

UN Working Group on Business and Human Rights

## Report on business in conflict and post-conflict contexts for the 2020 UN General Assembly

Contribution by the Federal Republic of Germany

- *1. What policies, regulations and adjudication measures to protect against corporate-related human rights abuses and to promote conflict-sensitive responsible business in conflict and post-conflict situations does your State have or should have in place?*

Germany's **National Action Plan on Business and Human Rights** (NAP) features a sub-chapter on business activity in conflict zones. Generally, the government's expectations towards business concerning their respect for human rights also apply in situations of conflict and post-conflict. The sub-chapter refers to the UN Guiding principles which attach particular priority to assisting enterprises in respecting human rights in areas torn by conflicts. One characteristic of such areas is an especially high risk of serious human rights violations resulting from the frequent total absence of state structures. The Federal Government therefore considers that it has a responsibility to try to ensure that German enterprises operating in such conditions have no part in any adverse impacts on human rights. Enterprises operating in these conditions are to be supported whenever they are able, through their investments and business activities, to contribute to the stabilisation and development of such areas. In fragile or war-torn countries, there is often a danger that trade in raw materials is cornered by destabilising players, who will use it for their own ends and thereby fuel existing conflicts. Importance therefore attaches not only to international commodity diplomacy but also to local contributions in cases where specific interests are affected by the exploitation of raw materials.

Germany has supported and contributed to the development of the **OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas**, which is also available in German since 2015.

The European Union's **Regulation on Conflict Minerals** aims at stemming the trade in tin, tantalum, tungsten and gold which sometimes finance armed conflict or are mined using forced labour. It will come into full force on 1 January 2021 in all EU member states including Germany. The German Government is preparing its implementation, and controls will be carried out by the Federal Institute for Geosciences and Natural Resources. Furthermore, the German Government supports the implementation of the Regulation through accompanying measures of bilateral cooperation in the Democratic Republic of the Congo and the Great Lakes Region as well as its membership in the multi-stakeholder group European Partnership for Responsible Minerals (EPRM).

The German Government also supports the **Kimberley Process Certification Scheme** and the **Extractive Industries Transparency Initiative** and its global implementation.

In the **Guidelines on Preventing Crises, Resolving Conflicts, Building Peace** (2017), the German Government affirms that non-governmental actors, including the business sector, are indispensable partners for Germany's engagement. The Government expresses its commitment to strengthen its collaboration with the business sector as a critical non-governmental partner. At the same time, it raises the partners' awareness for their due diligence in fragile and conflict-affected areas. The Guidelines also refer to the UNGP and the German NAP on business and human rights.

- *2. What specific measures should business be required to take in conflict and post-conflict situations either by its home or host State, and what does “enhanced” human rights due diligence look like in practice? How does/should the process to identify, prevent, mitigate and account for actual and potential impacts in conflict and post-conflict situations differ from “non-conflictual” contexts?*

In 2016, the German Ministries of Foreign Affairs, Economic Cooperation and Development, Interior and Defense jointly organized a series of public and expert debates and discussion around Germany’s and the EU’s role in crises prevention, resolving conflicts and building peace: **PeaceLab 2016**. This included contributions on the role of business in conflict-affected areas and a discussion with the Federation of German Industries (BDI) and enterprises on the role of the private sector in crises prevention. The results of the PeaceLab2016 contributed to the abovementioned Guidelines.

In the **Strategy of the Federal Government for promoting the rule of law in the fields of crisis prevention, conflict resolution and peacebuilding** (2019) (“Ressortgemeinsame Strategie zur Rechtsstaatsförderung im Kontext von Krisenprävention, Konfliktbewältigung und Friedensförderung“) the German Government has identified the fight against corruption as a specific aim of promoting the rule of law. It considers corruption to be one of the main obstacles to development, which hampers efforts to overcome inequality and the appropriate distribution of scarce resources and is in itself a reason for fragility and conflicts.

- *3. What does responsible and sustainable investment in post-conflict and reconstruction contexts look like in practical terms? What actions should be taken (and avoided) by actors in the financial sector – both public financing institutions and private investors – to meet their responsibilities under the Guiding Principles, and to use their leverage to support outcomes that do not undermine human rights and sustainable peace? What should recipient and donor States require from relevant international institutions?*

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- *4. What is the role of business in transitional justice? What are the implications of the Guiding Principles in a transitional justice context?*

The Interministerial Strategy to Support “Dealing with the Past and Reconciliation (Transitional Justice)” (2019) („Ressortgemeinsame Strategie zur Unterstützung von “Vergangenheitsarbeit und Versöhnung (Transitional Justice)“) acknowledges the importance of the UNGP and of companies’ human rights due diligence for achieving transitional justice. As part of its contribution to the four “Joint Principles Against Impunity”, the Federal Government supports procedures and initiatives for holistic reappraisals of the past. For example, measures concerning “guarantees of non-recurrence” shall be supported, among other things, by re-assessing the role that international and national private economic stakeholders played in the conflict (including, where appropriate, assuming responsibility within the context of reparations), and by promoting economic activity that respects human rights.