, within its programmes and projects, the ILO has conducted research on the crisis response and offered information, guidance and good practices. The G7 Vision Zero Fund has launched country programmes to support countries and regions affected by the pandemic. The ILO supports joint initiatives of social partners' Call to Action, with the aim of protecting workers in the garment industry who have been severely affected by the disruption of global supply chains due to COVID-19, in which international employers' and workers' organizations as well as brands strive to mobilize financial resources to support manufacturers' business continuity, payment of wages and income support and maintaining employment. Among the Japanese brands, Fast Retailing and Asics have expressed their intention to support this initiative.

The ILO has contributed to clarifying the link between environmental and socio-economic sustainability and is a facilitator of the "just transition" incorporated in the Paris Agreement and signed at COP 21 in 2015 and the declaration of COP 26 in 2021. The ILO identifies the just transition as the transition towards an environmentally sustainable economy in a way that contributes to decent work, social inclusion and poverty eradication and encourages actions by tripartite constituents in a manner that is well controlled in terms of procedures and outcomes. This is integrated with the SDGs' "build back better" and "human-centred recovery" from COVID-19 crisis, leading to the policy development in international organizations and regional organizations (ILO 2021; ILO 2015).

3.4 Other international organizations

International organizations have carried out a range of initiatives, including promotion of the principles of human and labour rights and the SDGs by the Global Compact, advocacy for the Women's Empowerment Principles (WEPs) by UN Women, development of practical guidelines to put in practice the Children's Rights and Business Principles and the Committee on the Rights of the Child General Comment No. 16 and Business Call to Action by UNDP.⁶⁷ Within these initiatives, enterprises have discharged their efforts to respect international human rights and labour standards and to put into practice the principles, as well as to promote labour CSR and RBC through partnerships and initiatives aimed at achieving SDGs. These initiatives have been supported, assisted and participated in by States. The key points for labour CSR and RBC policies associated with these initiatives are common with what is discussed in Chapters 1–3.

In sum, the policy requirement as suggested from the practice of labour CSR and RBC by international organizations, in particular the United Nations, the ILO and the OECD, include: domestic implementation of international human rights and labour standards; development of NAPs with national strategic policy objectives on labour CSR and RBC; measures in global supply chains; enhancement of engagement between tripartite constituents, including sectoral social dialogue and government-to-government dialogue in host and home countries; dissemination among enterprises of information and guidance on labour CSR and RBC; strengthening the National Contact Point's functions; contributing a vital role for international cooperation and multistakeholder initiatives; and ensuring equitable measures for the COVID-19 crisis response.

⁶⁶ To cite a few: *Family-friendly Policies and Other Good Workplace Practices in the Context of COVID-19: Key Steps Employers Can Take* recommends flexible working arrangements for workers with family responsibility; *Restructuring for Recovery and Resilience in Response to the COVID-19 Crisis* identifies checkpoints for restructuring; and *In the Face of a Pandemic: Ensuring Safety and Health at Work* introduces occupational safety and health measures during the pandemic.

⁶⁷ Business Call to Action is an initiative in which UNDP serves as the secretariat. Donors include the Netherlands, Sweden, Switzerland, United Kingdom and United States.



▶ 4

Regional organizations and labour dimension of corporate social responsibility and responsible business conduct

Regional organizations incorporate international normative instruments on labour CSR and RBC into their strategic objective documents and promote the governments of their member States to implement measures on labour CSR and RBC. This chapter focuses on the initiatives adopted by the European Union and the Association of Southeast Asian Nations (ASEAN). There are various differences between the European Union and ASEAN in terms of the mechanisms to form their respective community and the situation of the Member States, so simple comparisons cannot be made. This report, however, discusses these regional organizations because of their impact on Japan's economy and society.⁶⁸

⁶⁸ Other regional organizations than the European Union and ASEAN are also working on labour CSR and RBC. For example, the Council of Europe is also taking initiatives around business and human rights. The 2016 Human Rights and Business Recommendation CM/Rec (2016)3 of the Committee of Ministers to member States has a dedicated chapter, Additional Protection of Workers, in which member States are recommended to "reinforce efforts to meet their obligations" under the International Covenant on Economic, Social and Cultural Rights, the European Convention on Human Rights, the European Social Charter and the ILO fundamental Conventions concerning freedom of association and right to collective bargaining, prohibition of discrimination and of child and forced labour, and international instruments on occupational safety and health and people working in the informal economy, as well as "to require business enterprises to respect the rights of workers when operating within their territorial jurisdiction and, as appropriate, throughout their operations abroad when domiciled in their jurisdiction".

As part of its common commercial policy, the European Union has exclusive authority to conclude trade agreements and to take measures on foreign direct investment. Therefore, the European Union has been negotiating and concluding free trade agreements with countries outside its region. In this context, the European Union has incorporated CSR policies into its common commercial policy by including in its free trade agreements the provisions to promote CSR and to require compliance with labour standards (EP 2010). The aim of this is to promote CSR in the European Union's external policies in addition to the domestic context within the framework of the European Union's CSR strategy. That CSR strategy in turn has made direct impact on the policy of the Japanese Government and practices of Japanese enterprises. In addition, the European Union has incorporated labour CSR and RBC in a range of policies, including regulations, public procurement, external policies and international cooperation. It envisages adopting mandatory due diligence and non-financial reporting to promote business conduct while engaging with a range of stakeholders.

In contrast, ASEAN established in 2015 the ASEAN Economic Community (AEC) as an integrated economy. The AEC aims at economic integration, including the creation of a single market and production base in ASEAN, as the next step after the elimination of tariff barriers in the region (completed in 2018) by the ASEAN Free Trade Area (launched in 1993). There has been progress in negotiations and conclusions of free trade agreements between ASEAN and countries in the Asia-Pacific region. This chapter discusses how ASEAN's labour CSR and RBC policies differ from those of the European Union in a way that many of them are aimed at addressing labour issues in the region, not outside. That said, there is enormous opportunity of co-prosperity for Japanese enterprises having supply chains in the ASEAN region through the ASEAN CSR policies.

In spite of these differences, the European Union and ASEAN share a common value of labour CSR and RBC. Their basic treaties, the Treaty on European Union as amended by the Lisbon Treaty and the ASEAN Charter, confirm the realization and promotion of shared values in terms of human rights, democracy, rule of law and good governance, which constitutes the basis of labour CSR and RBC. In addition to this kind of normative background, the following section examines why the European Union and ASEAN are working on labour CSR and RBC (policy implications) and what measures they require of their member States.

4.1 Labour CSR and RBC policy in the European Union

4.1.1 Development of the European Union's CSR policy principles and objectives (vision)

The origins of CSR in the European Union date back to the early 1990s. To address the recognized structural issues of society, such as restructuring, unemployment and social exclusion, the European business community was called upon to cooperate in a business-driven network.⁶⁹ This evolved into CSR Europe. In the 2000s, the Council of the European Union (EU Council) called for unity between governments and businesses to promote employment, economic recovery, social cohesion and sustainable development in the European Union (European Council 2000a). CSR was defined as "a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis" (EC 2001).

At that time, the European Union identified CSR as a reflection of international initiatives, such as the Global Compact, the ILO MNE Declaration and the OECD Guidelines. The European Union regarded the ILO core labour standards as the integral part of CSR and requested enterprises to strengthen their monitoring and compliance in this regard. Given the social situation in Europe around 2000, when there were frequently restructuring plans involving factory shutdowns and dismissals were announced and implemented, the concept of CSR in Europe incorporated the aspect of employability of workers through vocational training and other measures, along with human resource management and occupational safety and health as internal elements, as well as supply chain management as an external element. CSR in the European Union originally emerged with strong links to labour and employment issues.

69 For example, "European Declaration of Business against Social Exclusion" by Mr Jacques Delors, President of the European Commission to 20 business leaders in 1995.



Then, the concept of CSR began to link with business competitiveness. In 2005, the European Commission (EC) recognized in the framework called New Lisbon Strategy that CSR could take “a key role in contributing to sustainable development while enhancing Europe’s innovative potential and competitiveness” (EC 2006). This stance did not change even during the Lehman Brothers-triggered global financial crisis. The business case and the value of CSR in light of human resources, risk and reputation management and the creation of innovation continued to be recognized (EC 2008).

From 2011, the European Union began to position the CSR-led competitiveness as a measure for and in the interest of society and the economy that should not be solely in the interest of enterprises. In its 2011 CSR Strategy, the European Union changed its definition of CSR to “the responsibility of enterprises for their impact on society” (EC 2011). In time, the concept of RBC was added, in parallel and interchangeably with CSR. The strategy emphasized the voluntary nature of CSR but made compliance a precondition for meeting corporate responsibility in a way that business should respect applicable legislation and collective agreements. The strategy stated that “enterprises should have in place a process to integrate social, environmental, ethical, human rights and consumer concerns into their business operations and core strategies”. The strategy highlighted that CSR was needed not only for enterprises but also for the European Union economy and society as a whole and indicated “a smart mix of voluntary policy measures and, where necessary, complementary regulation” by public authorities.

4.1.2 Current labour CSR and RBC policies in the European Union: Business and human rights, SDGs and COVID-19

The European Union encompasses CSR and RBC with a smart mix of voluntary, mandatory, intraregional and extra regional measures that interlink business with human rights and the SDGs. In 2015, as per the request of the 2011 CSR Strategy, the European Union developed its objective to advance implementation of the UN Guiding Principles and integrated them into national CSR strategies. The action plan identified business and human rights as a priority for the European Union and its member States in their relations with third countries, which should be promoted in all areas of European Union external actions (such as trade, environment and development) by 2019 (EU Council 2015a).

Legislation mandating enterprises to carry out and report initiatives related to labour CSR and RBC emerged at the European Union level (such as the Non-Financial Reporting Directive in 2014 and the Conflict Minerals Regulation in 2017) as well as at the member State level (such as the United Kingdom’s Modern Slavery Act in 2015, the French Duty of Vigilance Law in 2017, the Dutch Child Labour Due Diligence Act in 2019 and the German Supply Chain Due Diligence Act in 2021). These laws and regulations developed in response to increasing demands from society: They were driven by the expectations of investors, consumers, civil society and enterprises themselves to fulfil their CSR and human rights responsibilities, as well as by expectations of internal and global markets. The European Union is currently considering legislation that makes due diligence mandatory (EC Resolution 2022, see 4.1.3.).

In the context of the SDGs, the European Union has emphasized in various ways the importance of promoting CSR and RBC in addressing the challenges to sustainable development (such as youth unemployment, ageing societies, climate change, pollution, sustainable energy supply and migration that have always been central issues for European Union policy). Through the European Union's CSR and RBC policies (in particular, the approach articulated in the renewed CSR Strategy 2011–14), the European Union promotes equitable and sustainable growth and the protection of social rights, as set out in SDG 8, and to achieve better environmental and working conditions throughout the global supply chains (EC 2016). The European Union further notes the importance of creating incentives for businesses to integrate the SDGs into their operations, which will help ensure an international level playing field with increasingly complex global supply chains (EC 2019a).

The European Union now recognizes the impact of COVID-19 as a challenge for CSR and RBC, pointing out that the pandemic has revealed and exacerbated potential challenges in society, such as supply chain vulnerabilities and societal inequalities. A new initiative for sustainable corporate governance has been proposed in which environmental and social benefits are fully integrated into business strategies (EC n.d.a).

4.1.3 Specific measures on labour CSR and RBC promoted by the European Union

The European Union made its policy objective (vision) to encompass CSR and RBC as drivers of its market competitiveness, as confirmed in the renewed CSR strategy for 2011–14. Based on this vision and as a regional organization, the European Union has pursued the following roles: (i) helping firms across industries or individual sectors; (ii) providing incentives for the uptake of CSR and RBC; (iii) raising awareness; and (iv) providing necessary training (EC 2019b). These roles have been integrated into the labour CSR and RBC policies in the European Union, which are summarized as follows.

(a) Ratification and implementation of human rights treaties and ILO Conventions

A requisite for the labour CSR and RBC is the ratification of international human rights treaties and ILO Conventions by European Union member States. All European Union member States have ratified the eight fundamental Conventions, yet for two in safe and healthy working environment. In 2015, the European Union urged member States to ratify the Protocol of 2014 to the ILO Forced Labour Convention of 1930, which promotes measures on public and private due diligence on forced labour (EU Council 2015b). The European Union is also working to strengthen its domestic implementation of international human rights and labour standards in business activities in certain sectors. For example, the Illegal, Unreported and Unregulated Fishing Regulation of 2010 prevents such fishery products⁷⁰ from being imported into the European Union.

(b) Formulation of national action plan on business and human rights

In the renewed CSR strategy for 2011–14, the European Union invited member States to develop national plans for the implementation of the UN Guiding Principles by 2012, with recognition that “better implementation of the UN Guiding Principles will contribute to European Union objectives regarding specific issues concerning human rights standards and core labour standards, including child labour, forced prison labour, human trafficking, gender equality, non-discrimination, freedom of association and the right to collective bargaining”. This action expedited the UN Human Rights Council to take up the national action plan on business and human rights (NAP) at the annual Business and Human Rights Forum and adopt a resolution in 2014 calling for formulation of the NAPs. The European Union also has provided opportunities for discussion and information exchange among member States on country experiences with CSR and RBC and progress of their NAP implementation as a way of building up the capacity of member States. This led to measures that promote and support NAP formulation for member States as well as external partner countries of the European Union (European Council 2020b; EC 2019b).

70 Illegal fishing, unreported fishing and unregulated fishing.

(c) Labour CSR and RBC policies having impact in the European Union and beyond

► Regulatory measures to promote due diligence

One of the featured European Union policy measures related to labour CSR and RBC are the laws and regulations that require enterprises to conduct due diligence. For example, the Conflict Minerals Regulation 2017/821 imposed due diligence obligations on importers of minerals (such as tin, tantalum and tungsten) from conflict-affected and high-risk areas in their supply chains.

Discussions are under way to mandate human rights due diligence at the European Union level. In March 2021, the European Parliament approved its Resolution for Corporate Due Diligence and Corporate Accountability (EP 2021). The Resolution targets foreign enterprises as well as enterprises that trade goods and services within the European Union. It requires enterprises to fulfil their duty to respect human rights, the environment and corporate governance. This duty includes the identification and assessment of adverse impacts in the value chain, disclosure, formulation and implementation of due diligence strategy and stakeholder engagement, notably with the obligation to inform workers' representatives of a due diligence strategy. The establishment of a grievance mechanism and the remedies determined in consultation with affected stakeholders as well as disclosure on their websites are required. These measures need to be disclosed publicly in the enterprise's website, etc.



The OHCHR responded to this discussion, by indicating that the “due diligence strategy” required by the resolution “is somehow separate from” the standard due diligence process under the UN Guiding Principles. The OHCHR has also noted insufficient stakeholder engagement, indicating “the requirement to identify and assess impacts ... does not make any reference to the need to consult stakeholders” (OHCHR 2021).

Recent discussion in the European Commission resulted in a proposal for a Directive on Corporate Sustainability Due Diligence, published on 23 February 2022 (EC 2022). It promotes sustainable and responsible business conduct, including in global supply chains, and creating legal certainty, a level playing field and transparency. The due diligence obligation for human rights and the environment applies to enterprises that reach certain thresholds, with SMEs not directly in the scope so far. The obligation includes to integrate due diligence into enterprise policies, address impacts and to maintain a complaints procedure in and for value chain operation through their “established business relationship”. This relationship includes direct and indirect business relationships, but limits its scope within the relationship which is, or is expected to be lasting in view of its intensity or duration (OHCHR 2021). In line with this, certain emphasis is put on contractual methods as a way of leveraging supply chains in the proposal. For promoting awareness, internationally recognised human rights are identified in the form of specific provisions of relevant Treaties and Conventions in its Annex. For enforceability, member States should appoint relevant authorities to lay down rules on sanctions and fines, ensure opportunities for victims to take legal actions for damages and set up directors' duty of care for their decisions for sustainability matters. This proposal for a directive is part of the European Commission's policy package towards “just and sustainable economy” and within the same policy package that the European Commission presented as a Communication on Decent Work Worldwide. This communication reaffirms the European Union's commitment to champion decent work around the world, including for a just transition and sustainable COVID-19 recovery and for the preparation of an instrument banning forced labour products into European Union markets.

► Transparency (non-financial reporting) and sustainable investment

The European Union is developing policies that require disclosure of non-financial information with incentives in investment. In October 2014, the Non-Financial Reporting Directive 2014/95 required European Union enterprises with 500 or more employees to disclose non-financial statements containing policies and actions related to environmental, social and employee matters, respect for human rights, anti-corruption and bribery matters and board diversity, including due diligence processes implemented. This Directive became effective as of 2018 (for the 2017 financial year). Upon commencing the application, the European Commission published non-binding guidelines for enterprises subject to the Directive.

After 2018, non-financial reporting began to be incorporated in the European Union's sustainable investment policy. The European Commission identified non-financial reporting as a catalyst to create financial and funding flows to foster transparency (EC 2018), along with the European Green Deal (EC 2019c) and the development of European Union taxonomy and green bond standards. The European Parliament called on the European Commission to "create an European Union-wide multistakeholder group ... to assess and propose an appropriate list of metrics" and consider "the requirement of third-party audited reporting" with a notion that the current ESG reporting requirements under the Directive is insufficient in terms of degree of convergence (EP 2018). In response, the European Commission set out its new sustainable investment strategy to strengthen the foundations for sustainable investment, with the review of the Non-Financial Reporting Directive as one concrete measure (EC 2019c). A public consultation on the review of the Non-Financial Reporting Directive was launched in 2020, and the new Corporate Sustainability Reporting Directive was proposed in April 2021, amending the 2014 Directive. Social issues subject to the reporting requirement include equality of opportunity at work, working conditions and respect for human rights, as set out in the International Bill of Human Rights, the UN human rights Conventions, the ILO FPRW Declaration, ILO Conventions and the European Union Charter of Fundamental Rights.

Meanwhile, the European Union Taxonomy Regulation was developed in June 2020, along with the framework for the promotion of sustainable investment. The taxonomy sets out criteria for classifying environmentally sustainable economic activities. Based on these criteria, it elaborates the requirement for reporting by financial institutions and enterprises (targeted under the 2014 Non-Financial Reporting Directive). Because the taxonomy focused on the environment,⁷¹ it was mandated to the Platform on Sustainable Investment as an advisory body to the European Commission to identify elements of social sustainability that should be included in the taxonomy. Issues related to decent work and basic human needs, such as water, food and housing, are being considered as content of the social taxonomy (Platform on Sustainable Finance 2021).

► Social and green business practices promoted through public procurement and labelling

There are more than 250,000 public authorities in the European Union, and their public procurement accounts for 14 per cent of European Union GDP, making them a major buyer in Europe. Following the inclusion of social considerations in public procurement under certain conditions in the former Public Procurement Directive (2004), guidance on socially responsible public procurement was developed in 2011 to enable public authorities to provide for incentives for CSR management. The social considerations in the guidance included employment opportunities, decent work, social and labour rights, social inclusiveness and protection of human rights. Subsequently, the Public Procurement Directive 2014 more explicitly clarified that social factors could be taken into account throughout the procurement process, including exclusion from procurement based on non-compliance with environmental, social and labour legislation (article 57(4)). One of the European Commission's six priorities for public procurement in 2017 was "ensuring wider uptake of strategic public procurement", which included updating the guidance on socially responsible public procurement (EC 2017). From July 2018 to January 2020, the Buying for Social Impact project was implemented as a consortium of European Union institutions to introduce social considerations into the public procurement processes. The project aims to identify how the social aspects of the 2014 Directive are being implemented at national levels and to identify

⁷¹ Article 18 of the 2020 draft Regulation on taxonomy identifies the minimum safeguards for enterprises to align with the International Bill of Human Rights, the ILO FPRW Declaration, the UN Guiding Principles and the OECD Guidelines, but they were only procedural elements.

good practices in socially responsible public procurement. A project report and case studies was published in 2019, and a collection of good practices on was also published in May 2020. This was followed in 2021 with the second edition of the socially responsible public procurement guidance (EC 2021a).

► Trade and development policy

The European Union's most updated trade strategy document is the European Commission's An Open, Sustainable and Assertive Trade Policy of 2021 (EC 2021b). This is a revision of the Trade for All strategy of 2015, which had identified trade and investment measures based on European Union values (including sustainable development, human rights, fair and ethical trade and anti-corruption), addressed consumer concerns and the right to know, reform of the global investment regime and the trade agenda to promote human rights, including topics related to labour CSR and RBC in value chains. The 2021 strategy refers to "open strategic autonomy", stressing "the European Union's ability to make its own choices and shape the world around it through leadership and engagement, reflecting its strategic interests and values", including in the recovery phase from the COVID-19 crisis. To support this, the strategy more directly refers to labour CSR and RBC initiatives in the value chain. One of the six priority areas is "support the green transition and promote responsible and sustainable value chains". The European Union's multilateral and bilateral frameworks and autonomous measures, such as the European Parliament's and the European Commission's draft directives, are listed to support the strategy. Trade agreements are examples of multilateral and bilateral frameworks. According to the European Commission, trade agreements and the Generalized Scheme of Preferences (GSP) have an important role in promoting respect for core human and labour rights. The European Union's trade agreements have widely adopted obligations relating to the core labour standards implementation. And in addition, efforts to ratify Conventions that have not yet been ratified, such as the European Union-Japan Economic Partnership Agreement and the Korea-European Union Economic Partnership Agreement. There are also several agreements that include efforts to encourage CSR and cooperation clauses between the parties in this regard, such as the European Union-Japan Economic Partnership Agreement. In particular, the European Union-Japan Economic Partnership Agreement stipulates that both parties recognize the importance of internationally recognized standards and guidelines, including the ILO MNE Declaration, encourage CSR (article 16.5(1)(e)) and cooperate to promote CSR through the exchange of information and best practices (article 16.12(1)(e)).

► Awareness-raising, training and guides

The European Union is active in promoting awareness-raising, guidance and initiatives for businesses based on internationally recognized normative instruments, such as the UN Guiding Principles, the OECD Guidelines and the ILO MNE Declaration. It includes, among others, initiatives to promote labour CSR and RBC through guidance dedicated to SMEs on business and human rights and industry-specific multistakeholder initiatives. The European Union also develops "tools and training material on business and human rights and RBC, private and public dialogue and due diligence to enable European Union Delegations to step up their engagement on business and human rights" (European Council 2020).

In 2021, the European Union published guidance on due diligence for businesses to address the risk of forced labour in their operations and supply chains. With a view to the mandatory human rights due diligence considered under the draft European Union directives, this guidance follows the 2021 trade policy and provides non-binding guidelines to enterprises, albeit limited to forced labour.



4.1.4 Social dialogue

Social dialogue in the European Union constitutes a process of debate, consultation, negotiation and joint actions involving employers' and workers' organizations, mainly through tripartite dialogue with government and social partners and bilateral dialogue between employers' and workers' organizations. The bilateral dialogue includes 43 Sectoral Social Dialogue Committees, which have become increasingly important in resolving issues arising out of the COVID-19 crisis. At the national level, tripartite and bilateral statements are adopted, projects are developed and cross-border social dialogue projects are financed by the European Union.

The European Union contributed to the ILO Tripartite Meeting of Experts on Cross-border Social Dialogue in 2019, which discussed cross-border social dialogue based on global or international framework agreements. The Responsible Supply Chain in Asia, a joint programme of the European Union, the ILO and the OECD, aims to expand opportunities for dialogue.

4.1.5 Access to remedies

The European Union has adopted legislation to strengthen access to effective remedies for corporate human rights violations since the 2011 CSR strategy. In 2016, the European Parliament called on member States' governments to take judicial, administrative and legislative measures to ensure that victims have access to effective remedies, both civil and criminal procedures, including remedies for human rights violations in third countries caused by European Union business partners and to pierce the "veil of the legal personality"⁷² (EP 2016). Based on this resolution, the European Union Agency for Fundamental Rights recommended in its 2019 study on access to legal remedies for victims of human rights abuses in third countries to shift the burden of proof, implement class actions and representative actions, support and provide legal protection to civil society organizations that support victims and strengthen non-judicial mechanisms.

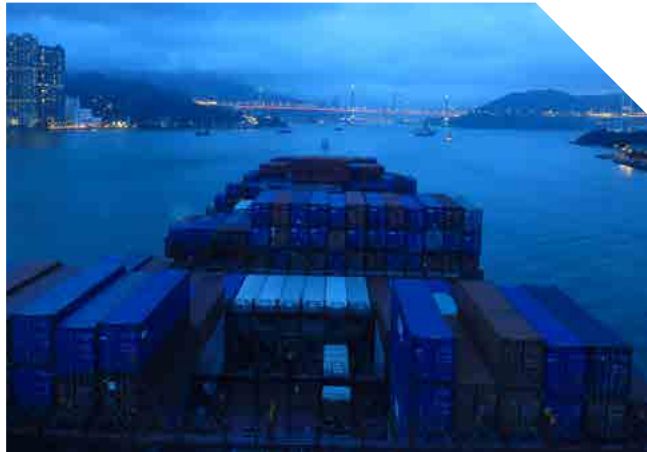
When the European Parliament's Legal Affairs Committee recommended that the European Commission submit a bill on human rights due diligence, the draft European Union Directive, it included proposals for amendments to the Brussels I Regulation (2012) on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters and the Rome II Regulation (2008) on the law applicable to non-contractual obligations. But they were withdrawn by the European Parliament in March 2021 (Yokomizo 2021).

4.1.6 International cooperation: Promoting CSR and RBC outside the European Union under multilateral and bilateral frameworks and policy coherence

The European Union has raised awareness of the UN Guiding Principles and CSR guidelines and principles through external actions and policy dialogue with other regional organizations and partner countries and has facilitated the development of NAPs by partner countries, as described in 4.1.3 (b) of this report. In addition to bilateral cooperation, the European Union has implemented programmes that promote labour CSR and RBC in collaboration with international organizations and civil society organizations. The Clean Cotton project, co-financed by the European Union and implemented by the ILO in cooperation with the Food and Agriculture Organization of the United Nations, aims to eliminate child and forced labour in value chains of the cotton and textile industries in Burkina Faso, Mali and Pakistan by strengthening legal policies at the national level and working with multinational enterprises and local suppliers. Other examples are the Bangladesh Sustainability Compact, the Initiative to Promote Fundamental Labour Rights and Practices in Myanmar and a project combating unacceptable forms of work in the Thai fishing and seafood industry.

⁷² This is an issue in which the parent enterprise can avoid legal liability because the local subsidiary that caused the human rights violation has a separate legal personality.

For policy coherence within and between member States as well as at the international level, the European Union has mechanisms in the context of development policy targeting mainly developing countries (EC n.d.b). Under the Policy Coherence for Development mechanism, a package of support is carried out, such as guidance and toolboxes to member States on the impact of European Union policies on developing countries, informal meetings with contact points in member States to exchange information and dialogue at an international level with partner countries and international organizations.



4.2 Labour CSR and RBC policies in the Association of Southeast Asian Nations

4.2.1 Development of CSR and labour CSR and RBC in ASEAN

ASEAN countries have long served as “Asian factories”, providing reasonable and abundant labour force for production value chains around the world in the midst of economic globalization. At the same time, however, they have faced challenges, such as long working hours, low wages, vulnerable migrant workers, child labour and modern slavery. To be competitive in the global market, ASEAN enterprises are expected to observe international standards on corporate governance and accountability and to demonstrate that they operate in a responsible manner, as called for by ASEAN Intergovernmental Commission on Human Rights (AICHR) (AICHR 2014). By putting together the social expectation for enterprises to contribute towards reducing poverty, closing the development gap within ASEAN, nurturing democracy, promoting good governance and the rule of law, protecting human rights and promoting sustainable development, CSR in ASEAN has progressed.

The ASEAN Socio-Cultural Community, another of the ASEAN communities, aims to make ASEAN “people-centred and socially responsible” (ASCC 2009). Its secretariat has issued a blueprint focusing on the promotion of CSR. Aligning with the objectives of ASEAN and the ASEAN Community Vision 2025, the promotion of CSR is currently called for in the respective blueprints of the Political Security Community, the Economic Community and the ASEAN Socio-Cultural Community. In the latter, labour CSR is positioned as part of the ASEAN’s policy on stakeholder consultation and engagement (ASCC 2016). This paved the way to develop the 2016 ASEAN Guidelines for CSR on Labour (adopted at the 24th ASEAN Ministerial Meeting on Labour (in Viet Nam and in the Lao People’s Democratic Republic)). These Guidelines set out the ASEAN CSR Model on Labour and encourage governments, enterprises and employers’ and workers’ organizations to (i) “raise awareness of CSR among enterprises ... in Member States for the benefit of the peoples”; (ii) “continuously and proactively encourage enterprises to incorporate CSR initiatives, human rights and decent work in their business practices”; (iii) “promote compliance [with] fundamental principles and rights at work set forth in the national labour laws, ILO Conventions and other relevant international instruments”; and (iv) “promote social dialogue among governments [and] employers’ and workers’ organizations at all levels and strengthen industrial relations”. It also emphasizes the recommendation that the Guidelines should be “in line with national circumstances”. For the adoption of these Guidelines, the Thai Government’s Ministry of Labour took the initiative, which it repeated in August 2016, when the ASEAN Secretariat, the ASEAN CSR Network, the ILO and the relevant ministries of the eight ASEAN Member States⁷³ met to present a strategy on how to proceed with the implementation of the Guidelines.

73 The eight countries are Cambodia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam.

AICHR published a baseline study on CSR and human rights in ASEAN in 2014, in which it made eight recommendations in relation to business and human rights to ASEAN and its Member States. As a follow-up to these recommendations, the ASEAN CSR Network, in collaboration with partner organizations, including the AICHR, released the Regional Strategy on CSR and Human Rights in ASEAN in 2016. This strategy document addressed the government's role in creating an enabling environment, domestic or international, for enterprises to promote CSR and human rights, by making reference to the ASEAN Community Vision 2025 and the 2016 Vientiane Declaration on Transition from Informal Employment to Formal Employment towards Decent Work Promotion in ASEAN (ASEAN 2016a) as well as the mandate of the AICHR.

4.2.2 Specific measures on labour CSR and RBC promoted by ASEAN

As a specific policy measure to implement the ASEAN policy strategy described in the previous section, ASEAN has encouraged its member governments to develop the following labour CSR and RBC policies at the national level (see the 2016 ASEAN Guidelines for Corporate Social Responsibility on Labour (ASEAN 2016b) and the ASEAN Corporate Social Responsibility on Labour Forum 2016).

(a) Formulation of national action plan on business and human rights

"Governments, together with employers and workers, will develop national action plans on business and human rights (NAP) with measurable outputs and outcomes. Alongside adoption of common standards and benchmarking on CSR implementation against international standards, stakeholders should be equipped with the necessary capacity to implement the NAPs. To raise awareness, social media strategy could be fully employed." (ASEAN CSR on Labour Forum)

(b) Policies for labour CSR and RBC

In terms of promoting labour CSR and RBC among enterprises, ASEAN implements policies from the perspective of regulation and incentive setting. "Governments could also employ... incentives, such as tax rebates, priority consideration for government contracts, recognition awards... and penalties". "Educational and research institutions should also be involved to promote greater research, teaching and practice of CSR." (ASEAN CSR on Labour Forum)

(c) Promotion of social dialogue

"At the national level, tripartism provides the framework to address ... (the matter related to labour CSR and RBC) through social dialogue." "At enterprise level ... priority or action plan should be arrived at through social dialogue and stakeholder engagement." "Tripartism and bipartism at all levels must also be strengthened in order to institutionalise the DNA of sustainability as second nature to stakeholders." (ASEAN Guidelines for CSR on Labour) To address the governance gaps, including the decent work deficits that have emerged in ASEAN, constituents can work together to enable ASEAN to be more sustainable, equitable and inclusive so that it will lead to establishment of ASEAN as a rules-based, people-oriented and people-centred community.

In summary, regional organizations, particularly the European Union and ASEAN, have developed and implemented strategic documents that include labour CSR and RBC, and there are certain movements to require their Member States' governments to implement labour CSR and RBC measures. As a policy requirement for States, regional organizations encourage domestic implementation of international human rights and labour standards and call for the formulation of NAPs that incorporate national strategies on business and human rights, including labour CSR and RBC. They promote regulations for due diligence, non-financial reporting and sustainable investment, socially responsible public procurement and trade and development policies that promote labour CSR and RBC, as well as awareness-raising and training, social dialogue, access to remedy and international cooperation.



▶ 5

Initiatives by enterprises, trade unions and other stakeholders concerning labour dimension of corporate social responsibility and responsible business conduct

This chapter examines how enterprises, trade unions and other stakeholders perceive labour CSR and RBC and what they expect from their government in related policies. It focuses on the position and initiatives of enterprises, employers' organizations, trade unions, investors, civil society and national human rights institutions.⁷⁴ And it touches on how labour CSR and RBC are perceived under the COVID-19 pandemic and the specific role expected of the State in times of crisis.

Governments are expected to capture and reflect in their policies the diverse demands of businesses, trade unions and other stakeholders. Social dialogue should be the most important element of policy development, particularly at the point that the government of engagement with these actors, to seek information and knowledge and to promote dialogue among stakeholders that examines the policy direction.

⁷⁴ When addressing non-state actors (excluding international and regional organizations) in this chapter, international or global federations are discussed for the sake of generality, as well as federations at the Japanese level (such as the Japan Business Federation and JTUC) from the perspective of their influence on the Japanese Government.

5.1. Labour CSR and RBC from a business perspective and expected policy measures

5.1.1 Rationale for enterprises in taking on labour CSR initiatives

How do enterprises view labour CSR and RBC? The opinions of individual enterprises on this matter are diverse. This report examines the rationale for practising labour CSR and RBC, based on the views of the World Business Council for Sustainable Development (WBCSD), the International Organisation of Employers (IOE) and the International Chamber of Commerce (ICC), as international employers' organizations.

First, labour CSR and RBC can create short- and long-term benefits for business activities. For instance, avoiding legal risks, enhancing reputation and trust, gaining and maintaining social trust (license to do business) and customer loyalty, attracting and retaining talented personnel, accessing new markets and innovative products and services and eventually gaining support of investors may be considered benefits. In countries with a declining birth rate and an ageing population and where securing human resources, including foreign workers, is a pressing issue for enterprises, labour CSR and RBC are important factors for attracting workers.

Second, businesses' positive impact on society, including the realization of the SDGs, has been identified. In other words, sustainable enterprises can nurture themselves only in the soil of a sustainable society.

It is undeniable that low-priced goods and services are competitive in the market. There are, unfortunately, cases in which goods and services produced from an exploited or abused labour force become competitive due to their low prices. From this perspective, there has always been a concern that it would be a disadvantage for enterprises to conduct business in a manner complying with international human rights and labour standards. It is the reality of a harsh market economy that calls for legal regulations and incentives to engage in CSR to achieve a level playing field.

5.1.2 Labour CSR and RBC policy expectation from enterprises' perspective

What policy measures do enterprises want? For example, there has been a movement mainly in Europe towards mandatory human rights due diligence at the national and regional levels, including labour CSR and RBC. While the business community has increased its interest in this, the various positions on legislative measures are not monolithic.

Statements in support of mandatory human rights due diligence legislation have been made by individual and groups of enterprises, particularly by leading enterprises that have put already human rights due diligence measures in place.⁷⁵ For example, in response to the Dutch child labour due diligence law, 26 major Dutch enterprises made a statement in support of the legislation in October 2017, when the law was still under consideration (Tony's Chocolonely 2017). In June 2020, after the law was enacted, 49 Dutch enterprises made a statement in support of the legal framework and incentives and sought additional measures to realize a level playing field (Tony's Chocolonely 2020). The Initiative for Sustainable and Responsible Business Conduct, which is a multistakeholder initiative of 120 enterprises and organizations, issued a statement in June 2021 in support of the Dutch draft bill for Responsible and Sustainable International Business Conduct, which expands the scope of the legislation focusing on child labour. The WBCSD has shown a certain understanding on the current situation in which there is a growing movement in support of legal regulations. It cites as a reason that legal regulations requiring responsibility to respect human rights, including labour CSR and RBC, are the result of consumers, investors, business partners and other stakeholders expecting business to take a step forward from risk management and compliance (WBCSD 2020).

⁷⁵ The Business and Human Rights Resource Centre makes a list of statements in favour of mandatory human rights due diligence legislation by businesses, employers' organizations and investors.



Conversely, there are sceptical views against mandatory human rights due diligence legal frameworks. Business Europe (the Confederation of European Business), which aims to promote industry-wide coordination in European countries, has expressed strong concern over moves at the European Union level that are perceived as radical rather than innovative and thus encourage “short-termism” in European enterprises. Other international employers’ organizations, including the non-European enterprises among their members, have taken a prudent stance, probably reflecting the geographical and scale diversity in their membership enterprises. The IOE, which represents employers in the ILO, emphasizes domestic implementation of international labour standards and repeatedly urges States to promote them. As for the legally binding instrument discussed in the United Nations, which intends to incur extraterritorial obligations of home countries, the IOE has stressed that an “implementation coherence” of international standards by all States at the national and local levels is the foremost agenda (IOE, Business at OECD and Business Europe 2019). The ICC stresses the role of States in the implementation of the UN Guiding Principles and urges and offers contribution for all governments to commence the development of a national action plan on business and human rights (NAP) without delay (ICC 2019). It further stresses that future national frameworks should be “internationally consistent and align fully and completely with the standards embodied in the UN Guiding Principles” so as not to impede business efforts, and governments are requested to take this into account in their legislative measures through multistakeholder consultations (ICC 2020a).

There are, of course, differences in views and positions of enterprises and employers’ organizations regarding mandatory human rights due diligence. But what is common among them seems to be an expectation for governments to formulate national strategies and domestic policies, including labour CSR and RBC policies, that are coherent with international norms and instruments, such as the UN Guiding Principles and the SDGs. Also, national measures, including the formulation of NAPs and possibly legal regulations, are recognized as the foundation to promote labour CSR and RBC. The COVID-19 crisis has shed light on the need to provide direct and immediate support to workers and the most vulnerable populations, both nationally and internationally. One response example is the International Chamber of Commerce’s Call to Action to Save Our SMEs (ICC 2020b). The crisis has also accentuated the need for governments, employers, workers and communities to implement formal and informal means of dialogue.

Moving to the context of Japan, the Japan Business Federation revised its Charter of Corporate Behaviour in 2017 and incorporated the CSR aspect to “conduct business that respects the human rights of all persons.” In 2021, the Federation further revised its “implementation guidance” for the charter and published the *Handbook for Business Respect for Human Rights*, aiming at raising awareness of the UN Guiding Principles and promoting enterprises’ voluntary efforts, in line with international instruments, including the ILO FPRW Declaration and the MNE Declaration (JBF 2017).

The “Opinions on the promotion of business respect for human rights and Japan’s National Action Plan”, published in 2019, calls for the Government to present a clear-cut vision for the NAP and to ensure policy coherence among ministries and relevant institutions (JBF 2019). In the Federation’s vision, the NAP helps Japan secure and improve its international business competitiveness and sustainability. This results in Japan attracting international trade and investment and promotes cooperation among stakeholders to address challenges. To maximize support for businesses’ voluntary efforts in domestic and global supply chains, the Government should address root causes of human rights issues in developing countries identified through corporate human rights due diligence. This includes, for example, support for countries’ institutional development. The Federation insists the reporting requirement related to human rights due diligence should not be compulsory at the moment, and the promotion of reporting should be implemented gradually, after sufficiently verifying its necessity and effectiveness. However, about 40 per cent of enterprises working with the UN Guiding Principles agree that the reporting requirement should be made mandatory in the future (it is not appropriate at this stage).

The Japan Business Federation also believes that the Government should create incentives and lay the ground for enterprises to engage in the SDGs. It recognizes that the Government is required to fill diverse and fundamental roles in the evolution of the innovation ecosystem, including financial support for basic research, support for projects that address social needs but for which it is difficult to utilize private funds, provision of practical resources and deregulation and development of legal systems for technological advancement aligning with the social needs. The creation of incentives has also been emphasized in the context of “Society 5.0 for Sustainability”. Proposals include awareness-raising among individual investors, matching services to connect procurers and providers in investments and introduction of an award system (JBF, University of Tokyo and GPIF. 2020).

From the perspective of SMEs, the National Conference of Associations of Small Business Entrepreneurs (Chudo-Kyo) has noted in terms of the NAP formulation process that, first of all, SMEs are disadvantaged in supply chains, from wage disparity with workers in large enterprises and limited choice of employment to lack of human resources and access to finance. As a precondition of labour CSR and RBC measures, the Government of Japan should conduct a gap analysis of compliance with domestic laws, regulations, treaties and other commitments. To address challenges faced by SMEs, it is necessary to achieve fair competition and business relations and supporting measures to realize them. Second, it is important to create institutions dedicated to supporting SMEs in promoting human rights due diligence. Relevant guidebooks and case studies should be created. Third is the realization of labour CSR and RBC through public procurement, which includes the promotion of fair price ordering, the minimum price system, the securing of minimum wages and the promotion of public contract ordinances, with the aim of preventing excessive cost cuts in public work projects. There is a huge gap between large enterprises and SMEs in terms of the resources they can devote to labour CSR and RBC initiatives, mainly human rights due diligence and stakeholder engagement, and their bargaining power in transactions. The Government’s support for SMEs and policies to ensure that workers in SMEs do not suffer the brunt of the situation, such as ensuring fair trade (Working Group on the National Action Plan 2019), is noteworthy.

5.2 Labour CSR and RBC policy expectation from the investor perspective

In recent years, the financial industry has taken on an important role in promoting corporate responsibility to respect human rights. To form stable and sustainable financial and capital markets, there is a growing movement around the world for investors to encourage businesses to act responsibly, to address their adverse impacts and to contribute to the SDGs. These actions by investors are described as “responsible investment” or “sustainable investment”, and various guidelines have been formulated, particularly the UN Principles for Responsible Investment. In addition, the term “ESG investment,” which collectively refers to environmental, social and corporate governance, has been used frequently as a more influential expression. Although efforts in the environmental field are particularly prominent among ESG investments (such as the Task Force on Climate-Related Financial Disclosures), it is expected that financial and investment industry initiatives related to human and labour rights as social dimension will follow in the future.

The UN Principles for Responsible Investment (PRI) is an investor initiative launched in 2005 by the UN Environment Programme's Financial Initiative, in partnership with the Global Compact.⁷⁶ The PRI aims to shape a global financial system that is sustainable and benefits the environment and society as a whole by defining responsible investment principles for institutional investors to integrate ESG issues into their investment decisions and shareholder actions, seeking their signature and implementation and providing support (PRI 2018). For example, while being a stakeholder of enterprises, institutional investors themselves are also entities that engage in business activities and have the same responsibility to respect human rights as enterprises do. The PRI state that, facing the reality of serious human rights violations, there are growing expectations from employees, beneficiaries, clients, governments and the wider society regarding the responsibilities and roles of investors and that investors can fulfil them through investment decisions, beneficiary responsibilities and policy dialogue (PRI 2020a). The PRI also recommends in the context of Japan's sustainable finance that the relevant ministries and agencies develop a comprehensive national strategy on sustainable finance and investment after reviewing the financial and investment policies.⁷⁷ This national strategy should ensure policy coherency, identify gaps in existing policies and present policy objectives to domestic and international stakeholders. In addition, the report recommends considering mandatory ESG reporting with clear guidance on disclosure requirements. It also points out the need to ensure international policy coherency that reflects global trends (PRI 2020b).

Japan's Government Pension Investment Fund (GPIF) is the world's largest asset owner, and it signed the Principles for Responsible Investment in 2015 to promote ESG investment. The GPIF recognizes that a pension fund managed and invested for across multiple generations needs a stable return over the long term, and thus the corporate value of the investee companies should be sustainably enhanced and the adverse impact on capital markets caused by environmental and social issues should be reduced (GPIF, n.d.). The GPIF encourages trustee financial institutions to engage in dialogue with investee enterprises and has adopted ESG indices for equities as a basis for asset management. In December 2020, the GPIF selected the Morningstar Gender Diversity Index (nicknamed GenDi) among foreign stocks (GPIF 2020). At present, the index only covers foreign stocks, but this will promote investment consideration over gender equality in the workplace, particularly pay equity and the work-life balance.

In terms of labour CSR and RBC policy measures, the GPIF suggested that States may be questioned about their efforts on ILO Conventions through engagement with investors, given the inclusion of the ILO Conventions as a screening criterion for the evaluation of government bonds (GPIF and World Bank 2018). The Japanese business community has proposed four measures to evolve ESG investment and realize Society 5.0: (i) measures to promote Society 5.0; (ii) the economic and social effects of Society 5.0; (iii) the direction of information disclosure by enterprises promoting Society 5.0; and (iv) the improvement of the investment ecosystem to realize Society 5.0. The Government has been requested to establish a Society 5.0 Council, incentive mechanisms such as tax incentives and subsidies for enterprises promoting Society 5.0 and an award system. Additionally, it should identify and finance projects that lead to Society 5.0 for the SDGs, including government bonds to finance projects, raising awareness among individual investors and developing a platform to match fundraisers and fund providers who seek to realize Society 5.0 (JBF, University of Tokyo and GPIF. 2020).

There is a growing tendency for investors to demand enterprises disclose information on ESG investment and have enterprises involve in engagement with them. At the same time, there is a demand for policy intervention in this area to institutionally support ESG investment.

⁷⁶ The Principles for Responsible Investment were reformulated in 2019 for the banking industry: UN Principles for Responsible Banking. Other initiatives include the UN Principles for Sustainable Insurance and the UN Sustainable Stock Exchange initiative.

⁷⁷ The review included the Corporate Governance Code, the Stewardship Code, the public and corporate pension scheme and non-financial reporting and disclosure that relate to climate change.

5.3 Labour CSR and RBC policy expectations from the trade union perspective

Trade unions are crucial in social dialogue, which is indispensable for the promotion of labour CSR and RBC. At the international level, international trade unions, such as the International Trade Union Confederation (ITUC) and the Trade Union Advisory Committee to the OECD (TUAC), carry out policy advocacy on labour CSR and RBC in the context of international rule-making and policy discussions, as well as knowledge development and sharing at global level. The ITUC has shown its support for relevant initiatives, such as mandatory human rights due diligence, National Contact Points and compliance mechanisms to combat corporate greed (ITUC 2018). It has also issued a report on the implementation of mandatory human rights due diligence, which sets out the major elements for effective due diligence measures (ITUC 2020).

Global union federations make efforts to address sector-specific challenges and promote labour CSR and RBC through the development of industrial relations at the international level, such as global framework agreements. These are international industrial agreements on the conduct of multinational enterprises concluded between parties, including the global union federations, sectoral trade unions and enterprise-level unions and multinational enterprises. While the content of each agreement varies, basically the global framework agreements aim to protect the rights of workers and improve the working conditions in multinational enterprises. They include provisions, whereby parties act in accordance with international labour CSR and RBC norms, including commitments to respect core labour standards. Some cover supply chains and have effective monitoring and remedy mechanisms. At the national level, trade unions carry out policy advocacy by national centres and initiatives by sectoral trade unions.

As the national centre of trade unions in Japan, the Japanese Trade Union Confederation (JTUC) proposes and demands domestic labour policies and undertakes inter-union coordination at the global level, CSR dialogue with employers' organizations and global campaigns. In the formulation process of the Japan's NAP, JTUC required the Government to implement policies for equal treatment, improve access to remedy and social inclusion and to strengthen the legal regulation of the Technical Internship Training Programme. In the context of global supply chains, the JTUC also insisted that the Government promote measures and provide guidance and awareness-raising towards ensuring collective labour-management relations and constructive industrial relations in the local operation of Japanese enterprises. The Government of Japan should introduce labour provisions and a comprehensive evaluation system to take account of social values in public procurement and promote protection of workers who works in relation with public contract. In terms of judicial remedies, it requests enhancing the support for the activities and institutions of the Labour Relations Commission, taking measures to strengthen human resources and the operation system of the labour tribunal mechanism and building up the human and financial resources of the National Contact Point so that it has a stronger role in the early resolution of labour-management disputes (Working Group on the National Action Plan 2019).



After the launch of the Japan's NAP, the JTUC welcomed its formulation but noted that (i) gap analysis of existing policies was not conducted and thus it is doubtful whether the plan would contribute to future improvements; (ii) steady implementation is necessary to make continued effort in ratifying ILO Conventions, strengthening the protection of the rights of foreign workers and promoting the enhancement of the National Contact Point based on the OECD Guidelines; and (iii) in implementing the plan, it is necessary to enhance stakeholder monitoring, including verification of the plan through social dialogue (JTUC 2020).

In sum, the most basic policy measures on labour CSR and RBC that trade union organizations demand for the State is ratification of fundamental Conventions and compliance with the fundamental principles and rights at work. There is also a movement, particularly from international trade unions, to support mandatory human rights due diligence. Among the claims of trade union organizations, it is noteworthy that labour-management consultations and various levels of cooperation and collaboration among trade unions, especially across global supply chains, are vital in promoting decent work in both home and host countries and promote resilience of supply chains by reinforcing production systems and preventing and resolving labour disputes. This is a win-win situation for both home and host countries, which complements home and host countries' policy measures on labour CSR and RBC and serves as a basis for industrial development. Governments could promote and incorporate these trade union initiatives in the home-host dialogue and tripartite-plus dialogue.

5.4 Labour CSR and RBC policy expectations from the civil society perspective

Civil society has a variety of functions, including representing voices of people impacted by enterprises, monitoring and advocating human and labour rights violations, providing information on CSR and RBC and working with enterprises to address the challenges. In some cases, a single organization performs multiple functions.

In considering the labour CSR and RBC policy requirement, which is the purpose of this report, the demands of global-level civil society can be summarized in ten major points: (i) complying with and implementing international human and labour rights standards; (ii) identifying priority issues for labour CSR and RBC and conducting gap analysis of existing policies; (iii) developing national strategies and action plans on labour CSR and RBC; (iv) supporting enterprises, including SMEs, by developing guidance on labour CSR and RBC; (v) requesting public reporting through benchmarking initiatives; (vi) promoting initiatives to provide incentives, such as certification for products and services⁷⁸ or for business activities;⁷⁹ (vii) incorporating labour CSR and RBC into government procurement and other activities as an economic entity; (viii) enacting to introduce mandatory human rights due diligence and environment due diligence;⁸⁰ (ix) establishing effective remedy for victims of corporate abuses; and (x) promoting international cooperation on labour CSR and RBC.

For example, the Child Labour Network submitted in May 2021 to the Japanese Government the Stop Child Labour! 500,000 Signatures, in which it made the following five requests; (i) formulating an action plan based on ILO Convention No. 182 and understanding the issue of "worst forms of child labour" in Japan and strengthening countermeasures; (ii) legislation on public procurement; (iii) legislation on transparency of supply chains; (iv) participation in the Alliance 8.7 as a partner; and (v) increasing official development assistance funds for the elimination of child labour.

78 Examples include Fairtrade International, Rainforest Alliance, Marine Stewardship Council, the Aquaculture Stewardship Council, the Forest Stewardship Council, the Programme for the Endorsement of Forest Certification and the Roundtable for Sustainable Palm Oil.

79 Examples include SA 8000 by SAI and Responsible Business Alliance code of conduct.

80 As an example, the European Coalition for Corporate Justice.



In Japan, the Business and Human Rights Civil Society Platform was formed as an organization composed of several civil society organizations to engage in the formulation process of the Japan's NAP (18 organizations participated as of September 2022). The Platform's comments began with initial recommendations (in May 2017), followed by "stakeholders' common request" and published comments from civil society (BHRCS 2020). Although all participatory civil society organizations are not necessarily focusing on labour CSR and RBC, the consolidated labour CSR and RBC policy requirement for the Government emphasized the following points. First, foreign workers, including technical interns, should be a priority issue for Japan, and it should be treated as an issue of discrimination in employment and occupation. And the regulation and support system should be strengthened. Also, it is argued that Japan, as a destination country, should adopt a policy that does not rely on the Technical Internship Training Programme. Second, in terms of promoting human rights due diligence in the supply chains, there is a need to analyse the current status of compliance with domestic laws, treaties and other commitments. Mandatory measures should be attached to the implementation of human rights due diligence in procurement processes. Third, it calls for the Government to develop guidelines or handbooks on human rights due diligence, including guidelines for specific labour issues. Fourth, there should be in the framework of public procurement a policy to promote ratification of ILO Labour Clauses (Public Contracts) Convention, 1949 (No. 94), development of criteria framework to check the human rights situation in supply chains and inclusion in the public contract process to ensure and monitor human rights protection. Fifth, expand support for SMEs.

Regarding access to remedies, it suggests to expand litigation assistance to victims residing outside Japan; provide support for interpretation and translation; improve the National Contact Point's accountability, transparency and independency; publish initial assessment reports; get external stakeholders involved; expand human and financial resources; authorize investigations; and deal with cases where parties do not respond to mediation. It also calls for the establishment of a national human rights institution.

Consumer organizations (such as Shodanren) and the Japan Federation of Bar Associations are important civil society actors. The role of the consumer is emphasized as promoting and raising awareness of ethical consumption and consumer education based on consumer rights, because obtaining information on labour CSR and RBC is a matter of consumer rights in the first place (CCS 2020). For consumers to take appropriate purchasing behaviour in consideration of human rights, it is important to promote information disclosure and take policy measures to require reporting on labour issues. Efforts are expected for minority consumers who are affected by business activities, such as Children's Rights and Business Principles (Shodanren 2020).

The Japan Federation of Bar Associations has called for consideration of mandatory reporting for enterprises with a size threshold. It also has called for the abolition of the Technical Internship Training Programme. But if the programme is to continue, it requires a revision to secure human rights protection by making bilateral agreements with the origin countries conditional for labour migration, guaranteeing freedom to leave the workplace, eliminating brokers and not forcing people to be separated from their family for long periods of time. Support for SMEs is also emphasized. Additionally, it also has urged the Government to establish official guidelines on grievance mechanisms open to supply chains, consultation services and referral service of experts. With regard to public procurement, it advocates the inclusion of human rights standards in eligibility for bidding, evaluation criteria and conditions of contract implementation, depending on the risks of human rights violations and the improvement of grievance procedures regarding violations of procurement standards in public procurement. In the area of access to remedies, it calls for ratification of the Optional Protocols to the human rights treaties and declarations that accept individual complaints.

5.5 Labour CSR and RBC policy expectations from the perspective of national human rights institutions

National human rights institutions (NHRIs) are independent from the Government, with the mandate to promote and protect human rights. They have a vital role in promoting business and human rights, including labour CSR and RBC. That mandate and responsibility is authorized in the 1993 Principles relating to the Status of National Institutions (Paris Principle) and the 2010 Edinburgh Declaration by the International Coordinating Committee of NHRIs (now called the Global Alliance of NHRIs). Chief among their activities are: (i) education and awareness-raising; (ii) responding to complaints, investigations and public inquiries; and (iii) providing independent advice to governments on business and human rights. NHRIs also conduct baseline studies at the national level, facilitate inclusive and transparent stakeholder consultations, re-establish policy coherence and monitor implementation of the NAP. The UN Human Rights Council has affirmed the role of NHRIs in the dissemination and implementation of the UN Guiding Principles (through UN Human Rights Council Resolution 17/4 (2011)).

NHRIs have networks at the regional level as well as at the global level. Implementation of the UN Guiding Principles, including labour CSR and RBC, is being considered in the NHRI Asia Pacific Forum. Developments in the Asia-Pacific region in the area of business and human rights include the formulation of the NAP in Japan, Thailand and Pakistan. However, the quality of these NAPs varies, with some lacking a vision, others lacking sufficient engagement with rights holders and civil society in the formulation process, and others needing further effort in terms of a smart mix and coherency of measures. In addition, human and labour rights issues in business activities are attracting increasing attention from consumers and investors, as well as in trade and investment agreements. And with the Asia-Pacific region the centre of global supply chains, human rights issues are becoming more apparent than ever in the wake of COVID-19. Additionally, some countries and regions in the Asia-Pacific region have a narrow sphere of civil society activities; thus, it is urgent to take measures to protect human rights defenders, such as trade union representatives (NHRI Asia Pacific Forum 2021).



▶ 6

Government initiatives for labour dimension of corporate social responsibility and responsible business conduct - Current state of play

Chapters 1–5 discuss labour CSR and RBC policies set down by international normative instruments and examine policy requirements from the perspective of international organizations, regional organizations, businesses, investors, trade unions and civil society organizations. In this chapter, governments' policy development in the area of labour CSR and RBC is analysed, taking into account the initiatives led by multilateral frameworks, such as from the Group of Seven (G7) countries and the Group of Twenty (G20) countries, as well as individual nations. The focus is on national or multilateral frameworks deemed important in relation to the Government of Japan's policies (Chapter 7). Foreign laws with binding effect and regulations with significant impact on multinational enterprises are assessed because they sometimes pose a requirement different from or more stringent than those imposed by the Government of Japan. These policy measures are worth noting in light of ensuring alignment with other nations' policies so that Japanese enterprises can operationalize labour CSR and RBC under internationally aligned requirements.

6.1 Labour CSR and RBC in multilateral frameworks (G7 and G20)

Major multilateral frameworks related to labour CSR and RBC come from the G7 and G20 countries and other interstate conferences that purport to adopt a declaration to form a foundation of member States' policy activities. The discussions and agreed initiatives in these multilateral frameworks form a part of the global trends on CSR and RBC policies and represent participating States' commitment to the international community.

The leadership of the United States and European countries is occasionally apparent in these frameworks.

In the multilateral framework, there is a focus on labour issues that have cross-border implications through global supply chains and not just country-level practice of labour CSR and RBC. The first international instrument to mention “responsible supply chains” was the Leaders’ Declaration of the G7 Elmau Summit, hosted by Germany in 2015 (MOFA 2015). Then the G20 Leaders’ Declaration adopted at the G20 Summit in Hamburg in 2017 recommended the concept of “sustainable global supply chains” (MOFA 2017). The G20 Labour and Employment Ministers’ Declaration adopted in the same year presented policies on labour market integration of migrants and refugees and promotion of decent work in global supply chains. In the following year, the G20 Labour and Employment Ministers’ Declaration, adopted at the 2018 G20 Buenos Aires summit, set priorities on elimination of child labour, forced labour, human trafficking and modern slavery and referred to the Global Conference on the Sustained Eradication of Child Labour in Buenos Aires in the previous year. Such interest in decent work in global supply chains was also seen in the 2019 G20 Osaka summit. The 2020 G20 Riyadh summit reflected the concern with the COVID-19 pandemic.

A concern was raised regarding the use of forced labour, including state-sponsored forced labour of vulnerable groups or minorities in global supply chains, at the 2021 G7 Cornwall summit, leading G7 leaders to declare their commitment to removing any form of forced labour and continuing to cooperate through national measures and multilateral framework (MOFA 2021c). G7 trade ministers expressed concern over forced labour in global supply chains, including state-sponsored, in their joint communique and issued a Statement on Forced Labour in October 2021 (METI 2021b). The statement confirmed that “there is no place for forced labour in the rules-based multilateral trading system”, that governments have a role “to prevent forced labour, protect ... and provide remedy to victims” and that “countries, multilateral institutions and business are to uphold human rights and international labour rights, and respect relevant principles on RBC throughout global supply chains”. It also pledged that the G7 will commit to further enhancing clarity and predictability for businesses.

2022 G7 Employment Ministerial Meeting adopted a communique in which G7 members for the first time showed their commitment to just transition towards decent and high quality work in a green economy. In the communique concerns were expressed over child labour, forced labour, violation of freedom of association and right to collective bargaining as well as violence against human rights defenders. G7 members affirmed their role to “contribute to a global level playing field aligned with the standards of the UNGPs, ILO’s MNE Declaration and the OECD Guidelines for Multinational Enterprises” through a policy smart mix, and “work towards an international consensus... to strengthen compliance with these standards, including through... mandatory measures.” Mandatory measures referred in the communique should be those “are implementable and proportionate for businesses and provide fair competition”, “avoid the risk of legal fragmentation and competing interpretations, thereby strengthening international coherence and enhancing predictability for businesses”, “effectively protect rights-holders, in particular those at heightened risk of vulnerability... and that may be faced by women and men”, and other requirements. The communique concluded with a statement to “work on a coherent and coordinated G7 approach and... engage constructively in discussions at the UN and the ILO in close consultation with all relevant stakeholders to explore ideas and options for a consensus-based legally binding instrument at the international level” (German Ministry of Labour and Social Affairs 2022). G7 Leaders’ Communique 2022 called for, in the section called “Trade and Supply Chains”, responsible business aligned with the UN Guiding Principles, ILO MNE Declaration and OECD guidelines, including by policy smart mix including legally binding instruments. It committed to working towards an international consensus on business and human rights (MOFA 2022).

In this climate, the following efforts on labour CSR and RBC are mentioned in the outcome documents of G7 and G20: formation of national action plans incorporating national policy strategies, promotion of due diligence in global supply chains, dissemination of good practices, support for SMEs, access to non-judicial grievance mechanisms, such as the National Contact Point, incorporation of labour principles into trade agreements, engagement with stakeholders, promotion of social dialogue including through global framework agreements; improvement of labour compliance through public procurement and programmes on the abolition of child labour, forced labour, human trafficking and modern slavery.

6.2 State-level policies on labour CSR and RBC

State-level policies on labour CSR and RBC form the basis of States' commitments to the multilateral frameworks mentioned in the previous section and are implemented to fulfil their commitments. The following state-level policies have been developed with consideration for governmental initiatives as well as social demands, such as the policy requirement of international normative instruments and stakeholders, including international and regional organizations, businesses, trade unions and civil society organizations.

6.2.1 National strategic objective document for labour CSR and RBC

A vision for labour CSR and RBC and its implementation strategy are identified through national strategic objective documents as indicated by the European Union (see Chapter 4), its major member States and other countries.

In Germany, its national action plan on business and human rights (NAP) contained a conditional step-by-step process leading to legislative measures to bring about a paradigm shift in the business and human rights policy sphere (German Federal Government 2016). While government-led CSR policies had been the mainstream, the German Government initiated a multistakeholder formulation process for its NAP in 2013, when the European Union's new CSR strategy called for it. As a gap analysis of the business and human rights policies underlying the NAP, the baseline study was conducted by the German national human rights institution (DIM 2015), in which one of the gaps identified was the lack of legislative measures. The NAP of 2016 contained a proposal for legislative and other measures, if human rights due diligence had not been carried out in 50 per cent of Germany-based enterprises with more than 500 employees by 2020. The review process on the NAP implementation began in 2018, and its final report in 2020 found that the human rights due diligence implementation rate was 13–17 per cent, well below 50 per cent. With these results, the Government worked on drafting legislation that resulted in the Supply Chain Due Diligence Act in 2021 (entry into force in 2023).

In the United States, the national-level CSR and RBC policies were affected by several presidential transitions.⁸¹ till, business and human rights policy measures, including labour CSR and RBC, are grounded in the UN Guiding Principles, the OECD Guidelines and the ILO FPRW Declaration, with a focus on the foreign operations of American enterprises. The policies maintained consistent focus on overseas operations in the 2013 US Government Approach on Business and Human Rights (USDS 2013)⁸² and the 2016 National Action Plan on RBC (USDS 2016).⁸³ Under the Biden administration, the Department of State's Bureau of Democracy, Human Rights and Labor adopted an approach to "promote and protect", "convene and facilitate" and "develop and implement" (USDS, n.d.). The approach is to promote and facilitate discussions with stakeholders and

81 During the George W. Bush administration (2001–09), CSR was under the mandate of the State Department's Bureau of Democracy, Human Rights and Labor, and together with the global level practice to respect workers' rights, identified as a critical strategy to achieving the US foreign policy objectives to promote democracy, human rights, free trade and international development. During the Obama administration (2009–17), the mandate of CSR shifted to the State Department's Bureau of Economic and Business Affairs, where the term CSR itself remained, but the RBC became more prominent while the labour dimension correspondingly weakened. During the Trump administration (2017–21), the State Department's Bureau of Economic and Business Affairs continued to be in charge. In 2018, a review of the Dodd-Frank Act was conducted under the Economic Growth, Regulatory Relief and Consumer Protection Act, but section 1502 of the Conflict Minerals Regulation retained. From 2020, the United States started to focus on Uyghur forced labour issues in Xinjiang. Under the current Biden administration (since 2021), the State Department's website has highlighted business and human rights as a key issue but it continues to focus on RBC that include environment and governance aspect in addition to human and labour rights and target on overseas issues entailing global business activities.

82 The US Approach aims to supporting the interest of American enterprises and promoting human rights around the world by increasing effectiveness of international framework. It includes the US Government work with business on three principles in its foreign policy: (i) support, (ii) partner and (iii) promote in practice.

83 The 2016 NAP was the first department-wide development process to promote RBC and focusing only the overseas operation of American enterprises in the area of human and labour rights as well as anti-corruption and environment. While the 2016 NAP and the 2013 Approach, most of the measures set out in the 2013 Approach were carried over to the 2016 NAP. Although not directly mentioned in the 2016 NAP, most of the measures presented in the 2013 Approach are carried over into it.



develop commitments to the global business and human rights issues, consistent with international human rights law, and to provide training and tools for US government officials to address these issues. The issues to be addressed include involvement in multilateral frameworks, such as G7 and G20, trade and investment agreements, the Voluntary Principles on Security and Human Rights, as well as addressing alleged forced labour issues in the Xinjiang region of China and sanctions on the Democratic People's Republic of Korea (USDS, n.d.) The revision of the 2016 NAP was announced in 2021, and the process will be led by the Department of State in collaboration with relevant agencies (USDS 2021).

The UN Working Group on Business and Human Rights has challenged the United States in its approach by indicating that the UN Guiding Principles call for the State to cover business activities both in and outside the territory. So, the United States approach is limited in this regard (HRC 2014).

Thailand adopted its national strategic objective document to secure trust with foreign investors. The Thai Government began a process of NAP formulation in 2016 after receiving Sweden's recommendation at the UN Human Rights Council. Even before this recommendation, Thailand had been warned of abusive practices related to business and human rights issues by the National Human Rights Commission (Pairchaiyapoom 2020), thus reflecting an effective role of national human rights institutions. One of the reasons for formulating the NAP is to secure trust from investors, including those who engage in foreign direct investment, which was urged by the European Union's suspension of Thailand's eligibility for European Union Generalized Scheme of Preferences on the grounds of serious labour infringements in January 2015. Thailand has progressively ratified ILO Conventions since 2016, starting with the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187); the Maritime Labour Convention, 2006; Discrimination (Employment and Occupation) Convention, 1958 (No. 111); Protocol of 2014 to the Forced Labour Convention, 1930 (No. 29); and Work in Fishing Convention, 2007 (No. 188). The Thai NAP issued in 2019 mentions the review of domestic laws in accordance with the ratified Conventions and Protocols and commits to ratifying others: Freedom of Association and Protection of the Right to Organise Convention (No. 87), Right to Organise and Collective Bargaining Convention (No. 98), the Domestic Workers Convention (No. 189) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. The NAP also sets down an Action Plan on Labour within its core content.

6.2.2 Legislative measures related to labour CSR and RBC in global supply chains

Legislation on corporate responsibility to respect human rights, including labour CSR and RBC, is steadily progressing, although mainly in Europe. Notably, there is the United Kingdom's Modern Slavery Act of 2015, France's Corporate Duty of Vigilance Law of 2017, Australia's Modern Slavery Act of 2018 and the Netherlands' Child Labour Due Diligence Law of 2019. Germany and Norway passed new laws in 2021 that require enterprises to undertake human rights due diligence. Many governments are discussing similar legislation (a summary of legislative measures in countries are provided by the Japan External Trade Organization (JETRO) on their website). These laws require domestic or foreign enterprises of a certain size that are conducting business in the territory to respect human rights, including labour CSR and RBC, and to publicly report their business activities, including suppliers and business partners. Among these laws, the requirement for public reporting may vary in terms of the scope of labour and human rights issues (such as focusing on specific issues like modern slavery and child labour or labour and human rights issues in general), as well as the scope of activity (such as due diligence only or including redress and remedies). Notable differences among the national labour CSR and RBC policies centre on how to ensure the enforceability of laws and regulations. The following section discusses the United Kingdom, where particular incentives are extended in relation to labour CSR and RBC initiatives and law enforcement of company reporting, France and the Netherlands, where initiatives are entwined with judicial remedies and legal regulations, and Germany, where enforceability is sought through administrative supervision.

(a) Multistakeholder monitoring and incentive mechanism

The British Parliament enacted the Modern Slavery Act⁸⁴ in 2015.⁸⁵ The legislation was drafted to criminalize and penalize the use of modern slavery in the United Kingdom and then extended to modern slavery in supply chains, inspired by the California Transparency in Supply Chains Act. The United Kingdom committed to take leadership in abolishing modern slavery within the international community (UK Home Office 2020). The Modern Slavery Act, with its multiple domestic and international policy objectives, is implemented through the Modern Slavery Strategy, which represents an interministerial overarching approach (HM Government 2014). It is also identified as one of the central measures in the NAP that was revised in 2016 (first published in 2013).

Article 54 of the Modern Slavery Act obligates enterprises with an annual turnover exceeding 36 million British pounds to publish a slavery and human trafficking statement elaborating the steps taken to ensure that slavery and human trafficking are not occurring in their business operations and supply chains. Penalties are to be imposed for breaches of such obligations,⁸⁶ although they have never been applied. Instead, the monitoring relies on stakeholders, including civil society, investors, customers and workers, which encourages compliance. This is a method whereby enterprises are encouraged to, rather than directly obliged to, address adverse human rights impacts through public reporting in light of transparency and market principles. For

⁸⁴ "Modern slavery" is a term used to encompass slavery, servitude, forced or compulsory labour and human trafficking, and is a central theme of labour CSR and RBC.

⁸⁵ In the United Kingdom, social and political factors in the 1980s shed light on CSR. On the social aspect, as large-scale unemployment and urban decline led to occasional riots, enterprises needed social acknowledgement of their business activities and sought engagement with the community. Excessive cradle-to-grave welfare policies had stalled, and the Government was no longer able to handle such issues as workers' pensions and education, leading to the privatization of state-owned businesses as a neoliberal economic policy under the Thatcher administration. Transition to "small government" inevitably increased demand for enterprises to contribute to social issues. In the 1990s, interest in CSR increased even further. The Blair administration took office in 1997 and actively promoted and institutionalized CSR policies in 2001 by appointing the Minister for CSR (at parliamentary level) within the Department of Trade and Industry. While developing its own CSR strategy, the British Government published *Good Business: Implementing the UN Global Principles on Business and Human Rights* in 2013. Published by the Foreign and Commonwealth Office, it was the first national action plan on business and human rights in the world. In 2016, the NAP was updated (see Yaguchi 2007; JILPT 2006).

⁸⁶ For breaches of duty, the Minister of State may request a court to issue a "reparation order". Failure to comply could result in an unlimited fine.



example, the *Transparency in Supply Chains Etc.: A Practical Guide*, published by the UK Home Office, has been used to help enterprises understand and implement the requirements of the law, including the definition of modern slavery and requirement for a statement. But it is also a benchmark for civil society, investors and other stakeholders to use to evaluate enterprises' efforts.⁸⁷ For enterprises, in turn, reporting in line with the Practical Guide provides an additional incentive of recognition by society and the market. The Government has promoted enterprises' efforts against modern slavery through direct and indirect support to civil society organizations, including Electronics Watch (an independent monitoring organization).

That said, various challenges have been raised with regard to ensuring the enforceability of article 54 of the Modern Slavery Act, which relies on civil society and stakeholder monitoring. For example, a list of enterprises obliged under article 54 has not been developed, and it is not known by the Government whether the subject enterprises actually report their statements. Civil society organizations struggled to identify targeted enterprises and check the websites of individual enterprise one by one to see their reporting status. This placed a heavy burden on stakeholders. In addition, the six categories of statement being only encouraged, not obliged, has led to an extreme difficulty to monitor the effectiveness of enterprises' anti-slavery measures. These challenges were further revealed through the Home Office's independent review starting in 2018 (the final report was published in May 2019), as well as a 2019 consultation aimed at businesses and civil society, in which there was criticism against the Modern Slavery Act for failing to deliver the level playing field.

Given this, the UK Government strives to improve the operation of the Modern Slavery Act. First, a web registration mechanism was introduced in 2021, whereby modern slavery statements are registered on the government website. Statements for 2021 can be viewed (Government of the United Kingdom, n.d.; BHRC n.d.). In January 2021, it was also announced that the Government would consider introducing penalties for non-compliant enterprises.

The UK Government provides incentives through government procurement. The UK Cabinet Office announced its policy to eliminate modern slavery in government procurement in September 2019. It followed with a guidebook for government agencies, *Tackling Modern Slavery in Government Supply Chains*, which calls for awareness-raising and training for government procurement staff as well as for stakeholders, including on

⁸⁷ Know the Chain is an example.

the supplier side, to disseminate the modern slavery helpline (UK Government 2019). The UK Government also published its own Modern Slavery Statement 2019 in March 2020, revealing its efforts to tackle modern slavery in government procurement. It calls for other nations to take similar actions, referring to the fact that 15–20 per cent of the global GDP derives from government procurement. Building on the joint call to action in 2017 with Australia, Canada, New Zealand and the United States, and the United Kingdom launched the *Principles to Guide Government Action to Combat Human Trafficking in Global Supply Chains* in September 2018 (UK Government 2020). The global supply chains referred to here includes both business relationships and government procurement. This way, incentives given to enterprises through government procurement and the efforts will spread to other governments, not only in the United Kingdom but worldwide, and create a level playing field in the global marketplace.

(b) Enforceability of legislative actions through judicial reliefs and penalty

Some governments have enacted domestic legislation that contains legal remedies and penalties. In France,⁸⁸ the Corporate Duty of Vigilance Law was enacted in 2017 as a result of joint efforts by trade unions, civil society and lawmakers.⁸⁹ The idea was that instituting this law would reduce legal uncertainty, benefiting both victims and enterprises, and strengthening corporate responsibility would ameliorate dumping and other unfair trade practices impacting SMEs while improving French business competitiveness (French National Assembly, n.d.; JETRO 2021a). The law imposes the obligation for parent or outsourcing enterprises that employ 5,000 workers or more in France or 10,000 workers or more in France and other countries, to formulate, execute and publish a duty of vigilance plan. This plan must specify reasonable efforts to identify risks that arise out of their own business activities or those in supply chains where they have established business relationships and to avoid grave human rights infringement. These measures include identifying potential and actual risks in cooperation with representatives of trade unions and monitoring to evaluate the progress. The measures, however, are rigidly limited to the category of due diligence and do not involve remedial measures. The law had originally prescribed penalties for offending enterprises, but they were deemed unconstitutional and thus deleted. The law provides two types of punishment for enterprises that fail to devise, implement and disclose the duty of vigilance plan. First, affected parties may give offending parties a formal notice asking to perform their duty stipulated by the law within three months. If they do not perform within three months, the complainants may request a court to order to perform its duty of vigilance, imposing penalty where necessary. Second, affected parties may, under certain conditions, claim damages resulting from non-compliance with the plan in a civil lawsuit. In 2019, civil society groups filed a lawsuit against the French oil corporation, Total, for human rights violations in its business operations in Uganda, including for displacement of residents (BHRRC 2019).

Enforceability by judicial functions for ensuring corporate duty of vigilance has been questioned. Establishing a governmental body to enforce the law was recommended in an evaluation report by the Conseil général de l'économie and analysis by an NGO (CGE 2020; Sherpa, n.d.).

88 The new E-regulations Law in 2001 introduced mandatory reporting of non-financial information with regard to society and the environment (taking effect in 2003), and the newly appointed Minister of Ecology and Sustainable Development and Energy from 2002 created cross-ministerial CSR initiatives. While government-driven CSR initiatives were promoted, from around 2007, a movement towards Socially Responsible Investment, which is a voluntary initiative by the private sector, began to emerge. Following the new European Union's CSR strategy of 2011, the French Government submitted a National Plan for the Development of Corporate Social Responsibility to the European Commission in 2013.

89 It started with a campaign launched by a group of NGOs, including Sherpa, CCFD-Terre Solidaire and Amnesty International, with the support of trade unions. As civil society activity failed to gain momentum, politicians gave it a boost in 2012 and 2013. After a long political struggle, the bill was passed.

Whereas the penalty clause was deemed unconstitutional and deleted from the French law, the Netherlands⁹⁰ enacted the Dutch Child Labour Due Diligence Law in 2019, which took effect in 2020, and which contains penalties. It imposes obligation on all enterprises that provide products or services to the Dutch market to identify and prevent child labour in their supply chains and to evaluate and report to the regulatory authorities twice a year or more. If an enterprise fails to comply with its reporting obligations or fails to investigate or prepare an action plan in response to reasonable suspicion of child labour, it is subject to fines under article 23 of the Criminal Code. If they are fined twice within five years, their responsible officers may be sentenced to imprisonment. The Netherlands already had voluntary sector-specific covenants regarding child labour preceding this law.⁹¹ The legislation, therefore, marked a policy shift from voluntary initiatives to regulatory options. There is also a movement to replace the law of limited scope on child labour with the more comprehensive law on human and labour rights. In the Netherlands Parliament in 2021, political parties submitted a bill on Responsible and Sustainable International Business Conduct, which imposes duty of care on enterprises to address human rights abuse and environmental degradation in their value chains. The bill, if adopted, will replace the Child Labour Due Diligence Law.

(c) Enforceability of legislative actions through monitoring by public authority

Germany emphasizes monitoring and regulation by competent ministries in implementing labour CSR and RBC measures. The German Supply Chain Due Diligence Act was adopted in 2021. It applies the due diligence obligation on human rights and environment to enterprises larger than a specified size,⁹² with a headquarters or branch office in Germany (section 3). Legal positions related to human rights and the environment should be those arising from international standards, rather than domestic, including the ILO core labour standards as well as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (Section 2 (1) and Annex A). Enterprises are obligated to issue policy statements, conduct due diligence (such as establishing a risk management system, designating a responsible person, performing regular risk analysis, documenting and reporting) and provide for remedial action and a complaints procedure. These obligations apply basically to an enterprise' and its direct suppliers as well as to indirect suppliers under certain conditions. A distinctive feature of the Act is that it provides for a robust enforceability system by public authorities. Specifically, the provisions entail a report audit by authorities (section 13), official monitoring (section 19), exclusion from the award of public contract for violations (section 22) and administrative fines (section 24). There is only a framework to authorize domestic trade unions or NGOs to bring legal proceedings, and no specific civil liability regime is given for violation of due diligence obligations, such as not reaching a full range of legal remedies.

90 The Government of Netherlands CSR policy 2013 ("Corporate Social Responsibility pays off") promotes CSR at international level (International Corporate Social Responsibility, currently called the "RBC policy"). Among the policy's objectives, the Government of Netherlands aimed to promote a level playing field for Dutch enterprises, to encourage other governments through economic front foreign policy to fulfil their obligations, to promote transparency and dialogue among stakeholders and to set best practices, for example through public procurement policy. As the European Union's new CSR strategy 2011–14 encouraged member States to develop NAPs, a similar request was made by the Second Chamber of the Netherlands Parliament and resulted in the development of a NAP of Netherlands. The Netherlands had a NAP since 2013, and that was within this policy framework. The NAP was published by the Ministry of Foreign Affairs and the Ministry of Foreign Trade and Development Cooperation in 2014, with a review commencing in autumn 2019. In the review, a baseline study, which was not carried out in the development of the first version, was conducted by Utrecht University and the Dutch Institute for Human Rights, with a report published in August 2020.

91 Voluntary sector-specific covenants and voluntary CSR agreements are between enterprises in a particular industry and the Government on specific CSR issues, providing a means of self-regulation instead of government regulation. If a sector-specific covenant is concluded in a particular sector, the Government cannot introduce additional regulations until it is assessed as ineffective.

92 Enterprises that have more than 3,000 employees and, from 2024, to those with more than 1,000 employees.

6.3 Information on labour CSR and RBC and public procurement in the world

In the United States, while legislative measures have been taken at the federal and state levels, there are also measures by the federal Government to provide information and guidance on labour CSR and RBC issues in other countries and set incentives to promote labour CSR and RBC through public procurement. The US Government conducts research and provides information on trafficking in persons, forced labour and child labour in global supply chains and disseminates them through online tools. For example, the Trade and Development Act of 2000 requires the Government to publish an annual survey on the worst forms of child labour. The Trafficking Victims Protection Act requires the Bureau of International Labor Affairs of the US Department of Labor to research and compile a List of Goods Produced by Child Labor or Forced Labor, which has been publicly available since 2009. The United States' Generalized Scheme of Preferences specifies a precondition for its application that the labour issues, including child labour, are properly addressed in an applicant country. Other countries are also investigated to select countries for application.

Under the federal government procurement system, enterprises are subject to review for their involvement in human and labour rights issues. Some public procurement policies exclude goods and services that may involve human rights abuses from government procurement, including the Federal Acquisition Regulations and Presidential Decree 13126 (US Presidency 1999) and Presidential Decree 13627 (US Presidency 2012). To help enterprises comply with regulations in procurement, the US General Services Administration shares good practices and information and guides on the social aspects of sustainability, including human and labour rights, through the sustainable facilities tool (GSA, n.d.). This also provides an assessment of how social sustainability risks are addressed before and after the order is placed in the federal procurement process.

6.4 Labour CSR and RBC in a country's external policies (trade and investment)

Governments sometimes use trade and investment agreements and import and export regulations, which are part of their trade and investment policies, to demand that partner countries address labour CSR and RBC issues.

(a) Trade and investment agreements and labour CSR and RBC

Labour clauses⁹³ in trade and investment agreements are defined as "references to any standard that addresses labour relations or working terms or conditions; mechanisms for monitoring or promoting compliance with labour standards, such as advisory boards; and/or a framework for cooperation, such as the sharing of best practices, seminars and forums" (ILO 2017b). Labour clauses have been incorporated into more than 80 agreements, or approximately one third of all the trade and investment agreements throughout the world as of mid-2019 (ILO 2019). Labour clauses contribute to securing a level playing field and address governance gaps concerning decent work deficits when they set out the demands for the parties for compliance with specific labour CSR and RBC standards or cooperation in their promotional efforts.

There has long been a debate on whether to incorporate labour clauses in free trade agreements. One side calls for labour clauses mainly to avoid labour dumping and other unfair competition resulting from trade liberalization. The other side seeks the right to development benefiting from free trade, mainly in emerging and developing countries. The settlement of this debate was brought about by the Singapore Ministerial

93 Other labour-related multilateral agreements concerning economic activity and investment include, for example, bilateral agreements for the protection of migrant workers and the Generalized Scheme of Preferences typically by the European Union. There have been cases of withdrawing the Generalized Scheme of Preferences on the grounds of labour-related rights violations. Due to the limited space of this report, further discussion is saved for another time.



Declaration (1996) of the First Ministerial Conference of the World Trade Organization. The participating countries declared their commitment to the observance of core labour standards and confirmed that the mandate to govern international labour standards belonged exclusively with the ILO, thereby separating international trade policy from the promotion of international labour standards. This declaration nudged the ILO into governing international labour standards separately from international trade policy. But then the challenge of stagnant ratification of international labour standards led to the adoption of the ILO FPRW Declaration in 1998 to technically overcome the ratification challenges (ILO 2013). While the FPRW Declaration affirms the state's obligation to respect, promote and realize the principles of the core conventions, it included, as a manifestation of consideration for the right to development, the phrase "labour standards should not be used for protectionist trade purposes". The ILO continued to address the negative aspects of globalization, particularly the inequalities and injustices, and then in 1999 gave birth to the concept of Decent Work for All. Subsequently in 2008, the ILO adopted the ILO Declaration on Social Justice for Fair Globalization to support the incorporation of labour provisions in bilateral and multilateral trade arrangements. The current trend of labour clauses in trade and investment agreements has this background and antagonistic axis of promoting globalization against mitigating its negative impacts, combined with the complexity of trade disputes between States and of the business activities of multinational enterprises.

Once again, recent trends of labour clauses reflect a high adoption rate in regional investment agreements by the United States and Canada (13 of 14 for the United States and 12 of 14 for Canada as of 2019). But more agreements by the European Union contain labour clauses (18 agreements as of 2019). The following three characteristics of G7 countries are important factors in promoting the labour dimension of CSR and RBC through trade and economic activities: (i) referencing the labour obligations; (ii) laying out the institutions or procedures for social partner and civil society participation in different phases of the agreement; and (iii) establishing the rules for complaint and dispute settlement (ILO 2019).

Regional agreements involving major economies, not just between two countries, have been on the rise in recent years. For countries to perform their duty to protect human rights, it is vital to (i) explicitly refer to labour duties in accordance with international labour standards to show their commitment to the international community; (ii) incorporate social dialogue with an array of stakeholders in implementing the agreements to ensure the validity of procedures and practices; and (iii) effectively execute labour clauses through cooperation and dispute settlement mechanisms to address any governance gaps. This is in line with Principle 9 of the UN Guiding Principles and Article 16 (h) of the ILO's Global Supply Chain Resolution.

Some investment agreements contain provision for ILO assistance for monitoring, dialogue and dispute settlement procedures. Others set a party's respect for international labour standards as a precondition for determining special market quota for importing goods and provide support for their monitoring and improvement through ILO programmes (Better Work in the United States-Jordan Free Trade Agreement and the United States-Cambodia Free Trade Agreement). These are the examples aiming to utilize the neutral position of the ILO to improve the social dimension of free trade.

(b) Trade sanctions for violations of the ILO core labour standards

Trade agreements are formed as agreements between countries. On the contrary, there are some cases in which a country unilaterally imposes export or import regulations on the grounds of human and labour rights violations. For example, the United States have focused on forced labour issues in China's Xinjiang Uyghur Autonomous Region. While enacting the Uyghur Human Rights Policy Act (2020), which stipulates sanctions against those involved in human rights violations, under Section 307 of the Tariff Act of 1930, the US requires documents at the time of import, specifying that certain products were not produced by forced labour. Several US government institutions⁹⁴ published an advisory in July 2020 for American enterprises having supply chains in the region. The advisory, updated in July 2021, aims to providing information on human rights violations, such as forced labour and other human rights abuses noted in the region, precaution in conducting human rights due diligence and RBC and the linkage with US government regulations and sanctions (including measures described in section 6.3). This includes note on inadequate functioning of third-party audits in the region. From January 2021, a sanction based on Article 307 of the Customs Law of 1930 suspends imports of cotton, tomatoes, and their derivatives from the Xinjiang Uyghur Autonomous Region. A comprehensive import suspension measure was taken for individual items without specifying companies or products, which led the import suspension of Uniqlo shirts sold by Japanese company Fast Retailing.⁹⁵ The Uyghur Forced Labor Prevention Law, which was enacted in December 2021, comprehensively prohibited the import of products that are wholly or partially produced in the Xinjiang Uyghur Autonomous Region without specifying individual items. Along with the Act which relevant provisions came into effect from June 2022, the US Custom and Border Protection issued the Guidance to Importers in which it set up a method to apply for exception against rebuttable presumption that the importing goods mined, produced or manufactured in Xinjiang are violation of ban on forced labour products.

In China, an Anti-Foreign Sanctions Law was passed and implemented in June 2021 that stipulates countermeasures against sanctions from other countries (such as restrictions on entry and exit and freezing of property). The countermeasures may target individuals and organizations directly or indirectly involved in the implementation of discriminatory restrictive measures by other countries (JETRO 2021b).

6.5 Labour CSR and RBC through a domestic certification programme

In Thailand, a domestic certification programme for labour CSR and RBC, called Thai CSR under Thai Labour Standards (TLS-8001), has been promoted since 2003. The Thai Government (Ministry of Labour) works in cooperation with businesses involved in the programme, in which voluntary participation from enterprises doing business with overseas enterprises are recommended. The new standards, TLS 8001-2020, reflect domestic and international trends of the labour dimension of Thai CSR (MOL 2020). They consist of general provisions, management systems, forced labour, remuneration, working hours, rest periods, holidays and leave, discriminatory treatment, discipline and penalties, sexual harassment and violence, child and youth labour, female workers, freedom of association and collective bargaining, occupational safety and health, working environment and benefits. Each requires enterprises to take specific actions. They emphasize a labour management system and labour rights protection.

⁹⁴ In July 2020, these were the Departments of State, Treasury, Commerce and Homeland Security; in July 2021, the Department of Labor and the Office of the Trade Representative joined.

⁹⁵ The Chinese Government responded that there is no forced labour in the autonomous region and that relevant enterprises should oppose any unreasonable actions by the United States (Reuters 2021).



6.6 OECD National Contact Points and labour CSR and RBC

The OECD Guidelines require member States to set up a National Contact Point as a state-based non-judicial grievance mechanism. The United Kingdom's National Contact Point was established in 2020 as part of the governmental body responsible for investment policy. It employs three full-time professionals. A total of 54 complaints have been lodged and addressed since its launch. The United Kingdom's National Contact Point not only deals with complaints in the context of the OECD Guidelines but also helps the Government with the wider CSR agenda, including implementation of the UN Guiding Principles through the NAP, transparency in supply chains based on the Modern Slavery Act, the Government's work on conflict minerals and the SDGs.

The latest National Contact Point annual report published by the OECD (2020) examines and compares performance by country on several indicators: whether the National Contact Point has full-time employees, has a website, has set procedures that are available online, conducts events to promote the use of the National Contact Point and participates in the annual National Contact Point meeting. More comprehensive performance indicators included are engagement with NGOs, enterprises and trade unions, a dedicated budget and reporting to the parliament or the government.

In summary, the need for government policies on the labour dimension of CSR and RBC on the multilateral level can be seen in ensuring decent work in global supply chains and eliminating forced or child labour. On the national level, governments have taken such actions as the formulation of strategic objective documents on labour CSR and RBC; legislative measures concerning labour CSR and RBC in global supply chains; knowledge sharing on labour CSR and RBC; the use of public procurement and other means as incentives; and the development of foreign policy in trade and investment, diplomacy, legal remedies and a National Contact Point. The national policies reflect policy objectives and a vision of "why it should address labour CSR and RBC".



Government of Japan's policy on labour dimension of corporate social responsibility and responsible business conduct

Thus far, this report has examined how international organizations, regional organizations, governments, enterprises and stakeholders implement and operationalize labour CSR and RBC based on the international normative instruments. Through the various actors' operationalization, the labour CSR and RBC policy requirements and suggestions for governments are developed and implemented by regional organizations and governments. This chapter discusses how the Government of Japan has approached CSR and what kind of labour CSR and RBC policies it has conducted.

7.1 Japanese society and CSR, the SDGs and business and human rights

In Japanese society before 2000, CSR was discussed mainly in terms of the negative consequences of business activities, such as corporate scandals and pollution problems.⁹⁶ The dawning of CSR in Japan is said to have occurred in 2003.⁹⁷ Discussions of CSR after 2000 changed (see Chapter 1 for characteristics of CSR) from the previous emphasis on scandals and environmental issues. Facing questionnaires or ratings from European or American business partners and research institutions for socially responsible investing, Japanese enterprises, especially large corporations and multinational enterprises, began to align their CSR efforts with the international trends. Their efforts included referring to the Global Reporting Initiative guidelines in preparing environmental and CSR (sustainability) reports, participating in the Global Compact launched in 2000 and following up on the ISO 26000 published in 2010. Those enterprises affected by the Great East Japan Earthquake and the tsunami of 2011 engaged in social responsibility projects, which served as catalysts for recovery from the natural disaster.⁹⁸

With a retrospective view over the historical transition, it seems CSR was often perceived as the “means” rather than the “purpose” that businesses could adopt to respond to social expectations. Thus, CSR was frequently replaced by other “new” approaches, such as bottom of the pyramid business, sustainability, creating shared value, ESG and the SDGs, under the transitioning domestic and global business climate and international trends.

The purpose of CSR – what constitutes CSR and how businesses should fulfil that responsibility in Japan and abroad – was set aside and never fully discussed. Some sensitive enterprises worked on business and human rights issues from the perspective of respect for human rights, while the Government and the majority of Japanese enterprises started to address them as part of their SDG-related programmes or in response to the United Kingdom’s Modern Slavery Act. In other words, the reason why business and human rights had prompted businesses to take action in Japan was not because they had the purpose of asking what the business responsibility to respect human rights is and how it should be fulfilled but rather because the SDGs and the Modern Slavery Act had established the means by which businesses should take.

Today, Japanese society is faced with the need to re-address this misperception. Many challenges of Japanese society trigger the social demand for the promotion of CSR, particularly in relation with human and labour rights. Japan faces an ever-ageing population with a sharply declining birth rate, which is forcing many industries to become dependent on foreign workers (especially those with technical training or specified skill status, and foreign students). With uncertainty over the continuity of economic attractiveness of the Japanese market in the wake of economic growth in the neighbouring countries, it may be necessary to ensure an attractive working environment or at least a working environment in which foreign workers are not infringed and thus keep them encouraged to choose Japan as a working destination.

96 For example, the water pollution and health hazards caused by Minamata disease, the Snow Brand’s illegal repackaging and mislabelling case and the Mitsubishi Motors recall cover-up. In 1956, the Keizai Doyukai (Japan Association of Corporate Executives) published a proposal paper “Awareness and operationalization of social responsibility of management” with a view to promoting efforts to create an economic environment in which parliamentary politics can develop soundly following the 55-year regime). This can be said a different way of looking at CSR than the negative impacts of business activities (Keizai Doyukai 2010) Japanese enterprises that entered Europe and the US markets in the 1980s and 1990s were required to take initiatives in employment, human rights, the environment and community contributions that would constitute CSR (Tanimoto 2020; Kawamura 2005) in Japanese business and community.

97 2003 was also the year that Ricoh created Japan’s first CSR department and the Council for Better Corporate Citizenship of the Japan Business Federation started sending CSR dialogue missions (Kawamura 2003) There is also other views to see the corporate scandals of 2001–03, such as Snow Brand and the Mitsubishi Motors recall scandals as the beginning of CSR (Fujii et al. 2008).

98 On the other hand, there were misperception that “supply chain diversity”, which should object gender and minority support in determining suppliers was perceived in Japan as diversity for risk diversification to keep business continuity.

The COVID-19 outbreak that began at the end of 2019 seriously impacted Japanese society and its economy, disproportionately damaging vulnerable groups, such as women, children, older persons, persons with disabilities, foreign nationals and the LGBTIQ community (Members of Roundtable for SDGs Promotion 2020). Under these circumstances, building back better from the crises is presented as Japan's SDG-related effort (SDGs Promotion Headquarters 2020). In addition, climate change is a crosscutting issue over economy, society and environment, and it became one of the key topics in Japan's growth strategy (Government of Japan n.d.). Japanese businesses, therefore, face the question of "purpose of action": What is meant by "build back better", "just transition" and what should they do to achieve it?

7.2 History of the Japanese Government's policy on labour CSR and RBC

7.2.1 CSR initiatives by ministries and agencies

Since 2003, the Government has organized various study groups and compiled reports on CSR, such as the Study Group on CSR in Labour Dimension (2004) and the Study Group to Promote CSR in Labour Dimension (2005–08) under the Ministry of Health, Labour and Welfare (MHLW); the Conference on CSR (2004) under the Ministry of Economy, Trade and Industry (METI); the Study Group on Social Responsibility (Sustainable Environment and Economy, 2004–05) under the Ministry of the Environment (MOE); and the Study Group on Social Responsibility for a safe and secured, sustainable future (2007–08) under the Cabinet Office.

The rationale for government policy on CSR, as outlined in the reports of the early 2000s, was to address social challenges, including the change in consumer needs and the necessity of cooperation among stakeholders beyond industrial relations. They implied a business management perspective that Japanese enterprises should promote CSR, particularly as business evaluations on CSR emerged in the United States and other nations in Europe and Asia (MOE 2015). These reports argued that the government policy on CSR should, with a purpose to promote enterprises' voluntary efforts, raise awareness on CSR (MHLW 2004), engage with investors and consumers (METI 2004) and dialogue with stakeholders, including the Government and civil society (Cabinet Office 2008; MOE 2005). An award systems or database to promote and disseminate good practices was also recommended (MOE 2005). The reports pointed out the need to clarify social issues that businesses should address. In the field of labour, for example, the reports listed the following: industrial relations, working hours, occupational safety and health, equality in employment, work-life balance, capacity-building, older person employment, workers with disabilities, human rights and discrimination. To help address those social issues, self-monitoring checklists and public reporting were discussed (MHLW 2008; METI 2004). CSR engagement that the national and local governments could make was discussed, along with social responsibility investment management of public pension funds and CSR in public procurement (MHLW 2004). As a foundation for those recommended policy actions, a national strategic objective on CSR was called for (Cabinet Office 2008), and different governmental bodies needed to work together closely to cover the extended areas that CSR encompassed and align with initiatives separately conducted (METI 2004).

As for the labour dimension of CSR, some reports mentioned that enterprises had made efforts to resolve social issues through social dialogue, which should continue to serve as the main vehicle of conflict resolution. Some reports also pointed out the importance of social dialogue in labour CSR by mentioning that CSR initiatives would be effective through dialogue and cooperation with diverse stakeholders when individual issues within an enterprise connected with the challenges of the entire society (MHLW 2008).

These reports of the early 2000s, however, defined CSR as enterprises' voluntary efforts. They did not fully discuss legal obligations, different responsibilities and the roles of government and businesses nor the challenges in overseas supply chains. As there are some evaluations that the Government did not identify CSR as an important policy matter (Tanimoto 2020), the Government has not produced any cross-ministerial national strategic instrument, as proposed by these reports. Various measures suggested in those reports, such as public procurement containing elements of CSR, were implemented only within the scope of single ministries.



Thus, despite the discussions on CSR, Japan has lacked an integrated and coherent policy on CSR; its policy focus has frequently changed from bottom of the pyramid business, creating shared value, ESG investment and collaborative value creation to the SDGs. Throughout such shifts, however, the labour dimension of CSR and RBC has been constantly regarded as one of the social issues.

While there are theoretical volatility and insufficient continuity, an exception can be found in the Ministry of Education's policy development since its report in 2005. The Ministry produced the Environment Reporting Guideline in 2003, before engaging in the matter of CSR, in which it added information and an index related to social elements and launched the Environment Communication Award to recognize businesses that conduct notable CSR projects. The Ministry notably promoted labour CSR and RBC in the published guide *Introductory Guide to Environment Due Diligence in the Value Chain – Referring to the OECD Guidance* in August 2020, although it excluded the indices related to the social elements in the revised Environment Reporting Guideline published in 2018 (MOE 2020).

7.2.2 Government policy to promote the SDGs and role of business

The SDGs call on enterprises to take a leading role in solving domestic and overseas social issues. In the national strategy to promote the SDGs, the Government of Japan encourages businesses to engage in CSR. In 2016, the SDGs Promotion Headquarters was launched, headed by the Prime Minister and composed of all ministers; it has identified specific policy actions in the SDGs Implementation Guiding Principles and the SDGs Action Plan. For example, the SDGs Implementation Guiding Principles mentions CSR promotion: "Initiatives related to business and human rights, responsible supply chains and corporate social responsibilities, which enhance trusts in each company from the international community, are important for companies to gain high reputation from global investors. Those initiatives are essential for the private sector, the core of production and consumption, to contribute to the development of sustainable society, economy and environment [that] the SDGs aim for. Based on the Guiding Principles on Business and Human Rights, the relevant ministries work together to address matters in an appropriate manner and promote companies' initiatives that contribute to the SDGs, starting with the formulation of a National Action Plan" (SDGs Promotion Headquarters 2019).

Among the range of government policies related to the SDGs, this chapter looks at policies related to labour CSR and RBC. Of the 17 SDGs, the most relevant goal in terms of labour CSR and RBC is SDG 8 (Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all). SDG 8, which encompasses decent work for all, is a goal that diverse actors, including the government, businesses, trade unions and civil society organizations should work together to achieve. The Ministry of Health, Labour and Welfare in Japan (MHLW) submitted its action pledge in March 2021, committing to specific actions by December 2021 for the International Year for the Elimination of Child Labour (MHLW 2021).

Japan's SDGs Implementation Guiding Principles and Action Plan contain many initiatives that remain significant from the perspective of business and human rights, especially labour CSR and RBC. Awareness of the SDGs has been raised greatly in Japanese society and among enterprises in recent years due to considerable efforts of the people involved. The SDGs thus have become a driver to promote CSR, including in the field of labour. In considering how enterprises help build a sustainable and inclusive society and economy, however, the discussion should not be limited to the promotion of positive aspects of business activities. It should bear in mind that addressing adverse impacts on human rights is equally important when calling on businesses to engage in the SDGs.

7.2.3 National Action Plan on Business and Human Rights

The Government launched its National Action Plan on Business and Human Rights (J-NAP) in October 2020 (Inter-Ministerial Committee 2020a). The J-NAP makes clear that it is developed in accordance with the UN Guiding Principles, the OECD Guidelines and the ILO MNE Declaration and is regarded as one of the instruments for achieving the SDGs. Also defined as a means to fulfil commitment to the international community, including respect for the fundamental principles and rights at work based on the ILO FPRW Declaration, the J-NAP purports to help ensure policy coherency, enhance interministerial cooperation, protect and promote human rights throughout the entire society through promotion of RBC, secure and enhance enterprises' global competitiveness and sustainability and to achieve the SDGs. While following the UN Guiding Principles' three pillars, it identifies some priority areas: raising awareness among government officials, businesses and the general public; promoting respect for human rights in supply chains; and securing remedy mechanisms.

In the NAP drafting process, a baseline study was conducted that included dialogue with stakeholders to gain insight on existing laws, regulations and policies related to human rights protection in relation with business activities (MOFA 2019). Based on this study, the Inter-Ministerial Committee held working group meetings and the Advisory Committee conducted a public comment process.

The Government expressed its expectations for businesses: to respect internationally recognized human rights, to set up human rights due diligence mechanisms in accordance with the UN Guiding Principles and other instruments, to engage in dialogue with stakeholders and to resolve issues through effective grievance mechanisms. Promoting business efforts to fulfil these expectations requires specific policy actions. The J-NAP identifies government institutions responsible for each action, including for labour CSR and RBC policies. Stakeholders can and are expected to use these specified institutions as an entry point for engaging in a respective issue and to see if they provide a source of related information and if their activities are effective in protecting human rights.

7.2.4 Labour CSR and RBC trends in the international community and Japanese society

There are ongoing developments in the international community that will influence Japan's labour CSR and RBC policies. One is the growing interest in labour CSR and RBC in global supply chains. Legislation on human rights due diligence, including labour CSR and RBC, is appearing at both the regional level, such as with the European Union (see Chapter 4), and at the country level, such as in the United Kingdom, France, the Netherlands, Australia and Germany (see Chapter 6).

State-sponsored human rights abuses have been alleged in areas closely related to the business of Japanese enterprises. In March 2020, an investigative report by the Australian Strategic Policy Institute (2020) alleged forced labour against Uyghurs in China's Xinjiang Uyghur Autonomous Region, and their report named enterprises that may be involved in forced labour through their supply chains. On 1 February 2021 begun a military coup in Myanmar. Civil society organisations have accused of freedom of political expression, peaceful assembly and association after the coup as well as human rights abuse by Myanmar military since the transition to civilian government in 2011, particularly large-scale human rights abuses against the Rohingya. Their accusation includes businesses including Japanese businesses contribute to these adverse impacts, thus in this context business responsibility to respect human rights and labour CSR and RBC is also questioned.

This section highlights that, starting around 2003 with a study on CSR policies and shifting to the SDGs and business and human rights, the Government's policies on labour CSR and RBC have been developed.

7.3 Current labour CSR and RBC policies of the Government of Japan

7.3.1 Japan's approach in ratifying international human rights and labour standards

The ratification of international human rights and labour standards manifests the Government's commitment to take initiatives for labour CSR and RBC. Japan has ratified many of the major international human rights and labour Conventions and faithfully responded, while clarifying its own views, to reports of special rapporteurs and review mechanisms of the treaty bodies. Japan, however, has yet to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families or the Optional Protocols to the human rights treaties. Regarding the basic labour rights stipulated in the International Covenant on Economic, Social and Cultural Rights, the country has made a reservation on public employees' right to strike (Article 8-(d)). It has not ratified two of the ten fundamental Conventions that form the ILO core labour standards: the Discrimination (Employment and Occupation) Convention No. 111 and the Occupational Safety and Health Convention No. 155. Nor has it ratified the 2014 Protocol to the ILO Forced Labour Convention, 1930 (No. 29). The bill of parliamentary legislation for ratification of Convention No. 105 was passed in June 2021;⁹⁹ the ratification was approved by the National Diet in 2022. the instruments of ratification was deposited with the ILO on 19 July 2022 and it will enter into force on 19 July 2023, a year later of the deposition.



⁹⁹ In the Ordinary Session of the National Assembly in 2021, a bill was passed to remove the inconsistency of national laws with Convention No. 105 towards ratification; to revise the criminal charge of penal servitude into imprisonment without work for [i] certain political actions, [ii] breaches of work rules by persons engaged in certain duties and [iii] conspiracy, instigation, or incitement of labour dispute actions by central government officials. Ratification of the outstanding fundamental Conventions has been a perennial challenge, but the decision was driven by the evolving debate and changing circumstances led by business and human rights and requests from stakeholders. The European Union-Japan Economic Partnership Agreement and J-NAP provided for efforts to promote ratification. The situation was advanced by stakeholders arguing that the non-ratification of Convention No. 105 would not only be an issue of basic labour rights for public officials but also an issue affecting international business competitiveness.

7.3.2 Domestic implementation of international human and labour rights standards: Challenges in Japan

Labour-related initiatives under the J-NAP include promoting decent work; respecting, promoting and realizing the fundamental principles and rights at work; addressing harassment; protecting foreign workers' rights and children's rights; promoting equal employment, gender equality and employment of persons with disabilities; and promoting work-life balance. It is noteworthy that the Government refers to international standards; however, it should have policies based on a gap analysis. There are challenges in terms of labour CSR and RBC that have been subject to public attentiveness domestically and internationally, yet have not been resolved despite the legislative measures, such as *karoshi* (death from overwork), gender discrimination, harassment (abuse, sexual harassment) and foreign worker issues, including technical interns.¹⁰⁰ A challenge remains for increasing union density, which should be an important topic of labour CSR and RBC.

7.3.3 Strategic objective document on labour CSR and RBC

The Government has not provided a national strategy on CSR, and since 2013, it has allowed ministries and agencies to set up study groups and produce proposals and separately implementing policies. The Government has published several national-level policy papers on the SDGs and business and human rights, which included policy implication of CSR, and especially labour CSR and RBC.

The Government's SDGs Implementation Guiding Principles identify the formulation of a NAP as one of its action plans. The need to develop the NAP was confirmed in the Future Investment Strategy 2018 and the Transformation Towards Society 5.0 and Data-driven Society, approved by the Cabinet in June 2018 (Cabinet Secretariat, the Headquarters for Japan's Economic Revitalization 2018). The SDGs Implementation Guiding Principles provide partially a national strategic objective document that includes labour CSR and RBC, but there is a need to develop national strategies and action plans that are more specific to business and human rights.

The SDGs Implementation Guiding Principles appointed the SDGs Promotion Headquarters, headed by the Prime Minister, to oversee the cross-sectoral and cross-ministerial scope of relevant policy measures, taking leadership in cooperation with the private sector. It further commits, in collaboration with the multistakeholder Roundtable Meetings, to follow up and review, to draw up action plans and evaluate their effectiveness, to enhance the national status in international forums and within the United Nations, to take leadership in identifying and addressing global challenges, to respond strategically to international initiatives related to SDGs and to make rules based on international standards, in collaboration with businesses.

Such a demonstration of national leadership and an effective and inclusive institution should be incorporated into the J-NAP. In light of the institutionalization, the Interministerial Committee for the J-NAP was established in March 2021 and the METI established the Business and Human Rights Policy Coordination Section and the Chief Coordinator for Business and Human Rights Policy in the Trade Policy Bureau in July 2021. In November 2021, Special Advisor to the Prime Minister in charge of international human rights was appointed and the Internministerial Committee was reclassified as a committee under the Cabinet Secretariat of Prime Minister in December. Although the baseline study report published in preparation of the NAP confirmed the current status of laws, regulations and initiatives in accordance with each article of the UN Guiding Principles. the Government did not conduct gap analysis to identify shortcomings in business and human rights measures.¹⁰¹ As a result, the J-NAP has fewer new actions in terms of labour CSR and RBC policies than what other countries have. The stakeholders as members of the working group submitted the "stakeholder common request" on issues and policy measures to be included in the J-NAP through an intensive dialogue, despite the diverse

¹⁰⁰ As a future initiative for responsible supply chain management in the textile industry, "dealing with foreign technical interns" was indicated as a priority issue (METI 2021).

¹⁰¹ In this regard, the ILO published a background paper that consolidates information to be referenced for the formulation of Japan's National Action Plan (ILO Office for Japan 2020a).

opinions of their respective groups (Working Group 2020; Working Group 2019). So far, no details were provided on how these items were reflected in the J-NAP. The interministerial networks and platforms for stakeholder dialogue were established during the process of the NAP formulation (OHCHR 2022). The first meeting of the Roundtable for Promoting the NAP was in July 2021 (MOFA 2021a). The achievement of diverse stakeholders to form a consensus with the common request is unique and not seen in other countries, thus this framework should be used as an ongoing platform to continue effective dialogue.

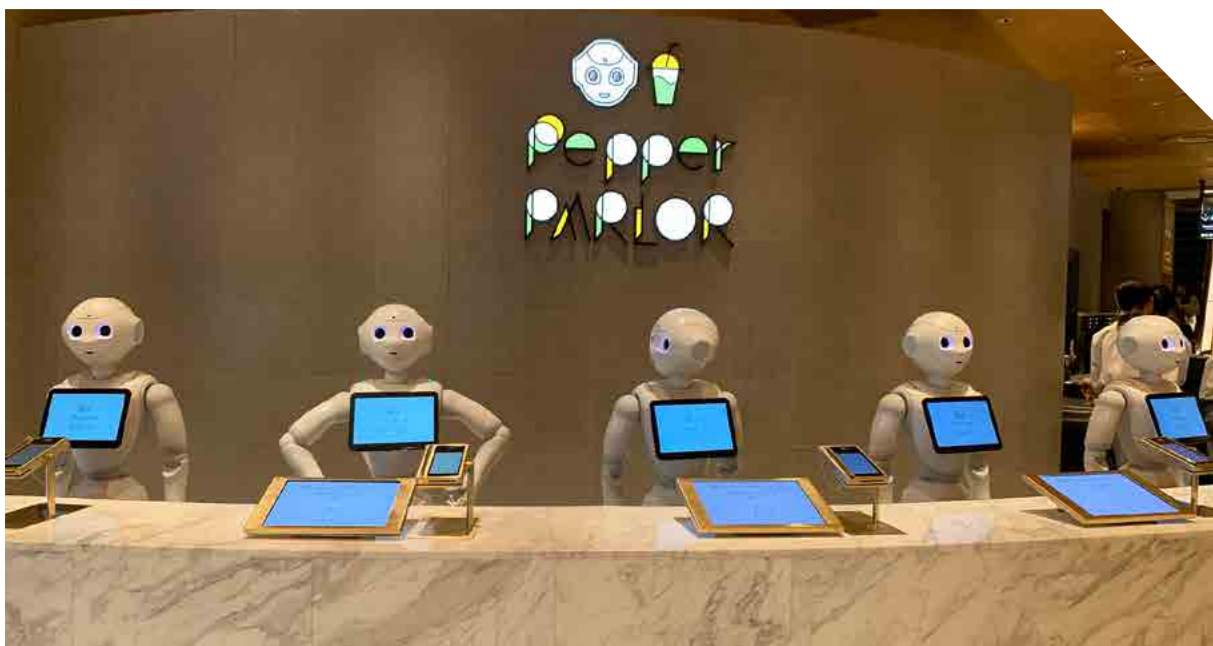
7.3.4 Specific policy measures related to labour CSR and RBC

The Government makes efforts in various policy measures, including (a) awareness-raising and establishing guidelines; (b) reporting of non-financial information, public procurement and ESG investment; and (c) labour CSR and RBC measures in mega-events. There has not been a proposal for a legislative measure for labour CSR and RBC in global supply chains, including in the J-NAP.

(a) Awareness-raising and establishing guidelines

As a government guidelines for business to promote understanding and raise awareness of business and human rights and partially labour CSR and RBC, the “Guidelines on Respect for Human Rights in Responsible Supply Chains” has released in September 2022. Other guidelines include the Guidance for Collaborative Value Creation (METI 2017) and the SDGs Management Guide (METI 2019), which promote dialogue between enterprises and investors. Most of the government initiatives, including these guidelines, contain only a few elements of the labour dimension. The *Introduction to Environmental Due Diligence in Value Chains: With Reference to OECD Guidance*, which the Ministry of Environment published in 2020, refers to environmental due diligence along with human and labour rights elements in relation to the UN Guiding Principles and ILO principles, as well as to human rights due diligence in detail (MOE 2020).

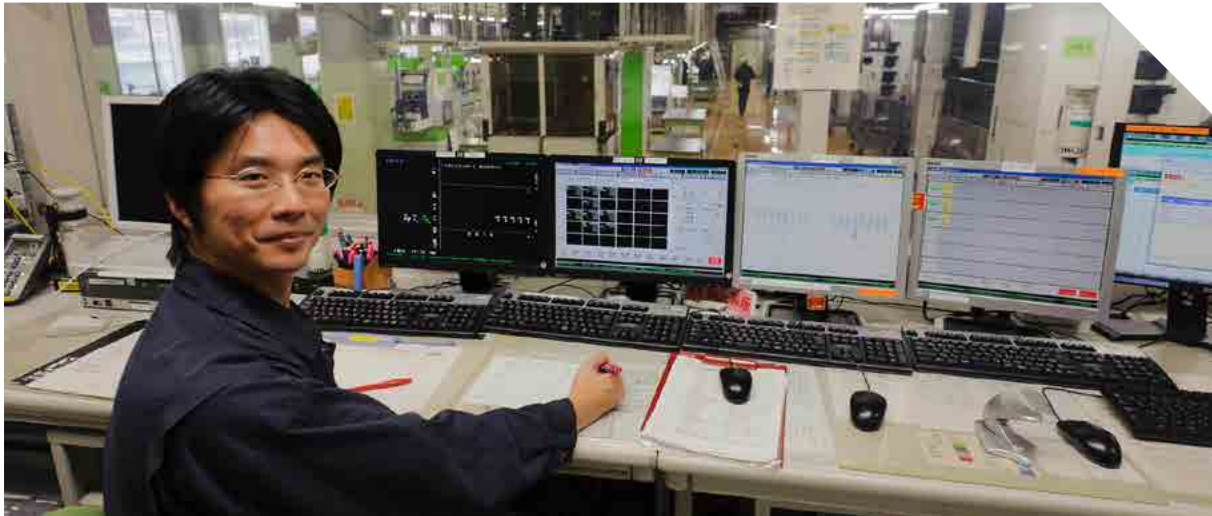
J-NAP sets as one of its priority areas the “promotion of understanding and awareness of business and human rights among businesses”. It identifies specific measures to that end: promote human rights due diligence in cooperation with industry groups; raise awareness on the ILO FPRW Declaration and the ILO MNE Declaration; raise awareness via Japanese embassies, consulates and overseas offices of government-related entities; support SMEs regarding business and human rights; cooperate with international organizations regarding awareness-raising; and provide voluntary contribution to the ILO for promoting decent work in global supply chains.



Since formulation of the J-NAP, awareness-raising on business and human rights and on labour CSR and RBC initiatives have emerged in the following government activities.

- Ministry of Foreign Affairs (MOFA):
 - Launched a portal website on business and human rights to distribute information via video clips and other tools (MOFA, n.d.).
 - Published the booklet *Practices Concerning Business and Human Rights* in September 2021 to give a picture of initiatives based on the UN Guiding Principles (MOFA 2021a).
 - Japan International Cooperation Agency (JICA) has conducted research on protection of vulnerable workers in 22 developing countries (MOFA 2021b).
- Ministry of Economy, Trade and Industry (METI):
 - Launched a website on business and human rights.
 - Japan External Trade Organization (JETRO) has started providing information on legislative developments in various countries, including the European Union and the US, as well as examples of application to Japanese businesses, titled "Special Feature: Supply Chain and Human Rights" (JETRO, n.d.).
 - Made suggestion in the *Report of the Study Group on Sustainability in the Textile Industry: Blueprint for a New Era* (METI 2021a) by the Lifestyle Industry Division of the Manufacturing Industries Bureau, for industry organization to adopt a sector-specific guideline for human rights due diligence in collaboration with the ILO. In response, the Japan Textile Federation with a support by the ILO Office for Japan adopted in 2022 Guidelines for Responsible Business Conduct in the Textile Industry and disseminated it among its members and relevant enterprises. Social dialogue with sectoral trade union was facilitated by the ILO in relation with this Guideline.
 - In 2021, The Minister's Secretariat's Business and Human Rights Policy Coordination Section, jointly with the MOFA, conducted the first government survey on the business respect for human rights by Japanese enterprises.(METI, n.d.)
 - Published, as a government initiative, a cross-sectoral guidelines titled "Guidelines on Respect for Human Rights in Responsible Supply Chains" in September 2022 (METI 2022).
- Ministry of Justice (MOJ):
 - Published in 2021, in response to the J-NAP, the report Research and Study on Business and Human Rights, aiming at strengthening business efforts to respect human rights. It was further developed into training materials and a guidebook for enterprises (MOJ, n.d.). In the training material, a general picture of human rights risks is presented with examples of human rights risks include those related to the labour (such as wages, working hours, occupational safety and health, social security, abuse in workplaces, sexual harassment and maternity harassment).
- Ministry of Agriculture, Forestry and Fisheries (MAFF):
 - Launched a webpage on business and human rights and conducts awareness-raising through industry associations.

In addition, there are policy measures in specific areas, such as gender equality and the promotion of the Women's Empowerment Principles (WEPS) implemented by the Gender Equality Bureau of the Cabinet Office (Cabinet Office, n.d.). Related studies have also been conducted, including Promote Utilization of Women at Workplace for ESG Investment (2018) and Promote the Evaluation of Enterprises Pursuing Work-Life Balance in Procurement (2017). For the Children's Rights and Business Principle, the Cabinet Office and MOFA are cooperating to raise awareness (Inter-Ministerial Committee 2020a).



(b) Non-financial reporting, public procurement and ESG investment

Non-financial reporting is an issue that has been pointed out by CSR study groups of different government ministries since 2003 (MHLW 2008). The Ministry of Environment (MOE) has a notable example, which uses business awards as an incentive for non-financial reporting. The MOE set up the Environment Reporting Award to recognize enterprises that publish reports of high quality and in line with the Environment Reporting Guideline for businesses. This has been expanded since the revised Environment Reporting Guideline of 2003 to include items related to labour CSR and RBC, such as occupational safety and health, human rights and employment (MOE 2003). The business award was also revised to include items on sustainability and renamed as the Environment Communication Award. In the review discussion for the 2018 revision of the Guidelines, it was decided to design environment reporting that is highly compatible with ESG reporting. As a result, social aspects including labour were excluded from the 2018 Guidelines, which focuses on environment reporting alone (MOE 2018).

To make a link between non-financial reporting and public procurement, the SDGs Action Plan highlights “gender mainstreaming and promote women in workplace” rather than labour in general. Recommended activities under that provision: enhance reporting and promote the use of disclosed information under the Act on Promotion of Female Participation and Advancement in the Workplace; promote work-life balance through various public procurement process; secure diversity in gender and nationality by revising the Corporate Governance Codes; and promote international cooperation for gender equality. In the section on the promotion of diversity and barrier-free, it highlights business awards, such as the Diversity Management Selection 100 Prime, support for independence and social participation of persons with disabilities in developing countries and steady implementation of Workstyle Reform as initiatives towards achieving the SDGs. The amendment to the Act on Female Promotion in Workplace set mandatory reporting of gender pay gap to companies above certain threshold from July 2022.

Other non-financial reporting initiatives include promotion of ESG investment and corporate governance. The Ministry of Economy, Trade and Industry (METI) set up the Study Group on Long-term Investment (Investment Evaluating ESG Factors and Intangible Assets) in 2016. It developed the Guidance for Collaborative Value Creation in May 2017 for the purpose of promoting dialogue between business managers and investors to enhance corporate value, which serves as a guide to reporting and evaluation of management strategy and non-financial information. This guidance helps business managers provide investors with comprehensive information on the management philosophy, business models, strategies and governance while helping investors conduct corporate evaluations from mid- to long-term perspectives that are useful for investment decisions and stewardship. The Guidance addresses ESG in terms of supply chains (value chains) and global social issues (SDGs), giving consideration to mutual relationships between investors and society (customers

and other stakeholders). It begs a question, however, as to what extent human rights and labour issues are dealt with in depth.

Looking at the initiatives to promote investors action, the Stewardship Code was established in 2014 and revised in 2017 and then again in March 2020. The Code, which defines principles considered to be helpful for institutional investors who behave responsibly in fulfilling their stewardship responsibilities, with due regard both to their clients and beneficiaries and to investee enterprises, had been signed by more than 280 institutional investors as of March 2020 (Expert Committee 2020). It does not explicitly mention, though it would seem it should, items on labour CSR and RBC in the society section, such as governance and social and environmental factors within ESG and risks and profit opportunity for businesses, including those related to social and environmental issues.

Looking at the initiatives to promote business action, there is the revised Corporate Governance Code and the draft for revised Guidelines for Dialogue Between Investors and Businesses published by the Financial Services Agency in April 2021, which invited public comments. These revisions were drawn up by the Council of Experts for the Follow-up of the Stewardship Code and Corporate Governance Code, established by the Financial Services Agency and the Tokyo Stock Exchange in 2015. The Corporate Governance Code was established by the Tokyo Stock Exchange in 2018; it demands that listed enterprises comply or explain for the principles set out in the Code. The revised Corporate Governance Code includes respect for human rights and consideration for employee health and the working environment as issues for the board of directors to consider in the section for issues of sustainability including society and the environment (Principles 2-3).¹⁰²

(c) Labour CSR and RBC in mega-events

Environmental and human rights due diligence must be steadily implemented in line with the SDGs at mega-events, such as the Tokyo 2020 Olympic and Paralympic Games and Expo 2025 Osaka Kansai, with its preparation, operations and procurement process. The Sustainable Sourcing Code, which sets down rules for procurement in Tokyo 2020, requested participating enterprises to respect international labour standards and to monitor and engage with their supply chains for better compliance. Procurement at such mega-events are major opportunities for promoting labour CSR and RBC (SDGs Promotion Headquarters 2019).

7.3.5 Social dialogue

As part of social dialogue in relation with labour CSR and RBC, the Government has engaged in home-host tripartite-plus dialogue (ILO Office for Japan 2018). In 2018, a home (Japan) and host (Viet Nam) tripartite-plus dialogue was held for investment in the Vietnamese electronics sector, with funding from the Government of Japan's voluntary contributions. Tripartite constituents of Japan and Viet Nam as well as Japanese multinational enterprises participated in the dialogue. From the perspective of measuring the impact that Japanese business activities have had on employment and labour in Viet Nam and exploring how to achieve decent working conditions, the dialogue aimed at building cooperation among the tripartite constituents of Viet Nam and promoting enterprise-level and industry-level dialogue as well as with both governments (ILO Office for Japan 2021).

7.3.6 External policy

When it comes to external policies, the Government has incorporated labour-related and environmental provisions in economic partnership agreements and trade agreements while keeping aligned with trade

102 The revised Corporate Governance Code further stipulates good collaboration with stakeholders and non-financial reporting (enterprises should proactively work on the reporting of information beyond legal requirement), including proactive responses to ESG issues (Basic Principle 2), as well as management that takes into account the value creation for stakeholders (Principle 2-1); addressing social, environmental and other sustainability issues (Principle 2-3); and ensuring diversity, including promoting activation of women at work (Principle 2-4) and others are being promoted (Tokyo Stock Exchange 2021).

rules, such as those overseen by the World Trade Organization. Japan had introduced labour provisions in six of 17 agreements as of 2019 and has a whole chapter on Trade and Sustainable Development in its Japan–European Union Economic Partnership Agreement and an independent labour chapter in the Comprehensive and Progressive Agreement for Trans-Pacific Partnership and similarly for the Japan–United Kingdom Economic Partnership Agreement. The Japan–European Union agreements provide for joint dialogue with civil society groups as well as ratification and implementation of international labour standards and promotion of CSR. Incidentally, the Regional Comprehensive Economic Partnership was adopted without labour provisions. On the front of human rights diplomacy, businesses have been questioned on their responses to and attitudes regarding human rights violations on alleged incidents, including but not least the Chinese Government's oppression of the Uyghur minority group in the Xinjiang Uyghur Autonomous Region as well as the military coup in Myanmar in February 2021 (in terms of whether their views reflect tacit approval of the abuses). The Japanese Liberal Democratic Party set up a Human Rights Diplomacy Project Team in February 2021, after Antony Blinken, the US Biden administration's Secretary of State, termed Beijing's treatment of the Uyghurs a genocide. The project team's recommendation is addressing the topic of business and human rights, along with the discussions on the ratification of the Genocide Convention. It points out that business and human rights is directly linked to the international competitiveness of enterprises in their economic activities and proposes bolstering the support for building a human rights due diligence mechanism, which identifies human rights abuse risks in suppliers. It also proposes legislation in the future (Liberal Democratic Party Political Research Committee 2021).

7.3.7 Access to remedy

Japan has provided relief measures against business human rights violations under its domestic laws and provided support to ensure access to remedies through the Japan Legal Support Center. When it comes to the overseas cases of human rights abuses by Japanese enterprises, it provides the National Contact Point, which consists of three ministries: the Ministry of Foreign Affairs, the Ministry of Health, Labour and Welfare and the Ministry of Economy, Trade and Industry. It was established in 2000 following an OECD Council decision. The Government also set up in 2008 the National Contact Point Committee of Japan, which involves workers' and employers' organizations (JTUC and the Japan Business Federation). Japan's National Contact Point has established the procedures for filing complaints (MOFA, MHLW and METI 2022). Complaint documents are submitted through its website (MOFA, n.d.). The website cites information on the closed cases, which counts only nine as of June 2022.

Going forward, the National Contact Point will work to secure fairness and neutrality while enhancing



transparency in the procedures under the J-NAP initiative (Inter-Ministerial Committee 2020a). The Japan Bank of International Cooperation, JICA and the Nippon Export and Investment Insurance also have their own guidelines and procedures for submitting objections.

The J-NAP aims to promote alternative dispute resolution procedures, providing awareness-raising support to the dispute resolution mechanisms operated by enterprises or civil society groups, especially those by multistakeholders (Inter-Ministerial Committee 2020a). An example of a mechanism receiving complaints of international labour standards violations was the Grievance Mechanism under the Sustainable Sourcing Code provided by the Tokyo Organizing Committee of the 2020 Olympic and Paralympic Games.

7.3.8 International cooperation

The Government promotes labour CSR and RBS in cooperation with international organizations and other States. For example, it supports dissemination of good practices that promote decent work at the upstream end of supply chains, as well as the home-host country tripartite-plus dialogue, including through Japan-funded ILO projects (ILO Office for Japan 2020c). It has also taken a role in international initiatives to eliminate child labour, including human trafficking and sexual exploitation through its contributions to and participation in the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime (Inter-Ministerial Committee 2020a). To reiterate, the Japan Bank of International Cooperation, JICA and the Nippon Export and Investment Insurance guides contain provisions in their contracts on compliance with relevant labour-related laws and regulations (Inter-Ministerial Committee 2020a). Regarding international cooperation to promote the trade union movement, the Government carries out human resources development and local support activities by inviting trade union leaders from abroad, in collaboration with the Japan International Labour Foundation (JILAF, n.d.).

In summary, CSR policies, including labour CSR and RBC in Japan, have evolved from the 2000s, when there were merely nominal national strategies or action plans, to the current intensified discussion through the SDGs and business and human rights initiatives. Particularly worth noting is the J-NAP published in October 2020 (Inter-Ministerial Committee 2020a). The Government's policy on labour CSR and RBC can be summarized: (i) ratification of international human rights and labour Conventions; (ii) domestic implementation of international human and labour rights standards; (iii) strategic objective document on labour CSR and RBC; and (iv) specific policy measures related to labour CSR and RBC (awareness-raising and establishing guidelines, non-financial reporting, public procurement and ESG investment, labour CSR and RBC in mega-events, social dialogue, external policies, access to remedies and international cooperation).



▶ 8

Policy recommendations

8.1 Overview of labour CSR and RBC policy requirements indicated by the international normative instruments and relevant actors' multilayered endeavours

Chapters 1–7 of this report examine the status of labour CSR and RBC policy development and requirement since the 1960s, which have evolved in line with the norms and objectives of the international community and the multilayered endeavours by international and regional organizations, governments, enterprises and stakeholders.

► Figure 11. Structure of this report

Structure of this report



This report discussed, at the outset, the four international normative instruments – UN Guiding Principles, OECD Guidelines for Multinational Enterprises, ILO MNE Declaration and SDGs, constituting international standards of Labour CSR and RBC suggested Labour CSR and RBC policy requirement for states. Among diverse Labour CSR and RBC policies, a catalogue of policies, this report divided them into eight major categories: (a) ratification of fundamental conventions which are the essential basis of Labour CSR and RBC; (b) domestic implementation of ratified international human and labour rights standards; (c) Labour CSR and RBC as states' strategic objectives; (d) individual policy measures to realize Labour CSR and RBC; (e) external policies in terms of Labour CSR and RBC; (f) promotion of social dialogue and meaningful engagement; (g) access to remedy; and (h) international cooperation in terms of Labour CSR and RBC (See Chapter 2.6.2: Labour CSR and RBC norms for states)

While reflecting the normative requirement of labour CSR and RBC for enterprises (See Chapter 1.2.1 and 2.6.1), relevant policy requirement has been materialized through multi-layered endeavours of diverse actors, i.e., international organizations (Chapter 3), regional organizations (Chapter 4), enterprises and their stakeholders (Chapter 5), and governments (Chapter 6). One of the notable achievements is the formulation of national strategies and action plans that incorporate Labour CSR and RBC. Based on the political belief and objectives (vision) to adopt labour CSR and RBC policies, States have devised a smart mix of policy measures – national and international and mandatory and voluntary – with incentives for the realization of labour CSR and RBC. Labour CSR and RBC also are being incorporated into external policies, such as for trade and investment,

development and diplomacy. Taking a step forward from the requirement of normative instruments, States have carried out policies to prevent and mitigate adverse impacts of extraterritorial activities conducted by enterprises in their territories.

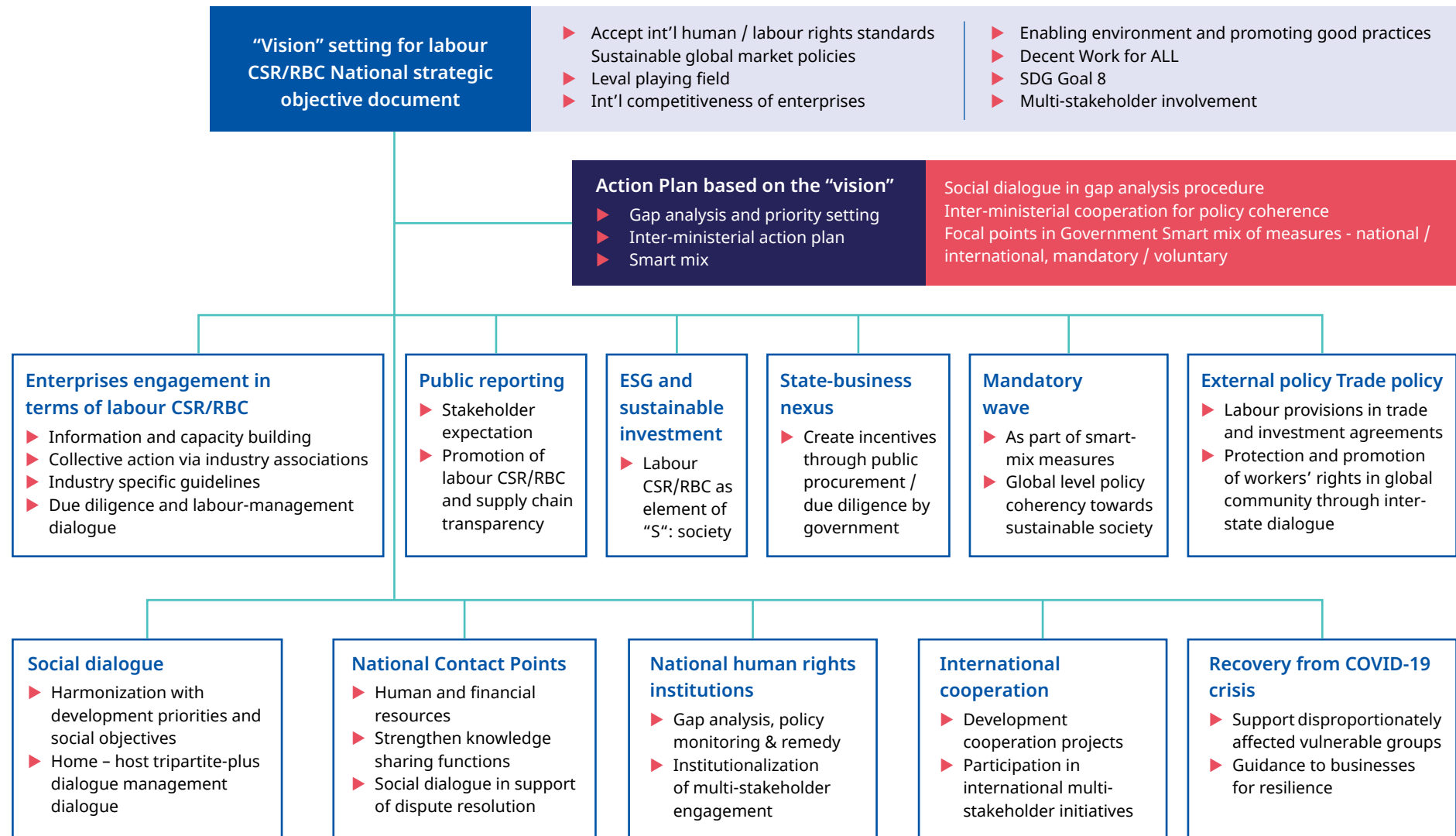
8.2 Policy recommendations for the Government of Japan

During the 2000s, the Government of Japan did not reach to the formulation of overarching national strategic objectives or action plans for CSR policies, including labour CSR and RBC. However, it reopened intensive discussion for CSR policies through initiatives related to the SDGs and business and human rights (see Chapter 7). Japan's National Action Plan on Business and Human Rights (J-NAP) launched in October 2020 is noteworthy. The J-NAP takes up a wide range of labour issues, such as to promote decent work, respect, promote and realize the fundamental principles and rights at work, take measures against harassment, protect the rights of foreign workers and those of children, realize equality in employment, including from gender perspectives, promote the employment of persons with disabilities and help workers achieve work-life balance. In addition, an interministerial network and a framework for stakeholder dialogue have been established in the formulation process of the J-NAP. The achievement of common request of diverse stakeholders forming a consensus is particularly unique and not seen in other countries, thus this framework should be maintained as an ongoing platform to continue effective stakeholder dialogue. J-NAP identified responsible ministries and agencies for each policy action to be implemented in the future. The Ministry of Foreign Affairs (MOFA), the Ministry of Economy, Trade and Industry (METI) and the Ministry of Justice started information-sharing on business and human rights, while the Roundtable for Promoting the J-NAP, a joint platform between the Government and stakeholders was established and its meeting started in July 2021. Working Group to promote J-NAP started launched in February 2022.

In comparison with the international normative instruments and multilayered endeavours by diverse stakeholders analysed in this report, the Government's current policy has much room for improvement. The following singles out recommendations for the Government's labour CSR and RBC policies.



► Figure 12. Policy recommendations for the Government of Japan's labour CSR and RBC policy



8.2.1 National strategic objective document concerning labour CSR and RBC

International and regional organizations as well as various stakeholders have urged States to formulate a national action plan on business and human rights (NAP) as a strategic objective document to clarify the Government's responsibility for labour CSR and RBC, to ensure policy coherence and to articulate a vision that identifies the direction of policy measures required under international normative instruments (see sections 3.1 and 3.3, Chapter 4 and Chapter 5). In the first place, labour CSR and RBC are deemed necessary to resolve labour issues and protect and promote workers' human rights. Without this point of view, labour CSR and RBC will not stand. Moreover, labour CSR and RBC have been embedded in the market-based actions and approaches of various actors and thereby demonstrate a significant policy implication in realizing sustainability, maintaining competitiveness and creating a level playing field in the global economy (see section 1.2.2). As confirmed in this report, the European Union, ASEAN and individual States have positioned labour CSR and RBC as part of their policy agenda. The European Union revised the definition of CSR in 2011. Many observers believe labour CSR and RBC should be a global policy issue that would need to be regulated by governments, in response to the growing interest in business responsibility to respect human rights and the demand for a level playing field in global supply chains (see Chapter 4 and Chapter 6).

In contrast, what sort of global market does, or should, the Government of Japan seek to create together with enterprises and their stakeholders, to achieve sustainability of the Japanese society and the international community? The following section presents two specific policy recommendations in relation to a national strategic objective instrument for labour CSR and RBC:

(a) Define policy beliefs and objectives (vision) for labour CSR and RBC and formulating national strategies and action plans

In the first place, labour CSR and RBC should be positioned as one of the Government of Japan's core policy agendas. In Japan, discussions since the 2000s on CSR have emphasized its voluntary nature, leaving the Government reluctant to develop proactive labour CSR and RBC policies, including putting mandatory measures in place. With the advent of the UN Guiding Principles in 2011, however, creating an enabling environment to fulfil business responsibility to respect human rights has been increasingly seen as a means that States should use to perform their duty to protect human rights. Labour, among other human rights agendas, is considered to be one of the central among various business and human rights issues (see Chapter 1).

Although attention has been directed to policy trends of the European Union and other States that has certain impact on Japanese businesses, labour CSR and RBC policies have not been envisaged as part of the global economic policies in Japan. J-NAP includes an expression that promoting RBC contributes to protection and promotion of human rights in the entire society, including the international community, and further to maintaining and enhancing the international competitiveness and sustainability of Japanese business enterprises. That said, the J-NAP is missing the overarching vision to connect the dots in terms of *how* "promoting RBC" can achieve the said objectives, for example, "protection and promotion of human rights in the entire society" and "maintaining and enhancing the international competitiveness and sustainability." In other words, the J-NAP fails to present an overarching vision of what Japan aims at in terms of global market policy that serves as a fundamental basis of labour CSR and RBC policies. Without this vision, the Government can hardly determine the direction of policy agenda and discussions on what the "promotion of RBC" means and how it will be realized in the national context (see Chapter 7).

Japanese enterprises are extending supply chains into the global market. A sustainable economy and society cannot be achieved unless the global market is sustainable, where the human rights of workers are protected. In particular, if there are shortcomings of protection for socially marginalized groups in the global supply chains and in areas and sectors in which there are governance gaps, the widening gaps and disparities and the entrenchment of the poor will be unstoppable, resulting in unsustainable markets (UN 2015). Decent work should be guaranteed to all workers, with no workers left behind, whether they are represented by trade unions or not (Decent Work for All).



To firmly enhance the competitiveness of Japanese enterprises and maintain a level playing field in the international market, in-depth analysis is needed on the typical adverse and positive impacts on human and labour rights brought about by Japanese enterprises and the State's policy strategies for growth in the global economy while ensuring policy coherency with the international standards. Business responsibility to respect human rights as advocated in the UN Guiding Principles, the OECD Guideline and the ILO MNE Declaration represents the expectation of the international community towards businesses. This became increasingly incorporated in the multilayered endeavours of international and regional organizations and States, which in turn has advanced the level of social expectations and, in some cases, eventually forming legally binding legislation. This phenomenon, either as a rule or legally binding legislation, "chases after" transitions in realities and societal beliefs and expectations. This phenomenon should be captured at the global level. The Government needs to follow the expectation from the international society and define a vision for labour CSR and RBC so as not to interrupt Japanese businesses progress in their globalized economic activities. Employers' organizations, enterprises, trade unions, investors and civil society organizations in Japan expect the Government to put forward such a vision (see Chapter 5).

Once the vision is defined, it will be necessary to formulate a national strategic objective document that materializes such a vision. The national strategic objective document should provide rationale for the policy actions of each governmental institutions, which have different policy agendas. It should further serve as a compass to consistently encourage labour CSR and RBC efforts in the private sector. Labour CSR and RBC policies should aim towards creating a sustainable global market with decent work, and it needs policy harmonization among domestic labour policies, policies for international competitiveness of Japanese enterprises, industry growth in host countries including emerging economies and human rights diplomacy (see Chapter 7). It is most effective and reasonable for the Ministry of Health, Labour and Welfare (MHLW) to take leadership in setting a vision for labour CSR and RBC policies in view of their knowledge and experience in labour policy. While the Prime Minister's Cabinet Secretariat assumes a leading role in the framework of J-NAP, expertise of MHLW in labour policy should be fully utilised to ensure that the policy objective for the protection of worker's human rights put in place. And labour CSR and RBC policies should constitute Japan's economic growth strategies and even its national growth strategies that closely relate to the international community. Hence, the vision should eventually be positioned in the Cabinet Secretariat's and the Cabinet Office's comprehensive national policies, such as the SDGs Implementation Guiding Principles, with the firm commitment by the MHLW, the MOFA and the METI.

In sum, there is an urgent need to outline a vision within Japan's business and human rights policies with a central component of labour CSR and RBC in place. The vision should be evidently incorporated into the policy objectives of the J-NAP. The current J-NAP will be revised in five years from its release in 2020, which will be too late, given the rapidly changing trend of business and human rights. The Government should not wait for the next revision and take necessary actions now, such as adding the said vision to its Annex.

(b) Key points in setting policy objectives (vision) for labour CSR and RBC

The first key point in setting a policy vision for labour CSR and RBC and a national strategic objective document is whether the Government has accepted the international human and labour rights standards. This must be committed to demonstrate Japan's stand towards the international community and in terms of carrying out domestic human and labour rights policies. The commitment is a principal part of State's duty to protect and thus indispensable when requiring business responsibility to respect. Ratification of the outstanding Conventions related to the core labour standards including the 2014 Protocol to the ILO Convention No. 29 on forced labour should be a priority. In addition, it is desirable to advance discussions to accept the individual complaints procedures under the Optional Protocols to the human rights treaties and to ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (see Chapters 2 and 3).

Based on this point, the Government should draft labour CSR and RBC policies in response to the international community's requirement, taking into consideration the characteristics of labour CSR and RBC discussed in this report. The basic characteristics of labour CSR and RBC have been identified the responsibility of businesses: (i) to respect internationally recognized standards (core labour standards and other international human rights and labour standards); (ii) that extends to global supply chains; and (iii) not only for adverse impacts (do no harm) but also for positive role (contribution to social and economic progress), which include efforts beyond legal compliance. It should bear in mind that stakeholder dialogue or engagement with workers should be conducted in a mutually complementary manner, with due diligence, so as to fulfil the responsibility in the aspect of labour (see Chapters 1 and 2).

Towards creating an enabling environment for enterprises to fulfil these responsibilities, efforts are needed to identify what business conduct is expected in home and host countries. What does the society where they operate expect for enterprises, and how should governments, enterprises and other stakeholders divide roles and responsibilities? There are reports of good practices among Japanese enterprises that have led to a win-win relationship that promotes decent work and business growth while contributing to the development of host countries, such as a bottom-up approach led by local human resources in a supplier engagement, skills development for workers and the proliferation of constructive industrial relations (see Chapter 3). These good practices are in line with the ILO MNE Declaration and should be considered when it comes to the formulation of the vision .

Labour CSR and RBC are evolving through the diverse initiatives of stakeholders. This is the rationale for policymaking and should be also with multistakeholder partnerships. The business responsibility to respect is grounded on the basic expectation society has of business in relation to human rights (Introduction to the UN Guiding Principle Para.6), and enterprises cannot fulfil their responsibility without meaningful stakeholder engagement. Given this, the need for stakeholder engagement within the State's policy making process is self-evident. There also needs to be a systematic approach for inclusive and diversified engagement, including a



multistakeholder platform for the J-NAP, with employers' and workers' organizations (national and sector levels), enterprises (multinational enterprises and SMEs), investors, non-government and civil society organizations, policymakers and international organizations fully being engaged (J-NAP Stakeholders' Common Request No. 2). Stakeholder participation and transparency in the process of developing a vision for a national strategic objective document will help to legitimize its content.

8.2.2 Action plans based on political beliefs and objectives (vision)

(a) Setting priorities in Japan based on gap analysis

As a requisite for labour CSR and RBC policies needs identification of priorities among existing human rights issues in Japan, based on the vision set up within a national strategy. Current J-NAP contains five priority areas: (i) promote understanding and awareness among government institutions; (ii) promote understanding and awareness among business enterprises; (iii) promote understanding and awareness throughout society; (iv) promote respect for human rights in domestic and global supply chains; and (v) secure and improve access to remedies. Nonetheless, these are not concrete human and labour rights issues that are adversely impacted by business conduct. As pointed out by Japanese stakeholders, there remain challenges that have been subject to public attentiveness yet unresolved despite the legislative measures, such as *karoshi* (death from overwork), overtime work, gender discrimination, harassment (abuse, sexual harassment) and foreign worker issues, including technical interns. There are reports of labour rights infringement in the overseas supply chains, leaving major challenges for the grievance mechanisms and access to remedy for the victims. Social dialogue is of paramount importance for priority setting and gap analysis. Trade unions have a significant role to identify and address concrete labour issues.

Basically, the purpose of the NAP is to define actions that the Government and enterprises should take to address specific human and labour rights issues, which needs a gap analysis of Japan's labour CSR and RBC policies in accordance with the OHCHR's Guidance on National Action Plans on Business and Human Rights. The current J-NAP is not based on any gap analysis, and therefore has resulted in a patchwork of existing policies. Gap analysis enables clarification of: what are the human and labour rights issues not fully protected; what are the root causes of such issues; what are the bottlenecks that cannot be eliminated by regulations or voluntary actions by enterprises; and what should be government actions to redress such systemic issues. Duly taking these points into consideration, it is desirable to recognize the existing gaps between these challenges and the existing national policies and to consider necessary measures with some priority. The gap analysis should put in place procedures to receive concerns from individuals and supporting organizations, including socially vulnerable groups at high risk of being adversely impacted (see the J-NAP Stakeholders' Common Request No. 2).

(b) An interministerial action plan, policy coherency and focal points

An interministerial action plan should be formulated to address specific issues prioritized in the national strategic objective document and the results of a gap analysis. Cooperation across government ministries and agencies, particularly among MHLW, MOFA and METI is must. Despite the challenges due to the fragmented policy scope of each Ministry, labour CSR and RBC policies cover a range of topics at the global level that would justify interministerial cooperation, including the protection of workers and also economic growth strategy, trade and investment, human rights diplomacy, international cooperation and industrial development of host countries (see Chapters 3, 4 and 6).

At the same time, it should be ensured that labour CSR and RBC policies maintain coherency while being interministerial. In addition to vertical policy coherency to align with international human and labour rights Conventions ratified by the State, there should be horizontal policy coherency to integrate labour CSR and RBC into all relevant policies. In Japan, the Corporate Governance Code, the Stewardship Code and the Guidance for Collaborative Value Creation separately touch upon the social nature of enterprises. But labour CSR and RBC are still only weakly incorporated into these guidelines (see Chapter 7). Greater horizontal coherency would help achieve policy alignment and integration of labour CSR and RBC.

To that end, a cross-ministerial framework for the SDGs and the J-NAP, which is called the Inter-Ministerial Committee respectively, should be utilized. Because it is important for the Government to consolidate the knowledge base on the latest trends, policies and practice of labour CSR and RBC for effective use in cross-ministerial policymaking, a government focal point should also be considered for better interministerial coordination and knowledge exchange with external partners as well as policy dissemination. The Cabinet Secretariat of Prime Minister should serve as a “control tower” for that purpose. Additionally, promoting cooperation among embassies that capture the social expectation of host countries and other institutions, including JETRO, which supports enterprises inside and outside of Japan; the Japan International Labour Foundation, which mainly supports workers in overseas countries; and other international organizations, so as to expedite efforts within the supply chains, as requested by the J-NAP.¹⁰³ The National Focal Points recommended under the ILO MNE Declaration can serve as the said focal point, based on a tripartite structure. It can be considered the function of the National Focal Point to be incorporated into the mandate of the Japan’s National Contact Point (see Chapters 2 and 3).

(c) Smart mix of measures underpinned by political beliefs and objectives (vision)

As noted, the lack of gap analysis in Japan has resulted in a patchwork of existing policies in the current policy documents in terms of the SDGs and the J-NAP. Another cause of patchworking is that labour CSR and RBC have not been placed among the Government’s overarching policy agenda, while ministries have developed individual policies without a cross-cutting vision or strategy at the national level. The Government’s recent efforts in line with the J-NAP’s priority agenda to raise awareness of business and human rights among government officials, businesses and the general public, including by preparing guidelines, should be based upon a certain vision or strategy. Without an underpinning vision or strategy that clarifies the purpose that it is necessary to understand business and human rights, the Government cannot expect the effectiveness of future policy actions, nor even setting policy indicators for evaluation as to what was considered to be effective in such policy measures.



A smart mix of measures is essential to build national labour CSR and RBC policies underpinned by a vision and strategy. A smart mix refers to a combination of national and international and mandatory and voluntary policy measures. One of the key characteristics of CSR and RBC is that they are a responsibility that extends to global supply chains and includes the responsibility for actively contributing to economic and social progress – not just for doing no harm. Hence, the optimal promotion of business activities that balance discipline and creativity, domestically and internationally, should be achieved. This perspective supports the principle of a smart mix. The United Kingdom, under the Modern Slavery Act, obliges enterprises to publish a slavery and human trafficking statement while supporting them by issuing guidance. Also, it makes linkages between reporting and

¹⁰³ The National Action Plan, p. 24: “Publicize the national action plan and raise awareness of human rights due diligence to Japanese business enterprises operating overseas via Japanese embassies, consulates, and overseas offices of government-related entities” and it is said that “sufficient attention is to be paid to the issue of protection of human rights of workers in supply chains.”

stakeholder-led monitoring, including civil society and investors, and incorporates the element of preventing modern slavery into its government procurement, which creates an incentive for businesses to tackle it. The United States, bearing in mind that American enterprises' activities extend to global supply chains, provides information on human trafficking, forced labour and child labour in overseas countries and assesses business conduct within the federal Government's public procurement. To obtain the trust of foreign investors, Thailand established its national action plan to address labour CSR and RBC and implements a domestic certification programme focused on labour CSR and RBC (see Chapters 2 and 3; see also Chapters 4 and 6).

Recently in Japan, business and human rights policies, including labour CSR and RBC, were discussed from the perspective of external policies. How do we ensure that labour provisions in trade and investment agreements remain effective from the perspective of addressing labour issues in global supply chains? To what extent should the enterprises involved in state-sponsored human rights abuses be regulated or restricted? These questions should be examined and addressed under the overarching vision and strategy. In particular, for a trend towards mandatory measures in terms of the business responsibility to respect human rights, it is necessary to take into account enterprises' capacity to fulfil their responsibility throughout supply chains. At the same time, that responsibility should be fully based on social dialogue. Mandatory due diligence without appropriate objectives and supporting measures could shift the burden to SMEs at the upstream of supply chains, ending up with adverse impact on the workers there and increasing the vulnerability and informalization of work. This must be considered when putting in place an inclusive policy mechanism that leads all workers and supply chains to growth. In other words, governments, employers and workers should have their respective roles and work hand in hand as needed in realizing a level playing field in which enterprises' just and legitimate efforts are not hindered (see Chapter 1).

As noted, there are good practices among Japanese enterprises' business operations. To further promote such good practices as the ones creating a win-win relationship through the robust industrial relations and contributing to socio-economic development with value placed on workers in host countries, government support is needed for businesses through the collection and dissemination of good practices that in turn helps generate creativity and positive impact. This is probably difficult to achieve by introducing mandatory measures alone. For this reason, Article 12 of the ILO MNE Declaration requires governments to promote good social practices among multinational enterprises as they operate at home and abroad (ILO Office for Japan 2017) (see Chapters 2 and 3).

8.2.3 Labour CSR and RBC policies in detail

(a) Enterprises engagement in terms of labour CSR and RBC

The J-NAP places grave emphasis on awareness-raising as a means of enterprises' engagement in terms of labour CSR and RBC. Certainly, awareness-raising should be the starting point under the current situation in Japan, where enterprises have not made much progress in recognizing and implementing the UN Guiding Principles.¹⁰⁴ Enterprises, however, cannot be expected to fully operationalize the UN Guiding Principles merely by presenting labour CSR and RBC instruments. As a bottom line, sufficient information and capacity are necessary for enterprises to identify and address specific human and labour rights issues in their own operations and in their supply chains, based on the internationally recognized standards. For awareness-raising and guidance to be effective in real terms and not for its own sake, it should put concrete visions and incentives in place for the purpose of labour CSR and RBC.

¹⁰⁴ According to the Japan Business Federation (2020), 33 per cent of its surveyed member companies understand the UN Guiding Principles but are not able to put them into practice, while 25 per cent either have heard of them but are not aware of the content or have never heard of it. In other words, roughly 60 per cent of them are not putting the UN Guiding Principles into practice.

It is difficult for enterprises to constantly obtain up-to-date information that is needed to fulfil the responsibility to respect human rights, including specific human and labour rights risks and legal regulations and practice in host countries due to language and cultural barriers as well as differences in economic and social systems. Embassies and related institutions have a role to collect and disseminate such useful information.

Some human and labour rights issues are common to certain industries. They can be addressed more efficiently and in a more leveraged manner without placing undue strain on supply chains if it is done through collective action rather than individual action, such as using industry-level guidelines for supply chain management. From that perspective, it is important for sectoral employers' organizations to develop and share a knowledge base, prepare guidelines to address sector-specific challenges and help member enterprises build up their capacity. Awareness-raising should not be done for its own sake, but beyond that, it should be combined with capacity-building and support to help enterprises implement concrete actions.

It is also important to recognize that the role of trade unions for labour-management dialogue is a key element in addressing labour issues throughout supply chains. Labour-management dialogue throughout global supply chains and cooperation and collaboration among trade unions, which aim at pursuing win-win relationships between labour and management, help promote decent work in home and host countries and resilient supply chains with a high productivity and risk-preventive culture for industrial disputes. The Government needs to, as part of its efforts to engage with enterprises, promote social dialogue, including to request that enterprises adopt a due diligence process to incorporate labour-management dialogue (see Chapter 5).

(b) Public reporting (voluntary or mandatory)

There are national- and regional-level trends for the mandatory legislation of public reporting that include the aspect of labour CSR and RBC, particularly in the European Union. This has been driven by the social expectation to make efforts for labour CSR and RBC as well as supply chain transparency, which have also affected Japanese enterprises directly or indirectly. The debate on public reporting in Japan has not yet settled on. Among the global-level discussion, enterprises adopt public reporting measures in step while thoroughly examining their needs and impact, referring to examples in other countries (see section 5.1). Investors strongly support the promotion of public reporting (see section 5.2), while trade unions and civil society demands that public reporting should be made compulsory (see section 5.3 and 5.4). Given that social expectation pushed legislation in the European Union and other countries, Japan is urged to discuss. Japan's vision on labour CSR and RBC that is developed through multistakeholder consensus will help determine the nature of public reporting policies.

(c) ESG and sustainable investment

For the promotion of ESG and sustainable investment, a national strategy for sustainable investment, multistakeholder conference and platforms as well as incentive mechanisms, such as preferential tax systems and subsidies, have been proposed in Japan (see section 5.2). Japan is so far weak in incorporating the social aspects, including labour CSR and RBC, into its ESG and sustainable investment initiatives (see Chapter 7). Therefore, the Government is expected to integrate ESG and sustainable investment into its national strategic framework and action plan related to labour CSR and RBC and ensure that labour CSR and RBC elements are incorporated into the Corporate Governance Code, the Stewardship Code and the Guidance for Collaborative Value Creation from the perspective of policy coherency.

(d) Responsible conduct by the State as an economic actor (State-business nexus)

As urged by the UN Guiding Principles and the Resolution concerning Decent Work in Global Supply Chains adopted at the International Labour Conference in 2016, governments should conduct due diligence and hold stakeholder dialogues in the process of public procurement, by which the efforts spill over to the private sector. The Tokyo 2020 Sustainable Sourcing Code required the private sector to respect for the core labour standards and other major international human rights and labour standards and conduct engagement in supply chains for that purpose. Responsibility to respect human rights was thus encouraged in exchange for

the participation in the procurement process.

(e) Seize the mandatory wave of business responsibility to respect human rights

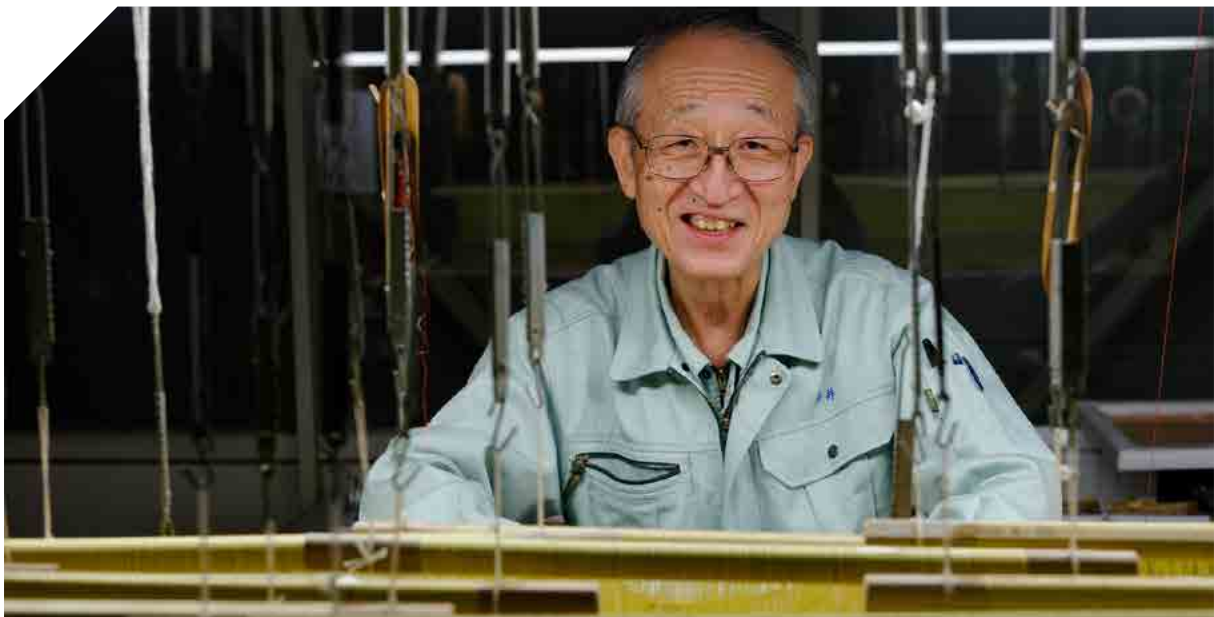
While there are divergent discussions around the world and within Japan on mandatory legislation of public reporting and human rights due diligence in supply chains, it cannot be overlooked that the social expectation from consumers, investors and business partners are increasingly permeating the global economy, thereby driving policies in many countries.

On the other hand, the mandatory legislation promoted in many countries varies enormously on the extent that they create mandatory obligation for the content of the UN Guiding Principles. We often see opinions that mandatory obligation is necessary to achieve a level playing field, but it needs to be carefully assessed whether this is a call for social justice in the global economy or whether it is only a complaint by some leading multinational enterprises for the economic unfairness that arises from business competition. This is because mandatory due diligence without adequate remediation and access to remedy in supply chains could leave behind a socially vulnerable group.

What is required even more in the future is policy coherence. A smart mix calls for a combination of policy measures (mandatory and voluntary, national and international) and even ex ante prevention and ex post relief with all in a complementary manner. Thus, policy coherence is required not only at the national level but also at a global perspective to realize a sustainable society. From that perspective, there is a rationale to develop Japan's vision and policy strategy as a priority. Based on such underpinning vision and strategy, Japan should consider a smart policy mix and incentive-setting, including those listed as labour CSR and RBC measures in Chapters 2-6, which enable Japanese businesses to sustainably operate in the global economy.

8.2.4 External policies, including trade policies

In terms of ensuring horizontal coherency in labour CSR and RBC measures, it is desirable to further promote labour provisions in bilateral and multilateral economic partnership agreements and other investment agreements and to consider in trade policy measures that aim to abolish forced labour, child labour and bonded labour. On the other hand, it is an essential requisite that labour CSR and RBC policy measures are designed to protect and promote workers' human rights throughout the global society, including Japan. Thus, engaging in sincere dialogue with countries with different working conditions and social backgrounds and taking into account their respective stages of development, policy directions and priorities are key. Policies to ensure



decent work for all, including in the informal economy, and to leave no one behind should be central. Again, a vision for why the Japanese community should be committed to labour CSR and RBC is of utmost necessity.

8.2.5 Meaningful engagement and social dialogue

This report confirms as one of the characteristics of labour CSR and RBC that the due diligence process should involve meaningful consultation with stakeholders and 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 (para. 10 (e) of the ILO MNE Declaration). Enterprises are expected to fully take into account the established general policy objectives of the countries in which they operate and be in harmony with the development priorities and social aims (para. 11). Based on this, the Government of Japan is expected to fill governance gaps of host countries, if any, and promote good social practices, including by holding consultations between home and host countries where tripartite constituents and multinational enterprises, such as home-host tripartite-plus dialogue, so that multinational enterprises together with national enterprises can contribute to sound economic and social development in the host countries (see Chapters 1 and 2).

Home-host dialogue aiming at creating an enabling environment for business responsibility to respect human rights has enormous potential to create a robust bilateral cooperation framework and facilitate information exchange mechanisms, thereby contributing to the prevention of human and labour rights disputes. In addition, home-host dialogue has implications for Japan's economic policy because it can enhance industrial competitiveness and supply chain resilience in both Japan and its partner countries.

8.2.6 National Contact Point

The OECD strives to enhance the functions of the National Contact Point, and there has been an active exchange of information among National Contact Points (see section 3.2). Progress has been seen in Japan as well, such as Japan's National Contact Point launched in 2000, followed by the National Contact Point Committee, which involves employers' and workers' organizations. But many challenges remain. It has been pointed out that it needs increased human and financial resources to have a sufficient role in the early resolution of industrial disputes (see section 5.3), improved accountability, transparency and independence as well as effective measures, such as disclosure of initial assessments, stakeholder involvement, investigation authority and taking actions when parties do not agree to mediation (see section 5.4). Japan's National Contact Point consists of MHLW, MOFA and METI. Expanding its human and financial resources is urgently required. Possible measures include appointing dedicated full-time personnel, such as the United Kingdom's National Contact Point, which boasts the largest number of users in the world (see Chapter 6) and introduce knowledge from independent external experts. In addition, Japan's National Contact Point should utilize the National Contact Points network that stretches over 38 OECD members and 12 other countries¹⁰⁵ to strengthen its function of knowledge-sharing.

Japan's National Contact Point also should strengthen its function of remediation and access to remedies by reflecting the views of employers' and workers' organizations as much as possible as well as facilitating dialogue between complainants and involved company parties in support of conflict resolution.

8.2.7 National human rights institutions for consideration from the perspective of labour CSR and RBC and business and human rights

The mandate of today's national human rights institutions extend to business and human rights, including labour CSR and RBC. National human rights institutions actually have a role not only in public awareness but also in

¹⁰⁵ The OECD Guidelines is participated by, in addition to OECD member countries, the following countries: Argentina, Brazil, Croatia, Egypt, Jordan, Kazakhstan, Morocco, Peru, Romania, Tunisia, Ukraine and Uruguay.

handling complaints from victims as well as policy recommendation to governments (see section 5.5). In Thailand during its NAP development process, its national human rights institution interacted closely with the United Nations agencies and the ministries and had a leading part by offering its opinions and laying down guidelines (DIHR 2019). In Germany, its national human rights institution conducted gap analysis and participated as an advisor in the multistakeholder development process for the NAP development. The German NAP developed through this process has led to proposals for a subsequent Supply Chain Due Diligence Act. These examples indicate that national human rights institutions are essential for promoting labour CSR and RBC policies because it can make policy analysis and monitor independently of governments, facilitate stakeholder dialogue between government, business and civil society and also provide access to remedy by responding to complaints from victims.



Civil society groups in Japan urge the Government to establish a national human rights institution (see section 5.4). Japan is recommended to re-examine the necessity of a national human rights institution so that policy gap analysis and multistakeholder policymaking are institutionalized for continuous implementation.

8.2.8 International cooperation

Japan should strive for international cooperation in development assistance, technical support and capacity-building through partnerships with international organizations and civil society. Specifically, Japan can involve itself and cooperate in the implementation of labour CSR and RBC policies with international organizations as well as contribute funds to development cooperation projects to promote labour CSR and RBC (see sections 3.1 and 3.3). Japan is also expected to contribute funds to and engage in international multistakeholder initiatives, such as Alliance 8.7, which is a leading platform for global-level dialogue, knowledge exchange and project implementation through dialogue with governments of other home countries (many of which are represented by labour-related ministries), multinational enterprises and other stakeholders. By participating in these international cooperation initiatives and fully utilizing in its domestic policy the knowledge accumulated there and shared by other countries and multinational enterprises, the Government is expected to act as a global leader to take shape the actions towards the SDGs in full cooperation with other countries (see section 3.3).

8.2.9 Recovery from the COVID-19 crisis

There needs to be prioritized consideration and policy action for the issue of social injustice and disproportionate effect on vulnerable groups that the COVID-19 crisis has revealed. We have witnessed in these pandemic times the theoretical change in the area of occupational safety and health and social security, requiring more inclusive policies. The Government should take measures to support enterprises and to mitigate the effects of COVID-19 on workers, with particular focus on support to vulnerable workers who are affected disproportionately. A consolidated information package with a practical guidance and good practices for enterprises that helps them to ensure resilience and sustainability in the recovery process would help.

The Government is also expected to promote initiatives of social partners, such as joint initiatives of social partners' Call to Action, with the aim of protecting workers in the garment industry affected by COVID-19, and to provide the necessary support to countries connected through supply chains. The COVID-19 pandemic

has brought about a global crisis for the international economy and society. Hence, cooperation, unity and equity is urged more than ever to achieve a recovery that leads to more resilient economies and societies (see section 3.3).

8.3 Summary

This report's policy recommendations for the Government of Japan are thoroughly guided by the four international normative instruments – UN Guiding Principles, OECD Guidelines for Multinational Enterprises, ILO MNE Declaration and SDGs, that integrate major labour CSR and RBC policies and can serve as a compass to determine the major direction of the Government's policy actions. It is the first and foremost role of the Government to comprehensively understand and practically implement the policy requirement derived from these instruments and expect enterprises to fulfil its responsibility and roles.

Labour CSR and RBC policy measures, while having been implemented under various policy intentions, should have an essential precondition that they contribute to the protection of workers' rights, achieving decent work for all, including in global supply chains (see section 1.1) Looking at the recent business and human rights trends, attention tends to focus on individual issues of specific country and region. These individual issues, however, are only the tip of the iceberg, meaning that the root causes of these issues deeply and commonly underlie the global labour issues. For instance, approximately 1 in 160 people in the world are victims of modern slavery (ILO 2017c), and it is self-evident that efforts in specific countries and regions alone are not enough. This is the reason why the overarching vision of labour CSR and RBC should be established to make a strong link between individual policy measures and global-level social and economic progress.

In Japan, the policy strategy remains a patchwork of measures. Therefore, creating Japan's overarching vision for labour CSR and RBC policy measures should be an urgent task. Such vision should be formulated through effective and thorough dialogue with enterprises and their stakeholders. At the same time, when considering the sustainability of the global community as a whole, the vision of Japan may take the form of international cooperation rather than just unilaterally regulate business conduct, including via import bans or other legal obligations. It should aim towards "co-prosperity" or "co-development" with other countries by promoting labour CSR and RBC policies that are fully supported by multilateral dialogue, cooperation and engagement on an equal footing with stakeholders, such as other governments, enterprises and workers.

Labour CSR and RBC policies cover an extremely wide range of policy areas, stretching over the mandates of various government ministries and agencies. It is well understandable that there are major institutional constraints for ministries that have a core role in planning and implementing policy measures. It includes a strict boundary of policy mandates and rules for functional coordination, influence of party politics, budgetary constraints, strong demands for administrative efficiency in public expenditure, fierce conflict of interests among the members of society and difficulty in coordinating them, inflexible civil service administration systems and understaffing.

Nevertheless, each and every person working for the Government is also a "worker". Realizing decent work is a value to all. Labour CSR and RBC policies serve the interests of the entire country, regional community as well as the entire world. Labour CSR and RBC policies more than directly contribute to providing access to remedy for workers who are vulnerable. They help achieve economic growth and decent work simultaneously, eventually contributing to poverty eradication and peace-building, which is the ultimate purpose of the SDGs. From this point of view, this report closes the discussion with the most significant emphasis on the roles of each and every person within the Japanese Government and hopes that the policy recommendations can be of use to them.

References

- Adachi, Eiichiro, Murakami, Mei, and Hashizume, Makiko. 2018. "Bijinesu Pason no tame no SDGs no Kyokasho" ("Textbook on SDGs for Business Person"). [in Japanese]
- Aoki, Takashi. 2013. "Kokusaikikan ni okeru Kigyo Kodoshishin no Keisei to Tenkai" ("Development of Corporate Code of Conduct in International Organizations"), *Nihon Rodo Kenkyu Zasshi* 640: 76–89. [in Japanese]
- Arai, Yukiko. 2016. *Project: More and Better Jobs through Socially Responsible Labour Practice*. Available at: www.oit.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/presentation/wcms_535616.pdf.
- APFNHRI (Asia Pacific Forum of National Human Rights Institutions). 2021. *UN Guiding Principles+10/Next Decade business and human rights: Open Call for Input*.
- ASEAN. 2016a. "Vientiane Declaration on Transition from Informal Employment to Formal Employment towards Decent Work Promotion in ASEAN". Available at: asean.org/vientiane-declaration-on-transition-from-informal-employment-to-formal-employment-towards-decent-work-promotion-in-asean/.
- . 2016b. "ASEAN Guidelines for Corporate Social Responsibility (CSR) on Labour", paras 18 and 19. Available at: asean.org/wp-content/uploads/2012/05/ASEAN-Guidelines-for-CSR-on-Labour.pdf.
- ASEAN CSR on Labour Forum. 2016. 'ASEAN CSR on Labour: from Guideline to Action' Recommended strategies to promote application of ASEAN CSR Guidelines on Labour to Business Sector: paras 8-10. Available at: www.asean-csr-network.org/c/images/ForumonASEANCSRonLabourfromGuidelinetoAction-Report13Oct16.pdf.
- AICHR (ASEAN Intergovernmental Commission on Human Rights). 2014. *ASEAN Baseline Study on CSR and Human Rights*: 2. Available at: aichr.org/wp-content/uploads/2019/01/AICHRs_Thematic_Study_on_CSR_and_Human_Rights_in_ASEAN.pdf.
- ASCC (ASEAN Socio-Cultural Community). 2009. *ASEAN Socio-Cultural Community Blueprint*: 13-14. Available at: www.asean.org/wp-content/uploads/images/archive/5187-19.pdf.
- . 2016. *ASEAN Socio-Cultural Community Blueprint 2025*. Available at: www.asean.org/wp-content/uploads/2012/05/8.-March-2016-ASCC-Blueprint-2025.pdf.
- ASPI (Australian Strategic Policy Institute (Vicky Xiuzhong Xu with Danielle Cave, Dr James Leibold, Kelsey Munro, Nathan Ruser)). 2020. "Uyghurs for sale: 'Re-education' forced labour and surveillance beyond Xinjiang". Available at: <https://www.aspi.org.au/report/uyghurs-sale>.
- Bauer, Theresa, "CSR in Germany: The Role of Public Policy" *The Critical State of Corporate Social Responsibility in Europe: Critical Studies on Corporate Responsibility, Governance and Sustainability*, vol 12 (2018), pp.101-120.
- BHRCSP (Business and Human Rights Civil Society Platform). 2020. "Bijinesu to Jinken national action plan: Subete ha Kongo no Torikummini Kakatteiru: national action plan Kouhyou ni saishite Shiminshakai kara no Komento" ("Business and Human Rights national action plan: Everything Depends on Future Efforts: Comments from the Civil Society on the Announcement of national action plan"). Available at: www.bhr-nap-cspf.net/bhrnap_statement_civilsocietyjp_jp_10162020.pdf. [in Japanese]
- BHRR (Business and Human Rights Resource Centre). 2019. "Total lawsuit (re failure to respect French duty of vigilance law in operations in Uganda)". Available at: www.business-humanrights.org/en/latest-news/total-lawsuit-re-failure-to-respect-french-duty-of-vigilance-law-in-operations-in-uganda/.
- . n.d.a. "List of large businesses, associations and investors with public statements and endorsements in support of mandatory due diligence regulation." Available at: www.business-humanrights.org/en/latest-news/list-of-large-businesses-associations-investors-with-public-statements-endorsements-in-support-of-mandatory-due-diligence-regulation/.

- . n.d.b. "Modern Slavery Statements – A Database of Historical Modern Slavery Statements Published By Over 18,000 Companies Previously Held on Modern Slavery Registry". Available at: www.business-humanrights.org/en/from-us/modern-slavery-statements/.
- Cabinet Office. 2008. *Anzen/Anshin de Jizoku Kanou na Mirai no tame no Shakaiteki Sekinin ni kansuru Kenkyukai Houkokusho* (Report of Study Group on Social Responsibility for Safe/Secure and Sustainable Future). Available at: dl.ndl.go.jp/info:ndljp/pid/1167162. [in Japanese]
- Cabinet Secretariat, the Headquarters for Japan's Economic Revitalization. 2018. "Mirai Toshi Senryaku 2018 'Society 5.0' 'Deta Kudogata Syakai' heno Henkaku" ("Growth Strategy 2018"). Available at: http://www.kantei.go.jp/jp/singi/keizaisaisei/pdf/miraitousi2018_zentai.pdf. [in Japanese]
- CEC (Commission of the European Communities). 2001. *Green Paper: Promoting a European framework for Corporate Social Responsibility*. Available at: [ec.europa.eu/transparency/documents-register/detail?ref=COM\(2001\)366](http://ec.europa.eu/transparency/documents-register/detail?ref=COM(2001)366).
- . 2005. "Communication to the Spring European Council, Working together for Growth and Jobs: A New Start for the Lisbon Strategy" (2005), COM(2005)24final, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A52005DC0024>.
- . 2006. "Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee, Implementing the Partnership for growth and Jobs: Making Europe a Pole of Excellence on Corporate Social Responsibility" (2006), COM(2006)136final, <https://eur-lex.europa.eu/legal-content/EN/HIS/?uri=celex:52006DC0136>.
- . 2008. "Communication from the Commission on the European Competitiveness Report 2008." Available at: eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A52008DC0774.
- CRC (Committee on the Rights of the Child). 2013. "General Comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights", CRC/C/GC/16 (2013).
- CESCR (Committee on Economic, Social and Cultural Rights). 2017. "Social and Cultural Rights, General Comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities." E/C.12/GC/24 (2017).
- CCS (Consumer Conference for Sustainability). 2020. "'Bijinesu to Jinken' ni kansuru Koudou Keikaku no Genan ni taisuru Iken" ("Opinion on the Draft of National Action Plan for Business and Human Rights"). Available at: www.bhr-nap-cspf.org/recommendation/pc2-5/. [in Japanese]
- Conseil général de L'économie. 2020. "Evaluation de la mise en œuvre de la loi n° 2017-399 du 27 mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre". Available at: www.vie-publique.fr/sites/default/files/rapport/pdf/273894_0.pdf.
- The Council of Experts on the Stewardship Code. 2020. "'Sekinin aru Kikan Toshika' no Shogensoku: Stewardship Code" ("Principles for Responsible Institutional Investors <Japan's Stewardship Code>" (Second ed.). Available at: <https://www.fsa.go.jp/news/r1/singi/20200324/01.pdf>. [in Japanese]
- Consumers.Japan. 2020. "'Bijinesu to Jinken' ni kansuru Koudou Keikaku no Genan ni taisuru Iken" ("Opinion on the Draft of National Action Plan for Business and Human Rights"). Available at: www.shodanren.gr.jp/database/429.htm. [in Japanese]
- DIHR (The Danish Institute for Human Rights). 2019. "National Human Rights Commission of Thailand - Business and Human Rights Work". Available at: https://www.humanrights.dk/sites/humanrights.dk/files/media/dokumenter/udgivelser/hrd_2020/nhri_case_stories/thailand_nhri_bhr_case_study_2020.pdf.
- DIM (Deutsches Institut für Menschenrechte). 2015. *National Baseline Assessment*: 14. Available at: www.institut-fuer-menschenrechte.de/publikationen/detail/national-baseline-assessment-umsetzung-der-un-leitprinzipien-fuer-wirtschaft-und-menschenrechte.

- ECCJ (European Coalition for Corporate Justice). 2019. "Over 100 NGOs Demand Human Rights And Environmental Due Diligence Legislation". Available at: corporatejustice.org/news/over-100-ngos-demand-human-rights-and-environmental-due-diligence-legislation/.
- EC (European Commission). 2011. "Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A renewed EU strategy 2011-2014 for Corporate Social Responsibility." Available at: eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52011DC0681.
- . 2016. "Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Next Steps for a Sustainable European Future – European Action for Sustainability." Available at: eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2016%3A739%3AFIN.
- . 2017. "Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Making Public Procurement work in and for Europe." Available at: eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2017%3A572%3AFIN.
- . 2018. "Communication from the Commission to the European Parliament, the European Council, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions: Action plan: Financing Sustainable Growth." Available at: eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52018DC0097.
- . 2019a. *Reflection Paper: Toward a Sustainable Europe by 2030*: 22. Available at: eur-lex.europa.eu/legal-content/EN/ALL/?uri=COM%3A2019%3A22%3AFIN.
- . 2019b. "Corporate Social Responsibility, Responsible Business Conduct, and Business and Human Rights: Overview of Progress", Commission Staff Working Document: 143. Available at: [ec.europa.eu/transparency/documents-register/detail?ref=SWD\(2019\)143&lang=en](https://ec.europa.eu/transparency/documents-register/detail?ref=SWD(2019)143&lang=en).
- . 2019c. "Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions: the European Green Deal." Available at: eur-lex.europa.eu/legal-content/EN/TXT/?qid=1588580774040&uri=CELEX:52019DC0640.
- . 2020. "Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions: the EU budget powering the recovery plan for Europe". Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2020%3A442%3AFIN>.
- . 2021a. *Buying Social – A Guide to Taking Account of Social Considerations in Public Procurement* (2nd edition). Available at: ec.europa.eu/docsroom/documents/45767.
- . 2021b. "Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Trade Policy Review-An Open, Sustainable and Assertive Trade Policy." Available at: eur-lex.europa.eu/legal-content/EN/ALL/?uri=COM:2021:66:FIN.
- . 2022. "Proposal for a Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937." Available at: eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52022PC0071.
- . n.d. "Policy Coherence for Development." Available at: ec.europa.eu/international-partnerships/policy-coherence-development_en.
- . n.d. "Recovery plan for Europe", https://ec.europa.eu/info/strategy/recovery-plan-europe_en.
- European Council. 2015a. "Council Conclusion on the Action Plan on Human Rights and Democracy 2015-2019." Available at: ec.europa.eu/anti-trafficking/council-conclusions-action-plan-human-rights-and-democracy-2015-2019_en.

- . 2015b. "Council Decision 2015/2071." Available at: eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015D2071&from=EN.
- . 2020. "Council Conclusion on the Action Plan on Human Rights and Democracy 2020-2024." Available at: eeas.europa.eu/sites/default/files/eu_action_plan_on_human_rights_and_democracy_2020-2024.pdf.
- . 2000. "Presidency Conclusion, Lisbon European Council 23 and 24 March 2000." Available at: www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/00100-r1.en0.htm.
- EP (European Parliament). 2010. "European Parliament Resolution of 25 November 2010 on Corporate Social Responsibility in International Trade Agreements." 2012/C 99 E/19. Available at: eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2012:099E:0101:0111:EN:PDF.
- . 2016. "European Parliament Resolution of 25 October 2016 on Corporate Liability for Serious Human Rights Abuses in Third Countries." P8_TA(2016)0405. Available at: www.europarl.europa.eu/doceo/document/TA-8-2016-0405_EN.html.
- . 2018. "European Parliament Resolution of 29 May 2018 on Sustainable Finance." para.17.2018/2007 (INI). Available at: www.europarl.europa.eu/doceo/document/TA-8-2018-0215_EN.pdf.
- . 2021. "Corporate Due Diligence and Corporate Accountability: European Parliament Resolution of 10 March 2021 with Recommendations to the Commission on Corporate Due Diligence and Corporate Accountability." P9_TA (2021)0073. Available at: www.europarl.europa.eu/doceo/document/TA-9-2021-0073_EN.html.
- Fujii, Toshihiko and Daisuke Shintani. 2008. "Ajia no CSR to Nihon no CSR: Jizoku Kanou na Seichou no tameni Nani wo subekika" ("CSR in Asia and CSR in Japan: What to do for Sustainable Growth"). *Nikkagiren Shuppansha*. [in Japanese]
- Gender Equality Bureau Cabinet Office. n.d. "Women's Empowerment Principles (WEPs)." Available at: www.gender.go.jp/international/int_un_kaigi/int_weeps/index.html.
- German Federal Government. 2016. *National Action Plan: Implementation of the UN Guiding Principles on Business and Human Rights*. Available at: www.auswaertiges-amt.de/blob/610714/fb740510e8c2fa83dc507afad0b2d7ad/nap-wirtschaft-menschenrechte-engl-data.pdf.
- German Federal Foreign Office. 2020. "Final Report: Monitoring of the status of implementation of the human rights due diligence obligations of enterprises set out in the National Action Plan for Business and Human Rights 2016-2020". Available at: <https://www.auswaertiges-amt.de/en/aussenpolitik/themen/aussenwirtschaft/wirtschaft-und-menschenrechte/monitoring-nap/2131054>.
- German Ministry of Labour and Social Affairs. 2022. "Just Transition: Make It Work Towards Decent and High Quality Work in a Green Economy: G7 Employment Ministerial Meeting Communiqué, Wolfsburg, 24 May 2022". Available at: <https://www.bmas.de/EN/Europe-and-the-World/International/G7-Presidency/g7-presidency.html>.
- GCNJ (Global Compact Network Japan). n.d. "The Ten Principles of the UN Global Compact". Available at: www.ungcnj.org/gcnj/principles.html. [in Japanese]
- GPIF (Government Pension Investment Fund). 2020. "Gaikoku Kabushiki wo Taisho to shita ESG shisu wo Sentei shimashita" ("GPIF Selects Two ESG-Themed Foreign Equity Indexes"). Available at: www.gpif.go.jp/en/investment/esg_selection03_EN.pdf.
- . n.d. "ESG Toushi to SDGs no Tsunagari" ("Connection between ESG Investment and SDGs"). Available at: www.gpif.go.jp/investment/esg/#c [in Japanese].
- GPIF (Government Pension Investment Fund), and World Bank. 2018. *Incorporating Environmental, Social and Governance (ESG) Factors into Fixed Income Investment*. Available at: documents1.worldbank.org/curated/en/913961524150628959/pdf/Incorporating-environmental-social-and-governance-factors-into-fixed-income-investment.pdf.

- Günter, Hans. 1981. "The Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (History, contents, follow-up and relationship with relevant instruments of other organisations)", ILO Working Paper No. 18. Available at: www.ilo.org/empent/Publications/WCMS_125794/lang--en/index.htm.
- . 1982. "The International Labour Office Declaration of Multinational Enterprises and the International Code of Conduct Movement". *Loyola of Los Angeles International and Comparative Law Journal*. Available at: digitalcommons.lmu.edu/cgi/viewcontent.cgi?article=1039&context=ilr.
- Hanami, Tadashi. 1979. "Kokusaimondai no Kokusaika" ("Internationalization of International Issues"). *Jurist* 681: 34-40. [in Japanese]
- HRC (Human Rights Council). 2011. *Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework*. A/HRC/17/31.
- . 2014. *Report of the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises: Visit to the United States of America.* A/HRC/26/25/Add.4. Available at: ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/26/25/Add.4.
- . n.d. "Open-ended Intergovernmental Working Group on Transnational Corporations and Other Business Enterprises with Respect to Human Rights." Available at: www.ohchr.org/en/hrbodies/hrc/wgtranscorp/pages/igwgontnc.aspx.
- Human Rights Committee, Decision adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2285/2013, CCPR/C/120/D/2285/2013.
- ICC (International Chamber of Commerce). 2019. *Engagement with the United Nations on Business and Human Rights – Key Messages*. Available at: iccwbo.org/content/uploads/sites/3/2019/10/icc-engagement-with-un-on-business-and-human-rights.pdf.
- . 2020a. "ICC Briefing: The United Nations Treaty Process in Business and Human Rights": 2. Available at: iccwbo.org/content/uploads/sites/3/2019/10/icc-issues-brief-on-un-treaty-process-finalb.pdf.
- . 2020b. "ICC COVID-19 Response – A Call to Action to Save Our SMEs". Available at: iccwbo.org/content/uploads/sites/3/2020/03/2020-sos-call-to-action-web.pdf.
- ILO (International Labour Organization). 1977 (amended in 2000, 2006 and 2017). "Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy". Available at: <https://www.ilo.org/empent/areas/mne-declaration/lang--en/index.htm>.
- . 2007. "International Instruments and Corporate Social Responsibility: A Booklet to Accompany Training The Labour Dimension of CSR: from Principles to Practice". Available at: www.ilo.org/empent/Publications/WCMS_101247/lang--en/index.htm.
- . 2013. "Studies on growth with equity – Social Dimensions of Free Trade Agreement". Available at: www.ilo.org/global/research/publications/WCMS_228965/lang--ja/index.htm.
- . 2015. "Guidelines for just transition towards environmentally sustainable economies and societies for all". Available at: www.ilo.org/wcmsp5/groups/public/@ed_emp/@emp_ent/documents/publication/wcms_432859.pdf.
- . 2016. "More and Better Jobs through Socially Responsible Labour Practices in the Asia-Pacific Region". Available at: www.ilo.org/empent/Publications/WCMS_537287/lang--en/index.htm.
- . 2017a. "Decent Work and the 2030 Agenda for Sustainable Development". Available at: ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_436923.pdf.
- . 2017b. "Handbook on assessment of labour provisions in trade and investment agreement". Available at: www.ilo.org/wcmsp5/groups/public/---dgreports/---inst/documents/publication/wcms_564702.pdf.

- . 2018. “SDGs to Kigyo Senryaku” (“SDGs and Corporate Strategies”). Available at: https://www.ilo.org/tokyo/helpdesk/WCMS_646082/lang--ja/index.htm. [in Japanese]
 - . 2019. “Labour provisions in G7 trade agreements: a comparative perspective”. Available at: www.ilo.org/global/publications/books/WCMS_719226/lang--en/index.htm.
 - . 2020a. “Rules of the Game: An introduction to the standards-related work of the International Labour Organization”. Available at: www.ilo.org/global/standards/information-resources-and-publications/publications/WCMS_672549/lang--en/index.htm.
 - . 2020b. “Bijinesu to Jinken Kodo Keikaku (NAP) Sakutei ni muketa Kanren Bunsyo no Bunnseki” (“Background Paper for National Action Plan on Business and Human Rights”). Available at: https://www.ilo.org/tokyo/information/publications/WCMS_736450/lang--ja/index.htm. [in Japanese]
 - . 2020c. “ILO facilitated the dialogue among stakeholders to submit 2nd Common Request to the government for development of the National Action Plan on Business and Human Rights (NAP)”. Available at: https://www.ilo.org/tokyo/information/pr/WCMS_746766/lang--en/index.htm.
 - . 2020d. “Japan-ILO Cooperation”. Available at: https://www.ilo.org/tokyo/ilo-japan/partnerships-with-japan/WCMS_557870/lang--ja/index.htm. [in Japanese]
 - . 2021a. “User’s manual to the Guidelines for just transition towards environmentally sustainable economies and societies for all”. Available at: www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---actrav/documents/publication/wcms_826060.pdf.
 - . 2021b. “Leveraging Japan’s role as a major investor to promote responsible labour practices in global supply chains”. Available at: https://www.ilo.org/empent/units/multinational-enterprises/WCMS_778093/lang--en/index.htm.
 - . 2022. “Global Estimates of Modern Slavery: Forced Labour and Forced Marriage” https://www.ilo.org/global/topics/forced-labour/publications/WCMS_854733/lang--en/index.htm
- ILO (International Labour Organization) Office for Japan. 2022. “Building Responsible Value Chain in Asia through the Promotion of Decent Work in Business Operations”. Available at: https://www.ilo.org/tokyo/ilo-japan/projects/WCMS_848742/lang--en/index.htm.
- ILO (International Labour Organization) and OHCHR (United Nations Human Rights Office of the High Commissioner). 2021. “The linkages between international labour standards, the United Nations Guiding Principles on Business and Human Rights, and National Action Plans on Business and Human Rights”. Available at: www.ilo.org/empent/areas/mne-declaration/WCMS_800261/lang--en/index.htm.
- IOE (International Organisation of Employers), Business at OECD and Business Europe. 2019. “Joint business response to the Revised Draft Legally Binding Instrument to Regulate, in International Human Rights Law, the Activities of Transnational Corporations and Other Business Enterprises”. Available at: www.ioe-emp.org/index.php?eID=dumpFile&t=f&f=145680&token=d0a1ad270b24083cc353ac9a2bf326c670c35495.
- ITUC (International Trade Union Confederation). 2018. “Congress Statement: Building Workers’ Power”. Available at: www.ituc-csi.org/IMG/pdf/ituc-congress2018-en.pdf.
- . 2020. “Towards mandatory due diligence in global supply chains”. Available at: www.ituc-csi.org/towards_mandatory_due_diligence?lang=en.
- Inter-Ministerial Committee on National Action Plan on Business and Human Rights. 2020. “‘Bijinesu to Jinken’ ni kansuru Koudou Keikaku (2020-2025) (National Action Plan on Business and Human Rights (2020-2025))”. Available at: www.mofa.go.jp/mofaj/files/100104121.pdf. [in Japanese]

- . 2020. "Bijinesu to Jinken ni kannsuru Kodo Keikaku ni kakaru Sagyobukai Suteikuhoruda no Kouseiin no Minasama he" ("Statement for Working Group Stakeholder Members") Available at: <https://www.mofa.go.jp/mofaj/files/100101258.pdf>. [in Japanese]
- Japan Textile Federation (JTF), "Guidelines for Responsible Business Conduct in the Textile Industry". Available at: <https://jtf-net.com/index.htm>. [in Japanese]
- JBF (Japan Business Federation). 2017. "Kigyo Kodo Kensho: JIkko no Tebiki (7th ed.)" ("Charter of Corporate Behaviour: Implementation Guidance(7th ed.)"). Available at: <https://www.keidanren.or.jp/policy/cgcb/tebiki7.pdf>. [in Japanese]
- . 2019. "Jinken wo Soncho suru Keiei no Suishin to Wagakuni no Koudoukeikaku ni taisuru Iken" ("Opinion on Promoting of Management Respecting Human Rights and Japan's National Action Plan"). Available at: www.keidanren.or.jp/journal/times/2019/1121_03.html. [in Japanese]
- . 2020. "Key Findings of Questionnaire Survey on the Implementation of Keidanren's Charter of Corporate Behaviour in the COVID-19 Era". Available at: <https://www.keidanren.or.jp/en/policy/2020/098.html>.
- JBF, University of Tokyo and GPIF. 2020. "ESG Toushi no Shinka, Society 5.0 no Jitsugen, soshite SDGs no Tassei he (Evolution of ESG Investment, Realization of Society 5.0, and Achievement of SDGs: Promoting Investment in Problem Solving Innovation)". Available at: <https://www.keidanren.or.jp/policy/2020/026.html>. [in Japanese]
- JETRO (Japan External Trade Organization). 2021a. "Furansu Kyowakoku: Oyagaisha oyobi Keiei wo Toukatsu suru Kigyou no Kanshi Gimu ni kansuru 2017 Nen 3 Gatsu 27 Nichi Duke Houritu 2017-399 Gou (1) (Sankou Wayaku) (Republic of France: Act No.2017-399 (1) Dated March 27, 2017 on the Duty of Vigilance of Parent Companies and Instructing Undertakings (Japanese translation as reference))". Available at: www.jetro.go.jp/world/reports/2021/01/9cb61dd611a50c96.html. [in Japanese]
- . 2021b. "Bijinesu Tanshin: Han Gaikoku Seisaihou ga Seiritsu, Roku Gatsu Tok ani Sokujitu Shikou (Chugoku) (Business Brief Report: Anti-Foreign Sanctions Law Passed, enforced on June 10 (China))". Available at: www.jetro.go.jp/biznews/2021/06/c8bd174fe077c4e6.html. [in Japanese]
- . n.d. "Tokushu Sapuraicheen to Jinken (Special Edition Supply Chain and Human Rights)". Available at: www.jetro.go.jp/world/scm_hrm/. [in Japanese]
- JFBA (Japan Federation of Bar Associations). n.d. "Bijinesu to Jinken ni kansuru Torikumi (Initiatives on Business and Human Rights)". Available at: www.nichibenren.or.jp/activity/international/human_rights/business.html. [in Japanese]
- JILAF (Japan International Labour Foundation). n.d. "Home". Available at: <https://www.jilaf.or.jp/eng/>.
- JILPT (Japan Institute of Labour Policy and Training). 2006. "Kigyo no Shakaiteki Sekinin (CSR): Igrisu Seifu Shudou niyoru CSR no Sekkyokuteki Tenkai" ("Corporate Social Responsibility (CSR): Active Development of CSR Lead by the British Government"). Available at: www.jil.go.jp/foreign/labor_system/2006_2/england_01.html. [in Japanese]
- JPX Tokyo Stock Exchange. 2021. "Revised Japan's Corporate Governance Code". Available at: <https://www.jpx.co.jp/english/news/1020/20210611-01.html>.
- JTUC (Japanese Trade Union Confederation). 2020. "'Bijinesu to Jinken' ni kansuru Koudou Keikaku" ("Dialogue on the Formulation and Publication of a National Action Plan on Business and Human Rights"). Available at: www.jtuc-rengo.or.jp/news/article_detail.php?id=1115. [in Japanese]
- Kawamura, Masahiko. 2003. "2003 Nen ha 'Nihon no CSR Keiei Gannen'" ("2003 is the First Year of CSR Management in Japan"). Nissei Kiso Ken. Available at: www.nli-research.co.jp/files/topics/36156_ext_18_0.pdf?site=nli. [in Japanese]

- . 2015. *CSR Keiei: Pafekuto Gaido (CSR Management: Perfect Guide)*. Nana Books: 12-39. [in Japanese]
- Keizai, Doyukai. 2010. "Nihon Kigyo no CSR: Shinka no Kiseki" ("CSR of Japanese Companies: The Trajectory of Evolution"): 4. Available at: www.doyukai.or.jp/policyproposals/articles/2010/100413a.html. [in Japanese]
- Know the Chain. 2018. "Eradicating Forced Labour in Electronics: What do company statements under the UK Modern Slavery Act tell us?". Available at: knowthechain.org/wp-content/uploads/KTC-ICT-MSA-Report_Final_Web.pdf.
- L'Assemblée Nationale. n.d. "Proposition de Loi relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre". Available at: www.assemblee-nationale.fr/14/propositions/pion1519.asp.
- Liberal Democratic Party of Japan, Policy Research Council. 2021. "Gaiko Bumon: Wagakuni no Jinken Gaiko no Arikata Kento Purojekuto Chiimu Daiichiji Teigen" ("Foreign Affairs Division: the First Proposals of Study Project Team on Japan's Human Rights Diplomacy"). Available at: https://jimin.jp-east-2.storage.api.nifcloud.com/pdf/news/policy/201677_1.pdf. [in Japanese]
- Members of round-table for SDGs Promotion. 2020. "SDGs de Corona Kiki wo Kokufuku shi, Jizoku Kanou na Shakai wo Tukurutame no SDGs Suishin Entaku Kaigi Kouseiin niyoru Teigen" ("Proposal by Members of Roundtable for SDGs Promotion to Overcome the Corona Crisis and Create a Sustainable Society with SDGs"). Available at: www.mofa.go.jp/mofaj/files/100078948.pdf. [in Japanese]
- Minami, Hiroshi and Masak Inaba. 2020. *SDGs: Kiki no Jidai no Rashinban (SDGs: Compass in Times of Crisis)*. Iwanami Shinsho.
- MAFF (Ministry of Agriculture, Forestry and Fisheries). n.d. "Bujinesu to Jinken ni Kansuru Kodo Keikaku Sho" ("Japan's National Action Plan on Business and Human Rights"). Available at: https://www.maff.go.jp/j/kokusai/kokusei/kanren_sesaku/OECD/b_and_hr201016.html. [in Japanese]
- METI (Ministry of Economy, Trade and Industry). 2004. *'Kigyo no Shakaiteki Sekinin ni kansuru Kondankai' Chukan Houkokusho (Interim Report on Roundtable of Corporate Social Responsibility (CSR))*. Available at: dl.ndl.go.jp/info:ndljp/pid/1009632. [in Japanese]
- . 2017. "Kachi Kyoso no tameno Togoteki Kaiji Taiwa Gaidansu: ESG Hizaimu Joho to Mukeisisan Toshi (Kachi Kyoso Gaidansu)" ("Guidance for Integrated Corporate Disclosure and Company-investor Dialogue for Collaborative Value Creation (Guidance for Collaborative Value Creation)"). Available at: https://www.meti.go.jp/policy/economy/keiei_innovation/kigyokaikai/ESGguidance.html. [in Japanese]
- . 2019. "The Guide for SDGs Business Management". Available at: https://www.meti.go.jp/english/press/2019/pdf/0531_001a.pdf.
- . 2021a. "Study Group on Sustainability of Textile and Apparel Industry". Available at: https://www.meti.go.jp/english/press/2021/pdf/0712_004a.pdf.
- . 2021b. "G7 Trade Ministers' Statement on Forced Labour (Annex A)". Available at: www.meti.go.jp/press/2021/10/20211022008/20211022008-2.pdf.
- . 2022. "The First Meeting of the 'Study Group on Guidelines for Respecting Human Rights in Supply Chains' to be Held". Available at: https://www.meti.go.jp/english/press/2022/0308_001.html.
- . n.d. "'Business and Human Rights': Towards a Responsible Value Chain". Available at: https://www.meti.go.jp/english/policy/economy/biz_human_rights/index.html.
- . n.d. "Study Group on Guidelines for Respecting Human Rights in Supply Chains" Available at: https://www.meti.go.jp/shingikai/economy/supply_chain/index.html. [in Japanese]
- MOE (Ministry of the Environment). 2005. "'Shakaisekinin (Jizokukanou na Kankyo to Keizai) ni kansuru Kenkyukai' Houkokusho" ("Social Responsibility (Sustainable Environment and Economy) Study Group Report". Available at: <https://www.env.go.jp/policy/report/h17-04/index.html> [in Japanese]

- _____. 2018. "Environmental Reporting Guidelines 2018". Available at: http://www.env.go.jp/policy/j-hiroba/kigyo/2018Guidelines_E20190412.pdf.
- _____. 2020. "Baryu Cheen ni okeru Kankyou Dyu Derijensu Nyumon: OECD Gaidansu wo Sankou ni" ("Introduction to Environmental Due Diligence in the Value Chain: OECD Guidance Used as a Reference"). Available at: www.env.go.jp/press/108293.html. [in Japanese]
- MOE study group for revision of environmental reporting guidelines and environmental accounting guidelines. 2017. "Kankyo Hokoku Gaidorain oyobi Kankyo Kaikei Gaidorain ni muketa Ronten Seiri" ("Issues for Revision of Environmental Reporting Guidelines and Environmental Accounting Guidelines"). Available at: <http://www.env.go.jp/press/files/jp/105563.pdf>. [in Japanese]
- MOFA (Ministry of Foreign Affairs). 2015. "Leaders' Declaration G7 Summit Schloss Elmau". Available at: www.mofa.go.jp/mofaj/files/000084020.pdf.
- _____. 2017. "G20 Leaders' Declaration Germany 2017 Hamburg: Shaping an interconnected world". Available at: www.mofa.go.jp/files/000271291.pdf.
- _____. 2019. "Bijinesu to Jinken ni kansuru Besurainsutadi" ("Baseline Study on Business and Human Rights"). Available at: www.mofa.go.jp/mofaj/fp/hr_ha/page22_003272.html. [in Japanese]
- _____. 2021a. "'Bujinesu to Jinken'ni kansuru Kodo Keikaku no Suisin ni mukete" ("Towards the Implementation of Japan's National Action Plan on Business and Human Rights"). Available at: https://www.mofa.go.jp/mofaj/fp/hr_ha/page23_003546.html. [in Japanese]
- _____. 2022. "G7 Germany 2022: G7 Leaders' Communiqué". Available at: <https://www.mofa.go.jp/mofaj/files/100364051.pdf>.
- _____. 2022. "Procedural Guidance for the Japanese National Contact Point (NCP) under the OECD Guidelines for Multinational Enterprises (revised in July 2022)". Available at: <https://www.mofa.go.jp/files/000568252.pdf>.
- _____. 2021b. "A Compilation of Case Studies on Business and Human Rights - Towards the expansion and establishment of efforts based on the UN Guiding Principles on Business and Human Rights". Available at: <https://www.mofa.go.jp/files/100348374.pdf>.
- _____. 2021c. "Carbis Bay G7 Summit Communiqué: Our Shared Agenda for Global Action to Build Back Better". Available at: www.mofa.go.jp/mofaj/files/100200009.pdf.
- _____. n.d. "Bijinesu to Jinken Potarusaito" ("Business and Human Rights Portal"). Available at: <https://www.mofa.go.jp/mofaj/gaiko/bhr/index.html>. [in Japanese]
- _____. n.d. "OECD Guidelines for Multinational Enterprises". Available at: https://www.mofa.go.jp/ecm/oecd/page22e_000946.html.
- MHLW (Ministry of Health, Labour and Welfare). 2004. 'Roudou ni okeru CSR no Arikata ni kansuru Kenkyukai' Chukan Houkokusho (Interim Report on Study Group Related to CSR in Labour). Available at: www.mhlw.go.jp/shingi/2004/06/s0625-8.html. [in Japanese]
- _____. 2008. Roudou ni kansuru CSR Suishin Kenkyukai Houkokusho (Report of CSR Promotion Study Group on Labour). Available at: www.mhlw.go.jp/shingi/2008/03/s0331-6.html. [in Japanese]
- _____. 2021. "2021 Nen Akushon Preggi" ("2021 Action Pledge"). Available at: www.mhlw.go.jp/stf/newpage_17631.html. [in Japanese]
- MOJ (Ministry of Justice, Japan). n.d. "Kigyo ni okeru Jinken Kenshu" ("Human Rights Training in Companies"). Available at: https://www.moj.go.jp/JINKEN/jinken04_00188.html. [in Japanese]
- MOJ (Ministry of Justice, Thailand). 2019. "First National Action Plan on Business and Human Rights (2019-2022)".

- Available at: www.th.undp.org/content/thailand/en/home/library/democratic_governance/thailand-s-1st-national-action-plan-on-business-and-human-rights.html.
- MOL (Ministry of Labour, Thailand). 2020. "Thai Labour Standard: Labour Corporate Social Responsibility: Requirements". Available at: https://www.magnecomp.tdk.com/Document/TH_Labor/Thai_Labor_Standard_en.pdf.
- Muchlinski, Peter. 2000. "Attempts to Extend the Accountability of Transnational Corporations: The Role for UNCTAD", in *M. T. Kamminga and S. Zia-Zarifi(eds.), Liability of Multinational Corporations under International Law*.
- OECD (Organisation for Economic Co-operation and Development). 1976 (amended in 1979, 1984, 1991, 2000 and 2011). "The OECD Guidelines for Multinational Enterprises". Available at: <https://www.oecd.org/corporate/mne/>.
- . 2018a. "Due Diligence Guidance for Responsible Business Conduct." Available at: mneguidelines.oecd.org/mneguidelines/.
- . 2018b. "Recommendation of the Council on the OECD Due Diligence Guidance for Responsible Business Conduct." OECD/LEGAL/0443. Available at: legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0443.
- . 2020. *Annual Report on the OECD Guidelines for Multinational Enterprises 2020*. Available at: mneguidelines.oecd.org/2020-Annual-Report-MNE-Guidelines-EN.pdf.
- OHCHR. 2017. "Tackling Discrimination against Lesbian, Gay, Bi, Trans, & Intersex People: Standards of Conduct for Business". Available at: <https://www.unfe.org/wp-content/uploads/2017/09/UN-Standards-of-Conduct.pdf>.
- . 2020. "Ensuring that business respects human rights during the Covid-19 crisis and beyond: The relevance of the UN Guiding Principles on Business and Human Rights: Statement by the UN Working Group on Business and Human Rights". Available at: www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25837&LangID=E.
- . 2021. "EU Mandatory Human Rights Due Diligence Directive: Recommendations to the European Commission". Available at: <https://www.ohchr.org/Documents/Issues/Business/ohchr-recommendations-to-ec-on-mhrdd.pdf>.
- . 2022a. "OHCHR Feedback on the Proposal for a Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence". Available at: https://www.ohchr.org/sites/default/files/2022-05/eu-csddd-feedback-ohchr_0.pdf.
- . 2022b. "Sustainable Global Supply Chains: G7 Leadership on UNGP Implementation". Available at: <https://www.ohchr.org/sites/default/files/2022-05/report-sustainable-global-supply-chains-g7.pdf>.
- OHCHR, OECD, ILO and European Union. 2019. "Responsible Business: Key Messages from International Instruments." Available at: www.ilo.org/asia/info/public/background/WCMS_724747/lang-en/index.htm.
- Platform on Sustainable Finance. 2021. "Draft Report by Subgroup4: Social Taxonomy." Available at: ec.europa.eu/info/publications/210712-sustainable-finance-platform-draft-reports_en.
- PRI (The Principles of Responsible Investment). 2018. "Principles for Responsible Investment: an Investor Initiative in Partnership with UNEP Finance Initiative and the UN Global Compact". Available at: <https://www.unpri.org/download?ac=10948&msclkid=ea3df51bbae311ec92f24bfa13be2a6d>.
- . 2020a. "Why and how investors should act on human rights". Available at: <https://www.unpri.org/download?ac=11953>.
- . 2020b. "Briefing on sustainable finance policy in Japan". Available at: https://dwtyzx6upklss.cloudfront.net/Uploads/k/y/y/policybriefingjapan20201014en_387326.pdf.
- Reuters. 2021. "Yunikuro no Men Shatsu, Bei ga Ichi Gatsu ni Yunyu Sashitome Shinchin no Kyosei Roudou Meguri

- Kenen" ("Uniqlo's Cotton Shirt, the U.S. Suspended Imports in January Based for Forced Labour Concerns"). Available at: jp.reuters.com/article/uniqlo-us-idJPKCN2D00GC. [in Japanese]
- Ruggie, John Gerard. 2013. *Just Business: Multinational Corporations and Human Rights*: xlvii.
- Sauvant, K.P. and V. Aranda. 1994. "The International Legal Framework for Transnational Corporations." In *Transnational Corporations: The International Legal framework*, edited by A. Fatouros. Routledge: 83-115.
- Sherpa. n.d. "Creating a Public Authority to Enforce the Duty of Vigilance Law: A Step Backward?" Available at: www.asso-sherpa.org/creating-a-public-authority-to-enforce-the-duty-of-vigilance-law-a-step-backward.
- Sustainable Development Goals Promotion Headquarters. 2016. "SDGs Jisshi Shishin Kaitei Ban" ("SDGs Implementation Guiding Principles (revised)"). Available at: <https://www.mofa.go.jp/mofaj/files/000252818.pdf>. [in Japanese]
- _____. 2019. "SDGs Jisshi Shishin Kaiteiban" ("Revised Version of SDGs Implementation Guideline"). Available at: www.kantei.go.jp/jp/singi/sdgs/pdf/jisshi_shishin_r011220.pdf. [in Japanese]
- Tanimoto, Kanji. 2020. "Kigyo to Shakai: Sasutenabiriti Jidai no Keizaigaku" ("Corporate and Society: Business Administration in the Sustainability Era"). *Chuo Keizaisha*: 123-146. [in Japanese]
- Tony's Chocolonely et al. 2017. "Een Wet Zorgplicht Kinderarbeid Pakt Kinderarbeid Serieus Aan". Available at: https://tonyschocolonely.com/storage/configurations/tonyschocolonelycom.app/files/wetzorgplichtkinderarbeid/een_wet_zorgplicht_pakt_kinderarbeid_serieus_aan.pdf.
- . 2020. "Due Diligence Wetgeving pakt negatieve impact op mens en milieu serieus aan". Available at: <https://tonyschocolonely.com/nl/en/our-mission/news/due-diligence-legislation-puts-an-end-to-negative-impact-on-people-and-the-environment>.
- United Kingdom government. n.d. "Modern slavery statement registry". Available at: modern-slavery-statement-registry.service.gov.uk/search-results?Search=.
- United Kingdom HM Government. 2014. *Modern Slavery Strategy*. Available at: assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/383764/Modern_Slavery_Strategy_FINAL_DEC2015.pdf
- United Kingdom. 2020. "Policy Paper: Trafficking in Supply Chains: Principles For Government Action – Principles to Guide Government Action to Combat Human Trafficking in Global Supply Chains". Available at: www.gov.uk/government/publications/trafficking-in-supply-chains-principles-for-government-action.
- United Kingdom Government Commercial Function and Civil Service. 2019. "Tackling Modern Slavery in Government Supply Chains." Available at: assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/830150/September_2019_Modern_Slavery_Guidance.pdf.
- United Kingdom Government. 2020. "Policy Paper: UK government response to the OECD peer review of the United Kingdom National Contact Point". Available at: <https://www.gov.uk/government/publications/oecd-peer-review-of-the-united-kingdoms-national-contact-point-government-response-october-2020/uk-government-response-to-the-oecd-peer-review-of-the-united-kingdom-national-contact-point>.
- United Kingdom, Home Office. 2020. "UK Government Modern Slavery Statement." Available at: www.gov.uk/government/publications/uk-government-modern-slavery-statement.
- United Kingdom, Home Office. 2021. "Statutory guidance – Transparency in supply chains: a practical guide" (Updated 2021). Available at: <https://www.gov.uk/government/publications/transparency-in-supply-chains-a-practical-guide/transparency-in-supply-chains-a-practical-guide>.
- United Kingdom Government. n.d. "Modern slavery statement registry". Available at: <https://modern-slavery-statement-registry.service.gov.uk/search-results?Search=>.
- UN (United Nations General Assembly). 2015. "Transforming Our World: The 2030 Agenda for Sustainable

- Development.” A/RES/70/1, para. 10. Available at: www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E.
- UNGC (United Nations Global Compact) UNICEF and Save the Children. 2012. “Children’s Rights and Business Principles”. Available at: http://www.unglobalcompact.org/docs/issues_doc/human_rights/CRBP/Childrens_Rights_and_Business_Principles.pdf.
- UNWG (UN Working Group on Business and Human Rights). 2016. “Guidance on National Action Plans on Business and Human Rights.” Available at: www.ohchr.org/Documents/Issues/Business/UNWG_national_action_planGuidance.pdf.
- USDS (United States Department of State). 2013. “U.S. Government Approach on Business and Human Rights.” Available at: www.law.ou.edu/sites/default/files/tab-ftr-a/image/us_approach_2013.pdf.
- . 2016. “Responsible Business Conduct: First National Action Plan for the United States of America.” Available at: www.state.gov/responsible-business-conduct-national-action-plan/.
- . 2021. “10th Anniversary of the UN Guiding Principles on Business and Human Rights.” Available at: www.state.gov/10th-anniversary-of-the-un-guiding-principles-on-business-and-human-rights/.
- USDS (United States Department of State), Bureau of Democracy, Human Rights and Labor. n.d. “Business and human rights.” Available at: www.state.gov/key-topics-bureau-of-democracy-human-rights-and-labor/business-and-human-rights/.
- USEO (United States Executive Office). 1999. Executive Order 13126 of June 12, 1999 “Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor.” Available at: www.govinfo.gov/content/pkg/FR-1999-06-16/pdf/99-15491.pdf.
- . 2012. Executive Order 13627 of September 25, 2012 “Strengthening Protections Against Trafficking in Persons in Federal Contracts.” Available at: www.govinfo.gov/content/pkg/FR-2012-10-02/pdf/2012-24374.pdf.
- USGSA (United States General Services Administration). n.d. “Sustainable Facilities Tool.” Available at: sftool.gov/plan/545/responsible-business-conduct.
- Xiuzhong Xu, Vicky with Danielle Cave, James Leibold, Kelsey Munro and Nathan Ruser. 2020. *Uyghurs for Sale: ‘Re-education’ Forced Labour and Surveillance Beyond Xinjiang*. Canberra: Australian Strategic Policy Institute. Available at: www.aspi.org.au/report/uyghurs-sale.
- Yaguchi, Yoshinori. 2007. “Kinnen no Igrisu niokeru CSR no Tenkai: Seisakumen ni Chumoku shite” (“Recent Development of CSR in the UK: Focusing on Policy”). *Keieigaku Kenkyu Ronshu* 27. [in Japanese]
- Yokomizo, Dai. 2021. “‘Bijinesu to Jinken ni kansuru Shidogensoku’ to Teishokuhou” (“Guiding Principles on Business and Human Rights and Conflicts of Law”). *Jurist* 1560. [in Japanese]
- WBCSD (World Business Council for Sustainable Development). 2020. “CEO Guide to Human Rights (2nd ed.)”. Available at: <https://www.wbcd.org/Programs/People-and-Society/Tackling-Inequality/Human-Rights/News/WBCSD-launches-second-edition-of-CEO-Guide-to-Human-Rights>.
- Working Group on the NAP. 2019. “Stakeholders’ Common Request and the Letter of Request”. Available at: https://www.ilo.org/tokyo/events-and-meetings/WCMS_735159/lang--en/index.htm.
- . 2020. “Second letter of Request and ‘Stakeholder Common Request’ submitted by Working Group on the National Action Plan (NAP) on Business and Human Rights”. Available at: https://www.ilo.org/tokyo/newsroom/WCMS_746899/lang--en/index.htm.



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