



UNCLASSIFIED / NO MARKING

Date

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Annex to the International Social Conditions (ISC) specifications

Requirement X – International Social Conditions (ISC) – is part of the specifications requiring the contractor to apply a six-step due diligence process during the term of the contract. This annexe gives a further explanation of what this requirement entails.

Due diligence

The government expects all businesses to engage in responsible business conduct (RBC). This means they should take account of human rights, working conditions and environmental standards in their business operations, and tackle actual or possible abuses in their value chains. The government therefore sets conditions for companies wishing to supply goods and services to public authorities.

Contracts awarded in EU tender procedures for goods and services in certain risk categories¹ stipulate that contractors are required to carry out due diligence. The aim is to reduce the risk of human rights and environmental abuses in international supply chains.

What is due diligence?

Due diligence is a six-step process that helps businesses identify, prevent and address risks in the areas of human rights, labour rights and the environment. This process is based on the [OECD Guidelines for Multinational Enterprises on Responsible Business Conduct](#) (OECD Guidelines) and the [UN Guiding Principles on Business and Human Rights](#) (UNGPs), and it underpins RBC legislation, such as the EU Corporate Sustainability Due Diligence Directive (CSDDD), and the International Social Conditions (ISC).

¹ The value chains in these central government procurement categories carry a significant risk of abuses in the areas of human rights, working conditions and the environment.

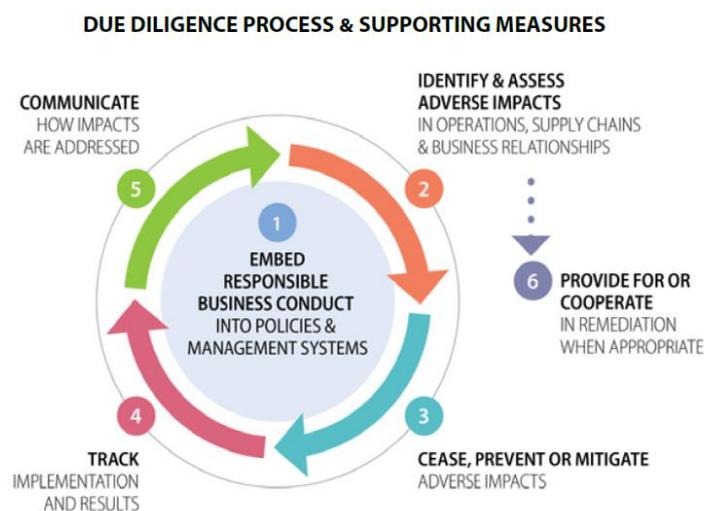


Figure 1. (Source: OECD Due Diligence Guidance for Responsible Business Conduct)

1. Embed responsible business conduct (RBC) into policies and management systems

An RBC policy describes the efforts a company will make and its expectations of others (e.g. employees and business relationships) to identify and address risks to people and the environment in the value chain. Through this policy, the company endorses the OECD Guidelines and the UNGPs. It can be useful for a company to consult relevant stakeholders in formulating its RBC policy, and to use this policy to explain its prioritisation in the context of due diligence (e.g. why certain risks are deemed more important than others). The contractor should integrate RBC policy into its normal operational processes. The company's policy can also target the local context or local activities.

Tip: The Social and Economic Council (SER) offers [suggestions for drafting a good RBC policy](#) and presents examples of good practice on its website.

2. Identify and assess actual and potential adverse impacts of the enterprise's activities, products or services on people and the environment

The purpose of this step is to gain more insight into the whole value chain,² enabling the contractor to make an overview of the various risks and adverse impacts associated with its operations. If a value chain is long and complex, it may prove impossible to address all risks at once. In that case, a company should prioritise the order in which it takes action based on the severity and likelihood of the adverse impacts. Priority should be

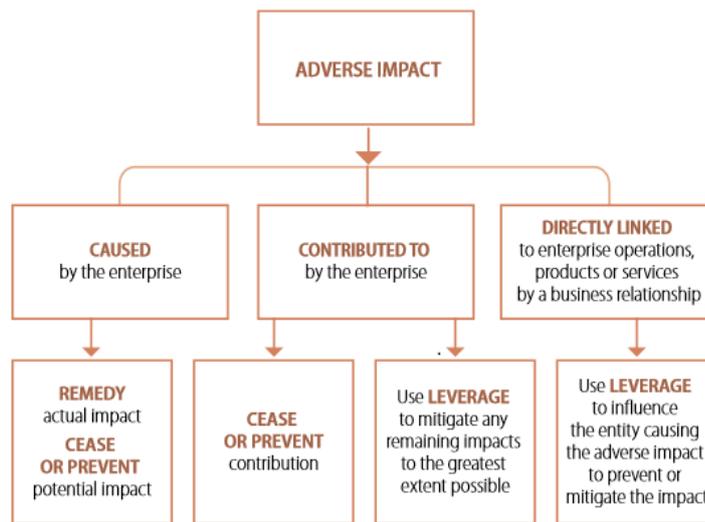
² According to the OECD Guidelines, companies should apply due diligence to activities in their value chain and where possible to all business relationships, including suppliers, consultants and investors. Business relationships are the relationships that a company has with state and non-state entities that have some involvement with the company's commercial activities, products or services. The OECD Guidelines apply to the entire value chain, both upstream (suppliers) and downstream (buyers of products and services) parties. Business relationships include relationships beyond contractual, 'first tier' or immediate relationships.

given to addressing the most severe actual or potential adverse impacts.³ Companies are expected to include stakeholders in a meaningful way in the identification and assessment of risks.

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Tip: The [CSR risk check tool](#) can help you plan and carry out a risk analysis.

FIGURE 2. Addressing adverse impacts



Note: More specific guidelines for addressing human rights adverse impacts are listed in OECD (2011), Chapter IV.

Figure 2. (Source: OECD Due Diligence Guidance for Responsible Business Conduct)

3. Cease, prevent or mitigate adverse impacts

In this step the contractor must draft a plan containing goals and actions with regard to the identified, possibly prioritised, risks (see step 2) in order to prevent, mitigate or put an end to actual or potential adverse impacts. There are different ways in which companies can be implicated in breaches of human rights or adverse environmental impacts. The OECD Guidelines distinguish three levels of involvement: a company may directly cause an adverse impact, it may contribute to an adverse impact (jointly with or through other parties), or its operations, products or services may be directly linked to the adverse impact by a business relationship (see Figure 2). Distinguishing these levels helps the contractor formulate an appropriate response. A company that causes an adverse impact directly is expected to do more than when the adverse impact takes place further up or down in the value chain and there is no direct contractual relationship with the party responsible for the adverse impact. Contractors can try to bring about positive change by including due diligence

³ For more information see pp. 33-36 of the OECD Due Diligence Guidance for Responsible Business Conduct.

expectations in commercial contracts, contacting the management and/or alerting supervisory authority and policymakers to the issues.

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Tip: Contractors from certain sectors can join a multi-stakeholder RBC sector agreement facilitated by the SER, aimed at working with sector parties to reduce risks in the sector's international value chain.⁴

4. Track implementation and results

As new risks could arise in the value chain, it is important to continually monitor the situation, by means of audits or stakeholder consultations with civil society organisations or local trade unions, for example.

5. Communicate how adverse impacts are being addressed

It is important for the contractor to communicate to stakeholders how it is carrying out due diligence, for instance in its annual report on its website. The OECD Guidelines contain specific criteria on good communication. As of 1 July 2024, the [Corporate Sustainability Reporting Directive](#) (CSRD) requires companies to publish sustainability reports. A contractor can fulfil its obligation to the contracting authority by drafting sustainability reports in accordance with the CSRD. There is more scope for flexibility in the manner of reporting for contractors that do not fall under the CSRD, provided the information is easily accessible for the relevant parties and members of the public.

6. Provide or cooperate in remediation where appropriate

For instance, apologies for the damage caused, financial compensation or measures to prevent future adverse impacts. In order to have access to remediation, stakeholders must be able to draw attention to their complaint or alleged damage, for instance in a local court or a complaints mechanism.

Proportionality

In carrying out due diligence the contractor must look at the entire production chain. The OECD Guidelines recognise that small and medium-sized enterprises (SMEs) do not have the same capacity as bigger enterprises. SMEs may encounter practical and legal obstacles to influencing business relationships, for instance. In such situations they are encouraged to join with other parties in the supply chain in carrying out due diligence, for instance through existing sector-wide initiatives, and to use existing instruments or sources.

Information and support

A wealth of additional information, from helpful tools to practical examples, is available on the due diligence process.

- The [OECD Due Diligence Guidance](#) provides plain language explanations of the due diligence recommendations set out in the OECD Guidelines and

⁴ A contractor who becomes a signatory to such an agreement can mention this in its plan of action. Simply joining such an agreement is not sufficient to satisfy one's due diligence obligations, however.

the associated conditions. The annexe provides extra explanations, tips and illustrative examples of due diligence.

- The [RBC contact point](#) answers questions companies may have about due diligence and offers practical information, free advice and can put them in touch with the right contact person. The website also offers tips, points for attention and examples for each step in the due diligence process. The contact point also organises courses and webinars on due diligence.
- More information about implementing ISC in the procurement process is available from [PIANOo](#), the Dutch Public Procurement Expertise Centre.

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Other information

Link with legislation

The OECD Guidelines set out principles and standards for responsible business conduct in the value chain. Some companies are required by law to carry out due diligence. The steps set out in the Guidelines have been incorporated into EU legislation such as the [Corporate Sustainability Due Diligence Directive](#) (CSDDD) and the [Corporate Sustainability Reporting Directive](#) (CSRD). Specific actions companies are required to take under the CSDDD are the same as those described in the six steps in the OECD Guidelines. Sustainability reporting is mandatory as of 1 January 2024 for companies that fall under the CSRD. The group of companies to which this obligation applies will be expanded gradually. The CSRD aims to increase transparency and improve the quality of information about companies' sustainable performance, including their efforts in the area of due diligence. Applying the OECD Guidelines in order to satisfy the contract's ISC can help companies fulfil their statutory obligations and vice versa.

RBC and central government procurement

Central government tenders for goods and services that fall under defined [risk categories](#) and whose monetary value is equal to or exceeds the EU thresholds and involving an international value chain must include ISC obligations for contractors. Central government may choose to set ISC obligations for tenders in other categories too.