



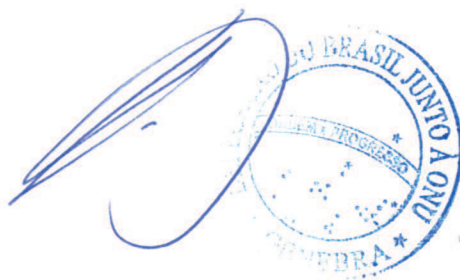
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The Permanent Mission of Brazil to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and has the honor to submit herewith the reply from the Federative Republic of Brazil to the call for inputs, issued on 10 March 2020, to the preparation of **the UN Working Group on Business and Human Rights report on business in conflict and post-conflict contexts for the 2020 UN General Assembly**.

The Permanent Mission of Brazil in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 30 April, 2020



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FEDERATIVE REPUBLIC OF BRAZIL

**RESPONSE TO THE CALL FOR INPUTS TO THE PREPARATION OF THE UN
WORKING GROUP ON BUSINESS AND HUMAN RIGHTS REPORT ON
BUSINESS IN CONFLICT AND POST-CONFLICT CONTEXTS FOR THE 2020
UN GENERAL ASSEMBLY, DATED 10 MARCH 2020.**

With regard to the call for inputs, issued last March by the Working Group on Business and Human Rights, regarding the preparation of its report on business in conflict and post-conflict contexts for the 2020 UN General Assembly, the Brazilian Government presents the following information:

(1) All economic activity conducted in Brazil is guided by the principles set forth by the Federal Constitution, Article 170, the social function of property, the defense of the environment and the reduction of social inequality. The social function principle is reinforced in the Civil Code.

(2) Brazil has a robust infra-constitutional set of norms for the defense of human rights in relation to economic activity, such as the Consolidation of Labor Laws, the Forestry Code, the Statute of the Child and Adolescent, the Statute of the Elderly, the Statute of the Person with Disability and Law 10.257, of July 10, 2001, which establishes the guidelines for urban policy.

(3) There are also norms that deal with the environment, labor and workers' safety; norms that detail the application of the Forestry Code; and sectoral norms issued by the various regulatory agencies and the Central Bank, which complement the framework of human rights protection in the country.

(4) Furthermore, the Brazilian government has encouraged companies to act in a manner aligned with human rights, by means of the publication of Decree No. 9,571/18, which internalized in national legislation the UN Guiding Principles on Business and Human Rights, and of the elaboration of the National Human Rights Plan (Decree No. 7,037/09).

(5) In addition, the law provides for the necessary instruments to guarantee and uphold rights, such as “popular legal action”, “public civil action”, “collective writ of mandamus”, “writ injunction” and “direct action of unconstitutionality by omission”. These instruments are available to various actors. Some can be filed by any citizen, without the need for a lawyer. Others, such as the public civil action, are at the disposal of the main public defense agencies, notably the Public Prosecutor's Office and the Public Defender's Office.

(6) Professional institutions are in charge of inspection. They are made up of civil servants, chosen through an impersonal selection process, ensuring continuity and professionalization of the technical staff, such as regulatory agencies, labor inspection, the Federal Highway Police, the Federal Police, the Brazilian Institute for the Environment and the Chico Mendes Institute.

(7) It should also be mentioned that, in Brazil, access online is ensured: to all current and historical federal legislation, through a website maintained by the Presidency of the Republic; to the monitoring of processes and decisions throughout the federal and national judicial network, in all instances; and, through the National Gazette website, to a means to monitor the most of the up-to-date acts of the public power, in a centralized manner. This broad access is essential for the exercise of social control, as it allows full knowledge about rights, history of litigation of private entities, and their interaction with the public power.

(8) With regard, specifically, to conflict areas, it should be noted that Brazilian legislation does not establish the hypothesis of differentiated application of laws in conflict or post-conflict areas, except in cases of state of emergency, of calamity, of defense and of siege.

(9) In any case, the culture of requirement, both in the countries in which companies operate or in the countries that host their headquarters, to carry out a human rights due diligence process with entities that are independent of the interested party, especially in conflict areas, should be reinforced. Such a measure would favor impartial analysis and the objective identification of risks that may arise from companies' actions in environments with weak or non-existent institutions.

(10) In strong institutional contexts and in situations of social normality, the promotion of due diligence by the business entity itself may be sufficient, since the company would play a role complementary to the State and society in the prevention and mitigation of risks. In conflict areas, on the other hand, there should be a broader, independent review of the due diligence process, since business entities undertake a greater responsibility for identifying, preventing and mitigating possible rights violations, while there is no comprehensive monitoring from the state and society.

(11) With this "increased" due diligence, mechanisms would be established to assess the economic, health and environmental impacts, in addition to the social and cultural impacts of the company's actions on the communities and societies in which they operate.

(12) With regard to responsible and sustainable investment, it is understood that it is that carried out through independent, transparent, comprehensive and realistic due diligence processes, with feasible mitigation and prevention commitments, and that includes the participation of the people and communities affected.

(13) Finally, with regard transition periods, business support for institutional infrastructure could be an option, provided that it is done with transparency and clear limits. The UN Guiding Principles, in that case, could be the basis of inspiration to build such institutions.
