INTER-AGENCY WORKING GROUP ON THE PRIVATE INVESTMENT AND JOB CREATION PILLAR OF THE G20 MULTI-YEAR ACTION PLAN ON DEVELOPMENT

"Promoting standards for responsible investment in value chains"

Item 1

Report to the High-Level Development Working Group

September 2011

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Introduction: background and objectives

This report is prepared by the Inter-Agency Working Group (IAWG) formed to support the G20 High-level Development Working Group with respect to the Private Investment and Job Creation Pillar of the Multi-Year Action Plan (MYAP) on Development. The IAWG comprises representatives of UNCTAD (Coordinator), UNDP, ILO, OECD and the World Bank, as well as the co-facilitators of the Private Investment and Job Creation Pillar (Germany and Saudi Arabia) and other invited organizations.

This report specifically responds to the first item in the Action Plan on Private Investment and Job Creation, which reads:

We will identify, enhance as needed, and promote the best existing standards (developmental, social and environmental) for responsible investment in value chains and voluntary investor compliance with these standards. (June 2011)

The IAWG is asked to focus on *existing standards* of sustainable business conduct, commonly known as 'corporate social responsibility' (CSR) standards.[1] It is asked to examine these standards and their applicability to *investment in value chains*, which clarifies the concept of business conduct specifically to include the integrated international production networks of firms. This implies that particular attention be paid to the development, social and environmental impacts of the cross-border involvement of firms, both with a view to addressing concerns related to those impacts, and because transnational corporations are a major conduit for the spread of social, environmental and governance standards.[2]

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[1] For example the investment pillar of the 2009 G8 summit referred to the promotion of "Corporate Social Responsibility (CSR) standards". para 53, G8 Leaders Declaration: Responsible Leadership for a Sustainable Future.

[2] The phrase 'responsible investment in value chains' is also used to distinguish the relevant standards from the 'Principles for Responsible Investment' which are aimed at portfolio investors.

The objectives of this report are as follows:

- Section I: take stock of existing standards of sustainable business conduct, including the international normative instruments and initiatives, and the range of private standards being developed based on these international instruments;

- Section II: identify key issues with the current universe of standards;

- Section III: draw lessons for the further development, promotion and implementation of these standards;

- Section IV: outline policy approaches for their promotion and implementation.

I. Taking stock of existing standards for responsible investment in value chains

Over the past two decades, the universe of sustainable business standards has expanded both in number and form. While it is difficult to provide an exhaustive accounting for every such standard and initiative, various approaches for categorizing such initiatives have been identified.[3] This paper uses the classification scheme of the ISO 26000 standard "Guidance on Social Responsibility" which identifies CSR instruments and tools by the organization that created them;[4] thus standards can be categorized as follows: i) intergovernmental organization (IO) standards derived from universal principles as recognized in international declarations and agreements; ii) multi-stakeholder initiative (MSI) standards; iii) industry association codes; and iv) individual company codes.

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[3] See for example *Annual Report on the OECD Guidelines for Multinational Enterprises*, 2008, chapter 6, "Overview of Selected Initiatives and Instruments Relevant to Corporate Social Responsibility".

[4] See ISO 26000 Annex A, Table A.1, which organizes CSR instruments and tools by the organization that created them, identifying three categories: "intergovernmental organizations", "multi-stakeholder initiatives", and "single stakeholder initiatives" which are primarily (though not exclusively) industry associations. The category of "individual company codes" was added to this paper as a distinct form of "single stakeholder initiatives". In Annexes I and II of this paper, each standard is further characterised in terms of the subject matter that it addresses, noting the international instruments referenced.

A. *Intergovernmental organization standards*

i) *Normative instruments*

Universal principals as recognized by international declarations and agreements are the source of the most prominent and authoritative CSR standards. The two instruments developed for business include the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (ILO MNE Declaration) and the OECD Guidelines for Multinational Enterprises (OECD Guidelines).5

The ILO MNE Declaration provides detailed guidance on how companies can maximize their positive contributions to economic and social development and minimize the negative impacts of their operations. It is addressed principally to foreign investors, but also speaks to domestic companies. Areas covered include employment promotion, skills development, conditions of work and life, and industrial relations. It also highlights the importance of obeying the national law, and ensuring that company operations are in harmony with national development priorities. Furthermore, it explains what governments can do to create an enabling environment for companies to operate more responsibly and sustainably. (See Annex III for more information).

The OECD Guidelines are subscribed to by 42 countries -- the 34 members of the OECD and 8 non-members (Argentina, Brazil, Egypt, Latvia, Lithuania, Morocco, Peru and Romania). Six additional countries (the Russian Federation, Colombia, Costa Rica, Jordan, Serbia and Tunisia) are currently in the process of adhering. Adherence to the Guidelines is not closed nor is OECD membership a condition. Any country that meets the prescribed standards can apply to adhere, subject to the specific rules that have been established to this effect. Furthermore, the Guidelines apply to

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[5]   There is another level of instrument developed and administered by governments which holds relevance for responsible investment in value chains. These usually build on existing instruments with a view to addressing issues of responsible business that are either specific to particular sectors or that deal with more specific policy issues. Examples of the former include instruments such as the 2011 OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, the Extractive Industries Transparency Initiative (EITI) and the Voluntary Principles on Security and Human Rights. An example of the latter includes the Good Practice Guidance on Internal Controls, Ethics, and Compliance, which was adopted by the 38 governments party to the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions in 2010.

the global operations of firms operating in and from any adhering country (irrespective of the nationality of the parent6).

The OECD Guidelines comprise a set of voluntary recommendations in all the major areas of corporate citizenship, including employment and industrial relations, human rights, environment, information disclosure, combating bribery, consumer interests, science and technology, competition, and taxation. Following the completion of a major update in 2011, the Guidelines include new recommendations on human rights (developed in close consultation with the UN Secretary-General's Special Representative for Business and Human Rights) and company responsibility for their supply chains, making them the first inter-governmental agreement in this area. Implementation involves a unique combination of binding and voluntary elements. The National Contact Points are government offices that every adherent must establish to handle the instrument's mediation and conciliation procedures ("specific instances"). (See Annex IV and V for more information).

ii) International initiatives

The Global Compact is a UN initiative that was developed by the UN Secretary-General, with support from different UN agencies, governments, and representatives of business, labour and other civil society bodies. The UN Global Compact is based on ten principles in the areas of human rights, labour standards, the environment, and anti-corruption which are derived from the Universal Declaration of Human Rights, the ILO's Core Labour Standards, the United Nations Convention Against Corruption and - in the field of environmental protection - the Rio Declaration. While these intergovernmental standards were written with states in mind, the Global Compact has consolidated them for direct application to businesses. The Global Compact's key strength is that it offers a policy framework for organizing and developing corporate sustainability strategies while offering a platform to encourage innovative initiatives and partnerships with civil society, governments and other stakeholders. Since its launch in July 2000, the initiative has grown to over 8,700 corporate participants and other stakeholders from over 130 countries and it is now the largest voluntary corporate responsibility initiative in the world. The UN Global Compact has also played a leading role in responsible investment, including

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6 In other words, the Guidelines would apply, for example, to the subsidiary of a Chinese firm (and any foreign operations of the subsidiary) based in any adherent to the Guidelines.

collaboration with the financial sector to develop the UN Principles for Responsible Investment.

B. Private standards

i) Multi-stakeholder initiative standards

There are more than two dozen major international multi-stakeholder initiatives providing standards for the social and environmental practices of firms at home and abroad (Annex I).[7] Multi-stakeholder groups comprise a mix of members from civil society, business, labour, consumers and other stakeholders. These initiatives have been defined as "cross-sectoral partnerships created with a rule-setting purpose, to design and steward standards for the regulation of market and non-market actors."[8] The standards most often address non-product-related process and production methods, i.e. issues related to how a product is produced, such as the environmental or social aspects of certain production methods (e.g. whether a product is produced using forced labour).

Although MSI standards are mostly developed by private civil society actors, they are often built on the normative frameworks of international and national soft-law. As shown in Annex I, most MSIs make reference to internationally recognized IO standards.[9]

A unique MSI is the International Organization for Standardization (ISO) which is a non-governmental organization whose members are the national standard setting bodies in countries around the world.[10] Its standards are widely recognized and endorsed by international bodies (e.g. the WTO) and national governments. In 2010, ISO launched the ISO 26000 standard on Social Responsibility, which has attracted

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[7] OECD, ILO (2008) *Instruments Relevant to Corporate Social Responsibility*
and ISO 26000 (2010) *Guidance on social responsibility.*

[8] Litovsky, A., Rochlin, S. Zadek, S. and Levy, B. (2007) *Investing in Standards for Sustainable Development: The Role of International Development Agencies in Supporting Collaborative Standards Initiatives.* AccountAbility, London, United Kingdon.

[9] Although most MSI standards cross-reference IO standards, in some cases, IO standards also refer to MSI standards. One prominent example is the OECD Guidelines which make reference to the Global Reporting Initiative (GRI) standard (OECD Guidelines, 2008. p. 42)

[10] National standard setting bodies are government entities in some countries and NGOs in other countries. In creating standards, ISO creates working groups that sometimes (depending on the subject of the standard) can involve a range of stakeholder groups from civil society and industry.

significant attention, as it was developed by over 400 participants from around the world, including representatives of industry, labour, consumers, NGOs, government, and researchers.

ii) Industry association codes

Today there are hundreds of industry association codes in existence covering major areas of national and international commercial activity, both industry-specific and general. An industry-specific code typically involves the adoption of a code jointly developed by the leading companies within an industry to address social and/or environmental aspects of supply chains and international operations (Annex II).

iii) Individual company codes

Even when companies participate in MSIs or Industry Initiatives, they generally value the process of developing their own company codes which are most closely aligned with their values and operations. There are thousands of company codes, and they are especially common among large MNEs where more than 90% have policies on social and environmental issues.[11] These codes are also common among emerging market MNEs where approximately 86% have policies related to environmental and social responsibility.[12] And codes are common across most industries.[13] For MNE codes that apply to value chains, about half make reference to international standards, and often the codes make reference to more than one international standard.[14]

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Private standards governing responsible investment in value chains are proliferating. Most of them draw upon the key international standards, e.g. the ILO core labour standards. The dynamic environment of private standard setting presents many advantages, including quicker responsiveness, more detailed guidance and

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[11]UNCTAD (2010) *Investment and Enterprise Responsibility Review*. p.12

[12]UNCTAD (2008) *Review of the implementation status of corporate governance disclosures: an examination of reporting practices among large enterprises in 10 emerging markets*. p. 18.

[13]UNCTAD (2011) forthcoming study of 100 company codes across 10 industries. OECD (2009) *Overview of Selected Initiatives and Instruments Relevant to Corporate Social Responsibility*. OECD (1999) *Deciphering Codes of Corporate Conduct:A Review of their Content*

[14] UNCTAD (2011) Study of 100 MNEs and supply chain codes of conduct. *forthcoming*.

specialized sectors. However, the proliferation also is causing increased challenges, particularly for companies operating in value chains which may be compelled to comply with numerous standards with varying provisions and high costs to demonstrate compliance.

C. Compliance promotion mechanisms

Although the source of voluntary standards differs, implementation methods are similar. They often have pro-active compliance mechanisms such as certification or accreditation programmes. Certification programmes involve a higher degree of compliance assurance and typically include periodic inspections/audits, corrective action programmes, reporting and consumer labelling schemes. To enhance credibility, many MSIs have separated their standards setting process from the certification process, relying increasingly on professionalized third parties for the monitoring and auditing processes.[15]

Table 1: Compliance mechanisms of international CSR standards

	Pro-active mechanisms (audits, inspections)	Reporting requirements/ redress mechanisms	No compliance mechanisms
IO	---	UN Global Compact, OECD Guidelines ILO Tripartite Declaration	---
Multi-stakeholder / NGO	ISO14000, MSC, FSC, FLA, RSPO, SA8000,, 4C Assoc.	---	ISO 26000 GRI
Company/ Industry Association	C.A.F.E.Practises, Leather Working Group, BSCI, International Council of Toy Industries	---	Pharmaceutical Industry Principles for Responsible Supply Chain Management

Source: UNCTAD

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The universe of voluntary CSR standards has evolved enormously over the past two decades, and continues to grow even today, involving novel relationships between government, industry and civil society. It consists of a large number of standards, each differing in terms of sources, functions, addressees, and

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[15] For example ISO, MSC, FSC and UTZ, among others, use third party certification.

interrelationships. They influence their respective investment communities and impact development in different ways, producing an array of possibilities and challenges.

II. Challenges with existing standards: key issues

A. *Differences, overlaps and inconsistencies*

It is often difficult to balance both depth of guidance and breadth of subject matter within one easy-to-use instrument. For instance, the ILO MNE Declaration provides detailed guidance but only on labour issues, while the OECD Guidelines covers the range of issues, but is limited in its guidance on how to implement the standards. ISO 26000 is quite comprehensive, but its approximately 100 pages have been widely criticized by business organizations for being too elaborate for companies, especially SMEs, to actually use. Likewise, MSI standards, industry association codes and individual company codes often focus on specific industries, and within industries on specific parts of a value chain.

For some subjects, industries or parts of a value chain, there may be no standard that directly applies. While the absence of a standard may reflect a gap yet to be filled,[16] it can also represent either an area (e.g. subject, industry or part of the value chain) that does not necessarily require a standard or where a standard is not considered the most appropriate instrument to address existing problems.

Given that there is no one instrument which fits all needs of all sizes of companies in all sectors and countries, there are inevitably gaps and overlaps of instruments. This is not really a problem for MNEs, which control supply chains and can easily determine which combination of instruments is most suitable for their needs. The challenge is for companies on the receiving end, where variations in specific expectations and requirements for demonstrating compliance among a supplier's numerous buyers very often causes confusion, conflicting expectations and tremendous inefficiencies in use of resources required to demonstrate compliance which constitute a significant drag on economic development in sourcing countries.

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[16] There are a number of standards still emerging in new areas, e.g. sustainable meat production, conflict minerals, etc.

The ILO-IFC Better Work capacity building programme helps such companies on the receiving end gain clarity and deal with all of these various approaches by getting buyers to agree on one set of expectations and one method of monitoring compliance. The cost per supplier factory participating in the programme has decreased compliance costs by 70-80%, with the savings freed up to invest in improving the productivity and management-labour relations of the participating companies, and delivering considerably better economic and social development impacts of socially responsible investment.

Other efforts to coordinate approaches to harmonize expectations and cut down on wasted resources include the SEDEX platform for businesses and their global suppliers to share ethical data and enabling continuous improvement in ethical performance to reduce duplicate reporting, and mutual recognition of various certification schemes. The 4C Association and the Rainforest Alliance have created a translation mechanism between each other's standards such that Rainforest Alliance certificate holders can now apply for the 4C License without having to go through the entire 4C Verification Process.

In addition, some certification schemes have become more comprehensive to reduce the need for suppliers to seek multiple certifications to cover the range of environmental and social issues and to promote an integrated approach to managing sustainability issues. One example of this convergence is the Forest Stewardship Council (FSC). Originally founded to address environmental concerns in the forestry sector, the FSC also requires certified companies to adhere to the ILO fundamental labour standards which are referenced in its code of conduct.

Differences also exist in uptake among companies: as uptake is driven by the concerns of consumers, media, and investors, CSR standards are primarily adopted by those companies that are most exposed to such concerns.[17] In practice this can mean that high-profile MNEs are more likely to adopt CSR standards, while lesser known companies operating in the same sector are not.

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[17]Utting, P. (2002) *Regulating Business via Multi-stakeholder Initiatives: A Preliminary Assessment in Voluntary Approaches to Corporate Responsibility: Readings and a Resource Guide.* United Nations Non-Governmental Liaison Service (NGLS) and UNRISD, Geneva.

In addition, while the adoption of standards by high profile MNEs can create a cascade effect that pushes sustainability across their value chain,[18] this cascade effect does not necessarily have uniform impacts on every company feeding into the value chain. Some companies in the value chain may have to adopt recognized standards or meet the core firm's code of conduct, while other members further down the value chain may be little impacted.[19] Nevertheless, as leading firms adopt and implement international standards, they help broaden the perception of what it means to be a sustainable and competitive company.

B. Relationship between voluntary CSR standards and national legislation

The relationship between voluntary CSR standards and national legislation is complex, with potential benefits but also potential problems. Successful CSR standards can enhance and complement government legislation, regulation and enforcement.   For example, voluntary initiatives increase awareness among companies of legal requirements, and increasingly include remediation efforts to help suppliers improve their management systems for ensuring legal compliance. However, where voluntary CSR standards are promoted as a substitute for labour, social and environmental protection laws or where CSR standards are not based on national or international rules, then these voluntary standards can also potentially undermine, substitute or distract from governmental regulatory efforts. Critics of voluntary standards point out, for example, the contrast in the US between legally required safety inspections of the Trans-Alaska Pipeline, and voluntary commitments from companies to ensure the safety of feeder pipelines; they note that the oil company BP only discovered severe problems with its pipelines after it was required by the US government to undertake inspections following a 2005 corrosion induced spill of over a quarter million barrels of oil.[20]

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[18] For example, the recent commitment of leading brand companies like Nestlé and Kraft Foods to increase their assortment of certified sustainably produced chocolate, now requires their suppliers, which are often large international agricultural conglomerates themselves, to acquire the respective certifications.

[19] Roberts , S. (2003). "Supply Chain Specific? Understanding the patchy success of ethical sourcing initiatives." Journal of Business Ethics, May.

[20] Reich, R. (2007) Supercapitalism: The Transformation of Business, Democracy, and Everyday Life, Knopf. See chapter 5.

The "Protect, Respect and Remedy" Framework for Business and Human Rights,[21] adopted by the Human Rights Council, reaffirms the importance of distinguishing the roles of government and business. The Framework sets out three pillars: the State duty to protect against human rights abuses by third parties, including business enterprises, through appropriate policies, regulation, and adjudication; the corporate responsibility to respect human rights, which means that business enterprises should act with due diligence to avoid infringing on the rights of others and to address adverse impacts with which they are involved; and the need for greater access by victims to effective remedy, both judicial and non-judicial. It clearly emphasizes that the State cannot delegate its responsibility; and that private mechanisms for enterprises to exercise due diligence should not replace or impede the State from carrying out its duties.

C. Reporting

Reporting has become a common expectation placed on companies that want to be viewed as socially responsible. Proponents and critics alike point out that corporate reporting on performance relative to CSR standards continues to lack uniformity, standardization and comparability, and thus usefulness. A range of initiatives are focused on promoting a standardised CSR reporting framework, including UN initiatives (e.g. UNCTAD's ISAR working group)[22] and multi-stakeholder initiatives (e.g. the Global Reporting Initiative (GRI), the Carbon Disclosure Standards Board, and the International Integrated Reporting Committee).[23]

Several countries have introduced regulatory initiatives requiring CSR reporting, however, there is a growing debate around the efficacy of mandating

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[21] See, *Protect, Respect and Remedy: a Framework for Business and Human Rights Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises*, A/HRC/8/5, 2008; and *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework,* A/HRC/17/31, 2011.

[22] Intergovernmental Working Group of Experts on International Standards of Accounting and Reporting (ISAR). See www.unctad.org/isar for more information.

[23] The most popular and comprehensive CSR reporting framework is that of the GRI, which in 2010 was used by at least 1,800 corporations to produce CSR reports, up from only 376 in 2005. (GRI website). This includes 65% percent of the world's 100 largest MNEs (UNCTAD, 2010, p.12), and 31% percent of leading large MNEs from emerging markets (UNCTAD, 2008, p.30). Despite this positive trend in uptake among large MNEs, the vast majority of enterprises in the world are not producing standardized CSR reports.

sustainability reporting. Proponents contend that reporting requirements are a useful tool to promote sustainability, as they do not require a change in behaviour itself, rather, reporting helps companies to become more aware of their practices and encourages them to develop improved management systems to address social and environmental issues (i.e. 'what you can measure, you can manage'). Critics argue that much of current reporting is highly misleading or incomplete, demonstrating that there is no such causal relationship, or that the relationship flows in the opposite direction—from desired change to reporting—so mandating reporting does not necessarily bring about the intended benefits.

MSIs and Industry Associations are also under pressure to report publicly on progress, with equally varied approaches to reporting. Stakeholders often express frustration that MSIs and Industry Association reports do not follow a consistent and standardized approach to inform the general public about their activities and few of them require the participating companies to disclose the progress made in implementing the respective standard. Some initiatives however have started to implement reporting programmes in response to demands for increased transparency. The Fair Labour Association for example, publishes an annual report and discloses information about the progress made by the companies that have adopted its standard. Some MSIs (e.g. Fair Wear Association) have created a reporting framework which obliges member companies to elaborate on how they incorporate the standard into their internal management systems.

D. Market penetration

The real transformative effect of any voluntary initiative takes hold when it becomes a mainstream part of an industry. If an initiative is too unrealistic in its expectations for company operations or too expensive to comply with, few companies will be able to follow it; on the other hand if the initiative is ineffectual in addressing environmental or social issues, it has no credibility and companies will not bother to become involved. Therefore it is worthwhile reviewing the industry penetration of various initiatives. A number of MSI and industry association codes are having a significant impact, with some influencing more than half of the global market for the industry in question (Table 2). Even some individual company codes have significant industry impacts due to their size of market share.

Table 2: Impact of selected MSI and industry association CSR standards and individual company codes

Standard	Compliance mechanisms		Market penetration
	Certification / Audits	Public reporting	
Multi-stakeholder initiative standards			
Forest Stewardship Council (1993)	Yes	Annual Report Audit Results	Covers 11% of global forests used for productive activities[24]
ISO14001 (1996)	Yes	Annual Report	As of December 2009, 223,149 organizations in 159 countries are certified to ISO 14000[25]
SA8000 (1997)	Yes	Annual Report	Over 1.4 million workers are employed in over 2,400 SA8000 certified facilities in 65 countries, across 66 industrial sectors.[26]
Marine Stewardship Council (1997)	Yes	Annual Report Audit Results	Covers 6% of global landed fish[27]
Fair Labor Association (1998)	Yes	Annual Report Audit Results	Covers 75% of the athletic footwear industry[28]
Fair Wear Foundation (1999)	Yes	Annual Report Audit Results	FWF affiliates in 2009 sourced from a total of 1,153 factories, with an estimated total of 300,000 workers (growth rate of 60% in the last 3 years)[29]
UTZ CERTIFIED (1999)	Yes	Annual Report	Covers 5 % of global coffee production[30]
4C Association (2004)	Yes	Annual Report with performance data of member companies	Covers 30% of global coffee production[31]

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[24] UNCTAD (2011), Market share of FSC certified forest was calculated based on FAO statistics for "Global Productive Forest" (2010) and FSC data on certified forest as of December 2010.

[25] ISO, http://www.iso.org/iso/pressrelease.htm?refid=Ref1389, accessed April 2011. (Not possible to calculate market share as ISO is a cross- sectoral initiative)

[26] SAI, http://www.sa-intl.org/, accessed April 2011. (Not possible to calculate market share as SAI is a cross- sectoral initiative)

[27] UNCTAD (2011), Market share of MSC certified fish was calculated based on FAO statistics for "Global Fish Production by Capture" (2009) and MSC data on certified fish as of November 2010

[28] UNCTAD (2011), Market share calculations are based on global sales of the athletic footwear industry (2008) and annual sales of athletic footwear (2008) of the companies represented in the FLA

[29] FWF, Annual Report, 2010 (Not possible to calculate market share as FWF is a cross- sectoral initiative)

[30] UNCTAD (2011), Market share of UTZ CERTIFIED coffee was calculated based on FAO statistics for "Global Green Coffee Production" (2010) and UTZ CERTIFIED data as of February 2011

[31] 4C Association, Annual Report, 2010

Roundtable on Sustainable Palm Oil (2004)	Yes	Audit Results	Covers 8 % of global palm oil production[32]
Industry association codes			
Business Social Compliance Initiative (BSCI) - Code of Conduct (2002)	Yes[33]	Annual Report	11,200 suppliers audited according to the BSCI code of conduct and 4,000 suppliers trained in 9 different countries.[34]
International Council of Toy Industries (ICTI) - Code of Conduct (2004)	Yes[35]	Biennial Report	75% of the global toy business is committed to only source from suppliers certified by ICTI in the future.[36]
Leather Working Group - Principles (2005)	Yes	No	The working group covers 10% of the global leather production.[37]
Individual company codes			
Nike Supplier code of conduct	Yes	Yes	31% of the global market for athletic footwear; through its supplier code of conduct Nike influences the conditions of more than 800,000 employees in 700 factories in 45 countries.[38]
Adidas Supplier code of conduct	Yes	Yes	21% of the global market for athletic footwear; through its supplier code of conduct Adidas influences the conditions of more than 775,000 employees in 1,200 factories in 65 countries.[39]

Source: UNCTAD

Global industry penetration can also understate the regional or country level impact. For some standards, such as MSC and FSC, the relatively small global market share indicates the continuing challenge of promoting adoption. With global market

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[32] UNCTAD (2011), Market share of RSPO certified palm oil was calculated based on FAO statistics for "Global Palm Oil Production" (2010) and RSPO data on certified palm oil as of February 2011

[33] BSCI audits can only be conducted by SA8000 lead auditors

[34] BSCI, Annual Report, 2010, (Not possible to calculate market share as BSCI is a cross- sectoral initiative)

[35] After third party audits, the participating members can receive a certification stating that they comply with the ICTI code of conduct

[36] ICTI, Annual Report, 2010

[37] From the website of the Leather Working Group www.leatherworkinggroup.com

[38] Dolleschal, C. (2008). *adida*. Equity Research, Commerzbank.

[39] Ibid.

shares ranging between 5 and 10%, some of these standards have passed the 'proof of concept' phase, and now face the challenge of how to reach widespread uptake. This is particularly true in highly fragmented industries where adoption by many companies is required to transform industry thinking.

E. Possible trade and investment barriers

Currently there are unresolved questions about whether or not CSR standards, especially non-product related PPM standards, can potentially become non-tariff barriers (NTB) to trade and investment. In terms of trade law, it is not clear under WTO rules if non-product PPM standards are covered by the WTO's TBT agreement or other WTO agreements (e.g. SPS). Outside of the TBT agreement there was one case where national environmental regulations dealt with a non-product PPM and were challenged by other WTO members: the "shrimp-turtle" case from the late 1990s, where environmental regulations in the United States created an import ban for shrimp exporting countries that did not use turtle-safe harvesting practices.[40] In this sort of circumstance, social and environmental requirements can become a barrier to trade or market access. For developing country enterprises, compliance with developed country social or environmental standards can present challenges.

Mandatory environmental and social standards may also discourage investment. For example, in Guatemala, the government requires FSC certification for all forestry companies doing business in the Mayan Biosphere reserve.[41] This would also apply to forestry companies wishing to invest in this area. Voluntary CSR standards may be less susceptible to challenge through WTO trade agreements since there is no requirement that firms follow them. For example, a voluntary standard pertaining to organic foods gives firms the option of using the approach adopted in the standard, but does not require that firms use that standard as a condition of entry into a

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[40] For example the US rules requiring imported shrimp to meet the same process and production method requirements as US shrimpers vis-à-vis the endangerment of wild sea turtles. After being contested by several shrimp exporting developing countries and revised by the United States, the WTO dispute settlement system agreed that the US import restrictions based on processes linked to turtle endangerment were permitted. *WTO case Nos. 58 (and 61). Ruling on implementation adopted on 21 November 2001.*

[41] FSC (2009). *Literature study on the outcomes and impacts of FSC certification.* FSC Policy Series.

market. In this way, voluntary CSR standards may be less problematic from a WTO standpoint than mandatory standards, in terms of achieving public policy objectives.[42]

III. Convergence around particular practices in standard setting & implementation

With two decades of development in the area of CSR standards, practices are beginning to converge around a number of approaches to standard setting and implementation. However, more empirical studies are needed to assess the effects of these practices on economic and social development. This is particularly true concerning implementation, as the associated costs are often quite significant for suppliers in developing countries while development studies show that the results for the intended beneficiaries, including workers in supply chains and affected communities, are at best mixed. Further research is greatly needed on how to increase positive impacts while bringing down costs of compliance and simultaneously strengthening capacity of governments, particularly in developing countries, to assume their responsibilities for public regulation. The following trends are identified for further discussion of their implications for government policy-making.

A. Standard setting

Inclusiveness. International standards developed by intergovernmental organizations are perceived as authoritative because they reflect international consensus, including the views of developing countries, on what is reasonable to expect of companies. Inclusiveness in the private standard setting process is less broad geographically, but does typically extend to various stakeholders, including workers and their representatives, representatives of communities impacted by value chain operations, and, increasingly, suppliers in value chains. The process of taking into account differing views of the key parties concerned including, for example, stakeholders in low-income countries, tends to strengthen initiatives and give them more credibility in the eyes of the public since civil society groups are consistently

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[42] Webb, K. and Morrison, A. (2004) *The Law and Voluntary Codes: Examining the "Tangled Web"*, in Voluntary Codes: Private Governance, the Public Interest and Innovation, Carleton Research Unit for Innovation, Science and Environment, Carleton University, Ottawa, Canada.

seen as more trustworthy and respected by the general population when compared with individual companies or industry associations.[43]

Specificity of guidance. Standards intended to be applicable to all sectors in all countries are necessarily general, leaving most companies to figure out for themselves exactly how to implement the standards and how to address specific issues that arise. There is a strong demand for specific guidance on actionable steps towards implementation, as indicated by, for example, the ISO 14001 management system standard in the area of environmental management. Many of the standards developed by multi-stakeholder groups, especially the certifiable standards, provide this kind of detailed guidance on implementation, typically designed for individual industries. Within international organizations, there are also efforts to provide industry or issue specific guidance, such as the OECD 2011 Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas and the ILO Codes of Practice on Safety and Health for specific industries. Likewise, private standards development is now moving towards guidance tailored to the needs of practical implementation within the conditions of specific industries.

The practices identified above are also discussed in the ISEAL Alliance[44] code of conduct for good practices in standard setting.[45] The ISEAL code helps to define and promote international best practice in standard development, and provides guidance for enhancing the credibility, quality and legitimacy of MSI standards. In particular, the code commits adopting MSIs to ensure that their standard setting and revision procedures are open, inclusive and transparent, as well as in line with international normative frameworks where applicable.

B. Capacity building and compliance promotion mechanisms

Capacity building. The root causes of unsustainable social and environmental practices are often a lack of knowledge, skills and capabilities at various stages of a

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[43]UNIDIR (2010) *The role of non-governmental organizations in the verification of international agreements.* p. 1

[44] The International Social and Environmental Accreditation and Labelling Alliance (ISEAL Alliance) is an association of leading international organisations that develops best practice guidelines for social and environmental standard setting bodies

[45] Setting Social and Environmental Standards v5.0: ISEAL Code of Good Practice (2010)

value chain. Therefore, implementation efforts focused on a capacity building component tend to be more effective. Pro-active support to suppliers often includes the provision of tools and instruments that can help companies to measure and improve their social and environmental footprints, as well as fostering dialogue between the individual members of a value chain or an industry. Such processes can lead to a 'ratcheting-up effect' as companies incorporate sustainability into their operations and work with other members of the value chain or industry to address shared challenges. The ILO Sustaining Responsible and Competitive Enterprises (SCORE) Programme for SMEs demonstrates how such an approach could be implemented in value chains. The joint ILO-IFC Better Work initiative is another successful model of capacity building to promote compliance with labour standards.

Compliance promotion mechanisms. There is also an increasing trend towards compliance promotion mechanisms (e.g. methods such as certification schemes, consumer labelling, standardized reporting requirements, incident reporting facilities and third party auditing) which aim to ensure that companies voluntarily adopting standards also comply with the underlying principles. The MSC and FSC standards, for example, involve all of the compliance mechanisms listed above, with the goal of eliminating free-riding by non-compliant companies and thereby preserving the value of the certificates.

Interoperability. The emergence of certifiable standards has also lead to the increased interoperability of standards. Many enterprises are adopting (or in the case of SMEs in the supply chain, being compelled to adopt) multiple standards and submit to differing compliance mechanisms. Interoperable standards solve this problem by creating a common standard for an industry (e.g. MSC certification for fishing and FSC for forestry) or for a specific issue that affects different industries (e.g. ISO 14001 for environmental management and SA8000 for labour practices).

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Convergence around particular practices in standards setting and implementation can help to redress some of the challenges associated with CSR standards. But quantitative empirical research is needed in several key areas:

- The impact of initiatives to promote responsible investment in supply chains on economic and social development in host countries.

- The effect of private initiatives on public institutions—do private initiatives stimulate development of government institutions or crowd out government functions?

- The impact of the CSR industry on development of endogenous institutions such as industrial relations and community organization.

- The best ways to raise quality standards in the CSR industry and ensure that CSR is not a net drain of resources from developing countries.

IV. Policy approaches for the promotion of standards

Some governments are exploring ways to complement existing public policy instruments by integrating CSR standards into the architecture of investment and enterprise governance. This approach aims to strengthen promotion of CSR standards, and improve investor and enterprise compliance with these standards, as a means towards the overarching goals of promoting sustainable development and corporate compliance with national laws and international agreements. To support continuous development and best practices, governments need to ensure the existence of a coherent policy and institutional framework that permits and encourages socially and environmentally responsible behaviour. They also need to guard against unintended consequences, which are more likely in the realm of CSR, where very little quantitative research exists on the impacts of potentially costly methods of implementation or on the potential of standards to act as barriers to trade or investment. A number of specific policy approaches based on pioneering examples follow from this.

A. National approaches

Governments can facilitate and promote standard development in industries or for issues where specific standards do not exist.

Government support for voluntary standard development ranges from material support and technical expertise, to using its convening power to mobilize the participation of relevant stakeholders (including financial support to facilitate the involvement of under-represented low-income stakeholder groups). The Common Code of Coffee Community (4C Association) for example is a baseline standard that was initiated by the German Ministry for Economic Cooperation and Development (BMZ) and implemented by the German development agency GIZ. In collaboration with the Swiss State Secretariat for Economic Affairs (SECO) and other representatives of the private and public sector, the 4C Association has emerged as an influential standard in the coffee industry.

Some governments have also promoted the development of national standards for application in their home countries, sometimes using as a basis an international CSR standard (e.g. ISO 26000).[46] For example, Denmark created a certifiable management system standard known as DS 49000 which combines elements of ISO 14000 and ISO 26000.

Governments can actively promote adoption and compliance with existing standards.

Government purchasing criteria

Approaches to incentivize compliance include providing preferential or differential treatment to companies based on their certified compliance, and incorporating such treatment within instruments such as government purchasing criteria and stock exchange listing rules. The German government, for example, has made a commitment to purchase wood and wood products that are verified as coming from legal and sustainable sources, and accepts the FSC certification as verification of legality and sustainability. The Netherlands also has a sustainable procurement policy; the government of Switzerland is in the process of developing such a scheme; and the government of the United Kingdom has laid out its strategy on how it plans to

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[46] Note: ISO 26000 is not a certifiable management system standard.

incorporate sustainability criteria into future purchasing decisions (see "Government Sustainable Procurement Action Plan")[47] and has already committed to exclusively source fish from MSC-certified suppliers for its public institutions (e.g. schools). In line with the conclusions of the third forum in Accra on aid effectiveness, and with the rule on "Country Procurement Systems" (CSP), most international and bilateral donors already integrate CSR rules in procurements they finance in developing countries.

Stock exchange listing rules

Stock exchange listing rules have been employed in a growing number of countries to promote the uptake and improvement of environmental, social and governance (ESG) reporting. In South Africa for example, companies listed on the Johannesburg Stock Exchange are required to use the GRI standard in preparing reports. France, UK and Australia have also CSR reporting as a requirement for being publicly listed on stock exchanges. Currently 13 of the 30 largest stock exchanges in the world provide sustainability reporting guidance to listed companies.[48] Since 2009, stock exchange officials, regulators and large institutional investors have been working together through the Sustainable Stock Exchanges initiative to address challenges and opportunities in this area.[49]

Capacity building

A growing number of donor states wishing to promote standards in developing countries are focusing on capacity building initiatives and working with developing countries and LDCs to provide technical assistance to local industry (including relevant government departments and industry associations) to meet the criteria of widely used standards and improve their ability to access markets that prefer or require certified products. A USAID project in Bolivia, for example, promotes FSC certification among the Bolivian forestry industry and includes capacity building for

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[47]http://archive.defra.gov.uk/sustainable/government/documents/SustainableProcurementActionPlan.pdf

[48] Responsible Research (2010) *Sustainable Stock Exchanges: Real obstacles, real opportunities.* Report prepared for the 2010 Sustainable Stock Exchanges conference, co-hosted by UNCTAD, the UN PRI, and the UN Global Compact

[49] For more information please see http://www.unpri.org/sustainablestockexchanges

companies that wanted to be certified and assistance linking certified companies with export markets. As a result of this programme, Bolivia now has the largest area of FSC-certified tropical forest in the world.[50] In Gambia, USAID is assisting the Gambian Ministry of Fisheries in its efforts to obtain MSC certification for the country's fisheries.[51] In India, the German government (BMZ) is supporting a project in cooperation with the private sector to scale up voluntary CSR standards.[52] Donor States are also in some instances providing technical assistance to host country governments to promote the development of the regulatory infrastructure necessary to facilitate certification and to improve the monitoring of industries (e.g. provide statistical data).

There are some examples of cooperation between home and host country governments to support training for civil private monitoring of social and environmental criteria related to MSI standards, which can complement public regulation efforts. For instance, the United States government has funded joint training of public and private labour inspectors in Central America, carried out by the Fair Labour Association. However, care must be taken to not divert needed funds away from a government's own regulatory infrastructure, since lack of resources is often the main problem limiting the effectiveness of government oversight.

Regulatory initiatives

Some governments are incorporating existing standards into regulatory initiatives, turning heretofore voluntary standards (soft-law) into mandatory standards (hard-law). There are two basic approaches to this: in the first instance, governments have taken over the standard setting process itself, transforming it into a government standard. For example, in most countries organic food standards originated as voluntary standards from civil society or industry associations, but today have become

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[50] FSC (2009) *Literature study on the outcomes and impacts of FSC certification.* FSC Policy Series.

[51] USAID (2010) *Gambia-Senegal Sustainable Fisheries Project* Annual Report and Year 2 Work Plan

[52] Working together with international buyers, international standard setting bodies such as Social Accountability International (SAI) and the Business Social Compliance Initiative (BSCI), the project builds is setting up a national expertise centre and a decentralized capacity infrastructure in India to provide affordable and relevant training and advisory services particularly to SMEs.

government standards.[53] This model allows governments to use the dynamic space of voluntary standards as a laboratory for future government regulations.

The second approach takes the form of a mixed 'public-private regulatory regime', wherein regulatory initiatives ensure compliance with standards developed by civil society and/or the private sector. In Sweden for example, state owned enterprises are required to prepare reports using the GRI standard. In Guatemala, the government has made FSC certification mandatory for forestry firms operating in the Mayan Biosphere reserve. The aim of this approach is to harness the dynamism and aspirational nature of many multi-stakeholder standard setting processes with the uniformity of implementation that regulation brings.

Investment and trade promotion

Some governments have incorporated compliance with CSR standards as part of their criteria in outward investment promotion schemes. For example Danish companies who receive financial support from the Danish Industrialization Fund for Developing Countries (IFU) have to comply with IFU's CSR policy, covering social and environmental issues.

Other governments have tried to provide incentives to encourage developing country governments to comply with international soft-law through preferential trade agreements. The European Union for example has complemented its General System of Preferences (GSP) with the 'GSP Plus' scheme, which offers additional tariff reductions for developing countries that have ratified and implemented 27 key international conventions related to sustainable development and responsible business practices (e.g.ILO Core Conventions).[54]

A more positive approach could be for governments to play an active role in promoting socially and environmentally sustainable inward investment, offering incentives for investments in sustainable industries (e.g. recycling industries) or

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[53]EU policy on organic farming: http://ec.europa.eu/agriculture/organic/eu-policy/legislation_en
[54] http://www.europa-eu-un.org/articles/fr/article_4337_fr.htm

develop reward and recognition programmes for companies that have shown strong performance on CSR issues.[55]

B. International approaches

Governments can strengthen the compliance promotion mechanisms of the standards of existing international organizations.

Many IO standards already have in place some compliance promotion mechanisms, such as the UN Global Compact's 'integrity measures', the OECD's 'specific instance dispute resolution mechanism', and the ILO's 'interpretation procedure'. Governments could consider opportunities for further strengthening these existing IO standards. In the case of the UN Global Compact, for example, the UN Joint Inspections Unit recently noted "the absence of adequate entry criteria and an effective monitoring system to measure actual implementation of the principles by participants", and recommended that the UN "reinforce the implementation of the Integrity Measures and accountability in implementing the ten principles".[56] The ILO Governing Body is currently reviewing the follow-up to the ILO MNE Declaration with the aim of improving its impact. Implementation of the OECD Guidelines involves a unique combination of binding and voluntary elements. Adhering governments commit to promote them among multinational enterprises operating in or from their territories. The instrument's distinctive implementation mechanisms include the operations of National Contact Points (NCP), which are government offices charged with advancing the Guidelines and handling enquiries in the national context. NCPs also support a unique mediation and conciliation procedure – called "specific instances" – involving claims that the Guidelines have not been respected. This process may be engaged whether or not a company has recognised the Guidelines. The NCPs and "specific instances" procedures represent a unique implementing mechanism that sets the OECD Guidelines apart from all other

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[55]When designing incentive structures to promote voluntary responsible business practices, governments should differentiate between promoting fundamental rights and aspirational goals, i.e. companies should not be rewarded for merely obeying the law

[56] UN JIU (2010) *United Nations corporate partnerships: The role and functioning of the Global Compact* (JIU/REP/2010/9). www.unjiu.org

responsible business initiatives. Approximately 250 requests have been received and over 180 specific instances taken up by the NCPs.

In line with the "Protect, Respect and Remedy Framework" for Business and Human Rights adopted by the UN Human Rights Council, governments could follow the approach of elaborating a "smart mix" of judicial and non-judicial instruments that allows citizens to seek remedy for the violation by corporations of human rights relevant to the conduct of their business. Home country governments could strengthen the responsibility of parent companies for the actions of their respective subsidiaries operating abroad (e.g. for example use of legislative instruments like the Foreign Corrupt Practices Act in the United States).

Governments can incorporate CSR standards into international investment architecture.

Using various elements of the international investment architecture, governments could consider the approach of encouraging globally active companies to adopt the best existing standards, and apply them throughout their value chains. Working together through international dialogue, governments can consider incorporating the core principles of standards into discussions on global economic governance and the international regulatory architecture for investment, including for example international investment agreements (IIA) (see box 1).

Box 1: The universe of CSR-specific IIA provisions

While CSR-specific clauses do not feature prominently in IIAs, a small but growing number of agreements, especially recent FTAs with investment chapters, include CSR-specific provisions. Generally, "other IIAs" (e.g. FTAs with investment chapters) exhibit a greater variety of CSR-specific clauses than BITs.

CSR-related provisions started appearing in IIAs in the mid-1990is, with NAFTA's Preamble and its investment chapter. This approach was subsequently followed by NAFTA signatories, as well as other countries. CSR-specific provisions, however, are much less prominent.

Today, three of the seven Canadian FTAs with investment provisions, explicitly refer to CSR in the Preamble and contain substantive provisions encouraging foreign investors to respect international CSR standards. The earliest such clause appeared in 2008, in the FTA with Colombia.[a] Also the European Free Trade Association (EFTA)'s 2009 FTA with Albania and the 2010 FTA with Peru merit attention, as their preambles refer specifically to CSR. While BITs by EU Member States have so far not included CSR-specific clauses, the European Parliament has called for the inclusion of a CSR clause in every future FTA-investment chapter.[b] Finally, a number of countries have included innovative CSR provisions in their model agreements, the implementation of these provisions in "real IIAs", however, remains to be seen.[c]

CSR-specific references in IIAs take different forms: (i) some IIAs, mostly in their preamble, refer to IGO standards, such as the UN Charter, the UN Global Compact, or the Universal Declaration of Human Rights, the International Labour Organization's Declaration on Fundamental Principles and Rights at Work, the OECD Guidelines for Multinational Enterprises,[d] or broadly refer to the concept of "internationally recognized standards of CSR";[e] (ii) some IIAs include CSR-specific provisions addressed to the *contracting parties* (e.g. to *promote voluntary self-regulation* of foreign investors); and to specifically address CSR in the follow up work undertaken by the *institutional framework established by the IIA);*[f] and (iii) a very small number of IIAs directly address *foreign investors*, sometimes under the explicit heading of "corporate social responsibility" (e.g. provisions requiring foreign investors to respect *domestic* laws and regulations;[g] and provisions requiring foreign investors to furnish information (e.g. on corporate governance) to the contracting parties).[h]

While it is difficult to asses the concrete impact such clauses have on CSR-related conditions "on the ground", these clauses nevertheless serve to: (i) flag the importance of CSR in investor-State relations, which possibly, may also influence a tribunal's interpretation of IIA clauses; (ii) induce specific corporate behaviour (either directly or by using disclosure as a tool to promote responsible corporate behaviour) and (iii) create linkages between IIAs and international CSR obligations. More specifically, those IIAs that explicitly require that investors shall abide and act in accordance with internationally accepted standards applicable to foreign investors could effectively transform "soft law" into "hard law" making compliance with these standards a treaty obligation. So far, however, such language is only found in model BITs.[i]

Source: UNCTAD

[a] These are Canada's FTAs with Colombia (2008), Peru (2009), and Panama (2010). A fifth FTA (with EFTA's 2008) mentions the ILO's Declaration on Fundamental Principles and Rights at Work.

[b] Motion for a European Parliament Resolution on the future European international investment policy, (2010/2203(INI)), 22 March 2011.

[c] The model BITs by Ghana (2008) and Botswana (2010).

[d] Article 72 of the EC-CARIFORUM EPA (2008) and Article 32 of the Norway model BIT.

[e] Article 816 of the Canada- Colombia FTA (2008).

[f] Article 815 of the Canada-Colombia FTA (2008) and Article 817 of the Canada-Peru FTA (2009) both specifically refer to CSR.

[g] Article 10 of Annex 1 of the SADC Protocol on Finance and Investment (2006); Article 11 of the Botswana model BIT (2010) and Article 12 of the Ghana model BIT (2008).

[h] Article 3 of the Azerbaijan-Croatia BIT (2007).

[i] Model BITs by Ghana (2008) and Botswana (2010).

C. Guiding questions to consider when adopting particular approaches

The right combination of policies will depend on each particular government's development priorities. Whatever policies a government chooses to implement, it may wish to monitor closely the impact, to ensure that the intended objectives are actually achieved. Some guiding questions to consider in this respect include:

•   Are the policies actually having a positive impact on respect for the rights of workers and communities? Is the environment really being protected? To date, results of CSR efforts have been quite mixed so it is important establish indicators to evaluate how the policies are affecting environmental and social performance in company value chains.

•   Do the policies encourage support to producers in value chains to upgrade their management practices, or simply result in large firms imposing contractual obligations? It is essential that policies have a positive impact on enterprise development in developing economies to help those producers to engage fully in trade and those countries to benefit more from open markets.

•   Are the policies helping to develop institutions for dialogue on key social and environmental issues? How do the policies complement existing government initiatives, regulations and responsibilities?

•   Are the costs of compliance distributed fairly along value chains? It is more difficult to convince suppliers that the investors are genuinely motivated by universal shared values if the costs of being responsible are borne mainly by suppliers alone.

D. Summary

Whereas the G20 mandate asks to examine existing standards of sustainable business conduct and their applicability to investment in value chains and provide recommendations, continued and coordinated review and measurement of CSR-policy efficacy at the national level and international level form an important area for future work. Examples have been provided on initiatives, particularly at a sector level, that have demonstrated positive gains in protecting rights and environmental resources. Capturing these gains, building capacity and scaling up successful initiatives are important goals. At the same time, ensuring that these measures remain inclusive and that they provide for appropriate grievance mechanisms are among the key challenges. Issues have been raised about the effectiveness of reporting, its relationship to outcome and the need for further consensus on meaningful performance indicators. Finally, national policy decisions will be reached by answering questions with respect to applicability of specific measures towards national development priorities. At the same time, in a globalized economy, careful consideration about the international impacts of national decisions is called for.

Annex I. Selected MSI standards

(Standards referenced and subjects covered in code)

Multi-stakeholder Initiatives	Standard	Universal Principles referenced in the standards[57]	Topics addressed
4 C Association	4C code of conduct	• UN Universal Declaration of Human Rights • ILO Fundamental Labour Standards • OECD Guidelines	Labour Practices Environment
Bonsucro	Bonsucro Standard	• UN Declaration on Rights of Indigenous People • ILO Fundamental Labour Standards • Other ILO Conventions[58]	Human Rights Labour Practices Environment
CERES	CERES Principles	• None specifically	Environment
Clean Clothes Campaign	Code of Labour Practices for the Apparel Industry Including Sportswear	• ILO Fundamental Labour Standards	Human Rights Labour Practises
Ethical Trading Initiative (ETI)	ETI Base Code	• ILO Fundamental Labour Standards	Human Rights Labour Practices
Fair Labour Association	Fair Labor Association Workplace Code of Conduct	• ILO Fundamental Labour Standards	Human Rights Labour Practices
Fair Wear Foundation	Fair Wear Code of Conduct	• ILO Fundamental Labour Standards Universal Declaration of Human Rights	Human Rights Labour Practices
Forest Stewardship Council (FSC)	FSC Principles and Criteria	• ILO Fundamental Labour Standards	Labour Practices Environment
GoodWeave	GoodWeave code of conduct	• ILO Fundamental Labour Standards	Human Rights Labour Practices
Global Reporting Initiative (GRI)	Global Reporting Initiative Sustainability Reporting Guidelines	• UN Universal Declaration of Human Rights • UN Framework Convention on Climate Change • UN Convention on the Elimination of All Forms of Discrimination against Women • ILO Fundamental Labour Standards	Human Rights Labour Practices Environment Bribery
Green-e Energy	Green - e Climate Standard	• UN Framework Convention on Climate Change	Environment

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[57] The list gives an overview over the main universal principles referenced in the standards, it is not an exhaustive inventory of all principles referenced.

[58] Health and Safety in Agriculture Convention (No 84), ILO Minimum Wage Fixing Convention (No 131), ILO Protection of Wages Convention (No 95) and *ILO* Plantations Convention (No 110)

Multi-stakeholder Initiatives	Standard	Universal Principles referenced in the standards[57]	Topics addressed
International Federation of Organic Agriculture Movements (IFOSM)	IFOAM Standard (Currently under development)	• UN Charter of Rights for Children • ILO Conventions relating to Labour Welfare	Human Rights Labour Standards Environment
ISO	ISO14000	• None specifically	Environment
	ISO 26000	• All major international standards relevant for CSR are referenced in the ISO 26000[59]	Human Rights Labour Practices Environment Bribery
Marine Stewardship Council (MSC)	MSC environmental standard for sustainable fishing	• The Code of Conduct for Responsible Fishing (UN FAO)	Environment
Roundtable on Sustainable Biofuels (RSB)	RSB Principles & Criteria	• None specifically	Human Rights Labour Practices Environment
Roundtable on Sustainable Palm Oil (RSPO)	RSPO Principles and Criteria for Sustainable Palm Oil Production (RSPO P & C)	• UN Declaration on the Rights of Indigenous Peoples • UN Convention on Biological Diversity • ILO Fundamental Labour Standards • ILO Convention on Indigenous and Tribal Peoples	Human Rights Labour Practises Environmental
Social Accountability International	SA8000	• Universal Declaration of Human Rights • ILO Fundamental Labour Standards	Human Rights Labour Practices
Sustainable Agriculture Network (SAN) /Rainforest Alliance	SAN Standards	• UN Universal Declaration of Human Rights • UN Children´s Rights Convention • ILO Fundamental Labour Standards	Human Rights Labour Practices Environment
Transparency International	Transparency International Business Principles for Countering Bribery	• None specifically	Bribery
UTZ CERTIFIED	UTZ CERTIFIED Code of Conduct.	• ILO Fundamental Labour Standards	Human Rights Labour Practices Environment
Voluntary Principles on Security and Human Rights	Voluntary Principles on Security and Human Rights	• Universal Declaration of Human Rights • UN Code of Conduct for Law Enforcement Official • UN Basic Principles on the Use of Force and Firearms by Law enforcement Officials	Human Rights

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[59] The ISO 26000 Guidance on Social Responsibility makes references to 134 different universal principles from organizations such as the United Nations, International Labour Organization, and the Organization for Economic Co-operation and Development.

Multi-stakeholder Initiatives	Standard	Universal Principles referenced in the standards[57]	Topics addressed
Workers Rights Consortium	Workers Rights Consortium Code of Conduct	• ILO Fundamental Labour Standards • Other ILO Conventions[60]	Human Rights Labour Practises
Worldwide Responsible Accredited Production (WRAP)	WRAP Code of conduct	• ILO Fundamental Labour Standards	Human Rights Labour Practices

Source: UNCTAD.

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[60] All health and safety conventions of the International Labour Organization

Annex II. Selected industry association codes

(Subjects covered and IO standards referenced)

Industry association	Standard [code]	Universal Principles referenced in the standards[61]	Topics addressed
Business Social Compliance Initiative (BSCI)	BSCI Code of conduct	• UN Universal Declaration of Human Rights • UN Global Compact • ILO Fundamental Human Rights Conventions • OECD Guidelines[62]	Human Rights Labour Practices Environment Bribery
Caux Round Table	Caux Round Table Principles for Business	• None specifically	Human Rights Labour Practices Environment Bribery
Confederation of European Paper Industries (CEPI)	CEPI Code of Conduct	• None specifically	Environment
Electronic Industry Citizenship Coalition	Electronic Industry Code of Conduct	• UN Universal Declaration of Human Rights • UN Global Compact • UN Convention Against Corruption • ILO Fundamental Human Rights Conventions • OECD Guidelines	Human Rights Labour Practices Environment Bribery
Equator Principles	Equator Principles	• ILO Fundamental Labour Standards	Human Rights Labour Practices Environment
Forética	Norma SGE 21	• UN Universal Declaration of Human Rights • UN Global Compact • Tripartite Declaration on Multinational Businesses and Social Policy • Other ILO Conventions[63] • OECD Guidelines	Human Rights Labour Practices Environment Bribery
International Chamber of Commerce	ICC Business Charter for Sustainable Development	• None specifically	Environment
	ICC Rules of Conduct to Compact Extortion and Bribery	• UN Convention Against Corruption • UN Global Compact • OECD Convention	Bribery
International Council of Toy Industries (ICTI)	International Council of Toy Industries (ICTI) CARE Code of conduct	• ILO Fundamental Labour Standards	Human Rights Labour Practices
International Hydropower Association	IHA sustainability Guidelines	• None specifically.	Environment

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[61] The list gives an overview over the main universal principles referenced in the standards, it is not an exhaustive inventory of all principles referenced.
[62] OECD Guidelines for Multinational Enterprises
[63] Not further specified

Industry association	Standard [code]	Universal Principles referenced in the standards[61]	Topics addressed
International Mining and Metals Council (ICMM)	Principles for Sustainable Development Performance	• UN Global Compact • Rio Declaration • Other ILO Conventions[64] • OECD Guidelines • OECD Convention on Combating Bribery	Human Rights Labour Practices Environment Bribery
Petroleum Industry (IPIECA)	Guidelines for Reporting Greenhouse Gas Emissions	• None specifically	Environment
Responsible Care (Chemical industry)	The Responsible Global Charter	• UN Global Compact	Labour Practices Environment
World Economic Forum Partnering Against Corruption Initiative (PACI)	The PACI Principles for Countering Bribery	• UN Global Compact • OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions • OECD Guidelines	Bribery
World Cocoa Foundation	Sustainability Principles	• None specifically.[65]	Human Rights Labour Practices Environment
World Federation Sporting Foods Industry (WFSGI)	WFSG Code of Conduct	• ILO Fundamental Labour Standards	Human Rights Labour Practices

Source: UNCTAD based on data from individual initiatives.

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[64] Right to Organise and Collective Bargaining Convention No 98, Indigenous and Tribal Peoples Convention No 169, Safety and Health in Mines Convention No 176

[65] Refers to International Labour Standards

Annex III: The ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy

The 183 member states of the ILO, and their workers' and employers' organizations constitute the sponsors of the ILO Tripartite Declaration. Founded in 1919, the ILO became the first specialized agency of the UN in 1946. It is the only "tripartite" United Nations agency, bringing together representatives of governments, employers and workers to shape policies and programmes jointly.

The purpose of the Declaration is to encourage the positive contribution which MNEs can make to economic and social progress, and to minimise and resolve difficulties arising from their operations. The Declaration was one of earliest international instruments covering the social dimension of business. Negotiated between governments, workers' and employers' organizations in 1977, it represents the first international tripartite consensus on desirable behaviour of enterprises with regard to labour and social policy areas. It was updated in 2000 and 2006 to take account of new instruments adopted by ILO.

The ILO MNE Declaration sets out principles in the field of general policies, employment, training, conditions of work and life and industrial relations. All government, employer and worker organizations are recommended to observe the principles on a voluntary basis.

The main areas covered include:

- General policies (obey national laws and respect international standards; contribute to the realization of the fundamental principles and rights at work; harmonize activities with the economic and social development aims of the countries where they operate directly or manage supply chains)

- Employment (employment promotion; equality of opportunity and treatment; security of employment)

- Training (policy development for vocational training, skills formation)

- Conditions of Work and Life (wages, benefits, conditions of work; minimum age; safety and health)

- Industrial Relations (freedom of association and right to organize; collective bargaining; consultation; grievances; settlement of disputes).

The ILO MNE Declaration addresses both MNEs and national enterprises, and advocates equal treatment between multinational and national enterprises, including equal expectations in respect of their conduct in general and social practices in particular.[66]

It also addresses the responsibilities of governments. Host country governments are encouraged to: prioritize employment creation, including enterprise development; ratify and implement priority conventions on a range of labor issues; develop social safety nets for displaced workers; and promote good industrial relations. Home country governments are encouraged to promote good social practice among their MNEs, having regard to host country laws and practices, as well as relevant international standards. Furthermore, home and host countries are encouraged to consult on issues of mutual concern. Such bilateral governmental dialogues on social aspects of enterprise operations are becoming more common.[67]

The ILO Governing Body regularly monitors the effect given to the ILO MNE Declaration. The key means of action include policy coherence and promotion of dialogue. Policy coherence aims to harness the dynamism of initiatives addressing a range of issues, often specific to an industry or country, while ensuring a consistent and coherent message to business about expectations concerning their economic and social development impacts. ILO works closely with other international organizations, both inter-governmental organizations and private organizations such as ISO. The ILO Helpdesk for Business[68] provides companies direct access to the range of ILO tools, research and other resources specifically for business; and

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[66] See, ILO MNE Declaration, paragraph 11.

[67] For instance, in October 2009, the Governments of Argentina and Germany co-organized the EU-LAC Forum on Corporate Social Responsibility, in cooperation with the governments of Spain and Sweden. The Buenos Aires Recommendation arising from the forum called for a need to intensify cooperation in promoting CSR, positioning it as one of the important agenda items in EU-LAC political dialogue. At the national level, the Government of Argentina has been active in promoting dialogue between Argentina and home countries (mainly in Europe); recently organized a high-level conference which included participation of government representatives of Canada, Germany, Spain, Norway, Sweden, and the US. Representatives of Canada, Spain, and Norway; and has signed an agreement with the Canadian, Spanish, US, German, Norwegian and Swedish chambers of commerce in Argentina strengthening the Ministry's strategic alliance in promoting CSR in Argentina.

[68] See www.ilo.org/business

provides free and confidential assistance to companies, initiatives, trade unions and NGOs on the application of the principles contained in international labour standards and the ILO MNE Declaration to company operations. Through its action-oriented research programme, ILO helps developing countries to create a dialogue space to discuss with MNEs how they might contribute to the development priorities of the country, such as youth employment, based on the guidance contained in the MNE Declaration. ILO also engages directly with companies in the ILO-IFC Better Work Programme; provides more general capacity building through a range of targeted training programmes; and supports business schools to integrate social issues in the curricula of MBA programmes.

The ILO MNE Declaration has had significant impact on the ground. Already in 2007, a survey of Fortune Global 500 firms indicted that 75 percent of respondents incorporated the ILO Declarations and Conventions in their human rights policies.[69] The dialogue process which the MNE Declaration encourages has become standard good practice for how companies should address social issues. The two most highly influential stock indexes that measure sustainability both reference the MNE Declaration—the Dow Jones Sustainability Index and FTSE-4-Good. Numerous multi-stakeholder and industry initiatives are referring to the MNE Declaration and are seeking technical advice. And in response to increased demand, ILO has expanded its capacity to work directly with companies to help improve working conditions.

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[69] See, Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises Addendum Human Rights Policies and Management Practices: Results from questionnaire surveys of Governments and Fortune Global 500 firms, A/HRC/4/35/Add.3, 2007.

Annex IV: The OECD Guidelines for Multinational Enterprises

The OECD Guidelines, which were substantially revised in 2011, are subscribed to by the 34 members of the OECD and 8 non-members (Argentina, Brazil, Egypt, Latvia, Lithuania, Peru, Romania, and Slovenia).[70] The Guidelines form part of a broader OECD investment instrument, the Declaration on International Investment and Multinational Enterprises. Adherence to the Declaration and the Guidelines is not closed. Any country that meets the standards prescribed in these instruments can apply to adhere, subject to the specific rules and procedures that have been established to this effect.

All G20 countries were invited to participate in the recently completed update of the Guidelines. The Business and Industry Advisory Committee (BIAC), the Trade Union Advisory Committee (TUAC), and OECD Watch (a coalition of more than 65 civil society organizations) were extensively involved in the update and support the Guidelines. The Guidelines have been referenced by the UN Security Council and other interested non-OECD bodies.

The purpose of the OECD MNE Guidelines is to offer a balanced, multilaterally-endorsed, and comprehensive code that expresses the shared values of adhering governments. They are "recommendations jointly addressed by governments to multinational enterprises" that provide "principles and standards of good practice consistent with applicable laws and internationally recognized standards". By providing a clear set of expectations, the Guidelines seek to encourage the positive contributions multinational companies can make to economic, environmental and social progress.

The Guidelines comprise a set of voluntary recommendations in all the major areas of corporate citizenship, including employment and industrial relations, human rights, environment, information disclosure, combating bribery, consumer interests, science and technology, competition, and taxation. Following the 2011 update, the Guidelines include new recommendations on human rights (developed in close consultation with the UN Secretary-General Special Representative for Business and Human Rights)

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[70]   The Russian Federation is in the process of adherence in the context of its accession to the OECD. Colombia, Costa Rica, Jordan, and Serbia have also applied for adherence and their applications are in the process of being reviewed.

and company responsibility for their supply chains (see Annex V for excerpts specific to supply chains), making them the first inter-governmental agreement in this area. The Guidelines establish that firms should respect human rights in every country in which they operate.

Appropriate due diligence processes should be in place to ensure that international standards are respected. These include issues such as paying decent wages, combating bribe solicitation and extortion, and the promotion of sustainable consumption. A new, tougher process for complaints and mediation has also been put in place.

Implementation of the Guidelines involves a unique combination of binding and voluntary elements. Adhering governments commit to promote them among multinational enterprises operating in or from their territories. The instrument's distinctive implementation mechanisms include the operations of National Contact Points (NCP), which are government offices charged with advancing the Guidelines and handling enquiries in the national context. NCPs also support a unique mediation and conciliation procedure – called "specific instances" – involving claims that the Guidelines have not been respected. This process may be engaged whether or not a company has recognised the Guidelines. The NCPs and "specific instances" procedures represent a unique implementing mechanism that sets the OECD Guidelines apart from all other responsible business initiatives. Approximately 250 requests have been received and over 180 specific instances taken up by the NCPs.

While the Guidelines are primarily addressed to MNEs, they are not aimed at introducing differences of treatment between multinational and domestic enterprises. Accordingly, multinational and domestic enterprises are subject to the same expectations in respect of their conduct wherever the Guidelines are relevant to both. Likewise, while SMEs may not have the same capacities as larger enterprises, they are invited to observe the Guidelines "to the fullest extent possible". The Guidelines are freely available to all user organizations. Surveys among large enterprises indicate that a significant proportion refer to the Guidelines in their CSR policies.

The OECD Investment Committee in enlarged session (involving all non-OECD adherents as equal participants), in consultation with BIAC, TUAC, and OECD Watch, is responsible for oversight of the Guidelines. Adhering governments are

individually responsible for promoting use of the Guidelines, and for processing any "specific instances", through their NCPs. They meet annually at the OECD and report to the Investment Committee, which conducts a "peer review" of implementation.

Finally, governments adhering to the Guidelines should not use them for protectionist purposes nor use them in a way that calls into question the comparative advantage of any country where multinational enterprises invest (Chapter 1, paragraph 7).

The Guidelines can readily be used in conjunction with other instruments. Explanatory materials have been developed to outline their relationship with the UN Global Compact, the Principles for Responsible Investment, and with the GRI Guidelines, and formal agreements have been signed to encourage co-operation between the agencies concerned. Following the 2011 update of the Guidelines, the labour chapter is fully aligned with the ILO MNE Declaration and the new human rights chapter with the Draft UN Framework and Guiding Principles on Business and Human Rights.

Annex V. Excerpts from the OECD Guidelines relating to supply chains

The following are excerpts from the 2011 update of the OECD Guidelines and Commentaries that pertain specifically to supply chains.

II. General Policies

12. Seek to prevent or mitigate an adverse impact where they have not contributed to that impact, when the impact is nevertheless directly linked to their operations, products or services by a business relationship. This is not intended to shift responsibility from the entity causing an adverse impact to the enterprise with which it has a business relationship.

13. In addition to addressing adverse impacts in relation to matters covered by the *Guidelines*, encourage, where practicable, business partners, including suppliers and sub-contractors, to apply principles of responsible business conduct compatible with the *Guidelines*.

Commentaries

1. Where enterprises have large numbers of suppliers, they are encouraged to identify general areas where the risk of adverse impacts is most significant and, based on this risk assessment, prioritise suppliers for due diligence.

2. To avoid causing or contributing to adverse impacts on matters covered by the *Guidelines* through their own activities includes their activities in the supply chain. Relationships in the supply chain take a variety of forms including, for example, franchising, licensing or subcontracting. Entities in the supply chain are often multinational enterprises themselves and, by virtue of this fact, those operating in or from the countries adhering to the Declaration are covered by the *Guidelines*.

3. In the context of its supply chain, if the enterprise identifies a risk of causing an adverse impact, then it should take the necessary steps to cease or prevent that impact.

4. If the enterprise identifies a risk of contributing to an adverse impact, then it should take the necessary steps to cease or prevent its contribution and use its leverage to mitigate any remaining impacts to the greatest extent possible. Leverage is considered to exist where the enterprise has the ability to effect change in the wrongful practices of the entity that causes the harm.

5. Meeting the expectation in paragraph A.12 would entail an enterprise, acting alone or in co-operation with other entities, as appropriate, to use its leverage to influence the entity causing the adverse impact to prevent or mitigate that impact.

6. The *Guidelines* recognise that there are practical limitations on the ability of enterprises to effect change in the behaviour of their suppliers. These are related to product characteristics, the number of suppliers, the structure and complexity of the supply chain, the market position of the enterprise vis-à-vis its suppliers or other entities in the supply chain. However, enterprises can also influence suppliers through contractual arrangements such as management contracts, pre-qualification requirements for potential suppliers, voting trusts, and licence or franchise agreements. Other factors relevant to determining the appropriate response to the identified risks include the

severity and probability of adverse impacts and how crucial that supplier is to the enterprise.

7.   Appropriate responses with regard to the business relationship may include continuation of the relationship with a supplier throughout the course of risk mitigation efforts; temporary suspension of the relationship while pursuing ongoing risk mitigation; or, as a last resort, disengagement with the supplier either after failed attempts at mitigation, or where the enterprise deems mitigation not feasible, or because of the severity of the adverse impact. The enterprise should also take into account potential social and economic adverse impacts related to the decision to disengage.

8.   Enterprises may also engage with suppliers and other entities in the supply chain to improve their performance, in co-operation with other stakeholders, including through personnel training and other forms of capacity building, and to support the integration of principles of responsible business conduct compatible with the *Guidelines* into their business practices. Where suppliers have multiple customers and are potentially exposed to conflicting requirements imposed by different buyers, enterprises are encouraged, with due regard to anti-competitive concerns, to participate in industry-wide collaborative efforts with other enterprises with which they share common suppliers to coordinate supply chain policies and risk management strategies, including through information-sharing.

9.   Enterprises are also encouraged to participate in private or multi-stakeholder initiatives and social dialogue on responsible supply chain management, such as those undertaken as part of the proactive agenda pursuant to the Decision of the OECD Council on the OECD *Guidelines* for Multinational Enterprises and the attached Procedural Guidance.