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Corporate social responsibility – Guidance for the integration of due diligence in existing risk management systems

MVO – handleiding voor de integratie van due diligence in bestaande risicomanagementsystemen

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Foreword

Companies play a crucial role in society by creating employment, innovation and economic growth. However, the Dutch government, consumers, companies' own staff and other stakeholders expect companies to respect human rights and the environment while conducting their business. This expectation is also set out in the OECD Guidelines for Multinational Enterprises (OECD Guidelines)¹⁾ and the UN Guiding Principles on Business and Human Rights (UNGP)²⁾. How should companies deal with this? What sort of human rights risks and other corporate social responsibility (CSR) risks are related to or may affect their activities? How can companies identify these risks and, most importantly, prevent, mitigate and account for them?

In their international business activities companies may face risks that differ from those they are familiar with in the Netherlands. Companies may become involved with poor working conditions, intimidation of union members or find themselves implicated in situations where farmland is unlawfully confiscated or fragile ecosystems are damaged. They may become exposed to well-known issues as child labor, forced labor, discrimination and less known issues such as right to housing, right to adequate supply of fresh water and right to cultural participation. The OECD Guidelines and the UNGP expect companies to take their responsibility and prevent and mitigate (potential) violations of human rights and other adverse CSR impacts in which they are or become directly or indirectly involved. This requires a company to implement a due diligence process through which it can manage its actual and potential adverse impacts.

This code of practice provides guidance on the integration of due diligence based on the UNGP in existing (risk) management systems that companies already apply (formally or informally) to identify and evaluate specific and/or generic risks and to take the necessary actions to address these as part of their business operations. There are several advantages to integrating due diligence in existing (risk) management systems. This avoids duplication, ensures building on existing experience and knowledge, application of proven techniques and promotes that due diligence becomes part of the "normal" operations of a company, both in its own operations and those of its business partners in the value chain.

It is acknowledged that the due diligence process as described in the UNGP focuses on human rights, however, the basic principles and steps also apply to other CSR issues as addressed in the OECD Guidelines, although the details of carrying out specific due diligence assessments may differ.

Reader's guide

This code of practice provides a comprehensive introduction to due diligence as well as guidance for its integration in a company's (risk) management system.

Top management of both companies and other organizations should fully understand the intent and purpose of this code of practice and should at least read the Clauses 1, 2, 4 and 5. Specialist staff involved in support of corporate decision-making and the operation of existing (risk) management systems (e.g. the QHSE and risk managers), supplier and contractor management (e.g. the purchasing and procurement managers) and CSR departments should be intimate with this code of practice for implementation and day-to-day use thereof and should also read Clause 6 and the Annexes.

Clause 1 of this code of practice provides a concise description of the objectives and the main target groups of the code of practice.

Clause 2 provides information on the international standards and guidelines on which this code of practice is based. Additional documents that may be useful to apply in combination with this code of practice are provided in the Bibliography.

Clause 3 provides terms, definitions and abbreviations used in this code of practice to ensure a common understanding of the vocabulary in the field of CSR and due diligence.

1) [OECD guidelines for multinational enterprises](#) (see 5.1 for more information).

2) [Guiding principles on business and human rights – Implementing the United Nations "Protect, Respect and Remedy" framework](#) (see 5.1 for more information).

Clause 4 provides an introduction into CSR and related due diligence processes and their relevance to companies operating in an international supply and value chain. The process for due diligence for human rights as given in the UNGP is described in more detail as it is taken as the reference for integrating due diligence in existing (risk) management systems.

Clause 5 provides the basic framework for the integration of due diligence in (risk) management systems. The requirements for due diligence as described in the UNGP and for (risk) management in the new ISO High Level Structure for management systems are compared and this analysis results in a mapping of differences and alignments that a company should consider when integrating due diligence in its existing (risk) management system. Typical actions a company could take when integrating due diligence, are identified.

Clause 6 provides for each element of the due diligence process implementation guidance on how to address the issues and differences identified in Clause 5. Typical examples are included.

Annex A provides an explanation of existing ISO Standards and guidelines. A growing number of companies use these mechanisms to implement a systematic approach for addressing sustainability and their social responsibility in the value chain. In this respect ISO Standards (such as ISO 9001 and ISO 14001, ISO 31000 and ISO 26000) can provide important guidance.

Annex B provides a brief explanation of the different concepts of risk as applied in ISO Standards and how these relate to due diligence as described in the OECD Guidelines and the UNGP. This is important to take into account when integrating due diligence in existing management frameworks as the concepts of risk underlying the OECD Guidelines and the UNGP on one hand and most existing (risk) management frameworks on the other hand, differ.

Annex C provides a more elaborate explanation of the characteristics of the generic (risk) management system provided by the ISO High Level Structure.

The development of this code of practice

In the perspective of the growing interest for and importance of due diligence, the committee on international CSR of the Social and Economic Council of the Netherlands (SER) focused on due diligence as the theme for its work program in 2013-2019. The goal of the committee is to contribute to the further operationalization of due diligence by Dutch companies. In that context, it was decided to develop this Dutch code of practice (Nederlandse Praktijkrichtlijn or NPR) to assist companies in applying their existing (risk) management system for implementing due diligence and in adapting their existing practices to ensure they comply with the OECD Guidelines and the UNGP.

This code of practice has been developed by a special working group under responsibility of the Standards Committees 400 178 'Social responsibility' and 400 179 'Risk Management'. This working group included stakeholders and expertise in the field of human rights, due diligence, risk management and management systems.

In the working group the following organizations were represented:

KLM, Amstelveen
Otelli, Haarlem
Nuon, Amsterdam
Royal HaskoningDHV, Amersfoort
Alliander, Arnhem
Philips Electronics Nederland B.V., Eindhoven
Damen Shipyard, Gorinchem
MVO Nederland, Utrecht
PRIMO Nederland, Den Haag en SEAR BV, Prinsenbeek
FNV, Amsterdam
Tata Steel, IJmuiden
SER, Den Haag
Human Right@Work, Den Haag
ZCIM, Den Haag

Corporate social responsibility – Guidance for the integration of due diligence in existing risk management systems

1 Scope

This code of practice provides companies with guidance for the integration of the due diligence process as specified in the OECD Guidelines for Multinational Enterprises (OECD Guidelines) and the United Nations Guiding Principles on Business and Human Rights (UNGP) in their existing (risk) management systems. The aim of this code of practice is to assist companies in preventing and mitigating violations of human rights (including labor rights) as well as other adverse environmental, social, and economic impacts to meet the expectations for Corporate Social Responsibility (CSR) of companies as laid down in the OECD Guidelines and the UNGP.

This code of practice is primarily aimed at companies with international operations and international supply chains. However, also other organizations active in similar risk domains such as governmental organizations, non-governmental organizations (NGOs), not-for-profit organizations and local authorities may benefit from this code of practice. Also business associations may apply this code of practice for the benefit of their members.

Top management of both companies and organizations should fully understand the intent and purpose of this code of practice. Specialist staff involved in the support of corporate decision-making and the operation of existing (risk) management systems (e.g. the QHSE and risk managers), supplier and contractor management (e.g. the purchasing and procurement managers) and CSR departments should be intimate with this code of practice for implementation and day-to-day use thereof.

It is acknowledged that the due diligence process as described in the UNGP focuses on human rights, however, the basic principles and steps also apply to other CSR issues as addressed in the OECD Guidelines, although the details of carrying out specific due diligence assessments may differ.

2 References

The following referenced documents are indispensable for the application of this document. For dated references, only the edition cited applies. For undated references, the latest edition of the referenced document (including any amendments) applies.

NEN-ISO 26000:2010	<i>Guidance on social responsibility</i>
NEN-ISO 31000:2009	<i>Risk management principles and guidance</i>
ISO/IEC Directives Part 1 Annex SL:2014	<i>ISO/IEC Directives Part 1, Consolidated ISO Supplement – Proposals for management system standards</i>
UNGP (2011)	<i>Guiding principles on business and human rights – Implementing the United Nations “Protect, Respect and Remedy” framework</i>
OECD Guidelines (2011)	<i>OECD guidelines for multinational enterprises</i>

3 Terms and definitions and abbreviations

For the purpose of this code of practice the following terms and definitions and abbreviations apply.

3.1 Terms and definitions

3.1.1

activity

company (3.1.4) “activity” is understood to include both actions and omissions

NOTE This includes *products* (3.1.13), *services* (3.1.16) and *processes* (3.1.12).

3.1.2

adverse impact

adverse human rights (including labor rights) impact as well as other environmental, social, ethical and economic impact which the *company* (3.1.4) has caused or contributed to through its own activities or which may be directly linked to its operations, *products* (3.1.13) or *services* (3.1.16) by its *business relationships* (3.1.3)

3.1.3

business relationship

relationship with business partners, entities in the *value chain* (3.1.20) of the *company* (3.1.4), and any other non-State or State entity directly linked to its business operations, *products* (3.1.13) or *services* (3.1.16)

3.1.4

company

entity or group of people and facilities with an arrangement of responsibilities, authorities and relationships and identifiable commercial objectives

NOTE 1 Companies operate in all sectors of the economy and ownership may be private, State or mixed.

NOTE 2 This includes, but is not limited to, multinationals, domestic companies, small and medium-sized companies.

3.1.5

corporate social responsibility

responsibility of a *company* (3.1.4) for the *impacts* (3.1.17) of its decisions and *activities* (3.1.1) on society and the environment, through transparent and ethical behavior that

- contributes to sustainable development, including health and the welfare of society;
- takes into account the expectations of *stakeholders* (3.1.17);
- is in compliance with applicable law, regulation, company policy and consistent with international norms of behavior; and
- is integrated throughout the *company* (3.1.4) and practiced in its relationships

3.1.6

due diligence

process (3.1.12) through which *companies* (3.1.4) can identify, prevent, mitigate and account for how they address their actual and potential *adverse impacts* (3.1.2) as an integral part of business decision-making and risk management systems

NOTE 1 The definition is based on the definition in the OECD Guidelines and the UNGP, but in this code of practice the due diligence process as described in the UNGP will have the primary focus. However, the basic principles and steps also apply to other CSR issues as addressed in the OECD Guidelines, although the details of carrying out specific due diligence assessment may differ.

NOTE 2 The definition is based on the definition in the OECD Guidelines and the UNGP, but in this code of practice the positive impacts of due diligence are also considered.

NOTE 3 The definition is based on the definition in the OECD Guidelines and the UNGP, but in this code of practice the elements “policy commitment (embedding their responsibility)” and “remediation” are considered to be an integral part of the due diligence process.

3.1.7

impact (of a company)

positive or adverse change to society, economy and/or the environment, wholly or partially resulting from a *company's* (3.1.4) past and present decisions and activities

NOTE Impacts include human rights (including labor rights) as well as other environmental, social, ethical and economic impacts.

3.1.8

leverage

relationships through which a *company* (3.1.4) has the ability to effect change in the wrongful practices of an entity that cause adverse *impacts* (3.1.2)

3.1.9

management system

set of interrelated or interacting elements of a *company* (3.1.4) to establish *policies* (3.1.11) and *objectives* (3.1.10) and *processes* (3.1.12) to achieve those objectives

NOTE 1 A management system can address a single discipline or several disciplines.

NOTE 2 The system elements include the *company's* structure, roles and responsibilities, planning, operation, etc.

NOTE 3 The scope of a management system may include the whole of the *company*, specific and identified functions of the *company*, specific and identified sections of the *company* or one or more functions across a group of *companies*.

3.1.10

objective

result to be achieved

NOTE 1 An objective can be strategic, tactical, or operational.

NOTE 2 Objectives can relate to different disciplines (such as financial, health and safety, and environmental goals) and can apply at different levels (such as strategic, *company* wide, project, product and process).

3.1.11

policy

intentions and direction of a *company* (3.1.4) as formally expressed by its *top management* (3.1.19)

3.1.12

process

set of interrelated or interacting *activities* (3.1.1) which transforms inputs into outputs.

3.1.13

product

article or substance that is offered for sale or is part of a service delivered by a *company* (3.1.4)

3.1.14

risk <generic>

effect of uncertainty on (achieving) *objectives* (3.1.10)

NOTE See for a further explanation Annex B.

3.1.15

risk <of harm, quantitative>

combination of the probability of occurrence of harm and the severity of that harm

NOTE See for a further explanation Annex B.

3.1.16

service

action of a *company* (3.1.4) to meet a demand or need

3.1.17

stakeholder

individual or group that is potentially affected or has an interest in any decision or activity of a *company* (3.1.4)

3.1.18

stakeholder engagement

activity undertaken to create opportunities for dialogue between a *company* (3.1.4) and one or more of its *stakeholders* (3.1.17), with the aim of providing an informed basis for the companies' decisions

NOTE Other objectives of stakeholder engagement can include meeting regulatory requirements or building relationships based on trust.

3.1.19

top management

person or group of people who directs and controls a *company* (3.1.4) at the highest level

NOTE 1 Top management has the power to delegate authority and provide resources within the company.

NOTE 2 If the scope of the management system covers only a part of a company then top management refers to those who direct and control that part of the company.

3.1.20

(international) value chain

entire (international) sequence of activities or parties that provide or receive value in the form of *products* (3.1.13) or *services* (3.1.16)

NOTE 1 Parties that provide value include suppliers, outsourced workers, contractors and others.

NOTE 2 Parties that receive value include customers, consumers, clients, members and other users.

3.2 Abbreviations

CEO	Chief Executive Officer
CFO	Chief Financial Officer
CSR	Corporate Social Responsibility
GRI G4	Global Reporting Initiative, Guidelines version 4
HLS	High Level Structure
ILO	International Labour Organization
ISO	International Organization for Standardization
NGO	Non Governmental Organization
OECD	The Organization for Economic Co-operation and Development
OH&S	Occupational Health & Safety

OP	Operating Principles
PDCA	Plan-Do-Check-Act
QHSE	Quality, Health, Safety and Environment
SME	Small and medium size enterprises
UNGP	United Nations Guiding Principles on Business and Human Rights

4 Context of international corporate social responsibility (CSR) and due diligence

4.1 The development of CSR and due diligence

In recent years CSR has become a business imperative to be well positioned in the consumer markets, the labor market and financial and business-to-business markets ³⁾. CSR comprises a range of aspects including respect for human rights. While human rights are generally perceived as directly related to labor rights and freedom, human rights also include, inter alia, safety in the workplace and protection of the environment affected by the company's activities as well as access to clean water and air and hence to environmental and health and safety practices of companies.

Due diligence according to the OECD Guidelines and the UNGP is a fundamental aspect of the company's risk management. It provides a context to consider the business success, business continuity and how the company manages social, economic and health, safety and environmental impacts throughout its value chain and in its relationships in the supply chain, marketplace, local community and the public domain.

The due diligence process allows companies regardless of their size, sector, location, ownership and structure, to systematically identify, assess and respond to CSR risks. While due diligence is a generic process, the actual CSR risk inventory for a particular company is uniquely based on its activities and operating environment and informed by authoritative international frameworks and legislation, relevant voluntary frameworks and beyond, subject to its own ethical considerations and extensive stakeholder consultation. Performance expectations are derived from:

- authoritative international frameworks (e.g. from United Nations, World Bank and the International Labor Organization) and mandatory regional (e.g. EU) and national legislation (Dutch legislation and of countries where the company is active with its supply chain) that should be complied with;
- a wide array of voluntary frameworks, tools and measurement and reporting frameworks as prepared by governmental and non-governmental organizations, through sector initiatives or by other stakeholders with specific topical interests. These voluntary frameworks intend to present, or claim to present, a form of best practice in their subject area.

The due diligence process is aimed at creating value in the dimensions people, planet and profit in the long term and maintaining relationships with a range of stakeholders on the basis of transparency, dialogue and (business) continuity that may balance short term focused decisions. ⁴⁾

Interest in CSR has increased significantly over recent years under progressive globalization, greater mobility, greater awareness of our surroundings, instant communication and potential of developing conflicts. Wide ranging, and rapidly diverging individual and societal expectations provide a very dynamic environment in which companies should proactively manage CSR. This requires companies to be very aware of the environment in which they operate to better understand their impacts and the rapidly changing expectations that may already affect tomorrow's risk responses.

3) VNO-NCW en MKB Nederland: [Onze gemeenschappelijke toekomst: Integrale visie op duurzame ontwikkeling en maatschappelijk verantwoord ondernemen](#), 2012.

4) SER, [Corporate Social Responsibility: A Dutch approach](#), 2000.

Box 1: Due Diligence – creating value

Participants of a recent workshop on Business and Human Rights Impact, organized by SER and facilitated by Shift ⁵⁾, concluded the following about human rights due diligence: *“Especially for companies relatively new to the concept, conducting human rights due diligence may at first feel overwhelming and complex. However, workshop participants agreed that going through the steps systematically, engaging in cross-functional conversations with colleagues, and engaging with expert stakeholders on specific human rights challenges and approaches are all essential to robust human rights due diligence.”* ⁶⁾

Although companies will primarily start with conducting due diligence processes as a moral obligation, or imposed upon them by external stakeholders, companies will experience that the business benefits related to effective due diligence are promising. It helps to prevent and mitigate adverse impacts to society; to protect value, including the protection of reputational damage for the company, to avoid costs related to conflicts with workers and communities, to make informed business decisions, to determine where to focus, and to identify business opportunities. It provides a “social license to operate” to carry out their activities without opposition while ensuring business continuity; it ensures compliance with existing internal CSR policies. It helps building sustainable relationships with key stakeholders and forms a good basis for sustainable reporting.

4.2 Framework for international CSR and due diligence

The Dutch government has endorsed the OECD Guidelines as the authoritative international reference for corporate social responsibility in its CSR policy ‘Corporate social responsibility pays off’. The Dutch government has advised companies of their responsibility to comply with the OECD Guidelines and the related due diligence process ⁷⁾.

The OECD Guidelines encompasses both the topics mentioned in the UNGP and the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work (the ILO core conventions).

These OECD, UNGP and ILO guidelines and conventions set out a ‘responsibility to respect’ and provide operational principles to implement those guidelines in policy and practices. For this code of practice, the due diligence process as set out for human rights in the UNGP has been selected as the reference standard for Clauses 5 and 6.

The relationship between the OECD, UNGP and ILO guidelines and conventions that compose the international CSR framework is shown in Figure 1.

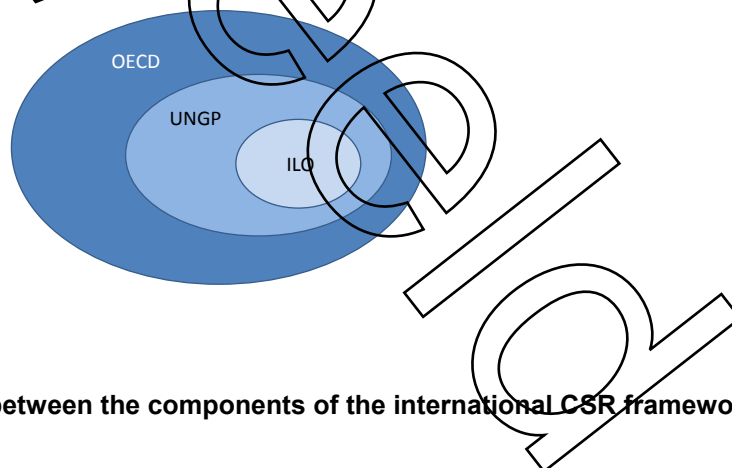


Figure 1 — Relationship between the components of the international CSR framework

5) Shift is an independent, non-profit center for business and human rights practice.

6) Shift, *Business and Human Rights Impacts: Identifying and Prioritizing Human Rights Risks*, New York, 2014.

7) The CSR policy ‘*Corporate social responsibility pays off*’ of the Dutch government. See also *Nationaal actieplan bedrijfsleven en mensenrechten*, Den Haag, december 2013

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