DONOR COMMITTEE FOR ENTERPRISE DEVELOPMENT

Promoting Responsible Business Conduct: A scoping paper for donors supporting Private Sector Engagement

Private Sector Engagement Working Group

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Executive summary

Donor agencies that engage with the private sector to meet the SDGs often see *Responsible Business Conduct* (RBC) as a condition or objective of collaboration. Interest in incorporating RBC considerations into PSE programming has increased in recent years; yet discussions on RBC have so far largely happened in other communities of practice, such as international actors focused on business and human rights and voluntary reporting instruments used by businesses. This scoping paper seeks to bridge this gap, by reviewing current efforts to promote RBC for donor agencies supporting private sector engagement (PSE). Sections 1 and 2 of the paper provide an introductory overview of the RBC concept and related terminologies, factors driving companies' adoption of RBC, as well as a categorisation of government instruments to promote RBC. Sections 3 and 4 explore current practice, debates and potential action areas for each set of instruments, and draw specific implications for how donors could forge closer linkages between their PSE work and RBC objectives. It is based on a literature review, and a survey involving current practices, views and intentions of 11 DCED member agencies.

Defining Responsible Business Conduct and strategies for leveraging change

RBC is defined by the OECD and others as adherence to principles and standards that set out an expectation for businesses to integrate social and environmental issues into their core business by avoiding and addressing and remedying adverse impacts in their operations and supply chains, and contributing to sustainable development where they operate. There are several other related terminologies describing SDG contributions by companies which may overlap with the above definition or have slightly different connotations and focus areas (e.g., Corporate Social Responsibility, 'Environmental, Social and Governance' (ESG) factors, 'Business and Human Rights', sustainable business, and others).

The reasons why companies work towards RBC are diverse, but many RBC drivers can be influenced or leveraged by governments. Examples include national laws, consumer and investor pressure, companies' ambition to minimise reputational and operational risk, immediate financial incentives and long-term competitiveness. Indeed, most government instruments currently in use to promote RBC seek to address, directly or indirectly, these and other RBC drivers in four major ways: legislation and regulation; facilitation and motivation; partnerships and engagement; and publicity and endorsement.

Legislation and regulation

Legislative instruments are used or being explored by many OECD governments to establish mandatory requirements regarding businesses' adherence to, and/or reporting on, RBC principles. The past decade has seen a significant increase in national and EU-level due diligence legislation, including sector- or issue-specific legislative instruments as well as horizontal legislation that cuts across sectors and RBC risks. There are also other important differences, such as the types of companies targeted and due diligence reach in supply chains. The benefits and disadvantages of legislation are widely debated. Nevertheless, private sector advocacy in favour of creating a level playing field through legislation, and new legislative initiatives at national and EU-level, have shifted the focus of discussions to a) the most effective design of laws, informed by wide-ranging consultations with all relevant stakeholders on the right level and scope of mandatory requirements; and b) appropriate ways to mitigate potential negative effects of legislation, such as the exclusion of some developing country suppliers from exporting markets.

Donor agencies can play a role in both of these – for example by participating in national level consultations and by strengthening the capacity of developing country suppliers to cope with the effects legislation in key export markets, through their PSE and wider private sector development (PSD) work. There is also a need for donor agencies in countries with new RBC-related legislation to review formal implications for their PSE programmes, such as in the context of screening potential partners for legal compliance.

Facilitation and motivation

Government actions in this category include a wide range of measures that lead to improved information, collaborative capacity or incentives for companies to adopt RBC principles:

- **Setting coherent policy frameworks with regard to RBC**: This may include the development of overall national policy frameworks (such as National Action Plans on Business and Human Rights and dedicated policies, e.g., the Netherlands RBC Policy) as well as coordination processes across relevant government entities. In order to achieve policy coherence, many governments have also started to mainstream RBC across relevant policy fields, such as government procurement processes, fiscal policy, or trade and investment agreements. While there is a growing focus on a 'smart mix' of RBC promotion measures through legal requirements and support to voluntary actions, it seems that many governments would still benefit from more strategic whole-of-government approaches to promoting RBC and coordinating efforts in a systematic manner.

- **Providing information, advice and training:** One of the most common ways in which governments provide information, advice and training on RBC to national businesses is through National Contact Points (NCPs) for the OECD Guidelines for Multinational Enterprises, which currently exist in 50 countries. In addition, several governments have launched online tools to help companies assess risks in supply chains and how to make them more socially and environmentally responsible. Feedback from DCED members suggests that such services are popular, and potentially worth expanding and enhancing further in several donor countries.

- **Enabling access to voluntary standards and codes of conduct:** Donor agencies are providing grant funding to a wide range of voluntary sustainability standards. These provide guidance to companies and, in many cases, a certification process that facilitates market access for companies and transparency for consumers. The large and growing number of voluntary standards has, however, also been a source of criticism. Future focus areas for donors may therefore include 1) facilitation of the alignment, consolidation and benchmarking of existing standards to reduce costs for companies and producers, and confusion among consumers and investors; and 2) support to new voluntary standards only in relatively unregulated sectors (e.g., plastics). While anecdotal evidence exists on the positive impact of voluntary standards on RBC, investment in generating further evidence could also help enhance practice in this field further.

- **Promoting peer pressure, dialogue and other collective action among companies:** While little is known about the effectiveness of the various initiatives in this field, two examples that have received cautiously positive evaluations are a) the Dutch RBC sector agreements, which have set voluntary sectoral RBC targets and, in some cases, had a small positive impact on RBC, thanks to a mix of knowledge sharing, peer pressure and government facilitation; and b) the World Benchmarking Alliance, which has developed benchmarks to assess and rank leading companies' SDG performance in seven sectors, including due diligence practices – thereby increasing transparency and competitive pressures. In principle, these and similar initiatives may therefore be worth considering in future donor support, as part of a mix of measures to promote RBC. Separately, concerns have been raised that some donor-funded sectoral initiatives that set voluntary progress indicators risk causing confusion and extra costs for companies if they are not aligned with established sectoral voluntary sustainability schemes or international RBC standards.

- **Increasing awareness on RBC among consumers and investors:** Donors are supporting a number of initiatives that serve to raise awareness of consumers on RBC issues (e.g. through grant funding to relevant NGOs), promote transparency for RBC labels (e.g. through dedicated online consumer platforms), and enhance the knowledge base and capacity of investors to consider RBC in their investment decisions (e.g. through dialogue platforms, the development of investment principles and capacity-building programmes). Given the strategic importance of consumer and investor pressure for the adoption of RBC, there appears to be scope for expanding these types of initiatives, and for linking them in a more strategic manner.

Across the above-mentioned instruments to facilitate and motivate RBC lead by donor agencies, there may also be potential for enhancing coordination between units in charge of funding to third-party initiatives and PSE (where these are not combined): This is because contact with companies through standard-setting and other voluntary initiatives has sometimes served as a basis for individual partnerships focused on testing or expanding business practices and models that benefit the poor.

Partnerships and engagement

Government partnerships and engagement with the private sector are typically a core task of donor agency PSE units and serve to combine public and private resources and capabilities to support the SDGs. Three key ways in which they may consider, or support the uptake of RBC include 1) the incorporation of RBC criteria in partner screening and selection; 2) partnerships with individual companies; and 3) partnerships with private sector groups and platforms.

- While most donor agencies consider RBC in their partner selection criteria and processes (for all kinds of partnerships), the specific approaches for doing so are very diverse and still evolving (e.g., who should be in charge of partner assessment and what its scope should be). Peer exchange among donor agencies could therefore be useful to compare and learn from experiences.

- Interest in partnerships with the primary objective to promote RBC has been growing in recent years, but actual experience is still concentrated among relatively few donor agencies. Key examples include co-funding of assessments on how to make supply chains more sustainable (e.g. Netherlands MoFA); dedicated thematic funds (e.g. Netherlands MoFA Fund against Child Labour, and FCDO UK Vulnerable Supply Chains Facility); occasional RBC-focused calls for proposals under the umbrella of broader sustainability initiatives (e.g. under the SECO-funded Swiss Platform for Sustainable Cocoa); as well as projects funded and developed jointly with strategic private sector partners in partner countries. An exchange of experiences and lessons learnt from these experiences could therefore help inform future practice in this field.

- Some donor agencies also engage with industry coalitions or multi-stakeholder initiatives of leading market actors, rather than individual companies, or even argue that this may be more effective in achieving systemic change. This is typically done by convening, co-facilitating, and contributing to, discussions on RBC in national or sector-level private sector groups and platforms (e.g., Sida's engagement with the Swedish Leadership for Sustainable Development Network, or donor participation in the steering committee of the Tropical Forest Alliance). As above, it could be of interest to compare donors' current experiences in how to do this most effectively.

Publicity and endorsement

Government actions in this category range from showcasing positive examples of RBC practice to official signs of approval or awards for particular companies that are seen as champions of RBC. Probably the most widespread practice among donors is the use of light-touch publicity for positive examples of RBC practice. This could be worth expanding, e.g., through more systematic thematic or sectoral case studies that illustrate companies' journey towards better RBC performance. Official government-sponsored awards and labels require appropriate design in order to have a potential positive impact, but also carry a higher reputational risk for governments. While they have only been used by very few agencies to date, there are, among others, practical and reputational risks in defining and measuring 'what is good enough' for official recognition and in endorsing individual companies' RBC performance based on imperfect information.

Cross-cutting implications

There are a number of cross-cutting key issues that donors may wish to consider in enhancing linkages between PSE and RBC:

- One is the need to build capacity in donor agencies to incorporate RBC aspects into PSE, including results measurement – e.g., through training, establishment of an internal focal point on RBC aspects, or work with external expert organisations to enhance relevant systems and approaches. Similar capacity-building needs appear to exist in implementing organisations of donor PSE programmes.
- A second is to refine approaches for dealing with large companies in particular: While several large companies are among global leaders of RBC and are sought-after partners for donors due their capacity and outreach, they also have more complex global supply chains with associated social and environmental risks. Donors could therefore benefit from exchange on how to best handle partner screening and selection (e.g., in terms of whether or not detailed assessments of RBC should be required for strategic partner companies, who should do and pay for the assessment, and whether or not to use different assessment approaches for large companies and SMEs). Similarly, there appears to be a need for continued exchange on how agencies can maintain relationships with large companies considered as RBC champions in the long run, while also being able to raise potential RBC issues with them over the course of collaborations.

In the context of donor agencies' private sector development (PSD) work more broadly, this scoping paper also suggests several areas of work that may be of particular value in supporting the RBC agenda. This includes a strong potential for enhancing support to the development of appropriate regulatory and institutional frameworks with respect to RBC in developing countries, e.g., through the promotion and implementation of ILO Conventions, or funding of OECD RBC and investment policy reviews as a tool to assess, and ultimately influence improvements in national policy frameworks. There also appears to be potential for increasing technical and financial assistance to developing country suppliers to build their capacity to respond to the requirements of laws or voluntary sustainability standards. Finally, linkages could be enhanced between PSD programming and initiatives focused on promoting the uptake of voluntary standards.

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LIST OF ACRONYMS

BMZ	German Federal Ministry for Economic Cooperation and Development
CSR	Corporate Social Responsibility
DFAT (Australia)	Department of Foreign Affairs and Trade Australia
DCED	Donor Committee for Enterprise Development
EC	European Commission
EU	European Union
ESG	Environmental, Social and (Corporate) Governance
FCDO (UK)	Foreign, Commonwealth and Development Office UK
GIZ	German Agency for International Cooperation
JICA	Japan International Cooperation Agency
MoFA	Ministry of Foreign Affairs
OECD	Organisation for Economic Cooperation and Development
PSD	Private Sector Development
PSE	Private Sector Engagement
RBC	Responsible Business Conduct
SDGs	Sustainable Development Goals
SDC	Swiss Agency for Development and Cooperation
Sida	Swedish International Development Cooperation Agency
USAID	United States Agency for International Development

1. Introduction

There is unprecedented global momentum around strategies to enhance the sustainable development impact of businesses, among both private and public actors. One particular terminology and area of activity focuses on *Responsible Business Conduct* (RBC) – broadly defined as business operations that make a positive contribution to economic, environmental and social progress and avoid or address any negative impacts. As such, RBC is now recognised as a means for businesses to operationalise the Sustainable Development Goals (SDGs) (OECD, 2019) in a profitable way (British Academy, 2019); it also increasingly features in donor agency discussions on *private sector engagement* (PSE) to meet the SDGs.

The COVID-19 pandemic, which has exposed major vulnerabilities in company operations and supply chains, has clearly accelerated these trends. COVID-19 has increased companies' awareness that doing business more responsibly can help them to mitigate adverse impacts on workers and supply chains, and to enhance their own resilience, viability and recovery prospects (OECD (2020) and OECD, 2021).

Yet, efforts towards RBC have been building for some years, initially primarily motivated by the need to prevent companies from doing harm: They include the OECD Guidelines for Multinational Enterprises; ILO Declarations on Fundamental Principles and Rights at Work and Multinational Enterprises; and the UN Guiding Principles on Business and Human Rights.

While national legislation and policies often exist or may be required to implement these principles, there is a growing number of initiatives in several OECD countries and the EU to develop more holistic, legally binding instruments on business and human rights, in particular. In parallel, more than 300 voluntary sustainability standards have emerged, including driven by the private sector, civil society, or multi-stakeholder initiatives – with an increasing focus on enhancing positive economic, social and environmental impacts in addition to risk mitigation. Some companies have set their own ambitious sustainability targets, while investors increasingly consider economic, social, and governance (ESG) factors in investee appraisals.

For donor agencies keen to support this agenda, the diversity of RBC initiatives and terminologies however makes it challenging to clearly understand the concept and options for leveraging change. OECD (2018) further finds that there is a lack of alignment among donor RBC strategies and of initiatives that directly support RBC, among others. This scoping paper seeks to address this, in particular from the perspective of donor agencies supporting PSE. While RBC is often a condition or objective of PSE (OECD, 2016), the DCED PSE Working Group (PSE WG) seeks to build a shared understanding of current donor government practice to promote RBC and implications for PSE (see Box 1 for an introduction to PSE and the PSE WG).

Specifically, the three key objectives of this scoping paper, informed by an extensive literature review and interviews with 20 representatives of 11 agencies active in the DCED PSE Working Group[1], are to

- clarify the concept of RBC, by explaining relevant terminologies and international frameworks; categorising factors driving companies' adoption of RBC; and categorising donor government instruments to promote RBC;
- review current practice and debates related to four common government instruments to promote RBC, including by donor agencies; and
- explore any practical implications for PSE programming specifically.

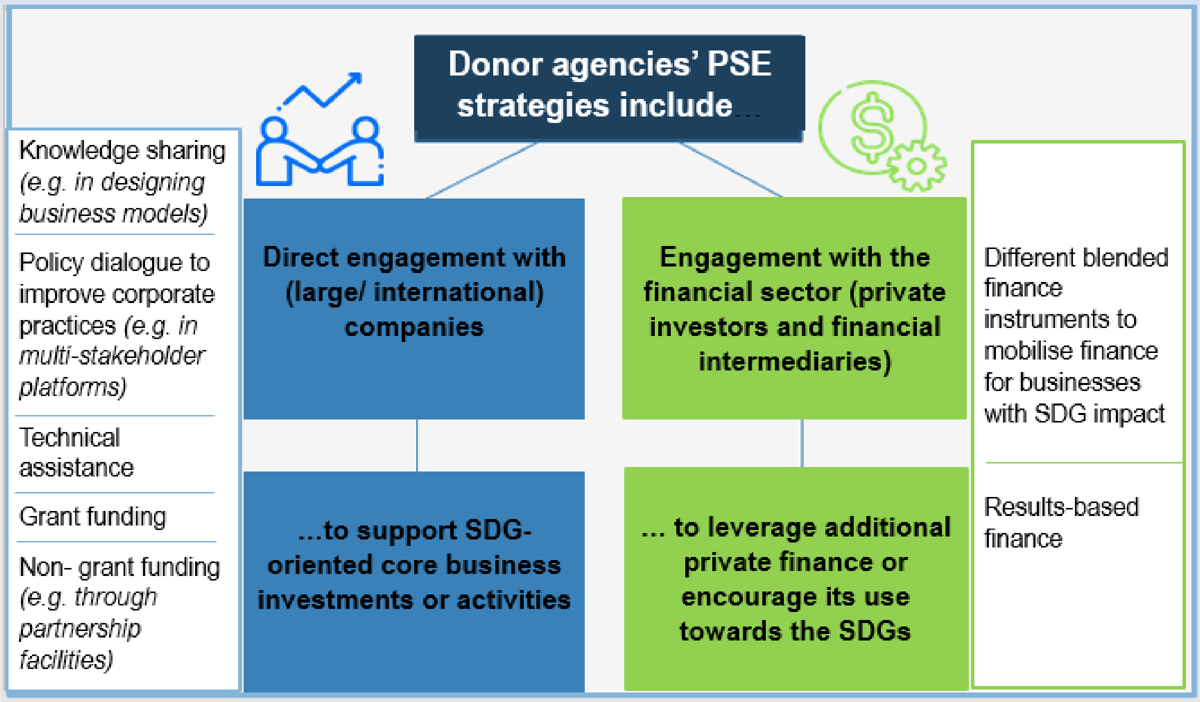
[1] Agencies interviewed (as at 13 June 2021) include: DFAT Australia, EC, FCDO UK, Finland MoFA, GIZ, Luxembourg MoFA, Netherlands MoFA, Sida, OECD, SDC, USAID

Box 1: The DCED's PSE Working Group and its definition of Private Sector Engagement: A brief introduction

The Donor Committee for Enterprise Development (DCED) is a global forum for learning about the most effective ways to create economic opportunities for the poor, based on practical experience in Private Sector Development (PSD). It currently has 24 member agencies, including most major bilateral donor agencies, foundations and UN agencies.

One of the DCED's six Working Groups focuses on Private Sector Engagement (PSE) to achieve the SDGs, including, in particular, economic opportunities for the poor. The Working Group, formed in 2017, has developed an operational framework to narrow down a common understanding of what constitutes PSE in members' work: Specifically, the operational framework defines two sets of PSE strategies, including (1) engagement with (primarily large, often international) companies around their core business; this can include engaging with individual companies, or engaging with several companies through private sector or multi-stakeholder platforms; and (2) engagement with the financial sector to mobilise private finance for the SDGs. Each category includes a range of support measures, with key examples illustrated in the graphic below.

In reviewing implications for PSE, this paper focuses mainly on engagement with companies to promote RBC; engagement with the financial sector is primarily considered where it serves as a means to leverage investors' influence on responsible business conduct of investee businesses.



Further reading: DCED PSE Synthesis Note (2019) and PSE Knowledge Page

2. Defining Responsible Business Conduct and strategies for leveraging change

2.1 Responsible Business Conduct and related terminologies: What do they mean?

The critical role of business in achieving international development goals is almost universally recognised. As such, the 2030 Agenda for Sustainable Development adopted in 2015 by all UN members highlights the contribution of the private sector in delivering and financing the SDGs. In practice, there are however differences in how business contributions to sustainable development are framed, prioritised and measured. This section briefly reviews selected *key terminologies and concepts* and how they relate to each other.

Broadly speaking, the most prominent concepts frame business actions around one or both of the following aspects:

a) **Avoiding or reducing any negative social, economic and/or environmental impact of core business operations,** such as the exploitation of labour in supply chains and other human rights violations, or damage to the environment.
   - This risk- or 'do-no-harm' based approach is inherent in the *Business and Human Rights* concept as well as other international human- and labour-rights related frameworks that focus on, or include principles for preventing, managing and mitigating adverse impacts caused by companies or their business relationships.
   - Its exact elements have been specified in horizontal or sector-specific national legislation as well as international soft law instruments and codes of conduct. From the perspective of companies, *due diligence* assessments of the risk of negative social, economic or environmental impacts serve to identify, prevent or mitigate these risks and account for measures to address them.

b) **Contributing and enhancing positive social, economic and/or environmental and climate-related impacts through core business operations,** towards the achievement of positive sustainable development outcomes.
   - In addition to the OECD Responsible Business Conduct concept (see below), this focus is inherent in opportunity-based terminologies such as *corporate sustainability* and *sustainable business*. For example, the Harvard Business School defines the latter as a business strategy to make a positive impact on either environmental or social outcomes (HBS, 2018). Positive sustainable development impacts of companies are primarily specified in horizontal or sector-specific voluntary standards as well as sustainability commitments by companies.
   - Another set of terminologies, such as *inclusive business* (e.g. IBAN and BCtA, 2021) and the wider rhetoric on core business models that address the SDGs, are used to describe the intentional design of business models to address certain SDGs, e.g. by designing products or services benefiting the poor, or integrating them as suppliers or workers. The British Academy has coined the term *purposeful businesses*, which aim to produce profitable solutions to the global challenges described in the SDGs (British Academy, 2019).

Responsible Business Conduct represents an umbrella term that explicitly brings together the avoidance of negative, and achievement of positive, sustainable development outcomes by businesses into one concept. As part of the OECD Guidelines for Multinational Enterprises, the OECD has defined RBC as

> a set of principles and standards (that) set out an expectation that all businesses avoid and address negative impacts of their operations, including throughout their supply chains, while contributing to sustainable development where they operate. RBC means considering and integrating environmental and social issues within core business activities (e.g. OECD, 2019).

This dual nature of RBC can be illustrated by environment-related principles. Among others, companies are asked to identify, mitigate or prevent any negative environmental impacts, all whilst continually seeking to improve corporate environmental performance, e.g. by proactively adopting or developing environmentally friendly technologies, products or services (OECD, 2011).

At EU level, Responsible Business Conduct is sometimes used interchangeably *with Corporate Social Responsibility (CSR)* (EU, 2019**).** Its CSR Strategy defines CSR as

> *"the responsibility of enterprises for their impacts on society", which requires them to "have in place a process to integrate social, environmental, ethical, human rights and consumer concerns into their business operations and core strategy in close collaboration with their stakeholders, with the aim of maximising the creation of shared value for their owners/shareholders and civil society at large and identifying, preventing and mitigating possible adverse impacts." (EU, 2011)*

Globally, however, the term *CSR* may be used in different ways by different stakeholders (Fordham and Robinson, 2018) - for example, to refer to philanthropic community projects by companies or simple risk mitigation measures in more selective ways than a human-rights based approach (e.g. business-humanrights.org). For some in the business world, the term CSR has indeed come to be associated with initiatives that are 'nice to have' but not essential to core business strategy. As such, businesses increasingly tend to replace it with references to *'business and human rights'* and *ESG* (see below); both are more widely understood to refer to the integration of environmental, social and human rights aspects into core business strategy and to be measurable (e.g. Alva Group, 2020a and 2020b; business-humanrights.org).

While a detailed review of *ESG,* or Environmental, Social, and Governance, factors is beyond the scope of this paper, the term is mainly used to refer to voluntary reporting frameworks by companies. It is also used for screening tools by investors that consider ESG alongside traditional financial performance metrics in their selection of investees. In the context of this paper, it may be noted that ESG frameworks are not based on any single RBC-related concept. A recent review (Nareit, 2019) has identified ten commonly-used ESG frameworks (among many), with 735 different metrics. While the most common metrics cover both ESG risk-mitigation and positive contributions, much of the literature on ESG is remains focused on minimising the risk of negative impacts.

An overall implication for governments, including donor agencies, is the importance of acknowledging the different areas of focus and scope of concepts related to Responsible Business Conduct. In trying to bridge conceptual differences, some actors have opted for a holistic policy approach that is not focused on specific labels, e.g. by conceptually combining different business contributions to sustainable development into overarching concept or strategy papers (such as the EU's Communication on European action on sustainability, 2016 and the EU Reflection paper "Towards a sustainable Europe 2030", 2019).

A practical interpretation of existing conceptual RBC frameworks is to see them as part of a spectrum or sequence of different degrees or levels of business contributions to sustainable development (Nieuwenkamp, 2017; and OECD, 2019). According to the Business Leader's Initiative on Human Rights, these can be categorised as '*essential actions*', '*expected actions*' and '*desirable actions*' – see the table below.

Table 1: Different levels of Responsible Business Conduct

Essential actions	*Actions to adhere to the minimum RBC standards and expectations defined by national and international (soft or hard) law and leading international guidelines* In this category, a starting point for companies is to prioritise actions in areas where the (potential) negative impacts on people and the environment are most severe; in addition to specific associated laws in companies' country of origin or operation, this can be informed by risk-based due diligence processes based on the UN Guiding Principles for Business and Human Rights, the OECD Guidelines for Multinational Enterprises and the OECD Due Diligence Guidance for Responsible Business Conduct. This way, businesses can ensure that, at the least, they are not severely undermining the SDGs. This can have a transformative impact in itself and is widely considered a way of operationalising the SDGs – most of which are touched upon in the OECD Guidelines.
Expected actions	*Actions that go beyond what is legally required to meet the additional expectations of key stakeholders such as investors, employees, customers, and suppliers as well as NGOs and the wider community.* Company efforts to meet additional RBC expectations by key stakeholders are likely to focus on making positive impacts on selected SDGs through their existing core business.
Desirable actions	*Actions that are often company-specific and may include new business models, or pioneering, high-impact philanthropic and community-based initiatives.* Even more significant contributions to sustainable development may be achieved by designing new 'inclusive' business models that directly aim to contribute to certain SDGs through core business[2], and/or by doing risk-based due diligence on all SDGs.

Sources: Adapted from BLIHR (OECD website); Nieuwenkamp, 2017; and OECD, 2019

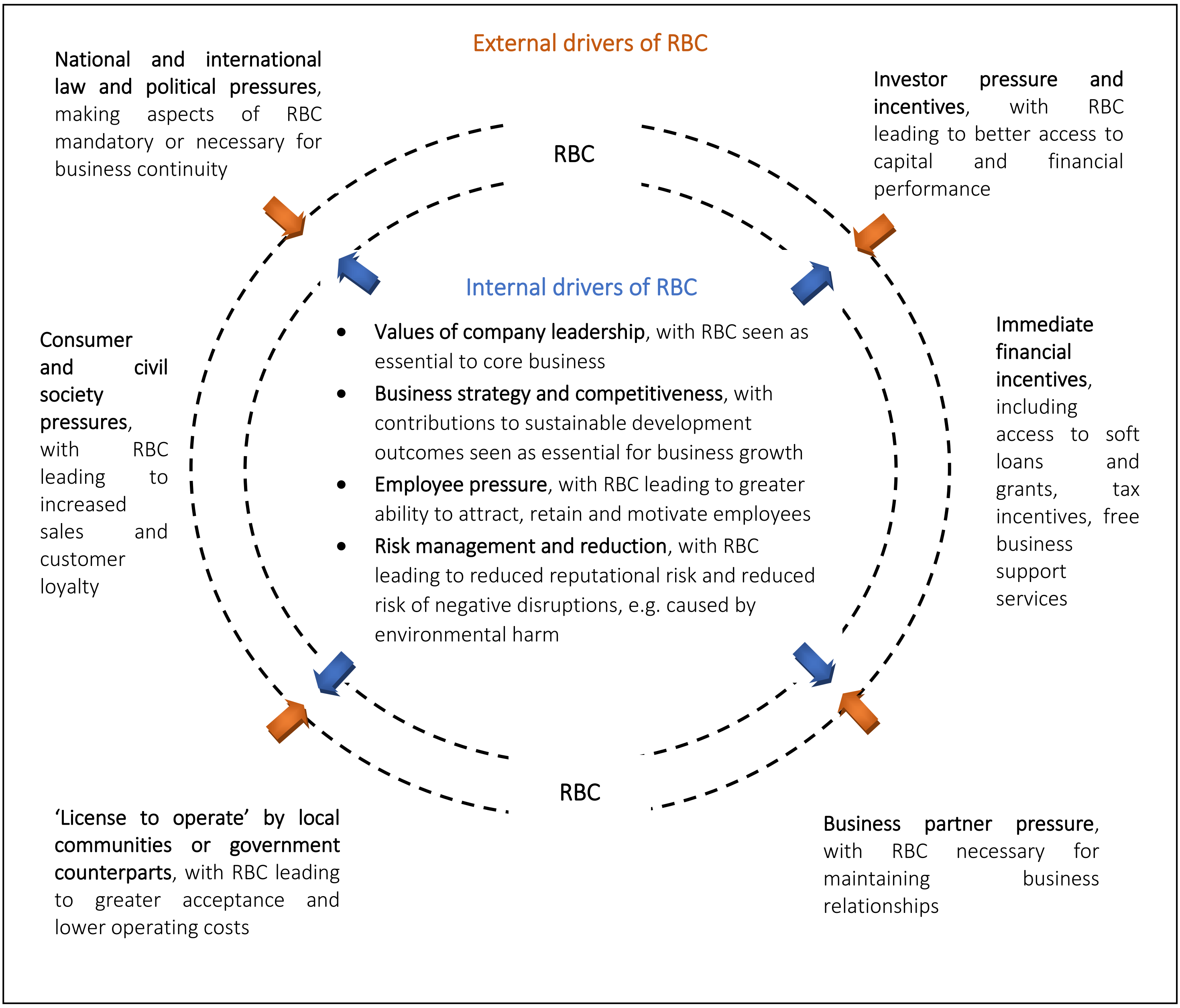
The role of different government instruments in promoting different degrees of RBC will be covered in chapter 3.

[2] According to the Inclusive Business Action Network (IBAN), inclusive business purposefully integrates low-income populations into the business by engaging them as suppliers, distributors, retailers, workers , or customers in a manner that is commercially viable seeks to generate net positive social impact, such as improved livelihood opportunities, increased income or better access to relevant and affordable goods and services (IBAN, 2021).

2.2 RBC drivers from the perspective of companies

Understanding the drivers behind efforts towards RBC by companies is essential for understanding how governments might influence company behaviour, including specific roles of PSE policymakers in donor agencies. The business literature distinguishes between different factors that drive companies' adoption of RBC, and of corporate sustainability standards and principles more broadly. These can be divided into internal and external drivers, with key examples listed in the graphic below:

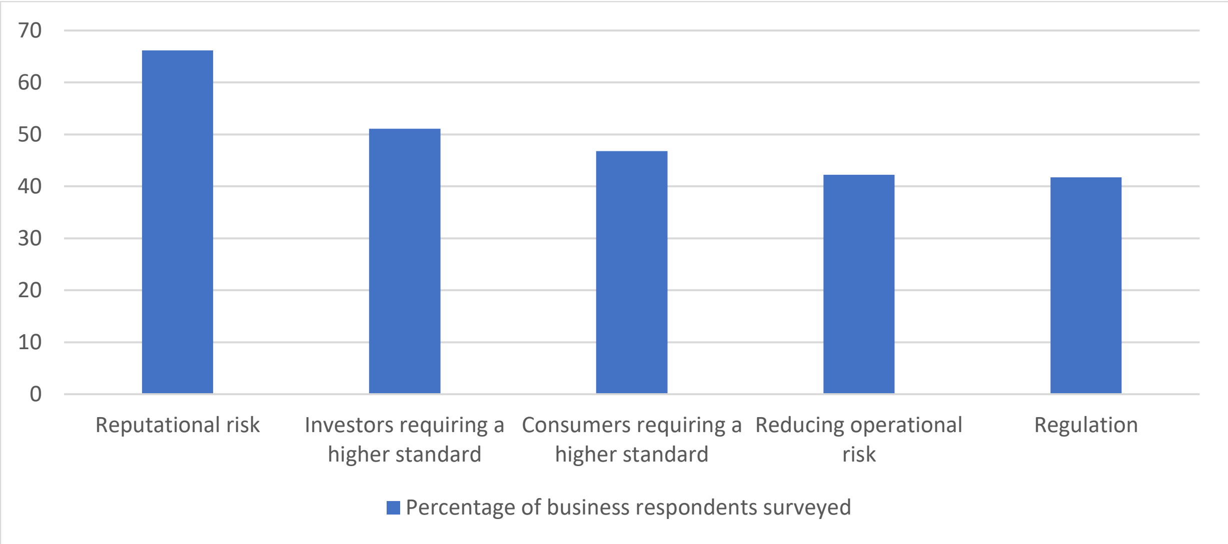
Graphic 1: Key examples of internal and external drivers of RBC adoption by business



Sources: Simon Zadek, P Pruzan & R Evans (1997); Mirvins, P. & Googins, B. 2006; Ecorys, 2012 and https://www.iisd.org/topics/responsible-business

These drivers suggests that there are many entry points for governments and donor agencies to leverage positive change. Indeed, much of the literature points out that business efforts towards RBC are likely to be driven by several factors at the same time, and there doesn't seem to be broad consensus on the most important RBC drivers. A recent survey of European businesses by the European Commission (EC, 2020) on human rights due diligence by companies however suggests that there businesses pay particular attention to five aspects (in the following order): (1) reputational risk; (2) investors requiring a higher standard; (3) consumers requiring a higher standards; (4) reducing operational risk; and (5) regulations requiring reporting on steps taken towards human rights due diligence (see also the chart below).

Graphic 2: Drivers of business efforts towards human rights due diligence, according the European Commission's business survey



Data source: EC, 2020

Some of these findings are mirrored by other recent research.

- A 2019 literature review (K4D, 2019) identifies strong evidence for three key drivers of RBC: customer pressure, shareholder pressure, and business performance benefits. Only weak evidence is found that voluntary reporting schemes or workers' and managers' value play a role in the adoption of RBC.
- Similarly, several other recent publications highlight investor requirements as a key driver of RBC (Dyck et al, 2019; Eccles and Klimenko/a realityHarvard Business Review, 2019).
- The important role of long-term competitiveness in driving RBC is also underscored by other authors, with competitiveness typically seen as a combination of factors such as reduction of costs, building reputation and brand image, market strength or new market access, and more efficient supply chains (e.g. Nieuwenkamp, 2015; Dartey-Bah and Amoako, 2021; Balch, 2017; Battaglia et al., 2014; OECD, 2008).
- In addition, COVID-19 has also put the spotlight the potential of RBC in enhancing supply chain resilience and reducing the risk of negative operational disruptions (e.g. OECD, 2020, OECD 2021).

How different instruments by governments and donor agencies in particular seek to address these drivers will be explored in chapter 3.

2.3 International frameworks and guidelines on RBC

The foundation for government instruments to promote RBC (see 2.4) is a number of leading, mutually supportive international guidelines, principles and standards – some of which are linked to international or domestic legislative instruments or policy. This section outlines the most prominent ones that have informed and inspired further actions, including the issues they cover, their legal status, and how they relate to each other.

a) The OECD Guidelines for Multinational Enterprises (adopted in 1976 and last updated in 2011) provide recommendations from governments to their MNEs on responsible business conduct and are the most comprehensive instrument for promoting RBC (BIAC, 2015**).** They cover all major areas of business responsibilities; most recently a chapter on human rights has been added, which is consistent with the UN Guiding Principles. Other areas covered are employment and industrial relations, environment, information disclosure, combatting bribery and corruption, consumer interests, science and technology, and competition and taxation. In addition, the main document is complemented by a general due diligence guidance and five sectoral guidelines, on agricultural supply chains, extractive sector stakeholder engagement, financial sector due diligence, minerals supply chains, and garment and footwear supply chains. Other sector-specific reviews and outlooks are available, e.g. on RBC and digitalisation or climate change.

A key feature of the OECD Guidelines is their focus on implementation procedures. They provide practical support to companies and, while the standards and principles for businesses are not legally binding, OECD member states are politically committed "to implement this regime by establishing and operating a National Contact Point (NCP) as a state-based, non-judicial, dispute resolution mechanism to handle complaints concerning corporations operating from or within their respective jurisdictions" (Robinson, 2014). Overall, therefore, the Guidelines are an "important soft law instrument in the context of ensuring how companies shall carry out RBC" (European Parliament, 2020).

b) The UN Guiding Principles on Business and Human Rights (2011) are often considered as a flagship international reference on RBC with respect to human rights – or an "*authoritative global framework to address business impact on all human rights, applicable to both States and businesses, and clarified their respective duties and responsibilities for tackling human rights risks related to business activities*" (UN Global Compact, 2014). This was seen as a milestone, as the Universal Declaration on Human Rights and associated international treaties only include obligations for States, and company responsibilities had been much debated. The UN Guiding Principles have two key features:

- The duty of all States to protect people in their jurisdiction from human rights abuses committed by companies and to provide access to effective remedy to victims should abuses occur.
- Companies' responsibility to respect human rights by avoiding any violations and taking steps to assess their impact; they also must address any impact that does occur, including by participating in remedy processes.

While the Guiding Principles are not legally binding themselves, they provide implementation guidance for existing international human rights standards, some of which are legally binding on States. National legislation will often exist or may be required to ensure that elements of these obligations are effectively implemented. This may include domestic law regulating business activities (UN Global Compact, 2014).

c) While the UN Guiding Principles also cover labour rights, the ILO has developed the most comprehensive principles on responsible business conduct with respect to workers:

- The Declaration on Fundamental Principles and Rights at Work (1998) represents a political commitment by governments to promote principles and rights regarding freedom of association of workers, the elimination of forced labour and child labour and the elimination of discrimination in employment contexts. While this declaration is referenced in the UN Guiding Principles, the ILO Resolution concerning decent work in global supply chains (2016) also provides that "[i]n line with the UN Guiding Principles, business enterprises should carry out human rights due diligence in order to identify, prevent, mitigate and account for how they address their adverse human rights impacts."
- The Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy or 'MNE Declaration' (1977, last updated 2017), the first ILO instrument that includes direct guidance to MNEs on how to implement inclusive, responsible and sustainable workplace practices (ILO website).The updated version of the declaration also recalls the UN guiding principles. It is worth noting that the ILO has further published a document on selected principles of the MNE Declaration particularly relevant for companies' response to the COVID-19 pandemic (ILO, 2020).

d) There have been several other international declarations and conventions that can inform government and business action towards RBC; with the UN Global Compact particularly worth mentioning. It was launched for companies by the UN in the year 2000 and condenses 10 RBC principles arising from the Universal Declaration of Human Rights, the International Labour Organization's Declaration on Fundamental Principles and Rights at Work, the Rio Declaration on Environment and Development, and the United Nations Convention Against Corruption. As such, it is a voluntary policy instruments for businesses that seek to align their operations and strategies with universally accepted principles in the areas of human, labour and environment.

2.4 A categorisation of donor government instruments to promote RBC

The purpose of this section is to provide a framework for reviewing common donor government instruments and specific options for donor agencies to promote RBC through PSE. Drawing on a categorisation of public sector instruments to promote RBC developed by the OECD (OECD, 2015), a distinction is made between four key types of donor government actions[3], as further outlined in Table 2 below. The specific categories and definitions have been adapted from the OECD's wording, to provide a framework that covers key actions from across different government branches and agencies, including donor agencies and their PSE units.

[3] The OECD's categorisation distinguishes between regulating, facilitating, co-operating, promoting and exemplifying.

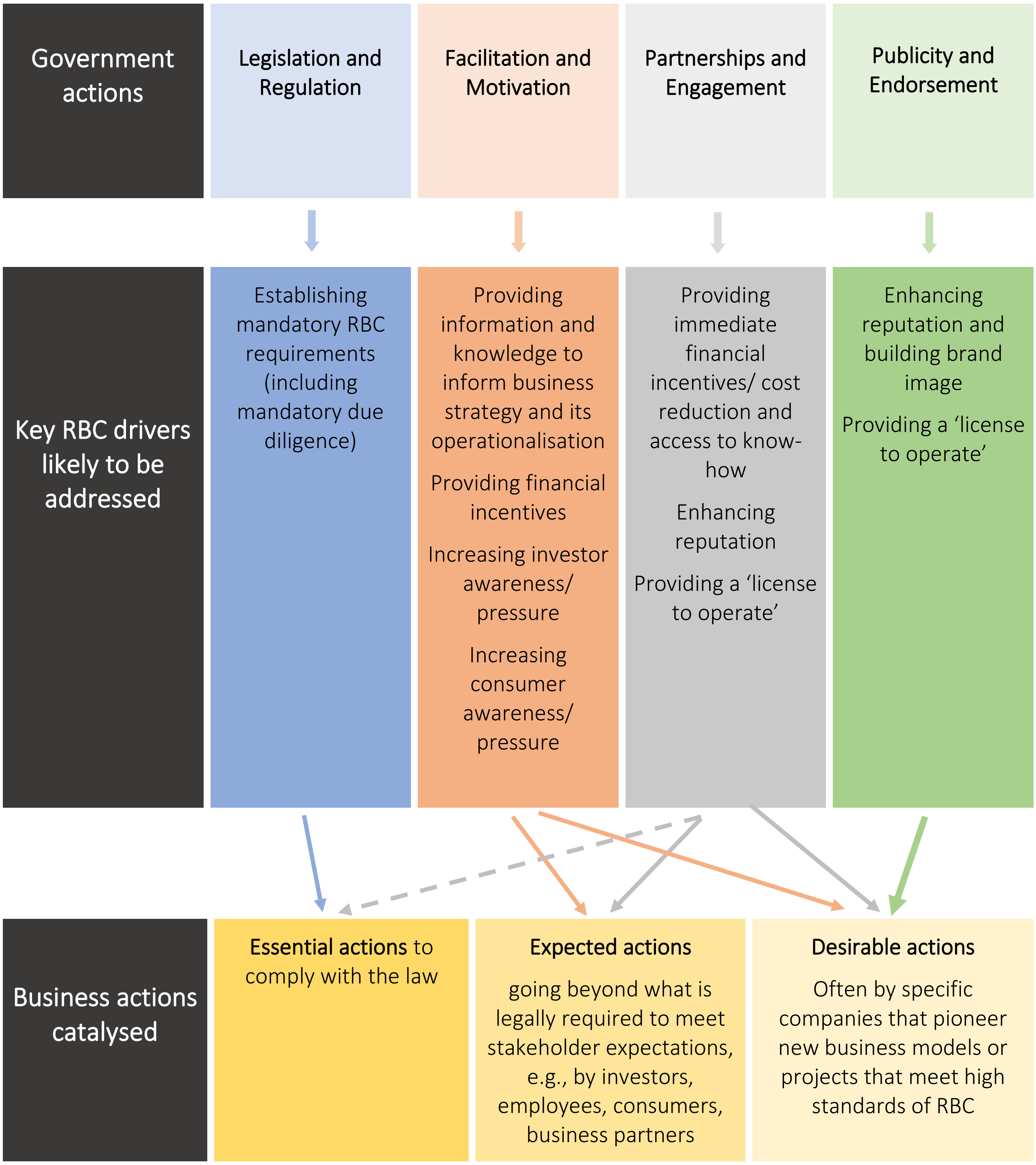
Table 2: Donor government instruments to promote RBC[4]

1. LEGISLATION AND REGULATION	**Legislative instruments are used or being explored by many governments to establish mandatory requirements regarding businesses' adherence to, and/or reporting on, RBC principles, including due diligence.** Legally binding instruments in the widest sense may also include trade agreements between two or more countries; while not explored in detail in this paper, trade agreements have increasingly featured provisions around labour rights, the environment or other aspects of RBC in recent years (e.g. APEC, 2020 and Government of Canada, 2020).
2. FACILITATION AND MOTIVATION	**Government actions in this category include a wide range of measures that lead to improved information, collaborative capacity or incentives for companies to adopt RBC principles**. While governments may provide information on how to operationalise legally binding RBC requirements, most measures in this category aim to facilitate or encourage voluntary progress towards RBC. These include, among others, financial support to third-party standard-setting, benchmarking or knowledge sharing initiatives, as well as to organisations that seek to influence consumer or investor awareness of RBC.
3. PARTNERSHIPS AND ENGAGEMENT	**Government partnerships and engagement with individual companies or private-sector groups and platforms serve to combine public and private resources and know-how to jointly support the adoption of RBC practices**. As opposed to facilitation and motivation, partnerships and engagement involve cost-sharing with the private sector, or active participation of government agency staff in private sector initiatives. While they could be used to support compliance with legal obligations (see Chapter 3.1), they are most commonly used in the context of voluntary efforts towards RBC.
4. PUBLICITY AND ENDORSEMENT	**Government actions in this category range from showcasing positive examples of RBC practice to official signs of approval or awards for particular companies that are seen as champions of RBC.** Publicity and endorsement are typically reserved for business practices that go beyond any legal requirements or widely expected actions, and that have a particularly high positive impact on social or environmental aspects of their core business.

Graphic 3 below illustrates how these different donor government actions relate to different levels of business actions towards RBC (as explored in chapter 2.1) and research on drivers of RBC adoption in companies (see chapter 2.2)

[4] Icon credits: Monkik, Linector, Freepik, icongeek26/ flaticon.com

Graphic 3: Links between donor government actions, RBC drivers and business actions



3. Donor government instruments to promote Responsible Business Conduct: Current practice, debates and implications for Private Sector Engagement

3.1 Legislation and regulation

This section considers current practice, debates and experience regarding the use of legislative instruments to introduce mandatory RBC-related obligations, including varying reporting requirements by companies. In particular, this section includes a brief stock-take of recent efforts by donor governments and the European Union and a summary of the main arguments for and against legislative mechanisms to promote RBC. It concludes by exploring key implications for PSE, including how the existence of binding RBC obligations might influence PSE programming.

Note that the term legislative instruments is used here interchangeably with any mandatory obligations for companies provided by governments and the European Union – and may include instruments such as laws, regulations and EU directives.[5] The precise nature of these obligations is not directly relevant to the fundamental points made in this section. Specific legislative documents or initiatives are however always referred to by their name, which usually specifies their legal nature (including laws, acts and regulations).

[5] These terms are typically defined as follows: *Laws or statutory acts* are passed by the legislative body of government in order to describe legal requirements and the punishment for violating the law. *Regulations* are written by government agencies to implement laws passed by the legislative branch. At EU-level, *regulations* have a binding legal force on all member states; *Directives* require EU countries to achieve a certain result, but leave them free to choose how to do so. EU countries must adopt measures to incorporate them into *national law*.

Photo credit: michaeljung/ shutterstock

3.1.1 Current practice: Key legislative initiatives in donor countries and at EU level

Rapid globalisation of business activities and supply chains has raised the question of who should be responsible for protecting people, economies and the environment from potential adverse impacts of international business practice. As a general rule, governments take on this responsibility through legislative instruments to deal with adverse impacts of companies operating in their territories. However, global business operations often take place in countries where the national legislative environment does not offer sufficient protections and/or where enforcement and recourse mechanisms are weak.

The past decade has seen increasing efforts to integrate core elements of international frameworks to guide multinational business activities, including in their supply chains, into binding national and EU-level legislative instruments. Moves towards mandatory supply chain due diligence requirements appear to be driven by a range of factors, such as:

- **Difficulties with attributing legal liability to parent companies for damages caused by related businesses:** Case studies of international companies accused of serious abuses – either directly or through associated entities – illustrate the difficulties with ensuring accountability and providing remedy (see, for example, European Parliament, 2019) in the absence of effective supply chain due diligence legislation.
- **Indications that most companies will largely ignore negative impacts within their extended supply chains without mandatory obligations**: An EC survey found that while one-third of business respondents undertake due diligence which takes into account all human rights and environmental impacts, the majority of respondents limit their analysis to first tier suppliers only (EC, 2020). A recent survey as part of progress monitoring for Germany's National Action Plan for Business and Human Rights (NAP) similarly concluded that only up to 17% of company respondents with more than 500 employees had integrated the NAP's key human rights elements into their core business processes; among other deficits in human rights due diligence processes, many companies had not assessed human rights risks for their extended supply chains, but only for selected elements (e.g. their own business) (German Foreign Ministry, 2020).

Recent legislative initiatives on mandatory due diligence fall into two broad categories:

- **Sector or issue-specific legislative instruments**, such as the 'Conflict Minerals' regulations in the US, the EU, and Switzerland; the EU Timber Regulation; the recently adopted proposals for an EU Deforestation Regulation and an EU Batteries Regulation; the Modern Slavery Acts in Australia and the UK; a due diligence obligation regarding child labour in Switzerland and the Dutch Child Labour Due Diligence Act; and the recently passed Uyghur Forced Labor Prevention Act as well as the New York Fashion Act in the US.
- **Horizontal legislative instruments covering the entire economy and multiple OECD risks**, such as the French Duty of Vigilance Law, the new German Act on Corporate Due Diligence Obligations in Supply Chains, the proposed Swiss Responsible Business Initiative (which was defeated by referendum in November 2020), and the forthcoming proposal for an EU Sustainable Corporate Due Diligence Directive (see more details towards the end of this section). In December 2021, the Dutch government has further announced plans to introduce mandatory human rights and environmental due diligence legislation at national level (Eastwood and others, 2021).

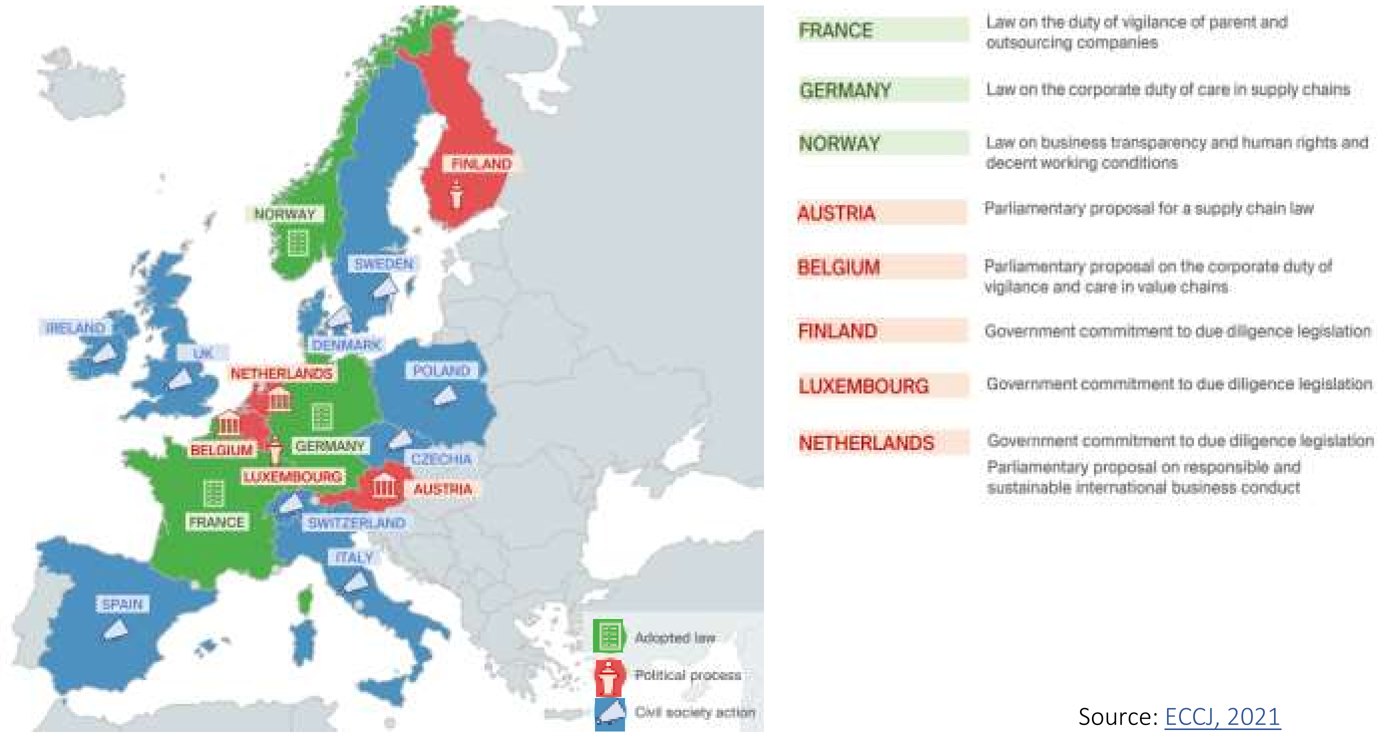
Beyond their sectoral scope, initiatives also vary in terms of the types of companies covered; due diligence reach in supply chains; the scope of implementation mechanisms, including self-reporting

obligations and necessity of third-party audits; where legal liability and burden of proof sit; and the enforcement mechanisms available to authorities.

- For example, while the French Duty of Vigilance Law only applies to large companies based in France[6] and their supply chains, the new Norwegian Human Rights and Decent Work Due Diligence Law covers larger companies domiciled in Norway as well as foreign companies selling products and services in the country (Triponel Consulting, 2021).
- The UK Modern Slavery Act and the Dutch Child Labour Due Diligence Act, which both apply across all sectors, require affected companies to publish annual statements of assurance based on self-assessments of risk. Similarly, the cross-sectoral EU Non-financial Reporting Directive[7] and the California Transparency in Supply Chains Act (BSR, 2020) have only limited self-reporting requirements. Sector-specific initiatives tend to be much more prescriptive. For example, the EU's Responsible Minerals Regulation contains provisions on companies' due diligence systems, including risk management systems, control responsibilities, incorporation of supply chain policies, and a traceability system based on the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (Finland Ministry of Economic Affairs and Employment, 2020).

The graphic below illustrates current mandatory human rights due diligence initiatives across Europe. Table 3 summarises key features of selective legislative initiatives worldwide.

Graphic 4: Map of mandatory human rights due diligence in Europe (June 2021)[8]



Source: ECCJ, 2021

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[6] Applies to companies that for two consecutive financial years employ: (a) 5,000 employees itself and in its direct and indirect subsidiaries whose registered office is in France, or (b) 10,000 employees itself and in its direct and indirect subsidiaries whose registered office is in France or abroad. French subsidiaries of foreign companies are also covered if they reach the thresholds.

[7] Soon to be amended by the recently adopted proposal for a Corporate Sustainability Reporting Directive that applies to a larger number of companies and sets broader reporting requirements based own European sustainability reporting standards that are currently being developed.

[8] For more information civil society campaigns behind legislative initiatives in Europe see business-humanrights.org.

The European Commission is currently preparing the proposal for a Sustainable Corporate Due Diligence Directive planned for adoption in the first quarter of 2022. This legislative initiative aims at fostering sustainable corporate behaviour by setting out a horizontal human rights and environmental due diligence obligation for large and mid-sized European companies and their global supply chains. The initiative has also been proposed to create a level playing field for companies within the EU and to avoid fragmentation resulting from Member States' initiatives to pass national supply chain legislation.

Detailed analysis of how the various active and proposed legislative initiatives compare in terms of objectives, scope, obligations and liabilities for companies and directors, and enforcement mechanisms is available from a variety of sources (e.g. PwC, 2018 and Corporate Justice, 2021). The table below compares key features of selected legislative initiative that are already in force, under development, or recently approved.

While not the focus here, it is worth noting that trade and investment agreements between governments may represent another legal lever to promote RBC. They can include commitments from trading partners to implement international standards and putting in place cooperation mechanisms to strengthen the design and implementation of domestic regulation. For example, the EU's updated Aid for Trade Strategy highlights promoting RBC as an explicit objective (Council of the European Union, 2017) alongside other priorities such as gender equality, good governance, and social and environmental sustainability. There are also examples of specific trade agreements which incorporate measures to promote the role of the private sector in tackling bribery and other unethical or criminal behaviours (APEC, 2018). The North American Free Trade Agreement (NAFTA) in 1992 was among the first trade agreements to specifically include labour and environmental aspects. However, Chatham House (2021) notes that it can be complex to monitor progress against RBC commitments under trade and investment agreements, and to assess the effectiveness of measures to avoid unintended consequences for local producers.

In addition, legislation on responsible investment may have an indirect effect on the adoption of RBC principles by companies. Indeed, legislative instruments to mandate or encourage investors to consider ESG issues in their investment decisions have been on the rise in recent years (PRI and MSCI, 2016). For example, the UK's Occupational Pension Schemes (Investment) Regulation requires pension funds' Statement of Investment Principles to cover the extent (if at all) to which social, environmental or ethical considerations are taken into account in investments, while Sweden's National Pension Insurance Funds (AP Funds) Act notes that environmental and ethical considerations must be taken into account (ibid). At EU-level, the EU Sustainable Finance Disclosure Regulation (2018) sets out how financial market participants and financial advisors must integrate ESG risks and opportunities in their processes, referring to OECD RBC standards.

Table 3: Key features of selected legislative RBC initiatives worldwide

	In force				Approved but not yet in force			Under development
Legislative initiatives	French 'Duty of Vigilance' law	UK Modern Slavery Act	US Dodd Frank Act, Section 1502	Swiss code of obligations for non-financial matters	German **Act on Corporate Due Diligence Obligations in Supply Chains** (due in 2023)	NL Child Labour Due Diligence Law (due in 2022)	Norway Human Rights and Decent Work Due Diligence Law (due in 2022)	EU 'Sustainable Corporate Due Diligence' Directive
RBC issues targeted	Human rights, environment, health & safety	Modern slavery, human trafficking	Human rights abuses related to mineral sector	Non-financial transparency (environment, human rights, anti-corruption); Human rights abuses related to mineral sector; Child labour	Human rights, environment	Child labour	Human rights, decent working conditions	Social and human rights, environment, climate change
Economic sectors targeted	All sectors	All sectors	Specific minerals from the DRC and adjoining countries	All sectors for non-financial transparency and due diligence and transparency for child labour For transparency and due diligence w.r.t. conflict minerals: specific minerals and metals from conflict and high-risk areas	All sectors	All sectors	All sectors	All sectors
Companies targeted	Large French companies (> 5000 employees)	Companies in the UK with a turnover of > £36 million	All companies that file with the US Securities and Exchange Commission	Non-financial transparency: companies registered in Switzerland (> 500 employees and >SFR20 million balance sheet or > SFR40 million turnover) Transparency and due diligence on conflict minerals and child labour: all companies registered in Switzerland if their business involves the handling of conflict minerals or a risk child labour	German and foreign companies with large presence in Germany (2023: >3000 employees; 2024: > 1000 employees)	Large companies that deliver products or services in NL	Medium-sized and large companies domiciled in Norway, as well as foreign companies selling products and services in Norway	Large and mid-sized European limited liability corporations
Due diligence reach	Whole supply chain	Whole supply chain	Whole supply chain	Whole supply chain	Whole supply chain (company responsibilities highest for own operations and direct suppliers)	Whole supply chain	All business relationships in companies' value chains	Whole supply chain
Sanctions for non-compliance	Non-compliance can lead to fines; civil liability for parent company	No financial penalties; UK gov can seek court injunctions against non-compliant companies	No formal penalties; public 'naming & shaming'	Fines for negligent and intentional non-compliance	Violation of obligations can lead to fines and exclusion from public procurement	Non-compliance can lead to fines and prison terms for individual directors	Non-compliance can lead to fines for companies and individual directors	Administrative sanctions and civil liability
Public reporting	'Vigilance Plan'	Annual slavery and human trafficking statement	Annual report on due diligence measures taken	Annual report on relevant ESG risks as well as due diligence and other policy measures implemented by the company	Annual report on actual and potential harm caused	GoNL will publish company statements	Disclosure of due diligence policies; actual/ potential negative impact; measures to mitigate risk, cease or prevent actual impact	Reporting on how adverse impacts have been addressed through EU Corporate Sustainability Reporting Directive

3.1.2 Debates: Summary of the most prominent arguments for and against regulation

The general arguments in favour of and against mandatory RBC obligations, especially those with extensive associated public reporting requirements, have been well rehearsed in the literature.[9] Key perceived benefits of regulatory approaches are summarised below; these are largely based on stakeholder perceptions, rather than actual evidence.

Benefits mainly to companies	Benefits to both	Benefits to mainly to governments/societies
• Provide companies with legal certainty on what is 'good enough' • Clear guidance on how to practically implement their corporate values around RBC • Regional or supra-national legislation in particular may contribute to a level playing field for business that are keen to enhance RBC in specific sectors but also face additional costs as a result • Comprehensive supply chain due diligence can lead to better performance in terms of stock price, cost of capital, reputation and brand image, talent acquisition and supplier relationships (OECD, 2016; , OECD 2021)	• Raising the bar as well as the floor by encouraging frontrunner businesses to do better while also driving upwards those lagging behind with their sustainability performance. • (Potentially) provide clarity and confidence to consumers and investors that companies bound to legislative instruments are achieving a certain level of RBC performance[10].	• Companies that did not regard voluntary guidelines as sufficient incentives start to assess and report on their impacts and mitigation efforts for the first time • Drawing issues to the attention of wider stakeholder groups that weren't previously aware or didn't know where to look for information.[11] • Facilitating scrutiny through interested parties (e.g., NGOs, consumer groups) who previously did not have easy access to relevant information. • Facilitating access to remedy for people adversely impacted by companies' activities.

Potential costs and risks of legislation are listed below – although evidence on many of these assertions in similarly scarce. A specific concern raised by EU trade associations at EU level is the potential market

[9] These have been drawn from a variety of sources in particular: Mandatory HR DD - Options for the EC, EC, 2020; Study on due diligence requirements through the supply chain, EC, 2020; Towards EU mandatory due diligence legislation: Perspectives from business, public sector, academia and civil society, BMZ, 2020; Designing self-regulation and co-regulation initiatives: Evidence of best practices, UK Department for Business, Energy & Industrial Strategy, 2019; Debating Mandatory HR DD Legislation - A Reality Check, European Coalition for Corporate Justice, 2020

[10] The quality of reporting against voluntary and mandatory frameworks is often criticised. For example, the Alliance for Corporate Transparency Research Report from 2019 which analysed disclosure by 1000 large companies in Europe against the Non-Financial Reporting Directive found significant shortcomings, e.g. reporting on policies and not outcomes, lack of specificity in reporting, limited reporting on governance performance and poor alignment with international conventions such as the Paris Climate Accord.

[11] For example, conflict minerals regulations in the US and EU have raised awareness of the risks of human rights abuses when minerals used in e.g., mobile phones and electric vehicle batteries are produced through unregulated artisanal and small-scale mining operations in developing countries.

fragmentation in light of emerging national-level due diligence legislation in different EU countries. A recent joint statement by EU trade associations therefore calls for a harmonised approach to due diligence legal frameworks at EU level, in order to ensure a level playing field.

Costs and risks mainly to companies	Costs and risks to both	Costs and risks to mainly to governments/societies
• Difficulty to credibly assess (and achieve) RBC in supply chains, especially in contexts with limited supplier capacity to report on compliance, and where national legislative instruments are not in place or not enforced	• Significant additional bureaucracy and costs for businesses and governments • Top-down processes without appropriate private sector consultation might prevent the development of effective horizontal or sector-specific solutions to enhance RBC (legislative or other) • Companies might decide to withdraw from certain sectors or geographies which could hurt those whose interests are meant to be protected by regulation. • In extreme cases, companies might decide to relocate to jurisdictions with fewer regulatory restrictions.	• Incentivising a minimum compliance/'tick-box' approach (e.g., either through simple self-reporting or too extensive reporting requirements), which may not lead to genuine changes in company behaviour • Transferring the costs of compliance and auditing to producers in developing countries.

Assessing the relative impacts of voluntary versus mandatory frameworks on the intended ultimate beneficiaries is even more complex. A recent EC survey suggests that the majority of business respondents think that there is no added value to new voluntary standards and that only mandatory due diligence regulation is likely to lead to more significant positive social, environmental and human rights impacts (EC, 2020). However, the limited evidence that does exist also points to risks of unintended negative consequences (see Box 2 on experiences in the minerals sector).

Box 2: Unintended consequences of conflict minerals legislation

The Dodd-Frank Act was passed by the US Congress in July 2010 with a provision that aimed to break the link between mineral extraction and conflict in the Eastern Democratic Republic of Congo (DRC). It requires all companies listed on US stock markets to trace minerals from the DRC used in their supply chain and declare whether these minerals are 'conflict-free' or not. Attempts by researchers to assess the impact of the act on conflict in the DRC concluded that it may have actually led to an increase in violence in some cases. This is because armed groups, which used to levy informal taxes on artisanal and small-scale mining operations, compensated their income losses by preying on civilians and other economic actors and by fighting over high-value gold operations (CATO, 2019). On the other hand, Dodd-Frank requirements for mineral traceability have led to the creation of several monitored supply chain systems with associated multi-stakeholder groups to enable production and trade of mineral substances without interference by armed actors. While it is too early to judge their impact, they should, in the long-term, enable miners in the region to produce and sell their products without the threat of violence while also protecting workers' rights and the environment.

A key conclusion is the need to develop new legislative instruments in consultation with all relevant stakeholders, in order to anticipate and mitigate any negative effects through appropriate accompanying measures. This may include compensating producers and communities in developing countries for additional costs and building the capacities of local producers and regulators. Consultative processes may also help in defining reporting requirements that are feasible for companies yet meaningful for governments and society. In addition, for legislative instruments to be effective, industry stakeholders in general highlight the need for additional guidance (EC, 2020), especially for SMEs, and measurement support.

Regulation in the wider spectrum of RBC instruments

Legislative instruments are at one end of a spectrum of policy options to promote RBC. Alternative or complementary approaches – many of which will be covered in the following chapters - range from very soft instruments such as information campaigns to industry self-regulation (with or without statutory backing) and co-regulation which may include public authorities approving or endorses self-regulatory schemes without legal sanctions for non-compliance (UK BEIS, 2019).

Implicit or explicit commitments to introduce legislation if industry does not address failings on their own have been used by some governments to motivate the private sector. For example, in 2013 the Dutch Ministry of Foreign Trade identified thirteen sectors with high RBC-related risks and announced that it would take regulatory steps unless tripartite agreements between industry, government and civil society were truck to improve RBC performance. An independent review in 2019 found that ten such agreements had been struck for a variety of sectors[12] with some degree of success, which appears to confirm that the 'shadow of authority' has been reasonably effective in this case (Erasmus Law Review, 2019) (for more details on the Dutch sector agreements, including an independent evaluation, see section 3.2.4).

3.1.3 Implications of legislative RBC initiatives for Private Sector Engagement

The rapid expansion of legislative efforts to promote RBC is creating opportunities and challenges for PSE. This section explores whether and how PSE donors are practically supporting the development and implementation of RBC legislation.

The role of PSE donors in the development of RBC legislation

PSE donors have private sector networks and expertise that could potentially make them well placed to help gather private sector feedback on proposed legislation and its implications for developing country operations, or to provide guidance and advice. Based on this, what has been their practical involvement, if any, in recent and ongoing legislative initiatives?

- For most members, the responsibility for gathering private sector feedback on proposed legislation does not sit with agencies leading on development cooperation. In the US, for example, responses to new legislative proposals are generally gathered through the agencies responsible for their enforcement. This role includes coordination with other relevant parts of the US government. In the UK, leadership for business consultations tends to sit with the Department for International Trade (DIT).
- Nevertheless, some governments have set up processes for consultation with businesses and civil society on RBC legislation, which in some cases also include, or are led by, agencies in charge of

[12] The review found that effectiveness varied considerably between the ten agreements. It made several recommendations to strengthen effectiveness, including greater collaboration and learning between sectors and establishing an oversight panel to supervise and guide initiatives.

development cooperation. For example, Sida participates in the Swedish government's reference group led by the Ministry of Foreign Affairs which serves to reach out to business and civil society on the proposed EU legislation. In the Netherlands, the Ministry of Foreign Affairs has sought the advice of the national Socio-Economic Council[13] on its RBC policy, which includes legislative instruments. the same channel will be used for feedback on the proposed EU legislation.

- Several members reported growing efforts to further formalise coordination between and within relevant government departments, including donor agencies, on the development of RBC legislation and government support to RBC more broadly (e.g., Luxembourg, Netherlands, Germany). The Netherlands appears to be particularly active in this regard, with six-weekly inter-ministerial meetings on RBC (including but not limited to legislation) as a formal coordination mechanism.

The role of company compliance with legal RBC obligations in donor agencies' partner selection

Almost all PSE WG members take legal and voluntary aspects of companies' RBC performance into account as part of their partner screening and selection processes. While the nature of agencies' assessment approaches will be explored in more detail in chapter 3.3, on partnerships and engagement, a key take-away is that there is significant variation in the assessment of companies' compliance with RBC legislation, alongside voluntary RBC principles. Similarly, agencies differ in their approach to dealing with potential issues identified in the screening process. The Dutch government, for example, emphasises continuous improvement over absolute compliance (within reason) and has created a community of practice within RVO to stimulate learning. While DFAT considers some issues (e.g., child labour) as 'red flags' that would prohibit collaboration, the emphasis is also on continuous improvement rather than absolute compliance.

As the landscape of RBC legislation is set to become more crowded and complex, members may also benefit from legal advice on implications for their PSE programmes; in USAID, for example, a legal officer attached to the PSE unit assists staff in dealing with legal aspects of partnerships.

The role of PSE in supporting compliance with legal obligations

There are diverging views among PSE WG members on whether compliance with RBC legislation should be a strict condition for partnering or whether donors have a role in providing technical or financial support to achieving compliance. Some agencies are already actively reviewing whether or how companies could be supported in complying with new legislative requirements through existing business partnership programmes, or consider this as an area to explore further.

Within the scope of PSE and Private Sector Development more broadly, some members are also already implementing a number of support measures:

- **Grant funding to individual companies to support compliance:** The Dutch RBC policy, for example recognises that companies who are not already leaders for RBC will require a mix of obligations and incentives - including grants – to achieve better performance. Co-funding is already available under the Dutch Fund against Child Labour (see section 3.3.3 for more information).
- **Co-funding of business-driven initiatives that provide support to compliance**: One example is BMZ's support to the Alliance for Integrity, a platform focused on combating corruption that offers peer learning and training to strengthen the compliance capabilities of companies and their supply chains.

[13] The Social and Economic Council is a body of employers, employees and independent experts.

- **Supporting producer firms in developing countries to help them meet the legal requirements of importing companies and countries**: An example in this area is the European Partnership for Responsible Minerals (EPRM) supported by the Netherlands, Germany, UK and the EC, which has been created as an accompanying measure to the EU Responsible Minerals Regulation and to enable more mines to comply with the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.

There are also a number of wider support measures being implemented or considered by donors and donor governments more broadly to assist domestic businesses and to mitigate risks of unintended consequences on suppliers in developing countries:

- **Providing information and advice**: Section 3.2.3 describes how donor governments support the adoption of RBC, including compliance with legislative instruments, through information and advice. DFAT Australia, for example, supports the Global Compact Network in Australia to help businesses implement the Modern Slavery Act. Germany's Helpdesk on Business & Human Rights has published online tools, organises events and provides free online advice to companies.
- **Promoting legal frameworks in developing countries**: This includes support to the design and enforcement of RBC-related laws and standards in producer countries in line with relevant international frameworks (e.g. Certified Trading Chains in the DRC supported by Germany).
- **Developing digital compliance solutions**: This can facilitate data sharing, reduce costs and encourage learning.

Further government actions to reinforce or complement RBC legislation (e.g., through public procurement rules) will be explored in the following sections.

3.2 Facilitation and Motivation

3.2.1 Overview

Government actions in this category include a wide range of measures that lead to improved information, collaborative capacity or incentives for companies to adopt RBC principles. Key actions and areas of support referred to in the literature and emerging from DCED member interviews include:

- **Setting coherent policy frameworks with regard to RBC**: This may include incorporating RBC principles in government procurement processes, tax incentives to reward strong RBC performance, or putting in place grievance mechanisms to assess government agencies' own human rights impact (e.g. OECD, 2019)
- **Providing information, advice and training**: This may include services directly provided by government agencies or funding of civil society or business-led organisations that provide such services for particular aspects of RBC.
- **Enabling access to voluntary standards and codes of conduct:** This is mainly done through funding to organisations that set standards or define good practice on different aspects of RBC. Some of these also provide certificates of good practice to companies.
- **Promoting peer pressure, dialogue and other collective action among companies:** This can be achieved, among others, through funding to benchmarking and ranking organisations, or business-driven initiatives that focus on voluntary progress reviews and knowledge sharing.
- **Increasing awareness on RBC among consumers and investors**: Government support ranges from funding to civil society organisations focused on raising consumer awareness to advisory support to investors on the relevance and assessment of RBC.

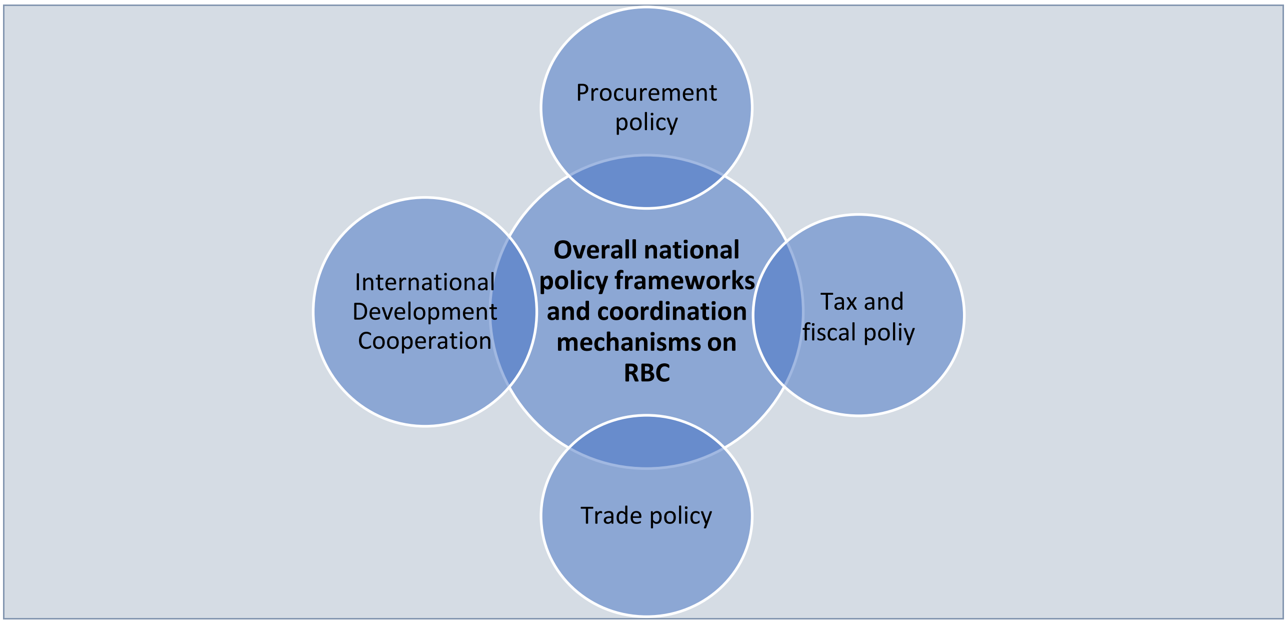
Photo credit: Alim Yakubov/ Shutterstock
Icon credits: Freepik; smashicons; juicy fish; Flat Icons; Freepik/ flaticon.com

The following sub-sections review current practice to facilitate and motivate RBC in these ways and explore debates and implications for PSE where applicable. Note that some initiatives fulfil several purposes at once - they have either been categorised based on their main objective or are touched on in several sub-sections.

3.2.2 Setting coherent policy frameworks with regard to RBC

Governments can provide coherent policy frameworks both through their purchasing decisions as large economic actors in their own right, and by seeking to motivate or facilitate RBC at all policy levels (e.g., fiscal, trade, economic and development cooperation policy). This section focuses on cross-cutting national policy frameworks and mechanisms for government-wide coordination, as well as illustrative examples of common approaches at different policy levels. The latter are therefore not exhaustive but aimed at giving brief insights into the types of approaches and instruments in use by different government entities. At inter-governmental level, the OECD has been organising policy roundtables with governments on RBC to contribute to a harmonisation of approaches.

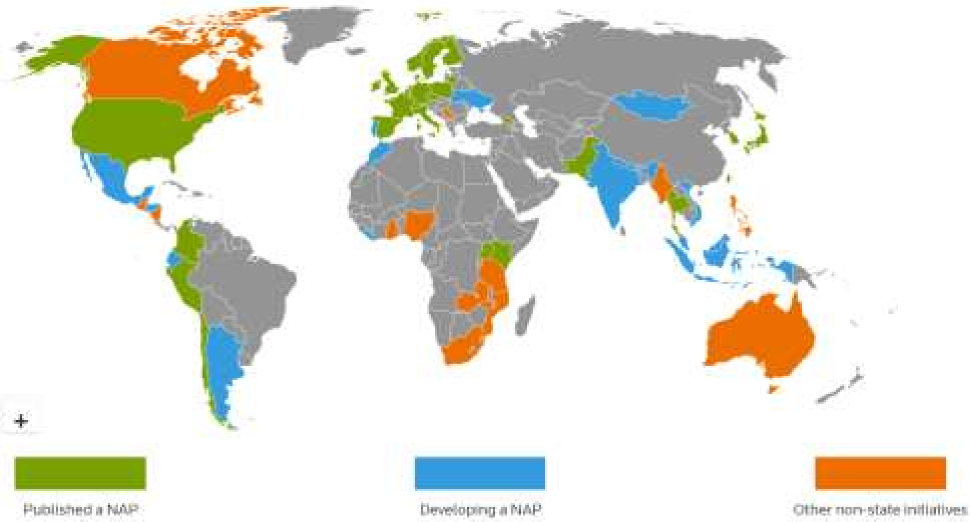
Graphic 5: Key policy areas for leveraging RBC



Overall national policy frameworks and coordination mechanisms

Probably the most common types of national-level policy level framework are National Action Plans (NAPs) on Responsible Business Conduct or Business and Human Rights (which also often cover environmental sustainability aspects). National Action Plans are a means for governments to agree on actions towards the adherence to the UN Guiding Principles on Business and Human Rights and related frameworks, typically including access to grievance mechanisms and remedy. In developing a NAP, a government reviews the extent of its implementation of business and human rights frameworks and identifies gaps and reforms across business-related legal and policy measures that need to be addressed for better coherence with its human rights commitments (Global NAPs website). In total, 30 countries have developed a NAP, while 14 countries are in the process of developing one (see Graphic 6).

Graphic 6: Map of Global NAPs



Source: globalnaps.org

In many countries, NAPs have been developed in close consultation with companies, business associations, relevant Ministries, civil society and other key stakeholders. This has often been a catalyst for establishing multi-stakeholder coalitions supportive of progress on business and human rights and RBC (ibid.). In Luxembourg, for example, the same multi-stakeholder group, the Working Group on Business and Human Rights, discussed potential national legislation on business and human rights and mandatory due diligence.

Specific policies setting out a government's approach to promoting RBC are still rare, with one notable exception being the Netherlands' RBC Policy. Through this policy, the Dutch Government wants to "ensure that Dutch companies engage in socially responsible business practices abroad" and "take account of human rights, working conditions and the environment in their operations" (NL Government website). It is part of a "wider government approach to make international value chains sustainable and achieve the SDGs" (NL Government, 2020). Based on a review of its 2013 RBC policy and effective international practice, the Dutch Government formally approved its new RBC policy at the end of 2020. While its previous RBC policy was largely built around voluntary measures by big companies and in high-risk sectors, the new policy includes a wider, 'smart mix', of measures to promote RBC (see Box 3).

Box 3: Key elements of the Netherlands' RBC policy (2020)

1. **Imposing obligations:** The Dutch Government is considering due diligence legislation, although its preferred approach is legislation at EU level (see also section 3.1).
2. **Setting conditions:** The Government will pursue a more rigorous approach to setting RBC criteria in public procurement.
3. **Providing incentives:** The Government will adopt a mix of financial 'carrots and sticks' through grants, taxes and other financial instruments to encourage the adoption of RBC. Several grant-based instruments are already available (see also section 3.3.3).
4. **Facilitating:** The Government will continue to facilitate sector-wide agreements on RBC (see also section 3.2.4) that set out the risks to avoid in terms of human rights, working conditions and the environment – with an extension into other (high-risk) sectors to be explored.
5. **Information:** In order to make it easier for companies to do business responsibly, the Government is setting up a range of accessible information services (see also section 3.2.3).

Another important component of overarching policy frameworks is the presence of government-wide coordination mechanisms on RBC. As research and interviews for this scoping paper highlight (see also the German example in Box 4), efforts to promote RBC cut across different government branches, agencies and units; even within agencies in charge of development cooperation, different units often lead on different aspects of RBC promotion (such as compliance and risk assessment, cooperation with NGOs and international organisations or global platforms, and partnerships with the private sector).

Box 4: Illustration of the cross-cutting nature of donor government efforts to promote RBC: The example of Germany

Just some of the key entities involved in Germany include the Parliament and Ministries of Labour, Development, and Economy in relation to Germany's 2021 law on Corporate Due Diligence Obligations in Supply Chains; the Federal Office for Economic Affairs and Export Control BAFA tasked to assess reporting of companies on their due diligence obligations; Germany's Agency for Business & Economic Development, which leads various advisory services for German businesses on RBC and BMZ-funded 'Business Scouts for Development' seconded to industry chambers (in- and outside of Germany) and business associations to provide advisory services to companies (see more details in 3.2.2 below); two units focusing on cooperation with the private sector and sustainable supply chains respectively in the Ministry of Economic Cooperation and Development; and different implementing agencies for specific programmes engaging with the private sector in development cooperation, such as the develoPPP programme.

This cross-cutting nature of the RBC agenda, coupled with its growing prominence in recent years, has led to a realisation in many countries of the need for a coordinated approach. In Germany and Finland, for example, RBC is now recognised as a theme that connects different parts of government, and structured processes for dialogue and coordination are beginning to emerge. Others have already established formal coordination mechanisms, such as Luxembourg's internal government group on RBC. The most advanced coordination mechanism seems to be in place in the Netherlands, where all government entities in charge of different RBC instruments meet on a 6-weekly basis to exchange on, and coordinate activities.

Procurement policy

As elaborated in the OECD's analysis of the integration of RBC into public procurement (OECD, 2021), public procurement approaches have evolved to consider not only cost effectiveness but also a wider range of environmental, economic and aspects – thus making it a strategic tool for promoting RBC. Adherence to selected voluntary RBC standards (see section 3.2.4), for example, can be looked upon favourably in contractor selection. Conversely, according to the French Code of Public Procurement, for example, companies that fail to provide a vigilance plan (based on the duty of vigilance law) can be excluded from award procedures. Public procurement that incorporates RBC criteria, can allow governments to both lead by example and provide commercial incentives to companies to incorporate RBC and risk-based due diligence in their global supply chains (Ibid.). It is also worth noting that beyond RBC criteria for suppliers, some countries such as Sweden have also decided to make sustainability reporting mandatory for state-owned companies.

While OECD (2018) observed progress in the integration of RBC considerations in public procurement policies of both donor agencies and governments more broadly, there are practical challenges in reconciling core procurement principles with social and environmental objectives. OECD (2021) concludes that the uptake of RBC objectives and risk-based supply chain due diligence in public procurement is overall still incomplete, not systematic, and uneven across OECD countries. The study recommends further alignment of public procurement systems in international standards, such as the OECD Guidelines for Multinational Enterprises, the OECD Due Diligence Guidance for RBC and the OECD Recommendation on Public Procurement. This is also likely to require capacity building among procurement practitioners on how to implement RBC frameworks; while environmental aspects are already more commonly integrated, knowledge on how to integrate human rights aspects seem to be particularly limited (ibid.).

Tax and fiscal policy

The Danish Institute for Human Rights also highlights that in line with the UN Guiding Principle 8 on Business and Human Rights, "states should ensure… that their tax and fiscal policies are aligned with their international human rights obligations" – by striving for "coherence … with human rights laws and policies…and… avoid[ing] corporate, fiscal or tax measures that have regressive impacts on human rights" (The Danish Institute for Human Rights, 2020).

While specific tax incentives for responsible businesses do not yet seem to be widespread, several EU member states "use tax policy to achieve environmental policy and sustainability goals" – with examples including "taxes designed to alter behaviour such as carbon taxes or a plastic bag tax, or alternatively tax incentives for companies to behave in an environmentally responsible manner; a common example across the EU is enhanced depreciation allowances for companies that invest in energy efficient equipment" (EC, 2021). Large parts of the literature on the alignment of tax and fiscal policies with RBC ambitions focus on wider government responsibilities to address tax avoidance and enhance tax transparency – with the aim to mobilise resources to promote human rights (e.g. The Danish Institute for Human Rights, 2020).

Trade policy

In addition to bilateral trade and investment agreements (see also section 3.1.1), governments can use many other trade-related measures to promote adherence to RBC standards. Examples include assessments of the compliance of foreign exporters with social and environmental criteria as one element of wider processes to link them up with domestic importers (e.g., German Import Promotion Desk), and environmental and social risk assessments for exporting companies (e.g. Australia Export Finance and Trade and Investment Commission). At EU level, the 2015 Trade for All strategy emphasizes that the EU's Trade and Investment policy must respond to consumer concerns by reinforcing CSR initiatives and due diligence across production chains; alongside the incorporation of RBC aspects in Free Trade Agreements, this is done, for example, through the inclusion of RBC considerations EU trade relations with developing countries through the General Scheme of Preferences (GSP) and Aid for Trade instruments (Kvarnström and Zurek, 2020).

The COVID-19 pandemic seems to have given further impetus to the integration of trade and RBC policy – based on the recognition that RBC is a means to manage sustainability challenges and create resilience in global value chains. Until recently, however, these two policy areas have been largely separate, and there is potential for even more policy coherence and integration (see Kvarnström and Zurek, 2020 for more details).

International development cooperation

Two particular aspects of how RBC is being promoted through wider development cooperation efforts (beyond private sector engagement) are worth highlighting here: Human rights-based approaches to development cooperation, and policy- and enterprise development-level measures under the umbrella of private sector development.

In the last few years, an increasing number of donor countries have formalised their commitment to a human rights-based approach in their ODA strategies; this ranges from official commitments to mainstreaming human rights principles in ODA (several OECD countries) to official legislation on the alignment of ODA with human rights principles (e.g. Canada) (The Danish Institute for Human Rights, 2020). Some countries, such as Finland, have also adopted a formal human-rights based approach to development cooperation, meaning that there is an intention to mainstream human rights principles across all aspects of development cooperation – including work that targets, or engages with, the private sector, to promote the SDGs.

More specifically, there are different ways in which donor agencies support the adoption of RBC principles through their private sector development work, including at enterprise and policy level (PSE-related measures are explored separately in section 3.3). Three particular areas of work have come up in DCED member interviews:

- **On-the-ground technical and financial assistance to companies in developing countries** – to make progress in particular areas of good RBC practice (e.g., in the areas of decent work, environmental protection);
- **Support to developing country governments and business associations in the development or conducive national laws and policy frameworks, as well as necessary implementation and enforcement capacities** (e.g., EC support to national labour laws; OECD support to the inclusion of RBC in national policy frameworks); it is worth noting, though, that activities are also sometimes led by units other than private sector development (e.g., in JICA); and
- **Using OECD policy review processes to exert indirect leverage on national policy frameworks:** Two key examples include the OECD's relatively recent RBC policy reviews, and the OECD's investment policy reviews; since 2018, these investment policy reviews include a chapter on policies to promote and enable RBC – thus explicitly linking traditional areas of investment policy with sustainability considerations. While investment policy reviews are typically financed by Ministries of Economy, the recognition of this linked-up agenda is also evident in the fact that part of the latest funding has come from SDC.

3.2.3 Providing information, advice and training

One of the most common ways in which governments provide information and advice on RBC to national businesses is through National Contact Points (NCPs) for Responsible Business Conduct. Indeed, the OECD Guidelines for Multinational Enterprises mandate that adhering states set up such NCPs. Key activities of NCPs include:

- Undertaking promotional activities on the OECD Guidelines for Multinational Enterprises
- Handling enquiries to assist enterprises in taking appropriate measures in line with the Guidelines and contributing to the resolution of issues that may arise from the alleged non-observance of the guidelines in specific instances.

NCPs also often offer a range of related supporting measures, such as training and webinars. Germany's Helpdesk on Business & Human Rights in the Agency for Business & Economic Development, for example, offers training and workshops for companies, as well as resources on achieving compliance with the new national human rights due diligence law. In addition to its general NCP information website, The Netherlands MoFA has also launched a dedicated awareness raising website on 'Getting started with the OECD guidelines' which presents success stories and offers practical information on carrying out due diligence and complying with the OECD Guidelines. The Ministry is now working on setting up a new RBC support office, which will function as a one-stop shop for information on RBC. There are some indications that the services by NCPs are valued and in-demand by businesses; for example, Germany's helpdesk on Business and Human Rights received more than 600 requests for advice in 2021 (AWE, 2021).

Germany, the US and the Netherlands, among others, have also launched or sponsored online tools to help companies better understand social and environmental risks along their supply chains. They include:

- the SME Compass (or 'Due Diligence Compass') – a tool based on Germany's NAP, the UN Guiding Principles and the OECD Guidelines for Multinational Enterprises, aimed at helping German SMEs (who are not covered by due diligence legislation) in establishing a robust management system to help make their supply chains more environmentally and socially responsible. The SME Compass guides through companies through the following steps: developing a strategy; analysing risks and setting priorities; taking action; measuring and reporting and managing complaints;
- the RBC Compass – a self-assessment tool for companies launched by the Norwegian NCP on the extent to which they comply with the OECD Guidelines;
- the CSR Risk Checker – a tool for Dutch companies that want to do business internationally and assess a) which risks they could encounter in terms of labour rights, human rights and environmental conditions and b) how they could mitigate these risks; and
- The Responsible Sourcing Tool, co-funded by the US government, which focuses on helping companies identify and mitigate the risk of human trafficking in their supply chains.

In many countries, information and advice on different aspects relevant to RBC is provided by multiple government agencies in parallel. In Japan, for example, the Small and Medium Enterprise Agency organizes seminars on business and human rights; Japan's External Trade Organization has organized webinars on supply chains and human rights; and the Ministry of Foreign Affairs in collaboration with two major business associations has published a report making the business case for human rights due diligence. In Germany, the Ministry for Economic Cooperation and Development supports the government's information and advisory services by seconding 'Business Scouts' to (Foreign) Industry Chambers and Business Associations. The Business Scouts for Development Programme has further piloted a training course on sustainable supply chain management in cooperation with two municipal Chambers for Trade and Industry in Germany.

Governments also indirectly support other information and advisory services on RBC through funding to third-party organisations and initiatives at inter-governmental level. One key example are national Global Compact networks, who typically offer a wide range of advisory services, webinars and training, as well as knowledge sharing events on the practical implementation of the Global Compact's ten corporate sustainability principles. Additional information and advisory services are provided by many voluntary standard-setting organisations and related initiatives, many of which benefit from government funding. These will be explored in more detail in section 3.2.4. At inter-governmental level, the OECD has been working with multi-stakeholder advisory groups to develop sector-specific due diligence guidance – including minerals, garments, finance and agriculture, among others.

3.2.4 Enabling access to voluntary standards and codes of conduct

Definition and recent developments

A large share of global efforts to promote RBC consists of voluntary standard-setting initiatives, also sometimes referred to as private standards or voluntary sustainability standards, among others. These are often linked to certification to verify and communicate compliance. Companies that purchase or buy certified products are demonstrating their commitment to do business in a responsible manner, while consumers have a way to verify and reward their actions. Broadly speaking, standards are:

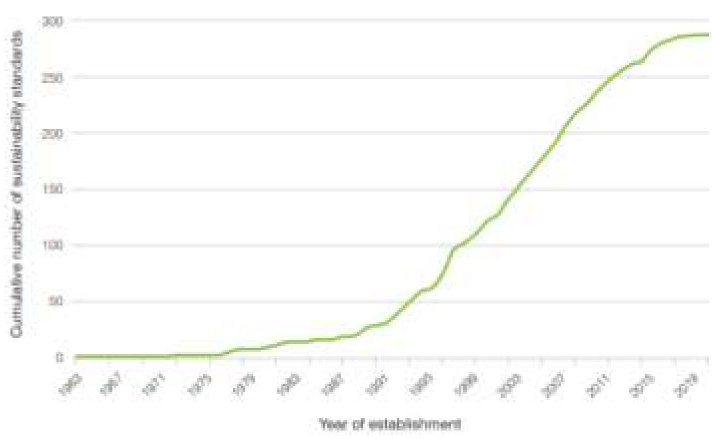
> "… documents established by consensus … that provide, for common and repeated use, rules, guidelines or characteristics for activities or their results, aimed at the achievement of the optimum degree of order in a given context" (ISO/IEC1996, ISO/IEC 2001). Voluntary sustainability standards specify requirements that producers, traders, manufacturers, retailers or service providers may be asked to meet, relating to a wide range of sustainability metrics, including respect for basic human rights, worker health and safety, the environmental impacts of production, community relations, land use planning and others (UNFSS, 2013).

Voluntary standards can be managed by different types of organisations, including for-profit and not-for-profit, single organisations or multi-stakeholder committees (ITC, 2021). In practice a focus of many governments – primarily through their donor agencies – is to support standards managed by non-profit civil society organisations, often with multi-stakeholder participation, as these are rarely self-sustaining. As such, donors have played a critical role in convening relevant stakeholders to launch initiatives, and in providing ongoing funding (e.g. World Bank, 2013).

In the wider context of government support to RBC, voluntary-standard setting initiatives "may emerge in both the absence of good domestic regulation (e.g., where human rights are not enforced) and in the context of expanding regulation (e.g., as a means to demonstrate compliance with new environmental laws)"; they can also be complementary to regulation "by focusing on areas that are difficult or too technical to regulate effectively" (IISD, 2018). In practice, voluntary sustainability standards in some industries function as *de facto* regulation (e.g. 75% of timber in the Netherlands is FSC or PEFC certified) and play an important role in building responsible supply chains (EC, 2016).

The number of voluntary standards globally has rapidly grown since the early 1990s, although they seem to have reached a plateau in the last five years (see graphic 7). This trend is broadly echoed by other statistics (e.g. the Ecolabel index), even if absolute numbers vary (UNFSS, 2020). In total, ITC's Standard Map – a tool to navigate the diverse landscape of voluntary sustainability standards – has identified more than 300 standards (ITC, 2021), while the Ecolabel index, for example, has identified 455 certification schemes related to environmental aspects alone. Agriculture is the sector most covered by voluntary standards, by a significant margin (ITC, UNCTAD and others, 2020).

Graphic 7: Growth in voluntary sustainability standards



Source: International Trade Centre, Standards Map (2021).

Another key trend among voluntary standards is that many have moved from a focus on limiting negative impacts, towards creating positive sustainability impacts. In addition, ITC (2021) observes that they are also increasingly focusing on integrating action and coordination among international value chain actors, thereby increasing the potential to create more systemic positive change.

A simple typology of voluntary standard-setting initiatives

The landscape of voluntary standard-setting initiatives is very diverse; selected distinctions include:

Origin	Voluntary standards may be created by business associations and other private sector groups or civil society organisations, with or without donor support; in some cases, donor agencies have been the driving force behind voluntary standards and the creation of entities to manage them, of with support of companies or multi-stakeholder groups that they convened.
Ownership	As mentioned above, organisations managing voluntary standards may be for-profit or not-for-profit/ civil society organisations, single organisations or multi-stakeholder alliances, among other options.
Focus areas covered	**Commodity-specific:** These standards focus on the production of specific commodities – and in many cases agricultural produce, such as coffee, palm oil or cotton.
	Sectoral: Sectoral standards span different commodities and may apply, for example, to the entire agricultural sector or a wide range of crops.
	Thematic: Thematic, or cross-cutting, standards focus on different aspects of responsible business conduct, such as labour issues (e.g., child labour, workplace health and safety, living wages) and other human rights aspects, environmental aspects (e.g., waste management, emissions), or tax and anti-corruption aspects, among others. Standard-setting initiatives may focus on just one or several themes.
	Meta-level: Meta-level standards focus on the quality of sustainability standards themselves by defining how they should be set and operated, and how to ensure they are credible and transparent.
Geographical scope	Voluntary standards may be national, regional or global in scope.
Certification and enforcement mechanism	Many, but not all voluntary standards, are linked to a certification process, usually conducted by an independent third party. Where no certification process in in place, initiatives may still require progress reports by members and exclude them if they perform below expectations.

Examples of donor-funded voluntary standard-setting initiatives

Given the diversity of voluntary standards, and the sheer number of existing initiatives, it is beyond the scope of this paper to provide a detailed analysis or mapping of all initiatives that benefit from donor funding. With this in mind, this section highlights a few illustrative examples of initiatives currently benefitting from donor support, based on DCED member interviews (see Box 5 below). These examples cover three types of focus areas listed above, are global in scope (or cover at least all producing regions in developing countries) and mostly include some form of multi-stakeholder governance. A key source for more detailed information on voluntary standards (including those entirely driven and funded by the private sector) is the ITC's above-mentioned Standard Map; a review by OECD (OECD, 2009) also provides helpful categories and examples on voluntary sustainability initiatives more broadly, including standards.

Box 5: Examples of voluntary sustainability standards currently supported by donor agencies

1. **Commodity-specific standards:**

The Better Cotton Initiative (BCI) is the world's largest sustainability initiative for cotton production. 'Better Cotton' is defined by a system of social, environmental and economic standards, accompanied by capacity-building measures and a verification and assurance process. The Better Cotton Logo can be by retailers and brands that initially source at least 10% of their cotton as Better Cotton, with a plan to increase this to at least 50% Better Cotton within five years. BCI provides We provide detailed guidance and support. BCI's has a membership of more than 2000 public and private actors; one of its governance bodies is a multi-stakeholder council including representatives all membership categories (civil society, producer organisations, international cotton retailers and brands, as well as suppliers and manufacturers). Among other funders, bilateral donor agencies and associated funding partners include Danida, GIZ, the Netherland MoFA, SECO, DFAT Australia, and Sida (2009-2019). Members also pay a membership fee.

2. **Sectoral standards:**

The Fairtrade standards are focused on changes in the way trade works through better prices, decent working conditions and a fairer deal for farmers and workers in developing countries. Fairtrade standards include economic, environmental and social criteria and applies primarily to the agricultural sector. It includes 20 commodity-specific standards for small producer organisations and hired labour (e.g., tea, fresh fruit, flowers, oilseeds). Note that it also has one standard outside the agricultural sector (sports balls production). Fairtrade International has the status of a non-profit association and is government by a multi-stakeholder general assembly with representative from across the Fairtrade system. Donor agencies providing financial support to Fairtrade include SECO, the EC, AFD and IrishAid.

The Rainforest Alliance is international non-profit organization working to protect forests, improve the livelihoods of farmers and forest communities, promote their human rights, and help them mitigate and adapt to the climate crisis. Its certification programme reviews compliance with a combination of standards in the areas of forestry, agriculture and tourism. The Rainforest Alliance is funded by USAID, among other funding sources.

3. **Thematic standards:**

The Global Reporting Initiative (GRI) GRI (Global Reporting Initiative) "provide the world's most widely used standards for sustainability reporting" (GRI website). GRI has developed a modular system of three series of standards. In addition to universal standards (providing guidance on how to use the Standards), GRI offers topic-specific standards helping organisations understand and report on a range of economic, environmental and social impacts. These will be complemented by sectoral standards in 40 sectors to support more consistent reporting on sector-specific impacts; work on this is ongoing. GRI has four multi-stakeholder governance bodies that oversee the development of its Sustainability Reporting Standards, and those that oversee engagement and enhancement activities. Donor agencies currently providing grant funding to GRI include DFAT Australia, SECO, and Sida. In addition, the UK government funds GRI through the International Climate Finance portfolio.

The Ethical Trade Initiative (ETI) has developed a code of conduct on decent working conditions, derived from relevant ILO conventions. ETI is an alliance of companies, trade unions and NGOs, with all members committing to the code of conduct. In addition to membership fees, ETI is mainly funded by FCDO UK. While ETI has no certification mechanism, it expects members to submit biennial reports on their efforts and results, and to improve their ethical trade performance over time; a disciplinary procedure is in place for companies that fail to make sufficient progress or to honour their membership obligations.

4. **Meta-level standards:**

A key example is the International Social and Environmental Accreditation and Labelling (ISEAL) Alliance. ISEAL is a consortium of multi-stakeholder standard-setting organisations and accreditation bodies. Members join ISEAL by proving respect for the ISEAL Codes of Good Practice and credibility principles. These include codes for harmonised conformity assessment, standard setting, and sustainability impact assessment methodologies (ICTSD, 2017). ISEAL receives funding from several organisations, including SECO, GIZ, the Sustainable Trade Initiative IDH (supported by multiple donors), as well as a number of foundations (ISEAL 2020 Annual Report).

Voluntary sustainability standards in the wider context of voluntary sustainability initiatives

It is worth noting that a lot of reviews of voluntary standard-setting initiatives considers them as one category of broader voluntary sustainability initiatives involving the private sector or multi-stakeholder groups. For three main reasons, this scoping paper will consider other voluntary sustainability initiatives that benefit from donor support in separate sections in this chapter, in particular in the context of efforts to promote 'peer pressure, dialogue and other collective action' (section 3.2.4): Firstly, voluntary sustainability standards tend to be more specific than criteria or principles that may be set by some other voluntary sustainability initiatives; standards also tend to be based on broader industry consensus than initiatives by other organisations; and while not all standards are linked to certification processes, none of the other voluntary initiatives aim to achieve an independently verified level of performance.

Still, the existence of many other voluntary sustainability initiatives alongside voluntary standards is important to recognise. This is because they can in principle be complementary, for example by further encouraging changes towards more responsible business conduct, including in high-risk sectors such as garments. On the other hand, they have also been a major driver of debates on the proliferation of voluntary initiatives (see below), with some initiatives setting their own performance indicators to measure members' sustainability performance instead of drawing on existing standards developed by the industry together with other stakeholders (EC, 2016).

Debates

While many debates on voluntary standards in general as well as specific standards can be identified in the extensive literature on the topic, two overarching themes are worth touching on in the context of this scoping paper: Evidence on results; and opportunities and challenges associated with the proliferation of voluntary standards.

A scan of the literature reveals that there is limited robust and long-term evidence on the effectiveness of voluntary standard-setting initiatives, including multi-stakeholder platforms, on responsible business conduct (e.g. World Bank, 2013; ECDPM, 2019). Nevertheless, there is some positive anecdotal evidence, even if it is more common for some aspects of RBC than for others. According to a World Bank review, for example, voluntary standards related to decent work have had important positive impacts on working conditions for workers in global supply chains (particularly with respect to workplace health and safety), a shift in business awareness on labour standards issues, and increased dialogue and collaborative action between the private sector, trade unions and NGOs (World Bank, 2013). Another commodity-specific example is the growth in sustainable cotton production: Annual progress reports by the Better Cotton Initiative (BCI) reveal a strong growth in cotton sourced in line with the BCI standards, with 22% of global cotton production BCI-certified in 2019, a 40% increase compared to 2018 (Better Cotton website). Anecdotal feedback from DCED members also suggests that, generally speaking, more focused standard-setting initiatives tend to be more effective in leveraging change than very broad, global-level initiatives.

The proliferation of voluntary standards is a major source of criticism and debate. Some argue that "the number and diversity of initiatives offer businesses the possibility of flexibility, avoiding a 'one-size fits all approach', and increases the chances that firms will be able to find support to address concerns of particular interest" (OECD, 2009). Critics however point out several problems: Keeping track of the sheer volume and diversity of initiatives is challenging for companies and producers, and confusing for consumers, investors and governments that seek to understand the meaning of different certificates. It also risks creating 'audit fatigue' for companies, increase the cost of compliance and ultimately reduce the value of voluntary standards to society (e.g. IISD, 2018; ITC, 2021). Some studies suggest that collective pressure on specific RBC issues such as decent work, as a result of multiple buyers adhering to the same standards and codes of conduct, is a key driver of positive change; this collective pressure risks being undermined by the proliferation of standards, which results in mixed messages to suppliers and weakened communication (World Bank, 2013). Large retailers in particular often have to engage with many different initiatives at the same time. A statement by H&M to the EC in 2016 sums up these issues by concluding that "Repeating the same or similar (and in the worst case slightly different) parallel conversations and processes [through different voluntary sustainability initiatives] will slow down the progress we all want to see" (EC, 2016).

A number of recent initiatives and ideas – by intergovernmental bodies, civil society organisations, governments and private sector associations and companies alike – could help to address this issue (IISD, 2018)**.** Examples include:

- **Rationalisation, consolidation and coordination of standards:** According to UNFSS (2020) a reason for the recent stagnation in the number of VSS may lie in their consolidation, through mergers, alliances and mutual recognition. While other mergers may be under discussion, the only actual merger to date however appears to be the fusion of UTZ and the Rainforest Alliance in 2018, into the Rainforest Alliance Certification Program. Drivers behind this merger appear to have been their similar missions, the presence of many double certifications in the field which increased the burden on producers and a vision to achieve economies of scale and market consolidation (ITC, 2021). The Rainforest Alliance certification itself is rewarded based on compliance with a combination of four out of five existing standards in the field of forestry, agriculture and tourism, which the Alliance recognises (rather than a new standard). There are also other examples of collaboration around existing standards: The Fair Wear Foundation's, Dutch-government supported STITCH programme to promote better conditions for garment workers is based on a collaboration with the Ethical Trading Initiative (ETI's) and other organisations – and will be built around the ETI's code of labour practices.
- **Benchmarking:** Another response to this challenge has been the development of benchmarks to evaluate, compare and qualify sustainability standards and company performance – which may help promote transparency and help harmonise the complex landscape of sustainability standards (ITC, 2021). Examples of benchmarking efforts are listed below:
    - The Sustainable Trade Initiative (IDH), together with ITC, Global G.A.P and the Sustainable Supply Chain Initiative (SSCI), creates so-called Baskets of Standards on responsible sourcing (IDH website), including in the fruit and vegetables sector and the flowers and plants supply chain; standards in each Basket are benchmarked against international reference points through a benchmarking process, and can be 'safely' chosen from to demonstrate sustainability. The benchmarking progress is organised in collaboration with sectoral platforms and key stakeholders.
    - The OECD has developed an alignment assessment framework, which aims to help industry or multi-stakeholder sustainability initiatives to evaluate their alignment with the recommendations of the OECD Due Diligence Guidance for RBC.
    - Another benchmarking effort is happening under the umbrella of the forum of globally leading Fast Moving Consumer Goods manufacturers and suppliers, called AIM-Progress, which focuses on enabling and promoting responsible sourcing practices and sustainable

supply chains. AIM-Progress, in collaboration with ITC, has developed a tool to benchmark members' social compliance audit protocols against common criteria, in order to facilitate knowledge sharing, mutual recognition and convergence of supplier assurance approaches (AIM-Progress website, ITC, 2021).

- **Focusing on sectors with few standards:** While the market for voluntary sustainability standards seems to be saturated in some sectors, with existing standards covering a broad range of social, economic and environmental issues (UNFSS, 2020), future donor support could usefully focus more on sectors that are only beginning to adopt sustainability standards, such as plastics (ITC, 2021).

3.2.5 Promoting peer pressure, dialogue and other collective action among companies

A unique approach to promoting collective action on RBC among companies has been pursued by the Dutch Government since 2014/15 by facilitating voluntary, sectoral RBC agreements. The agreements set out how Dutch companies can work with civil society organisations and government to prevent abuses in the areas of human rights, labour rights and the environment. In total, agreements have been developed in nine economic sectors with high RBC risks, including garments and textile, oil and gas, the banking sector, the natural stone sector, pension funds, the metals sector, the insurance sector, the food products sector, gold, and forestry sectors (Dutch Government website). Key conclusions of an independent evaluation of the RBC agreements suggest that they have been moderately effective overall (KIT, 2021):

- Substantial progress on due diligence implementation in line with the OECD Guidelines and UN Guiding Principles has happened as a result of the agreements on garments and textile, and banking, which were both signed in 2016.
- More progress was achieved as a result of agreements that engaged directly with companies active in the sector, as opposed to business associations.
- Overall, more progress on due diligence can be observed in sectors with an RBC agreement than in those without one.
- Once companies started due diligence as a result of a sector agreement, they did not stop after the formal end of the agreement.
- Nevertheless, the overall reach of the RBC agreements has been relatively small, with only 1.6% of the total number of companies active in the sectors participating in the associated agreements.

Many of the voluntary standard-setting initiatives outlined in section 3.2.4 above also serve a more general purpose of facilitating dialogue and exchange among companies, and between companies and other stakeholders. In addition, there are many other multi-stakeholder or private-sector initiatives with donor support that have dialogue as one of their objectives:

- The Dutch RBC agreements, for example, have also provided a platform to build trust and facilitate new interactions and partnerships between civil society organisations and the private sector; in addition, they have provided a safe space to discuss alleged misconduct in supply chains and to come up with a coordinated response (KIT, 2020).
- Similarly, one of the Sustainable Trade Initiative's (IDH) key objectives is to convene sectoral public and private stakeholders, including at producer and buyer country-level, to build trust, create a common understanding of pressing sustainability issues and design and monitor associated action plans. One example is the Malawi tea 2020 program, where IDH brings together a coalition of tea buyers, CSOs, Malawian tea producers, and trade unions to work towards living wages (IDH website).

- The Swiss Cocoa Platform, with 60 members from across Switzerland's cocoa sector, has a peer learning network with five thematic working groups on issues including living wages and child labour and climate resilience and biodiversity, among others. Similarly, JICA has founded a Sustainable Cocoa Platform where companies, industry associations, NGOs, and others share information and experiences and work together to resolve various issues and to realize a socially, economically, and environmentally sustainable cocoa industry.
- The Partnership for Sustainable Textiles, funded by BMZ, includes different thematic project groups where members and experts jointly develop approaches for the realisation of topics such as living wages, handling of grievances and remedies, wastewater standards, chemical management, sustainable fibres, and supply chain transparency.
- The Alliance for Integrity, a multistakeholder platform focused on transparency and corruption-free business financed by BMZ, organises a range of conferences and workshops to promote knowledge sharing on corruption prevention and compliance.

Many donor governments have also taken on a more direct role as convenor of ad-hoc or regular discussion fora, including at the country level. The UK Government, through the Department for International Trade and FCDO, has organised roundtable discussions with companies in Myanmar on the COVID-19 response and ran similar consultations in other countries to inform its support measures to business continuity and worker protection. Sweden has facilitated several in-country multi-stakeholder dialogues to enhance supply chain sustainability through social dialogue since 2015, under the Global Deal initiative (launched jointly by Sweden, OECD and ILO). In the experience of several donor agencies, organising country-level dialogue processes with buyers and supplying companies can be crucial to identify and prioritise entry points for donor support to RBC, given the multitude of parallel challenges. At donor country level, BMZ has initiated a sectoral dialogue process on sustainable tourism with German companies and other stakeholders, which also covers social and environmental aspects.[14]

One key challenge of dialogue processes on RBC is often companies "limited inherent willingness to communicate openly and transparently about … adverse impact in their supply chains" (KIT, 2020). Nevertheless, DCED member interviews suggest that different discussion fora can play a crucial role in building trust between different stakeholders and identifying common ground and practical options for collaboration. Similarly, KIT's evaluation of the Dutch RBC sector agreements suggests that they created space for cross-sector knowledge exchange and collaboration, and that most participants perceive their participation as positive (ibid.).

Another means for governments to increase transparency vis-à-vis consumers, investors and other key stakeholders (see also section 3.2.6 below), while enhancing competitive pressures for companies to do business more responsibly, is to fund benchmarking and ranking initiatives on companies' RBC performance. One key example is the World Benchmarking Alliance, which currently receives funding from BMZ, Danida, EC, FCDO, Netherlands MoFA and several foundations. The World Benchmarking Alliance is the first initiative to bring a coherent set of benchmarks under one entity by consolidating and expanding the work of existing benchmarking initiatives and thus seeks to reduce complexity in the benchmarking space (World Benchmarking Alliance, 2021). Box 6 provides more details on the initiative and recent evaluation findings.

[14] Note that there also other, institutionalised, dialogue platforms in which government counterparts take on a more active facilitation, coordination or technical advisory role. These are considered in the section on partnerships (3.3.2).

Box 6: The World Benchmarking Alliance - Enhancing peer pressure and transparency by benchmarking SDG (and RBC) performance

The World Benchmarking Alliance (WBA), founded in 2018, is developing benchmarks on companies' SDG contributions (including due diligence) in seven 'systems' (financial, decarbonisation and energy, social, digital, food and agriculture, urban and nature). These are used to assess and rank the world's most influential companies. These assessments "reveal both to companies and stakeholders where each company stands compared to its peers, where it can improve and where urgent action is needed to deliver on the SDGs...Ranking and measuring the companies will give them the guidance to drive change and create accountability for those who don't change" (WBA website).

The first evaluation of WBA (WBA, 2021) concluded overall that WBA plays an important role in the ecosystem of instruments to promote RBC and that there are encouraging signs of impact on company behaviour:

- "By spotlighting leaders and laggards WBA leverages the forces of competition to promote a 'race to the top' and provides an effective engagement tool for investors to use in accelerating the transition. In doing so, WBA is probably the organisation closest to creating a global and comprehensive SDG accountability mechanism for the private sector."
- "WBA has a clear niche in the ecosystem: it focuses on accountability and on moving beyond current ESG risks to impact-focused themes and forward-looking ambitions of companies. It is coherent and complementary to other actors in the space. WBA builds upon the developers of sustainability standards (OECD MNE Guidelines, UN Guiding Principles on Business and Human Rights or sectoral as FSC) and reporting standards (GRI, SASB), it goes beyond the data and risk-focus of ESG data providers (Bloomberg, MSCI, Sustainalytics) and offers more scale and reach than deep-dive sustainability research agencies."
- "To date, six different benchmarks have been published at least once, for a total of about 500 companies benchmarked – against a target of mapping 2000 companies using transformation and spotlight benchmarks by 2023."
- "There is ample anecdotal evidence of behavioural change at companies and first signs of impact on people, workers, communities and the environment as well as first signs of structural transformation within companies, including in developing countries."
- A key caveat is that progress seems to have been achieved primarily among companies keen to be among RBC leaders, while there has been a "structurally low response by part of the companies..., notably in the US and China." WBA is also "not always finding the right 'entrance' at companies. In order to generate behavioural change, it needs to move beyond catalysing action in the sustainability department to reaching and influencing top management." (WBA, 2021)

There are also other types of sectoral or thematic initiatives that involve regular reviews of companies' progress towards, or performance against, RBC criteria – thereby raising the bar for companies to do better. A number of examples include:

- The BMZ-funded Partnership for Sustainable Textiles. Among other programme components, the Partnership involves a review process, which is based on an individual risk analysis for each member company and associated targets and measures for the next two years; individual progress reports against these targets and measures are published on the Partnership's website.
- The Workforce Disclosure Initiative, with support from FCDO UK, runs an annual survey of leading companies on the alignment of their policies and practices with international standards. Trends and insights are published in annual report, while public information is provided on whether or not individual companies have responded to the survey on a year-by-year basis. While this does not enable a judgement of companies' specific performance, it does expose companies that have

declined to share information. In 2020, 141 global companies took part in the Initiative, demonstrating their commitment to transparency – a 20% increase on 2019.

- A form of collective progress reporting is happening under the umbrella of the Swiss Platform for Sustainable Cocoa. Among other efforts to monitor results, its 60 members track the overall share of sustainable cocoa imported into Switzerland, with a joint target of 80% by 2025. In 2020, 74% of all cocoa bean equivalents were sourced from sustainable production (i.e., produced and certified according to internationally recognised sustainability standards), a 17% increase compared to 2019.

3.2.6 Increasing awareness on RBC among consumers and investors

Another way in which donor and development agencies seek to address business drivers of RBC is by influencing consumer and investor choices. While support to voluntary sustainability standards and certification (see 3.2.4) and disclosure initiatives (see 3.2.5) also promote transparency for consumers and investors, a number of measures are more explicitly targeted at consumers and investors. Examples include:

- **Providing funding to NGOs that implement advocacy work and public awareness raising**: For example, the Luxembourg MoFA has provided funded to the 'Rethink your clothes' campaign, implemented by national branches Caritas and Fairtrade to raise awareness among the population of social and economic challenges in the textile industry and to guide consumers towards more responsible clothing choices. The Finnish MoFA provides funding to Finnwatch while Sida is a long-term funding partner of Swedwatch – with both NGOs focusing on research and public-awareness raising of companies' human rights, economic and environmental impacts.
- **Providing information on sustainability labels to help make consumption more responsible**: With the view to help consumers make more informed and responsible decisions, different governments have created online platforms to help consumers to navigate the increasingly crowded space of voluntary sustainability standards. Key examples include the German 'Siegelklarheit' platform (translating to 'clarity on labels'), which is funded by BMZ and now includes technical collaboration with five other Ministries in order to assist consumers in assessing labels in different product groups, and verify their credibility and level of ambitions. The assessment is based on a 'Sustainability Standards Comparison Tool' and leads to a qualification as 'good choice' or 'very good choice'. A similar example is the Swiss platform Labelinfo.ch, although it is run by a private foundation (ITC, 2021).
- **Supporting dialogue among investors on responsible investment practices**: One example in this area is the Global Investors for Sustainable Development Alliance, formed on invitation of the UN Secretary General (and inspired by the Swedish Investors for Sustainable Development network, see below) to facilitate exchange among recognized leaders of major financial institutions, corporations and technology service providers on how to align business operations, investment and finance with the SDGs. It is supported by various UN system partners and others like the World Bank Group. A key example at national level is the Swedish Investors for Sustainable Development. As Sida is an active counterpart of the network, it will be explained in more detail in the section on partnerships (3.3.4).
- **Developing and sharing knowledge on responsible investment practices**: A key initiative that has benefitted from government grants (in addition to fees from corporate members) are the Principles for Responsible Investment. The six Principles offer a menu of possible actions for incorporating ESG issues into investment practice. They have attracted a global signatory base representing a majority of the world's professionally managed investments. In addition to the Principles, PRI has also published a range of other tools and guides on incorporating ESG aspects into investment.

- **Building capacity of investors**: Despite a growing knowledge base on responsible investment, relevant expertise is often still lacking in investment companies. In response, the European Commission, for example, has funded a capacity-building initiative to help investment actors analyse and use ESG information (PRI, 2013).

3.2.7 Practical implications for PSE donors

This chapter has demonstrated a wide range of government measures being taken to facilitate and encourage RBC, with some anecdotal evidence suggesting potential positive contributions to the adoption of RBC. Although there is little comparative evidence on the most effective approaches, it seems positive that approaches tackle different business drivers of RBC and consider the wider ecosystem in which companies operate. Government-wide efforts at different policy levels can provide a coherent system for companies to work towards RBC, while specific government information services cater to companies' demand for knowledge and guidance. Company participation in voluntary standard-setting initiatives can mitigate reputational risk, while helping to build a positive brand image and enabling access to markets, thus increasing long-term competitiveness – which are some of the most prominent business drivers of RBC (see section 2.2). With investor and consumer pressure among the top five RBC drivers of European companies, current initiatives in this area appear equally important and would likely benefit from expansion.

Four immediate conclusions arise for donor agencies from the discussions on voluntary standard-setting initiatives: the need to (1) avoid supporting new standards on RBC aspects and sectors that would duplicate, or overlap with, existing standards; (2) increase collaboration among donors to facilitate further alignment, consolidation and benchmarking of existing standards, by convening and coordinating relevant actors or funding third parties to do so; and (3) review gaps in regulation and opportunities for new voluntary standards in sectors where few voluntary sustainability standards exist or only cover a small sub-set of RBC aspects. Separately, a fourth conclusion is that donor support to building a system of voluntary sustainability standards can be an important component of efforts to advance RBC, yet, an increased focus on generating evidence on results and comparative effectiveness of different voluntary standards could help to enhance practice in this field further. This may require improved knowledge and capacity in donors and implementing organisations in how to measure RBC impacts.

From an organisational and policy coherence perspective, there seems to be scope for greater cooperation and information sharing within donor agencies, and between donor agencies and other government entities involved in efforts to promote RBC. Efforts are emerging in several countries to promote greater cross-government coordination and policy frameworks on RBC and would be worthwhile expanding. For donor agencies, anecdotal feedback from DCED members suggest that contact with companies through standard-setting initiatives has sometimes served as a basis for individual partnerships that help to test or expand business practices and models that benefit the poor. Responsibilities for grant funding to voluntary standard-setting (and indeed other third-party initiatives to facilitate and motivate RBC), however, vary among donor agencies and may sit with thematic departments focused on sustainability, global departments focused on support to civil society initiatives, or PSE units. In the latter two cases, therefore, there seems to be a strong case for close collaboration with PSE units that may be able to build on these contacts. As a more general point, there may also be potential for closer connections between PSD strategies more widely and support to voluntary standard-setting initiatives, including in areas such as decent work – thereby deepening the links between the agendas of private sector growth and more sustainable growth (World Bank, 2013).

3.3 Partnerships and Engagement

3.3.1 Overview

Government partnerships and engagement with individual companies or private-sector groups and platforms serve to combine public and private resources and know-how to jointly support the adoption or expansion of RBC. As opposed to facilitation and motivation, partnerships and engagement therefore involve cost-sharing with the private sector, or active participation of government agency staff in private sector-driven initiatives.

Partnerships and engagement are typically a core role of donor agency PSE units. This section reviews current practice and possible debates with respect to three key ways in which they may consider and support RBC, including:

- **Incorporation of RBC criteria in partner assessment:** As touched on in section 3.1.3, agencies have different approaches to considering RBC criteria in partner screening and selection; there also remain debates on the most effective forms of partner assessment.
- **Partnerships with individual companies to promote RBC**: While not yet a very common practice, several agencies are entering partnerships with individual partnerships with the primary objective of enhancing RBC. This includes different approaches, such as thematic funds.
- **Partnerships with private sector groups and platforms**: Many donors opt to engage with private sector groups and platforms, rather than or in addition to individual businesses, to help drive the adoption of RBC principles on a sectoral basis.

The following sub-sections explore current practice in each of these areas in more detail, and highlight debated issues where applicable.

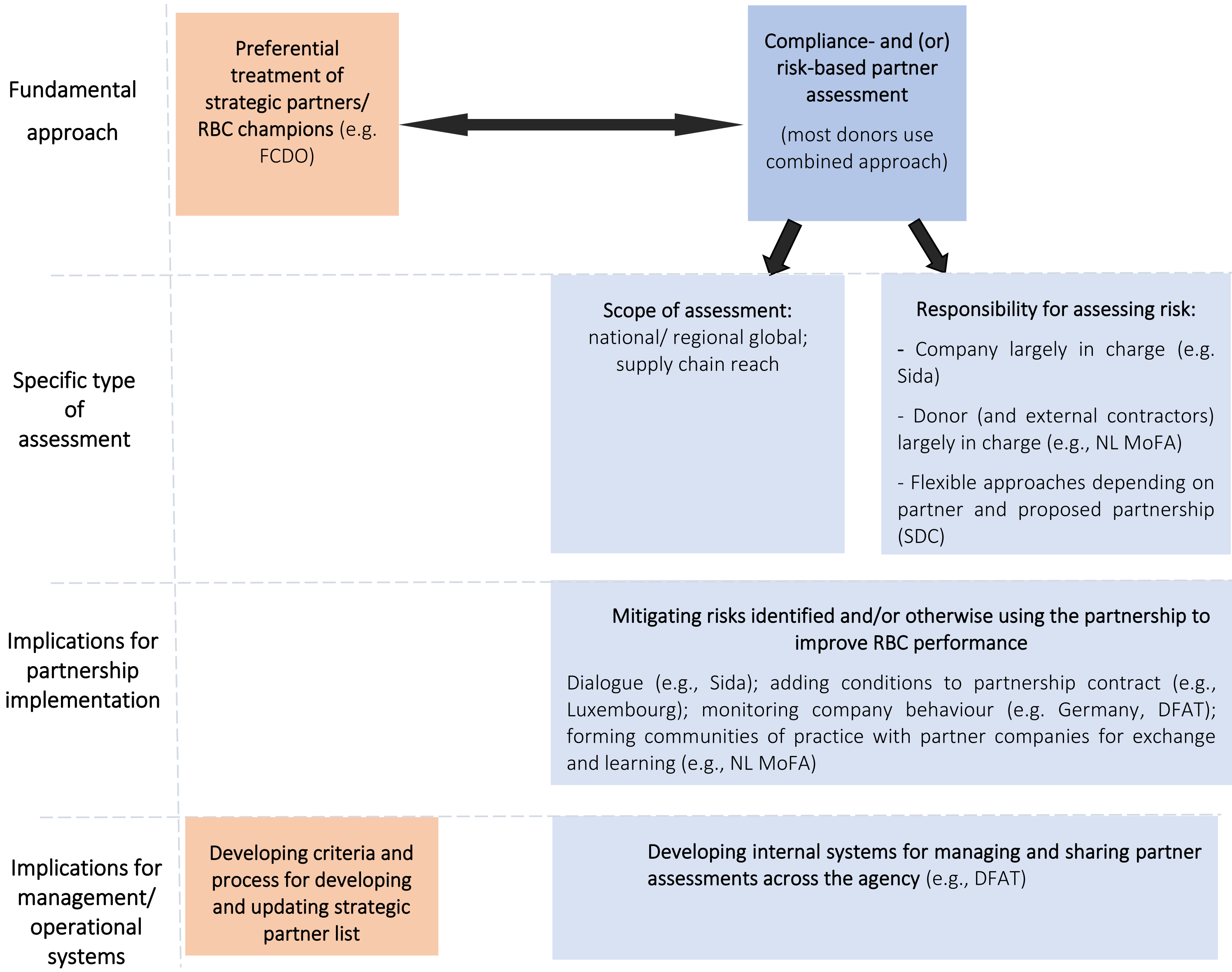
Picture credit: Loring Kavanaugh-Ulku
Icon credits: Eucalyp; kornkun; uniconlabs/ flaticon.com

3.3.2 Incorporation of RBC criteria in partner screening and selection

The incorporation of RBC criteria in partner assessment is primarily a tool for donor agencies to manage their own reputational risk. At the same time, it also helps to ensure that public funds are only used to help expand or improve the activities of companies that are, at the minimum, committed to working towards RBC and not breaking the law or otherwise actively undermining RBC principles. Note that donors also often refer to partner assessments as due diligence; this section primarily uses the terms partner assessment or screening, in order to avoid confusion with mandatory due diligence obligations by companies (see chapter 3.1) or due diligence in line with the recommendations of the OECD Guidelines for Multinational Enterprises.

While all donor agencies interviewed consider RBC in their partner selection, the specific approaches vary quite substantially across agencies.[15] The main commonality is that all agencies have some general 'red flags' that prohibit partnerships, such as sectoral exclusion criteria (e.g., tobacco, alcohol) or active use of child labour. Key differences and debates are summarised in Graphic 8 and described in more detail below:

Graphic 8: Key differences in partner assessment approaches by donor agencies



[15] Note that this section only covers practices by donor agencies, not bilateral Development Finance Institutions (DFIs).

- Whether to identify a small set of partners that get preferential consideration for partnerships: FCDO has developed an internal list of companies they consider as part of a pool of strategic, like-minded partners – inspired by rankings of the World Benchmarking Alliance and other criteria, including previous successful collaborations. Companies that are on this list don't undergo further external assessment before partnerships are entered, allowing for a more streamlined process and agency-wide or cross-government coordination. A similar approach is also under consideration in other agencies such as DFAT. Another option still under discussion in FCDO and SDC is to consider preferential treatment for certified B corporations, which meet the highest standards of verified social and environmental performance, public transparency and legal accountability.

  Some agencies also acknowledge that there are trade-offs between partner screening and their strong interest in working with large, multinational companies that have the necessary capacity and outreach to benefit poor people at scale. In practice, this has meant that partnerships are sometimes entered with multinational companies without thorough assessment of their RBC performance, if there is a shared interest in SDG-oriented collaborations.

- Whether to opt for a compliance- or risk-based approach: Most agencies have opted for a combined approach, with formal checks on companies' compliance with national law and some form of assessment of business operations against RBC criteria, which serves to identify risks and ways to mitigate them. In DFAT, for example, they may be added to a risk registry for ongoing monitoring and mitigating measures.

- Who should be in charge of assessing RBC risks: Agencies have so far had very different answers to this question or are still debating it internally. It has implications for who pays for assessments and who ultimately owns the responsibility to mitigate RBC-related risks. A particular unsolved issue in many agencies is whether or not to undertake or pay for risk assessments in multinational companies. The current spectrum of approaches in DCED member agencies includes:
  - *Approaches where the company is (largely) in charge, such as by:*
    - Relying on information provided by companies, in the form of self-assessment forms. Sida, for example, requests potential partner companies to fill in self-assessment forms on their adherence to the UN Guiding Principles. This is combined with in-house checks, e.g., using online company data tools such as ORBIS.
    - Requesting companies to commit to an internal due diligence process, as part of the partnership contract (e.g., Luxembourg MoFA)
  - *Approaches where the donor agency is (largely) in charge:*
    - Examples include the Dutch Fund against Child Labour, with the implementing agency RVO in charge of assessing applicants; GIZ's assessments of their applicants to the develoPPP programme; and the Market Systems Development unit in DFAT, which is in charge of all private sector partner assessments across DFAT.
    - In addition to some in-house checks, Finnpartnership can provide funding for social and environmental assessments of prospective partner companies
    - USAID has opted for a decentralised approach to partner assessments, with in-country missions or thematic departments ultimately in charge of partner screening and selection. Parts of the assessments are supported by external contractors.

- *A flexible approach to screening for RBC risks*, depending on criteria such as the company's sector of operation and the prospective partnership's budget; this approach has been adopted by SDC – as further outlined in Box 7 below.

- What the scope of assessments should be: This question mainly applies to multinational companies, where most agencies have not yet developed a coherent answer as to whether to do, or demand, RBC risk assessments in the country of the prospective partnership, at regional or global level; and up to what point in companies' supply chains.

- How to mitigate risks identified and use the partnership as a lever of change: Some agencies such as Sida may use the partner screening phase as window for constructive dialogue on RBC-related concerns and ways to mitigate them. Stipulating procedures for company assessment of RBC risks or other specific actions as part of the partnerships contract (as done in Luxembourg's Business Partnership Programme) and monitoring how companies deal with RBC risks during the project (as done in Germany's DeveloPPP programme or by DFAT), are other ways to use partnerships as a lever of change. As already touched on in section 3.1.3, some agencies have also formed communities of practice with partner companies (Dutch Fund against Child Labour and Luxembourg's Business Partnership Programme), to help stimulate learning and exchange on RBC. Some donors stressed that working with companies in these ways to help improve RBC performance may have greater additionality than working only with those that are already frontrunners in terms of RBC.

- How findings should be managed internally: Systems for managing findings from RBC risk assessments internally are beginning to emerge but do not yet appear to be widespread. DFAT, for example, has a central repository for the findings of partner assessments, so that others in DFAT can access them; this also has the advantage of a more streamlined interaction by partner companies.

Overall, many donors are still in the process of refining their approaches to partner screening in line with RBC principles. USAID's PSE Hub, for example, is looking into further developing and streamlining the agency's approach to partner screening, in particular of multinational companies. Several agencies also still see challenges in using information obtained during partner screening. Finnpartnership is therefore working with the expert organisations to build internal capacity and tools.

Box 7: SDC's approach to partner assessment

Assessment of prospective private sector partners in SDC is organised in three steps: 1) a thorough internal preparation (referred to as 'initial screening below); 2) a formal step of 'getting to know each other' in an in-depth meeting with the company (not further elaborated here); and 3) a due diligence on the potential partner (see the due diligence section below).

A. Initial Screening

What	*Who*
1. Screening against a list of exclusion criteria, including a clearly defined list of sectors and practices.	SDC Competency Centre on Engagement with the Private Sector on request by operational units.
2. Before any in-depth discussions are held on a partnership, it must be assessed whether a PSE prospect is active or engaged in any 'critical sectors', which have a higher risk of malpractice against RBC principles (e.g., oil and gas, garments and timber). This is because partners and partnerships in such critical sectors must fulfil additional conditions.	SDC Competency Centre on Engagement with the Private Sector on request by operational units.

3. All PSE prospects need to be assessed for the presence of any 'Politically Exposed Persons' with the assistance of a corresponding database. If a PEP is involved, conduct a risk assessment in accordance with the SDC Guidelines for Entry Proposals.	Operational units
4. Sector-specific ESG risks and business-conduct risks of PSE prospects from any sector must be assessed and possibly discussed with the PSE prospect during the first interaction. For most publicly listed companies, the RepRisk Analytics database[102] will be used, while for all other PSE prospects a short desk research must be conducted, covering the sector-relevant ESG issues derived from the ESG industries reference list.	SDC Competency Centre on Engagement with the Private Sector on request by operational units.
5. If the PSE prospect is a multinational enterprise, it must be checked whether it previously cooperated with an OECD National Contact Point in cases where a complaint was raised against them.	SDC Competency Centre on Engagement with the Private Sector on request by operational units.

B. Due diligence

"Due diligence on the PSE prospect must be conducted to confirm that the potential partner, including its relevant subsidiaries, are legally compliant, meet the SDC's principles and values, adhere to general and sector-specific good business practices and match the SDC's risk tolerance."

What	*Who*
Assessment of the following points: • Past sentences, current litigations and lawsuits and compliance framework. • Supplier issues and supply chain management policy and practices, including information on major first-tier (i.e. direct) suppliers. • Liquidity (depending on the category of the PSE prospect). • In the case of a comprehensive third-party due diligence analysis of private investors, fund managers or beneficiaries (supported entrepreneurs) or their intermediaries: legal, financial, tax, commercial, customer, personnel and technical aspects	**Option 1: Disclosure of information and self-declaration by the company to be reviewed by SDC:** the PSE prospect is requested to disclose relevant information in order to confirm good practices and business integrity. The information submitted will be validated either by a mandated, eligible independent expert or an internal pool of professionals with business administration, finance, legal and other relevant knowledge. **Option 2: Disclosure of information and comprehensive third-party due diligence**. In general, this applies to the following cases: • For PSE collaborations with a SDC budget of over CHF 5 million, or if the SDC finances more than 50 % of the PSE collaboration and the SDC's budget is over CHF 3 million. • For financial market-oriented PSE formats where repayments might be expected • In the case of the PSE prospect having a complex structure (i.e., holding, consortia with four or more private sector partners). • If the PSE prospect is active in a critical sector and is not able to provide the necessary evidence to confirm its adherence to sustainability standards and good practices (e.g., because it is a relatively small company). • If the information provided on the PSE prospect's preparedness and practices (in any sector) for preventing or mitigating the ESG risks identified is insufficient.

Source and additional information: SDC, 2021

3.3.3 Partnerships with individual companies to promote RBC

While partnerships with individual companies to promote RBC are not very common yet, there seems to be a growing interest in using such partnerships as a tool to help companies do business in a more responsible manner. A stocktake by OECD (2018), for example, found that donor "projects that directly promote RBC are not widely spread" (including support to multi-stakeholder initiatives). An EC-funded review of trends in the promotion of sustainable supply chains in the garment sector, however, found indications that this is beginning to change: While the first efforts to make supply chains more responsible had focused on voluntary standards and certification of certain best practices, the review observed a trend towards setting up partnerships with companies to help address structural barriers to RBC (AETS, 2016).

DCED member interviews suggest that this trend applies to both partnerships with private sector groups or platforms (see 3.3.3) and partnerships with individual companies – at least for a sub-set of agencies. For these agencies, the willingness of companies to do business in a more responsible manner is seen as a sufficient basis for supporting them in these efforts. For others, RBC remains a precondition for partnerships around other aspects of the business (e.g., expanding business opportunities), rather than an area that the agency is willing to actively support. This section focuses approaches used by agencies in the first category.

A starting point for improving companies' adherence to RBC standards is to co-fund assessments of companies' supply chains. Examples include:

- RBC vouchers[16] of up to EUR 10,000 by the Netherlands MoFA, which can be awarded to Dutch SMEs to pay for 50% of the cost of studies that assess how their international supply chains could be made more sustainable (in line with the OECD Guidelines for Multinational Enterprises); and
- Co-funding of detailed assessments of human rights risks in companies' supply chains if assessments of prospective Finnish partner companies flagged potential issues (Finnpartnership programme)

Partnerships with individual companies to actively promote different aspects of RBC seem to be primarily entered through dedicated thematic funds: Three active or recent funds have been identified, including the Fund against Child Labour and Fund for Responsible Business[17] of the Netherlands MoFA, and FCDO's Vulnerable Supply Chains Facility (see Box 8 for more details). In addition to these purpose-built funds, the Sustainable Trade Initiative (IDH) also runs occasional sector-specific calls for proposals. These are used to co-finance testing and analysing new sustainable business models that have a strong social and environmental added value, with businesses covering at least 50% of the costs (IDH website).

Box 8: Thematic funds for partnerships promoting RBC

The **Fund against Child Labour of the Netherlands MoFA** (2018-2022) supports Dutch companies with international supply chains in developing countries in with a subsidy of up to EUR 475,000, and a maximum of 70% of the total cost of projects

- researching the root causes of child labour in their production chains;
- taking actions to prevent child labour at a local level; and
- taking measures to prevent child labour in their businesses.

About 50 companies have been supported since 2018. In addition to the Dutch partner company, each project must involve at least one local company and one NGO. A unique feature of the fund is that all partner companies are invited to become part of a community of practice facilitated by the NL MoFA, to facilitate continued learning. This is based on the recognition that there are no quick fixes to eliminating child labour and that it is important for companies to share experiences and approaches in the process.

The **Fund for Responsible Business of the Netherlands MoFA** (2019-2022) has the same subsidy level as the Fund against Child Labour and requires a collaboration between at least two Dutch companies operating in the same international supply chains, an NGO, and (ideally) a local partner company. Its main objectives are to

- assess root causes of RBC risks and concerns in local supply chains
- help companies integrate RBC principles in their core business processes
- support multi-stakeholder projects that take action against RBC risks and concerns in supplier countries in the developing world and that have a positive influence on sustainable production practices.

FCDO's Vulnerable Supply Chains Facility was a rapid COVID-19 response fund to improve working conditions and greater access to healthcare and health information for workers in the garment and agricultural sectors in Bangladesh, Ethiopia, Ghana, Kenya, Myanmar, Tanzania and Zimbabwe. The Facility partnered with 20 UK and international companies and linked them up with 7 non-profit organisations for the implementation of project activities. It is made up of £4.85 million UK aid and £2 million from businesses. 296 suppliers were reached by the end of 2021, leading to workplace improvements and ability to deal with the impact of the pandemic for 1,188,000 beneficiaries. A number of case studies and an impact report on the Facility are available here.

Occasional calls for proposals for partnership projects on RBC issues are also organised in donor-funded sustainability initiatives – the Sustainable Trade Initiative (IDH) and the Swiss Platform for Sustainable Cocoa. As such, IDH has co-financed testing and analysing sustainable business models with strong social and environmental added value in different sectors, with companies covering at least 50% of the costs (IDH website). SECO, through the Swiss Platform for Sustainable Cocoa, has organised two calls for proposals aimed at co-financing innovative value chain projects promoting social, environmental and economic sustainability in the cocoa sector (Swiss Platform for Sustainable Cocoa website).

Some partnerships on RBC issues have also emerged in a more organic way with strategic partners. On example is a collaboration between Sida and H&M, who jointly fund activities (implemented by ILO) to improve garment sector working conditions and productivity in countries that H&M sources from (e.g. ILO website and Cambodia case study). There also appears to be a shift in some agencies towards actively addressing negative social or environmental impacts of companies' core business, rather than avoiding partnerships entirely or only working on isolated social responsibility projects. Sida, for example, is currently exploring how to support a green transition in the textile and garment sector in Bangladesh – an explorative process that emerged from the partnership with H&M, together with a wide range of stakeholders active in the Intergovernmental Panel on Climate Change (IPCC). Another key example is SDC's new approach to partnerships in 'critical sectors' with high risk of negative social and environmental impacts (e.g. oil, minerals, cotton): In these sectors, any partnerships now have to focus on mitigating negative impacts of core business (SDC, 2021). This also means that counterparts in companies for jointly developing these partnerships cannot be the PR or communications departments but only relevant operational departments.

In many other donor agencies, it is still relatively uncommon to partner with individual companies to directly and primarily support them in their RBC efforts. Alternative engagement approaches with partner companies through which agencies seek to catalyse positive change include:

- *Supporting RBC elements in partnerships that are otherwise focused on creating market opportunities for developing country businesses, their workers and suppliers (*e.g., Australia DFAT). This may be done indirectly, by selecting partner companies that are also working towards sustainable production methods and certification as part of established initiatives such as Fairtrade or Better Cotton, or by co-funding partners' efforts towards certification, alongside other measures.
- *Using continued dialogue during partnerships to raise RBC issues and encourage change:* Some donors actively seek to build a trust-based relationship with companies over the course of a partnership, enabling them and the company to openly share concerns (including on RBC issues) and identify possible solutions. Australia DFAT, for example, holds quarterly phone calls with partner companies as well as a more thorough, six-monthly 'health check' of the partnership where such issues can be discussed.
- *Seeking to influence corporate behaviour through long-term relationships, beyond individual partnerships*: An ambition of several donor agencies is to forge long-term relationships with strategic partners, including to help drive lasting and systemic change in their business and supply chains (e.g., Sida, Australia DFAT). Some donors however feel that they are not (yet) fully geared up institutionally for such long-term relationships and that further internal changes are needed (e.g., around staff roles, capacity and incentives as well as programming time frames).

Echoing the findings of AETS (2016), however, several DCED members agreed that there is scope to increase direct engagement with partner businesses to advance RBC – both in the context of voluntary efforts and to support compliance with emerging legal obligations (see the discussion in section 3.1.3).

3.3.4 Partnerships with private sector groups and platform

Some donor agencies also engage with groups of leading market actors rather than individual companies, or even consider this as more effective in driving systemic change. To do so, donors have taken on the roles of convenors or co-chairs of private sector groups and sectoral platforms that focus on RBC, or joined them as participants to provide government perspectives on what can be done to facilitate the adoption of RBC. Selected examples mentioned during interviews with DCED members include:

- **Sida's engagement with the Swedish Investors for Sustainable Development forum**: Swedish Investors for Sustainable Development (SISD) is a partnership comprising 21 of the largest financial actors on the Swedish market as well as Sida. SISD was formed in 2016 and works to explore the role of investors, risks and opportunities related to the 2030 Agenda through learning, sharing experiences and voluntary projects. SISD consists of six working groups working on different themes, such as decent work, climate action and gender equality. Sida originally convened the SISD and also acts as a 'facilitator and catalyser', for example by helping to set the agenda and selecting key issues for discussion, organising events, or raising awareness of Sida's development cooperation work of relevance to SISD's different working groups (Sida website and SISD 2020 Annual Report).

- **Sida's engagement with the Swedish Leadership for Sustainable Development Network**: Swedish Leadership for Sustainable Development (SLSD) was founded jointly by the top management of Sida and CEOs from some of Sweden's leading companies in 2013. It is a network made up of 26 Swedish rooted companies, selected Swedish expert organisations – and Sida. The original objectives of the SLSD were to enable a broad consultative process leading up to defining the Sustainable Development Goals (SDGs), and to improve the relationship with the Swedish private sector in the context of development cooperation through continuous dialogue, learning and exchange on the role of businesses for the SDGs. In terms of Sida's added value as a partner, a 2019 evaluation of SLSD highlights, among others, Sida's role as "a guarantor of the network being a safe space and generating the necessary trust for discussion among competitors", which included a shift towards discussing "sensitive and complex" sustainability issues; in organising high-quality events with expert input that enabled knowledge generation for private sector participants; and in helping to strengthen relationships between Sida and the private sector on the one hand, and sustainability managers across different industries on the other – with the latter persisting outside of SLSD meetings (Sida, 2019).

- **Donor engagement in the Steering Committee of the Tropical Forest Alliance**: The Tropical Forest Alliance is a multi-stakeholder platform initiated to support the implementation of private-sector commitments to remove deforestation from palm oil, beef, soy and pulp/paper supply chains. While governments are among the Alliance members, its main governance structure, the Steering Committee, also includes representatives of several donor agencies, including USAID and the Netherlands MoFA. It helps steer the strategic direction of TFA and supports management decisions.

For examples of platforms that primarily supported through donor grant funding, please see section 3.2.4.

3.3.5 Implications for PSE donors

Partnerships and engagement with individual companies and private sector platforms with the primary objective to promote RBC are currently pursued by only a relatively small number of donors; yet interest in this field of work seems to be growing, e.g. with most dedicated funds and calls for proposals focused on RBC started in the last 3-4 years. In addition, donor agencies typically consider RBC in their broader partner screening and selection processes. Key take-aways for possible future action by donors include the following:

- **Partner assessment**: The fact that donors are using rather diverse approaches and are, to some extent, still experimenting with and internally debating the best ways forward, means that cross-agency experience exchanges and a more detailed comparison of approaches could be particularly fruitful in informing future approaches. This could also include exchanges with bilateral DFIs to learn from their approaches and experiences in assessing prospective partners' RBC performance.
- **Partnerships with individual companies**: With most partnerships focused on RBC having emerged in recent years, a useful next step could be for donors and implementers to share initial experiences and lessons learnt in this field with other donors considering exploring partnerships with individual companies on RBC. Among other entry points, some donors have expressed an interest in this to help companies and their suppliers achieve compliance with emerging legislative requirements on RBC (see also section 3.1.3).
- **Partnerships with private sector groups and platforms**: Anecdotal experience in this field suggests that donors may have an added value in convening, co-facilitating and contributing to discussions on collective efforts towards RBC in national or sector-level private sector groups. Similar to the previous points, it could be useful to collect further experiences in this field and exchange insights into effective practice.
- **Capacity to incorporate RBC aspects in PSE instruments:** Several agencies noted that staff working on PSE programmes and implementing organisations don't always have in-depth expertise on RBC, possibly limiting the incorporation of RBC objectives into PSE programming and implementation. In addition to advice from external expert organisations, some agencies have created an internal focal point on business and human rights who can advise colleagues, including PSE staff, on how to incorporate and enhance RBC in their work (e.g., Finland MoFA). Others coordinate on RBC issues in an ad-hoc manner through internal PSE working groups (e.g., Sida's Private Sector Collaboration Committee). Some agencies are also considering incorporating RBC aspects into PSE training and other capacity-building measures for staff. Building the capacity of implementing organisations is likely to similarly require better access to training and could also benefit from exchanges and collaboration with expert organisations in donor agencies' networks (e.g., including technical advisory organisations or organisations managing voluntary sustainability standards).

3.4 Publicity and endorsement

3.4.1 Overview

Government publicity and endorsement of RBC typically serves two main purposes: communicating examples of good practice to companies and other stakeholders; and providing reputational incentives and therefore potential commercial benefits to companies that aspire to move beyond *essential* or *expected* RBC actions towards *desirable* RBC actions (see Chapter 2.1), with the latter focusing on particularly innovative, impactful or wide-ranging practices to avoid negative or achieve positive social or environmental impacts.

The existing literature on publicity and endorsement as a tool for RBC is relatively limited. References to publicity and endorsement include government officials highlighting specific RBC initiatives implemented in partnership with companies in public speeches and at conferences; government-sponsored business awards to RBC champions and innovators (e.g. OECD, 2011; GAC, 2020); as well as indirect endorsement, whereby governments don't endorse individual companies but signal their approval of certain voluntary standards, or co-fund organisations promoting and monitoring their adoption (see section 3.2.4) (OECD, 2011). As a basis for a clear distinction between facilitation and active endorsement of RBC, this paper excludes funding or approval of organisations managing voluntary standards from this category.

Instead, this paper defines publicity and endorsement as an action by government agencies, departments or senior staff vis-à-vis and individual company or its practices (in general or in a particular context), including:

	• Official statements or written materials that positively highlight company practices or their conformity with government expectations
	• Joint appearance of (or presentations by) senior government and company officials at public events
	• Government-funded awards that recognise good RBC practice and labels focused on showcasing top performance.

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Common approaches of DCED members to publicity and endorsement are categorised below; member interviews revealed opposing views among governments and donor agencies on whether or not publicity and endorsement are an appropriate tool to promote RBC – as explored in 3.4.3.

3.4.2 Current practice among governments and PSE donors

Overall, current practice vis-à-vis individual companies and RBC initiatives can be categorised on a scale between 'no action' or 'implicit signs of approval' on the one hand; and 'informal or light-touch publicity or 'active endorsement of individual companies or initiatives' on the other hand (see Table 4):

While only pursued by a few agencies, active forms of endorsement may be useful to showcase desirable RBC actions, to signal political support and goodwill towards RBC champions, and/ or to help sustainable companies to attract consumers and business partners. The latter is illustrated by a survey on the German 'Green Button' label; 20% of German consumers are said to be aware of the 'Green Button' label, and 96% of them are in favour of such labels to verify companies' compliance with sustainable social and environmental practices (Der Spiegel, 2020).

Table 4: Publicity and endorsement – Spectrum of donor actions vis-à-vis RBC of individual companies

No action	• About half of the agencies interviewed have either opted not to publicise or endorse individual companies or RBC initiatives or have not yet developed any criteria for doing so.
Implicit signs of approval	• Some agencies are entering repeated collaborations with companies that they perceive as having consistent good RBC performance, or are thinking about formally considering them as 'preferred partners' in internal systems. As one interviewee noted, this still requires a balancing act between acknowledging shared values and pursuing joint objectives on the one hand, and avoiding any appearance that they endorse individual companies' behaviour on the other hand.
Informal or light-touch publicity	• Several agencies may highlight positive examples of RBC through social media channels or project-level case studies, but do not endorse or promote any individual company (e.g., Sida, SDC, DFAT, FCDO). • Some agencies may also consider providing credibility to partner companies' efforts to champion RBC, for example by participating together in major conferences, such as the World Economic Forum Annual Meeting (e.g., Sida).
Active endorsement	• Two donor countries and the EU support specific initiatives to endorse individual companies or practices (see further details in Box 9). They include: o Government-funded or -associated awards (e.g., BMZ-funded German Entrepreneurship Award for Development, Luxembourg government); and o Official labels to recognise the achievement of general, thematic or sector-specific RBC standards and criteria (e.g., BMZ-funded 'Green Button' in the textile sector, Luxembourg ESR label and the EU 'Ecolabel')

Box 9: Examples of public endorsement of individual companies and initiatives - RBC awards and labels

Awards:

BMZ funds the German Entrepreneurship Award for Development, which recognises international companies for outstanding contributions to the SDGs. While not explicitly referring to RBC, the two prize categories focus on 'contributions towards local social and environmental conditions, over and above companies' entrepreneurial activity', and 'innovative products or services that promote sustainable business practices and improve people's lives over the long term'. Similarly, in Luxembourg, the *Sustainable Economic Progress Award* aims to recognise socially and environmentally responsible business practices among enterprises that have already qualified for the national 'Socially Responsible Enterprise label' (see below).

Labels:

In Luxembourg, the Ministry of Economy has partnered with the National Institute for Sustainable Development and Corporate Responsibility (INDR) to develop a 'Socially Responsible Enterprise label' (ESR) for domestic businesses. The label is granted based on an independent evaluation of the integration of, and reporting on, ESG aspects in their operations and value chains. The evaluation and label are paid by companies themselves, with the government reimbursing 50% of the cost. About 200 companies currently hold the ESR label, according to the INDR website.

A government-sponsored label specifically focused on a sector of high relevance for development cooperation is the BMZ-funded Green Button. The Green Button is awarded to textile producers that fulfil, 20 company-wide and 26 product specific social and environmental criteria, based on the UN Guiding Principles for Business and Human Rights and OECD recommendations for the textile sector. The verification takes place through an independent audit; while an initial pilot audit is funded by the government, subsequent audits need to be paid for by the companies. 78 companies have been certified with the Green Button by September 2021.

At EU-level, the 'Ecolabel' is a label of environmental excellence that is awarded to products and services meeting high environmental standards throughout their life cycle. It is also linked to detailed guidelines on eco-friendly best practices and minimisation of negative environmental impact. The application fees are borne by applying companies.

3.4.3 Debates and implications for PSE donors

Despite its potential advantages of showcasing positive examples and helping to enhance the reputation and market share of RBC champions, endorsement is also associated with risks and disadvantages, including:

- **Immediate risks and difficulties for donors, such as:**
  - **the difficulty of defining and measuring 'what is good enough' for official recognition**; in practice, some donors have found it easier and less risky to highlight areas for improvement, rather than to 'praise' good practice. A few agencies are however interested in exploring further whether and how the latter can be done, potentially informed by better risk and relationship management processes with private sector counterparts (e.g., SDC).
  - **the reputational risks for donors of endorsing, in particular, large private actors with only limited and time-bound insights into their operations**; this may ultimately make them appear complicit in 'greenwashing' or 'SDG-washing' by inadvertently helping companies to cover up potential malpractice against RBC principles in other areas of their business.
- **Overall effectiveness risks for the RBC agenda, such as:**
  - creating a potentially confusing landscape of RBC criteria, both for companies and consumers, through a variety of labels, awards as well as voluntary sustainable certifications supported by different governments

- o lowering, rather than raising the bar, if requirements associated with labels are less demanding than accepted good practice standards, for example relating to due diligence beyond first-tier suppliers or reporting obligations
- o in the case of awards, the limited number of companies that can be reached and motivated through this form of recognition.

In conclusion, there are both pros and cons for each of the different agency approaches to endorsement and publicity. Which approach is chosen seems to ultimately boil down to agency culture, political leadership and risk appetite, and therefore represents, above all, an individual judgement by agencies of appropriate RBC levers. Light-touch publicity seems to be most widely used by donor agencies and may be worth expanding – for example through more systematic case studies that illustrate improvements in companies' RBC performance with respect to different themes and sectors.

If governments or donor agencies opt for active forms of endorsement, the effectiveness of government labels and awards seems to depend on their design; labels and awards need to be informed by a clear understanding of current 'essential' and 'expected' company actions in order to identify real frontrunners of RBC and help to advance current practice. They would also benefit from a clear communication strategy on criteria used, and how they compare to other existing labels, awards and voluntary sustainability certifications. The Green Button, for example, is awarded to products that fulfil the requirements of existing voluntary sustainability certifications, and thus integrates existing standards rather than replacing them (Green Button website).

4. Conclusion and Recommendations: Cross-cutting insights into effective RBC levers for PSE donors

4.1 General takeaways for cross-government efforts to promote RBC

RBC has significantly grown in importance on the agenda of governments in recent years, as testified by a wide and growing range of instruments to promote RBC. While past efforts have been characterised by a divide between proponents of voluntary RBC initiatives on the one hand, and proponents of mandatory requirements on the other (ECDPM, 2019), there is now emerging consensus that there is no silver bullet to increase the uptake of RBC and that a 'smart mix' of measures is required to facilitate progress. This is increasingly reflected in the development of new legislative requirements, and their combination with incentives, information and support at different policy levels, with involvement of multiple government agencies. Conceptually, the Dutch RBC policy appears to be the first overarching government strategy document formalising this smart mix of measures, while several governments have increased practical coordination efforts in order ensure coherence between the growing number of RBC promotion efforts across government. In some countries, different government entities, however, still appear to work on RBC in a relatively independent manner, or only assisted by relatively ad-hoc coordination efforts.

Three specific key takeaways for future government-wide actions on RBC include:

1. **The value of multi-stakeholder consultation processes (including donor agencies) in the design of any RBC-related legislation, as well as the need for inter-governmental coordination**. While several EU countries already seem to prefer EU-level over national-level legislation, private sector feedback

also suggests a strong preference for a level playing field, which could be created by either EU-level legislation or harmonised national-level legislation.

2. **The growing need for strategic whole-of-government approaches to RBC,** including through overarching policy frameworks and formal coordination mechanisms between relevant government entities (including donor agencies). In many countries, this is also likely to require further capacity-building on RBC at all relevant policy levels (e.g., procurement policy).

3. **The value of further expanding and enhancing the accessibility of information and capacity-building services**, either directly by the government or by third parties, to help businesses navigate the growing range of national legislative requirements, policies and support offers.

4.2 Emerging focus areas for donor agency PSE work and support to the private sector

While donor agencies and their PSE units are already actively promoting RBC in multiple ways, this scoping paper has revealed a number of areas that would be particularly worth expanding, adjusting or exploring further in order to enhance effectiveness.

Five sets of key implications for PSE include the following:

1. **Potential action areas in the context of legislation and regulation on RBC:** A key action area for donor agency PSE units is to review implications of any new or forthcoming relevant legislation for their programmes, potentially with support from legal advisers. This has happened in Germany, for example, where BMZ has reviewed implications of Germany's 2021 Act on Corporate Due Diligence Obligations in Supply Chains for its partnership programmes.

2. **Potential action areas in the context of facilitation and motivation of RBC:** Donor agencies are particularly active in three sets of efforts to facilitate and motivate RBC, thereby tackling different business drivers of RBC and levers of change in the ecosystem in which companies operate. Specific potential areas of future support are summarised below:
   a. **Enabling access to voluntary standards and codes of conduct:** The rapid proliferation of voluntary standards in recent years implies that future focus areas of effective donor include efforts to facilitate alignment, consolidation and benchmarking of existing standards, and support to new voluntary standards in relatively unregulated sectors (e.g., plastics). While positive anecdotal evidence exists on the impact of voluntary standards on RBC, further investment in generating evidence could also help enhance practice in this field further.

   b. **Promoting peer pressure, dialogue and other collective action among companies:** While little is known about the effectiveness of individual initiatives in this field, two examples that have received (cautiously) positive evaluations are a) the Dutch RBC sector agreements, which have set voluntary sectoral RBC targets and, in some cases, had a positive impact on RBC performance thanks to a mix of knowledge sharing, peer pressure and government facilitation; and b) the World Benchmarking Alliance, which has developed benchmarks to assess and rank leading companies' SDG performance (including due diligence in line with the UN Guiding Principles and OECD guidelines) in seven sectors, thereby increasing transparency and competitive pressures for companies. These and similar initiatives may therefore be worth considering in future donor support, as part of a mix of measures to promote RBC. Separately, concerns have been raised that some donor-funded sectoral initiatives that set performance targets and indicators risk causing confusion and adding to reporting costs for companies, if they are not aligned with established sectoral voluntary sustainability standards.

c. **Increasing awareness on RBC among consumers and investors:** Donors are supporting a number of initiatives that serve to raise awareness of consumers and investors on RBC issues, enhance transparency for RBC labels, and enhance the knowledge base and capacity of investors to consider RBC in their investment decisions. These however appear not be linked in any strategic way or to be particularly widespread across donors. Given the strategic importance of consumer and investor pressure for the adoption of RBC among companies, there therefore appears to be scope for expanding these types of initiatives and developing a strategic framework for support options in this field.

d. **Coordination within donor agencies (for all efforts to facilitate and motivate PSE):** Anecdotal feedback from DCED members suggest that contact with companies through standard-setting and other voluntary initiatives has sometimes served as a basis for individual partnerships focused on testing or expanding business practices and models that benefit the poor. However, responsibilities for grant funding to voluntary standard setting initiatives and other initiatives to facilitate and motivate RBC are not always located in PSE units (e.g., units in charge of support to civil society organisations or sustainability); where this applies there hence seems to be a case for close collaboration with PSE units that may be able to build on these contacts.

3. **Potential action areas in the context of partnerships and engagement on RBC:** Partnerships and engagement with individual companies or private sector groups are typically a core responsibility of donor agency PSE units. While most donors consider RBC in their partner screening and selection (for all kinds of partnerships), the specific approaches for doing so are very diverse and still evolving. Peer exchange among donor agencies (and potentially with DFIs) could therefore be useful to compare and learn from experiences. While still concentrated among relatively few donor agencies, interest in partnerships with the primary objective to promote RBC has been growing in recent years. An initial exchange of experiences and lessons learnt from recent dedicated funds and calls for proposals focused on RBC could therefore help inform future practice. In some donor countries, this may include partnerships to help companies achieve compliance with new RBC legislation. Similarly, it could be of interest to compare donors' current experiences in how to effectively convene, co-facilitate and contribute to discussions on RBC in national or sector-level private sector groups.

4. **Potential action areas in the context of publicity and endorsement:** Few clear implications have emerged with regard to publicity for, and endorsement of, RBC performance of individual companies. Probably the most widespread practice among donors is the use of light-touch publicity for positive examples. This could potentially be expanded, e.g., through more systematic thematic or sectoral case studies that illustrate companies' journey towards better RBC performance. Official government-sponsored awards and labels require appropriate design in order to have a potential positive impact, but they also carry a higher risk for governments.

5. **Other implications cutting across RBC instruments:** Two cross-cutting key issues for further consideration by donor agencies came up repeatedly in DCED member interviews:

- **Building capacity in donor agencies (and implementing organisations) to incorporate RBC aspects into PSE:** While there is an ambition in several agencies to consider RBC more systematically in PSE, staff and implementing organisations do not always have in-depth expertise on RBC issues. This includes how to incorporate RBC criteria into partner screening, support the adoption of more responsible businesses as well as monitor RBC impacts. Some interviewees suggested that RBC could be better incorporated in training and other capacity-building measures on PSE. An internal focal point on RBC aspects, or business and human rights (as already exists in the Finland MoFA), can be instrumental in discussing and enhancing ways to integrate RBC considerations in PSE. Some agencies also work with external expert organisations to enhance their capacity and approaches for promoting RBC. Similarly, implementing organisations may benefit from better access to training on RBC and linkages with expert organisations in donor agency networks.

- **Refining approaches for dealing with large companies:** Agencies have a strong interest in working with large, often multinational companies, due to their capacity and outreach. This also means that, in practice, agencies are typically the junior partner in these collaborations. While several large companies are among global leaders of RBC, they also have more complex global supply chains with associated social and environmental risks. There therefore seems to be a need for continued discussions on how to best handle partner assessments (e.g., in terms of whether or not detailed assessment of RBC risks should be required for strategic partner companies, who should do and pay for it, and whether or not to use different assessment approaches for large companies and SMEs). Emerging national due diligence legislation for large companies may further influence agency practice in this area. Similarly, there appears to be a need for continued exchange on how agencies can best maintain relationships with companies considered as RBC champions in the long run, while also being able to raise potential RBC issues with them over the course of collaborations.

Examples of wider implications for donors' private sector development work fall into two categories:

1. **Policy-level measures:** Donor agencies can support developing country governments and business associations in the development of conducive national policy and legal frameworks in areas relevant to RBC (e.g., labour laws, environmental laws), as well as of associated implementation and enforcement capacities. They can also support developing country governments in developing national RBC-related legal frameworks in line with legislation in importing countries. Funding for OECD policy review processes, in particular the OECD's RBC policy reviews and investment policy reviews, can also be a tool to assess, and ultimately influence improvements in national policy frameworks.

2. **Enterprise-level measures:** Donor agencies can expand on-the-ground technical and financial assistance to supplier companies and producers in developing countries to enhance adherence to RBC legislation, voluntary standards and principles, and to mitigate any possible negative impacts of donor country RBC legislation (e.g., on market access). There also seems potential to foster closer connections between support to voluntary standard-setting initiatives and PSD programmes, e.g., through national coordination processes and participation of relevant programme staff in national multi-stakeholder platforms dealing with voluntary thematic or sectoral standards.

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