



HM Government

# **Good Business**

***Implementing the UN Guiding Principles on  
Business and Human Rights***

***Updated May 2016***

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## ***Implementing the UN Guiding Principles on Business and Human Rights***

***Updated May 2016***

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Presented to Parliament by  
the Secretary of State for Foreign and Commonwealth Affairs  
by Command of Her Majesty

May 2016



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# 1. Introduction

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1. The UK was the first country to produce a National Action Plan to implement the United Nations Guiding Principles on Business and Human Rights (UNGPs). When our National Action Plan was published on 4 September 2013, the Government set out the belief that the promotion of business, and the respect for human rights, go hand in hand: “responsible action by the private sector on human rights is good for business and communities; it helps create jobs, customers and a sense of fairness; it contributes to a market’s sustainability and therefore its potential to generate long-term growth.”
2. This Government supports this vision. The ‘golden thread’ of safeguards in society that are good for human rights – democratic freedoms, the rule of law, good governance, transparency, property rights and civil society – also provide fertile conditions for private sector led growth. The Government’s approach has been to work towards more liberal market environments internationally in which commerce can flourish and which are stable and sustainable over the long term. The National Action Plan contained a commitment to bring out an updated version. This update allows us to:
  - record the achievements the Government has made, and actions we have taken, over the past two years;
  - reflect the developments which have taken place at the international level since the UK’s National Action Plan was first published, including guidance on implementation and the experience of other countries;
  - set out the role Government can play in helping business to fulfill its responsibility to respect human rights, and in creating a secure, predictable, and fair environment for UK companies, wherever they operate;
  - support the role Government can play in supporting human rights defenders in this field and the provision of remedy which is available to those who feel they are victims of business-related human rights abuses.
3. Since the publication of the UNGPs, in 2011, and the UK’s National Action Plan in 2013, there have been a number of developments at the international level. In particular:
  - The Global Goals for Sustainable Development, agreed by world leaders and launched at the UN in September 2015, contained commitments to:

- take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking (SDG 8.7)
- protect labour rights, promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment (SDG 8.8)
- The G7 Leaders' Declaration (7-8 June 2015) contained the following commitments:
  - "We strongly support the UN Guiding Principles on Business and Human Rights and welcome the efforts to set up substantive National Action Plans"
  - "To enhance supply chain transparency and accountability, we encourage enterprises active or headquartered in our countries to implement due diligence procedures regarding their supply chains"

The UK fully supports these commitments which the Government is addressing through our work to implement the UNGPs and through the Modern Slavery Act and Modern Slavery Strategy.

4. Companies understand the business case for respecting human rights and the benefits this brings. They understand that positive action, supported by due diligence, transparency and reporting can:
  - *help to protect and enhance a company's **reputation and brand value**;*
  - *safeguard **and expand their customer base**;*
  - *help them **attract and retain good staff**;*
  - *build and maintain **sustainable and effective relationships** with employees and external stakeholders;*
  - ***reduce risks to operational continuity** resulting from conflict inside the company itself or with the local community or other parties;*
  - ***reduce the risk of litigation** for human rights abuses;*
  - ***attract institutional investors**, including pension funds, who are increasingly taking ethical, including human rights, factors into account in their investment decisions;*
  - *help companies become **partners/investors of choice** for other businesses or governments concerned about human rights risks;*
  - *support company **ethics and values**.*

5. Since the UK's National Action Plan was published there has been an increased emphasis within the business community on the importance of reporting, benchmarking companies' social and ethical performance, and corporate transparency. These can be an effective complement to regulation and a tool for protecting and promoting corporate reputation, and providing reassurance to both customers and investors.
6. As part of our commitment to updating the National Action Plan the Government held a series of public consultation events, looking at the plan as a whole, the approach to implementation, and examining in more detail some of the elements contained in the three pillars of the UNGPs. The consultations produced some clear messages from business and civil society regarding the Government's responsibilities and actions in this regard. These included suggestions that the Government should:
  - give a clear commitment to the UNGPs as the most appropriate model for promoting business and human rights at the international level, and consistency with other international processes, especially the OECD Guidelines;
  - provide policy coherence and clear communication of the actions taken;
  - be clear on our expectations of business and provide support, where appropriate, in meeting those expectations;
  - support, and signpost, sector-specific guidance, whilst recognising that Government is often not best-placed to be the primary source of such guidance;
  - Support access to **effective remedy** for victims of human rights abuse involving business enterprises within UK jurisdiction;
  - **Promote understanding** of how addressing human rights risks and impacts can help build business success.
7. The UK's National Action Plan follows the structure of the UNGPs which are based around three pillars: the State duty to protect human rights; the corporate responsibility to respect human rights; and access to remedy. There was a general sense, during the consultation, that this structure was appropriate and easy to follow, and should be retained for this updated version.
8. Throughout this document we talk of British or UK companies and businesses and business enterprises by which we mean all business enterprises domiciled in the UK.

9. This is a National Action Plan for the United Kingdom. Within the UK, Devolved Administrations may develop their own action plans or strategies in support of this plan, and in line with the commitment to implement the UNGPs. Scotland's National Action Plan for Human Rights (SNAP) contains a commitment to develop a coordinated plan of action to implement the UNGPs, building on the UK's Action Plan. The SNAP "Better World Action Group" has commissioned a national baseline assessment, following a model developed by the Danish Institute for Human Rights (DIHR) and the International Corporate Accountability Roundtable (ICAR), to provide an evidence base for the Action Group to coordinate the development of an implementation plan, in consultation with the Scottish Government, business and civil society. In Northern Ireland a Business and Human Rights Forum has been established, with cross-departmental support, to share good practice and as a means of engaging with the UK National Action Plan. The Northern Ireland Human Rights Commission launched a report on "Public Procurement and Human Rights."

## 2. The State's Duty to Protect Human Rights

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### The existing UK legal and policy framework

10. The **UNGPs** set out the general regulatory and policy measures a state may take in order to fulfil their duty to protect against human rights violations by third parties, including business enterprises. They recommend that states should:

- **Set out clearly that businesses should respect human rights throughout their operations;**
- **Enforce, and review, laws aimed at requiring business enterprises to respect human rights;**
- **Ensure that other laws and policies relating to business enterprises enable, and do not constrain, business respect for human rights;**
- **Provide guidance to business enterprises;**
- **Encourage, or require, business enterprises to communicate their work to address human rights impacts;**
- **Promote respect for human rights amongst business enterprises they contract with;**
- **Take additional steps to protect in regards to state owned enterprises and agencies;**
- **Support businesses in conflict affected contexts;**
- **Ensure policy coherence across government, including by providing training, information and support.**

11. The UK is subject to international human rights obligations under customary international law and as a result of the international legal instruments we have signed and ratified. Human rights obligations generally apply only within a State's territory and/or jurisdiction. Accordingly, there is no general requirement for States to regulate the extraterritorial activities of business enterprises domiciled in their jurisdiction, although there are limited exceptions to this, for instance under treaty regimes. The UK may also choose as a matter of policy in certain instances to regulate the overseas conduct of British businesses.

12. The UK has specific laws protecting human rights and governing business activities. As with all UK law, these are set out in legislation or sometimes protected by [common law](#) rules which, taken together, ensure certain rights and liberties. Some of these provisions have been in place for many years and will be familiar to business. Like all States we need to continually re-assess whether the current mix is right, what gaps there might be and what improvements we can make.

13. The UK has ratified a series of international treaties and agreements – the International Labour Organisation’s eight core conventions, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the European Convention on Human Rights - which enshrine human rights and fundamental freedoms and have been given effect through the law. Currently the [Human Rights Act 1998](#) ensures that individuals in the UK have a remedy for the breach of rights which are protected by the European Convention on Human Rights (ECHR). It applies to all public authorities and other bodies performing public functions, as private companies sometimes do.
14. The relevant legal framework in the UK includes employment regulations that require companies not to discriminate against employees on grounds of sex, race, sexual orientation and religious belief, and environmental regulations. Examples of wide ranging legislation protecting human rights in the business context include the Health and Safety at Work Act 1974, and the Data Protection Act 1998 which applies to companies and ensures respect for the privacy of individuals. Legislation has also been passed to plug specific gaps in the protection of workers under the law such as the Gangmasters (Licensing) Act 2004, which created an agency to prevent the exploitation of workers in agricultural work, shellfish-gathering and related processing or packaging.
15. The UK has created or endorsed a number of instruments that motivate different aspects of good corporate behaviour and respect for human rights. These include:
- the **UK Bribery Act** where, in line with our OECD commitments, UK companies are liable in the UK for acts of bribery committed anywhere in the world;
  - **the Declaration on Fundamental Principles and Rights at Work** adopted in 1998 and the 8 core ILO Conventions ratified by the UK on labour standards;
  - **the OECD Guidelines for Multinational Enterprises**, where the UK is generally recognised as having one of the most effective National Contact Points (see paragraph 19 below);
  - Section 172 of the **Companies Act 2006**, which makes it clear that in fulfilling their duty to act in a way which they consider would be most likely to promote the success of the company, directors must think about matters which might have a bearing on that success, including the interests of the company's employees and the impact on the community of the company's operations. The Act was revised in October 2013 to ensure that directors of quoted companies consider human rights issues when making their annual strategic reports.

16. The Government exercises controls on the export of “strategic” goods and technology through the export licensing system. All export licence applications are rigorously assessed against the Consolidated EU and National Arms Export Licensing Criteria. These assessments take full account of possible human rights impacts; a licence would not be granted if we judge there is a clear risk that the proposed export might be used for internal repression.

## Actions taken

17. To give effect to the UN Guiding Principles, the Government has:

- (i) introduced the **Modern Slavery Act** which consolidates and simplifies existing legislation, toughened penalties to allow a maximum sentence of life imprisonment, and provides safeguards for victims. Companies covered by the Act are required to produce a “slavery and human trafficking” statement for each financial year setting out what steps they have taken to ensure that slavery and human trafficking is not taking place in its business and supply chains. The Act, which entered into force on 31 July 2015, also created an Independent Anti-Slavery Commissioner.
- (ii) implemented the requirements of the **OECD 2012 Common Approaches**, and considered relevant adverse project-related human rights impacts in providing applicable Export Credit Agency (ECA) support through UK Export Finance (UKEF). UKEF will consider any reports made publicly available by the UK National Contact Point (NCP) in respect of the human rights record of a company when considering a project for export credit. The UK has been involved with the discussions, and negotiations, on the implementation of the OECD 2012 Common Approaches and the need to amend this, in respect of ongoing experience on project-related human rights. The UK continues to be involved in negotiations on any agreed clarifications to the OECD 2012 Common Approaches.
- (iii) taken account of business activity in conflict and fragile states, or countries with high levels of criminal violence, within the **Building Stability Overseas Strategy**. Companies operating in these difficult environments have an important role to play in contributing to stability, growth, development, prosperity and the protection of human rights. We support the implementation of the OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones. We will continue to promote implementation of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict Affected and High-Risk Areas. The Government will also work with EU partners and other like-minded countries to deliver increased effectiveness of the Kimberley Process

Certification Scheme and higher standards of responsible sourcing in the global diamond supply chain.

- (iv) in March 2015 the Government concluded its chairmanship of the Voluntary Principles Initiative. During our chairmanship we worked to raise awareness of the VPI in priority countries for membership, to support UK oil, gas and mining companies to use the VPs to manage security and human rights risks more effectively, and encouraged greater openness by companies in line with the UN Guiding Principles on Business and Human Rights. More detail on our chairmanship year can be found in our [2014 annual report](#).
- (v) in 2015, the ISO 28007 maritime standard and ISO 18788 land standard for Private Security Companies were published. The UK Accreditation Service (UKAS) conducted a pilot certification process and has issued guidance for certifying bodies for ISO28007, including on human rights. UKAS will also issue guidance on ISO18788.
- (vi) supported the **UN Working Group** on the issue of human rights and transnational corporations and other business enterprises in their role to promote uptake of the UNGPs and develop guidance and best practice.
- (vii) invested around £1.5 million from the FCO's **Human Rights and Democracy Programme** in projects promoting the UNGPs and supporting business and human rights.
- (viii) developed partnerships with other countries seeking to implement the UNGPs. We have a strong collaborative partnership with the **Government of Colombia**, and supported the development of their National Action Plan, the first published by a non-EU state. We have advised and encouraged the development of National Action Plans in Malaysia, South Korea and with a number of EU partners. We held events to promote the UNGPs in Geneva, Washington, Stockholm, Mexico City and Bogota, and have spoken in support of national processes in Dublin, Madrid, Brussels and Brasilia.
- (ix) strengthened international rules relating to digital surveillance, including leading work in the Wassenaar Arrangement to adopt new controls on specific technologies of concern. Specifically new controls were agreed on:
  - equipment and software for creating and delivering “intrusion software” designed to be covertly installed on devices to extract data.
  - “internet surveillance systems” which can monitor and analyse internet traffic and extract information about individuals and their communications.

- (x) continued to promote the Government's "**Business and Human Rights Toolkit**" and developed new resources and training for FCO and UKTI staff, trade envoys and visiting delegations.

## Government commitments

18. The Government will do the following to reinforce its implementation of its commitments under Pillar 1 of the UNGPs:
  - (i) Continue to support the implementation of the UNGPs in other countries, including through the development of National Action Plans. This will create certainty, a level-playing field and a positive environment for UK business. We will **lobby foreign states**, including through ministerial contact and our embassies and high commissions, to support widespread international implementation of the UNGPs and other relevant international instruments including the ILO's Fundamental Principles and Rights at Work and the eight core Conventions which embody them, and the OECD Guidelines for Multinational Enterprises.
  - (ii) Work with EU partners to implement the UNGPs across member states and internationally, starting with the undertaking made by member states to develop their own national plans.
  - (iii) Continue to ensure that **UK Government procurement rules** allow for human rights-related matters to be reflected in the procurement of public goods, works and services, taking into account the **2014 EU Public Procurement Directives** and Crown Commercial Service guidance on compliance with wider international obligations when letting public contracts. In addition, UK public bodies are required to have due regard for equality-related issues in their procurement activity.
  - (iv) Work with government, industry and civil society members of the **International Code of Conduct Association** to establish an international mechanism to monitor compliance with the Code. This will take the form of (i) certification against the Code, (ii) monitoring by the Association, and (iii) a complaints process. We continue to engage with government and non-state clients to promote the Code and the Association.
  - (v) Continue to work closely with **Voluntary Principles on Security and Human Rights Initiative (VPI)** member governments, extractive companies and civil society organisations, to promote greater understanding of the Voluntary Principles and strengthen the implementation, effectiveness and membership. To maintain the momentum from our chairmanship March 2014-March 2015,

we will continue to work on better corporate implementation of the Voluntary Principles on the ground. This includes maintaining dialogues with 'host' governments. For example, we have worked with the Government of Angola to promote the Voluntary Principles to the participating governments of the Kimberley Process Certification Scheme.

- (vi) Consider **new project activity** on raising awareness and tackling the negative impacts of business activity, including on the human rights of groups like indigenous peoples, women, national or ethnic minorities, religious and linguistic minorities, children, persons with disabilities, and migrant workers and their families, by tasking our diplomatic missions in countries where these are concerns.
- (vii) Support the EU commitment to consider the possible human rights impacts of free trade agreements, including where these include investment protection provisions, and take appropriate steps including through the incorporation of human rights clauses as appropriate.
- (viii) Continue to work through our embassies and high commissions to support **human rights defenders** working on issues related to business and human rights in line with EU Guidelines on human rights defenders.

## **Case Studies**

### **MODERN SLAVERY ACT**

It is estimated that there are between 10,000-13,000 potential victims of modern slavery in the UK alone. Globally, the ILO estimates the total illegal profit made from the use of forced labour amounts to more than \$150 billion a year. The UK Government is committed to tackling this heinous crime and as a response the Modern Slavery Act came into force on 31 July 2015. It makes the penalties for those who perpetrate Modern Slavery simpler and tougher and provides help for victims, including through a statutory defence for victims of modern slavery who are forced to commit some offences as a direct consequence of their slavery. It also created an Independent Anti-Slavery Commissioner whose work is expected to lead to an increase in investigations and convictions. His work will also look at the countries of origin for victims of slavery and recommend measures to address the problem at source. The Act is supported by a Modern Slavery Strategy, published in November 2014 and guidance for companies on eliminating slavery through increased transparency in supply chains, published in October 2015.

## **RANA PLAZA**

The collapse of Rana Plaza, in 2013, a building housing a number of commercial ventures including several garment factories, shocked the world and the implications still continue to reverberate over two years later. Over 1,100 people were killed and many more were injured. For the victims and their families the events that unfolded on that day have irrevocably affected their lives. Following the collapse, the British High Commission in Dhaka alongside DFID Bangladesh, have done a number of things to support the victims and try and ensure a disaster like this never happens again.

- DFID Bangladesh, in partnership with Canada and the Netherlands, will provide a total of £7.4m to improve building safety and working conditions, empower workers and urge buyers to take responsibility for their supply chains.
- To date over 1000 structural, fire and electrical safety inspections have been carried out, nearly 200 new inspectors recruited and 299 survivors trained to enable them to find alternative jobs or start small businesses.
- 144 senior masters have been trained in health and safety, who will in turn train 7,600 supervisors that will themselves train over 300,000 workers.

DFID Bangladesh funding has also worked to try and ensure justice for garment workers, supporting a number of NGOs to file public interest litigation to protect workers' rights, and increase awareness of worker rights. To support this, in 2015 the British High Commission began work with Global Rights Compliance and Action Aid Bangladesh to increase state, corporate, trade associations and trade union understanding and uptake of the UN Guiding Principles, increase accountability and reduce human rights violations in the garment, leather and tannery sectors.

## **THE NAIROBI PROCESS: A PACT FOR RESPONSIBLE BUSINESS**

Kenya has recently granted 47 oil and gas exploration licences. This has raised expectations of economic benefits by government, business and local communities. Experience elsewhere in Africa suggests that if the licences are not managed carefully then competing expectations of these actors can lead to community tensions and security risks. The Human Rights and Democracy Programme (2013/14) funded the Nairobi Process: A Pact for Responsible Business – an initiative developed by the Institute for Human Rights and Business (IHRB) in collaboration with the Kenya National Commission on Human Rights (KNCHR). It aims to embed the UN Guiding Principles on Business and Human Rights in the extractives sector in Kenya. It focused on several strands of engagement, including bringing together multinational and national extractive companies, government and civil society and communities to collaboratively address key areas of human rights concern. It also supports business to business learning, capacity building for National Human Rights Institutions in the region and advocates for the implementation of the UNGPs by the government of Kenya.

## SUPPORT FOR LAND TENURE AND OTHER PROPERTY RIGHTS

The UK Government is committed to supporting the **Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (Land Guidelines, VGGT)**<sup>[1]</sup> including through commitments to accelerate VGGT implementation during its G8 Presidency in 2013.

The UK supports the VGGT:

- Through its funding to the Food and Agriculture Organisation in a three-year programme for £4.9 million to raise awareness, improve tenure governance, and support global reporting on progress with VGGT implementation;
- Through its leadership in the 2013 G7 commitment to implement the VGGT through country partnerships with interested governments. These partnerships aim to accelerate and target support to countries' existing land governance programmes in conjunction with businesses, in particular farmers, and civil society;
- The global donor working group on land chaired by the UK (DFID) in its inaugural year has published a global land programme database and map. The database<sup>[2]</sup> includes an initial 589 programmes in 127 countries with a combined worth of US\$4.9 billion. All programmes are mapped against relevant sections of the human rights based VGGT;
- Jointly with US, Germany, France, the AU Land Policy Initiative and FAO, the UK has developed a land investment due diligence framework<sup>[3]</sup> based on the VGGT and other international standards, to guide private sector investments under the New Alliance for Food Security and Nutrition.
- In 2015, under the German Presidency, the UK joined a new G7 commitment to align all its Overseas Development Assistance-supported investments with the VGGT<sup>[4]</sup>. This is being taken forward over the coming years.
- DFID is increasing its work on land, bilaterally and at the global level (for an overview of what we do to drive responsible land investments by the private sector, see our 2nd Land Policy Bulletin 1<sup>[5]</sup>).

<sup>[1]</sup> <http://www.fao.org/nr/tenure/voluntary-guidelines/en/>

<sup>[2]</sup> <https://landgov.donorplatform.org/>

<sup>[3]</sup> <http://new-alliance.org/resource/analytical-framework-responsible-land-based-agricultural-investments>

<sup>[4]</sup> See Annex to Leadership Declaration:

[https://www.g7germany.de/Content/DE/Anlagen/G8\\_G20/2015-06-08-g7-abschluss-annex-eng.pdf?blob=publicationFile&v=5](https://www.g7germany.de/Content/DE/Anlagen/G8_G20/2015-06-08-g7-abschluss-annex-eng.pdf?blob=publicationFile&v=5)

<sup>[5]</sup> <https://www.gov.uk/government/publications/dfid-land-policy-bulletin-1>

### 3. Government expectations of business

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19. The Government recognises the considerable efforts many companies are taking to ensure that they respect human rights. An increasing number of companies have human rights policies and processes to manage and avoid human rights risks embedded in their objectives and operations. UK companies are among those pioneering work on this agenda. The Government has supported important industry led initiatives that have gained ground over the last two years, including on reporting, benchmarking performance and practical sector guidance.
20. The Government welcomes further business-led initiatives on the corporate responsibility to respect human rights. We stand ready to support business, for example by leveraging the Government's convening and facilitating power. It is for business to lead on the implementation of this part of the UNGPs and for Government to play a supporting role.
21. The UNGPs guide the approach UK companies should take to respect human rights wherever they operate. The key principles of this approach are to:
- **comply with all applicable laws** and respect internationally recognized human rights, wherever they operate;
  - **seek ways to honour the principles** of internationally recognized human rights when faced with conflicting requirements;
  - **treat as a legal compliance issue** the risk of causing or contributing to gross human rights abuses wherever they operate;
  - adopt appropriate due diligence policies to **identify, prevent and mitigate human rights risks**, and commit to monitoring and evaluating implementation;
  - **consult people who may potentially be affected** at all stages of project design and implementation, in a manner that ensures free and informed participation and takes into account language and other potential barriers to effective engagement, paying particular attention to indigenous peoples and other groups, including women and girls;
  - emphasise the importance of behaviour in line with the UNGPs to their **supply chains** in the UK and overseas. Appropriate measures could include contractual arrangements, training, monitoring and capacity-building;
  - adopt or participate in effective **grievance mechanisms** which are transparent, equitable and predictable, to enable the remediation of any adverse human rights impacts they cause or to which they contribute;

- be **transparent** about policies, activities and impacts, and report on human rights issues and risks as appropriate as part of their annual reports.
22. Respect for human rights should be at the heart of a company's core operations, it is not the same as philanthropy or social investment. The responsibility of businesses to respect human rights exists independently of States' abilities and/or willingness to fulfil their own human rights obligations. Different businesses will need to take different approaches to embedding this approach. Implementation will be progressive and will need to be compatible with the resource limitations of small and medium-sized enterprises. Companies also need to act in accordance with local law, which may sometimes be a constraint on acting in compliance with human rights. In such situations, the Government expects companies to seek ways to honour the principles of internationally recognized human rights.
23. The Government encourages companies to review their existing grievance procedures to ensure they are fair, transparent, understandable, well-publicised and accessible by all, and provide for grievances to be resolved effectively without fear of victimisation. It is also important for businesses to require similar good practice of their supply chains, especially in areas where abuses of rights have been identified.

## **Actions taken to support business implementation of the UNGPs**

24. To help businesses to fulfil their responsibility to respect human rights the Government has:
- (i) **updated this action plan**, setting out the Government's actions and expectations on business and human rights. We will seek clear and consistent communication of this policy through ministers, UK business ambassadors and officials who engage with business and other appropriate channels.
  - (ii) provided **guidance to companies on transparency in supply chains** and implementing the reporting requirement in the Modern Slavery Act 2015. <https://www.gov.uk/government/publications/transparency-in-supply-chains-a-practical-guide>
  - (iii) partnered with the Cyber Growth Partnership industry guidance **on assessing human rights risks relating to cyber security exports**, with techUK and input from civil society. [https://www.techuk.org/images/CGP\\_Docs/Assessing\\_Cyber\\_Security\\_Export\\_Risks\\_website\\_FINAL\\_3.pdf](https://www.techuk.org/images/CGP_Docs/Assessing_Cyber_Security_Export_Risks_website_FINAL_3.pdf)

- (iv) provided funding to the **Corporate Human Rights Benchmark Initiative**, the first wide scale project to rank companies on their human rights performance.. <http://business-humanrights.org/en/corporate-human-rights-benchmark>
- (v) supported the UNGPs Reporting Framework, the world's first comprehensive guidance for companies to report on how they respect human rights. <http://www.ungpreporting.org/>
- (vi) provided funding for the **Economist Intelligence Unit research report** on business leadership attitudes to and actions on the corporate responsibility to respect human rights. <http://www.economistinsights.com/business-strategy/analysis/road-principles-practice>
- (vii) continued to update and promote the joint FCO-UKTI **Overseas Business Risk (OBR) service**, which provides information about business environments in the countries where UK Trade and Investment (UKTI) has a presence, to ensure it includes specific country human rights information and links to the UNGPs and other relevant tools and guidance. <http://www.ukti.gov.uk/export/howwehelp/overseasbusinessrisk/countries.html>
- (viii) continued to provide **financial support to the UN Global Compact**, a global mechanism that encourages and enables companies to align their operations and strategies with ten universally accepted principles in the area of human rights, labour, environment and anti-corruption.

## Government commitments

25. The Government will continue to encourage UK companies in their work to respect human rights. We will:

- i) provide **support to Board Directors on human rights reporting and practical guidance for companies in the care and security sectors** in the UK, through Equality and Human Rights Commission funded projects.
- ii) ensure the provisions of an **EU Directive on non-financial disclosure** are transposed in the UK to enable greater consistency and comparability of public information on the human rights policies and performance of listed companies in Europe.
- iii) **facilitate dialogue between business people, parliamentarians and civil society** on the implementation of the business and human rights agenda as requested.

- iv) instruct our diplomatic missions to work with host governments, local and UK business, trade unions, NGOs, human rights defenders, academics, lawyers and other local experts so we can help **inform companies of the human rights risks they face.**
- v) instruct our diplomatic missions to **raise with local authorities our concerns** in situations where companies have problems implementing their human rights responsibilities because local law is incompatible with international human rights law.

### **UNGPs Reporting Framework + Unilever human rights report**

The FCO's Human Rights and Democracy Fund supported Shift to develop the UN Guiding Principles Reporting Framework. This is the first comprehensive guidance for companies to report on human rights issues in line with their responsibility to respect human rights. In today's ever more transparent world, companies are under increasing pressure to show that they respect human rights throughout their operations and value chains. There is increasing demand for greater formal reporting by companies on their human rights performance, including from regulations such as the EU non-financial reporting directive and the UK's Companies Act and Modern Slavery Act reporting requirements.

The UNGPs Reporting Framework provides companies clear and straightforward guidance on how to answer these questions with relevant and meaningful information about their human rights policies, processes and performance. We are pleased to see UK companies at the forefront of best practice in reporting on human rights. Unilever became the first adopter of the Framework when they published their groundbreaking human rights report in July 2015.

### **EHRC Projects – practical guidance for care/ security sectors and Board Directors/ reporting**

The Commission is working in partnership with the Financial Reporting Council and Shift to publish guidance early in 2016 to help company boards to understand what they are expected to know, do and say about human rights. It will provide company boards with smart questions to ask of the business, help them to understand how human rights risks align with business risk, and bring clarity and coherence to different human rights reporting requirements.

The Commission is working with the Institute of Human Rights and Business to publish guidance in early 2016 for UK businesses in the care and private security sectors. The guidance will include an assessment of the main human rights impacts in each sector and practical guidance for managers in areas such as human resources, operational delivery and procurement.

### **Corporate Human Rights Benchmark Initiative**

The UK provided support and start up funding to the Corporate Human Rights Benchmark. This initiative is established by a multi-stakeholder group led by Aviva Investors. It aims to rank the top 500 globally listed companies on their human rights policies, processes and performance, to harness the competitive nature of the markets to drive better corporate human rights performance.

It is based on the premise that improved business transparency combined with public rankings of companies' performance can help to drive a race to the top. It aims to provide investors with information to direct investments to companies respecting human rights, business with the incentive to make information publicly available, customers with the knowledge to make well-informed choices and policy makers with an objective means to focus on those companies and business sectors that have the greatest human rights impacts.

### **Cyber Export Guidance**

The expansion of 'cyber space' has brought huge economic and social benefits. However, it also poses risks and new opportunities for hackers, criminals and terrorists. To help mitigate these risks, companies have developed security products and services which defend networks from malicious activity. In many countries, such as the UK, these products are used legitimately, including by law enforcement authorities, in accordance with domestic and international law obligations. However, in some countries which do not adhere to their international human rights obligations, there is a risk that the same products are used in ways that could breach state's legal obligations, e.g. to restrict freedom of expression or to contribute to internal repression.

Normally, exports that could cause harm, such as arms, are covered by the export licensing regime. However, many cyber capabilities, products and services are not listed. This problem was recognized by the Cyber Growth Partnership a joint body representing industry, academia and government. The FCO worked with techUK, a technology trade association, and the Institute for Human Rights and Business to produce practical guidance for companies on managing human rights risks.

*"Assessing Cyber Security Export Risks: Human Rights and National Security"* was published in November 2014. It is the first guidance for this sector in the world, and sets out:

- the different sorts of potential harm associated with particular cyber capabilities;
- a process to help companies assess country specific risks and to evaluate business partners and re-sellers; and
- potential mitigation options for avoiding or reducing risks.

## **MYANMAR CENTRE FOR RESPONSIBLE BUSINESS IN BURMA**

The UK's trail-blazing funding to the Myanmar Centre for Responsible Business in Burma (MCRB) helped create a resource hub that is now well-established and well respected, with financial support from a number of countries.

MCRB's reputation as a knowledgeable and neutral source of information on responsible business has grown with all its stakeholders. This has led to more requests for advice from companies from an increasingly wide range of nationalities and sector. MCRB has played an important role in regulatory advocacy, offering proposals drawing on what it knows of business and CSO experience and interests, as well as international standards

Local civil society organisations have come to understand the value of MCRB as a knowledge and training resource for them but also as a conduit to business and an amplifier of their concerns. The media has turned to MCRB for comments on a range of responsible business issues which MCRB is using to shape debates on issues as diverse as tax evasion and environmental impacts, and to highlight international standards and key issues in Myanmar.

## 4. Access to remedy for human right abuses resulting from business activity

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26. The UK has a culture of human rights awareness and protection – much of which results from our framework of legislation described earlier - and our range of remedy mechanisms is diverse.
27. We recognize that remedy may include apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions, as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition.
28. The UK has a range of judicial mechanisms that help to support access to remedy for human rights abuses by business enterprises both at home and overseas. This includes:
- **Employment Tribunals** provide access to remedy for abuses of labour rights
  - Avenues to pursue **civil law claims** in relation to human rights abuses by business enterprises
  - Specific **criminal law provisions**, including under the Bribery Act 2010, Modern Slavery Act 2015, Serious Crime Act 2007, Corporate Manslaughter and Corporate Homicide Act 2007 and Gangmasters (Licensing) Act 2004
29. We also provide a number of state-based non-judicial mechanisms, including:
- **The UK National Contact Point (NCP)** which considers allegations of non-compliance by UK companies with the OECD Guidelines for Multinational Enterprises. The NCP seeks to mediate an agreement between the parties. But where this is not possible, a determination of whether the enterprise has acted inconsistently with the Guidelines is published and available for public dissemination.
  - **Equality and Human Rights Commission** which monitors and promotes human rights compliance and can conduct inquiries, for example it has conducted inquiries into the meat and poultry processing and home care sectors .
  - a considerable number of **Ombudsman, Regulators and other Government Complaints Offices** in industry sectors that have various mechanisms to hear complaints, impose sanctions and award compensation. For example the Health and Safety Executive, Financial Conduct Authority, Financial Ombudsman Service and Advertising Standards Authority.

- The **Groceries Code Adjudicator** is an independent adjudicator that oversees the relationship between supermarkets and their suppliers. It ensures that large supermarkets treat their direct suppliers lawfully and fairly, investigates complaints and arbitrates in disputes.
30. In addition there are independent organizations that support non-judicial grievance mechanisms in the UK. This includes internal company grievance procedures and arbitration, adjudication, mediation, conciliation and negotiation. Such services can be advised on or offered by independent dispute resolution companies, the Citizens' Advice Bureau and the Advisory, Conciliation and Arbitration Service (ACAS).

## **Actions taken to promote access to remedy**

The Government has:

- (i) tasked UK Trade and Investment (UKTI) teams in the markets where they operate to **advise UK companies on establishing or participating in grievance mechanisms** for those potentially affected by their activities and to collaborate with local authorities in situations where further State action is warranted to provide an effective remedy.
- (ii) **encouraged companies to extend their domestic UK practice of providing effective grievance mechanisms to their overseas operations**, adapting them where necessary according to local circumstances and consulting interested parties. This also applies to dispute arbitration/mediation mechanisms through their sector of activity or collective industry organisations.
- (iii) **supported projects** through the FCO Human Rights and Democracy Programme Fund on work on remedy procedures in other countries, including:
  - help to States wishing to develop their human rights protection mechanisms and reduce barriers to remedy within their jurisdiction;
  - support to civil society and trade union efforts to access effective remedy and promote protection of human rights defenders active on business and human rights;
  - support to business efforts to provide, adopt or participate in effective grievance mechanisms.
- v) commissioned an **independent survey of the UK provision of remedy** to help our understanding of judicial and non-judicial remedies available to victims of human rights harms involving business enterprises.

## Government commitments

The Government will:

- (i) continue to ensure that the UK provides access to judicial and non-judicial remedies to victims of human rights harms linked to business activity. We will keep the UK provision of remedy under review.
- (ii) continue to support work on remedy procedures in other countries, including help to other States, civil society and trade union efforts and support to business efforts.
- (iii) continue to work to promote protection of human rights defenders active on business and human rights related issues.

### **Case study – Supporting human rights defenders in Colombia, Mexico and Brazil**

The UK supported International Service for Human Rights to deliver an intensive training and advocacy programme for human rights defenders working on issues relating to business and human rights in Colombia, Mexico and Brazil.

ISHR also created a toolkit to equip human rights defenders to engage with and influence business and supported an advocacy mission to the Inter-American Commission on Human Rights for the purpose of briefing diplomats and decision-makers on the situation of human rights defenders working on issues of business and human rights in Brazil, Colombia and Mexico and obtaining recommendations in that regard.

### **EHRC – project on grievance mechanisms**

The Commission is working with Ergon Associates to publish guidance early in 2016 for UK companies to ensure their grievance procedures are aligned with their human rights impacts. It will provide guidance on how to satisfy the criteria for effective grievance mechanisms in the UN Guiding Principles and illustrate these with relevant case studies.

It will help companies to think about their human rights impacts and how they manage complaints in relation to their workforce (including supply chain), their customers and for the communities they operate in. It is being developed in consultation with business, government and civil society stakeholders.

## Case study from NCP –

### **World Wildlife Fund (WWF) & SOCO International Plc, June 2014:**

WWF's complaint alleged that SOCO's oil exploration activities in Virunga National Park (Democratic Republic of Congo - DRC) did not contribute to sustainable development and that this conduct was prohibited under existing International agreements and DRC law. The activities specifically risked adverse impacts on the local communities, the environment and wildlife. This case had aroused considerable International media attention.

The UK NCP accepted the complaint and asked both parties to take part in professional external mediation in London which resulted in an agreed joint statement.

As part of the statement, SOCO agreed that they will not undertake or commission any exploratory or other drilling within Virunga National Park unless UNESCO and the DRC government agree that such activities are not incompatible with its World Heritage status. They also stated that "when we undertake human rights due diligence, the processes we adopt will be in full compliance with international norms and standards and industry best practice, including appropriate levels of community consultation and engagement on the basis of publicly available documents."

The full joint statement and NCP Final assessment published in June 2014 can be seen at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/330392/bis-14-967-uk-ncp-final-statement-following-agreement-reached-in-complaint-from-wwf-international-against-soco-international-plc.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/330392/bis-14-967-uk-ncp-final-statement-following-agreement-reached-in-complaint-from-wwf-international-against-soco-international-plc.pdf)

More details on each complaint case which UK NCP have received can be found via the link to the Initial & Final assessments page which lists cases in chronological order

<https://www.gov.uk/government/collections/uk-national-contact-point-statements>

## 5. UK Action Plan implementation and further development

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31. The UK was the first state to produce such a National Action Plan, and the first to produce an updated version. Thinking and action continues to develop in this area and we anticipate that there will be increasing international momentum on business and human rights with proposals for new ideas and best practice. The Government will continue to monitor these closely and use them to inform future policy development. We will do this together with representatives of business and civil society by meeting periodically in the cross-Whitehall Steering Group to monitor implementation of this plan. We will continue to report back each year on progress in the Annual Report on Human Rights and Democracy of the Foreign and Commonwealth Office.
32. A non-exhaustive list of the different mechanisms for the promotion of good corporate behaviour, together with the Government departments that lead on them, is available on the online copy of this paper, found at <https://www.gov.uk/government/publications/bhr-action-plan>
33. We also welcome input and comment to inform our work at any time, from any interested party, which should be clearly marked “Business and Human Rights” and sent to: [HRDDenquiries@fco.gov.uk](mailto:HRDDenquiries@fco.gov.uk)
34. We thank all the companies, trade unions, civil society organisations, academics and others including colleagues across Government who have contributed to this work to date and look forward to working with them in future.

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