

Responsible
Business
Conduct in

KAZAKHSTAN



Responsible Business Conduct in Kazakhstan



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The OECD Guidelines for Multinational Enterprises are recommendations on responsible business conduct addressed by governments to multinational enterprises operating in or from adhering countries. They are the most comprehensive set of recommendations on responsible business conduct promoted by governments in existence today, covering all major areas of business ethics, including information disclosure, human rights, employment and industrial relations, environment, bribery and corruption, consumer interests, science and technology, competition, and taxation. The Guidelines are also the only government-backed international instrument on responsible business conduct with a unique implementation mechanism.

About this Publication

In order to be able to contribute most effectively to sustainable development and inclusive growth through responsible business conduct (RBC), businesses first need to understand the specific RBC-related context in which they operate. This publication is a concise collection of basic RBC-related information that is intended to be used as a resource document primarily by investors operating in Kazakhstan, although government agencies, domestic enterprises, and civil society might also find it useful. Its objective is to provide information on the existing expectations on RBC in a specific context and on resources that could help investors overcome challenges in translating standards and principles into practice.

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Responsible Business Matters

Over the past three decades, the international business environment has experienced significant structural changes. As governments opened markets, businesses embraced new opportunities, leading to an unprecedented period of economic growth and inter-connectedness. In particular, multinational enterprises (MNEs) – through job creation, human capital development, efficient capital distribution, and technology, knowledge and skills transfers – have significantly contributed to development and economic growth of both home and host countries. Their activities are the foundation of the modern global economy.

At the same time, the complexity and the intensely competitive nature of international business can present MNEs and their stakeholders with unique and specific challenges. MNE activities often span multiple countries and many cultural, legal, and regulatory environments. Although many MNEs demonstrate a respect for high standards of business conduct, some may at times neglect the appropriate principles and standards of conduct in an attempt to gain undue competitive advantage. This may be particularly true in environments where regulatory, legal, and institutional frameworks are underdeveloped or fragile. Such practices by the few may call into question the reputation of the many and may give rise to public concerns.

Regulatory changes and the trend of not properly accounting for negative externalities of business activities contribute to the difficulties that may arise from business activities not in alignment with societal goals. In fact, this is a false dilemma, as MNEs have a strong business incentive to act responsibly aside from the expectations placed upon them and the baseline standards that they have to meet. Responsible businesses are more likely to obtain and retain the social licence to operate, a critical component of long-term business strategy. Not only does responsibility bring direct benefits to host societies but it also makes business sense by decreasing risks associated with environments that might be challenging. Responsible business practices are an efficient way to manage risks, diversify portfolios, and increase productivity. For example, environmentally friendly production processes can significantly decrease overall costs, while effective management of labour practices in supply chains can boost productivity and protect brand capital. Responsibility also enhances competitiveness and can prove to be a source of innovation. Responsible business conduct is about respecting the rights of stakeholders, creating new value, and protecting existing value through risk and reputation management.

Merging these business objectives with the broader societal goals is crucial. The 2008 global crisis demonstrated in no uncertain terms that markets simply cannot function without propriety, integrity, and transparency. Acting responsibly is the cornerstone of any healthy business environment. Due to the vast scope of their operations and the resources they manage, MNEs are in a unique position to contribute to sustainable development of both home and host societies, and to implement best practices that ensure coherence between economic, environmental and social objectives.

Doing so is of particular importance to emerging and developing economies since negative behaviours often lead to the erosion of a conducive business environment. As these countries open their markets and become new frontiers for foreign investment, there is a real chance for investors to adopt, from the start, behaviours that lead to their sustainable development.

That is not to say that responsibility for building a healthy business environment rests solely on enterprises. It demands an effort by all. Governments have a duty to protect internationally recognised rights and to improve the functioning of markets through good governance, fair regulations, and transparency. Businesses have a responsibility to adopt responsible business practices that take into account both the bottom line and the impact of their activities on society. Labour and civil society have to be involved proactively and constructively and have a key role to play in ensuring accountability. International organisations, meanwhile, can provide a forum for dialogue, peer learning, standard setting, analysis, and best policy recommendations.

A New Era in Defining Responsibility

An unprecedented moment of international convergence and coherence on what constitutes responsible business conduct has emerged from the 2011 Update of the OECD Guidelines for Multinational Enterprises (OECD Guidelines) and the 2011 unanimous endorsement by the United Nations Human Rights Council of the Guiding Principles on Business and Human Rights (UN Guiding Principles) that operationalise the 2008 UN “Protect, Respect and Remedy” Framework. This convergence is also echoed in other international standards, including the ISO 26000 Guidance on Social Responsibility, the revised IFC Performance Standards, and the revised OECD Recommendation of the Council on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence. The result has been a clearer understanding of the baseline standards for how businesses should understand and address the risks of their operations and how governments should support and promote such responsible business practices. This, in turn, has created a more predictable business environment that equips enterprises with the necessary processes to meet their responsibilities and enables their stakeholders to hold them accountable against reasonable expectations. These advancements are also echoed in the evolution of national responsibility approaches, notably in government policies of major emerging economies and new investment frontiers.

What is Responsible Business Conduct?

Incorporating responsibility into business conduct is not a new idea. Governments have co-operated with each other and with other actors to strengthen the international legal and policy frameworks in which businesses operate since the work of the International Labour Organisation in the early twentieth century. The adoption by the United Nations in 1948 of the Universal Declaration of Human Rights was another landmark event. It was followed by the on-going development of standards relevant for many areas related to responsible business practices – a process that continues to this

day. The OECD has contributed to this process by developing standards in areas such as the environment, the fight against corruption, consumer interests, corporate governance and taxation.

It is well understood that responsible business conduct (RBC), often referred to as corporate social responsibility or CSR,¹ entails conduct consistent with applicable laws and internationally recognised standards. Based on the idea that you can do well while doing no harm, RBC is a broad concept that focuses on two aspects of the business-society relationship: 1) positive contribution businesses can make to economic, environmental, and social progress with a view to achieving sustainable development, and 2) avoiding adverse impacts and addressing them when they do occur. Risk-based due diligence lies at the heart of avoiding and addressing adverse impacts - it is a process through which enterprises should identify, prevent and mitigate actual and potential adverse impacts, and account for how these impacts are addressed. Notably, the OECD Guidelines are unique in their application of the due diligence concept. Professor John Ruggie, former Special Representative of the UN Secretary-General for Business and Human Rights, said that the “revised OECD Guidelines are the first inter-governmental instrument to integrate the second pillar of the UN framework – the corporate responsibility to respect human rights. They are also the first to take the Guiding Principles’ concept of risk-based due diligence for human rights impacts and extend it to all major areas of business ethics.” (OECD, 2013e)

Why This Publication?

In order to be able to contribute effectively to sustainable development through RBC, businesses first need to understand the specific RBC-related context in which they operate, mainly in order to be able to understand the impact of their activities on the host society. This publication fills that need. It is a concise collection of basic RBC-related information in a specific context – Kazakhstan – and is intended to be used primarily by investors, business partners, and supply chains as a resource document. Government agencies, domestic enterprises, and civil society might also find it useful and could use it for their own activities. The objective of the publication is to provide information on the existing expectations on RBC and on resources that could help investors overcome challenges in translating standards and principles into practices. The OECD Guidelines are used as the primary framework for highlighting some of the more significant challenges businesses can face in Kazakhstan. Relevant chapters, paragraphs, and commentary articles are mentioned in parenthesis where appropriate to provide an easy reference point to the OECD Guidelines.

¹ The terms RBC and CSR will be used interchangeably throughout this publication.

OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES

The OECD Guidelines for Multinational Enterprises are the most comprehensive set of government-backed recommendations on responsible business conduct in existence today. They express the shared views and values of 46 governments, including major emerging economies, which are the sources and the recipients of a large majority of the world's investment flows and are also home to a majority of MNEs. More information about the adherent countries can be found in Annex F.

The countries that adhere to the OECD Guidelines aim to encourage the positive contributions MNEs can make to sustainable development to both home and host countries and to minimise the difficulties to which their various operations may give rise. They clarify adhering government expectations on responsible business conduct and aid MNEs to ensure their operations are in harmony with government policies. The OECD Guidelines are not substitute for domestic law nor are they a protectionist measure.

WHAT MAKES THE GUIDELINES UNIQUE?

MOST COMPREHENSIVE GOVERNMENT-BACKED INSTRUMENT IN EXISTENCE TODAY

The Guidelines are the only existing multilaterally agreed corporate responsibility instrument that adhering governments have committed to promoting in a global context, encompassing all major areas of business ethics. Their recommendations are set out in 11 chapters and cover topics such as information disclosure, human rights, employment and labour, environment, anti-corruption, and consumer interests. The Guidelines also cover three areas - science and technology, competition, and taxation - not as fully covered by any other international corporate responsibility instrument.

UNIQUE IMPLEMENTATION MECHANISM

The active way in which the Guidelines are implemented distinguishes them from other international corporate responsibility instruments. Adhering countries are obliged to set up National Contact Points (NCPs) that are tasked with furthering the effectiveness of the Guidelines by undertaking promotional activities, handling inquiries, and providing a mediation and conciliation platform for resolving issues that arise from the alleged

non-observance of the Guidelines. This makes the Guidelines the only international corporate responsibility instrument with a built-in grievance mechanism. The effective implementation of the Guidelines is also supported by the proactive agenda. The proactive agenda aims to promote the effective observance of the Guidelines by helping enterprises identify and respond to risks of adverse impacts associated with particular products, regions, sectors, or industries. Its aim is to encourage positive contribution MNEs can make to economic, environmental, and social progress with a view to achieving sustainable development.

VOLUNTARY BUT REFLECTING EXPECTATIONS

Observance of the Guidelines by enterprises is voluntary and not legally enforceable. Nevertheless, some matters covered by the Guidelines may be regulated by national law or international commitments. MNEs are expected to fulfil the recommendations set out in the Guidelines and the countries adhering to the Guidelines make a binding commitment to implement them. The active system under which the Guidelines are promoted and implemented attests to the importance adhering countries give to the

HOW ARE MULTINATIONAL ENTERPRISES DEFINED?

A precise definition of MNEs is not required for the purposes of the Guidelines. These enterprises operate in all sectors of the economy. They usually comprise companies or other entities established in more than one country and so linked that they may coordinate their operations in various ways. While one or more of these entities may be able to exercise a significant influence over the activities of others, their degree of autonomy within the enterprise may vary widely from one MNE to another. Ownership may be private, State or mixed. The Guidelines are addressed to all the entities within the MNE (parent companies and/or local entities). According to the actual distribution of responsibilities among them, the different entities are expected to co-operate and to assist one another to facilitate observance of the Guidelines. (Guidelines I.4) The Guidelines are not aimed at introducing differences of treatment between multinational and domestic enterprises; they reflect good practice for all. Accordingly, multinational and domestic enterprises are subject to the same expectations in respect of their conduct wherever the Guidelines are relevant to both.

Guidelines. The underlying idea behind this approach is to focus on building an atmosphere of mutual trust between all stakeholders in order to overcome global corporate responsibility challenges.

COMPREHENSIVE APPROACH TO DUE DILIGENCE AND RESPONSIBLE SUPPLY CHAIN MANAGEMENT

The Guidelines are the first international instrument to integrate the corporate responsibility to respect human rights as set out in the United Nations Guiding Principles on Business and Human Rights. The Guidelines are also the first international corporate responsibility instrument to incorporate risk-based due diligence into major areas of business ethics. The nature and extent of due diligence depend on the circumstances of a particular situation, an important point considering the complexity of international business.

GOOD PRACTICE FOR ALL

As demonstrated through the alignment with international principles and standards, the Guidelines are based on universal values. They promote a more open investment climate and a level playing field through the positive contribution MNEs can make to

sustainable development. As such, they should be of interest to all enterprises, wherever they originate or operate, as well as to non-adhering countries. Small and medium-sized enterprises are encouraged to observe the Guidelines to the fullest extent possible even though they may not have the same capacities as larger enterprises.

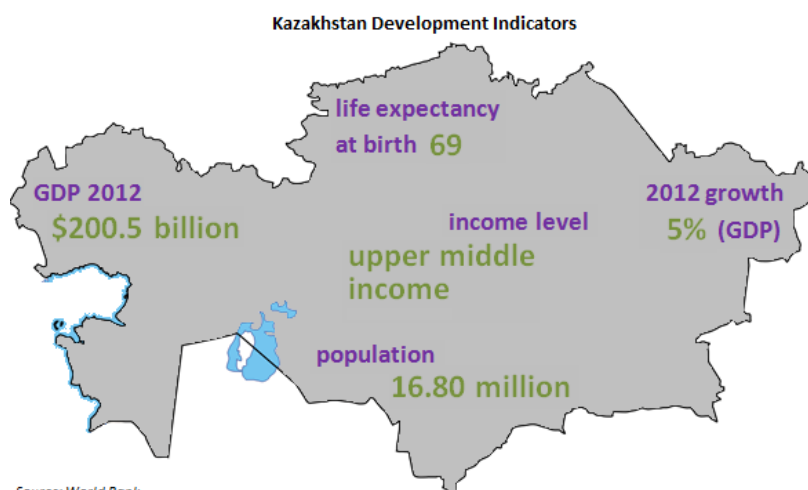
REGULARLY UPDATED

The Guidelines were originally adopted in 1976 as part of the OECD Declaration on International Investment and Multinational Enterprises, a policy commitment by adhering governments to provide an open and transparent environment for international investment and to encourage the positive contribution MNEs can make to economic and social progress. The Guidelines have been updated five times since then, most recently in 2011, to ensure that they remain at the forefront of the global responsible business conduct agenda and a leading tool in the ever-changing landscape of the global economy.

Kazakhstan At-A-Glance

Over the past two decades, Kazakhstan has emerged as one of the most developed countries in the Central Asia and South Caucasus region. Due to its rich natural resources, it has one of the world's fastest growing economies and attracts more foreign direct investment (FDI) than all the other countries in Central Asia together. (OECD, 2011b) Kazakhstan has one of the best investment climates in the region, although, according to the 2012 OECD Investment Policy Review, there are still areas in which improvements need to be made. Not surprisingly, the extractives sector dominates the economy with estimated proven oil reserves being 11th largest in the world (OECD 2012a) and with notable deposits of uranium (Kazakhstan is the largest producer worldwide), chromium, coal, iron ore, copper, zinc, lead, manganese and gold. International Monetary Fund (IMF) reports that the estimated revenues from the oil and gas sector account for about 55% of total tax revenues. In the next 15 years, oil production is expected to rise, especially due to the production at the Kashagan oil field, which is said to be the largest new field found in the past 30 years worldwide. (IMF, 2013)

Diversifying the economy has been a long-standing priority for the Kazakh government. (OECD, 2012a; Address by the President, 2012) Kazakhstan's most recent economic strategy was outlined in December 2012 in the Kazakhstan 2050 Strategy, which considers long-term economic strategy, new sources of growth, new markets, favourable investment climate and development of effective public-private partnerships. (Address by the President, 2012) Kazakhstan 2050 Strategy also outlines support for entrepreneurship initiatives, new approaches to social policy and education policy, strengthening statehood, and a security-focused foreign policy. Kazakhstan's goal is to be among the top 30 most developed countries in the world by 2050. In order to meet this goal, the government has re-structured for better implementation of the priorities outlined in the 2050 Strategy, most notably through the creation of a new Ministry for Regional Development in January



2013 and the re-organisation of responsibilities of other Ministries. Furthermore, a new national agency – National Agency for Development – will be created with the sole purpose of meeting the goals of the 2050 Strategy. (World Bank, 2013d)

Kazakhstan is considered to be a significant regional player. It participates in a wide range of international initiatives and is a member country of all major international institutions. In 2010, Kazakhstan assumed chairmanship of the Organisation for Security and Co-operation in Europe (OSCE), an important milestone. Kazakhstan is also on an active accession path to the World Trade Organisation (WTO) and is expected to accede soon. At a regional level, in 2010 Kazakhstan entered into a Customs Union with Russia and Belarus, resulting in creation of a common economic space and deepening of regional economic integration. Additionally, Kazakhstan is a member of the Shanghai Co-operation Organisation, North Atlantic Co-operation Council, NATO Partnership for Peace Programme, and Commonwealth of Independent States.

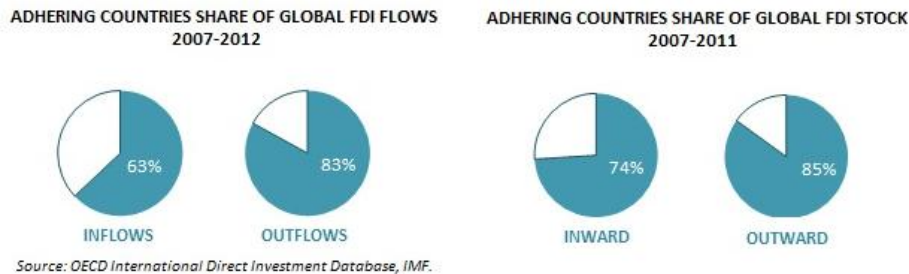
Kazakhstan also engages with the OECD actively and regularly. It is a major participant in the OECD-Eurasia Competitiveness Programme, which works with countries in the region to help unleash their economic and employment potential through boosting country and regional competitiveness, capturing more and better investment, and developing small- and medium-size enterprises. Kazakhstan also participates in the OECD Anti-Corruption Network for Eastern Europe and Central Asia, which provides a regional forum for the promotion of anti-corruption activities, exchange of information, elaboration of best practices and donor coordination. Furthermore, Kazakhstan is a member of the Task Force for the Implementation of the Environmental Action Programme (EAP Task Force), which aims to address the heavy environmental legacy of the Soviet model of development. Kazakhstan is also a member of the Global Forum on Transparency and Exchange of Information for Tax Purposes, which ensures the implementation of the internationally agreed standards of transparency and exchange of information in the tax area.

Notably, Kazakhstan is expected to adhere in the near future to the OECD Declaration on Investment and Multinational Enterprises (the Declaration), a policy commitment by 46 governments to provide an open and transparent environment for international investment and to encourage the positive contribution MNEs can make to economic and social progress. The OECD Guidelines for Multinational Enterprises are one of four major components of the Declaration. The countries that adhere to the Declaration account for a large majority of investments in Kazakhstan. As of end of 2011, adherent countries held 79% of investment stocks in Kazakhstan and were the recipients

of 84% of Kazakhstan’s outward stock.² In terms of flows, adherent countries were the source of 73% of investment inflows into Kazakhstan in 2012.³

These numbers reflect Kazakhstan’s relatively open investment climate. The Committee on Investments within the Ministry of Industry and New Technologies is the main policy-making body on investments, while Kaznex Invest is the national agency in charge of promoting and attracting investment. Kaznex Invest published an Investor Guide in 2012 to provide an overview of investment resources and relevant policies in the country. They also operate 16 Investor Service Centres on a regional level. (Invest in Kazakhstan, 2013)

The government of Kazakhstan offers a platform for direct dialogue with investors through the Foreign Investors Council (FIC), which was set up under the President of the Republic, to discuss critical issues related to economic development and investment activities and climate. Additionally, investors also have access to business associations such as the Kazakhstan Foreign Investors Council Association, American Chamber of Commerce, European Business Association of Kazakhstan, Delegation of German Economy in Central Asia, Association Finpro, Association of Businessmen of Kazakhstan and Turkey, and Korean Agency for Trade and Investment Promotion.⁴ (Invest in Kazakhstan, 2013) For more information about Kazakhstan’s investment policies, please refer to the 2012 OECD Investment Policy Review of Kazakhstan. The Investment Policy Review contains specific recommendations to the government on how to improve the investment climate. Recommendations related to RBC are replicated in the conclusion of this publication.

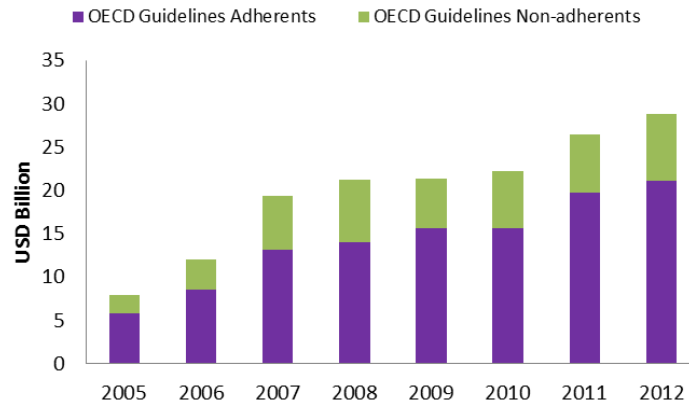


² 12 out of 20 top spots for inward stocks: Netherlands, United States, France, Japan, Austria, Canada, United Kingdom, Switzerland, Korea, Germany, Turkey, and Belgium. 7 out of 20 top spots for outward stocks: Netherlands, United Kingdom, United States, Turkey, Switzerland, Latvia, and Canada. (Source: IMF, Coordinated Direct Investment Survey)

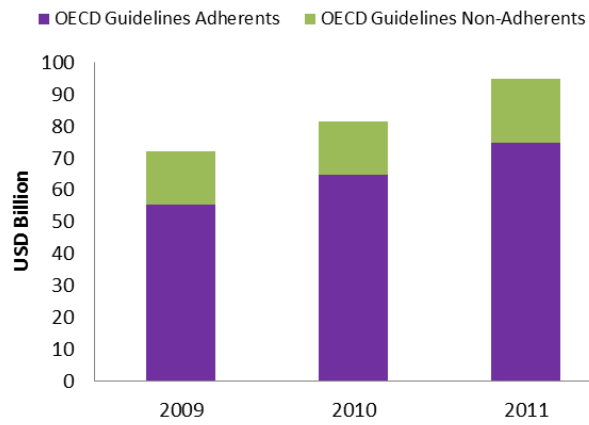
³ Source: National Bank of Kazakhstan

⁴ For more information on business associations, see Annex A.

Kazakhstan FDI Inflows By Source



Kazakhstan FDI Inward Stock By Source



Source: National Bank of Kazakhstan, IMF

MAJOR GLOBAL RANKINGS: KAZAKHSTAN

<p>World Economic Forum Global Competitiveness Report 2013-2014</p> <p>In this report that assesses the competitiveness landscape of 148 economies through insight into the drivers of their productivity and prosperity, Kazakhstan ranked 50th, drastically increasing its rank since 2011 when it ranked 72nd. This improvement reflects progress in a number of areas, most importantly in macroeconomic stability, where the country ranks 16th.</p>	<p>World Bank Doing Business 2014</p> <p>Kazakhstan ranks 50th for ease of doing business out of 189 countries, a positive increase from the previous year (53). In the protecting investors category, Kazakhstan ranks as 22th.</p> <hr/> <p>UNDP Human Development Report 2013</p> <p>This composite statistic of life expectancy, education, and income indices ranks countries on human development. Kazakhstan has ranked 69th out of 187 countries.</p>
<p>UNCTAD World Investment Report 2013</p> <p>Kazakhstan, moving up from its 27 rank the previous year, ranked as the 19th highest recipient of FDI in the world. Kazakhstan also ranked 6th out of 20 countries with the highest inward FDI rates of return.</p>	<p>2013 Global Innovation Index</p> <p>Published by the World Intellectual Property Organisation, in collaboration with Cornell University and INSEAD, this index looks at the key role of innovation in driving economic growth and prosperity. Kazakhstan ranked 84th out of 142 countries.</p>

Responsible Business Conduct in Kazakhstan: An Opportunity

RBC is particularly important for developing economies such as Kazakhstan as there is an opportunity to adopt behaviours that lead to sustainable development from the beginning. In line with global trends, RBC has emerged as an important topic in Kazakhstan. The President has consistently stated high expectations on RBC and has called for a Kazakh RBC agenda, as well as more engagement from the business community in support of sustainable development goals. Numerous RBC-related public and private initiatives have been established in response. In 2008, the first National Forum on Corporate Social Responsibility was held to foster dialogue between business and the government on RBC. The President launched the Paryz award at the Forum to recognise leading enterprises in the field and to provide incentives for integrating responsibility into decision-making processes. Another main outcome was the signature of an Agreement between the Ministry of Labour and Social Protection of Population and socially-focused

organisations that aims to promote UN Global Compact Principles, particularly in the area of social and labour relations. In addition to the National Chamber of Entrepreneurs of Kazakhstan (formerly National Economic Chamber of Kazakhstan Atameken Union), Eurasian Natural Resources Corporation, and Union of Producers and Exporters of Kazakhstan, more than 226 enterprises have signed this agreement. (Ministry of Labour and Social Protection of Population, n.d.) The OECD actively collaborates with UN Global Compact on promoting responsible business conduct.

In 2012, the Board of Directors of Samruk-Kazyna, Kazakhstan's sovereign wealth fund, adopted its own corporate social responsibility policy. This policy focuses on social and labour relations, training and development, safety measures in the workplace, environmental sustainability, and social projects spending. The fund manages the shares of more than 400 companies, mostly partly or fully state-owned. Samruk-Kazyna is the largest investor in Kazakhstan. (OECD, 2012a; Samruk-Kazyna, 2013)

Furthermore, in the context of the International Labour Organisation (ILO) Decent Work Country Programme, sections on RBC were included in the 2007-2008 and 2009-2011 General Agreements between the government, trade unions, and national employers' associations. The purpose of these sections was to introduce the UN Global Compact Principles as related to social responsibilities of business, social partnership, efficient charitable practices by companies (national and international), and prioritisation of social projects. The Ministry of Labour and Social Protection of Population reports that business leaders have been using a more systematic approach in the implementation of social and environmental programmes. CSR memoranda and agreements have become widespread in Kazakhstan as one way to demonstrate commitment to communities. (Ministry of Labour and Social Protection of Population, n.d; ILO, 2010)

A number of promising private RBC-related initiatives⁵ have also emerged, notably the CSR Programme at the Eurasia Foundation of Central Asia (EFCA). Recognising that CSR is still a concept that is not well established in Kazakhstan, the programme aims to provide a platform for dialogue between all key stakeholders and to develop a unified CSR approach in Kazakhstan. The first phase, expected to be completed in 2014, is to finalise a national CSR concept for Kazakhstan. This work was based on a comprehensive needs-assessment and developed by a working group supported by academic research and formal studies of best CSR practices. The concept could eventually be adopted by the government as a national strategy. (EFCA, 2013)

EFCA, in partnership with Chevron and GSM Kazakhstan/Kcell, has also launched a website on CSR in Kazakhstan. Additionally, in 2011, EFCA spearheaded the creation of a CSR Club of Kazakhstan whose mission is to promote CSR culture through dissemination of best practices and standards that promote sustainable development. Members of the Club include representatives from the private sector, civil society, international organisations, and academia. (EFCA, 2013) Other notable initiatives include the American Chamber of

⁵ For more information, see Annex A for useful RBC-related resources.

Commerce Working Group on CSR, which brings stakeholders together to discuss CSR challenges and best practices in order to increase the local impact of CSR projects (AmCham, 2013); the Centre for Corporate Governance and Business Ethics division within the Association of Financiers of Kazakhstan, which works on the promotion of RBC-related projects and good corporate governance practices (CSR in Kazakhstan, 2013) and the United Nations Development Programme efforts to promote UN Global Compact Principles.⁶ (UNDP, 2013a)

These developments represent a very positive step in the right direction for Kazakhstan on how RBC is understood at a conceptual level. In order to ensure that Kazakhstan gains the most benefits from RBC, however, these efforts will have to be matched at the implementation level.

Addressing Challenges

One considerable barrier in the field of responsibility in Kazakhstan is the absence of knowledge among stakeholders about the rules that govern business activity, universal human rights, and specific instruments that enshrine these rights, including the UN Guiding Principles and the OECD Guidelines. Many businesses still do not fully understand the extent of their responsibilities, while their stakeholders might not understand the extent of the resources available to them to ensure their basic rights are respected. This is true among multinational enterprises as well. Furthermore, accessible and relevant information on the impacts of business activities in a given location is often unavailable, presenting an additional challenge.

As in any country that experiences rapid growth, there can be a lag between adopting and promoting relevant principles at a conceptual level and implementing those principles on the ground. Additionally, considering that institutions are in continuous state of development in such instances, agencies that can credibly monitor and report on business activities often do not exist. Therefore, businesses can face additional obstacles in integrating RBC principles into their operations. The following sections list some main challenges that enterprises can face in Kazakhstan and recommend practical tools and ways that enterprises can use to overcome these challenges.

1. Increasing Awareness and Common Understanding

The government of Kazakhstan has yet to develop a comprehensive RBC policy. Although the President has called for a national CSR agenda, the approaches to the topic remain fragmented. There appears to be uncertainty at the government level as to who should be responsible for developing the agenda. The Administration of the President, the Ministry of Labour and Social Protection of Population, the Ministry of Industry and New Technologies, and the Ministry of Environment and Water Resources (previously the Ministry of Environmental Protection) have all done work in the RBC field, but it is unclear

⁶ As of May 2013, there were only 23 participants in Kazakhstan. (UN Global Compact Kazakhstan, 2013)

what their exact roles are either in helping develop a comprehensive policy or in being responsible for implementation and promotion of RBC. There seems to be little coordination between these different state bodies, which has practical implications for enterprises – no unified message on government expectations on RBC, contributing to the confusion about the extent of business responsibilities and leading to under-utilized and/or inefficient use of resources.

More broadly, there appears to be no common understanding of what RBC should entail, which is an additional complicating factor. At the government level, RBC is generally associated with charity and there appears to be no clarity about its voluntary or mandatory nature. A legal definition of RBC has been given in the Law on Private Entrepreneurship (art. 1.2) as “social responsibility of business – voluntary contribution of private business entities in development of the society in the social, economic and ecological spheres.” In practice, however, contributions of enterprises are rarely voluntary and investors often perceive RBC to be a charity tax. For example, many enterprises in the extractives sector are contractually bound to dedicate a percentage of their capital expenditures to social projects.⁷ Those funds are then managed by regional authorities (akimats) as part of budgets for regional development. Some enterprises have reported that they have limited input in the selection and implementation of these projects. This can lead to difficulties in aligning these projects with corporate RBC strategy since they might not correspond to the risks the enterprise has identified. (Artemyev, 2012; Paggi, 2010)

Furthermore, civil society is rarely involved in the selection and implementation of social projects financed by enterprises, raising important questions about the transparency of the process through which the project money is allocated. Concerns expressed by the local communities often have a limited impact on the determination of priority of areas addressed by social projects, which can lead to poor alignment with the capacities or needs of local communities. Thus, it is particularly important for enterprises to exercise proper risk-based due diligence processes and to undertake stakeholder mapping in order to best understand the needs of communities in which they operate. It is also important for enterprises to engage in dialogue with regional authorities to increase transparency on how the project money is allocated. These steps can positively contribute to the development of oil-producing regions, which, despite sustained social investments, still appear to be suffering from high-levels of unemployment, pollution, and poor infrastructure. (Artemyev, 2012; Paggi, 2010)

⁷ This is often done through Production Sharing Agreements (PSAs). Although PSAs are not publicly available documents in Kazakhstan, it is believed that, in general, oil consortiums are required to spend 1% of annual development expenditures on social projects. It should be noted that PSAs are not the only form of contractual obligations in Kazakhstan.

OECD GUIDELINES: UNDERSTANDING ADVERSE IMPACTS AND RISK-BASED DUE DILIGENCE

ADVERSE IMPACTS

Enterprises should avoid causing or contributing to adverse impacts on matters covered by the Guidelines, through their own activities, and address such impacts when they occur. (Guidelines II.A.11)

Enterprises should seek to prevent or mitigate an adverse impact where they have not contributed to that impact, when the impact is nevertheless directly linked to their operations, products or services by a business relationship.

This is not intended to shift responsibility from the entity causing an adverse impact to the enterprise with which it has a business relationship. (Guidelines II.A.12)

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

DUE DILIGENCE

Enterprises should carry out risk-based due diligence, for example by incorporating it into their enterprise risk management systems, to identify, prevent and mitigate actual and potential adverse impacts, and account for how these impacts are addressed. The nature and extent of due diligence depend on the circumstances of a particular situation. (Guidelines II.A.10)

Due diligence is understood as the process through which enterprises can identify, prevent, mitigate, and account for how they address their actual and potential adverse impacts as an integral part of business decision-making and risk management systems.

It can be included within broader risk management systems, provided that it goes beyond simply identifying and managing material risks to the enterprise itself to include the risks of adverse impacts related to matters covered by the Guidelines. (Guidelines II.c.14)

Enterprises with large supply chains are encouraged to identify general areas where the risk of adverse impacts is most significant and, based on this risk assessment, prioritise suppliers for due diligence. (Guidelines II.c.16) The due diligence recommendation applies to those matters covered by the Guidelines that are related to adverse impacts.

WHAT ARE BUSINESS RELATIONSHIPS?

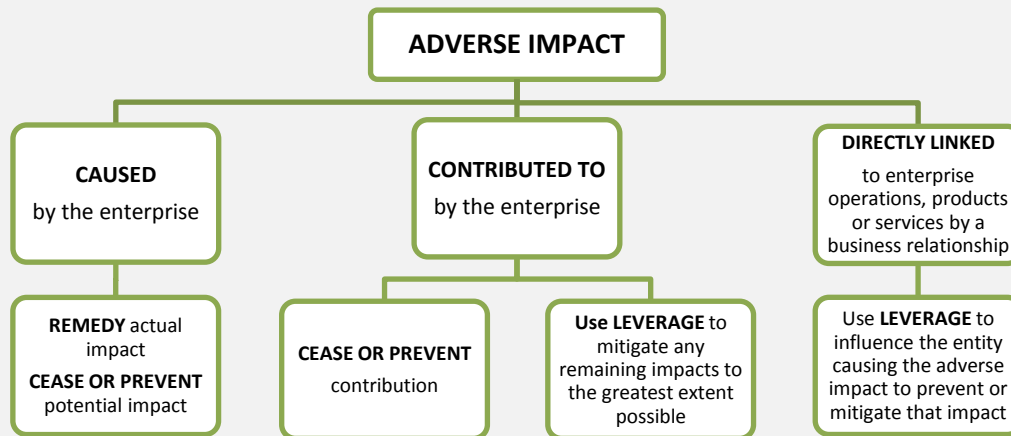
The scope of the application of the Guidelines encompasses an enterprise's own activities and activities linked to the enterprise by a business relationship.

Enterprises should seek to prevent or mitigate an adverse impact where they have not contributed to that impact, when the impact is nevertheless directly linked to their operations, products or services by a business relationship. (Guidelines II.A.12)

Business relationships include relationships with business partners, entities in the supply chain and any other non-State or State entities directly linked to its business operations, products or services. (Guidelines II.c.14)

It should be understood that seeking to prevent or mitigate an adverse impact linked to an enterprise by a business relationship is not intended to shift responsibility from the entity causing an adverse impact to the enterprise with which it has a business relationship. (Guidelines II.A.12)

ADDRESSING ADVERSE IMPACTS



More specific guidelines for addressing human rights adverse impacts are listed in Chapter IV.

UNDERSTANDING LEVERAGE

Leverage is an important tool that enterprises can use to influence behaviour to prevent or mitigate adverse impacts either contributed to by an enterprise or linked to an enterprise by a business relationship.

If the enterprise has the ability to effect change in the wrongful practices of the entity that causes the harm, then it has **leverage** over that entity. (Guidelines II.c.19)

There are **practical limitations** on the ability of enterprises to effect change in the behavior of their suppliers. These are related to product characteristics, the number of suppliers, the structure and complexity of the supply chain, the market position of the enterprise vis-à-vis its suppliers or other entities in the supply chain. Suppliers can, however, be influenced through contractual arrangements such as management contracts, pre-qualification requirements for potential suppliers, voting trusts, and licence or franchise agreements. These factors, along with severity and probability of adverse impacts and how crucial that supplier is to the enterprise, will determine an **appropriate response**. (Guidelines II.c.21)

Appropriate responses may include: continuation of the relationship with a supplier throughout the course of risk mitigation efforts; temporary

suspension of the relationship while pursuing ongoing risk mitigation; as a last resort, disengagement with the supplier either after failed attempts at mitigation, or where the enterprise deems mitigation not feasible, or because of the severity of the adverse impact. The enterprise should also take into account potential social and economic adverse impacts related to the decision to disengage. (Guidelines II.c.22)

Enterprises may also engage with suppliers and other entities in the supply chain to improve their performance, in co-operation with other stakeholders, including through personnel training and other forms of capacity building, and to support the integration of principles of responsible business conduct compatible with the Guidelines into their business practices.

Where suppliers have multiple customers and are potentially exposed to conflicting requirements imposed by different buyers, enterprises are encouraged, with due regard to anti-competitive concerns, to participate in industry-wide collaborative efforts with other enterprises with which they share common suppliers to coordinate supply chain policies and risk management strategies, including through information-sharing. (Guidelines II.c.23)

More broadly, due diligence processes, as described in the UN Guiding Principles and the OECD Guidelines, can help increase awareness and contribute to common understanding of RBC by bringing more disclosure, encouraging stakeholder engagement, and ensuring accountability from both inside and outside the enterprise. Many enterprises have developed their own codes of conduct in which they set out how they identify, prevent, mitigate, and account for their actual and potential adverse impacts, as well as how they positively contribute to sustainable development of host countries. These codes of conduct also often refer to international instruments and standards, such as the OECD Guidelines, the UN Guiding Principles, the UN Global Compact Principles, ILO Conventions and the Universal Declaration of Human Rights.⁸

Enterprises can also participate in international and local events to share experiences and discuss different ways they are engaged in realisation of sustainable development goals. For example, in 2013, the OECD launched a Global Forum on Responsible Business Conduct to bring together government representatives, businesses from all sectors and civil society to discuss emerging global trends in RBC. Additionally, in 2012, the UN launched the Forum on Business and Human Rights to provide a global platform for the promotion and implementation of the UN Guiding Principles. At the local level, embassies and other organisations often organise activities and meetings on RBC. For example, in February 2013 in Almaty, the Embassy of United Kingdom in Kazakhstan and the Legal Policy Research Centre organised an international expert conference on implementing the UN Guiding Principles in Kazakhstan. Additionally, in March 2013 in Astana, the Embassy of the Netherlands organised a CSR roundtable to promote awareness of the topic among different stakeholders. Another example of the type of events that enterprises can engage in is the 2008 National Forum on Corporate Social Responsibility.

Enterprises can also benefit from participating in working groups or other local initiatives on RBC. For example, the American Chamber of Commerce Almaty and Atyrau CSR Working Groups both aim to raise awareness of RBC issues and initiatives among the business community and to improve and promote best practices. (AmCham, 2013) Local organisations, such as the Eurasia Foundation, have for many years been active in raising awareness in the region and are also a good resource due to their access to a variety of stakeholders.

It should also be noted that international financial institutions often have RBC-related expectations for their clients in relation to development loans they might provide. For example, the International Finance Corporation (IFC) provided loans for the development of the Karachaganak Oil Field. (CAO, 2008) One important pillar of IFC risk management is its strategic commitment to sustainable development, which is articulated in IFC Sustainability Framework. IFC Sustainability Framework consists of the 1) Policy on Environmental and Social Sustainability, 2) Performance Standards, and 3) Access to Information Policy. IFC Performance Standards define client responsibilities for managing

⁸ For more information on specific enterprise codes of conduct and/or ethics, see Annex B.

their environmental and social risks in eight main areas: Assessment and Management of Environmental and Social Risks and Impacts; Labour and Working Conditions; Resource Efficiency and Pollution Prevention; Community Health, Safety, and Security; Land Acquisition and Involuntary Resettlement; Biodiversity Conservation and Sustainable Management of Living Natural Resources; Indigenous Peoples; and Cultural Heritage. Enterprises should note that other financial institutions may also require their clients to apply the IFC Performance Standards. (IFC, 2012b)

Enterprises should also be aware that the Revised OECD Recommendation on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence was updated in 2012 to stipulate that “members should promote the awareness of the OECD Guidelines for Multinational Enterprises among appropriate parties involved in applications for officially supported export credits as a tool for responsible business conduct in a global context.” (Paragraph 4 (iii)) The update also included a provision that member should consider any public statements or reports by the OECD Guidelines National Contact Points when undertaking environmental and social review of projects. (OECD, 2013d) More information about National Contact Points and the unique implementation mechanism of the OECD Guidelines can be found in Annex G.

I. SUMMARY OF RECOMMENDATIONS TO ENTERPRISES

Enterprises, therefore, can engage in different ways in order to contribute to increasing awareness and common understanding of RBC in Kazakhstan. Enterprises are encouraged to:

- Effectively promote RBC principles and standards among all relevant stakeholders (including internal stakeholders such as local executives and employees);
- At industry level, share best practices and experiences on RBC (for example, by actively participating in CSR working groups);
- Support civil society initiatives related to RBC;
- Engage in dialogue with the government to share information about the principles and standards enterprises are expected to meet in their home countries;
- Support government efforts toward a coherent RBC policy, including the proposed creation of an RBC focal point that could serve as a coordination body on RBC both on regional and international levels;
- Support the government-based initiative to create a regional RBC policy network that could coordinate common policy on a regional level;
- Engage in dialogue with local administrations to better understand their expectations and needs and to promote transparency in the allocation of enterprise contributions to social projects.

II. Transparency

Transparency remains an important challenge in Kazakhstan and enterprises have an important role to play in combating non-transparent practices that can lead to bribery and corruption. In 2013, Kazakhstan ranked 140th out of 177 countries on Transparency International Corruption Perception Index.⁹ The World Bank reports in the 2011 Enterprise Surveys that 45% of firms in Kazakhstan are expected to give gifts to secure a government contract, while 34% are expected to make informal payments to “get things done.” (World Bank, 2011)

The government has taken important steps to improve this situation through adherence to various international anti-corruption instruments, such as the legally-binding United Nations Convention Against Corruption. Since 2004, Kazakhstan has participated in the OECD Istanbul Anti-corruption Action Plan, which aims to support anti-corruption reforms through country reviews, including a peer review programme, monitoring of implementation and recommendations. (OECD, 2011c) The second round of monitoring showed important improvements toward, among other elements, criminalization of corruption through the adoption of laws introducing comprehensive changes in the provisions on liability for corruption offences. Kazakhstan has also established corporate liability for corruption through amendments to its Criminal Code, but was recommended to take specific steps in order to bring its corporate liability regime into compliance with international standards. (OECD, 2013f)

The Kazakhstan 2050 Strategy also calls for preventive measures to fight corruption in the country, including strengthening the anti-corruption legislation. (Address by President, 2012) In addition, national legislation deals with different aspects of corruption. (OECD, 2012a: 113) The government also adopted a strong anti-corruption strategy through the Sector Programme for the Fight against Corruption in the Republic of Kazakhstan for 2011-2015. (OECD, 2011c) At the institutional level, the government has created the Presidential Commission for the Fight against Corruption and the Agency of the Republic of Kazakhstan on Fighting with Economic and Corruption Crimes (the Financial Police), whose functions include prevention and anti-corruption policies. (OECD, 2013f) Streamlining regulation is one good way of decreasing the opportunities for bribe collection.

The major challenges remain at the enforcement level. Transparency issues “still persist in the judiciary, police and customs administration, in protecting property rights as well as in land registration and construction permit proceedings.” (OECD, 2012a: 112) Foreign investors have complained that regulatory pressure has been used to extract bribes, with one of the most significant problems being the lack of an independent judiciary and due process. (U.S. Department of State, 2013) One recommendation made by the OECD following the second round of monitoring under the Istanbul Action Plan was to enhance judicial independence. (OECD, 2011c) Further slowing down government

⁹ In 2012, Kazakhstan was rated 133 out of 176 countries.

USEFUL INITIATIVES - TRANSPARENCY

- OECD Guidelines, Chapter VII: Combating Bribery, Bribe Solicitation and Extortion
- Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 2009 Recommendation for Further Combating Bribery of Foreign Public Officials in Public in International Business Transactions
- Annex II of the 2009 OECD Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transaction: Good Practice Guidance on Internal Controls, Ethics, and Compliance
- UN Convention Against Corruption
- International Chamber of Commerce Rules of Conduct and Recommendations to Combat Extortion and Bribery
- Transparency International Business Principles for Countering Bribery (and Edition for SMEs)
- World Bank Integrity Compliance Guidelines
- World Economic Forum Partnering against Corruption Initiative (PACI) - Principles for Countering Bribery
- Asia-Pacific Economic Co-operation (APEC) Anti-Corruption Code of Conduct for Business

efforts toward strengthened enforcement is the absence of involvement of the civil society in the development and implementation of anti-corruption strategies. Nevertheless, it should be recognised that advances are being made in enforcement as well since many anti-corruption cases have been brought to the Prosecutor General. In recent years, some Kazakh business leaders have been convicted and sentenced to imprisonment due to corruption. (Prosecutor General, 2013)

Foreign business leaders and employees need to pay particular attention to the risk of bribe solicitation because, in addition to being held liable in Kazakhstan, they could also be held accountable in their home country if they fall under the jurisdiction of a government that has criminalized the bribery of foreign public officials in international business transactions. For example, the 40 States Parties to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Anti-Bribery Convention)¹⁰ are required to make it a crime for their companies and individuals to directly or indirectly, offer, promise, or give a bribe or other undue




¹⁰ The OECD Anti-Bribery Convention entered into force on 15 February 1999.

advantage to obtain or retain business or other improper advantage in the conduct of international business. In 2009, new measures were put in place to reinforce efforts to prevent, detect and investigate foreign bribery through the adoption of the OECD Recommendation for Further Combating Bribery of Foreign Public Officials in International Business Transactions (2009 Recommendation). This recommendation highlights that enterprises should develop and adopt adequate internal controls, ethics and compliance programmes or measures for the purpose of preventing and detecting foreign bribery, taking into account Annex II of the 2009 Recommendation, the Good Practice Guidance on Internal Controls, Ethics, and Compliance (Good Practice Guidance). The Good Practice Guidance, which is the only guidance for enterprises of its kind to be adopted at an inter-governmental level, features good practices for ensuring the effectiveness of their internal controls, ethics and compliance programmes or measures to prevent and detect foreign bribery. The OECD Anti-Bribery Convention, along with the 2009 Recommendation, the 2009 Recommendation on Tax Measures for Further Combating Bribery of Foreign Public Officials in International Business Transactions, and the 2006 Recommendation on Bribery and Officially Supported Export Credits, are the core OECD instruments that target the supply side of the bribery transaction. They aim to eliminate the supply of bribes to foreign public officials, with each country taking responsibility for the activities of its enterprises and what happens within its own jurisdiction. (Guidelines VII.c.76)

Good governance practices are an important element of addressing the demand side of bribery. Enterprises can support collective action initiatives on resisting bribe solicitation and extortion. Both home and host governments should assist enterprises confronted with solicitation of bribes and with extortion. The Good Practice Guidance on Specific Articles of the Convention, included as an Annex I in the 2009 Anti-Bribery Recommendation, states that the OECD Anti-Bribery Convention should be implemented in such a way that it does not provide a defence or exception where the foreign public official solicits a bribe. It should be noted that the United Nations Convention Against Corruption also requires the criminalisation of bribe solicitation by domestic public officials. (Guidelines VII.c.80)

II. SUMMARY OF RECOMMENDATIONS TO ENTERPRISES

Many international best practices, tools and guidelines exist to help enterprises combat and resist bribery, bribe solicitation and extortion, and to increase transparency. Enterprises should:

-  Not, directly or indirectly, offer, promise, give, or demand a bribe or other undue advantage to obtain or retain business or other improper advantage (Guidelines VII);
-  Resist the solicitation of bribes and extortion (Guidelines VII);
-  Not offer, promise, give, request, agree to or accept undue pecuniary or other advantage to and from public officials or the employees of business partners or use third parties for these purposes (Guidelines VII.1);

- Develop and adopt adequate internal controls, ethics and compliance programmes or measures for preventing and detecting bribery, developed on the basis of a risk assessment addressing the individual circumstances of the enterprise (Guidelines VII.2);
- Prohibit or discourage the use of small facilitation payments and, if such payments are made, accurately record them in books and financial records (Guidelines VII.3);
- Ensure properly documented due diligence in the hiring and appropriate and regular oversight of agents, as well as ensure that remuneration is appropriate and for legitimate services only (Guidelines VII.4);
- Enhance the transparency of their activities in the fight against bribery, bribe solicitation and extortion, for example through making public commitments and disclosing management systems and internal controls, and foster openness and dialogue with the public (Guidelines VII.5);
- Promote employee awareness of and compliance with company policies and internal controls through appropriate dissemination of information, as well as through training programmes and disciplinary procedures (Guidelines VII.6);
- Not make illegal contributions to candidates for public office or to political parties and other political organisations (Guidelines VII.7).

These recommendations are highlights from the OECD Guidelines, which contain more details in general and for each recommendation. Please refer to Chapter VII.

III. Labour Relations

ILO is the competent body to set and deal with international labour standards, and to promote fundamental rights at work as recognised in its 1998 Declaration on Fundamental Principles and Rights at Work (1998 Declaration). The government of Kazakhstan works in close collaboration with the ILO and has ratified 21 ILO conventions,¹¹ including the eight fundamental ones that are covered by the 1998 Declaration. Kazakhstan also participates in ILO Decent Work Country Programme.

Based on the Constitution, the Civil Code, the Labour Code (in force since 2007) and a number of other legal acts regulating labour relations, the following basic and fundamental labour rights are recognised in Kazakhstan: freedom of association, right to negotiate collective agreement, right to strike, prohibition of all forms of forced labour, elimination of the worst forms of child labour and non-discrimination in employment. Notably, Article 2 of the Labour Code states that international treaties ratified by Kazakhstan will prevail over national labour laws and regulations. International treaties

¹¹ For more information, see Annex E on Kazakhstan's adherence to international agreements and conventions.

will be applied directly in all cases, except when they require the application of a corresponding local law. Most recently, in the Kazakhstan 2050 Strategy, the President expressed the need to improve the existing framework on labour relations to focus more on employment opportunities and salaries.

Policy coherence in this area remains a challenge. For example, a new Law on Trade Unions was announced in March 2013 and the draft appears to include provision that could restrict freedom of association and collective bargaining. In particular, one of the listed conditions trade unions are expected to meet in order to be able to negotiate on behalf of their members is to have affiliated organisations in Astana, Almaty and in more than 14 other regions of the country. This condition could negatively affect union organisation in remote areas, and particularly in the extractives sector. (EIU, 2013: 3) Furthermore, the right to organise is often subject to political and regulatory pressure. There have been reports that many workers cannot join or form unions of their choice. State-affiliated unions seem to be favoured over independent ones.¹² It should be noted that financing of unions by foreign organisations is also prohibited by law. (U.S. Department of State, 2012)

In general, numerous legal limitations exist on the right of workers to strike. Participation in strikes can lead to a range of sanctions. It has been reported that trade union representatives and workers, especially leaders in the oil industry and opposition activists, have often been sentenced to prison terms for organising or supporting illegal strikes. Authorities have in certain cases used excessive means to stop workers from exercising their labour rights. (HRW, 2012a and 2012b; Rittmann and Williamson, 2012; U.S. Department of State, 2012) In one case, the excessive means led to a violent episode where workers were killed. In 2011, police opened fire on strikers in the city of Zhanaozen, killing up to 16 protesters and injuring dozens more.¹³ The violence followed a seven-month strike by workers from the Ozenmunaigas oil field. In a public statement following this event, the President stated that the government intended to investigate the factors that led to the outbreak of violence and recognised that the failure of the authorities and enterprise chief executives to resolve the dispute in a timely manner was an important factor. (HRW, 2012a; Embassy of the Republic of Kazakhstan to the United States, n.d.; U.S. Department of State, 2012)

Abuses from enterprises have also been reported, with some enterprises taking advantage of the gaps in policy coherence in labour relations. Cases of employers interfering with the right of workers to organise seem to be frequent: employers have been reported to be actively preventing the creation of trade unions, forcing employees to leave non-company affiliated unions, and firing or threatening to fire employees that try to join a union or to strike. Employers have often refused to negotiate with workers to resolve the disputes. Enterprises have also attempted to create firm unions to counteract

¹² The Federation of Trade Unions of the Republic of Kazakhstan, which is affiliated with the government, is the largest trade union in the country and represents two million workers in an extensive range of sectors.

¹³ The exact numbers differ depending on different reports.

the activities of independent unions. (HRW, 2012a and 2012b; Legal Policy Research Centre, 2013; U.S. Department of State, 2012) Discrimination also appears to be a problem. Many local workers have the perception that foreign workers obtain a much more positive treatment. Workers have complained about lower salaries and poor working conditions.¹⁴ (Osanova, 2009; LPRC, 2013)

As noted previously, although policy coherence remains a challenge in Kazakhstan, enterprises are expected to respect international labour standards and to facilitate them in their operations. Enterprises should support government efforts toward policy coherence by using their leverage. It is important that enterprises adopt good labour management practices and that they structure their relationships with workers to avoid supporting, encouraging or participating in violations of labour and human rights. For example, enterprises should respect the right of workers to have representatives of their own choosing recognised for collective bargaining and to engage in constructive negotiations in good faith in an attempt to avoid violent episodes like the one in Zhanaozen.

Helpful principles and guidelines already exist to assist enterprises in meeting their responsibilities. The OECD Guidelines, as a nonbinding instrument, have a role to play in promoting observance of the relevant ILO standards and principles. The provisions in the OECD Guidelines Chapter V echo the relevant provisions of the 1998 Declaration, as well as the 1977 ILO Tripartite Declaration of Principles concerning Multinational Enterprises

USEFUL INITIATIVES - LABOUR RELATIONS

- OECD Guidelines, Chapter V: Employment and Industrial Relations
- 1998 Declaration on Fundamental Principles and Rights at Work
- 1977 ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy
- ILO, Helpdesk for Business and NORMLEX
- ILO, Working Conditions of Contract Workers in the Oil and Gas Industries
- IFC Performance Standards, in particular Standard 2: Labour and Working Conditions
- Fair Labour Association Workplace Code of Conduct
- European Union, Employment Equality Framework Directive
- UN Global Compact, Women Empowerment Principles

¹⁴ This often refers to workers in high-level or managerial positions, rather than country of origin.

and Social Policy, last revised in 2006 (the ILO MNE Declaration). The ILO MNE Declaration sets out principles in the fields of employment, training, working conditions, and industrial relations, while the OECD Guidelines cover all major aspects of corporate behaviour. The OECD Guidelines and the ILO MNE Declaration refer to the behaviour expected from enterprises and are intended to parallel each other. For more information on international labour standards, enterprises can contact the ILO Helpdesk for Business, which provides information on a wide range of labour topics derived from the ILO MNE Declaration. Enterprises can also access NORMLEX, a new information system on international labour standards (such as ratification information, reporting requirements, comments of the ILO's supervisory bodies, etc.) and national labour and social security laws. Enterprises should also be aware that the National Contact Points of the OECD Guidelines are also useful resources.

III. SUMMARY OF RECOMMENDATIONS TO ENTERPRISES

Enterprises are encouraged to, within the framework of applicable law, regulations and prevailing labour relations and employment practices and applicable international labour standards:

- Respect internationally recognised labour rights and principles, in particular freedom of association and right to collective bargaining; effective abolition of child labour; elimination of all forms of forced or compulsory labour; and non-discrimination in employment and occupation (Guidelines V.1);
- Provide facilities as necessary to assist in development of effective collective agreements, including providing information needed for meaningful negotiations on conditions of employment and a true and fair view of enterprise performance (Guidelines V.2);
- Promote consultation and co-operation with workers and their representatives on matters of mutual concern (Guidelines V.3);
- Observe employment and industrial relations standards not less favourable than those observed by comparable employers in the host country and, if those comparable employers do not exist, provide best possible wages, benefits and conditions of work within the framework of government policies, which should be at least adequate to satisfy the basic needs of the workers and their families (Guidelines V.4);
- Ensure occupational health and safety in operations (Guidelines V.4);
- Provide reasonable notice of changes in their operations that would have major employment effects, in particular in the case closure, which may involve collective lay-offs or dismissals (Guidelines V.6);

- Enable authorised workers' representatives to negotiate on collective bargaining or labour-management relations issues (Guidelines V.8).

These recommendations are highlights from the OECD Guidelines, which contain more details in general and for each recommendation. Please refer to Chapter V.

IV. Skills

Local content is generally seen as a way to build capacity of local suppliers and small- and medium-enterprises, to develop local sector expertise, and to ensure that benefits of large investment projects are shared with communities. In 2009, government of Kazakhstan adopted a new Law on Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan Concerning Local Content and the Concept on Further Development of Local Content with the aim of ensuring and increasing use of local goods, services, and labour in foreign investor activities. The 2010 Subsoil Law and the Oil and Gas Law also both contain provisions that require companies to favour local goods and services in the oil and gas sector. In 2010, a National Agency for Local Content Development was created to supervise the implementation of local content requirements. (Osanova, 2010)

Local content regulations require that 1% of any project budget be set aside for training programmes and workforce development. In terms of personnel, as of January 2012, medium- and large-size enterprises are required to employ 70% company executives and 90% technical personnel to meet local content requirements.¹⁵ There are also quotas on the total amount of foreign labour allowed in the workforce, which was 1.2% in 2013. (U.S. Department of State, 2013)

The 2013-2014 Global Competitiveness Report by the World Economic Forum indicates that inadequately educated workforce is among the most problematic factors for doing business in Kazakhstan. Finding qualified staff, good quality local products and suppliers has proven to be difficult, especially for technical personnel and in rural areas. (U.S. Department of State, 2013) There appears to be a lack of staff with industry-specific and modern technology knowledge and skills. Even with training programmes available, enterprises report that the younger generation of workers appears to have little interest in more technical careers or engineering. (World Bank, 2013d) Furthermore, work permits for foreign staff are expensive and difficult to obtain. (U.S. Department of State, 2013)

There appears to be a mismatch between the intended goals of the local content policy and the practical realities on the ground, raising the risks that these regulations are in fact onerous and actually counter-productive. For example, although many enterprises have already invested in human resources by offering various training, education, and capacity-building programmes, due to the long-term nature of these investments, the short-term benefits are limited. (Osanova, 2010)

¹⁵ Tengiz, Karachaganak and Kashagan fields are exempted from those requirements. (U.S. Department of State, 2013)

USEFUL INITIATIVES - SKILLS

- OECD Guidelines, Chapter II: General Policies; Chapter V: Employment and Industrial Relations; and IX: Science and Technology
- ILO Human Resources Development Recommendation 195 of 2004

Meanwhile, violations of local content requirements can lead to the annulment of an investment contract. In 2010 after new local content requirements were put in place, 34 contract termination notices were sent to enterprises on the basis that they were not complying with local content requirements. Investors have also complained that enforcement of local content regulation is uneven, irregular, and non-transparent, especially at the local level. (Osipova, 2010; U.S. Department of State, 2013)

Limited opportunities exist for constructive engagement between investors, local suppliers and the government. It should be noted that, in fact, maximising the use of local suppliers and skilled staff is in the interest of investors since it can significantly reduce operational costs. However, due to the challenges in complying, local content measures can be a source of tension. Enterprises should be transparent about the challenges they face and should engage with the government with a view to finding solutions, especially considering that some of these regulations can impact day-to-day operations.

Kazakhstan's upcoming accession to the WTO will result in changes to the local content policy since local content requirements are considered to be one of prohibited trade related investment measures. In order to not restrict and distort trade, WTO members may not apply any measures that discriminate against foreign products or that lead to quantitative restrictions since this can be considered a violation of basic WTO principles. More information about WTO's Agreement on Trade Related Investment Measures can be found on WTO website. (WTO, 2013)

Investments in long-term measures that build the local workforce and the capacities of local businesses will eventually be reflected in the reduced in operational costs (i.e. by keeping the costs related to expatriate staff to a minimum), ease of access to supply of goods and services, as well as facilitation of meaningful engagement with communities that is based on creating shared value with the host communities.

IV. SUMMARY OF RECOMMENDATIONS TO ENTERPRISES

Enterprises should:

- Encourage local capacity building through close co-operation with the local community, including business interests, and develop enterprise's activities in domestic and foreign markets, consistent with the need for sound commercial practice (Guidelines II.A.3);

- ☞ In their operations and to the greatest extent possible, employ local workers and provide training with a view to improving skill level, in co-operation with worker representatives and, where appropriate, relevant government authorities (Guidelines V.5);
- ☞ Promote awareness and compliance by workers with respect to company policies through appropriate dissemination of these policies, including through training programmes (Guidelines II.A.8);
- ☞ Contribute to the development of local and national innovative capacity (Guidelines IX.1);
- ☞ Adopt, where practicable, practices that permit the transfer and rapid diffusion of technologies and know-how (Guidelines IX.2).

These recommendations are highlights from the OECD Guidelines, which contain more details in general and for each recommendation. For more information, please refer to Chapter II, V, and IX.

V. Environment

Decades under the Soviet Union and an absence of pollution control measures have left Kazakhstan with a troubling environmental legacy. Rapid growth in the 1990s following the independence and extensive development in the oil and gas sector further contributed to considerable environmental issues. In many cases, enterprises took advantage of the imperfect legislation, resulting in growth of accumulated waste stockpiles, high greenhouse gas emissions and water supply contamination.

The 2008 UN Environmental Performance Review of Kazakhstan noted an increase in environmental problems in the regions where oil and gas are produced, due to onshore and offshore extraction activities and the construction of pipelines, roads, railways and refineries. In addition, environmental monitoring systems do not adequately reflect the current environmental situation. According to the Review,

“There is little understanding of the serious environmental, health and safety consequences of mining and oil and gas operations. These consequences have not been properly assessed, nor have they been addressed sufficiently by measures designed to reduce pollution. Their cumulative effects, particularly in the environmentally sensitive area of the Caspian Sea and its coastal zone, are largely underestimated.” (UNECE, 2008: 5)

The World Bank (2013a: 10) adds that as a result of the lack of funding for monitoring systems for air and water pollution, the actual pollution load is not reflected in environmental statistics.

Even though there is still a long way to go to successfully implementing environmental policies, the government is taking important steps to protect the environment by focusing first on most important environmental issues and modernising the environmental legislation. In 2007, Kazakhstan adopted the Environmental Code,

which introduced international environmental standards. The Strategic Plan of the Ministry of Environment Protection for 2011-2015 (now Ministry of Environment and Water Resources) also aims to better the environmental quality conditions and take steps toward a more sustainable development. Priorities set out in the Strategic Plan, among others, are improving water management, treating waste and reducing emissions. In May 2013, the Concept for Transition of the Republic of Kazakhstan to Green Economy was adopted, with the intention to invest 1% of GDP annually into green technologies. Kazakhstan also participates in regional environmental initiatives such as the Astana Green Bridge Initiative to share best management practices and implementations of green growth, as well as the Astana Water Action for 2012-15 to address serious issues related to water and water management. (OECD, 2012a)

Kazakhstan is also a member of the Task Force for the Implementation of the Environmental Action Programme, established in 1993 by the OECD. The EAP Task Force mission is to “guide improvement of environmental policies in transition economies of Eastern Europe, Caucasus, and Central Asia (EECCA) by promoting the integration of environmental considerations into the processes of economic, social and political reform.” (OECD, 2013g) In the context of the EAP Task Force work programme, specific recommendations were made to Kazakhstan for improving environmental self-control by enterprises (OECD, 2006), improving response to environmental offences (OECD, 2009) and promoting energy efficiency in the residential sector in the context of climate change (OECD, 2012b).

Enterprises have a responsibility to maximise their contribution to environmental protection. They should take due account of the need to protect the environment, which has a huge impact on public health and safety. The environmental issues of each province (or oblast) reflect the makeup of the industries in the area. For example, as of 2008, the mining and metallurgy industries produced 1.3 billion tons of toxic waste in Eastern Kazakhstan. Most of the waste in Almaty comes from power plants and metal ore concentration plants, while in Karanga region it comes from mining, metallurgical and chemical industries. The oil and gas industries accounted for the main source of pollution in West Kazakhstan, Kyzylorda and Atyrau. (UNECE, 2008) Enterprises have a responsibility to reduce their environmental footprint through improved internal management system and better planning.

There are three areas - water, land and air - to which enterprises should pay special attention in Kazakhstan.

WATER

Due to an arid climate and land-locked location, Kazakhstan and the other Central Asian countries have particularly vulnerable ecosystems, particularly related to water. The Caspian and Aral Seas and the Balkhash and Issyk-Kul Lakes are all part of a single environmental space, which means that environmental impacts in one country have an effect on the entire region. Regional water management was for a long time seen from a power-producing and agricultural point of view. The importance of water for the health and well-being of citizens was not fully considered. (CAREC, 2003) The Strategic Plan of the

Ministry of Environment Protection for 2011-2015 recognises that water pollution remains a problem in Kazakhstan. It also recognises that part of the population does not have access to drinking water of adequate quality.

Additionally, the location of oil fields in the flood areas of the Caspian Sea carries a risk of water contamination due to the sensitive ecosystem of the coast, high risks of storm surges and existing pollution. Some 19 oil fields including 1485 wells are located in this area, 90% being in the constant flood zones. (TENGRI NEWS, 2012) In addition, the mode of oil transportation - pipelines and boats - through the Caspian carries a significant risk of oil spills. Negligence in oil transportation has resulted in 168 accidents in the last nine years, resulting in oil spills and inflicting serious damage to the environment. (LPRC, 2013) At the moment, there is no monitoring system for the Caspian Sea. (TENGRI NEWS, 2012) Inadequate water infrastructure, mismanagement, and out-dated technology further contribute to these negative impacts. (UNECE, 2008)

More broadly, it appears that a significant amount of used water is discharged into the country's rivers annually without being recycled.¹⁶ In 2003, it was estimated that 53 large enterprises discharged 260 million cubic meters of wastewater into the Irtysh River. (CAREC, 2003) Local media has reported on several occasions that industrial activities led to water contamination, notably through the dumping of toxic substances into the water or sewage systems. (Central Asian News Service, 2011; Shakhnazaryan, 2012) As a result, access to fresh water is reported to be problematic in some regions. (TENGRI NEWS, 2012)

LAND

Combating desertification and land degradation is a priority for the government of Kazakhstan. Degraded land makes up approximately 66% of the country. (UNECE, 2008) The Programme on Combating Desertification in the Republic of Kazakhstan 2005-2015 identifies desertification as one of the main threat to successful social-economic development. (UNCCD, 2005)

Desertification and land degradation are due, in part, to industrial activities such as mining, construction, transportation, irrigation and deforestation. Extraction activities often lead to large land areas being used as dumping grounds for accumulated and toxic waste. The most troubling soil pollutants are heavy metals from oil and oil by-products. (UNECE, 2008) At the moment, the Caspian Sea region is under significant risk due to land and water contamination from oil production practices, out-dated technology and use of improper equipment. (OSCE, 2008)

The consequences of desertification and land degradation mainly impact the agriculture industry. For example, desertification causes wind erosion and salinisation of water, directly impacting soil fertility. In the long term, food security could become a serious issue. (Saigal, 2003)

¹⁶ Over 2.5 tons of sewage waters are discharged annually according to the Minister of Environmental Protection. (TENGRI NEWS, 2012)

AIR

Air pollution is a major problem in Kazakhstan due to significant greenhouse gas emissions and a lack of measures to reduce or control them. For example, the amount of CO₂ emissions resulting from fossil fuel burning and cement manufacturing were almost three times bigger per capita in Kazakhstan as compared to Europe and Central Asia emissions.¹⁷ (World Bank, 2013c) The International Energy Agency has identified Kazakhstan as number one country in greenhouse gas emissions per capita (UNECE, 2008). The energy sector is the main source of these emissions. Heavy metals emissions, due, in part, to the fact that coal is largely used in enterprises as an energy source further contribute to air, water and soil pollution. (UNECE, 2008)

Poor environmental performances of industries operating in the country contribute to these serious problems. (UNECE, 2008) In the last 10 years, consortiums operating in the extractive industry have been fined or have had their operating licences revoked for exceeding the level of permitted emissions. The biggest consortiums have been fined tens of millions of dollars for unauthorised gas emissions through gas flaring, improper storage and management of toxic waste, as well as dumping of toxic waste into the water supply. In some cases, the government has also filed claims for compensation for damages. (Ospanova, 2009; Ospanova and Ward, 2010; Kinman and Juhasz, 2011)

Many enterprises have complained about transparency in the enforcement of environmental regulations. Many have also expressed concerns that the fines were imposed in an attempt to exert pressure and obtain additional funds. (Ospanova, 2009; Ospanova and Ward, 2010)

Sound environmental management is both a responsibility and an opportunity for enterprises. A proper environmental management system provides the internal framework necessary to control an enterprise's environmental impacts and to integrate environmental considerations into business operations. Having such a system in place should help assure all concerned parties that the enterprise is actively working to protect the environment from the impact of its activities. (Guidelines VI.c. 61)

Internal control system that relate to the environment may include targets for improved performance and regular monitoring of progress towards these targets. (Guidelines VI.c.64) Business activity can involve the ex-ante assessment of the potential environmental impacts associated with the enterprise's activities. Enterprises often carry out appropriate environmental impact assessments, even if they are not required by law. (Guidelines VI.c.67)

One of the main challenges for MNEs lies in the amount of leverage that an individual company can exercise within a consortium to influence the behaviour of the entire consortium. Being associated with irresponsible business conduct on a consortium

¹⁷ In 2009, the CO₂ emissions of Kazakhstan amounted 14 metric tons per capita while Europe and Central Asia (developing only) released an average of 5.1 metric tons per capita. (World Bank, 2013c)

USEFUL INITIATIVES - ENVIRONMENT

- OECD Guidelines, Chapter VI: Environment
- Rio Declaration on Environment and Development
- Agenda 21(within the Rio Declaration)
- Convention on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters (Aarhus Convention)
- ISO 1400 Standards on Environmental Management Systems
- World Bank Group Environmental, Health, and Safety Guidelines
- World Bank's Global Gas Flaring Reduction (GGFR) public-private partnership
- United Nations Environment Programme (UNEP) Finance Initiative
- Life Cycle Initiative, launched by UNEP and the Society of Environmental Toxicology and Chemistry (SETAC)
- IFC Performance Standards, in particular Standard 1: Assessment and Management of Environmental and Social Risks and Impacts; Standard 3: Resource Efficiency and Pollution Prevention; and Standard 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources
- Greenhouse Gas Protocol Initiative
- Equator Principles
- International Council on Mining and Metals (ICMM) materials

level can put some MNEs in direct violations of standards to which they could be held accountable to in their home countries. Enterprises have a responsibility to prevent and mitigate their potential impacts through for example appropriate risk management systems. They also have a responsibility to address their actual impacts through remediation.

In all cases, enterprises should seek to prevent or mitigate an adverse impact where they have not contributed to that impact, but when they impact is nevertheless directly linked to their operations, products and services by a business relationship. Enterprises should also encourage, where practicable, business partners, including suppliers and sub-contractors to act responsibly.

V. SUMMARY OF RECOMMENDATIONS TO ENTERPRISES

With a view to contributing to broader sustainable development goals, enterprises should:

- Establish and maintain a system of environmental management, including collection and evaluation of information regarding their impacts, establishment of measurable objectives and targets, and regular monitoring and verification of progress (Guidelines VI.1);
- Provide public information on the potential impacts of their activities and engage in communication and consultation with the communities directly affected by enterprises' policies and by their implementation (Guidelines VI.2);
- Assess and address, in the decision-making, the foreseeable impacts associated with the processes, goods and services of the enterprise over their full life-cycle with a view to avoiding or mitigating them (Guidelines VI.3);
- Prepare an appropriate environmental impact assessment when the impacts are significant and where enterprise activities are subject to a decision of a competent authority (Guidelines VI.3);
- Not use the lack of full scientific certainty to postpone cost-effective measures to prevent or minimise damage (Guidelines VI.4);
- Maintain contingency plans and mechanisms for immediate reporting to the competent authorities for serious environmental and health damage that can result from their operations (Guidelines VI.5);
- Continually seek to improve environmental performance at both enterprise and supply chain levels, even where this may not be formally required by existing local practices (Guidelines VI.6);
- Provide adequate education and training to workers, including on the handling of hazardous materials and the prevention of environmental accidents, as well as in more general environmental management areas (Guidelines VI.7);
- Contribute to the development of meaningful and efficient public policy by, for example, partnerships or initiatives that enhance environmental awareness and protection (Guidelines VI.8).

These recommendations are highlights from the OECD Guidelines, which contain more details in general and for each recommendation. Please refer to Chapter VI.

VI. Stakeholder Engagement

The intensive use of land and water in the course of carrying out business activities significantly impacts local communities, their health and livelihood. In areas of intensive development activities, some communities have been compelled to live in sanitary protection zones that have not proven to successfully prevent negative impacts on health and the damages to property due to pollution of land, water and vegetation. Inhabitants

of some villages near oil fields show an alarming percentage of chronic illnesses. In other cases, villagers have asked to be relocated due to the deterioration of their living conditions, but those demands have largely been ignored. (EDLC, 2013; Solyanik, 2011)

Many Production Sharing Agreements were signed in the 1990s without appropriate consultation with affected communities and the impacts have not been addressed since. Communities are often not informed about the projects and their impacts nor are they consulted or compensated. There is often no or insufficient notification of public hearings, or they are held after decisions have already been made. (EDLC, 2013; Solyanik, 2011)

As a result, affected communities lack confidence *vis-a-vis* the enterprises, which can be a significant barrier in the process of meaningful stakeholder engagement. Because effective stakeholder engagement is a two-way communication process, building mutual trust through a constructive dialogue should be a priority. Additional complicating factor is that the lack of involvement from civil society can limit the understanding of the true cost and impact of industrial activities.

Inadequate stakeholder engagement or an absence of it has negative impacts on enterprises. Conflicts between local communities and enterprises have economic, reputational and human costs for enterprises in the form of administrative and legal proceedings, media campaigns, political pressure, protests and violence. These costs are often overlooked or underestimated by enterprises.

No or ineffective engagement with stakeholders can directly lead to adverse impacts and in certain cause violations of human rights. For instance, stakeholder engagement that does not take into account the impacts of industrial activities on local communities may infringe on their right to a safe and healthy environment. Therefore, a strong business case exists for appropriate and improved stakeholder engagement as part of the corporate responsibility to respect human rights.

Stakeholder engagement involves interactive processes of engagement, through, for example, meetings, hearing, or consultation proceedings. Effective stakeholder engagement is characterised by two-way communication and depends on the good faith of the participants on both sides. This engagement can be particularly helpful in the planning and decision-making concerning projects or other activities involving, for example, the intensive use of land or water, which could significantly affect local communities. (Guidelines II.c.25) An effective stakeholder engagement recognises the importance of building trust, fostering social acceptance and avoiding conflicts.

Having a stakeholder engagement strategy will help enterprises carry out their due diligence related to the risks and impacts of their activities, including from a human rights perspective. Approaches regarding stakeholder engagement may vary from one enterprise to another depending on the local context and the enterprises' activities, although a number of common best practices for an effective stakeholder engagement have been developed already:

- A good engagement requires the mapping of stakeholders so as to identify the right stakeholders with which to engage. It is important to keep in mind that some communities might also be affected by aspects of operations that might not be initially obvious (for example, transport routes). In that respect, supporting stakeholder engagement at the earliest possible stage will help enterprises consider all the affected communities, as well as create a relationship of mutual trust from the start of activities (i.e. exploration stage in oil and gas activities).
- Stakeholder engagement needs to be adapted to the local context and the specific needs of stakeholders. A meaningful engagement is one that can create a dialogue between the enterprises and the stakeholders. Again, an early engagement will help consider and address the impacts of industrial activities in the internal decision-making processes of the enterprise.
- Stakeholder engagement needs to be adjusted to the operational context and be conducted across the entire project lifecycle. Stakeholder engagement is an on-going process and may have to be adapted to new circumstances (such as new operations and activities), unforeseen risks and/or impacts and other affected stakeholders.
- Choosing the right modes of engagement will help enterprises understand the needs of stakeholders and meet their expectations. Modes of engagement can vary on the type of the project, the project lifecycle and the risks associated with potential and actual adverse impacts. For instance, stakeholders will need and will expect more than information sessions for a project that might result in the displacement of their villages.
- Enterprises will need to enhance capacity and provide support for meaningful stakeholder engagement. This can mean providing the financial and technical means for communities to seek external advice and to participate in the dialogue on a more equal basis.
- It is important to make sure that the team responsible for stakeholder engagement has the necessary skills and experience. Conducting meaningful consultations requires specific skills and fostering an environment of trust will very much depend on those skills.

These best practices are outlined in the *Oil and Gas Sector Guide on Implementing the UN Guiding Principles on Business and Human Rights* (IHRB and Shift, n.d.); the *Discussion Paper on Stakeholder Engagement and the Extractive Industry Under the OECD Guidelines for Multinational Enterprises* (Shift, 2013); and the *IFC Performance Standards and Guidance Notes - 2012 Edition* (IFC, 2012b). Enterprises can refer to those documents for more information.

Enterprises should also be aware that the OECD is currently undertaking a proactive agenda project to develop a user guide for extractive companies and relevant stakeholders in conducting stakeholder engagement. For more information on this project and other proactive agenda projects, please refer to the Annual Report on the OECD Guidelines for Multinational Enterprises 2013.

VI. SUMMARY OF RECOMMENDATIONS TO ENTERPRISES

Enterprises should:

- Engage with relevant stakeholders in order to provide meaningful opportunities for their views to be taken into account in relation to planning and decision making for projects or other activities that significantly impact local communities (Guidelines II.A.14);
- Identify the right stakeholders to engage with and engage as early as possible;
- Adapt stakeholder engagement approaches to the specific context in which the enterprises operate;
- Understand stakeholders' expectations and needs and choose the modes of engagement accordingly;
- Develop a strategic approach across the project lifecycle;
- Enhance capacity and support of stakeholders for meaningful stakeholder engagement;
- Select skilled individuals to conduct stakeholder engagement;
- Set up a project-level grievance mechanism that emphasizes dispute resolution and dialogue with affected stakeholders.

These recommendations are based on the 2013 Shift discussion paper on Stakeholder Engagement and the Extractive Industry under the OECD Guidelines for Multinational Enterprises, the Oil and Gas Sector Guide on Implementing the UN Guiding Principles on Business and Human Rights, and the IFC Performance Standards and Guidance Notes - 2012 Edition. Please refer to Chapter II for more information about the Guidelines provisions on stakeholder engagement.

USEFUL INITIATIVES – STAKEHOLDER ENGAGEMENT

- OECD Guidelines, Chapter II: General Policies
- IFC, Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets (2007)
- IFC Performance Standards, in particular Standard 7: Indigenous Peoples
- International Association of Public Participation - IAP2, Public Participation Toolbox
- ICMM materials
- International Petroleum Industry Environmental Conservation Association (IPIECA) materials
- Prospectors and Developers Association of Canada, E3 Plus Framework
- Mining Association of Canada, Towards Sustainable Mining-Guiding Principles
- European Commission, Oil and Gas Sector Guide on Implementing the UN Guiding Principles on Business and Human Rights
- OECD Proactive Agenda Project: Stakeholder Engagement and Due Diligence in the Extractive Sector

USEFUL INITIATIVES – HUMAN RIGHTS

- OECD Guidelines, Chapter IV: Human Rights
- International Bill of Human Rights
- UN Guiding Principles on Business and Human Rights which operationalize the UN Framework for Business and Human Rights 'Protect, Respect and Remedy'
- Office of the High Commissioner for Human Rights, Interpretative Guide to the Corporate Responsibility to Respect Human Rights
- IFC Human Rights Impact Assessment Management
- Danish Institute for Human Rights, Human Rights Compliance Assessment
- Amnesty International, Human Rights Principles for Companies
- IPIECA, Human rights due diligence process: a practical guide to implementation for oil and gas companies
- European Commission, Oil and Gas Sector Guide on Implementing the UN Guiding Principles on Business and Human Rights

VII. Disclosure

More and more enterprises are finding it increasingly important to disclose information about their efforts integrate social and environmental aspects into their business operations. Disclosure and reporting helps address the need for transparency in business conduct and increase the mutual confidence between enterprises and stakeholders.

There are a number of international principles and standards that address disclosure and reporting, including the OECD Guidelines. The OECD Guidelines encourage timely, accurate and material information to be disclosed by enterprises. Material information is defined as information whose omission or misstatement could influence economic decisions taken by the users of that information. Material matters include enterprises' activities, structure, financial situation, performance, ownership and governance. Enterprises are also encouraged to disclose information regarding their social and environmental performance, including how they manage risk in those contexts.

Disclosure and reporting frameworks offer an opportunity for companies to demonstrate compliance with international transparency standards. The most widely used framework around the world is the Global Reporting Initiative (GRI) Sustainability Reporting Framework which includes specific Reporting Guidelines. It is a comprehensive tool to measure and report on economic, environmental, social and governance performance. The OECD Guidelines recognize that such frameworks enhance enterprises' ability to communicate how their activities influence sustainable development outcomes and the GRI maintains strategic partnerships with international organizations in order to foster co-ordination of initiatives. An updated version of the Reporting Guidelines, G4, was launched in May 2013 emphasizing the concept of materiality and providing references to the OECD Guidelines. G4 also includes a complete list of the sections that are linked to the OECD Guidelines, which could be used in a practical way to report on how companies implement the OECD Guidelines. In parallel, an increasing number of enterprises are also developing firm-level disclosure policy and reporting system to outline their commitments to responsible business conduct.

In an attempt to increase transparency, there has been a proliferation of disclosure and reporting initiatives in Kazakhstan. From a policy standpoint, the Joint Stock Company Law and Law on Accounting and Financial Reports (2007) were amended to add requirements for corporate disclosure in annual reports. According to the Law on Accounting and Financial Reports, annual financial statements from public interest entities and large companies, in particular in the extractives sector, must be prepared in conformity with International Financial Reporting Standards (IFRS). (World Bank, 2007) A description of any conflicts of interest must be included in those statements. (AmCham, 2011) However, disclosure on non-financial information, such as social and environmental performance, remains on a voluntary basis. (OECD, 2012a)

Due to the importance of the extractives sector, sector-specific initiatives have also been observed. In October 2013, Kazakhstan was declared compliant with the Extractive

Industries Transparency Initiative (EITI), which aims to promote revenue transparency in the oil and gas industry.¹⁸ This is the culmination of a process that began in 2005 when the government, businesses (foreign and domestic) and civil society signed a Memorandum of Understanding (MoU) that committed the parties to implement the EITI. This commitment was underlined in the 2010 Law on Subsoil and Subsoil Use (art. 76) that required all companies to comply with the terms of the MoU and to confirm compliance through an audit report. A new MoU requiring the parties to implement the EITI was signed on 9 October 2013. The EITI implementation is supervised by a National Stakeholders' Council, which is a multistakeholder body. (EITI, 2013b)

These developments represent a positive step in the right direction for Kazakhstan on how RBC is understood at a conceptual level. It is important that disclosure and reporting fit into broader RBC efforts to contribute to sustainable development and inclusive growth.

VII. SUMMARY OF RECOMMENDATIONS TO ENTERPRISES

Enterprises should:

- Ensure disclosure of timely and accurate information on all material matters regarding their activities, structure, financial situation, performance, ownership and governance (Guidelines III.1) (enterprises are encouraged to disclose or communicate on their social and environmental performance (Guidelines III.3-4));
- Apply high quality standards for accounting, and financial and non-financial disclosure (Guidelines III.4).

These recommendations are highlights from the OECD Guidelines, which contain more details in general and for each recommendation. Please refer to Chapter III.

¹⁸ "Extractive Industries Transparency Initiative (EITI) is a global coalition of governments, companies and civil society working together to improve openness and accountable management of revenues from natural resources." The EITI Standard is implemented by countries to guarantee complete disclosure of taxes and payments by extractive companies, which are disclosed in the annual EITI Report. The Report is made available to all citizens to understand what percentage of revenue comes from natural resources. (EITI, 2013a)

USEFUL INITIATIVES – DISCLOSURE AND REPORTING

- OECD Guidelines, Chapter III: Disclosure
- OECD Principles of Corporate Governance
- Global Reporting Initiative (GRI) Sustainability Reporting Framework
- ISO 26000 Standard on Social Responsibility
- UN Global Compact Communication on Progress (COP)
- Carbon Footprint Reporting and Water Footprint Reporting
- United Nations-backed Principles for Responsible Investment Initiative (PRI)
- International Integrated Reporting Council (IIRC)

The Global Reporting Initiative



Global Reporting Initiative (GRI) promotes the use of sustainability reporting as a way for organisations to become more sustainable and contribute to a sustainable global economy.

GRI's mission is to make sustainability reporting standard practice. To enable all companies and organisations to report their economic, environmental, social and governance performance, GRI produces free Sustainability Reporting Guidelines. GRI is an international not-for-profit organisation, with a network-based structure. Its activity involves thousands of professionals and organisations from many sectors, constituencies and regions.

GRI was set up in the United States in 1997 by CERES, with support from the United Nations Environment Programme (UNEP). Its Secretariat is located in Amsterdam, The Netherlands, and there are GRI Focal Points – regional offices – in Australia, Brazil, China, Colombia, India, South Africa, and the United States. GRI has established strategic partnerships with the OECD, the UN Global Compact, UNEP, and the International Organisation for Standardization (ISO).

To achieve its mission of making sustainability reporting standard practice, GRI is: standardising sustainability reporting and providing up-to-date reporting guidance; creating capacity through training and outreach; promoting a Report or Explain approach to sustainability reporting policy; and supporting the development of integrated reporting.

MOVING FORWARD

Many MNEs operating in Kazakhstan have put forth high standards of business conduct in their own codes of conduct or ethics.¹⁹ These codes outline corporate values that guide the way enterprises deal with specific risks associated with business activities. Many refer to international RBC principles and standards, such as the Universal Declaration of Human Rights, the OECD Guidelines, the UN Guiding Principles, the UN Global Compact, and the ILO Conventions. It is important that these codes of conduct be effectively implemented in Kazakhstan, taking into account the specificities of the country's business environment. As Kazakhstan's institutions continue developing and its regulatory and legal frameworks continue being updated, it should also be understood that enterprises have a responsibility not to take advantage of current governance and regulatory gaps to neglect appropriate principles and standards of conduct. They should adopt responsible business practices that take into account both the bottom line and the impact of their activities on society, the role of the government and civil society cannot be underestimated. Building a healthy business environment is in the interest of all stakeholders and demands efforts by all. Despite a number of promising public and private RBC-related initiatives in Kazakhstan, more could be done to ensure that the efforts make a practical difference.

One of the main challenges identified in this publication is the need to increase awareness and common understanding among all stakeholders about what responsible business conduct entails. There seems to be confusion about the nature of RBC; namely, it is still viewed as a charitable pursuit. The government has not made its expectations on RBC explicit, and the limited involvement by the civil society contributes to the confusion. A better understanding of RBC expectations would benefit all stakeholders and would help create a dialogue on RBC, at both the national and regional level. Private initiatives, such as Eurasia Foundation's efforts to develop the National Concept for Corporate Social Responsibility should be supported.

Kazakhstan is uniquely positioned to lead on this topic in the Central Asia and South Caucasus region thanks to its relative high level of development. A focal point on RBC at the government level, inspired by the OECD Guidelines National Contact Points, could help ensure policy coherence and facilitate RBC promotion and capacity building efforts. It could also serve as a coordinating body between international and national partners, as well as local administrations. Specific recommendations to the government related to responsible business conduct were made in the 2012 OECD Investment Policy Review of Kazakhstan and are replicated below. Enterprises should support these efforts and should also ensure that they meet their responsibilities.

¹⁹ In 2009, Ernst and Young and the Association of Financiers of Kazakhstan carried out a study to look at corporate governance practices. According to the study, 80% of surveyed enterprises had a code of ethics in place. (CSR in Kazakhstan, 2013) For more information on codes of conduct/ethics, see Annex B.

BUILDING MEDIATION CAPACITY IN KAZAKHSTAN

In recent years, significant efforts have been made to develop mediation skills in Kazakhstan. The Law on Mediation was adopted in 2011 to promote mediation as an effective conflict resolution alternative. In that context, UNDP launched a project to support better access to justice for vulnerable groups through the use of mediation in conflict resolution. The project focuses on developing education activities for mediators, encouraging the establishment of a structure to support those activities, and raising awareness on the advantages of mediation among the population. (UNDP, 2013b)

A national workshop on mediation was held in May 2013 in Astana. On this occasion, the Centre of Peace Making and Mediation – Mediatsia, with the support of the UNDP, presented a new training programme for mediators and mediation trainers, as well as the results of the pilot programme to develop mediation in rural areas during which 30 professional mediators and more than 100 non-professional mediators were trained. As a result of this workshop, it is expected that an action plan for mediation capacity-building for Kazakhstan's regions would be developed. (UNDP, 2013b)

Additionally, the European Union has initiated a project on the Support of Judicial and Legal Reform in the Republic of Kazakhstan. The main purpose of this project is to improve mediation skills through means such as certification and training. It should be noted that a Report on the Institute of Mediation in the Republic of Kazakhstan was prepared to support the project. (Vigovskaya, 2013)

These promising initiatives are just few examples of the promising field of mediation in Kazakhstan. Access to effective mediators will surely be an asset for effective conflict resolution.

Summary of Recommendations

RECOMMENDATIONS TO THE GOVERNMENT







2012 Investment Policy Review of Kazakhstan

-  Put in place a coherent government strategy for facilitating responsible business conduct.
-  Expand disclosure requirements for enterprises to include environmental and other non-financial performance.
-  Encourage due diligence for responsible supply chains of minerals. In light of the importance of the mining sector in Kazakhstan and development of the country's outward investment projects in the region, the government might consider endorsing and encouraging dissemination among companies of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.
-  Consider creating an institution capable of fulfilling the role of promoting responsible business conduct similar to that of National Contact Points for the OECD Guidelines for Multinational Enterprises.

RECOMMENDATIONS TO ENTERPRISES

Enterprises are encouraged to:

Increasing Awareness and Common Understanding

-  Effectively promote RBC principles and standards among all relevant stakeholders (including internal stakeholders such as local executives and employees);
-  At industry level, share best practices and experiences on RBC (for example, by actively participating in CSR working groups);
-  Support civil society initiatives related to RBC;
-  Engage in dialogue with the government to share information about the principles and standards enterprises are expected to meet in their home countries;
-  Support government efforts toward a coherent RBC policy, including the proposed creation of an RBC focal point that could serve as a coordination body on RBC both on regional and international levels;
-  Support the government-based initiative to create a regional RBC policy network that could coordinate common policy on a regional level;

- 👉 Engage in dialogue with local administrations to better understand their expectations and needs and to promote transparency in the allocation of enterprise contributions to social projects.

Transparency

- 👉 Not, directly or indirectly, offer, promise, give, or demand a bribe or other undue advantage to obtain or retain business or other improper advantage (Guidelines VII);
- 👉 Resist the solicitation of bribes and extortion (Guidelines VII);
- 👉 Not offer, promise, give, request, agree to or accept undue pecuniary or other advantage to and from public officials or the employees of business partners or use third parties for these purposes (Guidelines VII.1);
- 👉 Develop and adopt adequate internal controls, ethics and compliance programmes or measures for preventing and detecting bribery, developed on the basis of a risk assessment addressing the individual circumstances of the enterprise (Guidelines VII.2);
- 👉 Prohibit or discourage the use of small facilitation payments and, if such payments are made, accurately record them in books and financial records (Guidelines VII.3);
- 👉 Ensure properly documented due diligence in the hiring and appropriate and regular oversight of agents, as well as ensure that remuneration is appropriate and for legitimate services only (Guidelines VII.4);
- 👉 Enhance the transparency of their activities in the fight against bribery, bribe solicitation and extortion, for example through making public commitments and disclosing management systems and internal controls, and foster openness and dialogue with the public (Guidelines VII.5);
- 👉 Promote employee awareness of and compliance with company policies and internal controls through appropriate dissemination of information, as well as through training programmes and disciplinary procedures (Guidelines VII.6);
- 👉 Not make illegal contributions to candidates for public office or to political parties and other political organisations (Guidelines VII.7).

Labour Relations

- 👉 Respect internationally recognised labour rights and principles, in particular freedom of association and right to collective bargaining; effective abolition of child labour; elimination of all forms of forced or compulsory labour; and non-discrimination in employment and occupation (Guidelines V.1);

- Provide facilities as necessary to assist in development of effective collective agreements, including providing information needed for meaningful negotiations on conditions of employment and a true and fair view of enterprise performance (Guidelines V.2);
 - Promote consultation and co-operation with workers and their representatives on matters of mutual concern (Guidelines V.3);
 - Observe employment and industrial relations standards not less favourable than those observed by comparable employers in the host country and, if those comparable employers do not exist, provide best possible wages, benefits and conditions of work within the framework of government policies, which should be at least adequate to satisfy the basic needs of the workers and their families (Guidelines V.4);
 - Ensure occupational health and safety in operations (Guidelines V.4);
 - Provide reasonable notice of changes in their operations that would have major employment effects, in particular in the case closure, which may involve collective lay-offs or dismissals (Guidelines V.6);
- Enable authorised workers' representatives to negotiate on collective bargaining or labour-management relations issues (Guidelines V.8).

Skills

- Encourage local capacity building through close co-operation with the local community, including business interests, and develop enterprise's activities in domestic and foreign markets, consistent with the need for sound commercial activities (Guidelines II.A.3);
- In their operations and to the greatest extent possible, employ local workers and provide training with a view to improving skill level, in co-operation with worker representatives and, where appropriate, relevant government authorities (Guidelines V.5);
- Promote awareness and compliance by workers with respect to company policies through appropriate dissemination of these policies, including through training programmes (Guidelines II.A.8);
- Contribute to the development of local and national innovative capacity (Guidelines IX.1);
- Adopt, where practicable, practices that permit the transfer and rapid diffusion of technologies and know-how (Guidelines IX.2).

Environment

- 12** Establish and maintain a system of environmental management, including collection and evaluation of information regarding their impacts, establishment of measurable objectives and targets, and regular monitoring and verification of progress (Guidelines VI.1);
- 12** Provide public information on the potential impacts of their activities and engage in communication and consultation with the communities directly affected by enterprises' policies and by their implementation (Guidelines VI.2);
- 12** Assess and address, in the decision-making, the foreseeable impacts associated with the processes, goods and services of the enterprise over their full life-cycle with a view to avoiding or mitigating them (Guidelines VI.3);
- 12** Prepare an appropriate environmental impact assessment when the impacts are significant and where enterprise activities are subject to a decision of a competent authority (Guidelines VI.3);
- 12** Not use the lack of full scientific certainty to postpone cost-effective measures to prevent or minimise damage (Guidelines VI.4);
- 12** Maintain contingency plans and mechanisms for immediate reporting to the competent authorities for serious environmental and health damage that can result from their operations (Guidelines VI.5);
- 12** Continually seek to improve environmental performance at both enterprise and supply chain levels, even where this may not be formally required by existing local practices (Guidelines VI.6);
- 12** Provide adequate education and training to workers, including on the handling of hazardous materials and the prevention of environmental accidents, as well as in more general environmental management areas (Guidelines VI.7);
- 12** Contribute to the development of meaningful and efficient public policy by, for example, partnerships or initiatives that enhance environmental awareness and protection (Guidelines VI.8).

Stakeholder Engagement

- 12** Engage with relevant stakeholders in order to provide meaningful opportunities for their views to be taken into account in relation to planning and decision making for projects or other activities that significantly impact local communities (Guidelines II.A.14);
- 12** Identify the right stakeholders to engage with and engage as early as possible;
- 12** Adapt stakeholder engagement approaches to the specific context in which the enterprises operate;

- ✓ Understand stakeholders' expectations and needs and chose the modes of engagement accordingly;
- ✓ Develop a strategic approach across the project lifecycle;
- ✓ Enhance capacity and support of stakeholders for meaningful stakeholder engagement;
- ✓ Select skilled individuals to conduct stakeholder engagement;
- ✓ Set up a project-level grievance mechanism that emphasizes dispute resolution and dialogue with affected stakeholders.

Disclosure

- ✓ Ensure disclosure of timely and accurate information on all material matters regarding their activities, structure, financial situation, performance, ownership and governance (Guidelines III.1) (enterprises are encouraged to disclose or communicate on their social and environmental performance (Guidelines III.3-4));
- ✓ Apply high quality standards for accounting, and financial and non-financial disclosure (Guidelines III.4).

ANNEX A: USEFUL RBC-RELATED RESOURCES IN KAZAKHSTAN

Government

- Ministry of Industry and New Technologies: www.mint.gov.kz/?lang=en.
- Ministry of Foreign Affairs: <http://mfa.gov.kz/en/>.
- Ministry of Labour and Social Protection of Population: www.enbek.gov.kz/en.
- Ministry of Environment and Water Resources: www.eco.gov.kz/new2012/en/.
- Kaznex Invest: National Export & Investment Agency: www.kaznexinvest.kz/en/.
- Invest in Kazakhstan (website operated by Kaznex Invest): <http://invest.gov.kz/>.
 - *Investor's Guide*:
<http://invest.gov.kz/upload/docs/en/2fc3678ce5c39211b2bd0a88f37c1722.PDF>.
- Foreign Investors' Council (Chaired by the President of Kazakhstan): www.fic.kz/eng.
- Commission on Human Rights under the President of Kazakhstan
- National Human Rights Ombudsman of Kazakhstan: www.ombudsman.kz/en/.
- Agency of the Republic of Kazakhstan on Fighting with Economic and Corruption Crimes (Financial Police): <http://finpol.gov.kz/eng/>.
- Presidential Commission for the Fight against Corruption

Business Associations

- American Chamber of Commerce in Kazakhstan: www.amcham.kz/.
- Association Finpro in Kazakhstan: www.finpro.fi/web/english-pages/country-profiles/kazakhstan.
- Association of Businessmen of Kazakhstan and Turkey KATIAD: www.katiad.kz/index.php/en.
- German Chambers of Commerce, Delegation of German Economy in Central Asia: <http://ahk.de/en/ahk-locations/kazakhstan/>.
- European Business Association of Kazakhstan: www.eurobak.kz/.
- Kazakhstan Petroleum Association: www.kpakz.kz/.
- KazEnergy: www.kazenergy.com/.
- Korean Agency for Trade and Investment Promotion KOTRA: <http://english.kotra.or.kr/>.
- National Chamber of Entrepreneurs of Kazakhstan: <http://palata.kz/en>.

International Institutions/Initiatives

- Asian Development Bank: www.adb.org.
- European Bank for Reconstruction and Development: www.ebrd.com/pages/country/kazakhstan.shtml.
- Global Compact Local Network Kazakhstan: www.unglobalcompact.org.
- International Finance Corporation: www.ifc.org.
- International Labour Organisation in Kazakhstan: www.ilo.org/public/english/region/eurpro/moscow/countries/kazakhstan.htm.
- International Tax and Investment Centre (ITIC): www.iticnet.org/.
- United Nations Development Programme (UNDP) in Kazakhstan: www.undp.kz.
- United Nations High Commissioner for Refugees (UNHCR) in Kazakhstan: www.unhcr.kz.
- USAID Kazakhstan: www.centralasia.usaid.gov.
- World Bank in Kazakhstan: www.worldbank.org.kz.

Embassies

- Austrian Embassy in Astana: www.bmeia.gv.at/botschaft/astana.html.
- British Embassy in Astana: www.gov.uk/government/world/organisations/british-embassy-astana.
- German Embassy in Astana: www.kasachstan.diplo.de/.
- Netherlands Embassy in Astana and the Economic Division in Almaty: <http://kazakhstan.nlembassy.org/>.
- United States Diplomatic Mission to Kazakhstan: <http://kazakhstan.usembassy.gov/>.

Law Firms

- Aequitas Law Firm: www.aequitas.kz.
- Lex Analitik: www.lexanalitik.kz.
- Michael Wilson and Partners: www.mwp.kz.
- Norton Rose Kazakhstan: www.nortonrose.com.
- Morgan Lewis: www.morganlewis.com.
- Sayat Zholshy & Partners: www.szp.kz.
- Synergy Partners: <http://synergy-law.net/>.
- VSB Partners: www.vsbpartnersllp.com.
- Baker & McKenzie: www.bakermckenzie.com.
- Dechert Kazakhstan: www.dechert.com.
- Dentons: www.dentons.com/.
- Grata: www.gratanet.com.
- Linkage and Mind: www.linkagemind.com.

General RBC

General

- Centre for Corporate Governance and Business Ethics (division within the Association of Financiers of Kazakhstan)
- Eurasia Foundation of Central Asia CSR in Kazakhstan Website (sponsored by Chevron): www.csrkz.org/en/.
- CSR Club in Kazakhstan: www.ef-ca.org/projects/corporate-social-responsibility-club-in-kazakhstan/?lang=en.
- CSRWeltweit – German Business: www.csr-weltweit.de/en/country-profiles/profile/kasachstan/index.html.
- Eurasia Foundation of Central Asia : www.ef-ca.org.
- Legal Policy Research Centre: www.lprc.kz/en/.
- Federation of Trade Unions of the Republic of Kazakhstan: www.fprk.kz.
- Sange Research Centre (NGO)
- International Academy of Business (Lab of Social Business Responsibility): www.iab.kz/eng

Disclosure

- Extractive Industries Transparency Initiative: <http://eiti.org/Kazakhstan>.
- Transparency Kazakhstan, Civil Foundation: www.transparencykz.org/eng/.

Environment

- Kazakhstan Business Council for Sustainable Development: www.kap.kz/.
- Ecological Society Green Salvation: www.greensalvation.org/en/.

Human Rights

- Crude Accountability: <http://crudeaccountability.org/>.
- Freedom House: www.freedomhouse.org/country/kazakhstan.
- Human Rights in Kazakhstan: <http://kazakhstan-human-rights.com/>.
- Human Rights Watch Kazakhstan: www.hrw.org/europecentral-asia/kazakhstan.
- Kazakhstan International Bureau for Human Rights and Rule of Law: www.bureau.kz/?l=en.

**ANNEX B: ENTERPRISES IN KAZAKHSTAN - CODES OF CONDUCT/ETHICS
SELECTED EXAMPLES**

ENTERPRISE	CODE OF CONDUCT/ETHICS
CONSUMER PRODUCTS	
Coca Cola	Code of Business Conduct: http://assets.coca-colacompany.com/45/59/f85d53a84ec597f74c754003450c/COBC_English.pdf .
Kraft Foods	Code of Conduct: www.kraftfoodsgroup.com/SiteCollectionDocuments/pdf/investor/KraftCodeofConduct.pdf .
L'OREAL	Code of Business Ethics: www.loreal.com/Document.aspx?file=%0d%0ahttp://loreal-dam-front-resources-corp-en-cdn.brainsonic.com/ressources/afile/1448-26923-resource-ethics-charter-o-ethics-every-day.html .
Metro Cash and Carry	Code of Conduct: www.metro-cc.com/internet/site/mcc/node/328164/Len/index.html .
Philip Morris International	Code of Conduct: www.pmi.com/eng/documents/code_of_conduct.pdf .
Procter & Gamble	Worldwide Business Conduct Manual: www.pg.com/en_US/downloads/company/governance/Policy_Worldwide_Business_Conduct_Manual.pdf .
Vinci	Code of Ethics and Conduct www.vinci.com/vinci.nsf/en/charte/\$file/vinci-ethics.pdf .
FINANCIAL INSTITUTIONS	
Bank of Tokyo-Mitsubishi UFJ	Corporate Vision and CSR: www.mufg.jp/english/csr/groupcsr/ .
Citibank	Code of Conduct: www.citigroup.com/citi/investor/data/codeconduct_en.pdf?ieNocache=461 .
HSBC	Code of Conduct: https://hsbc.aecglobal.com/code_conduct_full.aspx . Social responsibility in Kazakhstan: www.kz.hsbc.com/1/2/en/about-us/social-responsibility/home .

Royal Bank of Scotland (RBS)	Code of Conduct: www.rbs.com/content/dam/rbs/Documents/Sustainability/code-of-conduct.pdf .
UniCredit Group	Sustainability Approach: www.unicreditgroup.eu/en/sustainability/our-vision-of-sustainable-bank.html .
MINING AND QUARRYING	
AES	Code of Conduct: www.aes.com/CMSPages/GetFile.aspx?nodeguid=360e8925-68424d93-8f41-3256d0d14650 . CSR Practices in Kazakhstan: www.csrkz.org/en/csr-practice/csr-in-companies/106-aes-kazakhstan.html .
ArcelorMittal	Code of Business Conduct: http://corporate.arcelormittal.com/~media/Files/A/ArcelorMittal/corporate-responsibility/code-of-business-conduct_EN.pdf .
Areva	Values Charter: www.areva.com/mediatheque/liblocal/docs/groupe/Charte-Valeurs/2013/CHARTE_VALEURS_ANGLAIS.pdf .
Cameco	Code of Conduct and Ethics: www.cameco.com/responsibility/governance/ethics/ .
Eurasian Natural Resources Corporation (ENRC)	Code of Conduct www.enrc.com/sites/enrc.g3dbuild.com/files/ENRC_CodeOfConduct_February2013_English.pdf .
Rio Tinto	Global Code of Business Conduct: www.riotinto.com/documents/The_way_we_work.pdf .
Rusal	Code of Ethics: www.rusal.ru/en/investors/corp_management/corp_kodex.aspx .
OIL AND GAS	
Baker Hughes	Business Code of Conduct: www.bakerhughes.com/assets/media/BAhbBlSfHOGZmIkdhc3NldHMvNGRjNDAYyY2VmYTdIMWM2NDAwMDAwMDE3L2ZpbGUvMDZfy29kZS1vZi1jb25kdWN0XzVfMjAxMS5wZGY . Social responsibility in Kazakhstan: www.bakerhughes.com/regions/russia-caspian/social-responsibility .

BG Group	<p>Business Principles: www.bg-group.com/SUSTAINABILITY12/OURBUSINESSPRINCIPLES/Pages/default.aspx</p> <p>Social Responsibility in Kazakhstan: www.bg-group.com/sustainability12/News/Pages/Kazakhstan-communities1.aspx</p>
Chevron	<p>Business Code of Conduct and Ethics: www.chevron.com/documents/pdf/chevronbusinessconductethicscode.pdf</p> <p>Social responsibility in Kazakhstan: www.chevron.com/countries/kazakhstan/inthecommunity/</p>
Eni	<p>Code of Ethics: www.eni.com/en_IT/attachments/publications/corporate-responsibility/general/Code-of-Ethics.pdf</p> <p>Social responsibility in Kazakhstan: www.eni.com/en_IT/sustainability/pages/kpo-model.shtml</p>
Exterran Holdings	<p>Governance Highlights: http://phx.corporate-ir.net/phoenix.zhtml?c=113213&p=irol-govhighlights</p>
ExxonMobil	<p>Standards of Business Conduct: www.exxonmobil.com/Corporate/files/corporate/sbc.pdf</p>
GDF Suez	<p>Guidelines Ethics in Practice: www.gdfsuez.com/wp-content/uploads/2012/05/EP_anglais_guide-ethique-gdfsuez-en-bd-web-111209.pdf</p>
Halliburton International	<p>Code of Business Conduct: www.halliburton.com/public/about_us/pubsdata/policies/pdf/cobc_ENG.pdf</p>
Honeywell	<p>Code of Business Conduct: http://honeywell.com/About/Documents/Honeywell_Code_of_Conduct_2011.pdf</p>
Inpex	<p>Mission, CSR Policy, Business Principles and Code of Conduct: www.inpex.co.jp/english/csr/pdf/sustainability2013-e02.pdf</p>

Mi Swaco- Schlumberger	Code of Conduct: www.slb.com/about/codeofconduct.aspx .
KazStroyService	Social Responsibility and Sponsorship in Kazakhstan: http://kazstroy-service.com/page.php?page_id=84&lang=2&parent_id=82 .
Kellogg Brown & Root	Code of Business Conduct : www.kbr.com/About/Code-of-Business-Conduct/Translations/English/COBC_English_FullCode.pdf .
Lukoil	Social Code: www.lukoil.com/static_6_5id_262_.html . Social responsibility abroad, including Kazakhstan: http://lukoil-overseas.com/social/ .
Maersk	Approach to Sustainability: www.maersk.com/Sustainability/OurApproach/Pages/OurApproach.aspx .
Parker Drilling	Code of Conduct: www.parkerdrilling.com/documents/ParkerDrillingCodeofConductEnglish.pdf .
Royal Dutch Shell	Code of Conduct: http://s06.static-shell.com/content/dam/shell/static/aboutshell/downloads/who-we-are/code-of-conduct/code-of-conduct-english2010.pdf .
Total	Code of Conduct: http://total.com/en/total-2011-code-of-conduct-en-2 .
OIL AND GAS CONSORTIUMS	
Karachaganak Petroleum Operating B.V. (KPO)	Sustainable Development Charter: www.kpo.kz/fileadmin/user_upload/docs/eng_KPO_Sustainability_Charter.pdf . Social responsibility in Kazakhstan (supporting social infrastructure, community engagement and sponsorship): www.kpo.kz/social-responsibility.html?&L=0 .
North Caspian Operating Company B.V. (NCOC)	Commitment and Shared Values: www.ncoc.kz/en/ncoc/commitment_and_shared_values.aspx .

PHARMACEUTICAL	
Eli Lilly	Responsibility Approach: www.lilly.com/responsibility/Pages/default.aspx .
GlaxoSmithKline	Code of Conduct: www.gsk.com/content/dam/gsk/globals/documents/pdf/Policy-Code-Conduct.pdf .
Merck	Code of Conduct: www.merck.com/about/code_of_conduct.pdf .
Pfizer	Policies on Business Conduct: www.pfizer.com/files/investors/corporate/blue_book_english.pdf .
Unipharm	Social Responsibility: www.unipharmus.com/social-responsibility/ .
PROFESSIONAL SERVICES	
Deloitte	Corporate responsibility: www.deloitte.com/corporateresponsibility .
Ernst & Young	Global Code of Conduct: www.ey.com/Publication/vwLUAssets/Ernst-Young_Global_Code_of_Conduct/\$FILE/EY_Code_of_Conduct.pdf . Priority work in corporate social responsibility (Kazakhstan): www.csrkz.org/en/csr-practice/csr-in-companies/111-ernst-a-young.html#spoiler_0 .
Grant Thornton	Code of Conduct: www.grant-thornton.co.uk/pdf/Code%20of%20conduct.pdf . Corporate Social Responsibility: a necessity not a choice – report: http://internationalbusinessreport.com/files/ibr%202008%20-%20corporate%20social%20responsibility%20report%20final%20(150%20dpi)%20web%20enabled.pdf .
KPMG	Global Code of Conduct: www.kpmg.com/Global/en/about/Documents/code-of-conduct-2012v2.pdf . Corporate social responsibility in Kazakhstan: www.kpmg.com/KZ/en/about/CSR/Pages/default.aspx .

Mazars	Partnerships and Social Responsibility: www.mazars.com/Home/About-us/Partnership-Social-Responsibility .
Pricewaterhouse Coopers	Code of Conduct: www.pwc.com/gx/en/ethics-business-conduct/code-of-conduct.jhtml .
INFORMATION AND COMMUNICATION TECHNOLOGY	
Cisco Systems International	Code of Business Conduct: http://files.shareholder.com/downloads/CSCO/2789769517x0x652168/500B101C-B57B-4D56-A8B0-650950004094/COBC_FY13_English_042613.pdf .
Hewlett-Packard	HP Electronic Industry Code of Conduct: www.hp.com/hpinfo/globalcitizenship/environment/pdf/supcode.pdf . Standard of Business Conduct: www.hp.com/hpinfo/globalcitizenship/csr/sbcbrochure.pdf .
IBM	Business Conduct Guidelines: www.ibm.com/investor/pdf/BCG_Feb_2011_English_CE.pdf .
Microsoft	Standards of Business Conduct: www.microsoft.com/en-us/legal/compliance/Buscond/default.aspx#standards .
Telia Sonera	Code of Ethics and Conduct: www.teliasonera.com/Documents/CodeofEthics2012/English_CodeofEthics.pdf . Telecommunications Industry Dialogue on Freedom of Expression and Privacy Guiding Principles: www.teliasonera.com/Documents/Public%20policy%20documents/Telecoms_Industry_Dialogue_Principles_Version_1_-_ENGLISH.pdf .

ANNEX C: INFORMATION ABOUT GRIEVANCE MECHANISMS AND COMPLAINT PROCEDURES

International

OECD National Contact Points (NCPs)

- Government-backed unique grievance mechanism – specific instance facility – to examine all alleged non-observances of the OECD Guidelines
- Applies to all sectors and covers multiple themes that are covered in the OECD Guidelines
- <http://mneguidelines.oecd.org/>

Thematic

National Human Rights Institutions (NHRIs)

- Complaint procedures against enterprises on alleged human rights violations included in some NHRIs
- Thematic (human rights)
- <http://nhri.ohchr.org/EN/Pages/default.aspx>

ILO Complaint Procedure

- Complaint procedures against non-compliant member states
- Thematic (labour relations)
- www.ilo.org/global/standards/applying-and-promoting-international-labour-standards/complaints/lang-en/index.htm

UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention): Compliance Committee

- Compliant procedures concerning the provisions of the Aarhus Convention
- Thematic (environment and disclosure)
- www.unece.org/env/pp/cc.html

International Framework Agreements (IFAs)

- Complaint procedures regarding non-compliance with IFA agreement terms
- Thematic (labour relations)
- www.global-unions.org/

UN Global Compact: Integrity Measures

- Measures to help participants align with commitments undertaken with regard to the Global Compact principles
- www.unglobalcompact.org/aboutthegc/IntegrityMeasures/

Financial Institutions

World Bank: Compliance Advisor Ombudsman (CAO)

- Complaint procedures for people affected by projects funded by International Finance Corporation (IFC) and Multilateral Investment Guarantee Agency (MIGA)
- All sectors
- www.cao-ombudsman.org/

World Bank: Inspection Panel

- Complaints procedures for people affected by World Bank-funded projects
- All sectors
- www.worldbank.org/inspectionpanel

Asian Development Bank (ADB): Accountability Mechanism

- Complaint procedures for people affected by ADB-funded projects
- All sectors
- www.adb.org/site/accountability-mechanism/main

European Bank for Reconstruction and Development (EBRD): Project Complaint Mechanism

- Complaint procedures for people affected by EBRD-funded projects
- All sectors
- www.ebrd.com/pages/project/pcm.shtml

National level: Kazakhstan**Centre of Peace Making and Mediation**

- Currently developing with UNDP a program for training mediators (See: www.undp.org/content/kazakhstan/en/home/presscenter/pressreleases/2013/05/30/the-action-plan-on-regional-mediation-will-be-developed-in-kazakhstan/)
- <http://mediation.kz/>

Centre of Social Partnership

- Mechanism created after the Zhanaozen events to deal with labour-related issues in enterprises managed by the national wealth fund Samruk-Kazyna
- Thematic (labour relations)
- www.birgemiz.kz

Kazakhstan Centre of Mediation

- <http://kazmediation.kz/>

Kazakhstan Human Rights Ombudsman

- Complaint procedures for human rights-related issues
- Thematic (human rights)
- www.ombudsman.kz/en/

Ombudsman Office - Ministry of Industry and New Technologies

- Being currently developed by the Ministry of Industry and New Technologies for investor/state-related disputes

Multi-stakeholder Initiatives - Industry Level**Ethical Trading Initiative (ETI): ETI Alleged Code Violation Guidelines**

- Complaint procedures related to breach of ETI Base Code by ETI members or their suppliers
- www.ethicaltrade.org/resources/key-eti-resources/eti-alleged-code-violation-investigation-guidelines

Fair Labour Association (FLA): Third Party Complaint Procedure

- Complaint procedure for violations of labour rights in facilities used by companies committed to FLA's codes or principles
- Manufacturing sector, Thematic (labour relations)
- www.fairlabor.org/third-party-complaint-process

Social Accountability International: Social Accountability Accreditation Services (SAAS)

- Complaint and appeal procedures against the accreditation process and resultant decisions made by SAAS in relation with the SA8000 standard
- Thematic (labour relations)
- www.saasaccreditation.org/complaints.htm

Voluntary Principles on Security and Human Rights (VPs): Participation Criteria

- Complaint procedures for non-compliance with the Principles by a member
- Extractive sector
- http://voluntaryprinciples.org/files/VPs_Participation_Criteria_Final_-_127000_v1_FHE-DC.PDF

Workers' Rights Consortium: WRC Investigative Protocols

- Complaint procedures for alleged breaches of the member codes of conduct in factories
- Textiles Sector
- www.workersrights.org/

Corporate level in Kazakhstan: Selected examples

Baker Hughes

- Business Ethics Help Line Programme
- Extractive sector
- <https://iwf.tnwgrc.com/bakerhughes/InternationalCompanyLanguageSelection/tabid/186/language/en-US/InternationalSplashPage/tabid/183/language/en-US/Default.aspx>

Karachaganak Petroleum Operating (KPO)

- Community Grievance Mechanism
- Extractive Sector
- www.kpo.kz/community-grievance-mechanism.html?&L=0

KPMG

- Whistle-blowing Hotline in the Commonwealth of Independent States
- Professional services
- www.kpmg.com/kz/en/pages/international-hotline.aspx

North Caspian Operating Company B.V. (NCOC)

- NCOC'S Ethics and Compliance Manager
- Extractive sector
- www.ncoc.kz/en/ncoc/commitment_and_shared_values.aspx

Philip Morris International

- Compliant procedures for migrant workers in Kazakhstan
- www.pmi.com/eng/media_center/company_statements/documents/pmi_alp_progress_report_2012.pdf

Tengizchevroil (TCO)

- Community Advisory Council in Atyrau
- Extractive sector
- www.sigla.no/bin/pdf/SIGLA_brief-CSR_Kazakhstan_final_ENG.pdf

Other**IFC: Addressing Grievance from Project-Affected Communities**

- All sectors
- www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/ifc+sustainability/publications/publications_gpn_grievances

CSR Initiative: Embedding Rights Compatible Grievance Processes for External Stakeholders within Business Culture

- All sectors
- www.hks.harvard.edu/m-rcbg/CSRI/publications/report_36_sherman_grievance.pdf

CSR Initiative: Rights-Compatible Grievance Mechanisms: A Guidance Tool for Companies and their Stakeholders

- All sectors
- www.reports-and-materials.org/Grievance-mechanisms-principles-Jan-2008.pdf

CRS Initiative: Grievance Mechanisms for Business and Human Rights: Strengths, Weaknesses and Gaps

- All sectors
- www.hks.harvard.edu/m-rcbg/CSRI/publications/workingpaper_40_Strengths_Weaknesses_Gaps.pdf

ICMM: Human Rights in the Metals and Mining Industry: Handling and Resolving Local Level Concerns and Grievances

- Extractive sector
- www.unglobalcompact.org/docs/issues_doc/human_rights/Resources/HR-Concerns-and-Grievances.pdf

ANNEX D: OIL AND GAS CONSORTIUMS IN KAZAKHSTAN

Kashagan field: North Caspian Operating Company B.V. (NCOC)

In 1997, seven enterprises signed the North Caspian Sea Production Agreement (NCSPSA). Three years later, the Kashagan field was discovered in the northern part of the Caspian Sea. This field is said to be one of the largest oil fields discovered in the world in the past few decades. Other hydrocarbon discoveries were made within the NCSPSA agreement: Kalamkas, Kashagan South West, Aktoty and Kairan. Since October 2008, the North Caspian Operating Company B.V. (NCOC) is the operating company under the NCSPSA, each holding the same participating interest as in the NCSPSA. (NCOC, 2013)

Shareholders in NCOC are:

- Eni – 16.81%
- KazMunayGas – 16.81%
- Royal Dutch Shell – 16.81%
- Total S.A. – 16.81%
- ExxonMobil – 16.81%
- ConocoPhillips – 8.4%²⁰
- Inpex – 7.56 %

Karachaganak field: Karachaganak Petroleum Operating (KPO)

Discovered in 1979, the Karachaganak field is one of the largest gas and condensate fields in the world, and is currently the largest gas producing field in Kazakhstan. It is situated in northwest Kazakhstan. Venture partners signed a Final Production Sharing Agreement (FPSA) in 1997 to operate the field. It is estimated that the field holds gross reserves of over 2.4 billion barrels of condensate and 16 trillion cubic feet of gas. Karachaganak is said to be producing at records levels today. (KPO, 2013)

Shareholders in KPO are:

- BG Group - 29.25%
- ENI 29.25%
- Chevron 18%
- Lukoil 13.5%
- KazMunaiGas 10%

Tengiz field and Korolev field: Tengizchevroil LLP (TCO)

The Tengiz field, located in Western Kazakhstan, was discovered in 1979. It is one of the deepest super giant oil fields being developed worldwide. Tengizchevroil LLP (TCO) was formed in 1993, between Kazakhstan and Chevron, to explore and develop Tengiz oil field. The Korolev field is also included in the project license area. Together, Tengiz and Korolev fields have an estimated potential of 750 million to 1.1 billion metric tonnes of recoverable oil (6 billion to 9 billion barrels). (TCO, 2013)

²⁰ The company announced in November 2012 its intention to sell its stake.

Shareholders in TCO are:

- Chevron – 50%
- ExxonMobil – 25%
- KazMunayGas – 20%
- LukArco – 5%

Caspian Pipeline Consortium (CPC)

Caspian Pipeline Consortium (CPC) is an international crude oil transportation project that includes the participation of Kazakhstan and Russia and oil and gas companies (Chevron, Shell, ExxonMobil, Eni, British Gas, Rosneft and Lukoil). The objective of the consortium is to construct and operate a 1.5 thousand kilometre long trunk pipeline. The crude oil being transported through this pipeline comes from oil fields in western Kazakhstan and Russian producers. Construction of the pipeline started in 1999 and in 2001, CPC loaded its first tanker. (CPC, 2013)

Pearls Block - Caspi Meruerty Operating Company B.V. (CMOC)

In 2005, Kazakhstan and three oil and gas enterprises (Shell, KazMunayTeniz and Oman Pearls Company Ltd.) signed the Pearls Production Sharing Agreement (PPSA). In 2007, Caspi Meruerty Operating Company B.V. (CMOC) was established and became the operator of the PPSA. The main activities of CMOC are to explore and operate the Pearls Block located in the Northern Caspian Sea. (CMOC, 2013)

Shareholders in CMOC are:

- Shell EP Offshore Ventures Limited - 40%
- KazMunayTeniz OOC JSC - 40%
- Oman Pearls Company Ltd. - 20%

Khvalynskoye gas field: Khvalynskoye joint venture

The Khvalynskoye gas condensate field is located offshore in the Caspian Sea. In 2009, it was announced by Total that a Heads of Agreement (HOA) was signed for the development of the field. The Russian oil company Lukoil, who holds a 50% stake, is the operator. (Total, 2009)

Shareholders are:

- Lukoil – 50%
- KazMunayGas - 25%
- Total S.A. - 17%
- GDF Suez - 8%

Other

Information about other oil and gas fields in Kazakhstan can be found on KazMunayGas website: www.kmg.kz/en/manufacturing/upstream/.

**ANNEX E: KAZAKHSTAN'S ADHERENCE TO
INTERNATIONAL AGREEMENTS AND CONVENTIONS**

Name of Instrument	Status
GENERAL INITIATIVES AND INSTRUMENTS RELATED TO RBC	
OECD Declaration on International Investment and Multinational Enterprises	Kazakhstan is expected to be invited to adhere to the OECD Declaration, subject to an examination by the Investment Committee.
OECD Principles of Corporate Governance	The OECD Principles of Corporate Governance are used as a benchmark in the <i>Reports of the Observance of Standards and Codes (ROCS)</i> , which is a joint pilot exercise by IMF and the World Bank. See the 2007 Report for Kazakhstan.
UN Global Compact Principles	UNDP has been involved in Kazakhstan since 2004 in promoting the Principles and developing the local Global Compact Network. (Buralkieva, 2009)
UN Guiding Principles for Business and Human Rights	UN Guiding Principles were unanimously endorsed in resolution (A/HRC/RES/17/4) by the UN Human Rights Council on 6 July 2011.
Copenhagen Declaration on Social Development	On 14 March 1995, delegates at the World Summit for Social Development adopted the Copenhagen Declaration on Social Development - Resolution A/CONF.166/9. Kazakhstan was represented at the Summit. (Report of the World Summit for Social Development)
Name of convention/agreement	Document of the Republic of Kazakhstan confirming accession/ratification or Status
HUMAN RIGHTS	
Universal Declaration on Human Rights ²¹	Provisions of the Declaration were reproduced in the Constitution of the Republic of Kazakhstan.

²¹ Kazakhstan has been appointed to the UN Human Rights Council for period 2013-2015.

Convention against Torture and other Cruel Inhuman or Degrading Treatment and Punishment	Accession on 26 August 1998
International Covenant on Economic, Social and Cultural Rights	Law № 87-III (21.11.2005)
International Covenant on Civil and Political Rights	Ratification on 24 January 2006
Convention on the Rights of the Child	Ratification on 12 August 1994
International Convention on the Elimination of all Forms of Racial Discrimination	Accession on 26 August 1998
Convention on Political Rights of Women	Accession on 28 March 2000
International Convention for the Protection of All Persons from Enforced Disappearance	Accession on 27 February 2009
Convention on the Elimination of All Forms of Discrimination against Women	Accession on 26 August 1998
Convention on the Rights of Persons with Disabilities	Signed 11 December 2008
International Convention for the Protection of All Persons from Enforced Disappearance	Accession on 27 February 2009
UN Declaration on the Rights of Indigenous Peoples	Declaration adopted by the General Assembly on 13 September 2007 (A/RES/61/295). Kazakhstan voted in favour.
LABOUR	
ILO Forced Labour Convention, 1930 (No. 29)	Law № 120-II (14.12.2000)
ILO Labour Inspection Convention, 1947 (No. 81)	Law № 194 (7.05.2001)
ILO Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)	Law № 29-II (30.12.1999)
ILO Employment Service Convention, 1948 (No. 88)	Law № 119-II (14.12.2000)
ILO Right to Organize and Collective Bargaining Convention, 1949 (No. 98)	Law № 118-II (14.12.2000)
ILO Forced Labour Convention, 1930 (No. 29)	Law № 120-II (14.12.2000)
ILO Equal Remuneration Convention, 1951 (No. 100)	Law № 115-II (14.12.2000)

ILO Abolition of Forced Labour Convention, 1957 (No. 105)	Law № 117-II (14.12.2000)
ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	Law № 444-1 (20.07.1999)
ILO Employment Policy Convention, 1964 (No. 122)	Law № 286-1 (9.11.1998)
ILO Labour Inspection (Agriculture) Convention, 1969 (No. 129)	Law № 195 (7.05.2001)
ILO Workers' Representatives Convention, 1971 (No. 135)	Law № 13-II (30.12.1999)
ILO Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)	Law № 12 (30.12.1999)
ILO Working Environment (Air pollution, Noise and Vibration) Convention, 1977 (No. 148)	Law № 10 (26.06.1996)
ILO Occupational Safety and Health Convention, 1981 (No. 155)	Law № 7(13.06.1996)
ILO Workers with Family Responsibilities Convention, 1981 (No. 156)	Ratification on 17 January 2013
ILO Safety and Health in Construction Convention, 1988 (No. 167)	Law № 263 (19.06.2007)
ILO Worst Forms of Child Labour Convention, 1999 (No. 182)	Law № 367 (26.12.2002)
ILO Asbestos Convention, 1986 (No. 162)	Ratification on 5 April 2011
ILO Maternity Protection Convention, 2000 (No. 183)	Ratification on 13 June 2012
ILO Declaration on Social Justice for a Fair Globalization 2008	Adopted unanimously by the International Labour Conference, Ninety-Seventh Session, in Geneva on 10 June 2008
ENVIRONMENT	
WMO Convention, November 11, 1947 (World Meteorological Organisation)	Resolution of the Council № 1791-XII 918.12. 1992)
Rio CBD Convention on Biological Diversity (1992)	Resolution of the Cabinet of Ministers № 918 (19.08.1994)
Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques	Resolution of the Council № 301-XIII (20.02.1995)

United Nations Framework Convention on Climate Change (UNFCCC), Rio, June 11, 1992	Decree of the President № 2260 (04.05. 1995)
Montreal Protocol about substances affecting ozone layer. September 6,1987	Law № 176 (30.10.1997)
Vienna Convention for the Protection of the Ozone Layer, March 22, 1985	Law №177-I (30.10.1997)
Convention on the Environmental Impact Assessment in a Transboundary Context. Espoo (Finland), February 25, 1991	Law № 86-II of (21.10.2000)
Convention on the Long-Range Transboundary Air Pollution,Geneva, November 10,1979	Law № 89-II (23.10.2000)
Convention on Transboundary impact resulted from industrial accidents	Law № 91-II (23.10.2000)
Aarhus Convention (1998) on access to environmental information	Law № 92-II (23.10.2000)
Montreal Protocol as amended, London, June 27-29, 1990.	Law № 191-II (07.05.2001)
Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and Their Disposal, March 20-22 ,1989	Law № 389-II (10.02.2003)
Convention to Combat Desertification.	Law № 149-1 (07.07.1997)
Convention on the Wetlands of International Importance Especially as Wildlife Habitat (as amended by the Paris Protocol as of December 3,1982, as well as in Regina on May 28, 1987)	Law № 94-III (13.12.2005)
The Framework Convention on the Protection of the Marine Environment of the Caspian Sea, Teheran, November 4, 2003)	Law № 97-III (13.12.2005)
Stockholm Convention on Persistent Organic Pollutants (POPs), May 22 ,2001	Ratification on 9 November 2007; Entry into Force 7 February 2008
PIC Rotterdam Convention on Prior Informed Consent (1998) (on primary feasible consent as related to definite hazardous chemicals and pesticides in international trade)	Accession on 1 November 2007; Entry into force on 30 January 2008
Bonn Convention on Conservation of Migratory Species of Wild Animals, June 23,	Law № 96 (13.12.2005)

1979	
On Certain Measures for Implementation of the Framework Convention on the Protection of the Marine Environment of the Caspian Sea	Resolution № 749 (28.08.2007)
Convention on International Trade in Endangered Species. (CITES), Washington, March 3, 1973	Law № 372-1 (6.04.1999)
Convention on the Protection and Use of Transboundary Watercourses and International Lakes), Helsinki, March 17 1992.	Law № 94-II (23.10.2000)
Lisbon Agreement (1990) to the Energy Charter, December 17, 1994	Decree of the President № 2537 (18.10.1995)
Convention Concerning the Protection of the World Cultural Heritage, Paris, November 16, 1972	Acceptance on 29 April 1994
International Convention for the Prevention of Pollution from Ships	Resolution of the Cabinet № 244 (4.05.1994)
International Convention on Civil Liability for Oil Pollution Damage, Brussels, November 29, 1969	Resolution of the Cabinet № 244 (4.05.1994)
UN Framework Convention on Climate Change, Kyoto, December 11, 1997	Decree of the President № 84 (12.05.1999)
International Convention on Civil Liability for Oil Pollution Damage, 1969	Resolution of the Cabinet of Ministers № 244 (04.03.1994)
International Convention for the Prevention of Pollution from Ships, as amended by 1978 Protocol	Resolution of the Cabinet of Ministers № 244 904.03.1994)
Lisbon Agreement (1990) to the Energy Charter	Decree of the President № 2537 (18.10.1995)
Convention on International Trade in Endangered Species (CITES)	Law № 372-1 (06.04.1999)
Convention on Transboundary impact resulted from industrial accidents	Law № 91-II (23.10.2000)
Convention on the Protection and Use of Transboundary Watercourses and International Lakes	Law № 94-II (23.10.2000)

CORRUPTION	
United Nations Convention Against Corruption	Accession on 18 June 2008
United Nations Convention against Transnational Organized Crime	Ratification on 31 July 2008
OTHER	
OECD Global Forum on Transparency and Exchange of Information for Tax Purposes	Kazakhstan is the 110 th member.
UN Millennium Declaration	Adopted unanimously by resolution A/RES/55/2 at the General Assembly on 8 September 2000.

ANNEX F: ADHERENT COUNTRIES TO THE OECD DECLARATION ON INTERNATIONAL INVESTMENT AND MULTINATIONAL ENTERPRISES

First adopted in 1976, the OECD Declaration on International Investment and Multinational Enterprises (the Declaration) is a policy commitment by adhering governments to provide an open and transparent environment for international investment and to encourage the positive contribution multinational enterprises can make to economic and social progress. The OECD Guidelines for Multinational Enterprises are one of four major components of the Declaration.

34 OECD countries and 12 non-OECD countries have adhered to the Declaration:



ANNEX G: NATIONAL CONTACT POINTS OF THE OECD GUIDELINES AND THE ADDED VALUE OF MEDIATION

It is only through collaborative and multi-stakeholder action that the true intent and purpose of the OECD Guidelines can be realised. Although enterprises are ultimately responsible for observing the OECD Guidelines in their day-to-day operations, governments and stakeholders also have a vested interest in enhancing the OECD Guidelines profile and effectiveness. In addition, governments adhering to the OECD Guidelines have specific obligations.

NATIONAL CONTACT POINTS

The adhering governments are obliged to set up National Contact Points (NCPs) whose main role is to further the effectiveness of the OECD Guidelines by undertaking promotional activities, handling inquiries, and contributing to the resolution of issues that arise from the alleged non-observance of the OECD Guidelines in specific instances.

Adhering countries have flexibility in how they organise their NCPs as long as such arrangements provide an effective basis for dealing with the broad range of issues

CORE CRITERIA FOR NATIONAL CONTACT POINTS

Visibility. Adhering governments should inform the business community, worker organisations, NGOs and other interested parties about the availability of facilities associated with NCPs. Governments are expected to publish information about their NCP and to take an active role in promoting the Guidelines (i.e. by hosting seminars and meetings, which could be done in co-operation with different stakeholders).

Accessibility. Easy access to NCPs is important to their effective functioning - facilitating access to the NCP is important. NCPs respond to all legitimate requests for information and also deal with specific issues raised by different parties in an efficient and timely manner.

Transparency. Transparency contributes to the accountability of the NCP and is important for gaining the confidence of the general public. Activities of NCPs should be transparent, although it is recognised that in specific instances NCPs might take appropriate steps to establish confidentiality of the proceedings. Outcomes of specific instances, however, will be transparent unless preserving confidentiality is in the best interests for the effective implementation of the Guidelines.

Accountability. A more active role in enhancing the profile of the Guidelines – and their potential to aid in the management of difficult issues between enterprises and the societies in which they operate – puts the activities of NCPs in the public eye. Nationally, parliaments could have a role to play. Annual reports and regular meetings of NCPs provide an opportunity to share experiences and encourage best practices. The OECD Investment Committee also holds exchanges of views, where experiences are exchanged and the effectiveness of the activities of NCPs could be assessed.

covered by the OECD Guidelines and enable the NCP to operate in an impartial manner while maintaining an adequate level of accountability to the adhering government. To ensure that all NCPs operate in a comparable way, the concept of “functional equivalence” is used – see box for the core criteria. NCPs report to the OECD Investment Committee and meet regularly to share their experiences.

NCPs rely on multi-stakeholder input and are committed to developing and maintaining relationships with representatives of the business community, worker organisations, NGOs and other interested parties that are able to contribute to the effective implementation of the OECD Guidelines.

SPECIFIC INSTANCES

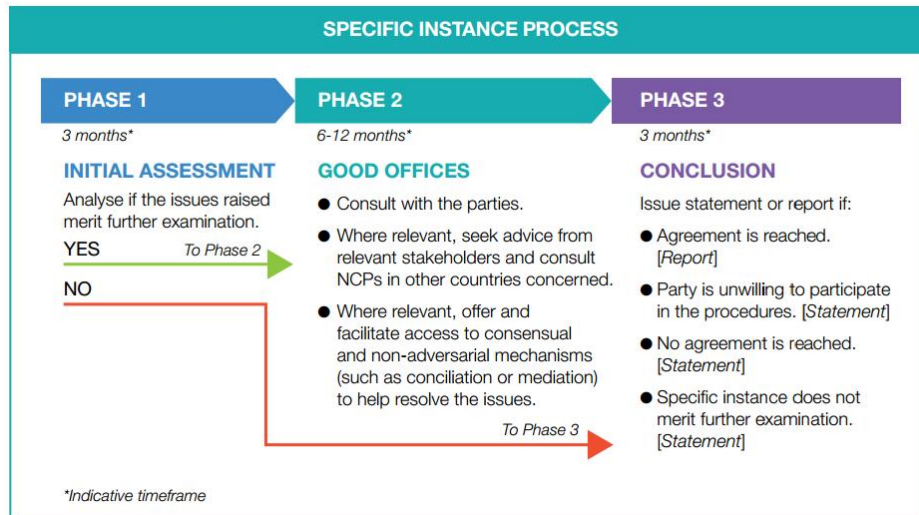
The Guidelines are the only government-backed international instrument on responsible business conduct with a built-in grievance mechanism – specific instances. Under this mechanism, NCPs are obliged to provide a platform for discussion and assistance to stakeholders to help find a resolution for issues arising from the alleged non-observance of the Guidelines. NCPs must do so in a manner that is impartial, predictable, equitable, and compatible with the principles and standards of the Guidelines.

Specific instances are not legal cases and NCPs are not judicial bodies. NCPs focus on problem solving - they offer good offices and facilitate access to consensual and non-adversarial procedures (ex. conciliation or mediation). Any interested party can submit a specific instance to an NCP regarding the alleged non-observance of the Guidelines. Once the specific instance has been submitted, its consideration is composed of three phases:

- **Phase 1 - Initial Assessment:** to determine if the issues raised merit further examination.
- **Phase 2 - Offer of Good Offices:** to seek advice and facilitate access to consensual and non-adversarial means to resolve the issues.
- **Phase 3 - Conclusion:** to issue statements or reports.

It is understood that good offices can only proceed upon agreement of the parties concerned. The parties’ commitment to participate in good faith is a crucial element to a successful resolution of issues. NCPs will take appropriate steps to protect sensitive information and the interests of stakeholders involved. Confidentiality of the proceedings will be maintained during good offices. If the parties involved have not agreed on a resolution at the conclusion, they are free to communicate about and discuss these issues. However, information and views provided during the proceedings by another party involved will remain confidential, unless that other party agrees to their disclosure or this would be contrary to the provisions of national law.

Identifying different ways in which NCPs can use informal problem-solving methods in specific instances and improving mediation skills have been identified as high priority for



NCPs following the 2011 Update of the Guidelines. NCPs of the Netherlands, Norway, and the United Kingdom have sponsored a Mediation Manual by the Consensus Building Institute that clarifies whether, when, and how NCPs could use mediation and other informal problem-solving methods to resolve claims in specific instances.

Three hundred specific instances have been considered since 2000 – and almost a quarter of that number represents specific instances raised between June 2010 and June 2012. Most originated from NGOs and trade unions, with employment and industrial relations, human rights, and environment as predominant issues. These specific instances concerned activities in both adhering and non-adhering countries and across diverse sectors, most notably in the extractive and manufacturing sectors. In the first year of implementation of the updated Guidelines, one out of three specific instances raised cited the new human rights chapter.

ADDED VALUE OF MEDIATION

Since 2010, more attention is being given to the use informal problem-solving methods in NCP specific instance procedures. A compelling case can be made for the added value of mediation due to its nature and flexibility. Informal problem-solving processes allow the parties to exert a better level of control over the process of reaching an agreement than the more formal ones, such as arbitration or legal measures in which a third party final decision is binding.

This fact can be a useful tool for NCPs in bringing the disagreeing parties to the table. Furthermore, mediation can often address a wider range of issues than formal processes, which is quite helpful since it allows for flexibility to tackle issues that might be easier to agree on in order to start building an environment of trust and partnership between the parties. Confidentiality is an important aspect in this formula. By ensuring confidentiality,

the mediator can explore possibilities without asking either party to change its official public position.

In addition to focusing on all-important constructive problem solving, based upon mutual trust and respect between the parties, mediation offers a significantly more expeditious and cost saving alternative to prolonged litigation.

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